



Finance Act 2021

2021 CHAPTER 26

PART 2

PLASTIC PACKAGING TAX

Introductory

42 Plastic packaging tax

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

Charging of plastic packaging tax

43 Charge to plastic packaging tax

- (1) The charge to plastic packaging tax arises when a chargeable plastic packaging component is—
 - (a) produced in the United Kingdom by a person acting in the course of a business, or
 - (b) imported into the United Kingdom on behalf of such a person.
- (2) The reference in subsection (1) to “a business” includes any activity of a government department or other public authority, or of a charity, that is carried out for commercial purposes.
- (3) Subsection (1) is subject to section 52 (exempt plastic packaging components).

44 Liability to pay plastic packaging tax

- (1) Where the charge to plastic packaging tax arises in respect of a chargeable plastic packaging component by virtue of section 43(1)(a), the person who produces the component is liable to pay the amount charged.
- (2) Where the charge arises in respect of a chargeable plastic packaging component by virtue of section 43(1)(b), the person on whose behalf the component is imported is liable to pay the amount charged.

45 Rate

- (1) Plastic packaging tax is charged at the rate of £200 per metric tonne of chargeable plastic packaging components of a single specification.
- (2) The amount charged on part of a tonne is the proportionately reduced amount.

46 Payment

- (1) Plastic packaging tax is to be paid by reference to accounting periods determined in accordance with regulations under section 61(1) (regulations about the payment, collection and recovery of plastic packaging tax).
- (2) References in this Part to “accounting periods” are to those accounting periods.

*Interpretation of main terms etc***47 Chargeable plastic packaging components**

- (1) A plastic packaging component is chargeable if—
 - (a) the proportion of recycled plastic in the component, when measured by weight, is less than 30% of the total amount of plastic in the component, and
 - (b) it is finished.
- (2) A plastic packaging component is taken to fall within subsection (1)(a) unless it is shown that it does not.
- (3) For the purposes of this Part, a component is “finished” if it has undergone—
 - (a) its last substantial modification, or
 - (b) in the case of a component that undergoes a substantial modification when it is packed or filled, its last substantial modification before being packed or filled, even if waste or surplus material remains attached to it.
- (4) Accordingly, for the purposes of this Part, waste or surplus material that remains attached to a component after its last substantial modification is not to be treated as part of the component.
- (5) The Commissioners may by regulations make provision about—
 - (a) the methodology to be used, or the information or evidence required, to satisfy them that a plastic packaging component does not fall within subsection (1)(a);
 - (b) the meaning of “substantial modification”.

48 Meaning of “plastic packaging component”

- (1) A “packaging component” is a product that is designed to be suitable for use, whether alone or in combination with other products, in the containment, protection, handling, delivery or presentation of goods at any stage in the supply chain of the goods from the producer of the goods to the user or consumer.
- (2) Subject to section 52, it does not matter why a component within this definition is produced or imported (for example, whether it is produced or imported for use in the supply chain of the goods or by a user or consumer).
- (3) A “plastic packaging component” is a packaging component that contains more plastic, when measured by weight, than any other single substance listed in regulations under subsection (7)(a).
- (4) A packaging component that contains plastic is taken to be a plastic packaging component unless it is shown that it is not such a component.
- (5) The Treasury may by regulations amend the meaning of “packaging component” by—
 - (a) adding descriptions of products, or
 - (b) removing descriptions of products.
- (6) Regulations under subsection (5) may amend this Part.
- (7) The Commissioners may by regulations—
 - (a) list substances for the purposes of subsection (3);
 - (b) make provision about the methodology to be used, or the information or evidence required, to satisfy them that a packaging component that contains plastic is not a plastic packaging component.

49 Meaning of “plastic” and “recycled plastic”

- (1) “Plastic” means a material consisting of a polymer, other than a cellulose-based polymer that has not been chemically modified, to which additives or other substances may have been added.
- (2) “Recycled plastic” is plastic that has been reprocessed from recovered material by means of a chemical or manufacturing process, other than organic recycling, so that it can be used either for its original purpose or for other purposes.
- (3) “Organic recycling” means the aerobic or anaerobic treatment, under controlled conditions and using micro-organisms, of biodegradable matter, which produces stabilised organic residues or methane.
- (4) “Recovered material” is pre-consumer plastic or post-consumer plastic that—
 - (a) has been collected and recovered as a material input, in lieu of new primary material, for a recycling or a manufacturing process, and
 - (b) would otherwise have been disposed of as waste or used for energy recovery.
- (5) “Pre-consumer plastic” is plastic that is—
 - (a) recovered from waste generated in a manufacturing process, and
 - (b) processed by a reprocessing facility,but does not include plastic that is reused in the same process in which it was generated as scrap and from which it was recovered.

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- (6) “Post-consumer plastic” is plastic—
- (a) that is generated by households or by commercial, industrial or institutional facilities in their role as end-users of the product, and
 - (b) that can no longer be used for its intended purpose.

This includes returns of plastic from the distribution chain.

- (7) Plastic is not to be taken as recycled plastic unless it is shown that it is recycled plastic.
- (8) The Treasury may by regulations amend the meaning of “plastic” and “recycled plastic”.
- (9) Regulations under subsection (8) may amend this Part.
- (10) The Commissioners may by regulations make provision about the methodology to be used, or the information or evidence required, to satisfy them that plastic is recycled plastic.

50 Time of importation

- (1) A chargeable plastic packaging component is imported into the United Kingdom—
- (a) in the case of a component that is subject to customs formalities within the meaning given by section 1(1) of CEMA 1979, as soon as all such formalities have been complied with in respect of the component, and
 - (b) in any other case, at the time of importation for the purposes of the customs and excise Acts.
- (2) This section is subject to section 76 (Isle of Man: import and export of chargeable plastic packaging components).

Deferrals, exemptions and credits

51 Plastic packaging components intended for export

- (1) A person’s liability under section 44 to pay an amount by way of plastic packaging tax in relation to a plastic packaging component is—
- (a) deferred for as long as the direct export condition is met in relation to the component;
 - (b) cancelled if the direct export condition ceases to be met in relation to the component as a result of it being exported from the United Kingdom before the end of the deferral period in accordance with regulations made by the Commissioners.
- (2) The direct export condition is met in relation to a component at any time if—
- (a) the time is within the deferral period;
 - (b) the person who is liable to pay the tax (“the liable person”) intends to export it (and has intended to export it at all times since it was produced or imported);
 - (c) any other conditions or requirements specified in regulations made by the Commissioners are met.
- (3) If the Commissioners are not satisfied of any matter within subsection (2) in relation to a component they may—

- (a) in a case where they are satisfied that the direct export condition was met but no longer is, notify the liable person that the condition is to be taken to have ceased to be met in relation to that component from a date specified in the notification, or
 - (b) in any other case, notify the liable person that the direct export condition is to be taken never to have been met in relation to that component.
- (4) The consequence of notification is that liability to pay an amount by way of plastic packaging tax—
 - (a) in a case within subsection (3)(a), ceases to be deferred in accordance with subsection (1)(a) with effect from such date as the Commissioners may specify in the notification, or
 - (b) in a case within subsection (3)(b), is taken never to have been deferred in accordance with subsection (1)(a).
- (5) The deferral period in relation to a component is the period of 12 months beginning with the day on which the component is produced or imported.
- (6) This section does not apply to plastic packaging components that are used in the removal of goods from the United Kingdom and that are—
 - (a) transport packaging or tertiary packaging within the meaning of regulation 3(2)(c) of the Packaging (Essential Requirements) Regulations 2015 (S.I. 2015/1640), or
 - (b) road, rail, ship and air containers.
- (7) This section is subject to section 76 (Isle of Man: import and export of chargeable plastic packaging components).

52 Exempt plastic packaging components

- (1) No charge to plastic packaging tax arises by virtue of section 43(1)(b) in relation to plastic packaging components that are used in the delivery of goods into the United Kingdom and that are—
 - (a) transport packaging or tertiary packaging within the meaning of regulation 3(2)(c) of the Packaging (Essential Requirements) Regulations 2015 (S.I. 2015/1640), or
 - (b) road, rail, ship and air containers.
- (2) No charge to plastic packaging tax arises in relation to plastic packaging components if subsection (3), (4) or (6) applies to them.
- (3) This subsection applies to plastic packaging components if they are stores within the meaning of CEMA 1979 (see section 1 of that Act).
- (4) This subsection applies to plastic packaging components if they are produced or imported for use in the immediate packaging of a medicinal product.
- (5) In subsection (4)—
 - “immediate packaging”, in relation to a medicinal product, has the meaning given by regulation 8(1) of the Human Medicines Regulations 2012 (S.I. 2012/1916);
 - “medicinal product” has the meaning given by regulation 2(1) of those Regulations.

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- (6) This subsection applies to plastic packaging components if—
- (a) before or as soon as they have been produced or imported they are permanently designated or set aside for use other than in the containment, protection, handling, delivery or presentation of goods, and
 - (b) the producer or person on whose behalf they were imported keeps a record of that designation or setting aside.
- (7) The Treasury may by regulations make provision creating further exemptions from plastic packaging tax.

53 Tax credits

- (1) The Commissioners may by regulations make provision in relation to cases where after a person has become liable to pay plastic packaging tax in respect of a prescribed plastic packaging component (the “charged component”), that component is—
- (a) exported from the United Kingdom;
 - (b) converted into a different packaging component.
- (2) The provision that may be made is provision—
- (a) for the person to be entitled to a tax credit in respect of any plastic packaging tax charged on the charged component;
 - (b) for the tax credit to be brought into account when the person is accounting for plastic packaging tax due from the person for the prescribed accounting period or periods;
 - (c) for the person to be entitled to a repayment of plastic packaging tax (instead of a tax credit) in prescribed cases.
- (3) Regulations under this section may (among other things) make provision—
- (a) for any entitlement to a tax credit to be conditional on the making of a claim by the person, and specifying the period within which and the manner in which a claim may be made;
 - (b) for any entitlement to a tax credit or to bring a tax credit into account to be—
 - (i) conditional on compliance with prescribed requirements;
 - (ii) subject to prescribed minimum or maximum amounts;
 - (c) specifying circumstances in which, and criteria for determining the period for which, the person is or is not entitled to a tax credit;
 - (d) requiring a claim for a tax credit to be evidenced and quantified by reference to prescribed records and other documents;
 - (e) requiring a person claiming any entitlement to a tax credit to keep, for the prescribed period and in the prescribed form and manner, those records and documents and a record of prescribed information relating to the claim;
 - (f) for the withdrawal of a tax credit where any requirement of the regulations is not complied with;
 - (g) about adjustments of liability for plastic packaging tax in connection with entitlement or withdrawal of an entitlement to a tax credit in prescribed circumstances;
 - (h) about the treatment of a tax credit where the person ceases to carry on a business or otherwise is no longer liable to plastic packaging tax;

- (i) for anything falling to be determined in accordance with the regulations to be determined by reference to a direction given in accordance with the regulations by the Commissioners;
 - (j) about the meaning of “converted” for the purposes of subsection (1)(b).
- (4) In this section, “prescribed” means specified in or under, or determined in accordance with provision made in or under, regulations under this section.

Registration

54 The register

- (1) The Commissioners must establish and maintain a register for the purposes of collecting and managing plastic packaging tax.
- (2) The register may contain such information as the Commissioners think is required for those purposes.
- (3) The Commissioners may publish, by such means as they think fit, any information which—
 - (a) is derived from the register, and
 - (b) is within any of the descriptions in subsection (4),apart from information relating to a registration which is subject to an outstanding appeal.
- (4) The descriptions are—
 - (a) the names of registered persons;
 - (b) particulars of sites at which registered persons carry on business;
 - (c) registration numbers assigned to registered persons;
 - (d) where the registered person is a body corporate that is a member of a group—
 - (i) the fact that it is a member of a group,
 - (ii) the names of the other bodies corporate that are members of the group, and
 - (iii) particulars of any sites at which those other bodies carry on business.
- (5) Subject to subsection (6), information may be published in accordance with this section despite any obligation not to disclose the information that would otherwise apply.
- (6) Nothing in this section authorises a disclosure of information which contravenes the data protection legislation (but in determining whether a disclosure would do so, take into account the powers conferred by this section).
- (7) In this Part—
 - “data protection legislation” has the meaning given by section 3(9) of the Data Protection Act 2018;
 - “the register” means the register under subsection (1) and references to registration are to registration in it.

55 Liability to register: producers and importers

- (1) A person (P) who—

Status: This is the original version (as it was originally enacted).

(a) produces finished plastic packaging components, or
 (b) on whose behalf finished plastic packaging components are imported,
 becomes liable to be registered on a given day if subsection (2) applies in relation to P on that day.

(2) This subsection applies—

- (a) on any day, where there are reasonable grounds for believing that the amount of finished plastic packaging components that will be produced by, or imported on behalf of, P within the period of 30 days beginning with that day will equal or exceed 10 metric tonnes, or
 (b) on the first day of any calendar month, where the amount of finished plastic packaging components produced by, or imported on behalf of, P over the 12 months ending with the day before that day equals or exceeds 10 metric tonnes.

(3) Finished plastic packaging components to which section 52(1) or (3) applies are not to be taken into account for the purposes of subsection (2).

(4) In the application of subsection (2)(b) to the first day of a month falling within the year beginning with 1 April 2022, that paragraph has effect as if for “over the 12 months” there were substituted “during the period beginning with 1 April 2022 and”.

56 Notification of liability and registration

(1) A person who becomes liable to be registered under section 55 must notify the Commissioners of the liability before the end of the notification period.

(2) The “notification period” is the period of 30 days beginning with the day on which the liability arises.

(3) Where the Commissioners are satisfied that a person is liable to be registered (whether or not the person has notified liability under subsection (1)), the Commissioners must register the person with effect from the day on which the liability arises.

(4) Where an unincorporated body (other than a partnership) is registered in the name of the body concerned, no account is to be taken of any change in its members in determining how any provision of or under this Part applies in relation to the body.

(5) The Commissioners may by regulations make provision—

- (a) about the form and manner in which a notification under this section is to be given;
 (b) about the information to be contained in or provided with a notification under this section;
 (c) for the Commissioners to require further information from a person in connection with that person’s registration;
 (d) requiring notifications and other communications with the Commissioners in connection with registration to be made electronically.

57 Cancellation of registration

(1) A registration under section 56 may be cancelled only in accordance with this section.

(2) The Commissioners may cancel a person’s registration if—

- (a) the person requests the cancellation, and
 - (b) the person satisfies the Commissioners that the person does not, on the day of the request, meet the liability condition.
- (3) The Commissioners may cancel a person's registration if they are satisfied that the person does not meet the liability condition and has not met the liability condition for a period of at least 12 months.
- (4) The Commissioners may cancel a person's registration if they are satisfied that the person did not meet the liability condition on the day on which the person was registered, and has not at any subsequent time met the liability condition.
- (5) A cancellation under subsection (2) is to be made with effect from—
 - (a) the day on which the request is made, or
 - (b) such later day as may be agreed between the Commissioners and that person.
- (6) A cancellation under subsection (3) is to be made with effect from—
 - (a) the day on which the person ceased to meet the liability condition, or
 - (b) such later day as may be agreed between the Commissioners and that person.
- (7) A cancellation under subsection (4) is to be made with effect from the day on which the person was registered.
- (8) But the Commissioners must not cancel a person's registration under subsection (2) or (3) if—
 - (a) there are outstanding amounts of plastic packaging tax, or amounts recoverable as plastic packaging tax, due from that person, or
 - (b) there are one or more outstanding returns for the purposes of plastic packaging tax due from that person.
- (9) The Commissioners may decline to cancel a person's registration on any day if they reasonably believe that the person will become liable to be registered under section 55 during the period of 12 months beginning with that day.
- (10) For the purposes of this section, a person meets the liability condition on a particular day if—
 - (a) the condition in section 55(2)(a) is met in relation to that person on that day,
 - (b) the day is the first day of a month and the condition in section 55(2)(b) is met in relation to that person on that day, or
 - (c) the day is in the same month as a day on which the condition in section 55(2)(b) was met in relation to that person.

58 Correction of the register

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

*Secondary liability and joint and several liability notices***59 Notices imposing secondary or joint and several liability**

Schedule 9 makes provision about notices that may in certain circumstances—

- (a) impose secondary liability on a person in respect of an amount of plastic packaging tax which another person has failed to pay, or
- (b) make one person jointly and severally liable with another person in respect of some or all of the other person's liability to pay plastic packaging tax in respect of a period of time in the future.

*Administration and enforcement***60 Measurement of weight etc**

- (1) The Commissioners may by regulations make provision for and about the measurement of weight for the purposes of plastic packaging tax.
- (2) The regulations may (among other things) include provision about—
 - (a) how weight is to be measured;
 - (b) the time in relation to which weight is to be measured;
 - (c) how weight is to be evidenced;
 - (d) agreements between the Commissioners and particular persons about how weight is to be measured or evidenced, including provision for the Commissioners to disregard the terms of an agreement in circumstances set out in the regulations;
 - (e) the Commissioners making their own assessment or best judgement of weight in relation to plastic packaging components and substituting that assessment or judgement for the assessment or judgement of any other person;
 - (f) the Commissioners inspecting or weighing plastic packaging components or samples;
 - (g) the assessment of weight by the Commissioners being based on estimates or assumptions.

61 Payment, collection, recovery

- (1) The Commissioners may by regulations make provision about the payment, collection and recovery of amounts for the purposes of plastic packaging tax.
- (2) Regulations under subsection (1) may (among other things)—
 - (a) make provision for determining the accounting periods by reference to which payments are to be made;
 - (b) require persons who are registered or who are liable to be registered under section 55 (“relevant persons”) to keep accounts for the purposes of plastic packaging tax in a specified form and manner;
 - (c) require relevant persons to make returns for the purposes of plastic packaging tax;
 - (d) make provision about the times at which payments of plastic packaging tax are to be made and methods of payment;

- (e) require the amounts payable by reference to accounting periods to be calculated by or under the regulations;
 - (f) make provision about the payment, collection and recovery of amounts payable by a person as a result of a secondary liability and assessment notice or a joint and several liability notice;
 - (g) make provision for the correction of errors made in accounting for plastic packaging tax.
- (3) Provision may be made by or under regulations under subsection (2)(c) about—
- (a) the form and manner of making returns;
 - (b) the information to be included in returns;
 - (c) declarations about the truth of information in returns;
 - (d) the periods by reference to which returns are to be made;
 - (e) timing.
- (4) Schedule 10 makes provision about recovery and overpayments.

62 Reviews and appeals

Schedule 11 makes provision about reviews and appeals.

63 Records

- (1) The Commissioners may by regulations require persons—
- (a) to keep, for purposes connected with plastic packaging tax, records of specified matters, and
 - (b) to preserve records for a specified period.
- (2) A duty under regulations under subsection (1) to preserve records may be discharged by preserving them, or the information contained in them, in any form and by any means, subject to any conditions or exceptions specified in the regulations.
- (3) The period specified in regulations under subsection (1) may not exceed 6 years beginning with the end of the accounting period to which the records relate.
- (4) The Commissioners may direct a person who is, or is liable to be, registered under this Part or to whom a secondary liability and assessment notice or a joint and several liability notice has been given—
- (a) to keep such records as are specified in the direction;
 - (b) to preserve those records for a specified period.
- (5) The Commissioners may not give a direction under subsection (4) unless they have reasonable grounds for believing that the records specified in the direction might assist in identifying chargeable plastic packaging components in respect of which plastic packaging tax might not be paid.
- (6) A direction under subsection (4)—
- (a) must be in writing,
 - (b) must specify the consequences under section 80 of a failure to comply with a requirement imposed under that section, and
 - (c) may be revoked or replaced by a further direction.
- (7) The period specified in a direction under subsection (4)(b) may not exceed 6 years.

64 Information and evidence

Schedule 12 makes provision about the collection and sharing of information and about evidence.

65 Security for tax

- (1) The Commissioners may by regulations prescribe circumstances in which a person who is liable to be registered under section 55 may be required to give security (or further security) of such amount and in such manner as the Commissioners may determine for the payment of any plastic packaging tax due, or which may become due, from the person.
- (2) The Commissioners may only exercise the power in subsection (1) if they consider it is necessary for the protection of the revenue.

66 Unincorporated bodies

The Commissioners may by regulations make provision in relation to a business which is carried on by a partnership or by another unincorporated body specifying by what person anything required by or under this Part to be done by a person is to be done.

67 Service

- (1) Anything required to be given to a person (“P”) by or under a provision of this Part may be given by sending it to P or to P’s representative by post, addressed to that person’s last known address.
- (2) Anything given to P’s representative is to be treated as having been given to P.
- (3) In this section, “representative”, in relation to P, means—
 - (a) any of P’s personal representatives;
 - (b) any person holding office as receiver in relation to P or any of P’s property;
 - (c) P’s trustee in bankruptcy or liquidator;
 - (d) a trustee (or interim trustee) in a sequestration of P’s estate under the Bankruptcy (Scotland) Act 2016;
 - (e) any other person acting in a representative capacity in relation to P (including under section 69).

*Miscellaneous***68 Statements for business customers**

- (1) A person who—
 - (a) supplies to a business customer a plastic packaging component in respect of which a charge to plastic packaging tax has arisen, and
 - (b) is liable to pay plastic packaging tax on that component,must, when invoicing that customer in respect of that component, include with that invoice a statement of the amount of plastic packaging tax arising in relation to that component (a “PPT statement”).

- (2) The reference in subsection (1)(a) to supplying a plastic packaging component to a business customer includes supplying that component by virtue of supplying other goods, such as goods that are contained within the component.
- (3) A PPT statement must contain such particulars as the Commissioners may prescribe in regulations.
- (4) In this section, “business customer” means a person who is supplied with a plastic packaging component in the course of their carrying out a business (within the meaning of section 43(2)).

69 Tax representatives of non-resident taxpayers

- (1) The Commissioners may by regulations make provision requiring that every non-resident taxpayer appoint a person resident in the United Kingdom to act as the taxpayer’s tax representative for the purposes of plastic packaging tax.
- (2) Regulations under subsection (1) may, in particular, make provision—
 - (a) requiring notification to be given to the Commissioners where a person becomes a non-resident taxpayer;
 - (b) requiring notification to be given to the Commissioners where a person appoints a person as a tax representative;
 - (c) for the appointment of a person as a tax representative to take effect only where the person appointed is approved by the Commissioners;
 - (d) authorising the Commissioners to give a direction requiring the replacement of a tax representative;
 - (e) about the circumstances in which a person ceases to be a tax representative and about the withdrawal by the Commissioners of their approval of a tax representative;
 - (f) enabling a tax representative to act on behalf of the person for whom they are the tax representative through an agent of the representative;
 - (g) for the purposes of any provision made by virtue of paragraphs (a) to (f) regulating the procedure to be followed in any case and imposing requirements as to the information and other particulars to be provided to the Commissioners;
 - (h) as to the time at which things done under or for the purposes of the regulations are to take effect.
- (3) The tax representative of a non-resident taxpayer—
 - (a) may act on the non-resident taxpayer’s behalf for the purposes of any provision relating to plastic packaging tax, and
 - (b) is under a duty, except to such extent as the Commissioners may by regulations otherwise provide, to secure the non-resident taxpayer’s compliance with, and discharge of, the obligations and liabilities to which the non-resident taxpayer is subject by virtue of any provision relating to plastic packaging tax (including obligations and liabilities arising or incurred before the representative was appointed).
- (4) A person who is or has been the tax representative of a non-resident taxpayer is personally liable—

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- (a) in respect of any failure to secure compliance with, or the discharge of, any obligation or liability to which subsection (3)(b) applies while they are or were the non-resident taxpayer's tax representative, and
 - (b) in respect of anything done in the course of, or for purposes connected with, acting on the non-resident taxpayer's behalf,
- as if the obligations and liabilities to which subsection (3)(b) applies were imposed jointly and severally on the tax representative and the non-resident taxpayer.
- (5) A tax representative is not liable by virtue of this section to be registered for the purposes of plastic packaging tax; but the Commissioners may by regulations—
- (a) require the registration of the names of tax representatives against the names of the non-resident taxpayers of whom they are the representatives;
 - (b) make provision for the deletion of the names of persons who cease to be tax representatives.
- (6) A tax representative is not, by virtue of this section, guilty of an offence except in so far as—
- (a) they consented to, or connived in, the commission of the offence by the non-resident taxpayer;
 - (b) the commission of the offence by the non-resident taxpayer is attributable to any neglect on the part of the tax representative;
 - (c) the offence consists in a contravention by the tax representative of an obligation which, by virtue of this section, is imposed both on the tax representative and on the non-resident taxpayer.
- (7) In this section “non-resident taxpayer” means a person who—
- (a) is, or is liable to be, registered under this Part, and
 - (b) is not resident in the United Kingdom.
- (8) For the purposes of subsection (7), a person is resident in the United Kingdom at any time if, at that time—
- (a) that person has an established place of business in the United Kingdom;
 - (b) that person has a usual place of residence in the United Kingdom;
 - (c) that person is a firm or unincorporated body which (without being resident in the United Kingdom by virtue of paragraph (a)) has amongst its partners or members at least one individual with a usual place of residence in the United Kingdom.

70 Adjustment of contracts

- (1) Subsection (2) applies where—
- (a) a person (S) supplies a chargeable plastic packaging component that S has produced, or that was imported on behalf of S, to another person (P) under a contract,
 - (b) a payment falls to be made under the contract for the supply of the component, and
 - (c) after the making of the contract—
 - (i) plastic packaging tax becomes chargeable on the component, or
 - (ii) there is a change in the plastic packaging tax chargeable on the component.

- (2) Unless the contract otherwise provides, S may adjust the amount of the payment mentioned in subsection (1)(b) so as to reflect the tax chargeable on the component.
- (3) Subsection (4) applies where a person (S) supplies another person (P) with a chargeable plastic packaging component under a contract.
- (4) Unless the contract provides otherwise, S may adjust the contract so that if P subsequently converts the component into a different chargeable plastic packaging component, P must provide S with information about the conversion.
- (5) For the purposes of subsections (1) and (3), it is immaterial—
 - (a) when the contract was made;
 - (b) whether the contract also provides for other matters.

71 Groups of companies

- (1) Subsection (2) applies where a body corporate (P) is liable to pay an amount of plastic packaging tax (or an amount recoverable on the basis that it is an amount of plastic packaging tax)—
 - (a) in respect of plastic packaging components produced by, or imported on behalf of, P, or
 - (b) by virtue of a secondary liability and assessment notice or a joint and several liability notice,at the time P is a member of a group.
- (2) For the purposes of this Part, the representative member of the group is to be treated as if it were liable to pay the amount instead of P.
- (3) All the bodies corporate who are treated as members of a group when any amount becomes due from the representative member, together with any bodies corporate who become treated as members of the group while any such amount remains unpaid, are jointly and severally liable for the amount due from the representative member.
- (4) For the purposes of this Part—
 - (a) a body corporate is to be treated as a member of a group at any time in relation to which it falls to be treated as such in accordance with provision made by Schedule 13, and
 - (b) the representative member of a group at any time is the body corporate which falls to be treated as such in accordance with that Schedule.
- (5) Schedule 13 makes provision about applications by two or more bodies corporate to be treated as members of the same group for the purposes of this Part.

72 Prevention of artificial separation of business activities: directions

- (1) This section, and section 73, apply for the purpose of preventing the maintenance or creation of any artificial separation of business activities carried on by two or more persons from resulting in an avoidance of plastic packaging tax.
- (2) The Commissioners may make a direction under this section naming any person only if they are satisfied that—
 - (a) the person is producing or importing, or has produced or imported, chargeable plastic packaging components,

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- (b) the activities in the course of which the person produces or imports, or produced or imported, chargeable plastic packaging components form only part of certain activities, the other activities being carried on concurrently or previously (or both) by one or more other persons,
 - (c) the activities carried on by those persons have been, or are, artificially separated, having regard to whether the persons carrying on those activities are connected within the meaning of section 1122 of CTA 2010 (“connected” persons), and
 - (d) if all the activities of those persons were taken into account, a single person carrying on that business would at the time of the direction be liable to be registered by virtue of section 55.
- (3) Subsection (4) applies where, after making a direction under this section that specifies a description of business, it appears to the Commissioners that a person (P) who was not named in that direction is producing or importing, or has produced or imported, chargeable plastic packaging components in the course of activities which should be regarded as part of the activities of that business.
- (4) The Commissioners may make a supplementary direction referring to the earlier direction and the description of business specified in it and adding P’s name to those of the persons named in the earlier direction with effect from—
- (a) the date on which P began to produce or import those components, or
 - (b) if later, the date with effect from which the single taxable person referred to in the earlier direction became liable to be registered under this Part.
- (5) If, immediately before a direction (including a supplementary direction) is made under this section, any person named in the direction is registered under this Part, the person ceases to be liable to be so registered with effect from the later of—
- (a) the date with effect from which the single taxable person concerned became liable to be registered, and
 - (b) the date of the direction.
- (6) A direction under this section must be given to each person named in it.

73 Prevention of artificial separation of business activities: effect of directions

- (1) For the purposes of this Part, where a direction is made under section 72—
- (a) the persons named in the direction are to be treated as a single taxable person carrying on the activities of a business described in the direction;
 - (b) the taxable person is liable to be registered under this Part with effect from—
 - (i) the date of the direction, or
 - (ii) such later date as may be specified in the direction;
 - (c) the taxable person is to be registrable in such name as—
 - (i) the persons named in the direction may jointly nominate in writing to the Commissioners not later than 14 days after the date of the direction, or
 - (ii) if no such name is nominated, in such name as may be specified in the direction;
 - (d) any production or import of chargeable plastic packaging components by or on behalf of one of the constituent members in the course of the activities of

- the taxable person is to be treated as production by or import on behalf of that person;
- (e) each of the constituent members is to be jointly and severally liable for any plastic packaging tax due from the taxable person;
 - (f) any failure by the taxable person to comply with any requirement imposed by or under this Part is to be treated as a failure by each of the constituent members severally;
 - (g) subject to the preceding paragraphs, for the purposes of this Part the constituent members are to be treated as a partnership carrying on the business of the taxable person and any question as to the scope of the activities of that business at any time are to be determined accordingly.
- (2) Subsection (3) applies where—
- (a) it appears to the Commissioners that any person (P) who is one of the constituent members should no longer be regarded as such for the purposes of subsection (1)(e) and (f), and
 - (b) the Commissioners give notice to that effect.
- (3) P is not liable by virtue of subsection (1)(e) and (f) for anything done after the date specified in that notice (and accordingly on that date P is to be treated as having ceased to be a member of the partnership referred to in subsection (1)(g)).
- (4) In subsections (1) and (2), the “constituent members” means, in relation to a business specified in a direction under section 72, the persons named in the direction, together with any person named in a supplementary direction relating to that business (together being the persons who are to be treated as the taxable person).

74 Death, incapacity or insolvency of person carrying on a business: regulations

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

75 Transfer of business as a going concern: regulations

- (1) The Commissioners may by regulations make provision for the purposes of plastic packaging tax in relation to cases where any business carried on by a person (P) is transferred to another person (T) as a going concern.

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- (2) Regulations under this section may (among other things) make—
- (a) provision requiring P to inform the Commissioners of the transfer;
 - (b) provision for P’s liabilities and duties under this Part to become, to such extent as may be provided by the regulations, liabilities and duties of T;
 - (c) provision for any right of either P or T to a tax credit or repayment of plastic packaging tax to be satisfied by allowing the credit or making the repayment to the other;
 - (d) provision as to the preservation of any records or accounts relating to the business which, by virtue of any regulations under section 63, are required to be preserved for any period after the transfer;
 - (e) such other provision as the Commissioners think fit for securing continuity in the application of this Part in cases to which the regulations apply.
- (3) Regulations under this section may provide that no such provision as is mentioned in subsection (2)(b) or (c) has effect in relation to any transferor or transferee unless an application for the purpose has been made by them under the regulations.

76 Isle of Man: import and export of chargeable plastic packaging components

- (1) Subsections (2) and (3) apply if—
- (a) a chargeable plastic packaging component is imported into the United Kingdom from the Isle of Man, and
 - (b) a charge corresponding to plastic packaging tax (the “corresponding charge”) has arisen in relation to the component under the law of the Isle of Man.
- (2) If the corresponding charge has arisen at a rate equal to, or greater than, the United Kingdom rate, the component is to be treated as not being imported into the United Kingdom for the purposes of plastic packaging tax.
- (3) If the corresponding charge has arisen at a rate lower than the United Kingdom rate, the amount of plastic packaging tax charged under this Part in relation to the component is to be reduced by an amount equal to the corresponding charge.
- (4) “The United Kingdom rate” in relation to a chargeable plastic packaging component is the rate of plastic packaging tax that would (apart from this section) be chargeable in relation to the component under this Part.
- (5) For the purposes of provision made by or under sections 51 and 53, a chargeable plastic packaging component is to be treated as not being exported from the United Kingdom if it is exported from the United Kingdom to the Isle of Man.
- (6) For the purposes of determining, in accordance with section 50, when a chargeable plastic packaging component is imported into the United Kingdom from the Isle of Man, section 8 of the Isle of Man Act 1979 (removal of goods from the Isle of Man) is to have effect as if, in subsection (2), at the end of paragraph (c), there were inserted “; or
- (d) goods which are chargeable plastic packaging components for the purposes of plastic packaging tax.”

Offences and penalties

77 Fraudulent evasion

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

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- (6) In relation to an offence committed before the commencement of paragraph 24(2) of Schedule 22 to the Sentencing Act 2020, the reference in subsection (3)(a)(i) to 12 months is to be read as a reference to 6 months.

78 Misstatements

- (1) A person commits an offence if, for purposes connected with plastic packaging tax, the person—
- (a) produces or provides, causes to be produced or provided, or otherwise makes use of any document which is false in a material particular, and
 - (b) does so intending to deceive any person or to secure that a machine will respond to the document as if it were a true document.
- (2) A person commits an offence if, in providing any information under any provision made by or under this Part the person—
- (a) makes a statement which the person knows to be false in a material particular, or
 - (b) recklessly makes a statement which is false in a material particular.
- (3) A person guilty of an offence under this section is liable (subject to subsection (4))—
- (a) on summary conviction in England and Wales—
 - (i) to imprisonment for a term not exceeding 6 months,
 - (ii) to a fine not exceeding £20,000, or
 - (iii) to both;
 - (b) on summary conviction in Scotland—
 - (i) to imprisonment for a term not exceeding 6 months,
 - (ii) to a fine not exceeding the statutory maximum, or
 - (iii) to both;
 - (c) on summary conviction in Northern Ireland—
 - (i) to imprisonment for a term not exceeding 6 months,
 - (ii) to a fine not exceeding the statutory maximum, or
 - (iii) to both;
 - (d) on conviction on indictment—
 - (i) to imprisonment for a term not exceeding 7 years,
 - (ii) to a fine, or
 - (iii) to both.
- (4) In the case of an offence under this section where—
- (a) the document referred to in subsection (1) is a return required under any provision made by or under this Part of this Act, or
 - (b) the information referred to in subsection (2) is contained in or otherwise relevant to such a return,
- the maximum amount of the fine on summary conviction is the greater of £20,000 or the statutory maximum (as the case may be), and the amount equal to three times the sum of the amounts (if any) by which the return underestimates any person's liability to plastic packaging tax.
- (5) In subsection (4) the reference to the amount by which a person's liability to plastic packaging tax is understated is the sum of—

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- (a) the amount (if any) by which the person's gross liability was understated, and
 - (b) the amount (if any) by which any entitlements of the person to tax credits and repayments of plastic packaging tax were overstated.
- (6) In subsection (5) "gross liability" means liability to plastic packaging tax before any deduction is made in respect of—
- (a) any entitlement to any tax credits, or
 - (b) any repayment of plastic packaging tax.

79 Conduct involving evasions or misstatements

- (1) A person commits an offence if the person's conduct during any particular period must have involved the person committing one or more offences under section 77 or 78.
- (2) For the purposes of any proceedings for an offence under this section it is immaterial whether the particulars of the offence or offences that must have been committed are known.
- (3) A person guilty of an offence under this section is liable (subject to subsection (4))—
- (a) on summary conviction in England and Wales—
 - (i) to imprisonment for a term not exceeding 6 months,
 - (ii) to a fine not exceeding £20,000, or
 - (iii) to both;
 - (b) on summary conviction in Scotland—
 - (i) to imprisonment for a term not exceeding 6 months,
 - (ii) to a fine not exceeding the statutory maximum, or
 - (iii) to both;
 - (c) on summary conviction in Northern Ireland—
 - (i) to imprisonment for a term not exceeding 6 months,
 - (ii) to a fine not exceeding the statutory maximum, or
 - (iii) to both;
 - (d) on conviction on indictment—
 - (i) to imprisonment for a term not exceeding 7 years,
 - (ii) to a fine, or
 - (iii) to both.
- (4) In the case of any offence under this section, the maximum amount of the fine on summary conviction is the greater of £20,000 or the statutory maximum (as the case may be), and the amount equal to three times the sum of the amounts of plastic packaging tax which are shown to be amounts that were or were intended to be evaded by the conduct in question.
- (5) For the purposes of subsection (4), the amounts of plastic packaging tax that were, or were intended to be, evaded are to be taken as including—
- (a) the amount of any tax credit, and
 - (b) the amount of any repayment of plastic packaging tax,
- which was, or was intended to be, obtained in circumstances when there was no entitlement to it.
- (6) In determining for the purposes of subsection (4) the amounts of plastic packaging tax that were, or were intended to be, evaded, no account is to be taken of the extent to

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which any liability to tax of a person would be, or would have been, reduced by the amount of any tax credit or repayment of plastic packaging tax to which the person was, or would have been, entitled.

80 Penalty for contravening relevant requirements

- (1) Where a person (P) fails to comply with a relevant requirement, P is liable to—
 - (a) a fixed penalty of £500, and
 - (b) a daily penalty of £40 for each day, after the first, on which the person continues to fail to comply.
- (2) Where P is liable to a daily penalty in respect of a continuing failure to comply with a relevant requirement P is not liable to a further fixed penalty in respect of that failure.
- (3) P is not liable to a penalty under this section in respect of an act or omission in respect of which P—
 - (a) has been convicted of an offence, or
 - (b) is liable to a penalty other than under this section.
- (4) P is not liable to a penalty under this section if P satisfies the Commissioners or (on appeal) the appeal tribunal within the meaning of Schedule 11 that there is a reasonable excuse for the failure.
- (5) For the purposes of subsection (4)—
 - (a) an insufficiency of funds is not a reasonable excuse, unless it is attributable to events outside P’s control,
 - (b) where P relies on any other person to do anything, that is not a reasonable excuse unless P took reasonable care to avoid the failure, and
 - (c) where P had a reasonable excuse for the failure but the excuse has ceased, P is to be treated as having continued to have the excuse if the failure is remedied without unreasonable delay after the excuse ceased.
- (6) Where P is liable to a penalty under this section—
 - (a) the Commissioners or, on appeal, the appeal tribunal within the meaning of Schedule 11, may reduce the penalty to such amount (including nil) as they think proper;
 - (b) on an appeal relating to any penalty reduced by the Commissioners, the appeal tribunal may cancel the whole or any part of the Commissioners’ reduction.
- (7) In this section, “relevant requirement” means an obligation or a requirement imposed by or under—
 - (a) section 58 (variation and correction of the register);
 - (b) section 61 (payment, collection and recovery);
 - (c) section 63 (records);
 - (d) section 65 (security for tax);
 - (e) section 68 (statements);
 - (f) section 69 (tax representatives);
 - (g) section 74 (death, incapacity or insolvency of person carrying on a business);
 - (h) section 75 (transfer of business as a going concern);
 - (i) Schedule 9 (secondary liability and assessment notices and joint and several liability notices);

- (j) Schedule 13 (groups of companies).
- (8) The Treasury may by regulations amend subsection (1) so as to substitute for the amounts for the time being specified there amounts taking account of inflation.
- (9) The Treasury may by regulations amend subsection (7) so as to add or remove a requirement relating to plastic packaging tax as a “relevant requirement”.
- (10) Schedule 14 makes provision about the assessment of penalties under this section.

81 Criminal proceedings

Sections 145 to 155 of CEMA 1979 (proceedings for offences, mitigation of penalties and certain other matters) apply in relation to offences under this Part as they apply in relation to offences under the customs and excise Acts.

General

82 Minor and consequential amendments

Schedule 15 makes minor and consequential amendments to other legislation.

83 Interpretation

In this Part—

- “accounting period” has the meaning given by section 46(2);
- “chargeable plastic packaging component” is to be construed in accordance with section 47;
- “the Commissioners” means the Commissioners for Her Majesty’s Revenue and Customs;
- “the customs and excise Acts” has the same meaning as in CEMA 1979 (see section 1(1) of that Act);
- “finished” has the meaning given by section 47(3);
- “HMRC” means Her Majesty’s Revenue and Customs;
- “imported” is to be construed in accordance with section 50;
- “joint and several liability notice” has the meaning that it has in Part 2 of Schedule 9;
- “packaging component” and “plastic packaging component” are to be construed in accordance with section 48;
- “plastic” and “recycled plastic” are to be construed in accordance with section 49;
- “the register” means the register under section 54(1) (and references to registration are to registration in that register);
- “secondary liability and assessment notice” has the meaning that it has in Part 1 of Schedule 9;
- “tax credit”, unless the context requires otherwise, means a tax credit in accordance with regulations under section 53.

84 Regulations

- (1) Regulations under this Part—
 - (a) may make different provision for different purposes;
 - (b) may include incidental, consequential, supplementary, transitional or transitory provision.
- (2) Regulations under this Part may make provision by reference to things specified in a notice that is—
 - (a) published by the Commissioners in accordance with the regulations, and
 - (b) not withdrawn by a further notice.
- (3) Any power of the Commissioners to make regulations under this Part may instead be exercised by the Treasury.
- (4) Regulations under this Part are to be made by statutory instrument.
- (5) A statutory instrument containing regulations under the following provisions is subject to the made affirmative procedure—
 - (a) section 48(5) (meaning of “packaging component”);
 - (b) section 49(8) (meaning of “plastic” and “recycled plastic”);
 - (c) section 52 (exempt plastic packaging components);
 - (d) section 80(8) or (9) (penalties for contravening relevant requirements).
- (6) Any other statutory instrument containing regulations under this Part is subject to annulment in pursuance of a resolution of the House of Commons (“the negative procedure”).
- (7) But subsection (6) does not apply to a statutory instrument containing only regulations under section 85 (commencement of this Part).
- (8) Where a statutory instrument under this Act is subject to “the made affirmative procedure”—
 - (a) it must be laid before the House of Commons after being made, and
 - (b) it ceases to have effect at the end of the period of 28 sitting days beginning with the day on which the instrument is made, unless within that period the instrument is approved by a resolution of the House of Commons.
- (9) Where regulations cease to have effect as a result of subsection (8), that does not—
 - (a) affect anything previously done under the regulations, or
 - (b) prevent the making of new regulations.
- (10) Any provision that may be included in regulations in a statutory instrument under this Act subject to the negative procedure may be included in regulations in a statutory instrument subject to the made affirmative procedure.
- (11) In this section, “sitting day” means a day on which the House of Commons is sitting (and a day is only a day on which the House of Commons is sitting if the House begins to sit on that day).

85 Commencement etc

- (1) This Part—
 - (a) comes into force on such day as the Treasury may by regulations appoint, and

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- (b) has effect in relation to packaging components that are produced in the United Kingdom or imported into the United Kingdom on or after 1 April 2022.
- (2) Regulations under this section may appoint different days for different purposes.