



Finance Act 2000

2000 CHAPTER 17

PART I

EXCISE DUTIES

Tobacco products duty

12 Rates of tobacco products duty

- (1) For the Table of rates of duty in Schedule 1 to the Tobacco Products Duty Act 1979 substitute—

“TABLE

1. Cigarettes	An amount equal to 22 per cent. of the retail price plus £90.43 per thousand cigarettes.
2. Cigars	£132.33 per kilogram.
3. Hand-rolling tobacco	£95.12 per kilogram.
4. Other smoking tobacco and chewing tobacco	£58.17 per kilogram.”

- (2) This section shall be deemed to have come into force at 6 o'clock in the evening of 21st March 2000.

13 Basis of calculation of ad valorem element of duty on cigarettes

- (1) Section 5 of the Tobacco Products Duty Act 1979 (retail price of cigarettes) is amended as follows.
- (2) In subsection (1) (meaning of retail price) for the words from “shall be taken to be” to the end substitute “shall be taken to be—
- (a) the higher of—

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- (i) the recommended price for the sale by retail at that time in the United Kingdom of cigarettes of that description, and
 - (ii) any (or, if more than one, the highest) retail price shown at that time on the packaging of the cigarettes in question,
- or
- (b) if there is no such price recommended or shown, the highest price at which cigarettes of that description are normally sold by retail at that time in the United Kingdom.”.
- (3) In subsection (3) (determination of price by Commissioners), for “paragraph (a) of subsection (1)” substitute “paragraph (b) of subsection (1)”.
- (4) In subsection (4) (reference to arbitration of Commissioners' determination), for “subsection (1)(a)” substitute “subsection (1)(b)”.

14 Fiscal marks on tobacco products

After section 8 of the Tobacco Products Duty Act 1979 insert the following sections—

“8A Fiscal marks: introductory

Fiscal marking applies to tobacco products that are—

- (a) cigarettes, or
- (b) hand-rolling tobacco.

8B Power to alter range of products to which fiscal marking applies

- (1) The Commissioners may by order made by statutory instrument amend section 8A above for the purpose of causing fiscal marking—
 - (a) to apply to any description of tobacco products to which it does not apply, or
 - (b) to cease to apply to any description of tobacco products to which it does apply.
- (2) Where fiscal marking applies to any description of tobacco products, the Commissioners may by regulations provide that fiscal marking does not apply to such products of that description as are of a description specified in the regulations.
- (3) A statutory instrument containing (whether alone or with other provisions) an order under subsection (1)(a) above shall not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (4) A statutory instrument that—
 - (a) contains (whether alone or with other provisions) an order under subsection (1) above, and
 - (b) is not subject to any requirement that a draft of the instrument be laid before and approved by a resolution of each House of Parliament,
 shall be subject to annulment in pursuance of a resolution of either House of Parliament.

8C Fiscal mark regulations

- (1) The Commissioners may make provision by regulations—
 - (a) requiring the carrying of fiscal marks by tobacco products to which fiscal marking applies, and
 - (b) as to such matters relating to fiscal marks as appear to the Commissioners to be necessary or expedient.
- (2) In this Act “fiscal mark” means a mark carried by tobacco products indicating all or any of the following—
 - (a) that excise duty has been paid on the products;
 - (b) the rate at which excise duty was paid on the products;
 - (c) the amount of excise duty paid on the products;
 - (d) when excise duty was paid on the products;
 - (e) that sale of the products—
 - (i) is only permissible on dates ascertainable from the mark;
 - (ii) is not permissible after (or on or after) a date so ascertainable;
 - (iii) is not permissible before (or before or on) a date so ascertainable.
- (3) Regulations under this section may, in particular, make provision about—
 - (a) the contents of a fiscal mark;
 - (b) the appearance of a fiscal mark;
 - (c) in the case of tobacco products that have more than one layer of packaging, which of the layers is (or are) to carry a fiscal mark;
 - (d) the positioning of a fiscal mark on the packaging of any tobacco products;
 - (e) when tobacco products are required to carry a fiscal mark.
- (4) Regulations under this section may make different provision for different cases.

8D Fiscal marks: public notices

- (1) The Commissioners may by notices published by them regulate any of the matters mentioned in paragraphs (a) to (d) of section 8C(3) above.
- (2) A notice under this section may provide for provision made by regulations under section 8C above to have effect subject to provisions of the notice.
- (3) A notice under this section may make different provision for different cases.

8E Failure to comply with fiscal mark regulations and public notices

- (1) This section applies if a person fails to comply with any requirement imposed by or under—
 - (a) regulations made under section 8C above, or
 - (b) a notice published under section 8D above.
- (2) Any article in respect of which the person fails to comply with the requirement shall be liable to forfeiture.

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- (3) The person's failure to comply shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties).
- (4) The Commissioners may by regulations make such provision as is mentioned in subsection (5) below about the calculation of the penalty in a case where the failure involves post-dating of any tobacco products.

For this purpose "post-dating" means that the products carry a fiscal mark ("the later period mark") that—

- (a) is not one they are required to carry by virtue of this Act, and
 - (b) is one they would be required to carry by virtue of this Act if the requirement to pay the duty charged on them under section 2 above took effect at a time later than that at which it in fact takes effect.
- (5) The provision that may be made by regulations under subsection (4) above is for the penalty to be calculated by reference to the duty currently charged on the products.

For this purpose "the duty currently charged" on the products is the amount of the duty charged under section 2 above that would be payable on the products if the requirement to pay the duty took effect at the time of the failure.

8F Sale of marked tobacco when not permitted: penalties

- (1) This section applies if provision made by or under—
 - (a) regulations made under section 8C above, or
 - (b) a notice published under section 8D above,
 provides for any tobacco products to carry a period of sale mark.
- (2) In this section—
 - "a period of sale mark" means a fiscal mark indicating any of the matters mentioned in subsection (2)(e) of section 8C above; and
 - "prohibited time", in relation to tobacco products that carry a period of sale mark, means a time when, according to the mark, sale of the products is not permissible.
- (3) If—
 - (a) a person sells by way of retail sale, or exposes for retail sale, any tobacco products that carry a period of sale mark, and
 - (b) he so sells or exposes the products at a prohibited time,
 his so selling or exposing the products shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties) and the products are liable to forfeiture.

8G Offences: possession and sale etc. of unmarked tobacco

- (1) In this section "unmarked products" means tobacco products that are subject to fiscal marking but do not carry a compliant duty-paid fiscal mark.
- (2) For the purposes of this section "duty-paid fiscal mark" means a fiscal mark carried by tobacco products indicating that excise duty has been paid on the products.

- (3) For the purposes of this section a duty-paid fiscal mark carried by tobacco products of any description is “compliant” if it complies with all relevant requirements for any duty-paid fiscal mark that by virtue of this Act is required to be carried by such tobacco products of that description as are by virtue of this Act required to carry such a mark.

For this purpose “relevant requirement” means a requirement, imposed by virtue of this Act, as to any of the matters mentioned in paragraphs (a) to (d) of section 8C(3) above (contents, appearance and positioning etc. of fiscal marks).

- (4) If a person—
- (a) is in possession of, transports or displays, or
 - (b) sells, offers for sale or otherwise deals in,
- unmarked products then, except in such cases as may be prescribed in regulations made by the Commissioners, that person commits an offence and the products are liable to forfeiture.
- (5) It is a defence for a person charged with an offence under subsection (4) above to prove that the unmarked products were not required by virtue of this Act to carry a duty paid fiscal mark.
- (6) A person guilty of an offence under subsection (4) above shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

8H Offences: use of premises for sale of unmarked tobacco

- (1) A manager of premises commits an offence if he suffers the premises to be used for the sale of unmarked products.

In this section “unmarked products” has the same meaning as in section 8G above.

- (2) It is a defence for a person charged with an offence under subsection (1) above to prove that the unmarked products were not required by virtue of this Act to carry a duty-paid fiscal mark.

For this purpose “duty-paid fiscal mark” has the same meaning as in section 8G above.

- (3) A person guilty of an offence under subsection (1) above shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (4) A court by or before which a person is convicted of an offence under subsection (1) above may make an order prohibiting the use of the premises in question for the sale of tobacco products during a period specified in the order.
- (5) The period specified in an order under subsection (4) above shall not exceed six months; and the first day of the period shall be the day specified as such in the order.
- (6) A manager of premises commits an offence if he suffers the premises to be used in breach of an order under subsection (4) above.
- (7) A person guilty of an offence under subsection (6) above shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

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- (8) For the purposes of this section a person is a manager of premises if he—
- (a) is entitled to control their use,
 - (b) is entrusted with their management, or
 - (c) is in charge of them.

8J Interfering with fiscal marks: penalties

- (1) This section applies where a person—
- (a) alters or overprints any fiscal mark carried by any tobacco products in compliance with any provision made under this Act, or
 - (b) causes any such mark to be altered or overprinted.
- (2) His altering or overprinting of the mark, or his causing it to be altered or overprinted, shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties).
- (3) The products that carried the mark shall be liable to forfeiture.
- (4) The penalty under subsection (2) above shall be calculated by reference to the duty currently charged on the products.

For this purpose “the duty currently charged” on the products is the amount of the duty charged under section 2 above that would be payable on the products if the requirement to pay the duty took effect at the time of the conduct attracting the penalty.”.

15 Management of excise duty on tobacco products

- (1) The Tobacco Products Duty Act 1979 has effect subject to the following amendments.
- (2) In section 2(2) (remission or repayment of duty where tobacco products exported, shipped as stores or used for research or experiment), for the words from “that” to the end of paragraph (b) substitute—
- “that—
- (a) the products in question have been—
 - (i) exported or shipped as stores, or
 - (ii) used solely for the purposes of research or experiment; and
 - (b) any fiscal marks carried by the products have been obliterated;”.
- (3) Section 7 (regulations for management of duty) is amended as follows.
- (4) After paragraph (a) of subsection (1) (method of charging duty and securing and collecting duty) insert—
- “(aa) for charging the duty, in such circumstances as may be specified in the regulations, by reference to the weight of the tobacco products at a time specified in the regulations or by the Commissioners (whether the time at which the products become chargeable or that at which the duty becomes payable or any other time);”.
- (5) In paragraph (b) of subsection (1) (registration of premises for storage of tobacco), after “regulating their” insert “storage and”.

- (6) After that paragraph insert—
- “(ba) for the registration of premises for the manufacture of tobacco products, for restricting or prohibiting the manufacture of tobacco products otherwise than in premises so registered and for regulating their storage and treatment in, and removal from, such premises;”.
- (7) In paragraph (c) of subsection (1), omit sub-paragraph (i) (which is superseded by the amendment made by subsection (6) above).
- (8) In paragraph (d) of subsection (1), for “and the making of such returns, as may be specified in the regulations” substitute “the notification of such information, and the making of such returns, as may be specified in the regulations or required by the Commissioners”.
- (9) After subsection (1) insert—
- “(1A) Regulations under subsection (1) above may, in particular, include provision—
 - (a) imposing, or providing for the imposition under the regulations of, conditions and restrictions relating to any of the matters mentioned in that subsection;
 - (b) enabling the Commissioners to dispense with compliance with any provision contained in the regulations in such circumstances and subject to such conditions (if any) as they may determine.”.