

SCHEDULES

SCHEDULE 8

Section 11(1).

MISCELLANEOUS CUSTOMS AND EXCISE AMENDMENTS

PART I

AMENDMENTS OF CUSTOMS AND EXCISE MANAGEMENT ACT 1979

Definition of "revenue trader"

- 1 (1) In the definition of "revenue trader" in subsection (1) of section 1—
- (a) after the word " means " there shall be inserted " (a) "; and
 - (b) for the words " and includes a registered club " there shall be substituted the words " ; and
 - (b) any person who is a wholesaler or an occupier of an excise warehouse (so far as not included in paragraph (a) above),
- and includes a registered club”.
- (2) In the Table in subsection (3) of that section the word " " wholesaler " shall be inserted after the word " ' spirits ' " .

Warehousing regulations

- 2 In section 93—
- (a) in paragraph (a) of subsection (2) after the words " deposited in " there shall be inserted the words " secured in " ;
 - (b) after paragraph (f) of that subsection there shall be inserted—
 - “(g) imposing or providing for the imposition under the regulations of requirements on the occupier of a warehouse or the proprietor of goods in a warehouse to keep and preserve records relating to his business as such an occupier or proprietor and to produce them to an officer when required to do so for the purpose of allowing him to inspect them, to copy or take extracts from them or to remove them at a reasonable time and for a reasonable period”;
 - (c) after subsection (2) there shall be inserted—
 - “(2A) Where any documents removed under the powers conferred by subsection (2)(g) above are lost or damaged the Commissioners shall be liable to compensate their owner for any expenses reasonably incurred by him in replacing or repairing the documents.”; and

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- (d) in subsection (6)—
- (i) for the words "or restriction" there shall be substituted the words "restriction or requirement"; and
 - (ii) for "£100" there shall be substituted "£200 together with a penalty of £20 for each day on which the failure continues".

Deficiency in warehoused goods

3 Section 94(2) shall cease to have effect.

Procedure on warehouse ceasing to be approved

4 In section 98—

- (a) at the end of subsection (1) there shall be inserted the words "and, unless the notice has been withdrawn or extended, the warehouse shall cease to be approved on that date"; and
- (b) for subsection (3) there shall be substituted—

“(3) If after the date on which the warehouse ceases to be approved any goods not duly cleared still remain in the former warehouse—

- (a) they may be taken by an officer to a Queen's warehouse and, without prejudice to section 99(3) below, if they are not cleared from it within one month may be sold; or
- (b) if the Commissioners so allow, they may remain in the former warehouse and if they are not cleared from it within one month may be sold.

(3A) Where in accordance with paragraph (b) above goods remain in the warehouse after the revocation or expiry of the Commissioners' approval—

- (a) subsections (6) and (7) of section 99 below shall apply to them as if they were deposited in a Queen's warehouse under the Customs and Excise Acts 1979; and
- (b) sections 93, 94, 95 and 97 above and section 100 below shall apply and any security given by bond or otherwise and any condition imposed by or under the customs and excise Acts shall continue to have effect, as if the former warehouse were still a warehouse.”

Excise licences

5 Sections 105 and 106 shall cease to have effect.

Powers of entry on premises of revenue traders

6 In section 112—

- (a) in subsection (1) after the word "machinery" there shall be inserted the word "vehicles"; and
- (b) in subsection (3) for the words "or maker of cider" there shall be substituted the words ", maker of cider or occupier of an excise warehouse".

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Power to estimate excise duties

7 After section 116 there shall be inserted—

“116A Power to estimate excise duties.

- (1) Where an amount is due on account of any excise duty but the Commissioners are unable to ascertain the amount of the duty properly due because—
- (a) returns, accounts, records or other documents have not been made, kept, preserved or produced by the occupier of an excise warehouse or a distiller as required by or under the provisions of the customs and excise Acts ; or
 - (b) it appears to the Commissioners that any returns, accounts, records or other documents so made, kept, preserved or produced are incomplete or incorrect,
- they may estimate the amount due.
- (2) Without prejudice to the recovery of the full amount due or to the making of a further estimate, the amount estimated shall be recoverable as duty properly due unless in any action relating thereto the person liable proves the amount properly due and that amount is less than the amount estimated.”.

Execution and distress

8 After subsection (7) of section 117 there shall be inserted—

- “(7A) Where distress is levied under this section for any amount estimated under section 116A above and it is afterwards proved that the amount properly due was less than the amount estimated, that shall not affect the legality of the distress or anything done under this section in connection therewith, but the proceeds of sale shall be applied under subsection (7) above in accordance with the amount properly due and not in accordance with the amount estimated”.

Proof of documents

9 In section 153 after subsection (3) there shall be inserted—

- “(4) A photograph of any document delivered to the Commissioners for any customs or excise purpose and certified by them to be such a photograph shall be admissible in any proceedings, whether civil or criminal, to the same extent as the document itself.”

PART II

AMENDMENTS OF ALCOHOLIC LIQUOR DUTIES ACT 1979

Ascertainment of volume etc. of alcoholic liquors from labels etc.

10 After subsection (3) of section 2 there shall be inserted—

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“(3A) Without prejudice to the generality of subsection (3) above, regulations under that subsection may provide that for the purpose of charging duty on any spirits, wine or made-wine contained in any bottle or other container, the strength, weight or volume of the spirits, wine or made-wine may be ascertained by reference to any information given on the bottle or other container by means of a label or otherwise or to any documents relating to the bottle or other container.”.

Definitions of "wholesale " and "wholesaler "

11 For the definitions of "wholesale" and "wholesaler" in section 4(1) there shall be substituted—

“" wholesale ", in relation to dealing in dutiable alcoholic liquor, means the sale at any one time to any one person of quantities not less than the following, namely—

- (a) in the case of spirits, wine or made-wine, 9 litres or 1 case ; or
- (b) in the case of beer or cider, 20 litres or 2 cases;

" wholesaler " means a person who deals wholesale in dutiable alcoholic liquor;”.

Regulations about manufacture of spirits

12 In section 13—

(a) after subsection (1) there shall be inserted—

“(1A) Without prejudice to the generality of subsection (1) above, regulations under that subsection may—

- (a) provide for the imposition under the regulations of conditions and restrictions relating to the matters mentioned in that subsection ; and
- (b) impose or provide for the imposition of requirements on a manufacturer of spirits to keep and preserve records relating to his business as such a manufacturer and to produce them to an officer when required to do so for the purpose of allowing him to inspect them, to copy or take extracts from them or to remove them at a reasonable time and for a reasonable period.

(1B) Where any documents removed under the powers conferred by subsection (1A)(a) above are lost or damaged the Commissioners shall be liable to compensate their owner for any expenses reasonably incurred by him in replacing or repairing the documents.”;

- (b) in subsection (3) after the words " subsection (1) above " there shall be inserted the words " or with any condition, restriction or requirement imposed under such a regulation " and after the words "£1,000" there shall be inserted the words " together in the case of such a failure with a penalty of £20 for each day on which the failure continues ";
- (c) at the end of subsection (4) there shall be inserted the words " or with any condition, restriction or requirement imposed under that regulation ".

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Attenuation charge for distilled spirits

- 13 In section 14(2) for the words "8.8 degrees" in both places where they occur there shall be substituted the words " 8 degrees "

Distillers' warehouses

- 14 In section 15—
- (a) for subsection (2) there shall be substituted—
 - “(2) The Commissioners may approve such a place of security for such periods and subject to such conditions as they think fit.”;
 - (b) after subsection (6) there shall be inserted—
 - “(6A) Without prejudice to the generality of subsection (6) above, regulations under that subsection may—
 - (a) provide for the imposition under the regulations of conditions and restrictions relating to the matters mentioned in that subsection ; and
 - (b) impose or provide for the imposition under the regulations of requirements on the distiller or the proprietor of any goods in the warehouse to keep and preserve records relating to his business as such a distiller or proprietor and to produce them to an officer when required to do so for the purpose of allowing him to inspect them, to copy or take extracts from them or to remove them at a reasonable time and for a reasonable period.
 - (6B) Where any documents removed under the powers conferred by subsection (6A)(b) above are lost or damaged the Commissioners shall be liable to compensate their owner for any expenses reasonably incurred by him in replacing or repairing the documents.”;
 - (c) in subsection (7) after the words "subsection (6) above" there shall be inserted the words "or with any condition, restriction or requirement imposed under such a regulation " and after the words "£1,000 " there shall be inserted the words " together in the case of such a failure with a penalty of £20 for each day on which the failure continues " .
 - (d) at the end of subsection (8) there shall be inserted the words " or with any condition, restriction or requirement imposed under that regulation " .

Rectifying and compounding of spirits

- 15 In section 19—
- (a) after subsection (1) there shall be inserted—
 - “(1A) Without prejudice to the generality of subsection (1) above, regulations under that subsection may—
 - (a) provide for the imposition under the regulations of conditions and restrictions relating to the matters mentioned in that subsection ; and
 - (b) impose or provide for the imposition under the regulations of requirements on rectifiers and compounders of spirits

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to keep and preserve records relating to their business as such and to produce them to an officer when required to do so for the purpose of allowing him to inspect them, to copy or take extracts from them or to remove them at a reasonable time and for a reasonable period.

(1B) Where any documents removed under the powers conferred by subsection (1A)(b) above are lost or damaged the Commissioners shall be liable to compensate their owner for any expenses reasonably incurred by him in replacing or repairing the documents.”;

- (b) in subsection (2) after the word "section" there shall be inserted the words " or with any condition, restriction or requirement imposed under any such regulation " and
- (c) at the end of subsection (3) there shall be inserted the words " or with any condition, restriction or requirement imposed under that regulation ".

Drawback on British compounds and spirits of wine

16 In section 22 after subsection (3) there shall be inserted—

“(3A) The Commissioners may, subject to such conditions and restrictions as they may by regulations impose, allow drawback to any person on any British compounded spirits or spirits of wine rectified or compounded by him from duty-paid spirits and not containing any methyl alcohol or any wine, made-wine or other fermented liquor if they are exported direct from his premises.”.

Restrictions on distillers and rectifiers

17 In section 24—

- (a) at the beginning of subsection (1) there shall be inserted the words " Save with the permission of the Commissioners and subject to compliance with such conditions as they see fit to impose " ; and
- (b) in subsection (3) after the word " retailer" there shall be inserted the words " or wholesaler ".

Spirits consignment and advice notes

18 Sections 27 to 30 shall cease to have effect.

Transfer of spirit from distillers' warehouses

19 In section 32(1) the words from " and " onwards shall cease to have effect.

Abolition of wholesalers' licences etc.

20 Sections 65, 68, 70 and 85 to 89 shall cease to have effect.

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Restrictions on wholesalers of spirits

- 21 At the beginning of section 69(1) there shall be inserted the words " Save with the permission of the Commissioners and subject to compliance with such conditions as they see fit to impose. " .

Methylated spirits

- 22 Section 76 shall cease to have effect.
- 23 In section 77—
- (a) in subsection (1) in paragraph (d) for the words "the sale without a licence of " there shall be substituted the words " dealing wholesale (within the meaning of section 75 above) without a licence in ";
 - (b) at the end of subsection (2) there shall be inserted the words "and, without prejudice to the generality of subsection (1) above, regulations under this section may—
 - (a) provide for the imposition under the regulations of conditions and restrictions relating to the matters mentioned in that subsection; and
 - (b) impose or provide for the imposition by regulations of requirements on authorised or licensed methylators and on retailers of methylated spirits to keep and preserve records relating to their businesses as such and to produce them to an officer when required to do so for the purpose of allowing him to inspect them, to copy or take extracts from them or to remove them at a reasonable time and for a reasonable period.";
 - (c) after that subsection there shall be inserted—
 - “(2A) Where any documents removed under the powers conferred by subsection (2)(b) above are lost or damaged the Commissioners shall be liable to compensate their owner for any expenses reasonably incurred by him in replacing or repairing the documents.”;
 - (c) in subsection (3) for the words " he shall be liable " onwards there shall be substituted the words "or with any condition, restriction or requirement imposed under such a regulation, he shall be liable on summary conviction to a penalty of £500 together in the case of such a failure with a penalty of £20 for each day on which the failure continues
 - (d) in subsection (4) for the word " sells" there shall be substituted the words " deals wholesale (within the meaning of section 75 above) in " and the words "or 76" shall cease to have effect.

PART III

AMENDMENTS OF LICENSING ACTS

The Licensing Act 1964

- 24 In section 181 of the Licensing Act 1964—

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- (a) for the words from "the holder" to "his wholesaler's licence extends" there shall be substituted the words " a wholesaler within the meaning of section 4 of the Alcoholic Liquor Duties Act 1979 may, at the premises from which he deals wholesale, sell by retail without a justices' licence any intoxicating liquor other than cider in which he deals wholesale "; and
 - (b) in paragraph (b) (iii) for the words " holder of the wholesaler's licence " there shall be substituted the word " wholesaler ".
- 25 In the definition of " intoxicating liquor " in section 201(1) of that Act for the words from " but" onwards there shall be substituted the words " but does not include—
- (a) any liquor which, whether made on the premises of a brewer for sale or elsewhere, is found on analysis of a sample thereof at any time to be of an original gravity not exceeding 1016° and of a strength not exceeding 1-2 per cent;
 - (b) perfumes;
 - (c) flavouring essences recognised by the Commissioners as not being intended for consumption as or with dutiable alcoholic liquor;
 - (d) spirits, wine or made-wine so medicated as to be, in the opinion of the Commissioners, intended for use as a medicine and not as a beverage;
- and expressions used in paragraphs (a) and (d) above shall have the same meaning as in the Alcoholic Liquor Duties Act 1979."

The Licensing Act (Northern Ireland) 1971

- 26 In section 76 of the Licensing Act (Northern Ireland) Act 1971—
- (a) for subsection (1) there shall be substituted—
 - “(1) A wholesaler within the meaning of section 4 of the Alcoholic Liquor Duties Act 1979 shall not sell intoxicating liquor to any person in Northern Ireland other than a person mentioned in subsection (2) unless—
 - (a) the wholesaler is the holder of a licence under this Act for premises which are either of a kind mentioned in section 3(1)(o) or (b) or an hotel to which section 3(5)(b) (ii) applies ; and
 - (b) the sale is made in those premises during the permitted hours.”;
 - (b) for paragraph (b) of subsection (2) there shall be substituted—
 - “(b) a wholesaler within the meaning of the said section 4”.
- 27 In the definition of "intoxicating liquor" in section 84(1) of that Act for paragraph (b) there shall be substituted—
- “(a) perfumes;
 - (b) flavouring essences recognised by the Commissioners as not being intended for consumption as or with dutiable alcoholic liquor;
 - (c) spirits, wine or made-wine so medicated as to be, in the opinion of the Commissioners, intended for use as a medicine and not as a beverage ;

and expressions used in paragraphs (a) and (d) above shall have the same meaning as in the Alcoholic Liquor Duties Act 1979.”.

- 28 In section 85 of that Act for paragraph (c) there shall be substituted—

- “(c) prejudice or affect the sale by any manufacturing or wholesale chemist and druggist of spirits of wine wholesale for medicinal purposes to registered medical practitioners, duly registered pharmaceutical chemists, chemists and druggists or persons requiring the spirits for use for scientific purposes in any laboratory ;”.