



Finance (No. 2) Act 2023

2023 CHAPTER 30

PART 2

ALCOHOL DUTY

CHAPTER 3

SMALL PRODUCER RELIEF

Mergers and demergers

61 Mergers: general provisions

- (1) [This section](#) and [sections 62 to 67](#) apply where a small producer (“SP1”) becomes connected with another small producer (“SP2”).
- (2) “Post-merger production group” means the production group that consists of—
 - (a) every set of premises on which SP1 or SP2 produces alcoholic products, and
 - (b) every set of connected premises,and references to “post-merger production group premises” are to premises within [paragraph \(a\)](#) or [\(b\)](#).
- (3) In relation to the post-merger production group—
 - (a) “Year 1” means the production year in which SP1 and SP2 become connected with one another,
 - (b) “Year 2” means the production year immediately following Year 1,
 - (c) “Year 3” means the production year immediately following Year 2, and
 - (d) the “pre-merger year” means the production year immediately preceding Year 1.
- (4) Each of Year 1, Year 2 and Year 3 is a “merger transition year” in relation to the post-merger production group, unless any of the following apply—

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- (a) [section 65](#) (early termination of merger transition period),
- (b) [section 66](#) (subsequent mergers), or
- (c) [section 68\(8\)](#) (demergers in a merger transition year).

Commencement Information

- I1** S. 61 not in force at Royal Assent, see [s. 120\(2\)](#)
- I2** S. 61 in force at 1.8.2023 by [S.I. 2023/884](#), [reg. 2\(1\)\(a\)](#) (with [reg. 10](#))

62 Modified “small production premises” test

- (1) [This section](#) (instead of [section 56](#)) applies in relation to a post-merger production group in a merger transition year.
- (2) Post-merger production group premises are “small production premises” in the current year in relation to alcoholic products if—
 - (a) the adjusted post-merger amount, determined in accordance with [section 64](#) does not exceed the small production limit (within the meaning of [section 56\(4\)](#)), and
 - (b) in relation to each set of post-merger production group premises, less than half of the alcohol production amount (if any), in relation to those premises, for the previous year was contained in alcoholic products produced under licence.

Commencement Information

- I3** S. 62 not in force at Royal Assent, see [s. 120\(2\)](#)
- I4** S. 62 in force at 1.8.2023 by [S.I. 2023/884](#), [reg. 2\(1\)\(a\)](#) (with [reg. 10](#))

63 Modified duty discount

- (1) [This section](#) applies in relation to alcoholic products that are produced—
 - (a) on post-merger production group premises, and
 - (b) in a merger transition year.
- (2) For the purposes of [section 59](#), references to the “relevant production amount” are references to the adjusted post-merger amount (and subsections (3) and (4) of that section do not apply).
- (3) [Section 58\(c\)](#) does not apply for the purposes of the application of [section 55](#) or [59](#) in a merger transition year.

Commencement Information

- I5** S. 63 not in force at Royal Assent, see [s. 120\(2\)](#)
- I6** S. 63 in force at 1.8.2023 by [S.I. 2023/884](#), [reg. 2\(1\)\(a\)](#) (with [reg. 10](#))

64 Adjusted post-merger amount

- (1) In Year 1, the adjusted post-merger amount is the alcohol production amount in relation to the larger producer’s premises for the pre-merger year, determined in accordance

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with [section 57](#) (and the alcohol production amount attributable to the smaller producer for the pre-merger year is disregarded).

- (2) In Year 2, the adjusted post-merger amount is the total of—
 - (a) the adjusted post-merger amount in Year 1, and
 - (b) one-third of the production difference for Year 2.
- (3) In Year 3, the adjusted post-merger amount is the total of—
 - (a) the adjusted post-merger amount in Year 1, and
 - (b) two-thirds of the production difference for Year 3.
- (4) The amount of the “production difference” for a merger transition year is the difference between—
 - (a) the aggregate of the alcohol production amount, in relation to every set of post-merger production group premises, for the previous year (determined in accordance with [section 57](#)), and
 - (b) the adjusted post-merger amount in Year 1.
- (5) If the alcohol production amount attributable to SP1’s premises for the pre-merger year is greater than the alcohol production amount attributable to SP2’s premises for that year—
 - (a) SP1 is the “larger producer”, and
 - (b) SP2 is the “smaller producer”,and vice versa.
- (6) If the amount mentioned in [subsection \(5\)](#) is equal in relation to both SP1’s premises and SP2’s premises, either SP1 or SP2 may be treated as the “larger producer” for the purposes of [this section](#).
- (7) In [subsections \(1\), \(5\) and \(6\)](#), references to a person’s premises are references to—
 - (a) the premises on which the person produces alcoholic products immediately before becoming connected with the other person mentioned in [section 61\(1\)](#), if those premises are (at that time) non-group premises, or
 - (b) if those premises are group premises, the production group which, at that time, includes those premises (and the reference in [subsection \(1\)](#) to the alcohol production amount in relation to those premises is a reference to the aggregate of the alcohol production amount in relation to those premises and every set of connected premises).

Commencement Information

I7 S. 64 not in force at Royal Assent, see [s. 120\(2\)](#)

I8 S. 64 in force at 1.8.2023 by [S.I. 2023/884](#), [reg. 2\(1\)\(a\)](#) (with [reg. 10](#))

65 Early termination of merger transition period

- (1) [This section](#) applies in relation to a post-merger production group if, in a relevant year, Amount A is less than Amount B.
- (2) “Amount A” is the aggregate of the alcohol production amount, in relation to every set of premises in the group, for the production year immediately preceding the relevant year (determined in accordance with [section 57](#)).

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- (3) “Amount B” is the adjusted post-merger amount in the relevant year.
- (4) Neither the relevant year, nor any subsequent production year, is a merger transition year in relation to the group.
- (5) Each of Year 1, 2 and 3 is a “relevant year” for the purposes of [this section](#).

Commencement Information

- I9** S. 65 not in force at Royal Assent, see s. 120(2)
I10 S. 65 in force at 1.8.2023 by S.I. 2023/884, **reg. 2(1)(a)** (with **reg. 10**)

66 Subsequent mergers

- (1) [This section](#) applies if—
 - (a) a person who produces alcoholic products on group premises which are included in a post-merger production group (the “first post-merger group”) becomes connected with another person who produces alcoholic products (that are not exempt from duty under any of [sections 72, 76](#) or [77](#)), and
 - (b) the producers mentioned in [paragraph \(a\)](#) become connected with one another in Year 1, 2 or 3 in relation to the first post-merger group.
- (2) Neither the production year in which the producers mentioned in [subsection \(1\)\(a\)](#) become connected with one another, nor any subsequent year, is a merger transition year in relation to the first post-merger group.
- (3) But [subsection \(2\)](#) does not prevent the application of [sections 61](#) to [67](#) in relation to the post-merger production group that includes both of the producers mentioned in [subsection \(1\)\(a\)](#).

Commencement Information

- I11** S. 66 not in force at Royal Assent, see s. 120(2)
I12 S. 66 in force at 1.8.2023 by S.I. 2023/884, **reg. 2(1)(a)** (with **reg. 10**)

67 Simultaneous mergers

- (1) [Subsections \(2\)](#) to [\(4\)](#) apply if, at the same time as SP1 becomes connected with SP2, SP1 also becomes connected with one or more other small producers (who are not already connected with one another).
- (2) References in [sections 61](#) and [64](#) to SP2 include references to the other small producers becoming connected with SP1.
- (3) For the purposes of [section 64](#)—
 - (a) the “larger producer” is the producer with a greater alcohol production amount attributable to the producer’s premises for the pre-merger year than any of the other producers mentioned in [subsection \(1\)](#), and
 - (b) each of the other producers is a “smaller producer”,
 (and [this subsection](#) applies instead of [section 64\(5\)](#)).

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- (4) If the amount mentioned in [subsection \(3\)\(a\)](#) is equal in relation to any two or more of the producers mentioned in [subsection \(1\)](#), any one of them may be treated as the “larger producer” for the purposes of [section 64](#).

Commencement Information

- I13** S. 67 not in force at Royal Assent, see [s. 120\(2\)](#)
I14 S. 67 in force at 1.8.2023 by [S.I. 2023/884](#), [reg. 2\(1\)\(a\)](#) (with [reg. 10](#))

68 Demergers

- (1) [This section](#) applies if a demerger event occurs in relation to a production group.
- (2) A “demerger event” occurs, in relation to a production group, if a group producer (the “demerging producer”) ceases to be connected with at least one other group producer.
- (3) A “group producer” in relation to a production group means a person who produces alcoholic products on premises that are (immediately before the demerger event) included in the production group.
- (4) For the purposes of the application of [sections 56](#) and [59](#) in relation to the demerger year, the alcohol production amount for the immediately preceding production year, in relation to production premises that were (immediately before the demerger event) included in the group, is treated as being nil.
- (5) If, before the end of the restricted period, the demerging producer becomes connected again with another group producer, none of [sections 61](#) to [67](#) apply by reference to that connection.
- (6) For the purposes of [subsection \(5\)](#), the “restricted period” is the period of 7 years beginning with the date on which the demerger event occurs.
- (7) [Subsection \(8\)](#) applies if the demerger event occurs in Year 1, 2 or 3 in relation to a post-merger production group (the “relevant group”).
- (8) Neither the production year in which the event occurs, nor any subsequent year, is a merger transition year in relation to the relevant group.
- (9) References in [this section](#) to the “demerger year” are references to the production year in which the demerger event occurs.

Commencement Information

- I15** S. 68 not in force at Royal Assent, see [s. 120\(2\)](#)
I16 S. 68 in force at 1.8.2023 by [S.I. 2023/884](#), [reg. 2\(1\)\(a\)](#) (with [reg. 10](#))

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