



# Finance Act 2002

## 2002 CHAPTER 23

### PART 1

#### EXCISE DUTIES

##### *Tobacco products duty*

### 1 Rates of tobacco products duty

- (1) For the Table of rates of duty in Schedule 1 to the Tobacco Products Duty Act 1979 (c. 7) substitute—

TABLE

1. Cigarettes	An amount equal to 22 per cent of the retail price plus £94.24 per thousand cigarettes.
2. Cigars	£137.26 per kilogram.
3. Hand-rolling tobacco	£98.66 per kilogram.
4. Other smoking tobacco and chewing tobacco	£60.34 per kilogram.

- (2) This section shall be deemed to have come into force at 6 o'clock in the evening of 17th April 2002.

##### *Alcoholic liquor duties*

### 2 Rates of duty on cider

- (1) In section 62(1A) of the Alcoholic Liquor Duties Act 1979 (c. 4) (rates of duty on cider)—

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- (a) in paragraph (b) (rate of duty per hectolitre in the case of cider of a strength exceeding 7.5 per cent that is not sparkling cider), for “£39.21” substitute “£38.43”;
- (b) in paragraph (c) (rate of duty per hectolitre in any other case), for “£26.13” substitute “£25.61”.

(2) This section shall be deemed to have come into force on 28th April 2002.

### **3 Duty on beverages made with spirits to be at spirits rate**

(1) Omit section 1(9) of the Alcoholic Liquor Duties Act 1979 (under which alcoholic beverages of a strength between 1.2 and 5.5 per cent made with spirits are treated as not being spirits, unless of a description specified by Treasury order).

(2) This section shall be deemed to have come into force on 28th April 2002.

### **4 Reduced rates of duty on beer from small breweries**

(1) Schedule 1 to this Act (which makes provision for the excise duty on beer to be charged at reduced rates on beer produced in small breweries) has effect.

(2) Subject to subsection (3), subsection (1) shall be deemed to have come into force on 1st June 2002.

(3) So far as relating to—

- (a) the insertion by paragraph 2 of that Schedule of the new section 36H of the Alcoholic Liquor Duties Act 1979, and
- (b) paragraph 3 of that Schedule,

subsection (1) comes into force on the day on which this Act is passed.

### *Hydrocarbon oil duties*

### **5 Biodiesel**

(1) The Hydrocarbon Oil Duties Act 1979 (c. 5) is amended as follows.

(2) After section 2 insert—

#### **“2AA Biodiesel**

(1) In this Act “biodiesel” means diesel quality liquid fuel—

- (a) that is produced from biomass or waste cooking oil,
- (b) the ester content of which is not less than 96.5% by weight, and
- (c) the sulphur content of which does not exceed 0.005% by weight or is nil.

(2) In subsection (1)—

- (a) “diesel quality” means capable of being used for the same purposes as heavy oil;
- (b) “liquid” does not include any substance that is gaseous at a temperature of 15°C and under a pressure of 1013.25 millibars;

- (c) “biomass” means vegetable and animal substances constituting the biodegradable fraction of—
  - (i) products, wastes and residues from agriculture, forestry and related activities, or
  - (ii) industrial and municipal waste.”.
- (3) In section 2A (power to amend definitions), after subsection (1) insert—
  - “(1A) The Treasury may by order made by statutory instrument amend the definition for the purposes of this Act of “biodiesel”.”.
- (4) After section 6 (excise duty on hydrocarbon oil) insert—

**“6AA Excise duty on biodiesel**

- (1) A duty of excise shall be charged on the setting aside for a chargeable use by any person, or (where it has not already been charged under this section) on the chargeable use by any person, of biodiesel.
- (2) In subsection (1) “chargeable use” means use—
  - (a) as fuel for any engine, motor or other machinery, or
  - (b) as an additive or extender in any substance so used.
- (3) The rate of duty under this section shall be £0.2582 a litre.

**6AB Excise duty on blends of biodiesel and heavy oils**

- (1) A duty of excise shall be charged on bioblend—
  - (a) imported into the United Kingdom, or
  - (b) produced in the United Kingdom and delivered for home use from a refinery or from other premises used for the production of hydrocarbon oil or from any bonded storage for hydrocarbon oil, not being bioblend chargeable with duty under paragraph (a) above.

This is subject to subsection (6) below.
- (2) In this Act “bioblend” means any mixture that is produced by mixing—
  - (a) biodiesel, and
  - (b) heavy oil not charged with the excise duty on hydrocarbon oil.
- (3) The rate at which the duty shall be charged on any bioblend shall be a composite rate representing—
  - (a) in respect of the proportion of the bioblend that is hydrocarbon oil, the rate that would be applicable to the bioblend if it consisted entirely of heavy oil of the description that went into producing the bioblend, and
  - (b) in respect of the proportion of the bioblend that is biodiesel, the rate that would be applicable to the bioblend if it consisted entirely of biodiesel.
- (4) The references in subsection (3) above to the proportions of—
  - (a) hydrocarbon oil, and
  - (b) biodiesel,are to the proportions by volume to the nearest 0.001%.

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- (5) If the Commissioners are not satisfied as to the proportion of biodiesel in any bioblend, the rate of duty chargeable shall be the rate that would be applicable to the bioblend if it consisted entirely of heavy oil of the description that went into producing the bioblend.
- (6) Where imported bioblend is removed to a refinery, the duty chargeable under subsection (1) above shall, instead of being charged at the time of the importation of the bioblend, be charged on the delivery of any goods from the refinery for home use and shall be the same as that which would be payable on the importation of like goods.

### **6AC Application to biodiesel and bioblend of provisions relating to hydrocarbon oil**

- (1) The Commissioners may by regulations provide for—
  - (a) references in this Act, or specified references in this Act, to hydrocarbon oil to be construed as including references to—
    - (i) biodiesel;
    - (ii) bioblend;
  - (b) references in this Act, or specified references in this Act, to duty on hydrocarbon oil to be construed as including references to duty under—
    - (i) section 6AA above;
    - (ii) section 6AB above;
  - (c) biodiesel, or bioblend, to be treated for the purposes of such of the following provisions of this Act as may be specified as if it fell within a specified description of hydrocarbon oil.
- (2) Where the effect of provision made under subsection (1) above is to extend any power to make regulations, provision made in exercise of the power as extended may be contained in the same statutory instrument as the provision extending the power.
- (3) In this section “specified” means specified by regulations under this section.
- (4) Regulations under this section may make different provision for different cases.
- (5) Paragraph (b) of subsection (1) above shall not be taken as prejudicing the generality of paragraph (a) of that subsection.”.
- (5) Schedule 2 to this Act contains minor and consequential amendments of the Hydrocarbon Oil Duties Act 1979 (c. 5).
- (6) Subsection (4), and subsection (5) so far as relating to paragraphs 2 and 4(1) of that Schedule, have effect in relation to biodiesel that—
  - (a) is set aside for chargeable use (as defined in the section 6AA inserted by subsection (4)) after such date as the Commissioners of Customs and Excise may by order made by statutory instrument appoint, or
  - (b) not having been so set aside, is the subject of such chargeable use after that date,
 and has not been set aside for chargeable use under section 6A of that Act (fuel substitutes) on or before that date.

- (7) Subsection (4), and subsection (5) so far as relating to paragraph 2 of that Schedule, have effect in relation to bioblend that—
- (a) is imported into the United Kingdom after the date appointed under subsection (6)(a), or
  - (b) not having been so imported—
    - (i) is produced in the United Kingdom and delivered for home use after that date, and
    - (ii) has not been set aside for chargeable use under section 6A of that Act (fuel substitutes) on or before that date.
- (8) Subsection (5)—
- (a) so far as relating to paragraph 3 of that Schedule, comes into force on the day after the date appointed under subsection (6)(a),
  - (b) so far as relating to paragraph 5 of that Schedule, applies to mixtures produced after the date appointed under subsection (6)(a), and
  - (c) so far as relating to paragraph 7 of that Schedule, comes into force on such day as the Commissioners of Customs and Excise may by order made by statutory instrument appoint.

## **6 Regulating trade in rebated heavy oil etc**

- (1) Schedule 3 to this Act has effect.
- (2) In that Schedule—
- Part 1 makes provision for regulating trade in certain heavy oil on which rebate of excise duty has been allowed, and
  - Part 2 amends provisions of the Hydrocarbon Oil Duties Act 1979 relating to rebates.
- (3) Subject to subsection (4), subsection (1) so far as relating to paragraph 1 of that Schedule shall not come into force until such day as the Commissioners of Customs and Excise may appoint by order made by statutory instrument.
- (4) For the purpose of the exercise of any power to make regulations, subsection (1) so far as relating to that paragraph comes into force on the day on which this Act is passed.

## **7 Fuel substitutes**

- (1) In section 6A of the Hydrocarbon Oil Duties Act 1979 (c. 5) (fuel substitutes)—
- (a) in subsection (5) (power to provide that fuel substitute to be treated as if it were a description of hydrocarbon oil), for the words from “the description of such one or more of the following” to the end substitute “such description of hydrocarbon oil as may be so specified”;
  - (b) in subsection (6)(a) (power to be exercised so that fuel substitute charged with duty and otherwise treated as if it were description of hydrocarbon oil to which it is most closely equivalent), for “the substance falling within the descriptions specified in subsection (5) above” substitute “hydrocarbon oil of the description”.
- (2) In section 10 of the Finance Act 1993 (c. 34) (mineral oil fuel substitutes)—

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- (a) in subsection (2) (power to provide that mineral oil fuel substitute to be treated as if it were a particular description of hydrocarbon oil), for the words from “the description of such one or more of the following” to the end substitute “such description of hydrocarbon oil as may be so specified”;
- (b) in subsection (3) (power to be exercised so that mineral oil fuel substitute treated as if it were description of hydrocarbon oil to which it is most closely equivalent), for “the substance falling within the descriptions specified in subsection (2) above” substitute “hydrocarbon oil of the description”.

### *Betting and gaming duties*

## **8 Amusement machine licences: excepted machines**

- (1) Section 21 of the Betting and Gaming Duties Act 1981 (c. 63) (amusement machine licences) is amended as follows.
- (2) In subsection (3A) (excepted machines), for paragraphs (c) and (d) (certain thirty-five penny machines and video machines) substitute—
  - “(c) a fifty-penny machine that is not a gaming machine.”.
- (3) For subsection (3B) substitute—
  - “(3B) For the purposes of this section an amusement machine is a fifty-penny machine if, and only if—
    - (a) where it is a machine on which a game can be played solo, the price for a solo game does not exceed 50p; and
    - (b) where it is a machine on which a game can be played by more than one person at a time, the price to participate in such a game does not exceed 50p.”.
- (4) In subsection (3C) (definition of the price for a solo game), for “35p”, in both places where it occurs, substitute “50p”.
- (5) In section 25 of that Act (definition of different types of machine), in subsections (4) and (6) (treatment of machines capable of being played by more than one person at a time), for “an excepted video machine falling within section 21(3A)(d) above” substitute “a fifty-penny machine within section 21(3B) above”.
- (6) This section has effect in relation to the provision of an amusement machine at any time on or after 1st May 2002.

## **9 Amusement machine licence duty: rates**

- (1) In the Table in section 23(2) of the Betting and Gaming Duties Act 1981 (c. 63) (rates of amusement machine licence duty), for column (4) (medium-prize machines other than five-penny machines) and column 6 (machines not in any other category) substitute—

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“(4) Category C £	(6) Category E £
80	225
160	435
235	630
305	820
370	990
430	1155
485	1300
535	1440
585	1560
625	1675
665	1775
695	1860”

(2) This section applies in relation to any amusement machine licence for which an application is received by the Commissioners of Customs and Excise after 30th April 2002.

## 10 Rates of gaming duty

(1) For the Table in section 11(2) of the Finance Act 1997 (c. 16) (rates of gaming duty) substitute—

“TABLE

<i>Part of gross gaming yield</i>	<i>Rate</i>
The first £488,000	2.5 per cent.
The next £1,083,500	12.5 per cent.
The next £1,083,500	20 per cent.
The next £1,897,000	30 per cent.
The remainder	40 per cent.”

(2) This section has effect in relation to accounting periods beginning on or after 1st April 2002.

## 11 Gaming duty to be chargeable in respect of sic bo and three card poker

(1) In section 10(2) of the Finance Act 1997 (c. 16) (games in respect of which gaming duty is chargeable)—

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- (a) after “American roulette” insert “sic bo”;
- (b) after “super pan 9” insert “three card poker”.

(2) This section has effect in relation to games begun on or after 24th April 2002.

## 12 Pool betting duty etc

(1) Schedule 4 to this Act has effect.

(2) In that Schedule, Part 1—

makes provision about pool betting duty, and  
provides for coupon betting to cease to be subject to pool betting duty but to be  
subject to general betting duty instead,

and Part 2 contains minor amendments and transitional provisions.

(3) The amendments made by paragraph 2 of that Schedule have effect for the purposes of accounting periods beginning on or after 31st March 2002; but this does not apply to the substitution of the new regulation-making provisions.

(4) The amendments made by paragraphs 3 and 4 of that Schedule apply to bets made on or after 31st March 2002.

(5) Subsections (1) to (4) shall (subject to subsections (6) and (7)) be deemed to have come into force on 31st March 2002.

(6) Subsection (1), so far as relating to paragraphs 5, 6(a) and (c), 7 to 9, 10(1), (2), (5) to (11), (13) and (14), 11, 12(1) and (3), 13 and 14 of Schedule 4 to this Act, shall be deemed to have come into force on 24th April 2002.

(7) Subsection (1), so far as relating to—

(a) the substitution of the new regulation-making provisions by paragraph 2 of that Schedule, and

(b) paragraphs 10(3), (4) and (12) and 12(2) of that Schedule,

comes into force on the day on which this Act is passed; but the powers conferred by the new regulation-making provisions are exercisable only as respects accounting periods beginning after that day.

(8) In this section “the new regulation-making provisions” means the following new provisions of the Betting and Gaming Duties Act 1981 (c. 63)—

section 7D(6) to (8),

section 7E(4) and (5),

section 7F(6) and (7),

section 8(3) and (4), and

section 8B(1)(b) and (2).

## 13 General betting duty: spread bets

(1) For section 3(2) of the Betting and Gaming Duties Act 1981 (c. 63) (definition of “spread bet” by reference to the Financial Services Act 1986) substitute—

“(2) A bet is a spread bet if, at the time it is made, it constitutes a contract to which section 412 of the Financial Services and Markets Act 2000 (gaming contract



not void etc if entry into contract is activity specified under the section and contract relates to investment so specified) applies at that time.”.

(2) Subsection (1) applies to bets made after the day on which this Act is passed.

#### **14 General betting duty: overseas bet-brokers**

(1) In Part 1 of the Betting and Gaming Duties Act 1981 (betting duties), after section 9 (prohibitions for protection of revenue) insert—

##### **“9A Further prohibitions for protection of revenue: overseas bet-brokers**

- (1) A person shall be guilty of an offence if—
- (a) he knowingly issues, circulates or distributes in the United Kingdom, or has in his possession for that purpose, any advertisement or other document inviting the use of or otherwise relating to bet-broking services, and
  - (b) any person providing any of the bet-broking services concerned—
    - (i) is outside the United Kingdom, and
    - (ii) provides them in the course of a business.
- (2) In this section “bet-broking services” means—
- (a) facilities provided by a person that may be used by other persons in making bets with third persons, or
  - (b) a person’s services of acting as agent for other persons in making bets on their behalf with third parties (whether the persons on whose behalf the bets are made are disclosed principals or undisclosed principals).
- (3) In subsection (2) “bet” means a bet other than one made by way of pool betting.
- (4) A person who gets or tries to get any advertisement or other document given or sent to him shall not be guilty of an offence by reason of his thereby procuring or inciting some other person to commit, or aiding or abetting the commission of, an offence under this section.”.

(2) After section 9A of that Act (inserted by subsection (1) above) insert—

##### **“9B Offences under sections 9 and 9A: penalties**

- (1) This section applies where a person is guilty of an offence under section 9 or 9A (a “relevant offence”).
- (2) In the case of the person’s first conviction for a relevant offence, he is liable—
- (a) on summary conviction to a penalty of the prescribed sum, or
  - (b) on conviction on indictment to a penalty of any amount.
- (3) In the case of a second or subsequent conviction of the person for a relevant offence, he is liable—
- (a) on summary conviction to a penalty of the prescribed sum or to imprisonment for a term not exceeding three months or to both, or
  - (b) on conviction on indictment to a penalty of any amount or to imprisonment for a term not exceeding one year or to both.”.

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- (3) Omit section 9(4) of that Act (penalties for offences under section 9).
- (4) In paragraph 5 of Schedule 6 to that Act (convictions under predecessors of section 9 to be treated as convictions under section 9), for “For the purposes of section 9(4)” substitute “For the purposes of section 9B”.
- (5) Subsection (1) comes into force on the day after that on which this Act is passed.
- (6) The amendments made by subsections (2) to (4) apply for the purposes of punishing offences committed after the day on which this Act is passed.

### *Vehicle excise duty*

#### **15 Cars registered on or after 1st March 2001: rates of duty**

- (1) For the Table in paragraph 1B of Schedule 1 to the Vehicle Excise and Registration Act 1994 (c. 22) (rates of duty applicable to light passenger vehicles registered on or after 1st March 2001 on basis of certificate specifying CO<sub>2</sub> emissions figure) substitute—

<i>“CO<sub>2</sub> emissions figure</i>		<i>Rate</i>		
<i>(1)</i>	<i>(2)</i>	<i>(3)</i>	<i>(4)</i>	<i>(5)</i>
<i>Exceeding</i>	<i>Not exceeding</i>	<i>Reduced rate</i>	<i>Standard Rate</i>	<i>Premium rate</i>
<i>g/km</i>	<i>g/km</i>	<i>£</i>	<i>£</i>	<i>£</i>
–	120	60	70	80
120	150	90	100	110
150	165	110	120	130
165	185	130	140	150
185	–	150	155	160”

- (2) This section applies to any licence taken out on or after 18th April 2002 for a period beginning on or after 1st May 2002.

#### **16 Vans registered on or after 1st March 2001: rates of duty**

- (1) For paragraph 1J of Schedule 1 to the Vehicle Excise and Registration Act 1994 (c. 22) (rate of duty applicable to light goods vehicles first registered on or after 1st March 2001) substitute—

“1J The annual rate of vehicle excise duty applicable to a vehicle to which this Part of this Schedule applies is—

- (a) if the vehicle is not a lower-emission van, £160;
- (b) if the vehicle is a lower-emission van, £105.

*For the purposes of paragraph 1J, a vehicle to which this Part of this Schedule applies is a “lower-emission van” if—*

- 1K (a) the vehicle is first registered on or after 1st March 2003, and

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- (b) the limit values given for the vehicle by the Table (which is extracted from the new table inserted in section 5.3.1.4 of Annex I of Council Directive 70/220/EEC by Directive 98/69/EC of the European Parliament and of the Council) are not exceeded during a Type I test.

<i>Reference mass of vehicle</i>		<i>Limit values for types of emissions by reference to vehicle type</i>						
		<i>CO</i>	<i>HC</i>	<i>NO<sub>x</sub></i>	<i>HC + NO<sub>x</sub></i>	<i>PM</i>		
<i>Exceeding</i>	<i>Not exceeding</i>	<i>Petrol</i>	<i>Diesel</i>	<i>Petrol</i>	<i>Petrol</i>	<i>Diesel</i>	<i>Diesel</i>	<i>Diesel</i>
<i>kg</i>	<i>kg</i>	<i>g/km</i>	<i>g/km</i>	<i>g/km</i>	<i>g/km</i>	<i>g/km</i>	<i>g/km</i>	<i>g/km</i>
–	1,305	1.0	0.5	0.1	0.08	0.25	0.3	0.025
1,305	1760	1.81	0.63	0.13	0.1	0.33	0.39	0.04
1,760	3,500	2.27	0.74	0.16	0.11	0.39	0.46	0.06

1L In paragraph 1K—

“Type I test” means a test as described in section 5.3 of Annex I to Council Directive 70/220/EEC as amended (test for simulating/verifying the average tailpipe emissions after a cold start and carried out using the procedure described in Annex III of that Directive as amended);

“the reference mass” of a vehicle means the mass of the vehicle with bodywork and, in the case of a towing vehicle, with coupling device, if fitted by the manufacturer, in running order, or mass of the chassis or chassis with cab, without bodywork and/or coupling device if the manufacturer does not fit the bodywork and/or coupling device (including liquids and tools, and spare wheel if fitted, and with the fuel tank filled to 90% and the other liquid containing systems, except those for used water, to 100% of the capacity specified by the manufacturer), increased by a uniform mass of 100 kilograms;

“CO” means mass of carbon monoxide;

“HC” means mass of hydrocarbons;

“NO<sub>x</sub>” means mass of oxides of nitrogen;

“PM” means mass of particulates (for compression ignition engines).”.

- (2) Subsection (1) applies to any licence taken out for a period beginning on or after 1st March 2003.

## 17 Disclosure of information for vehicle excise duty exemptions

In the Vehicle Excise and Registration Act 1994 (c. 22), after section 22 insert—

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**“22ZA Nil licences for vehicles for disabled persons: information**

- (1) This section applies to information that—
- (a) is held for the purposes of functions relating to social security or war pensions—
    - (i) by the Secretary of State, or
    - (ii) by a person providing services to the Secretary of State, in connection with the provision of those services, and
  - (b) is of a description prescribed by regulations made by the Secretary of State.
- (2) Information to which this section applies may, if the consent condition is satisfied, be supplied—
- (a) to the Secretary of State, or
  - (b) to a person providing services to the Secretary of State,
- for use for the purposes of relevant nil licence functions.
- (3) The “consent condition”, in relation to any information, is that—
- (a) if the information was provided by a person other than the person to whom the information relates, the person who provided the information, or
  - (b) in any other case, the person to whom the information relates,
- has consented to the supply of the information and has not withdrawn that consent.
- (4) Information supplied under subsection (2) shall not—
- (a) be supplied by the recipient to any other person unless—
    - (i) it could be supplied to that person under subsection (2), or
    - (ii) it is supplied for the purposes of any civil or criminal proceedings relating to this Act;
  - (b) be used otherwise than for the purposes of relevant nil licence functions or any such proceedings.
- (5) In this section “relevant nil licence functions” means functions relating to applications for, and the issue of, nil licences in respect of vehicles that are exempt vehicles under—
- (a) paragraph 19 of Schedule 2, or
  - (b) paragraph 7 of Schedule 4.”.

**18 Motorcycles (and motorcycle trade licences): rates of duty**

- (1) For paragraph 2(1) to (1B) of Schedule 1 to the Vehicle Excise and Registration Act 1994 (c. 22) (rates of duty applicable to motorcycles not exceeding 450 kilograms in weight unladen) substitute—
- “2 (1) The annual rate of vehicle excise duty applicable to a motorcycle that does not exceed 450 kilograms in weight unladen is—
- (a) if the cylinder capacity of the engine does not exceed 150 cubic centimetres, £15;

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- (b) if the vehicle is a motorbicycle and the cylinder capacity of the engine exceeds 150 cubic centimetres but does not exceed 400 cubic centimetres, £30;
  - (c) if the vehicle is a motorbicycle and the cylinder capacity of the engine exceeds 400 cubic centimetres but does not exceed 600 cubic centimetres, £45;
  - (d) in any other case, £60.”.
- (2) In sections 13(3)(a), 35A(5)(b) and 36(3)(b) of that Act, and in section 13(4)(a) of that Act as substituted under paragraph 8 of Schedule 4 to that Act (references to paragraph 2(1)(c) of Schedule 1 in connection with motorcycle trade licences), for “(1)(c)” substitute “(1)(d)”.
- (3) Subsection (1), and the amendments in section 13 of that Act, apply to any licence taken out on or after 18th April 2002 for a period beginning on or after 1st May 2002.
- (4) The amendments in sections 35A and 36 of that Act apply where the relevant period begins on or after 1st May 2002.

## **19 Registered vehicles etc**

- (1) Schedule 5 to this Act, which provides—  
for vehicle excise duty to be charged in respect of vehicles registered under the Vehicle Excise and Registration Act 1994 that are neither used nor kept on a public road,  
for vehicle excise duty to be charged in respect of things that have been but have ceased to be mechanically propelled vehicles,  
for supplements to be payable where vehicle licences are renewed late, and  
for it to be an offence to be the person in whose name an unlicensed vehicle is registered under that Act,  
has effect.
- (2) Subject to subsection (3), subsection (1) shall not come into force until such day as the Secretary of State may appoint by order made by statutory instrument; and an order under this subsection may appoint different days for different purposes.
- (3) For the purpose of the exercise of any power to make regulations, subsection (1) comes into force on the day on which this Act is passed.
- (4) The Secretary of State may by order made by statutory instrument make—  
(a) such transitional provision as he considers necessary or expedient in connection with the coming into force of subsection (1);  
(b) such provision consequential upon, or incidental or supplementary to, the amendments made by Schedule 5 to this Act (including provision further amending the Vehicle Excise and Registration Act 1994) as he considers necessary or expedient.
- (5) A statutory instrument containing an order under subsection (4)(b) is subject to annulment in pursuance of a resolution of either House of Parliament.

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## 20 Calculating cylinder capacity of vehicles

- (1) In paragraph 1 of Schedule 1 to the Vehicle Excise and Registration Act 1994 (c. 22) (annual rates of duty: general), after sub-paragraph (2A) insert—

“(2B) For the purposes of this Schedule the cylinder capacity of an engine shall be calculated in accordance with regulations made by the Secretary of State.”.

- (2) Omit—

- (a) paragraph 2(4) of that Schedule (power to make regulations as to calculation of cylinder capacity of motorcycle engines), and
- (b) section 57(8) of that Act (regulations under paragraph 2(4) of Schedule 1 not subject to annulment).

- (3) Any regulations—

- (a) made under paragraph 2(4) of that Schedule or having effect as if so made, and
- (b) in force or effective immediately before the passing of this Act,

shall have effect after the passing of this Act as if made under the paragraph 1(2B) inserted in that Schedule by this section.

- (4) Subsection (3) has effect in place of section 17(2)(b) of the Interpretation Act 1978 (c. 30) (but is without prejudice to any other provision of that Act) and, in particular, the fact that the instrument containing any such regulations was not subject to annulment in pursuance of a resolution of either House of Parliament shall not prevent them being revoked, amended or re-enacted by regulations under that paragraph 1(2B).

### *General*

## 21 Drawback of excise duty

- (1) In section 133 of the Customs and Excise Management Act 1979 (c. 2) (claims for drawback of excise duty)—

- (a) in subsection (2), for “subsections (3) to (6)” substitute “subsections (4) to (6)”;
- (b) omit subsection (3) (Commissioners to be satisfied that the duty in question has been duly paid, and not already drawn back, before drawback is payable).

- (2) In section 14(1) of the Finance Act 1994 (c. 9) (reviewable decisions) after paragraph (bb) insert—

“(bc) any decision by the Commissioners as to whether or not any person is entitled to any drawback of excise duty by virtue of regulations under section 2 of the Finance (No. 2) Act 1992, or the amount of the drawback to which any person is so entitled;”.

- (3) The amendment made by subsection (2) does not apply in relation to decisions made before the day on which this Act comes into force.