

Statutory Document No. 2018/0025



Customs and Excise Act 1993

CUSTOMS AND EXCISE ACTS (APPLICATION) (AMENDMENT) ORDER 2018

Approved by Tynwald: 20th February 2018

Coming into Operation: in accordance with article 2

The Treasury makes the following Order under sections 1, 2 and 3 of the Customs and Excise Act 1993¹.

1 Title

This Order is the Customs and Excise Acts (Application) (Amendment) Order 2018.

2 Commencement

This Order comes into operation on 1 March 2018.

3 Interpretation

In this Order, “**the principal Order**” means the Customs and Excise Acts (Application) Order 1979².

4 Application of paragraph 21ZA of Schedule 24 to the Finance Act 2007 (of Parliament) to the Island

- (1) Paragraph 21ZA of Schedule 24 to the Finance Act 2007 (of Parliament)³ is applied to the Island with the following modifications.
- (2) In sub-paragraph (1)(a) for “HMRC” substitute **the Treasury**.

¹ Section 3(1) of the Customs and Excise Act 1993 provides that an order made under section 1 or 2 of that Act shall be laid before Tynwald as soon as practicable after it is made and if at the sitting at which it is laid Tynwald fails to approve the order it shall cease to have effect.

² GC 38/79.

³ Schedule 24 to the Finance Act 2007 (of Parliament), as amended by Schedule 40 to the Finance Act 2008 (of Parliament) was applied in the Island by SD 638/08. Paragraph 21ZA was inserted into Schedule 24 to the Finance Act 2007 (of Parliament) by section 68(6) of the Finance (No. 2) Act 2017 (of Parliament).

- (3) In sub-paragraphs (1)(a) and (2) for “VATA 1994” substitute **the Value Added Tax Act 1996**.
- (4) The text of paragraph 21ZA as applied to the Island is annexed to this Order.

5 Amendment to Schedule 1 to the principal Order

- (1) As a consequence of Article 4, the principal Order is amended as follows.
- (2) In Part IIIA of Schedule 1, in the entry relating to the Finance Act 2007 (c.11), after “Schedule 24, as amended by Schedule 40 to the Finance Act 2008” insert **(as amended by section 68(6) of the Finance (No. 2) Act 2017 (c.32))**.
- (3) In Schedule 21 (application of Schedule 24 to the Finance Act 2007 (c.11), as amended by Schedule 40 to the Finance Act 2008 (c.9), to the Island), after the entry relating to paragraph 19, insert the following entry –

Paragraph 21ZA	Penalty under Section 69C of the Value Added Tax Act 1996	(a) in sub-paragraph (1)(a) for “HMRC” substitute the Treasury ;
		(b) in sub-paragraphs (1)(a) and (2) for “VATA 1994” substitute Value Added Tax Act 1996 .

MADE 25TH JANUARY 2018

A L CANNAN
Minister for the Treasury



EXPLANATORY NOTE

(This note is not part of the Order)

This Order applies paragraph 21ZA of Schedule 24 to the Finance Act 2007 (of Parliament) to the Island and amends Schedule 21 to the Customs and Excise Acts (Application) Order 1979⁴ (the “principal Order”). The principal Order is an instrument used to apply certain provisions of United Kingdom law to the Island relating to customs and excise. In this instance, the United Kingdom law is Schedule 24 to the Finance Act 2007⁵. The amendment provides that a person cannot be liable for a penalty under paragraph 1 of that Schedule if they have already been assessed for a penalty under section 69C of the Value Added Tax Act 1996.

Section 69C of the Value Added Tax Act 1996 was inserted by the Value Added Tax Act 1996 (Amendment) Order 2018⁶, and introduces a new penalty for participation in VAT fraud.

⁴ GC 38/79.

⁵ SD 638/08. There are previous amendments to Schedule 21 to GC 38/79, but none are relevant.

⁶ SD 2018/0024.

Annex

Paragraph 21ZA of Schedule 24 to the Finance Act 2007 (of Parliament)

- 21ZA (1) A person is not liable to a penalty under paragraph 1 in respect of an inaccuracy if –
- (a) the inaccuracy involves a claim by the person to exercise or rely on a VAT right (in relation to a supply) that has been denied or refused by ~~HMRC~~ *the Treasury* as mentioned in subsection (4) of section 69C of ~~VATA 1994~~ *the Value Added Tax Act 1996*, and
 - (b) the person has been assessed to a penalty under that section (and the assessment has not been successfully appealed against or withdrawn).
- (2) In sub-paragraph (1)(a) "VAT right" has the same meaning as in section 69C of ~~VATA 1994~~ *the Value Added Tax Act 1996*.