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## SCHEDULES

### SCHEDULE 2

Section 20.

#### ASSESSMENTS FOR EXCISE DUTY PURPOSES

VALID FROM 01/10/1998

##### *Alcoholic Liquor Duties Act 1979 (c.4)*

1 In section 8 of the Alcoholic Liquor Duties Act 1979 (remission of duty in respect of spirits used for medical or scientific purposes) the following subsections shall be inserted after subsection (2)—

“(3) Subsection (4) below applies if—

- (a) spirits are received and delivered in accordance with subsection (1) above,
- (b) they are not used as proposed, and
- (c) it is not shown to the satisfaction of the Commissioners that they can be accounted for by natural waste or other legitimate cause.

(4) In such a case the Commissioners—

- (a) may assess as being excise duty due from the person concerned an amount equal to the duty that would have been chargeable on the spirits if, at the time of delivery from warehouse, they had been delivered for home use and otherwise than in accordance with subsection (1) above, and
- (b) may notify him or his representative accordingly.”

2 In section 10 of the Alcoholic Liquor Duties Act 1979 (remission of duty on spirits for use in art or manufacture) the following subsections shall be inserted after subsection (2)—

“(3) Subsection (4) below applies if—

- (a) spirits are received and delivered in accordance with subsection (1) above,
- (b) they are not used as proposed, and
- (c) it is not shown to the satisfaction of the Commissioners that they can be accounted for by natural waste or other legitimate cause.

(4) In such a case the Commissioners—

- (a) may assess as being excise duty due from the person concerned an amount equal to the duty that would have been chargeable on the spirits if, at the time of delivery from warehouse, they had been delivered for home use and otherwise than in accordance with subsection (1) above, and
- (b) may notify him or his representative accordingly.”

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- 3 (1) Section 11 of the Alcoholic Liquor Duties Act 1979 (relief from duty on imported goods not for human consumption containing spirits) shall be amended as follows.
- (2) At the beginning there shall be inserted “ (1) ”.
- (3) At the end there shall be inserted—
- “(2) Subsection (3) below applies if—
- (a) the Commissioners make a direction under subsection (1) above, but
- (b) it turns out that the goods were for human consumption.
- (3) In such a case the Commissioners—
- (a) may assess as being excise duty due from the relevant person an amount equal to the duty that would have been chargeable on the goods if the direction had not been made, and
- (b) may notify him or his representative accordingly.
- (4) The reference in subsection (3) above to the relevant person is to the importer or (if different) the person who sought the direction.”

VALID FROM 01/10/1998

*Hydrocarbon Oil Duties Act 1979 (c.5)*

- 4 (1) Section 13AB of the Hydrocarbon Oil Duties Act 1979 (misuse of kerosene) shall be amended as follows.
- (2) For subsection (1)(a) there shall be substituted—
- “(a) in respect of the quantity of kerosene used the Commissioners may assess as being excise duty due from him an amount equal to duty on the same quantity of gas oil at the rate for rebated gas oil which is in force at the time of the contravention, and they may notify him or his representative accordingly;”.
- (3) For subsection (2)(a) there shall be substituted—
- “(a) in respect of the quantity of kerosene taken into the fuel supply the Commissioners may assess as being excise duty due from him an amount equal to duty on the same quantity of gas oil at the rate for rebated gas oil which is in force at the time of the contravention, and they may notify him or his representative accordingly;”.

VALID FROM 01/10/1998

*Tobacco Products Duty Act 1979 (c. 7)*

- 5 In section 8 of the Tobacco Products Duty Act 1979 (charge in cases of default) in subsection (2)—
- (a) for “require him to pay duty” there shall be substituted “ assess an amount as duty due from him ”;

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- (b) at the end there shall be inserted , and they may notify him or his representative accordingly.

VALID FROM 01/09/2008

*Finance (No. 2) Act 1992 (c.48)*

- 6 (1) Section 2 of the Finance (No. 2) Act 1992 (power to provide for drawback of excise duty) shall be amended as follows.
- (2) In subsection (3) (cancellation of drawback) paragraph (b) and the word “and” immediately preceding it shall be omitted.
- (3) After subsection (3) there shall be inserted—
- “(3A) If entitlement to drawback is cancelled under any provision contained in regulations by virtue of subsection (3) above the Commissioners—
- (a) may assess as being excise duty due from the prescribed person an amount equal to sums paid or credited to any person in respect of the drawback, and
- (b) may notify the prescribed person or his representative accordingly.
- (3B) The reference in subsection (3A) above to the prescribed person is to such person as may be prescribed for the purposes of the subsection by regulations under this section.”

VALID FROM 01/10/1998

*Finance Act 1994 (c.9)*

- 7 In section 12 of the Finance Act 1994 (assessment to excise duty) after subsection (1) there shall be inserted—
- “(1A) Subject to subsection (4) below, where it appears to the Commissioners—
- (a) that any person is a person from whom any amount has become due in respect of any duty of excise; and
- (b) that the amount due can be ascertained by the Commissioners, the Commissioners may assess the amount of duty due from that person and notify that amount to that person or his representative.”
- 8 (1) In section 12A of the Finance Act 1994 (other assessments relating to excise duty matters) subsection (3) (amount assessed deemed to be duty due) shall be amended as follows.
- (2) At the end of paragraph (b) the word “or” shall be omitted and after that paragraph there shall be inserted—
- “(bb) section 8, 10 or 11 of the Alcoholic Liquor Duties Act 1979.”.
- (3) In paragraph (c) after “13,” there shall be inserted “ 13AB, ” and after that paragraph there shall be inserted—
- “(d) section 8 of the Tobacco Products Duty Act 1979, or

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(e) section 2 of the Finance (No. 2) Act 1992.”.

#### Commencement Information

**I1** Sch. 2 para. 8 partly in force; Sch. 2 para. 8 not in force at Royal Assent see Sch. 2 para. 12; Sch. 2 para. 8(1)(2) in force and Sch. 2 para. 8(3) in force for specified purposes at 1.10.1998 by S.I. 1998/2243, art. 2(2)(b)

- 9 (1) In section 12B of the Finance Act 1994, subsection (2) (meaning of relevant time) shall be amended as follows.
- (2) After paragraph (e) there shall be inserted—
- “(ea) in the case of an assessment under section 8 or 10 of the Alcoholic Liquor Duties Act 1979, the time of delivery from warehouse;
- (eb) in the case of an assessment under section 11 of that Act, the time when the direction was made;”.
- (3) In paragraph (f) after “13,” there shall be inserted “ 13AB, ”.
- (4) After paragraph (g) there shall be inserted—
- “(ga) in the case of an assessment under section 8 of the Tobacco Products Duty Act 1979, the time when the Commissioners are satisfied of a failure to prove as mentioned in subsection (2)(a) or (b) of that section;
- (gb) in the case of an assessment under section 2 of the Finance (No. 2) Act 1992, the time when the sums were paid or credited in respect of the drawback;”.

#### Commencement Information

**I2** Sch. 2 para. 9 partly in force; Sch. 2 para. 9 not in force at Royal Assent see Sch. 2 para. 12; Sch. 2 para. 9(1)-(3) in force and Sch. 2 para. 9(4) in force for specified purposes at 1.10.1998 by S.I. 1998/2243, art. 2(2)(b)

- 10 In section 14 of the Finance Act 1994 (requirement for review of a decision) in subsection (1)(ba)—
- (a) for “or” (occurring after “Management Act”) there shall be substituted “, section 8, 10 or 11 of the Alcoholic Liquor Duties Act 1979, ”;
- (b) after “13,” there shall be inserted “ 13AB, ”;
- (c) after “Hydrocarbon Oil Duties Act 1979,” there shall be inserted “ section 8 of the Tobacco Products Duty Act 1979, section 2 of the Finance (No. 2) Act 1992, ”.

#### Commencement Information

**I3** Sch. 2 para. 10 partly in force; Sch. 2 para. 10 not in force at Royal Assent see Sch. 2 para. 12; Sch. 2 para. 10(a)(b) in force and Sch. 2 para. 10(c) in force for specified purposes at 1.10.1998 by S.I. 1998/2243, art. 2(2)(b)

- 11 In section 16 of the Finance Act 1994 (appeals to a tribunal) there shall be inserted after subsection (3)—

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“(3A) Subsection (3) above shall not apply if the appeal arises out of an assessment under section 8, 10 or 11 of the Alcoholic Liquor Duties Act 1979.”

VALID FROM 01/10/1998

*Commencement*

12 This Schedule shall come into force on such day as the Commissioners of Customs and Excise may by order made by statutory instrument appoint; and different days may be appointed under this paragraph for different purposes.

**Subordinate Legislation Made**

**P1** [Sch. 2 para. 12](#) power partly exercised (14.9.1998): 1.10.1998 appointed for specified provisions by [S.I. 1998/2243, art. 2](#)

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