



Finance Act 1976

1976 CHAPTER 40

PART I

CUSTOMS AND EXCISE

Tobacco products duty

4 Charge and administration

- (1) As from 10th May 1976 there shall be charged on tobacco products imported into or manufactured in the United Kingdom a duty of excise at the rates shown in the following Table—

TABLE

1. Cigarettes	An amount equal to 20 per cent. of the retail price.
2. Cigars	£2.765 per pound.
3. Hand-rolling tobacco	£2.400 per pound.
4. Other smoking tobacco and chewing tobacco.	£1.550 per pound.

- (2) Subject to such conditions as they see fit to impose, the Commissioners shall remit or repay the duty charged by this section where it is shown to their satisfaction that the products in question have been—

- (a) exported or shipped as stores ; or
- (b) used solely for the purposes of research or experiment;

and the Commissioners may by regulations provide for the remission or repayment of the duty in such other cases as may be specified in the regulations and subject to such conditions as they see fit to impose.

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- (3) The Commissioners may with a view to managing the duty charged by this section make regulations—
- (a) prescribing the method of charging the duty and for securing and collecting the duty ;
 - (b) for the registration of premises for the safe storage of tobacco products and for requiring the deposit of such products in, and regulating their treatment in and removal from, premises so registered ;
 - (c) for requiring the keeping and preservation of such records, and the making of such returns, as may be specified in the regulations; and
 - (d) for the inspection of goods, documents and premises.
- (4) If any person fails to comply with any regulation made under this section he shall be liable to a penalty of £200 and any article in respect of which, or found on premises in respect of which, the offence was committed shall be liable to forfeiture.
- (5) In subsection (1) above " hand-rolling tobacco" means tobacco—
- (a) which is sold or advertised by the importer or manufacturer as suitable for making into cigarettes; or
 - (b) of which more than 25 per cent. by weight of the tobacco particles have a width of less than 0.6 mm.
- (6) In this section and the other provisions of this Part of this Act relating to tobacco " tobacco products " means any of the products mentioned in the Table in subsection (1) above which are manufactured wholly or partly from tobacco or any substance used as a substitute for tobacco but does not include products commonly known as herbal cigarettes or herbal smoking mixtures.

5 Retail price of cigarettes

- (1) For the purposes of the duty chargeable at any time under section 4 above in respect of cigarettes of any description, the retail price of the cigarettes shall be taken to be—
- (a) in a case in which paragraph (b) below does not apply, the highest price at which cigarettes of that description are normally sold by retail at that time in the United Kingdom;
 - (b) in any case where—
 - (i) there is a price recommended by the importer or manufacturer for the sale by retail at that time in the United Kingdom of cigarettes of that description ; and
 - (ii) duty is tendered and accepted by reference to that price, the price so recommended.
- (2) The duty in respect of any number of cigarettes shall be charged by reference to the price which, in accordance with subsection (1) above, is applicable to cigarettes sold in packets of twenty or of such other number as the Commissioners may determine in relation to cigarettes of the description in question ; and the whole of the price of a packet shall be regarded as referable to the cigarettes it contains notwithstanding that it also contains a coupon, token, card or other additional item.
- (3) In any case in which duty is chargeable in accordance with paragraph (a) of subsection (1) above—
- (a) the question as to what price is applicable under that paragraph shall, subject to subsection (4) below, be determined by the Commissioners ; and

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- (b) the Commissioners may require security (by deposit of money or otherwise to their satisfaction) for the payment of duty to be given pending their determination.
- (4) Any person who has paid duty in accordance with a determination of the Commissioners under subsection (3)(a) above and is dissatisfied with their determination may require the question of what price was applicable under subsection (1)(a) above to be referred to the arbitration of a referee appointed by the Lord Chancellor, not being an official of any government department; and if the referee determines that the price was lower than that determined by the Commissioners, they shall repay the duty overpaid, together with interest thereon from the date of the overpayment at such rate as the referee may determine.
- (5) The procedure on any reference to a referee under subsection (4) above shall be such as may be determined by the referee; and the referee's decision on any such reference shall be final and conclusive.

6 Alteration of rates of duty

- (1) The Treasury may by order increase or decrease any of the rates of duty for the time being in force under the Table in section 4(1) above by such percentage thereof, not exceeding ten per cent., as may be specified in the order, but any such order shall cease to be in force at the expiration of a period of one year from the date on which it takes effect unless continued in force by a further order under this section.
- (2) Any order under this section may be varied or revoked by a subsequent order ; and in relation to any order to continue, vary or replace a previous order, the reference in subsection (1) above to the rate for the time being in force is a reference to the rate that would be in force if no order under this section had been made.
- (3) The power to make orders under this section shall be exercisable by statutory instrument.
- (4) Any order under this section increasing the rate in force at the time of making an order shall be laid before the House of Commons after being made; and unless it is approved by that House before the expiration of twenty-eight days beginning with the date on which it was made, it shall cease to have effect on the expiration of that period, but without prejudice to anything previously done thereunder or to the making of a new order.

In reckoning any such period no account shall be taken of any time during which Parliament is dissolved or prorogued or during which the House of Commons is adjourned for more than four days.
- (5) Any order under this section to which subsection (4) above does not apply shall be subject to annulment in pursuance of a resolution of the House of Commons.
- (6) Section 9 of the Finance Act 1961 (surcharges and rebates in respect of revenue duties) shall not apply to duty charged under section 4 above.

7 Charge in cases of default

- (1) Where the records or returns kept or made by any person in pursuance of regulations under section 4 above show that any tobacco products or materials for their manufacture are or have been in his possession or under his control, the

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Commissioners may from time to time require him to account for those products or materials and unless he proves—

- (a) that duty has been paid or secured under that section in respect of the products or, as the case may be, products manufactured from the materials; or
- (b) that the products or materials are being or have been otherwise dealt with in accordance with the regulations,

the Commissioners may require him to pay duty under that section in respect of those products or, as the case may be, in respect of such products as in their opinion might reasonably be expected to be manufactured from those materials.

- (2) Where a person has failed to keep or make any records or returns required by regulations under section 4 above or it appears to the Commissioners that any such records or returns are inaccurate or incomplete they may require him to pay any duty under that section which they consider would have been shown to be due if proper records or returns had been kept or made.