



# Finance Act 1961

## 1961 CHAPTER 36

### PART I

#### CUSTOMS AND EXCISE

#### **1 Television advertisement duty**

- (1) On advertisements inserted for payment in television programmes broadcast from stations in Great Britain after the end of April, nineteen hundred and sixty-one, there shall be charged a duty of excise, to be known as " the television advertisement duty ".
- (2) The television advertisement duty payable in respect of any insertion of an advertisement in such a programme shall be an amount equal to one tenth of the payment made or to be made for the insertion to the person providing the programme, and shall be charged on and paid by him, but (subject to any agreement to the contrary) the amount borne by him in respect of the duty with,any adjustment under section nine of this Act shall be recoverable by him from any person liable to him for the payment so made or to be made.
- (3) In the case of an advertisement inserted in a television programme under arrangements made between the person providing the programme and a person acting as advertising agent, the reference in the foregoing subsection to the payment made or to be made for the insertion to the person providing the programme shall be taken to include any amount allowed by him by way of commission or discount by reason of the arrangements being so made; and any amount recoverable under the foregoing subsection by the person providing the programme from the other shall (subject to any agreement to the contrary) be recoverable by the other from any person liable to him in respect of that payment.
- (4) The First Schedule to this Act shall have effect in relation to the television advertisement duty.
- (5) For the purposes of this section " payment" includes any valuable consideration.

## 2 Rebate on heavy oils

- (1) For heavy oils delivered for home use after the relevant time, the rate at which rebate of customs or excise duty is allowed under section one hundred and ninety-nine of the Act of 1952 shall be reduced by twopence a gallon, and accordingly the rates shall be—
- (a) in the case of fuel oils, gas oils and kerosene charged with the customs duty, and in the case of all oils charged with the excise duty, a rate twopence a gallon less than the rate at which the duty in question is for the time being chargeable ; and
  - (b) in any other case, a rate threepence a gallon less than the rate at which the customs duty is for the time being chargeable.
- (2) On heavy oils on which before the relevant time rebate has been allowed and not been repaid, there shall be repaid twopence a gallon of the rebate allowed, if at or after the relevant time the oils are stored on a site where there is for hydrocarbon oils storage, whether in one ownership or occupation or not, of an aggregate capacity of two hundred thousand gallons or over (or of an aggregate capacity not shown to the satisfaction of the Commissioners, if they so require, to be less than two hundred thousand gallons); and if any person liable to make a repayment under this subsection fails to do so, he shall be liable to a penalty of two hundred pounds or three times the amount unpaid, whichever is the greater.
- (3) Subject to subsection (4) of this section rebate shall be repayable on any oils under the foregoing subsection on their first removal after the relevant time from storage on such a site as aforesaid, and shall be repaid by the person in whose possession they are immediately before the removal, and may be recovered from him as a debt due to the Crown, but the amount paid shall be recoverable by him (where he is not the owner) from the person to whose order he held them immediately before the removal:
- Provided that where the removal is to bonded storage, or where before the removal (but not before the relevant time) the oils are in bonded storage, rebate shall be repayable and recoverable as if the repayment were a payment of the duty on oils removed to that bonded storage without payment of duty.
- (4) Where the event on which a repayment of rebate would otherwise fall to be made by virtue of the foregoing subsection has happened before the passing of this Act, the rebate shall be repayable on the passing of this Act, but the amount paid shall for the purposes of drawback be deemed to have been paid on the happening of that event.
- (5) Any person who is or has since the relevant time been in occupation of any storage for hydrocarbon oils on such a site as is referred to in subsection (2) of this section (not being bonded storage) shall—
- (a) notify the Commissioners of that fact, and give them such information, and make such returns, about the storage and about any other matters relevant for the purposes of that subsection as they may from time to time require;
  - (b) keep such books, records and accounts as the Commissioners may direct in relation to the storage and to any such matters as aforesaid, and (except in so far as the Commissioners dispense with this requirement) preserve for six months or any longer period required by the Commissioners all books, records, accounts or documents relating thereto;
  - (c) permit any officer to inspect the storage and the oils therein, and the premises in which it is situated, and to inspect and take copies of or extracts from any books, records, accounts or other documents in his possession or power which

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relate or appear to relate to the storage, or to any oils that are or have been therein, or to any other matters relevant for the purposes of subsection (2) of this section;

- (d) if so required by the Commissioners or by any officer, produce any such books, records, accounts or documents at a specified time and place for inspection under the foregoing paragraph.

A person who fails to comply with a requirement imposed on him by or under this subsection shall be liable to a penalty of two hundred pounds.

- (6) Any reduction or repayment of rebate under this section shall be treated as an increase of duty for the purposes of section ten of the Finance Act, 1901 (which provides for adjustments between buyer and seller under contracts affected by increases or decreases in customs or excise duties).
- (7) For the purposes of subsections (2) to (6) of this section, sites in common ownership or occupation (companies of which one controls the other, or which are under common control, being for this purpose regarded as one person) shall be treated as together constituting a single site, if hydrocarbon oils can be delivered from one site to the other by pipe or if the sites are managed as a single unit.
- (8) Subsection (2) of (this section shall not apply to any oils if the Commissioners are satisfied by such evidence as they see fit to require that the following conditions are fulfilled, that is to say—
  - (a) that at the time of the removal of (the oils from the site referred to in that subsection, the site was in the sole occupation of a person using it wholly or mainly for the storage of hydrocarbon oils for himself as a user of such oils (companies of which one controls the other, or which are under common control, being regarded as one person for the purposes of this and the two following paragraphs, if they together occupied the site); and
  - (b) that the oils in question have been or are to be applied by him (to his own purposes as such a user; and
  - (c) that not more than one-quarter of the heavy oils delivered to him in the (twelve months preceding the relevant time has been or will be applied otherwise than as aforesaid:

Provided that where the oils in question have not been applied as aforesaid before the time when the repayment of rebate would fall to be made, rebate shall be repayable in respect of them unless the person liable for the repayment undertakes, if so required by the Commissioners, to satisfy the Commissioners of their being so applied or, in default, to pay the amount for which he would have been liable in respect of those oils apart from this subsection, and gives such security in that behalf as the Commissioners require.

- (9) In this section " the relevant time " means six o'clock in the evening of the seventeenth day of April, nineteen hundred and sixty-one.

### **3 Relief from duty on heavy oils used by horticultural producers**

- (1) If, on an application made for the purposes of this section by a horticultural producer in such manner as the Commissioners of Customs and Excise may direct, it is shown to the satisfaction of the Commissioners that within the period for which the application is made any quantity of heavy oils has been used by the applicant as mentioned in (the following subsection, then subject to the provisions of this Act the applicant shall

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be entitled to obtain from the Commissioners repayment of the amount of any duty which has been paid in respect of the quantity so used (including any sum paid under subsection (2) of the foregoing section), unless that amount is less than fifty shillings.

- (2) A horticultural producer shall be entitled to repayment under the foregoing subsection in respect of oil used by him—
- (a) in the heating, for the growth of horticultural produce primarily with a view to the production of horticultural produce for sale, of any building or structure, or of the earth or other growing medium in it; or
  - (b) in the sterilisation of the earth or other growing medium to be used for the growth of horticultural produce as aforesaid in any building or structure.
- (3) Where any quantity of oil is used partly for any such purpose as aforesaid and partly for another purpose, such part of that quantity shall be treated as used for each purpose as may be determined by the Commissioners.
- (4) An application under this section shall be made for a period of six months ending with June or December and within the three months following that period, unless the Commissioners otherwise allow:

Provided that for the year nineteen hundred and sixty-one applications may be made for the period beginning with the seventeenth day of April and ending with December.

- (5) The Commissioners may require an applicant for a repayment under this section to state such facts concerning the hydrocarbon oils delivered to or used by him or concerning the production of horticultural produce by him as they may think necessary to deal with the application, and to furnish them in such form as they may require with proof of any statements so made, and may require him to permit an officer to inspect any premises or plant used by him for the production of horticultural produce or in or for which any such oil was used; and if such proof is not furnished to their satisfaction, or if the required facts are not stated, or if he fails to permit any such inspection, the facts shall be deemed for the purposes of this section to be such as the Commissioners may determine.
- (6) In this section—
- " horticultural produce " has the meaning assigned to that expression by subsection (1) of section eight of the Horticulture Act, 1960 ; and
  - " horticultural producer " means a person growing horticultural produce primarily for sale.

#### **4 Amendment of definition of pool betting**

- (1) For the purposes of the pool betting duty, the making of payments for the chance of winning any money or money's worth shall be treated as bets if the payments are made on terms under which the payors have a power of selection which may (directly or indirectly) determine the winner, notwithstanding that the power is not exercised.
- (2) This section shall have effect as respects payments, whenever made, where the winner is determined by reference to any event occurring after the twenty-eighth day of April, nineteen hundred and sixty-one.
- (3) This section has effect subject to the exclusions of certain lotteries contained in subsection (6) of section six of the Finance (No. 2) Act, 1947, and subsection (2) of section five of the Small Lotteries and Gaming Act, 1956.

## **5 Pool betting duty: provisions as to Isle of Man**

- (1) Section five of the Finance Act, 1952 (provisions for protection of pool betting duty) shall not apply to bets made by way of pool betting (other than bets made by means of a totalisator) where the promoter of the betting is in the Isle of Man and the bets are such as to be chargeable with a duty imposed by or under any Act of Tynwald and corresponding (both as to rate of duty and otherwise) with the pool betting duty.
- (2) In the foregoing subsection the expressions " bets made by way of pool betting ", " promoter " and " totalisator " have the same meanings as in section six of the Finance (No. 2) Act, 1947.
- (3) Section two of the Isle of Man Act, 1958 (Isle of Man share of certain duties) shall apply in relation to pool betting duty and to any such corresponding duty as aforesaid which is collected by the Commissioners as if those duties were included among the duties mentioned in subsection (4) of that section, but as if in relation to the duties to which that section is applied by this section the reference in paragraph (a) of subsection (2) of that section to goods consumed or used in the Isle of Man were a reference to bets made by persons in the Island.

## **6 Increase of rates of vehicles excise duty**

- (1) The rates of duty set out in Parts I to V of the Second Schedule to this Act shall be substituted, for licences (other than trade licences) in respect of vehicles of the descriptions specified in the said Parts I to V, for the rates of duty for such licences respectively prescribed by Part I of the First Schedule to the Vehicles (Excise) Act, 1949, the Second Schedule to that Act and section eleven of the Finance Act, 1959, the Third Schedule to the said Act of 1949, the Fourth Schedule to that Act, and the Fifth Schedule thereto.
- (2) In section ten of the said Act of 1949 (trade licences)—
  - (a) in subsection (3) (general trade licences) for the words " twenty-five pounds " there shall be substituted the words " thirty pounds " and for the words " five pounds " there shall be substituted the words " six pounds ";
  - (b) in subsection (4) (limited trade licences) for the words " five pounds " there shall be substituted the words " six pounds " and for the words " one pound " there shall be substituted the words " one pound five shillings ".
- (3) This section applies to licences taken out after the seventeenth day of April, nineteen hundred and sixty-one.
- (4) This section and the Second Schedule to this Act shall be construed as one with the Vehicles (Excise) Act, 1949.

## **7 Time limit for recovering under-payments and over-payments of vehicles excise duty**

In paragraph (b) of subsection (1) of section fourteen of the Vehicles (Excise) Act, 1949, and in subsection (2) of that section (time limit for proceedings for recovering duty not paid or duty overpaid), for the words from " year next following " to " taken out " there shall be substituted the words " twelve months beginning with the end of the period in respect of which the licence was taken out ".

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## **8 Agricultural tractors: amendment as to carriage of produce, etc., at agricultural rate of duty**

- (1) For the purposes of section thirteen of the Finance Act, 1959 (which relieves agricultural tractors and other engines from being charged to duty as goods vehicles when carrying agricultural loads on appliances of certain types fitted to the vehicle, but does not apply to three-wheeled vehicles) a vehicle having two wheels at the front shall, if the distance between them (measured between the centres of their respective areas of contact with the road) is less than eighteen inches, be treated as a three-wheeled vehicle.
- (2) This section shall not apply to the use of vehicles before the first day of October, nineteen hundred and sixty-one.

## **9 Surcharges or rebates of amounts due for revenue duties**

- (1) If it appears to the Treasury that it is expedient, with a view to regulating the balance between demand and resources in the United Kingdom, that the following subsection should have effect, the Treasury may by order direct that it shall have effect as respects the period during which the order is in force:

Provided that an order under this subsection shall not be made or continue in force after the thirty-first day of August, nineteen hundred and sixty-two or such later date as Parliament may hereafter determine.

- (2) Where during a period as respects which this subsection has effect—
  - (a) any duty to which this section applies becomes due, or
  - (b) a right arises to a drawback, rebate or allowance,the liability to duty or right to drawback, rebate or allowance shall be adjusted by the addition or deduction, as may be prescribed, of such percentage, not exceeding ten per cent., as may be prescribed of the amount payable or allowable; but in the case of a drawback, rebate or allowance that amount shall be calculated as if any adjustment under this subsection of liability to the duty by reference to which it is calculated had not been made.
- (3) This section applies to—
  - (a) every duty of customs chargeable under any enactment other than the Import Duties Act, 1958, and the Customs Duties (Dumping and Subsidies) Act, 1957 ;
  - (b) every duty of excise, including bookmakers' licence duty under section fifteen of the Finance Act, 1948, but excluding any other excise duty payable on a licence; and
  - (c) purchase tax.
- (4) In this section—
  - (a) " duty " includes tax,
  - (b) " prescribed " means prescribed by an order under this section,
  - (c) references to a drawback or rebate are references to a drawback or rebate of duty to which this section applies (whenever the duty became due), and references to an allowance are references to an allowance in respect of goods which have become chargeable with any such duty (whenever the duty became due).

- (5) Any repayment of duty to which this section applies or of drawback or allowance shall be calculated by reference to the amount actually paid or allowed (after effect was given to any adjustment falling to be made under this section), but save as aforesaid subsection (2) of this section does not require the adjustment of any such repayment.
- (6) The provisions of the Third Schedule to this Act shall have effect with respect to orders under this section, and the provisions of the Fourth Schedule to this Act shall have effect, for the purposes of this section, in relation to the special cases therein mentioned; and the foregoing subsections shall have effect subject to those provisions.
- (7) The enactments relating to the collection or recovery or otherwise to the management of any duty to which this section applies shall apply to the amount of any adjustment under the foregoing provisions of this section as if it were duty, drawback, rebate or allowance, as the case may be.
- (8) For the purposes of subsections (1) and (2) of section ten of the Finance Act, 1901 (adjustment of contract prices and variation of duties) and those subsections as applied to purchase tax by section twenty-four of the Finance Act, 1948, the beginning or ending of a period as respects which subsection (2) of this section has effect, or the variation of a percentage prescribed for the purposes of this section, shall be treated as an increase or decrease (as the case may require) of any duty to which this section applies; and references in subsections (1) and (2) of the said section ten to an amount paid on account of an increase of duty, to having had the benefit of a decrease of duty, and to the amount of the decrease of duty shall be construed accordingly.
- (9) Section twenty-two of the Government of Ireland Act, 1920 (reserved taxes) shall apply to the imposing, charging, levying, collection or allowance of any such addition or deduction as is provided for by this section as the said section twenty-two applies to the duties and taxes therein mentioned; but it is hereby declared that this section does not apply to any duty of excise with respect to which the Parliament of Northern Ireland has power to make laws.
- (10) For the purposes of section two of the Isle of Man Act, 1958 (Isle of Man share of equal duties) the amount of equal duties collected in (the Isle of Man and the United Kingdom, or in the Isle of Man, shall be calculated by reference to the amount so collected in respect of such duties after giving effect to any addition or deduction provided for under this section or any corresponding provisions of the law of the Isle of Man.

## **10 Temporary continuation of Commonwealth preference for goods from Southern Cameroons**

- (1) On the Southern Cameroons ceasing to be administered by Her Majesty's Government under the trusteeship system of the United Nations, section (two of the Import Duties Act, 1958 (Commonwealth preference) shall have effect as if the Southern Cameroons were a country named in subsection (4) of that section (independent countries entitled to Commonwealth preference):

Provided that the Southern Cameroons shall not by virtue of this section be treated as continuing to be so named after the end of September, nineteen hundred and sixty-two.

- (2) In this section " the Southern Cameroons " means the area comprised at the passing of this Act in the territory then known as the Southern Cameroons.

## **11 Police prosecutions for offences relating to transferred duties**

- (1) Notwithstanding anything in section two hundred and eighty-one of the Act of 1952, as applied under section three hundred and thirteen of that Act, a local authority in England or Wales may authorise the bringing by any constable of proceedings, or any particular proceedings, for an offence under the excise Acts relating to any duty of excise the levying of which has been transferred to the authority under section six of the Finance Act, 1908 (licences for dealing in game, killing game, and guns) or section fifteen of the Finance Act, 1949 (hawker's, money-lender's, pawnbroker's and refreshment house licences).
- (2) A document purporting to be a copy of a resolution authorising the bringing of proceedings in accordance with this section and to be signed by an officer of the local authority shall be evidence, until the contrary is shown, that the bringing of the proceedings was duly authorised.