



# Alcoholic Liquor Duties Act 1979

## 1979 CHAPTER 4

### PART III

#### BEER

##### *Charge of excise duty*

**[<sup>F1</sup>36 Beer: charge of excise duty.**

- (1) There shall be charged on beer—
- (a) imported into the United Kingdom, or
  - (b) produced in the United Kingdom,
- a duty of excise [<sup>F2</sup>at the rates specified in subsection (1AA) below] .

[ The rates at which the duty shall be charged are—

- <sup>F3</sup>(1AA) (a) in the case of beer that is not small brewery beer, £11.89 per hectolitre per cent of alcohol in the beer;
- (b) in the case of small brewery beer produced in a singleton brewery, the rate per hectolitre per cent of alcohol in the beer that is given by section 36D below;
  - (c) in the case of small brewery beer produced in a co-operated brewery, the rate per hectolitre per cent of alcohol in the beer that is given by section 36F below.]

<sup>F4</sup>(1A) No duty shall be chargeable under subsection (1) above on beer which is of a strength of 1.2 per cent. or less; but any such beer shall in all other respects be treated as if it were chargeable with a duty of excise.]

- (2) Subject to the provisions of this Act—
- (a) the duty on beer produced in, or imported into, the United Kingdom shall be charged and paid, and
  - (b) the amount chargeable in respect of any such duty shall be determined and become due,

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in accordance with regulations under section 49 below [<sup>F5</sup>and with any regulations under section 1 of the Finance (No. 2) Act 1992].

#### Textual Amendments

- F1** S. 36 substituted (1.6.1993) by [Finance Act 1991 \(c. 31\), s. 7\(1\)\(5\)](#); S.I. 1993/1152, art. 3(2), Sch. 1 Pt. II.
- F2** Words in s. 36(1) substituted (retrospective to 1.6.2002) by [Finance Act 2002 \(c. 23\), s. 4, Sch. 1 para. 1\(2\)](#)
- F3** S. 36(1AA) inserted (retrospective to 1.6.2002) by [Finance Act 2002 \(c. 23\), s. 4, Sch. 1 para. 1\(3\)](#)
- F4** S. 36(1A) inserted (27.7.1993 with application in relation to liquor produced in or imported into the United Kingdom, or removed into the United Kingdom from the Isle of Man on or after that date) by [1993 c. 34, s. 3\(2\)\(3\)](#).
- F5** Words in s. 36(2) inserted (1.6.1993) by [Finance \(No. 2\) Act 1992 \(c. 48\), s. 1\(5\)\(8\), Sch. 1 para. 9](#); S.I. 1993/1341, art. 2, [Sch.](#)

#### [<sup>F6</sup>Reduced rates of excise duty

#### Textual Amendments

- F6** Ss. 36A-36H inserted (retrospective to 1.6.2002 (except s. 36H in force at 24.7.2002)) by [Finance Act 2002 \(c. 23\), s. 4, Sch. 1 para. 2](#)

### 36A Beer from small breweries: introductory

- (1) For the purposes of section 36(1AA) above (but subject to subsection (2) below)—
- whether beer produced in a singleton brewery is “small brewery beer” is determined in accordance with section 36C below, and
  - whether beer produced in a co-operated brewery is “small brewery beer” is determined in accordance with section 36E below.
- (2) Beer is not small brewery beer if it is produced by a person on any premises in circumstances in which he is required to be, but is not, registered under section 47 below in respect of those premises.

#### Textual Amendments

- F6** Ss. 36A-36H inserted (retrospective to 1.6.2002 (except s. 36H in force at 24.7.2002)) by [Finance Act 2002 \(c. 23\), s. 4, Sch. 1 para. 2](#)

### 36B Interpretation of provisions relating to small brewery beer

- (1) The following provisions of this section have effect for the purposes of section 36(1AA) above, section 36A above, this section and sections 36C to 36F below.
- (2) A brewery is a “singleton brewery” at any particular time in a calendar year if it is not a co-operated brewery at that time.

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- (3) A brewery is a “co-operated brewery” at any particular time in a calendar year if—
- (a) a person who produces beer in the brewery at that time or any earlier time in that year, or
  - (b) a person connected with such a person, also produces beer in any other brewery at that time or any earlier time in that year.
- (4) “Brewery” means premises (whether or not in the United Kingdom) on which beer is produced and that are situated physically apart from any other premises on which beer is produced.
- (5) “The standard beer duty rate” means the rate of duty specified by section 36(1AA) (a) above.
- (6) References to “the grossed-up amount” of an estimate of the amount of a brewery’s production in a calendar year are to the amount given by—

$$\frac{E}{(365 - N)} \times 365$$

where—

E is the amount of the estimate, and

N is the number of days (if any) in the calendar year before the brewery begins to be used as beer-production premises.

- (7) References to a brewery being used as beer-production premises are, in the case of a brewery in the United Kingdom, to there being at least one person who is required to be registered under section 47 below in respect of the brewery.
- (8) Any question whether a person is connected with another shall be determined in accordance with section 839 of the Income and Corporation Taxes Act 1988.

#### Textual Amendments

**F6** Ss. 36A-36H inserted (retrospective to 1.6.2002 (except s. 36H in force at 24.7.2002)) by [Finance Act 2002 \(c. 23\)](#), s. 4, [Sch. 1 para. 2](#)

### 36C Meaning of “small brewery beer”: beer from singleton breweries

- (1) This section applies to beer produced in a brewery at a time in a calendar year (“the current year”) when the brewery is a singleton brewery.
- (2) The beer is “small brewery beer” if the following conditions are satisfied; but this is subject to subsections (9) and (10) below.
- (3) The first condition is that either—
- (a) no beer was produced in the brewery in the previous calendar year (“the previous year”), or

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- (b) the amount of beer produced in the brewery in the previous year was not more than 30,000 hectolitres.
- (4) For the purposes of subsection (3)(b) above, where the brewery was in use as beer-production premises during part only of the previous year, the amount of beer produced in the previous year in the brewery shall be taken to have been—

$$\frac{A}{D} \times 365$$

where—

A is the amount of beer actually produced in the previous year in the brewery, and

D is the number of days in that part of the previous year.

- (5) The second condition is that the amount of the estimate under subsection (9) below of the brewery's production in the current year is not more than 30,000 hectolitres.
- (6) The third condition is that if the brewery begins to be used as beer-production premises part-way through the current year, the grossed-up amount of that estimate is not more than 30,000 hectolitres.
- (7) The fourth condition is that less than half of the beer produced in the brewery in the previous year was produced under licence.
- (8) The fifth condition is that the beer is not produced under licence.
- (9) Beer produced in the brewery in the current year before the person who first produces beer in the brewery in that year has made a reasonable estimate of the amount of beer that will be produced in the brewery in that year is not small brewery beer.
- (10) Beer produced in the brewery in the current year after the amount of beer produced in the brewery in the current year has reached 30,000 hectolitres is not small brewery beer.
- (11) Subsection (10) above is without prejudice to section 167(4) of the Customs and Excise Management Act 1979 (recovery of duty unpaid by reason of untrue document or statement).

#### Textual Amendments

**F6** Ss. 36A-36H inserted (retrospective to 1.6.2002 (except s. 36H in force at 24.7.2002)) by [Finance Act 2002 \(c. 23\)](#), s. 4, [Sch. 1 para. 2](#)

### 36D Rate of duty for small brewery beer from singleton breweries

- (1) This section applies to small brewery beer produced in a brewery at a time in a calendar year ("the current year") when the brewery is a singleton brewery.

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- (2) The rate of duty in the case of that beer (“the brewery rate”) is determined in accordance with this section.
- (3) Subsection (4) below applies if—
- (a) beer was produced in the brewery in the previous calendar year (“the previous year”) and the amount produced in the brewery in that year was not more than 5,000 hectolitres, or
  - (b) no beer was produced in the brewery in the previous year and the grossed-up amount of the estimate under section 36C(9) above of the brewery’s production in the current year is not more than 5,000 hectolitres.
- (4) If this subsection applies, “the brewery rate” is 50% of the standard beer duty rate at the time concerned; but this is subject to rounding under subsection (7) below.
- (5) Subsection (6) below applies if—
- (a) beer was produced in the brewery in the previous year and the amount produced in the brewery in that year was more than 5,000 hectolitres but not more than 30,000 hectolitres, or
  - (b) no beer was produced in the brewery in the previous year and the grossed-up amount of the estimate under section 36C(9) above of the brewery’s production in the current year is more than 5,000 hectolitres but not more than 30,000 hectolitres.
- (6) If this subsection applies, “the brewery rate” is, subject to rounding under subsection (7) below, given by—

$$\frac{P - 2,500}{P} \times \text{the standard beer duty rate at the time concerned}$$

where—

if this subsection applies by reason of subsection (5)(a) above, P is the amount, in hectolitres, of beer produced in the brewery in the previous year, and

if this subsection applies by reason of subsection (5)(b) above, P is the grossed-up amount (expressed in hectolitres) mentioned in subsection (5)(b).

- (7) Where a rate given by subsection (4) or (6) above would (apart from this subsection) not be a whole number of pennies, the rate given by that subsection shall be taken to be the rate actually given by that subsection rounded up to the nearest penny.
- (8) Where the brewery was in use as beer-production premises during part only of the previous year, for the purposes of subsections (3)(a), (5)(a) and (6) above the amount of beer produced in the brewery in the previous year shall be taken to have been—

$$\frac{A}{D} \times 365$$

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where—

A is the amount of beer actually produced in the previous year in the brewery, and

D is the number of days in that part of the previous year.

#### Textual Amendments

**F6** Ss. 36A-36H inserted (retrospective to 1.6.2002 (except s. 36H in force at 24.7.2002)) by [Finance Act 2002 \(c. 23\)](#), s. 4, [Sch. 1 para. 2](#)

### 36E Meaning of “small brewery beer”: beer from co-operated breweries

- (1) This section applies to beer produced in a brewery at a time in a calendar year (“the current year”) when the brewery is a co-operated brewery.
- (2) The beer is “small brewery beer” if the following conditions are satisfied; but this is subject to subsections (10) and (11) below.
- (3) In this section—
  - “the group” means the group of breweries consisting of—
    - (a) the co-operated brewery, and
    - (b) every brewery (other than the co-operated brewery) in which beer is produced at the time mentioned in subsection (1) above, or at any earlier time in the current year, by—
      - (i) a person who produces beer in the co-operated brewery at the time so mentioned or at any earlier time in the current year, or
      - (ii) a person connected with such a person;
  - “group brewery” means a brewery that is in the group;
  - “the previous year” means the calendar year immediately preceding the current year.
- (4) The first condition is that either—
  - (a) no beer was produced in the previous year in the group, or
  - (b) the amount given by  $PY + GE$  is not more than 30,000 hectolitres, where—
    - PY is the amount of beer produced in the previous year in the group, and
    - GE is the aggregate of the grossed-up amount of each estimate that—
      - (i) is an estimate for the purposes of subsection (10) below of the amount of the production in the current year in a group brewery in which no beer was produced in the previous year, and
      - (ii) is made no later than the time mentioned in subsection (1) above.
- (5) For the purposes of subsection (4)(b) above, where a group brewery was in use as beer-production premises during part only of the previous year, the amount of beer produced in the previous year in that brewery shall be taken to have been—

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$$\frac{A}{D} \times 365$$

where—

A is the amount of beer actually produced in the previous year in that brewery, and

D is the number of days in that part of the previous year.

- (6) The second condition is that the aggregate of each estimate that—
- (a) is an estimate for the purposes of subsection (10) below of the amount of a group brewery’s production in the current year, and
  - (b) is made no later than the time mentioned in subsection (1) above,
- is not more than 30,000 hectolitres.
- (7) The third condition is that if any group brewery begins to be used as beer-production premises part-way through the current year, the aggregate of the grossed-up amount of each estimate that—
- (a) is an estimate for the purposes of subsection (10) below of the amount of a group brewery’s production in the current year, and
  - (b) is made no later than the time mentioned in subsection (1) above,
- is not more than 30,000 hectolitres.
- (8) The fourth condition is that less than half of the beer produced in the previous year in each group brewery was produced under licence.
- (9) The fifth condition is that the beer is not produced under licence.
- (10) Beer produced in the co-operated brewery at an unestimated time is not small brewery beer; and here “unestimated time” means a time in the current year when there is a group brewery for which there does not exist a reasonable estimate, made by the person who first produces beer in that brewery in that year, of the amount of beer that will be produced in that brewery in that year.
- (11) Beer produced in the co-operated brewery in the current year after the amount of beer produced in the group in the current year has reached 30,000 hectolitres is not small brewery beer.
- (12) Subsection (11) above is without prejudice to section 167(4) of the Customs and Excise Management Act 1979 (recovery of duty unpaid by reason of untrue document or statement).

#### Textual Amendments

**F6** Ss. 36A-36H inserted (retrospective to 1.6.2002 (except s. 36H in force at 24.7.2002)) by [Finance Act 2002 \(c. 23\)](#), s. 4, [Sch. 1 para. 2](#)

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### **36F Rate of duty for small brewery beer from co-operated breweries**

- (1) This section applies to small brewery beer produced in a brewery at a time in a calendar year (“the current year”) when the brewery is a co-operated brewery.
- (2) The rate of duty in the case of that beer (“the brewery rate”) is determined in accordance with this section.
- (3) In this section—
  - “the group” means the group of breweries consisting of—
    - (a) the co-operated brewery, and
    - (b) every brewery (other than the co-operated brewery) in which beer is produced at the time mentioned in subsection (1) above, or at any earlier time in the current year, by—
      - (i) a person who produces beer in the co-operated brewery at the time so mentioned or at any earlier time in the current year, or
      - (ii) a person connected with such a person;
  - “group brewery” means a brewery that is in the group;
  - “the previous year” means the calendar year immediately preceding the current year;
  - “the notional previous year’s production” has the meaning given by subsection (4) below.
- (4) In this section “the notional previous year’s production” means the amount, in hectolitres, given by  $PY + GE$  where—
  - PY is the amount of beer produced in the group in the previous year, and
  - GE is the aggregate of the grossed-up amount of each estimate that—
    - (a) is an estimate for the purposes of section 36E(10) above of the amount of the production in the current year in a group brewery in which no beer was produced in the previous year, and
    - (b) is made no later than the time mentioned in subsection (1) above.
- (5) Where a group brewery was in use as beer-production premises during part only of the previous year, in calculating PY for the purposes of subsection (4) above the amount of beer produced in that brewery in the previous year shall be taken to have been—

$$\frac{A}{D} \times 365$$

where—

A is the amount of beer actually produced in the previous year in that brewery, and

D is the number of days in that part of the previous year.

- (6) Subsection (7) below applies if—
  - (a) beer was produced in at least one group brewery in the previous year and the notional previous year’s production is not more than 5,000 hectolitres, or



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- (b) no beer was produced in the group in the previous year and the aggregate of each estimate that—
- (i) is an estimate for the purposes of section 36E(10) above of the amount of a group brewery’s production in the current year, and
  - (ii) is made no later than the time mentioned in subsection (1) above, is not more than 5,000 hectolitres.
- (7) If this subsection applies, “the brewery rate” is 50% of the standard rate at the time mentioned in subsection (1) above; but this is subject to rounding under subsection (10) below.
- (8) Subsection (9) below applies if—
- (a) beer was produced in at least one group brewery in the previous year and the notional previous year’s production is more than 5,000 hectolitres but not more than 30,000 hectolitres, or
  - (b) no beer was produced in the group in the previous year and the aggregate mentioned in subsection (6)(b) above is more than 5,000 hectolitres but not more than 30,000 hectolitres.
- (9) If this subsection applies, “the brewery rate” is, subject to rounding under subsection (10) below, given by—

$$\frac{P - 2,500}{P} \times \text{the standard rate}$$

where—

if this subsection applies by reason of subsection (8)(a) above, P is the previous year’s notional production,

if this subsection applies by reason of subsection (8)(b) above, P is the amount, in hectolitres, of the aggregate mentioned in subsection (6)(b) above, and

“the standard rate” means the standard beer duty rate at the time mentioned in subsection (1) above.

- (10) Where a rate given by subsection (7) or (9) above would (apart from this subsection) not be a whole number of pennies, the rate given by that subsection shall be taken to be the rate actually given by that subsection rounded up to the nearest penny.

#### Textual Amendments

- F6** Ss. 36A-36H inserted (retrospective to 1.6.2002 (except s. 36H in force at 24.7.2002)) by [Finance Act 2002 \(c. 23\)](#), s. 4, [Sch. 1 para. 2](#)

### 36G Assessments where incorrectly low rate of duty applied

- (1) Subsection (3) below applies if—
- (a) duty is charged by section 36 above on any beer, and

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- (b) it appears at the excise duty point that the beer is small brewery beer for the purposes of section 36(1AA) above, but
  - (c) it turns out that the beer was not small brewery beer for those purposes (because, for example, circumstances were not as they appeared at that point or they subsequently changed).
- (2) Subsection (3) below also applies if—
- (a) duty is charged by section 36 above on any beer that is small brewery beer for the purposes of section 36(1AA) above, and
  - (b) the rate of duty that at the excise duty point appeared to be the correct rate turns out to have been lower than the correct rate (because, for example, circumstances were not as they appeared at that point or they subsequently changed).
- (3) In any such case the Commissioners—
- (a) may assess the amount that is the difference between—
    - (i) the actual amount of the duty charged on the beer by section 36 above, and
    - (ii) the lower amount that, at the excise duty point, appeared to be the amount charged,
 as being excise duty due from the person liable to pay the duty charged on the beer by section 36 above, and
  - (b) may notify him or his representative accordingly.
- (4) Where two or more persons are liable to pay the duty charged on the beer—
- (a) the reference in subsection (3)(a) above to the person liable to pay the duty is to any one or more of those persons, and
  - (b) the reference in subsection (3)(b) above to notifying the person liable or his representative is to notifying each person assessed or his representative.

#### Textual Amendments

**F6** Ss. 36A-36H inserted (retrospective to 1.6.2002 (except s. 36H in force at 24.7.2002)) by [Finance Act 2002 \(c. 23\)](#), s. 4, [Sch. 1 para. 2](#)

VALID FROM 24/07/2002

#### **36H Power to vary reduced rate provisions**

- (1) The Treasury may by order made by statutory instrument make provision amending this Act for the purpose of causing excise duty to be charged on a description of beer—
- (a) at a reduced rate instead of at the standard rate;
  - (b) at the standard rate instead of at a reduced rate;
  - (c) at a different reduced rate.
- (2) In this section—
- “reduced rate” means a rate lower than the standard rate, and
  - “the standard rate” means the rate specified by section 36(1AA)(a) above.

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- (3) An order under subsection (1) above may—
- (a) make different provision for different cases;
  - (b) make such consequential amendments in this Act and other enactments as appear to the Treasury to be necessary or expedient;
  - (c) make such other consequential provision, and such incidental and transitional provision, as appears to the Treasury to be necessary or expedient.

- (4) A statutory instrument by which there is made an order under subsection (1) above shall be laid before the House of Commons after being made.

Unless the instrument is approved by the House of Commons before the expiration of 28 days beginning with the date on which the instrument was made, the order shall cease to have effect on the expiration of that period.

Where the order so ceases to have effect, that does not prejudice—

- (a) anything previously done under the order, or
- (b) the making of a new order.

In reckoning any such period of 28 days, no account shall be taken of any time during which Parliament is dissolved or prorogued or during which the House of Commons is adjourned for more than 4 days.]

**Textual Amendments**

**F6** Ss. 36A-36H inserted (retrospective to 1.6.2002 (except s. 36H in force at 24.7.2002)) by [Finance Act 2002 \(c. 23\)](#), s. 4, [Sch. 1 para. 2](#)

F7 . . .

**Textual Amendments**

**F7** Ss. 37-40 repealed (1.6.1993) by [Finance Act 1991 \(c. 31, SIF 40:1\)](#), ss. 7(4)(5), 123, Sch. 2, paras. 6, 7, [Sch. 19, Pt. II](#); S.I. 1993/1152, art. 3(2), [Sch. 1 Pt. II](#).

**F8**37 . . . . .

**Textual Amendments**

**F8** S. 37 repealed (1.6.1993) by [Finance Act 1991 \(c. 31, SIF 40:1\)](#), ss. 7(4)(5), 123, Sch. 2 para. 6, [Sch. 19 Pt. II](#); S.I. 1993/1152, art. 3(2), [Sch. 1 Pt. II](#).

**F9**38 . . . . .

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#### Textual Amendments

- F9** S. 38 repealed (1.6.1993) by Finance Act 1991 (c. 31, SIF 40:1), ss. 7(4)(5), 123, Sch. 2 para. 6, **Sch. 19 Pt.II**; S.I. 1993/1152, art. 3(2), **Sch. 1 Pt. II**.

**F10**<sup>39</sup> .....

#### Textual Amendments

- F10** S. 39 repealed (1.6.1993) by Finance Act 1991 (c. 31, SIF 40:1), ss. 7(4)(5), 123, Sch. 2 para. 6, **Sch. 19 Pt.II**; S.I. 1993/1152, art. 3(2), **Sch. 1 Pt. II**.

**F11**<sup>40</sup> .....

#### Textual Amendments

- F11** S. 40 repealed (1.6.1993) by Finance Act 1991 (c. 31, SIF 40:1), ss. 7(4)(5), 123, Sch. 2 para. 7, **Sch. 19 Pt.II**; S.I. 1993/1152, art. 3(2), **Sch.1 Pt. II**.

### *Reliefs from excise duty*

#### [<sup>F12</sup>41] **Exemption from duty of beer brewed for private consumption.**

The duty on beer produced in the United Kingdom shall not be chargeable on beer produced by a person who produces beer only for his own domestic use.]

#### Textual Amendments

- F12** S. 41 substituted (1.6.1993) by Finance Act 1991 (c. 31, SIF 40:1), s. 7(4)(5), **Sch. 2 para. 8**; S.I. 1993/1152, art. 3(2), **Sch. 1 Pt. II**.

#### [41A] <sup>F13</sup>**Suspension of duty: registration of persons and premises.**

- (1) A person registered by the Commissioners under this section may hold, on premises so registered in relation to him, any beer of a prescribed class or description—
  - (a) which has been produced in, or imported into, the United Kingdom, and
  - (b) which is chargeable as such with excise duty,
 without payment of that duty.
- (2) A person entitled under subsection (1) above to hold beer on premises without payment of duty may also without payment of duty carry out on those premises such operations as may be prescribed on, or in relation to, such of the beer as may be prescribed.
- (3) No person shall be registered under this section unless—
  - (a) he is a registered brewer or a packager of beer; and

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- (b) he appears to the Commissioners to satisfy such requirements for registration as they may think fit to impose.
- (4) No premises shall be registered under this section unless—
  - (a) they are used for the production or packaging of beer, or
  - (b) they are adjacent to, and occupied by the same person as, premises falling within paragraph (a) above which are registered under this section, and they appear to the Commissioners to satisfy such requirements for registration as the Commissioners may think fit to impose.
- (5) The Commissioners may register a person or premises under this section for such periods and subject to such conditions as they think fit.
- (6) The Commissioners may at any time for reasonable cause—
  - (a) revoke or vary the terms of their registration of any person or premises under this section; or
  - (b) restrict the premises which are so registered.
- (7) As respects beer chargeable with a duty of excise that has not been paid, regulations under section 49 below may, without prejudice to the generality of that section, make provision—
  - (a) regulating the holding or packaging of, or the carrying out of other operations on or in relation to, any such beer on registered premises without payment of the duty;
  - (b) for securing and collecting the duty on any such beer held on registered premises;
  - (c) permitting the removal of any such beer from registered premises without payment of duty in such circumstances and subject to such conditions as may be prescribed;
  - <sup>F14</sup>(d) .....
- (8) If any person contravenes or fails to comply with any condition of registration under this section [<sup>F15</sup>his contravention or failure to comply shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties), and any beer in respect of which any person contravenes or fails to comply with any such condition shall be liable to forfeiture.]]
- (9) In this section—
  - “prescribed” means specified in, or determined in accordance with, regulations made by the Commissioners under section 49 below;
  - “registered premises” means premises registered under this section.

**Textual Amendments**

- F13** S. 41A inserted (1.5.1993) by Finance Act 1991 (c. 31, SIF 40:1), s. 7(2)(5); S.I. 1993/1152, art. 3(1), Sch. 1 Pt. I.
- F14** S. 41A(7)(d) repealed (1.6.1993) by Finance (No. 2) Act 1992 (c. 48), ss. 1(5)(8), 82, Sch. 1 para. 10(1), Sch. 18 Pt. I, Note 3 (subject to Sch. 1 para. 10(2)); S.I. 1993/1341, art. 2, Sch.
- F15** Words in s. 41A(8) substituted (1.1.1995) by 1994 c. 9, s. 9, Sch. 4 Pt. II para. 29 (with s. 19(3)); S.I. 1994/2679, art. 3

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## 42 Drawback on exportation, removal to warehouse, shipment as stores, etc.

- (1) This section applies to—
- (a) beer which has been [<sup>F16</sup>produced] by a [<sup>F16</sup>registered brewer]; and
  - (b) beer which has been imported, or which has been removed into the United Kingdom from the Isle of Man.
- (2) Subject to the provisions of this section and to such conditions as the Commissioners see fit to impose, drawback shall be allowable—
- <sup>F17</sup>(a) . . . . .
  - (b) on the exportation <sup>F18</sup>. . . by any person of [<sup>F19</sup>any beer to which this section applies]; or
  - (c) on the shipment as stores by any person of any such beer;
- and shall also be allowable, subject as aforesaid, in the case of any beer to which this section applies which it is shown to the satisfaction of the Commissioners is being [<sup>F20</sup>exported or shipped] as mentioned in paragraph (b) or (c) above as an ingredient of other goods.
- <sup>F21</sup>(3) In the case of beer produced in the United Kingdom, the person intending to <sup>F22</sup>. . . export or ship the beer shall produce to the proper officer a declaration made by the person who paid the duty on the beer, in such form and manner as the Commissioners may direct, stating the strength of the beer and the date on which the duty became payable.]
- (4) In the case of beer [<sup>F16</sup>produced] outside the United Kingdom, the person intending to <sup>F22</sup>. . . export or ship the beer shall produce to the proper officer in such form and manner as the Commissioners may direct a declaration that the proper duty has been charged and paid thereon.
- (5) The amount of the drawback payable under this section in respect of any duty paid shall be calculated according to the rate of drawback applicable during the period of currency of the rate at which the duty was paid to like beer charged with that rate of duty during that period.
- (6) Drawback under this section shall, where it is shown to the satisfaction of the Commissioners that duty has been paid, be allowed at the same rate as the rate at which the duty is charged; . . . <sup>F23</sup>

### Textual Amendments

- F16** Words in s. 42(1)(a)(4) substituted (1.6.1993) by Finance Act 1991 (c. 31, SIF 40:1), s. 7(4)(5), **Sch. 2 para. 1(a)(b)**; S.I. 1993/1152, art. 3(2), **Sch. 1 Pt. II**.
- F17** S. 42(2)(a) repealed (1.9.1993) by 1993 c. 34, ss. 4(2)(a)(7), 213, **Sch. 23 Pt. I(1)**.
- F18** Words in s. 42(2)(b) repealed (1.1.1995) by 1993 c. 34, ss. 4(2)(b), 213, **Sch. 23 Pt. I(1)**; S.I. 1994/2968, **art. 2**.
- F19** Words in s. 42(2)(b) substituted (1.9.1993) by 1993 c. 34, s. 4(2)(c)(7).
- F20** Words in s. 42(2) substituted (1.1.1995) by 1993 c. 34, s. 4(2)(d); S.I. 1994/2968, **art. 2**.
- F21** S. 42(3) substituted (1.6.1993) by Finance Act 1991 (c. 31, SIF 40:1), s. 7(4)(5), **Sch. 2**, para. 9; S.I. 1993/1152, art. 3(2), **Sch. 1 Pt. II**.
- F22** Words in s. 42(3)(4) repealed (1.1.1995) by 1993 c. 34, ss. 4(3), 213, **Sch. 23 Pt. I(1)**; S.I. 1994/2968, **art. 2**.
- F23** Words repealed by Finance Act 1988 (c. 39, SIF 40:1), ss. 1(2)(6), 148, **Sch. 14 Pt. I** Note 2

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**Modifications etc. (not altering text)**

- C1 S. 42 modified by S.I. 1983/947, **regs. 12, 13**
- C2 Ss. 16, 21, 22(1)(3A)(5), 42, 43 modified (1.1.1993) by S.I. 1992/3152, **Pt. VI**, regs. 11(c), 12
- C3 S. 42 excluded (20.10.1995) by S.I. 1995/2518, **reg. 118(a)(vi)**

<sup>F24</sup> **43** .....

**Textual Amendments**

- F24 S. 43 repealed (1.9.1993) by 1993 c. 34, ss. 4(4)(7), 213, **Sch. 1 Pt. I(1)**.

**44 Remission or repayment of duty on beer used for purposes of research or experiment.**

- (1) Where it is proved to the satisfaction of the Commissioners that any beer [<sup>F25</sup>produced] in the United Kingdom which is chargeable with duty is to be used only for the purposes of research or of experiments in [<sup>F26</sup>the production of beer], the Commissioners may, if they think fit and subject to such conditions as they see fit to impose, remit or repay the duty chargeable on that beer.
- (2) If any person contravenes or fails to comply with any condition imposed under subsection (1) above, [<sup>F27</sup>his contravention or failure to comply shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties).]

**Textual Amendments**

- F25 Words in s. 44(1) substituted (1.6.1993) by Finance Act 1991 (c. 31, SIF 40:1), s. 7(4)(5), **Sch. 2 para. 1(b)**; S.I. 1993/1152, art. 3(2), **Sch. 1 Pt. II**.
- F26 Words in s. 44(1) substituted (1.6.1993) by Finance Act 1991 (c. 31, SIF 40:1), s. 7(4)(5), **Sch. 2 para. 11**; S.I. 1993/1152, art. 3(2), **Sch. 1 Pt. II**.
- F27 Words in s. 44(2) substituted (1.1.1995) by 1994 c. 9, s. 9, **Sch. 4 Pt. II para. 30** (with s. 19(3)); S.I. 1994/2679, **art. 3**

<sup>F28</sup> **45** .....

**Textual Amendments**

- F28 S. 45 repealed (1.5.1995) by 1995 c. 4, s. 162, **Sch. 29 Pt. I(2)**

**[46 <sup>F29</sup> Remission or repayment of duty on spoilt beer.**

- (1) Where it is shown to the satisfaction of the Commissioners that any beer which has been removed from any premises of a registered brewer in respect of which he is registered under section 47 below has become spoilt or otherwise unfit for use and, in the case of beer delivered to another person, has been returned to the registered brewer as so spoilt or unfit, the Commissioners shall, subject to compliance with such

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conditions as they may by regulations impose, remit or repay any duty charged or paid in respect of the beer.

- (2) If any person contravenes or fails to comply with any regulation made under subsection (1) above, [<sup>F30</sup>his contravention or failure to comply shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties).]

#### Textual Amendments

- F29** S. 46 substituted (1.5.1993) by Finance Act 1991 (c. 31, SIF 40:1), s. 7(4)(5), **Sch. 2 para. 13**; S.I. 1993/1152, art. 3(1), **Sch. 1 Pt. I**.
- F30** Words in s. 46(2) substituted (1.1.1995) by 1994 c. 9, s. 9, **Sch. 4 Pt. II para. 31** (with s. 19(3)); S.I. 1994/2679, **art. 3**

*[<sup>F31</sup>Producing] of beer*

#### Textual Amendments

- F31** Word in cross heading for ss. 47-53 substituted (1.6.1993) by Finance Act 1991 (c. 31, SIF 40:1), s. 7(4)(5), **Sch. 2 para. 1(b)**; S.I. 1993/1152, art. 3(2), **Sch. 1 Pt. II**.

### [47] <sup>F32</sup> **Registration of producers of beer.**

- (1) A person who produces beer on any premises in the United Kingdom must be registered with the Commissioners under this section in respect of those premises; and in this Act “registered brewer” means a person registered under this section in respect of any premises.
- (2) A person who produces beer on any premises shall not be required to be registered under this section in respect of those premises if the beer is produced solely for his own domestic use or solely for the purposes of research or experiments in the production of beer.
- (3) An application for the registration under this section of any person required to be so registered in respect of any premises—
- (a) shall be made at least fourteen days before the day on which he begins production of beer on those premises; and
  - (b) shall be in such form and manner as the Commissioners may by or under regulations prescribe.
- (4) If any person fails to apply for registration under this section in circumstances where he is required by subsection (3)(a) above to do so, [<sup>F33</sup>his failure shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties)]; and any beer or worts produced in contravention of that provision shall be liable to forfeiture.
- (5) If any person produces beer on any premises in circumstances in which he is required to be, but is not, registered under this section in respect of those premises, [<sup>F34</sup>his doing so shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties) which shall be calculated by reference to the amount of duty charged on the beer produced, and the beer produced and any worts found on those premises shall be liable to forfeiture.]



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### Textual Amendments

- F32** S. 47 substituted (1.5.1993) for ss. 47 and 48 by Finance Act 1991 (c. 31, SIF 40:1), s. 7(3)(5); S.I. 1993/1152, art. 3(1), Sch. 1 Pt. I.
- F33** Words in s. 47(4) substituted (1.1.1995) by 1994 c. 9, s. 9, Sch. 4 Pt. II para. 32(1) (with s. 19(3)); S.I. 1994/2679, art. 3
- F34** Words in s. 47(5) substituted (1.1.1995) by 1994 c. 9, s. 9, Sch. 4 Pt. II para. 32(2) (with s. 19(3)); S.I. 1994/2679, art. 3

### [<sup>F39</sup>49 Beer regulations.

- (1) The Commissioners may, with a view to managing, securing and collecting the duty on beer produced in, or imported into, the United Kingdom or to the protection of the revenues derived from the duty of excise on beer, make regulations—
- (a) regulating the production, packaging, keeping and storage of beer produced in the United Kingdom and the packaging, keeping and storage of beer imported into the United Kingdom;
  - (b) regulating the registration of persons and premises under section 41A or 47 above and the revocation or variation of any such registrations;
  - (c) for determining under or in accordance with the regulations when the production of beer begins and when it is completed;
  - (d) for securing and collecting the duty;
  - <sup>F40</sup>(e) for determining the duty and the rate thereof and, in that connection, prescribing the method of charging the duty;]
  - (f) for charging the duty, in such circumstances as may be prescribed in the regulations, by reference to a strength which the beer might reasonably be expected to have, or the rate of duty in force, at a time other than that at which the beer becomes chargeable;
  - (g) for relieving beer from the duty in such circumstances and to such extent as may be prescribed in the regulations;
  - (h) regulating and, in such circumstances as may be prescribed in the regulations, prohibiting the addition of substances to, the mixing of, or the carrying out of other operations on or in relation to, beer;
  - (j) regulating the transportation of beer in such circumstances as may be prescribed in the regulations.
- (2) Regulations under this section may make different provision for persons, premises or beer of different classes or descriptions, for different circumstances and for different cases.

- [<sup>F41</sup>(3) Where any person contravenes or fails to comply with any regulation made under this section, his contravention or failure to comply shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties), and any article or substance in respect of which any person contravenes or fails to comply with any such regulation shall be liable to forfeiture.]

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Textual Amendments

- F39 S. 49 substituted (1.5.1993) by Finance Act 1991 (c. 31, SIF 40:1), s. 7(4)(5), Sch. 2, para. 14; S.I. 1993/1152, art. 3(1), Sch. 1 Pt. I.
- F40 S. 49(1)(e) substituted (1.6.1993) by Finance (No. 2) Act 1992 (c. 48), s. 1 (5)(8), Sch. 1 para. 11(1) (subject to Sch. 1 para. 11(2); S.I. 1993/1341, art. 2, Sch.
- F41 S. 49(3) substituted (1.1.1995) by 1994 c. 9, s. 9, Sch. 4 Pt. II para. 33 (with s. 19(3)); S.I. 1994/2679, art. 3

[F42] 49A Drawback allowable to [F43] registered brewer.]

- (1) For the purpose of any claim for drawback by a [F44] registered brewer or person registered under section 41A above] in respect of duty charged on beer, duty which has been determined in accordance with regulations under [F45] section 49(1)(e)] above shall be deemed to be duty which has been paid (whether or not it is in fact paid by the time the claim is made).
- (2) Subject to such conditions as the Commissioners see fit to impose, drawback allowable to a [F46] registered brewer or person registered under section 41A above] in respect of beer may be set against any amount to which [F47] he] is chargeable [F48] in respect of the excise duty on beer]and, in relation to a [F46] registered brewer or person registered under section 41A above], any reference in this Act or the Management Act to drawback payable shall be construed accordingly.]

Textual Amendments

- F42 S. 49A inserted by Finance Act 1986 (c. 41, SIF 40:1), s. 4(2)
- F43 Words in s. 49A substituted (1.6.1993) by Finance Act 1991 (c. 31, SIF 40:1), s. 7(4)(5), Sch. 2 para. 1(a); S.I. 1993/1152, art. 3(2), Sch. 1 Pt. II.
- F44 Words in s. 49A(1) substituted (1.6.1993) by Finance Act 1991 (c. 31, SIF 40:1), s. 7(4)(5), Sch. 2 para. 15(1)(a); S.I. 1993/1152, art. 3(2), Sch. 1 Pt. II.
- F45 Words in s. 49A(1) substituted (1.6.1993) by Finance Act 1991 (c. 31, SIF 40:1), s. 7(4)(5), Sch. 2 para. 15(1)(b); S.I. 1993/1152, art. 3(2), Sch. 1 Pt. II.
- F46 Words in s. 49A(2) substituted (1.6.1993) by Finance Act 1991 (c. 31, SIF 40:1), s. 7(4)(5), Sch. 2 para. 15(2)(a); S.I. 1993/1152, art. 3(2), Sch. 1 Pt. II.
- F47 Word in s. 49A(2) substituted (1.6.1993) by Finance Act 1991 (c. 31, SIF 40:1), s. 7(4)(5), Sch. 2 para. 15(2)(b); S.I. 1993/1152, art. 3(2), Sch. 1 Pt. II.
- F48 Words in s. 49A(2) substituted (1.6.1993) by Finance Act 1991 (c. 31, SIF 40:1), s. 7(4)(5), Sch. 2 para. 15(2)(c); S.I. 1993/1152, art. 3(2), Sch. 1 Pt. II.

F49 50 .....

Textual Amendments

- F49 S. 50 repealed (1.6.1993) by Finance Act 1991 (c. 31, SIF 40:1), ss. 7(4)(5), 123, Sch. 2 para. 16, Sch. 19 Pt.II; S.I. 1993/1152, art. 3(2), Sch. 1 Pt. II.

F50 51 .....

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**Textual Amendments**

**F50** S. 51 repealed (1.9.1993) by 1993 c. 34, ss. 4(6)(7), 213, **Sch. 23 Pt. I(1)**.

[<sup>F51F52</sup>**52 Offences in connection with fraudulent evasion of duty.**

If any person is knowingly concerned in the taking of any steps with a view to the fraudulent evasion, whether by himself or another, of the duty on any beer, he shall be liable—

- (a) on summary conviction, to a penalty of the statutory maximum or of three times the amount of the duty, whichever is the greater, or to imprisonment for a term not exceeding six months or to both, or
- (b) on conviction on indictment, to a penalty of any amount or to imprisonment for a term not exceeding 7 years, or to both,

and, in either case, any beer in respect of which the offence was committed shall be liable to forfeiture.]

**Textual Amendments**

**F51** S. 52 repealed (1.6.1993) by Finance (No. 2) Act 1992 (c. 48), ss. 3, 82, Sch. 2 para. 8, **Sch. 18 Pt. 1**, Note 4; S.I. 1993/1341, art. 2, **Sch.**

**F52** S. 52 substituted (1.6.1993) by Finance Act 1991 (c. 31, SIF 40:1), s. 7(4)(5), **Sch. 2 para.17**; S.I. 1993/1152, art. 3(2), **Sch. 1 Pt. II**

<sup>F53</sup>**53** .....

**Textual Amendments**

**F53** S. 53 repealed (1.6.1993) by Finance Act 1991 (c. 31, SIF 40:1), ss. 7(4)(5), 123, Sch. 2 para. 18, **Sch. 19 Pt.II**; S.I. 1993/1152, art. 3(2), **Sch. 1 Pt. II**.

**Status:**

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**Changes to legislation:**

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