



# Finance Act 2017

## 2017 CHAPTER 10

### PART 2

#### SOFT DRINKS INDUSTRY LEVY

##### *Introductory*

VALID FROM 06/04/2018

#### **25 Soft drinks industry levy**

- (1) A tax called “soft drinks industry levy” is to be charged in accordance with this Part.
- (2) The Commissioners are responsible for the collection and management of soft drinks industry levy.

VALID FROM 06/04/2018

#### **26 “Soft drink” and “package”**

- (1) “Soft drink” means—
  - (a) a beverage of an alcoholic strength not exceeding 1.2%;
  - (b) a liquid which, when prepared in a specified manner, constitutes a beverage within paragraph (a).
- (2) A liquid is prepared in a specified manner if it is—
  - (a) diluted with water,
  - (b) combined with crushed ice, or processed so as to create crushed ice,
  - (c) combined with carbon dioxide, or

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- (d) prepared by way of a process that involves any combination of the processes mentioned in paragraphs (a) to (c).
- (3) A person “packages” a soft drink if the person cans, bottles or otherwise packages the soft drink in a form in which—
- (a) in the case of a soft drink within subsection (1)(a), it is suitable to be consumed without further preparation, and
  - (b) in the case of a soft drink within subsection (1)(b), it is suitable to be consumed when prepared in a specified manner (and without any other preparation),
- and “packaged” is to be construed accordingly.

## 27 Meaning of “prepared drink”

- (1) In this Part a reference to “prepared drink” is a reference to—
- (a) a soft drink within subsection (1)(a) of section 26;
  - (b) a beverage that would result from preparing a liquid within subsection (1)(b) of that section—
    - (i) in a specified manner (see section 26(2)), and
    - (ii) in accordance with the relevant dilution ratio.
- (2) The “relevant dilution ratio” means—
- (a) the dilution ratio stated on, or calculated by reference to information stated on, the packaging of the soft drink;
  - (b) where subsection (3) or (4) applies, the dilution ratio determined by the Commissioners.
- (3) This subsection applies where the packaging of the soft drink states neither the dilution ratio nor information by reference to which the dilution ratio can be calculated.
- (4) This subsection applies where—
- (a) the dilution ratio, or information by reference to which the dilution ratio can be calculated, is stated on the packaging of the soft drink, and
  - (b) it is reasonable to assume that the main purpose, or one of the main purposes, of stating that particular dilution ratio or information is avoiding or reducing liability for soft drinks industry levy.
- (5) The Commissioners may by or under regulations make provision about the criteria for—
- (a) determining a dilution ratio for the purposes of subsection (2)(b);
  - (b) determining whether the main purpose, or one of the main purposes, of stating a particular dilution ratio or information is avoiding or reducing liability for soft drinks industry levy.

### Commencement Information

**II** S. 27 in force at 13.1.2018 for specified purposes by S.I. 2018/32, reg. 2

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## Chargeable soft drinks

VALID FROM 06/04/2018

### 28 Meaning of “chargeable soft drink”

“Chargeable soft drink” means a packaged soft drink that—

- (a) meets the sugar content condition (see section 29), and
- (b) is not an exempt soft drink (see section 30).

### 29 Sugar content condition

- (1) A packaged soft drink meets the sugar content condition if it contains—
  - (a) added sugar ingredients, and
  - (b) at least 5 grams of sugars (whether or not as a result of containing added sugar ingredients) per 100 millilitres of prepared drink.
- (2) A packaged soft drink contains “added sugar ingredients” if any of the following are combined with other ingredients at any stage in the production of the soft drink—
  - (a) calorific mono-saccharides or di-saccharides;
  - (b) a substance containing calorific mono-saccharides or di-saccharides.
- (3) But a packaged soft drink does not contain “added sugar ingredients” only by reason of containing fruit juice, vegetable juice or milk (or any combination of them).
- (4) The Commissioners may by regulations make provision about what is, or is not, to be treated for the purposes of this Part as fruit juice, vegetable juice or milk.
- (5) Where regulations under subsection (4) contain a reference to an EU instrument or any provision of an EU instrument, the regulations may provide that the reference is to be construed as a reference to that instrument or that provision as amended from time to time.

#### Commencement Information

**I2** [S. 29](#) in force at 13.1.2018 for specified purposes by [S.I. 2018/32, reg. 2](#)

### 30 Exempt soft drinks

- (1) The following are “exempt soft drinks”—
  - (a) milk-based drinks,
  - (b) milk substitute drinks,
  - (c) alcohol substitute drinks, and
  - (d) soft drinks of a specified description which are for use for medicinal or other specified purposes.
- (2) “Milk-based drink” means a soft drink which contains at least 75 millilitres of milk per 100 millilitres of prepared drink.
- (3) “Milk substitute drink” means a soft drink which—

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- (a) contains at least the specified quantities of calcium, and
  - (b) meets such other conditions as may be specified.
- (4) “Alcohol substitute drink” means a soft drink which—
- (a) is similar to a particular kind of alcoholic beverage, and
  - (b) meets such other conditions as may be specified.
- (5) “Alcoholic beverage” means a beverage which is of an alcoholic strength exceeding 1.2%.
- (6) The Commissioners may by regulations make further provision about the criteria for determining what is, or is not, to be treated as an exempt soft drink.
- (7) Where regulations made under, or for the purposes of, this section contain a reference to an EU instrument or any provision of an EU instrument, the regulations may provide that the reference is to be construed as a reference to that instrument or that provision as amended from time to time.

#### Commencement Information

**I3** [S. 30](#) in force at 13.1.2018 for specified purposes by [S.I. 2018/32, reg. 2](#)

### *Charging of the soft drinks industry levy*

VALID FROM 06/04/2018

#### **31 Charge to soft drinks industry levy**

- (1) The charge to soft drinks industry levy arises on a chargeable event which occurs on or after 6 April 2018.
- (2) Subsection (1) is subject to section 37 (small producer exemption).

VALID FROM 06/04/2018

#### **32 Chargeable events: soft drinks packaged in the UK**

- (1) This section applies where chargeable soft drinks are packaged by a person on premises in the United Kingdom (the “packaging premises”).
- (2) A chargeable event occurs on the removal of the chargeable soft drinks from the packaging premises.
- (3) But—
  - (a) if, on removal from the packaging premises, the secondary warehousing condition is met in relation to the chargeable soft drinks, a chargeable event occurs at the time that the secondary warehousing condition ceases to be met in relation to those soft drinks (and not at the time mentioned in subsection (2));

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- (b) if the chargeable soft drinks are made available for sale or free of charge before a chargeable event in relation to the soft drinks occurs under subsection (2) or paragraph (a), a chargeable event occurs at the time the soft drinks are made available (and not at the time mentioned in subsection (2) or paragraph (a)).
- (4) For the purposes of this section and section 33, the secondary warehousing condition is met, at any time, in relation to chargeable soft drinks if the chargeable soft drinks are, at that time—
  - (a) in storage in a compliant warehouse, or
  - (b) being transported—
    - (i) from the packaging premises to a compliant warehouse, or
    - (ii) between compliant warehouses,in compliance with such conditions and requirements as may be imposed by regulations under section 34.
- (5) References in this section and in section 33 to a “compliant warehouse” are references to premises—
  - (a) that are, or are to be, used for the storage of chargeable soft drinks, and
  - (b) in respect of which the conditions and requirements specified in regulations under section 34(a) are met.

VALID FROM 06/04/2018

### **33 Chargeable events: soft drinks imported into the UK**

- (1) This section applies where chargeable soft drinks are imported into the United Kingdom.
- (2) A chargeable event occurs, in relation to imported chargeable soft drinks, on first receipt of the soft drinks by a relevant person (the “first recipient”).
- (3) But subsection (2) is subject to subsections (7) to (9).
- (4) The “first receipt” of imported chargeable soft drinks is the first occasion on which the soft drinks are delivered to a place in the United Kingdom which is a relevant person's place of business (including where the chargeable soft drinks are delivered from a place outside the United Kingdom which is another place of business of the relevant person).
- (5) “Relevant person” means a person who carries on a business involving the sale of chargeable soft drinks.
- (6) The reference in subsection (5) to the sale of chargeable soft drinks includes a reference to—
  - (a) sale by wholesale,
  - (b) sale by retail, and
  - (c) sale for consumption on or in the vicinity of premises on which the drinks are sold.
- (7) Subsection (8) applies if, on first receipt of the imported chargeable soft drinks, the place of business to which the soft drinks are delivered is a compliant warehouse.

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- (8) Subject to subsection (9), a chargeable event occurs at the time that the secondary warehousing condition ceases to be met in relation to the imported chargeable soft drinks (and not at the time mentioned in subsection (2)).
- (9) If the chargeable soft drinks are made available for sale or free of charge by a relevant person (the “first seller”) before a chargeable event in relation to the soft drinks occurs under subsection (2) or (8), a chargeable event occurs at the time the chargeable soft drinks are made available (and not at the time mentioned in subsection (2) or (8)).

### 34 Secondary warehousing regulations

The Commissioners may by regulations make provision, for the purposes of sections 32 and 33—

- (a) specifying conditions and requirements in respect of premises on which chargeable soft drinks may be stored before the occurrence of a chargeable event (see section 32(5)(b));
- (b) specifying other conditions and requirements as to the storage of chargeable soft drinks for the purposes of the secondary warehousing condition (see section 32(4));
- (c) specifying conditions and requirements as to the transportation of chargeable soft drinks for the purposes of the secondary warehousing condition;
- (d) imposing obligations on specified persons to provide information in connection with the storage or transportation of chargeable soft drinks.

#### Commencement Information

**I4** S. 34 in force at 13.1.2018 for specified purposes by [S.I. 2018/32, reg. 2](#)

VALID FROM 06/04/2018

### 35 Liability to pay the levy

- (1) Where the charge to soft drinks industry levy arises on a chargeable event within section 32(2) or (3), the person who packages the chargeable soft drinks is liable to pay the amount charged.
- (2) Where the charge to soft drinks industry levy arises on a chargeable event within section 33(2) or (8), the relevant person who is the first recipient is liable to pay the amount charged.
- (3) Where the charge to soft drinks industry levy arises on a chargeable event within section 33(9), the relevant person who is the first seller is liable to pay the amount charged.

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### 36 Levy rates

- (1) Soft drinks industry levy is charged—
  - (a) in the case of chargeable soft drinks that meet the higher sugar threshold, at the rate of £0.24 per litre of prepared drink;
  - (b) in the case of chargeable soft drinks that do not meet the higher sugar threshold, at the rate of £0.18 per litre of prepared drink.
- (2) A chargeable soft drink meets the higher sugar threshold if it contains at least 8 grams of sugars (whether or not as a result of containing added sugar ingredients) per 100 millilitres of prepared drink.

*Exemption etc*

VALID FROM 06/04/2018

### 37 Small producer exemption

- (1) No charge to soft drinks industry levy arises—
  - (a) on a chargeable event within section 32 in relation to chargeable soft drinks produced by a person who is, on the relevant day, a qualifying small producer;
  - (b) on a chargeable event within section 33 in relation to chargeable soft drinks produced by a person who is, on the relevant day, a small producer.
- (2) Chargeable soft drinks are “produced” by a person if they are packaged (by or on behalf of the person) for marketing under—
  - (a) the person's name or business name, or
  - (b) another name which is used in accordance with a licence granted to the person.
- (3) For the purposes of this section and section 38, the “relevant day”, in relation to chargeable soft drinks, is the day on which the charge to soft drinks industry levy on the chargeable soft drinks would (apart from this section) arise.
- (4) “Small producer” has the meaning given by section 38.
- (5) A person is a “qualifying small producer” if the person is a small producer who is either—
  - (a) registered under section 45 (voluntary registration: small producers), or
  - (b) ineligible for registration under that section because the person does not meet the condition in section 45(2)(c) (voluntary registration eligibility conditions: packaging by a person other than the producer).

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VALID FROM 06/04/2018

### 38 Meaning of “small producer”

- (1) A person (“the producer”) who produces chargeable soft drinks is a “small producer” on the relevant day if Conditions A and B are met.
- (2) Condition A is met if the aggregate of—
  - (a) the amount of the producer's chargeable soft drinks within section 26(1)(a) in respect of which a relevant event has occurred during the relevant 12 month period, and
  - (b) the amount of prepared drink that would result from the producer's chargeable soft drinks within section 26(1)(b) in respect of which a relevant event has occurred during the relevant 12 month period,
 does not exceed the small producer threshold.
- (3) Condition B is met if there are reasonable grounds for believing that the aggregate of—
  - (a) the amount of the producer's chargeable soft drinks within section 26(1)(a) in respect of which a relevant event will occur during the relevant 30 day period, and
  - (b) the amount of prepared drink that would result from the producer's chargeable soft drinks within section 26(1)(b) in respect of which a relevant event will occur during the relevant 30 day period,
 will not exceed the small producer threshold.
- (4) A “relevant event” occurs in respect of chargeable soft drinks on the removal of the chargeable soft drinks from the premises on which they are packaged.
- (5) But—
  - (a) if, on removal from the premises on which the chargeable soft drinks are packaged, the secondary warehousing condition is met in relation to the soft drinks, a “relevant event” occurs in relation to those soft drinks at the time that the secondary warehousing condition ceases to be met in relation to them (and not at the time mentioned in subsection (4));
  - (b) if the chargeable soft drinks are made available for sale or free of charge before a relevant event in relation to the soft drinks occurs under subsection (4) or paragraph (a), a “relevant event” occurs at the time they are made available (and not at the time mentioned in subsection (4) or paragraph (a)).
- (6) For the purposes of subsections (2) and (3)—
  - (a) the “relevant 12 month period” is the period of 12 months ending with the end of the month that immediately precedes the month in which the relevant day falls, and
  - (b) the “relevant 30 day period” is the period of 30 days beginning with the relevant day.
- (7) The “small producer threshold” is 1 million litres.



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- (8) References in this section to “the producer's chargeable soft drinks” are references to chargeable soft drinks produced by the producer or a person connected with the producer.

### 39 Tax credits

- (1) The Commissioners may by regulations make provision in relation to cases where, after a charge to soft drinks industry levy has arisen in relation to chargeable soft drinks—
- (a) the soft drinks are exported from the United Kingdom;
  - (b) the soft drinks are lost or destroyed.
- (2) The provision that may be made is provision—
- (a) for the liable person to be entitled to a tax credit in respect of any soft drinks industry levy charged on the soft drinks that are exported or (as the case may be) lost or destroyed;
  - (b) for the tax credit to be brought into account when the person is accounting for soft drinks industry levy due from the person for the prescribed accounting period or periods.
- (3) Regulations under this section may include provision—
- (a) for any entitlement to a tax credit to be conditional on the making of a claim by the liable person, and specifying the period within which and the manner in which a claim may be made;
  - (b) for any entitlement to bring a tax credit into account to be conditional on compliance with prescribed requirements;
  - (c) specifying circumstances in which, and criteria for determining the period for which, a liable person is not entitled to a tax credit;
  - (d) requiring a claim for a tax credit to be evidenced and quantified by reference to prescribed records and other documents;
  - (e) requiring a person claiming any entitlement to a tax credit to keep, for the prescribed period and in the prescribed form and manner, those records and documents and a record of prescribed information relating to the claim;
  - (f) for the withdrawal of a tax credit where any requirement of the regulations is not complied with;
  - (g) about adjustments of liability for soft drinks industry levy in connection with entitlement or withdrawal of entitlement to a tax credit in prescribed circumstances;
  - (h) about the treatment of a tax credit where the liable person ceases to carry on a business involving the package or sale of chargeable soft drinks.
- (4) Regulations under paragraph (a) of subsection (1) may include provision for the sale or provision of chargeable soft drinks on passenger transport operating between the United Kingdom and a place outside of the United Kingdom to be treated as “export from the United Kingdom” for the purposes of regulations under that paragraph.
- (5) Regulations under paragraph (b) of subsection (1) may include provision about the circumstances in which chargeable soft drinks are to be treated as lost or destroyed for the purposes of regulations under that paragraph.
- (6) In this section—

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“liable person” means the person who is liable under section 35 to pay the charge to soft drinks industry levy referred to in subsection (1);

“prescribed” means specified in, or determined in accordance with, regulations under this section.

#### Commencement Information

**I5** S. 39 in force at 13.1.2018 for specified purposes by S.I. 2018/32, reg. 2

### Registration

VALID FROM 06/04/2018

#### 40 The register

- (1) The Commissioners must establish and maintain a register for the purposes of this Part.
- (2) In this Part, “the register” means the register under subsection (1) and references to registration are to registration in it.
- (3) The register may contain such information as the Commissioners think is required for the purposes of the collection and management of soft drinks industry levy.

VALID FROM 06/04/2018

#### 41 Liability to register: packagers

- (1) A person becomes liable to be registered—
  - (a) at the end of any month, if the person has packaged any chargeable soft drinks in respect of which a chargeable event within section 32 has occurred during that month;
  - (b) on any day, if there are reasonable grounds for believing that, during the period of 30 days beginning with that day, a chargeable event within section 32 will occur in respect of chargeable soft drinks packaged by the person.
- (2) But subsection (1) does not apply to a person if—
  - (a) the chargeable soft drinks packaged by the person are also produced by the person, and
  - (b) the person is not liable to be registered under section 42 (liability to register: producers).
- (3) Subsection (1) does not apply in relation to a person who is already registrable.
- (4) In this section and in sections 42 and 43 references to “a person who is already registrable” are references to a person who—
  - (a) is registered under this section, section 42 or section 43,
  - (b) is subject to a relevant notification requirement, or

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- (c) would, if the person had complied with a relevant notification requirement, be registered under this section, section 42 or section 43.
- (5) In subsection (4)(c) “relevant notification requirement” means a requirement under section 44(1) to notify the Commissioners of a liability to register—
  - (a) arising on a previous occasion, and
  - (b) in respect of which the notification period has expired.
- (6) In this section “notification period” has the meaning given by section 44(2).

VALID FROM 06/04/2018

#### **42 Liability to register: producers**

- (1) A person (“the producer”) who produces chargeable soft drinks becomes liable to be registered—
  - (a) at the end of any month, if the qualifying amount of the producer's chargeable soft drinks in respect of which a chargeable event within section 32 has occurred during the immediately preceding period of 12 months exceeds the small producer threshold;
  - (b) on any day, if there are reasonable grounds for believing that the qualifying amount of the producer's chargeable soft drinks in respect of which a chargeable event within section 32 will occur during the period of 30 days beginning with that day will exceed the small producer threshold.
- (2) The “qualifying amount” of chargeable soft drinks in respect of which a chargeable event occurs is the aggregate of—
  - (a) the amount of the chargeable soft drinks within section 26(1)(a) in respect of which the chargeable event occurs, and
  - (b) the amount of prepared drink that would result from the chargeable soft drinks within section 26(1)(b) in respect of which the chargeable event occurs.
- (3) Subsection (1) does not apply in relation to a person who is already registrable.
- (4) References in this section to “the producer's chargeable soft drinks” are references to chargeable soft drinks produced by the producer or a person connected with the producer.

VALID FROM 06/04/2018

#### **43 Liability to register: imported chargeable soft drinks**

- (1) A person becomes liable to be registered—
  - (a) at the end of any month if, during that month, a chargeable event within section 33 has occurred—
    - (i) on the first receipt, or on the making available, of chargeable soft drinks by the person, or

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- (ii) on the secondary warehousing condition ceasing to be met in relation to chargeable soft drinks in respect of which the person is the first recipient;
  - (b) on any day, if there are reasonable grounds for believing that, during the period of 30 days beginning with that day, a chargeable event within section 33 will occur—
    - (i) on the first receipt, or on the making available, of chargeable soft drinks by the person, or
    - (ii) on the secondary warehousing condition ceasing to be met in relation to chargeable soft drinks in respect of which the person is the first recipient.
- (2) Subsection (1) does not apply in relation to a person who is already registrable.

VALID FROM 06/04/2018

#### **44 Notification of liability and registration**

- (1) A person who becomes liable to be registered under section 41, 42 or 43 must notify the Commissioners of the liability before the end of the notification period.
- (2) The “notification period” is the period of 30 days beginning with the day on which the liability arises.
- (3) Where the Commissioners are satisfied that a person is liable to be registered (whether or not the person has notified liability under subsection (1)), the Commissioners must register the person with effect from the day on which the liability to register arises.

VALID FROM 06/04/2018

#### **45 Voluntary registration: small producers**

- (1) The Commissioners must register a person who—
  - (a) meets the voluntary registration eligibility conditions, and
  - (b) applies to the Commissioners for registration under this section.
- (2) The voluntary registration eligibility conditions are met by a person (P) if—
  - (a) P produces chargeable soft drinks,
  - (b) P is not liable to be registered under section 42 (liability to register: producers), and
  - (c) some or all of the chargeable soft drinks produced by P are packaged on premises in the United Kingdom by a person other than P.
- (3) A person who is registered under section 41 or 43 may also be registered under this section.

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#### **46 Cancellation of registration under section 41, 42 or 43**

- (1) A registration under section 41, 42 or 43 may be cancelled only in accordance with this section.
- (2) For the purposes of this section, a person meets the “liability condition” at a particular time if—
  - (a) at the end of the preceding month, the condition in section 41(1)(a), 42(1)(a) or 43(1)(a) is met in relation to the person, or
  - (b) at that time, the condition in section 41(1)(b), 42(1)(b) or 43(1)(b) is met in relation to the person.
- (3) The Commissioners must cancel a person's registration under section 41, 42 or 43 if—
  - (a) the person requests the cancellation, and
  - (b) the person satisfies the Commissioners that the person does not, at the time of the request, meet the liability condition.
- (4) A cancellation under subsection (3) is to be made with effect from—
  - (a) the day on which the request is made, or
  - (b) such later day as may be agreed between the Commissioners and the person.
- (5) The Commissioners may cancel a person's registration under section 41, 42 or 43 if they are satisfied that the person does not meet the liability condition.
- (6) A cancellation under subsection (5) is to be made with effect from—
  - (a) the day on which the person ceased to meet the liability condition, or
  - (b) such later day as may be agreed between the Commissioners and the person.
- (7) But the Commissioners must not cancel a registration under subsection (3) or (5) with effect from any time unless—
  - (a) they are satisfied that it is not a time when the person would meet the liability condition, and
  - (b) it is reasonable to believe that the person will not become liable to be registered under section 41(1)(a) or 43(1)(a) during the period of 12 months beginning with that time.
- (8) The Commissioners may cancel a person's registration under section 41, 42 or 43 if they are satisfied that the person did not meet the liability condition on the day on which the person was registered, and has not at any subsequent time met the liability condition.
- (9) A cancellation under subsection (8) is to be made with effect from the day on which the person was registered.

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#### 47 Cancellation of voluntary registration

- (1) The Commissioners may cancel a person's registration under section 45 if they are satisfied that the person does not meet the voluntary registration eligibility conditions (see subsection (2) of that section).
- (2) A cancellation under subsection (1) is to be made with effect from the day on which the person ceased to meet the voluntary registration eligibility conditions.
- (3) The Commissioners must cancel a person's registration under section 45 if the person requests the cancellation.
- (4) A cancellation under subsection (3) is to be made with effect from—
  - (a) the day on which the request is made, or
  - (b) such later day as may be agreed between the Commissioners and the person.

#### 48 Correction of the register

- (1) The Commissioners may by regulations make provision about the correction of entries in the register.
- (2) Regulations under subsection (1) may make provision for requiring persons who are, or are liable to be, registered to notify the Commissioners of changes in circumstances which are relevant to the register.

##### Commencement Information

**I6** [S. 48](#) in force at 13.1.2018 for specified purposes by [S.I. 2018/32, reg. 2](#)

#### 49 Applications, notifications etc

The Commissioners may by or under regulations make provision—

- (a) about the form and manner in which a notification under section 44 (notification of liability to register) is to be given;
- (b) about the information to be contained in or provided with a notification under that section;
- (c) about the form and manner of an application under section 45 (voluntary registration: small producers);
- (d) requiring applications, notifications and other communications with the Commissioners in connection with registration to be made electronically.

##### Commencement Information

**I7** [S. 49](#) in force at 13.1.2018 for specified purposes by [S.I. 2018/32, reg. 2](#)

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VALID FROM 06/04/2018

## Offences

### 50 Fraudulent evasion

- (1) A person commits an offence if the person is knowingly concerned in, or in the taking of steps with a view to, the fraudulent evasion (by that person or any other person) of soft drinks industry levy.
- (2) The references in subsection (1) to the evasion of soft drinks industry levy include references to obtaining, in circumstances where there is no entitlement to it—
  - (a) a tax credit under regulations under section 39;
  - (b) a repayment of soft drinks industry levy under Schedule 8.
- (3) A person guilty of an offence under this section is liable—
  - (a) on summary conviction in England and Wales—
    - (i) to imprisonment for a term not exceeding 12 months, or
    - (ii) to a fine not exceeding £20,000 or (if greater) 3 times the total of the amounts of soft drinks industry levy that were, or were intended to be, evaded, or
    - (iii) to both;
  - (b) on summary conviction in Scotland—
    - (i) to imprisonment for a term not exceeding 12 months, or
    - (ii) to a fine not exceeding the statutory maximum or (if greater) 3 times the total of the amounts of soft drinks industry levy that were, or were intended to be, evaded, or
    - (iii) to both;
  - (c) on summary conviction in Northern Ireland—
    - (i) to imprisonment for a term not exceeding 6 months, or
    - (ii) to a fine not exceeding the statutory maximum or (if greater) 3 times the total of the amounts of soft drinks industry levy that were, or were intended to be, evaded, or
    - (iii) to both;
  - (d) on conviction on indictment—
    - (i) to imprisonment for a term not exceeding 7 years,
    - (ii) to a fine, or
    - (iii) to both.
- (4) For the purposes of subsection (3), the amounts of soft drinks industry levy that were, or were intended to be, evaded are to be taken as including—
  - (a) the amount of any tax credit under regulations under section 39, and
  - (b) the amount of any repayment of soft drinks industry levy under Schedule 8, which was, or was intended to be, obtained in circumstances where there was no entitlement to it.
- (5) In determining for the purposes of subsection (3) the amounts of soft drinks industry levy that were, or were intended to be, evaded, no account is to be taken of the extent to which any liability to levy of a person would be, or would have been, reduced by



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the amount of any tax credit or repayment of soft drinks industry levy to which the person was, or would have been, entitled.

- (6) In relation to an offence committed before the commencement of section 154(1) of the Criminal Justice Act 2003 the reference in subsection (3)(a)(i) to 12 months is to be read as a reference to 6 months.

## **51 Failure to notify registration liability**

- (1) A person who fails to comply with section 44(1) (obligation to notify the Commissioners of liability to be registered) commits an offence.
- (2) In proceedings against a person (P) for an offence under subsection (1), it is a defence for P to prove that P had a reasonable excuse for the failure to comply.
- (3) For the purposes of subsection (2)—
- (a) where P relies on any other person to do anything, that is not a reasonable excuse unless P took reasonable care to avoid the failure;
  - (b) where P had a reasonable excuse for the failure but the excuse has ceased, P is to be treated as having continued to have the excuse if the failure is remedied without unreasonable delay after the excuse ceased.
- (4) A person guilty of an offence under this section is liable—
- (a) on summary conviction in England and Wales—
    - (i) to imprisonment for a term not exceeding 12 months, or
    - (ii) to a fine not exceeding £20,000 or (if greater) 3 times the amount of the potential lost revenue, or
    - (iii) to both;
  - (b) on summary conviction in Scotland—
    - (i) to imprisonment for a term not exceeding 12 months, or
    - (ii) to a fine not exceeding the statutory maximum or (if greater) 3 times the amount of the potential lost revenue, or
    - (iii) to both;
  - (c) on summary conviction in Northern Ireland—
    - (i) to imprisonment for a term not exceeding 6 months, or
    - (ii) to a fine not exceeding the statutory maximum or (if greater) 3 times the amount of the potential lost revenue, or
    - (iii) to both;
  - (d) on conviction on indictment—
    - (i) to imprisonment for a term not exceeding 3 years,
    - (ii) to a fine, or
    - (iii) to both.
- (5) For the purposes of subsection (4), the “potential lost revenue” is the amount of soft drinks industry levy (if any) for which the person who committed the offence is liable for the period—
- (a) beginning with the date with effect from which the person is liable to be registered under this Part, and
  - (b) ending with the date on which the Commissioners received notification of, or otherwise were satisfied as to, the person's liability to be registered under this Part.



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- (6) In calculating potential lost revenue for the purposes of subsection (4), no account is to be taken of the fact that a potential loss of revenue from the person is or may be balanced by a potential over-payment by another person.
- (7) In relation to an offence committed before the commencement of section 154(1) of the Criminal Justice Act 2003 the reference in subsection (4)(a)(i) to 12 months is to be read as a reference to 6 months.

### *Administration and enforcement*

## **52 Payment, collection and recovery**

- (1) The Commissioners may by regulations make provision about the payment, collection and recovery of soft drinks industry levy.
- (2) Regulations under subsection (1) may—
  - (a) require persons who are or are liable to be registered under this Part to keep accounts for the purposes of the levy in the specified form and manner;
  - (b) require persons who are or are liable to be registered under this Part to make returns for the purposes of the levy;
  - (c) make provision for determining the periods (“accounting periods”) by reference to which payments of the levy are to be made;
  - (d) make provision about the times at which payments of the levy are to be made and methods of payment;
  - (e) require the amounts payable by reference to accounting periods to be calculated by or under the regulations;
  - (f) make provision for the correction of errors made in accounting for the levy.
- (3) Provision may be made by or under regulations under subsection (2)(b) about—
  - (a) the periods by reference to which returns are to be made,
  - (b) the information to be included in returns,
  - (c) timing, and
  - (d) the form of, and method of, making returns.
- (4) Schedule 8 contains provision about recovery and overpayments.

### **Commencement Information**

**18** S. 52 in force at 13.1.2018 for specified purposes by [S.I. 2018/32, reg. 2](#)

## **53 Records**

- (1) The Commissioners may by regulations require persons—
  - (a) to keep, for purposes connected with soft drinks industry levy, records of specified matters, and
  - (b) to preserve records for a specified period.
- (2) A duty under regulations under this section to preserve records may be discharged—
  - (a) by preserving them in any form and by any means, or

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- (b) by preserving the information contained in them in any form and by any means, subject to any specified conditions or exceptions.
- (3) The Commissioners may direct a person who is, or is liable to be, registered under this Part—
  - (a) to keep such records as are specified in the direction;
  - (b) to preserve those records for a specified period.
- (4) The period specified in a direction under subsection (3)(b) may not exceed 6 years.
- (5) The Commissioners may not give a direction under subsection (3) unless they have reasonable grounds for believing that the records specified in the direction might assist in identifying chargeable soft drinks in respect of which soft drinks industry levy might not be paid.
- (6) A direction under subsection (3)—
  - (a) must be given in writing,
  - (b) must specify the consequences under Schedule 9 of failure to comply with a requirement imposed under subsection (3), and
  - (c) may be revoked or replaced by a further direction.
- (7) Schedule 9 makes provision about penalties for failure to comply with requirements imposed by regulations or directions under this section.

#### **Commencement Information**

**I9** [S. 53](#) in force at 13.1.2018 for specified purposes by [S.I. 2018/32, reg. 2](#)

## **54 Power to make further provision about enforcement**

- (1) The Commissioners may by regulations make further provision about enforcement of soft drinks industry levy, including provision conferring powers of entry, search or seizure.
- (2) Regulations under this section may include provision—
  - (a) conferring powers to enter and inspect premises that are used, or are reasonably believed to be used, in connection with the production, packaging, sale, import or export of chargeable soft drinks;
  - (b) conferring powers to stop, board and search ships, aircraft and other vehicles entering, leaving or situated on premises referred to in paragraph (a);
  - (c) conferring powers to inspect and take copies of business documents on premises referred to in paragraph (a);
  - (d) conferring powers to examine and take samples of soft drinks found on premises referred to in paragraph (a);
  - (e) for the detention and seizure of chargeable soft drinks in respect of which a specified requirement of this Part has been contravened;
  - (f) requiring a person to provide such facilities as are reasonably necessary for an officer of Revenue and Customs to carry out an examination or search or exercise other powers conferred by the regulations;
  - (g) about reviews of, and appeals against, decisions made for the purposes of the regulations.

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- (3) Regulations under this section may, in particular, make provision by applying any provision of the Customs and Excise Management Act 1979.

**Commencement Information**

**I10** S. 54 in force at 13.1.2018 for specified purposes by S.I. 2018/32, reg. 2

VALID FROM 06/04/2018

**55 Appeals etc**

Schedule 10 makes provision about appeals and reviews.

VALID FROM 06/04/2018

**56 Supplementary amendments**

Schedule 11 contains supplementary amendments relating to administration and enforcement of soft drinks industry levy.

*Miscellaneous*

**57 Regulations: death, incapacity or insolvency of person carrying on a business**

- (1) The Commissioners may by regulations make provision for the purposes of soft drinks industry levy in relation to cases where a person carries on a business of—
- (a) an individual who has died or become incapacitated;
  - (b) a person (whether or not an individual) who is subject to an insolvency procedure (as defined in the regulations).
- (2) Regulations under this section may include—
- (a) provision requiring the person who is carrying on the business (P) to notify the Commissioners that P is carrying on the business and of the event that led to P carrying it on;
  - (b) provision allowing P to be treated for a limited time as if P and the person who has died, become incapacitated or is subject to an insolvency procedure were the same person;
  - (c) such other provision as the Commissioners think fit for securing continuity in the application of this Part in cases to which the regulations apply.

**Commencement Information**

**I11** S. 57 in force at 13.1.2018 for specified purposes by S.I. 2018/32, reg. 2

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## 58 Provisional collection of soft drinks industry levy

In section 1 of the Provisional Collection of Taxes Act 1968 (temporary statutory effect of House of Commons resolutions), in subsection (1), after “aggregates levy,” insert “ soft drinks industry levy, ”.

### *General*

## 59 Interpretation of Part 2

(1) In this Part—

“accounting period” is to be construed in accordance with section 52(2)(c);

“chargeable soft drink” has the meaning given by section 28;

“the Commissioners” means the Commissioners for Her Majesty's Revenue and Customs;

“compliant warehouse” is to be construed in accordance with section 32(5);

“first recipient” and “first receipt”, in relation to imported chargeable soft drinks, have the meaning given by section 33(2) and (4);

“first seller”, in relation to imported chargeable soft drinks, has the meaning given by section 33(9);

“HMRC” means Her Majesty's Revenue and Customs;

“package” and “packaged” are to be construed in accordance with section 26(3);

“person who is already registrable” has the meaning given by section 41(4);

“prepared drink” has the meaning given by section 27(1);

“produce”, in relation to chargeable soft drinks, is to be construed in accordance with section 37(2);

“relevant person” has the meaning given by section 33(5);

“secondary warehousing condition” has the meaning given by section 32(4);

“small producer” has the meaning given by section 38;

“small producer threshold” has the meaning given by section 38(7);

“soft drink” has the meaning given by section 26(1);

“sugars” means anything that is required to be described as “sugars” for the purposes of a designated food labelling obligation (see subsection (3)).

(2) In sections 30, 34, 52, 53(1) and (2) and 54 and in paragraph 11 of Schedule 8, “specified” means specified in regulations made by the Commissioners for the purposes of this Part.

(3) In the definition of “sugars” in subsection (1), “designated food labelling obligation” means an obligation that—

- (a) relates to the provision of nutritional information on the packaging of food or drinks,
- (b) is imposed by an enactment, an EU instrument or subordinate legislation, and

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- (c) is designated by regulations made by the Commissioners for the purposes of this Part.
- (4) Section 1122 of CTA 2010 (meaning of connected person) applies for the purposes of this Part.
- (5) For the purposes of this Part, a person “packages” chargeable soft drinks if—
  - (a) the person packages soft drinks, and
  - (b) the packaged soft drinks are chargeable soft drinks.

#### Commencement Information

**I12** [S. 59](#) in force at 13.1.2018 for specified purposes by [S.I. 2018/32, reg. 2](#)

## 60 Regulations

- (1) Regulations under this Part—
  - (a) may make different provision for different purposes;
  - (b) may include incidental, consequential, supplementary or transitional provision.
- (2) Regulations under this Part are to be made by statutory instrument.
- (3) A statutory instrument containing regulations under section 54 may not be made unless a draft of the instrument has been laid before and approved by a resolution of the House of Commons.
- (4) Any other statutory instrument containing regulations under this Part is subject to annulment in pursuance of a resolution of the House of Commons.
- (5) But subsection (4) does not apply to a statutory instrument containing only regulations under section 61 (commencement of this Part).

#### Commencement Information

**I13** [S. 60](#) in force at 13.1.2018 for specified purposes by [S.I. 2018/32, reg. 2](#)

## 61 Commencement

- (1) Subject to subsection (2), this Part comes into force on such day as the Commissioners may by regulations appoint.
- (2) The amendment made by paragraph 3 of Schedule 11 comes into force in accordance with provision made by the Treasury by regulations.
- (3) Regulations under this section may appoint different days for different purposes.

#### Commencement Information

**I14** [S. 61](#) in force at 13.1.2018 for specified purposes by [S.I. 2018/32, reg. 2](#)

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**Changes to legislation:**

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