



# Finance Act 1989

## 1989 CHAPTER 26

### PART I

#### CUSTOMS AND EXCISE, VALUE ADDED TAX AND CAR TAX

### CHAPTER I

#### CUSTOMS AND EXCISE

##### *Hydrocarbon oil duties*

#### 1 Rates.

- (1) ..... <sup>F1</sup>
- (2) In section 13A of that Act (rebate on unleaded petrol), for “£0.0202” there shall be substituted “£0.0272”.
- (3) ..... <sup>F1</sup>
- (4) This section shall be deemed to have come into force at 6 o’clock in the evening of 14th March 1989.

#### Textual Amendments

**F1** S. 1(1)(3) repealed by [Finance Act 1990 \(c. 29, SIF 40:1\)](#), s. 132, Sch. 19 Pt. I Note

#### 2 Reliefs.

- (1) The following section shall be inserted after section 20A of the <sup>M1</sup>Hydrocarbon Oil Duties Act 1979—

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*Status: Point in time view as at 16/07/1996.*

*Changes to legislation: There are currently no known outstanding effects  
for the Finance Act 1989, Part I. (See end of Document for details)*

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**“20AA Power to allow reliefs.**

- (1) The Commissioners may make regulations allowing reliefs as regards—
  - (a) any duty of excise which has been charged in respect of hydrocarbon oil, petrol substitute, spirits used for making power methylated spirits, or road fuel gas;
  - (b) any amount which has been paid to the Commissioners under section 12(2) above;
  - (c) any amount which would (apart from the regulations) be payable to the Commissioners under section 12(2) above.
- (2) The regulations may include such provision as the Commissioners think fit in connection with allowing reliefs, and in particular may—
  - (a) provide for relief to take the form of a repayment or remission;
  - (b) provide for relief to be allowed in cases or classes of case set out in the regulations;
  - (c) provide for relief to be allowed to the extent set out in the regulations;
  - (d) provide for relief to be allowed subject to conditions imposed by the regulations;
  - (e) provide for relief to be allowed subject to such conditions as the Commissioners may impose on the person claiming relief;
  - (f) provide for the taking of samples of hydrocarbon oil in order to ascertain whether relief should be allowed or has been properly allowed;
  - (g) make provision as to administration (which may include provision requiring the making of applications for relief);
  - (h) make different provision in relation to different cases or classes of case;
  - (i) include such supplementary, incidental, consequential or transitional provisions as appear to the Commissioners to be necessary or expedient.
- (3) The conditions which may be imposed as mentioned in subsection (2)(d) or (e) above may include conditions as to the physical security of premises, the provision (by bond or otherwise) of security for payment, or such other matters as the Commissioners think fit.
- (4) Where a person contravenes or fails to comply with any regulation made under this section or any condition imposed by or under such a regulation—
  - (a) he shall be liable on summary conviction to a penalty of three times the value of any goods in respect of which the contravention or failure occurred or a penalty of an amount represented by level 3 on the standard scale, whichever is the greater, and
  - (b) any goods in respect of which the contravention or failure occurred shall be liable to forfeiture.
- (5) A reference in this section to a duty of excise includes a reference to any addition to such duty by virtue of section 1 of the Excise Duties (Surcharges or Rebates) Act 1979.
- (6) Schedule 5 to this Act shall have effect with respect to any sample of hydrocarbon oil taken in pursuance of regulations made under this section.”

*Status: Point in time view as at 16/07/1996.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 1989, Part I. (See end of Document for details)*

- (2) In consequence of subsection (1) above, in paragraph 6 of Schedule 5 to the <sup>M2</sup>Hydrocarbon Oil Duties Act 1979 after “section” there shall be inserted “20AA or”.

**Marginal Citations**

- M1** 1979c. 5.  
**M2** 1979 c. 5.

*Alcoholic liquor duties*

**F23** **Original gravity of beer.**

**Textual Amendments**

- F2** S. 3 repealed (1.6.1993) by Finance Act 1991 (c. 31, SIF 40:1), ss. 7, 123, Sch. 19 Pt. II; S.I. 1993/1152, art. 3, Sch. 1 (with arts. 4-8)

**4** **Blending made-wines etc.**

- (1) Section 55 of the Alcoholic Liquor Duties Act 1979 (charge of excise duty on made-wine) shall be amended as follows.
- (2) In subsection (5) (which, where certain conditions are satisfied, lifts the requirement to hold a licence for premises where made-wine is produced), after paragraph (d) there shall be added “and
- (e) he does not blend or otherwise mix—
- (i) two or more made-wines, or
- (ii) one or more made-wines and one or more wines,
- so as to produce made-wine the rate of duty applicable to which is higher than the rate applicable to at least one of the constituent liquors. ”
- (3) After subsection (5) there shall be inserted—
- “(5A) For the purposes of subsection (5) above—
- (a) the rate of duty applicable to any made-wine is that which is or would be chargeable under subsection (1) above on its importation into the United Kingdom; and
- (b) the rate of duty applicable to any wine is that which is or would be chargeable under subsection (1) of section 54 above on its importation into the United Kingdom.”
- (4) This section shall have effect in relation to the blending or other mixing of made-wines, or of made-wines and wines, on or after the day on which this Act is passed.

*Status: Point in time view as at 16/07/1996.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 1989, Part I. (See end of Document for details)*

**5 Description as beer.**

Section 73 of the <sup>M3</sup>Alcoholic Liquor Duties Act 1979(which prohibits anyone from describing as beer any substance on which beer duty has not been paid) shall cease to have effect.

**Marginal Citations**

**M3** 1979 c. 4.

*Vehicles excise duty*

**6 Rates.**

- F3(1) .....
- F3(2) .....
- (3) ..... **F4**
- F3(5) .....
- F5(6) .....
- F3(7) .....

**Textual Amendments**

- F3** S. 6(1)(2)(5)(7) repealed (1.9.1994) by 1994 c. 22, ss. 65, 66(1), **Sch. 5 Pt. I** (with s. 57(4))
- F4** S. 6(3)(4), Sch. 1 Pt. II, Sch. 2 para. 3 repealed by Finance Act 1990 (c. 29, SIF 58), s. 132, **Sch. 19 Pt. II** Note 3
- F5** S. 6(6) repealed (27.7.1993 with effect in relation to licences taken out after 16.3.1993) by 1993 c. 34, s. 213, **Sch. 23 Pt. I(6)**

**F6**7 .....

**Textual Amendments**

- F6** S. 7 repealed (1.9.1994) by 1994 c. 22, ss. 65, 66(1), **Sch. 5 Pt. I** (with s. 57(4))

**F7**8 .....

**Textual Amendments**

- F7** S. 8 repealed (1.9.1994) by 1994 c. 22, ss. 65, 66(1), **Sch. 5 Pt. I** (with s. 57(4))

**F8**9 .....

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**Textual Amendments**

**F8** S. 9 repealed (1.9.1994) by 1994 c. 22, ss. 65, 66(1), **Sch. 5 Pt. I** (with s. 57(4))

**F9** **10** .....

**Textual Amendments**

**F9** S. 10 repealed (1.9.1994) by 1994 c. 22, ss. 65, 66(1), **Sch. 5 Pt. I** (with s. 57(4))

**F10** **11** .....

**Textual Amendments**

**F10** S. 11 repealed (1.9.1994) by 1994 c. 22, ss. 65, 66(1), **Sch. 5 Pt. I** (with s. 57(4))

**F11** **12** .....

**Textual Amendments**

**F11** S. 12 repealed (1.9.1994) by 1994 c. 22, ss. 65, 66(1), **Sch. 5 Pt. I** (with s. 57(4))

**F12** **13** .....

**Textual Amendments**

**F12** S. 13 repealed (1.9.1994) by 1994 c. 22, ss. 65, 66(1), **Sch. 5 Pt. I** (with s. 57(4))

**14 Dishonoured cheques.**

**F13**(1) .....

**F14**(2) .....

**F13**(3) .....

**F14**(4) .....

**F13**(5) .....

**F14**(6) .....

**F13**(7) .....

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*Changes to legislation: There are currently no known outstanding effects  
 for the Finance Act 1989, Part I. (See end of Document for details)*

**Textual Amendments**

- F13** S. 14(1)(3)(5)(7) repealed (1.9.1994) by 1994 c. 22, ss. 65, 66(1), **Sch. 5 Pt. I** (with s. 57(4))  
**F14** S. 14(2)(4)(6) repealed (1.10.1991) by Finance Act 1991 (c. 31, SIF 107:2), ss. 10, 123, **Sch. 19 Pt. IV**; S.I. 1991/2021, **art. 2**.

*General*

**F15** 15 .....

**Textual Amendments**

- F15** S. 15 repealed (1.1.1995) by 1994 c. 9, s. 258, **Sch. 26 Pt. III**, note (with s. 19(3)); S.I. 1994/2679, **art. 3**

**16 Time limits for proceedings.**

- (1) After section 146 of the Customs and Excise Management Act 1979 there shall be inserted—

**“146A Time limit for proceedings.**

- (1) Except as otherwise provided in the customs and excise Acts, and notwithstanding anything in any other enactment, the following provisions shall apply in relation to proceedings for an offence under those Acts.
- (2) Proceedings for an indictable offence shall not be commenced after the end of the period of 20 years beginning with the day on which the offence was committed.
- (3) Proceedings for a summary offence shall not be commenced after the end of the period of 3 years beginning with that day but, subject to that, may be commenced at any time within 6 months from the date on which sufficient evidence to warrant the proceedings came to the knowledge of the prosecuting authority.
- (4) For the purposes of subsection (3) above, a certificate of the prosecuting authority as to the date on which such evidence as is there mentioned came to that authority’s knowledge shall be conclusive evidence of that fact.
- (5) In the application of this section to Scotland—
- (a) in subsection (3), “proceedings for an indictable offence” means proceedings on indictment;
- (b) in subsection (3), “proceedings for a summary offence” means summary proceedings.
- (6) In the application of this section to Northern Ireland—
- (a) “indictable offence” means an offence which, if committed by an adult, is punishable on conviction on indictment (whether only on

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conviction on indictment, or either on conviction on indictment or on summary conviction);

(b) “summary offence” means an offence which, if committed by an adult, is punishable only on summary conviction.

(7) In this section, “prosecuting authority” means the Commissioners and includes, in Scotland, the procurator fiscal.”

(2) Section 147(1) of that Act shall cease to have effect.

<sup>F16</sup>(3) .....

(4) This section shall have effect in relation to offences committed on or after the day on which this Act is passed.

**Textual Amendments**

**F16** S. 16(3) repealed (1.9.1994) by 1994 c. 22, ss. 65, 66(1), Sch. 5 Pt. I (with s. 57(4))

**17 Disbursements in Port of London.**

In section 17 of the <sup>M4</sup>Customs and Excise Management Act 1979 (general rule that customs and excise receipts, after deduction of disbursements, are to be paid into the Commissioners’ General Account at the Bank of England) paragraph (a) of subsection (5) (special rule that disbursements in Port of London are to be paid out of that Account) shall cease to have effect.

**Marginal Citations**

**M4** 1979 c. 2.

**CHAPTER II**

**VALUE ADDED TAX**

*Zero-rating etc.*

<sup>F17</sup>**18** .....

**Textual Amendments**

**F17** S. 18 repealed (1.9.1994 with effect as mentioned in s. 101(1) of the amending Act) by 1994 c. 23, s. 100(2), Sch. 15

<sup>F18</sup>**19** .....

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**Textual Amendments**

**F18** S. 19 repealed (1.9.1994 with effect as mentioned in s. 101(1) of the amending Act) by 1994 c. 23, s. 100(2), **Sch. 15**

**F19** **20** .....

**Textual Amendments**

**F19** S. 20 repealed (1.9.1994 with effect as mentioned in s. 101(1) of the amending Act) by 1994 c. 23, s. 100(2), **Sch. 15**

**F20** **21** .....

**Textual Amendments**

**F20** S. 21 repealed (1.9.1994 with effect as mentioned in s. 101(1) of the amending Act) by 1994 c. 23, s. 100(2), **Sch. 15**

**F21** **22** .....

**Textual Amendments**

**F21** S. 22 repealed (1.9.1994 with effect as mentioned in s. 101(1) of the amending Act) by 1994 c. 23, s. 100(2), **Sch. 15**

**F22** **23** .....

**Textual Amendments**

**F22** S. 23 repealed (1.9.1994 with effect as mentioned in s. 101(1) of the amending Act) by 1994 c. 23, s. 100(2), **Sch. 15**

*Other provisions*

**F23** **24** .....

**Textual Amendments**

**F23** S. 24 repealed (1.9.1994 with effect as mentioned in s. 101(1) of the amending Act) by 1994 c. 23, s. 100(2), **Sch. 15**



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F24 25 .....

**Textual Amendments**

F24 S. 25 repealed (1.9.1994 with effect as mentioned in s. 101(1) of the amending Act) by 1994 c. 23, s. 100(2), Sch. 15

F25 26 .....

**Textual Amendments**

F25 S. 26 repealed (1.9.1994 with effect as mentioned in s. 101(1) of the amending Act) by 1994 c. 23, s. 100(2), Sch. 15

**CHAPTER III**

MISCELLANEOUS

**27 Relief from car tax where vehicle leased to the handicapped.**

(1) After section 5 of the <sup>M5</sup>Car Tax Act 1983 there shall be inserted the following section—

**“5A Relief where vehicle leased to the handicapped.**

(1) This section applies where on the date when, apart from subsection (2) (a) below, tax on a chargeable vehicle would become due from a person registered under this Act, there is held by him or on his behalf a certificate of a person to whom the vehicle is sold (“the lessor”) that the lessor intends to supply the vehicle to another in such circumstances that the supply will be a zero-rated supply by virtue of item 12 of Group 14 (letting on hire of motor vehicles to the handicapped) of Schedule 5 to the Value Added Tax Act 1983.

(2) Tax on the vehicle—

- (a) shall not be payable by the registered person, but
- (b) if, within the period of three years beginning with that date, the lessor supplies the vehicle in any circumstances other than those mentioned in subsection (1) above, shall be payable by the lessor and shall become due and payable at the time of the supply.

(3) In this section—

“certificate” means a certificate in a form for the time being approved by the Commissioners, and

“supply” has the same meaning as in the Value Added Tax Act 1983.”

(2) In section 5 of the Car Tax Act 1983 (liability and payment), in subsection (1), at the end of paragraph (a), there shall be inserted the words “subject to section 5A below”.

*Status: Point in time view as at 16/07/1996.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 1989, Part I. (See end of Document for details)*

- (3) The powers conferred by Schedule 1 to that Act to require accounts and records to be preserved and produced shall be exercisable also in relation to any certificate which has been held by or on behalf of a registered person for the purposes of section 5A of that Act.
- (4) In paragraph 13 of that Schedule (restriction on registration of chargeable vehicles), after sub-paragraph (c) there shall be inserted “or
- (d) that, by virtue of section 5A of this Act, tax on it has not become due and payable.”

**Marginal Citations**

M5 1983 c. 53.

**28 Reliefs from duties and taxes for persons enjoying certain immunities and privileges.**

- (1) After section 13 of the <sup>M6</sup> Customs and Excise Duties (General Reliefs) Act 1979 there shall be inserted the following sections—

**“13A Reliefs from duties and taxes for persons enjoying certain immunities and privileges.**

- (1) The Commissioners may by order make provision for conferring in respect of any persons to whom this section applies reliefs, by way of remission or repayment, from payment by them or others of duties of customs or excise, value added tax or car tax.
- (2) An order under this section may make any relief for which it provides subject to such conditions binding the person in respect of whom the relief is conferred and, if different, the person liable apart from the relief for payment of the tax or duty (including conditions which are to be complied with after the time when, apart from the relief, the duty or tax would become payable) as may be imposed by or under the order.
- (3) An order under this section may include any of the provisions mentioned in subsection (4) below for cases where—
- (a) relief from payment of any duty of customs or excise, value added tax or car tax chargeable on any goods, or on the supply of any goods or services or the importation of any goods has been conferred (whether by virtue of an order under this section or otherwise) in respect of any person to whom this section applies, and
- (b) in the case of goods, provision for forfeiture of the goods.
- (4) The provisions referred to in subsection (3) above are—
- (a) provision for payment to the Commissioners of the tax or duty by—
- (i) the person liable, apart from the relief, for its payment, or
- (ii) any person bound by the condition, or
- (iii) any person who is or has been in possession of the goods or has received the benefit of the services,

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or for two or more of those persons to be jointly and severally liable for such payment, and

- (5) An order under this section—
- (a) may contain such incidental and supplementary provisions as the Commissioners think necessary or expedient, and
  - (b) may make different provision for different cases.
- (6) In this section and section 13C of this Act—
- “duty of customs” includes any agricultural levy within the meaning of section 6 of the European Communities Act 1972 chargeable on goods imported into the United Kingdom, and
- “duty of excise” means any duty of excise chargeable on goods and includes any addition to excise duty by virtue of section 1 of the Excise Duties (Surcharges or Rebates) Act 1979.
- (7) For the purposes of this section and section 13C of this Act, where in respect of any person to whom this section applies relief is conferred (whether by virtue of an order under this section or otherwise) in relation to the use of goods by any persons or for any purposes, the relief is to be treated as conferred subject to a condition binding on him that the goods will be used only by those persons or for those purposes.
- (8) Nothing in any order under this section shall be construed as authorising a person to import any thing in contravention of any prohibition or restriction for the time being in force with respect to it under or by virtue of any enactment.

### **13B Persons to whom section 13A applies.**

- (1) The persons to whom section 13A of this act applies are—
- (a) any person who, for the purposes of any provision of the Visiting Forces Act 1952 or the International Headquarters and Defence Organisations Act 1964 is—
    - (i) a member of a visiting force or of a civilian component of such a force or a dependant of such a member, or
    - (ii) a headquarters, a member of a headquarters or a dependant of such a member,
  - (b) any person enjoying any privileges or immunities under or by virtue of—
    - (i) the Diplomatic Privileges Act 1964,
    - (ii) the Commonwealth Secretariat Act 1966,
    - (iii) the Consular Relations Act 1968,
    - (iv) the International Organisations Act 1968, or
    - (v) the Overseas Development and Co-operation Act 1980,
  - (c) any person enjoying, under or by virtue of section 2 of the European Communities Act 1972, any privileges or immunities similar to those enjoyed under or by virtue of the enactments referred to in paragraph (b) above.
- (2) The Secretary of State may by order amend subsection (1) above to include any persons enjoying any privileges or immunities similar to those enjoyed

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under or by virtue of the enactments referred to in paragraph (b) of that subsection.

- (3) No order shall be made under this section unless a draft of the order has been laid before and approved by resolution of each House of Parliament.

### **13C Offence where relieved goods used, etc., in breach of condition.**

- (1) Subsection (2) below applies where—

- (a) any relief from payment of any duty of customs or excise, value added tax or car tax chargeable on, or on the supply or importation of, any goods has been conferred (whether by virtue of an order under section 13A of this Act otherwise) in respect of any person to whom that section applies subject to any condition as to the persons by whom or the purposes for which the goods may be used, and
- (b) if the tax or duty has subsequently become payable, it has not been paid.

- (2) If any person—

- (a) acquires the goods for his own use, where he is not permitted by the condition to use them, or for use for a purpose that is not permitted by the condition or uses them for such a purpose, or
- (b) acquires the goods for use, or causes or permits them to be used, by a person not permitted by the condition to use them or by a person for a purpose that is not permitted by the condition or disposes of them to a person not permitted by the condition to use them,

with intent to evade payment of any tax or duty that has become payable or that, by reason of the disposal, acquisition or use, becomes or will become payable, he is guilty of an offence.

- (3) For the purposes of this section—

- (a) in the case of a condition as to the persons by whom goods may be used, a person is not permitted by the condition to use them unless he is a person referred to in the condition as permitted to use them, and
- (b) in relation to a condition as to the purposes for which goods may be used, a purpose is not permitted by the condition unless it is a purpose referred to in the condition as a permitted purpose,

and in this section “dispose” includes “lend” and “let on hire”, and “acquire” shall be interpreted accordingly.

- (4) A person guilty of an offence under this section may be detained and shall be liable—

- (a) on summary conviction, to a penalty of the statutory maximum or of three times the value of the goods (whichever is the greater), or to imprisonment for a term not exceeding six months, or to both, or
- (b) on conviction on indictment, to a penalty of any amount, or to imprisonment for a term not exceeding seven years, or to both.”

- (2) Section 13C of the <sup>M7</sup> Customs and Excise Duties (General Reliefs) Act 1979 inserted by subsection (1) above shall have effect where relief is conferred on or after the day on which this Act is passed.

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*Status: Point in time view as at 16/07/1996.*

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- (3) In section 17 of the Customs and Excise Duties (General Reliefs) Act 1979, in subsection (3), for “or 13” there shall be substituted “13 or 13A” and, in subsection (4), for “or 13(1)” there shall be substituted “13(1) or 13A”.

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**Marginal Citations**

**M6** 1979 c. 3.

**M7** 1979 c. 3.

**[<sup>F26</sup>29 Recovery of overpaid excise duty and car tax.**

- (1) This section applies to proceedings for restitution of an amount paid to the Commissioners of Customs and Excise by way of excise duty or car tax.
- (2) Proceedings to which this section applies shall not be dismissed by reason only of the fact that the amount was paid by reason of a mistake of law.
- (3) In any proceedings to which this section applies it shall be a defence that repayment of an amount would unjustly enrich the claimant.
- (4) This section shall have effect in relation to proceedings commenced on or after the day on which this Act is passed.]

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**Textual Amendments**

**F26** S. 29 ceases to have effect (1.12.1995 with effect as mentioned in s. 20(5) of the amending Act) by 1995 c. 4, s. 20(3); S.I. 1995/2892, art. 2

**Status:**

Point in time view as at 16/07/1996.

**Changes to legislation:**

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