



CUSTOMS AND EXCISE ACTS (SOFT DRINKS INDUSTRY LEVY) (APPLICATION) ORDER 2019

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| EXCEPTIONS, ADAPTATIONS AND MODIFICATIONS SUBJECT TO WHICH PART 2 (SECTIONS 25 TO 60) OF, AND SCHEDULES 8 TO 10 TO, THE FINANCE ACT 2017 (C.10 OF PARLIAMENT), AS AMENDED BY SECTION 68 OF FINANCE ACT 2019 SHALL HAVE EFFECT IN THE ISLAND | 11 |

Statutory Document No. 2019/0051



Customs and Excise Act 1993

CUSTOMS AND EXCISE ACTS (SOFT DRINKS INDUSTRY LEVY) (APPLICATION) ORDER 2019

Approved by Tynwald: 20th March 2019
Coming into Operation: in accordance with Article 2

The Treasury makes the following Order under sections 1 and 3 of the Customs and Excise Act 1993.

1 Title

This Order is the Customs and Excise Acts (Soft Drinks Industry Levy) (Application) Order 2019.

2 Commencement

This Order comes into operation on 1 April 2019.

3 Application

- (1) The applied legislation applies to the Island, as part of the law of the Island, subject to the exceptions, adaptations and modifications contained in the Schedule to this Order.
- (2) In this Order, “the applied legislation” means Part 2 (sections 25 to 60) of, and Schedules 8 to 10 to, the Finance Act 2017 (an Act of Parliament)¹, as amended by section 68 of the Finance Act 2019.

4 Amendment of Customs and Excise Acts (Application) Order 1979

- (1) The Customs and Excise Acts (Application) Order 1979² is amended as follows.
- (2) In the Arrangement of Articles, after the entry relating to Schedule 21B³ insert —

| | |
|--------------|-----------------------------------------------|
| Schedule 21C | Application of Part 2 (sections 25 to 60) of, |
|--------------|-----------------------------------------------|

¹ 2017 c.10 (of Parliament).

² GC 38/79.

³ Schedule 21B was inserted by SD 0665/12.

and Schedules 8 to 10 to, the Finance Act 2017 (c.10), as amended by section 68 of the Finance Act 2019, to the Island. **22**.

- (3) In Part IIIA (post-1979 Acts of Parliament applied to the Island) of Schedule 1 (UK legislation applied by the order), after the entry relating to Schedule 21B insert —

| | | |
|------------|-----------------------------|--------------------------------------------------------------|
| 21C | The Finance Act 2017 (c.10) | Part 2 (Sections 25 to 60) Schedules 8 to 10. 22 . |
|------------|-----------------------------|--------------------------------------------------------------|

- (4) In Schedule 21 (extent of application of Schedule 24 to the Finance Act 2007 as amended by Schedule 40 to the Finance Act 2008, to the Island)⁴, in the Table substituted by paragraph 1 (error in taxpayer’s document), after the entry relating to gambling duty insert —

| | |
|----------------------------------|---------------------------------------------------------------------------------------------------------------------------------|
| Soft drinks industry levy | Return under regulations under section 52 of Finance Act 2017 (c.10 of Parliament), as it has effect in the Island. 22 . |
|----------------------------------|---------------------------------------------------------------------------------------------------------------------------------|

- (5) Part 2 of Schedule 21A (extent of application of Schedule 36 to the Finance Act 2008 to the Island)⁵ is amended as follows —

- (a) following the entry relating to paragraph 6 insert —

| | | |
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| Schedule 36, Paragraph 10. | Power to inspect business premises etc | At the end insert — “(5) In sub-paragraph (1), the reference to a person’s tax position does not include a reference to a person’s position as regards soft drinks industry levy. 22 ; and |
|-----------------------------------|----------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

- (b) in the entry relating to paragraph 63 (tax), after sub-paragraph (a) insert —

| | |
|-------------|-------------------------------------------------------------------------------|
| (aa) | After paragraph (d) insert — “(e) soft drinks industry levy.”. 22 . |
|-------------|-------------------------------------------------------------------------------|

- (6) Part 3 of Schedule 21A (extent of application of Schedule 41 to the Finance Act 2008 to the Island) is amended as follows —

⁴ Schedule 21 was inserted into GC 38/79 by SD 638/08, and has been subsequently amended by SD 217/90, SD 665/12 and SD 0301/13.

⁵ Schedule 21A was inserted into GC 38/79 by SD 638/08, and has been subsequently amended by SD 217/09, SD 579/12. SD 0301/13 and SD 2016/0272.

- (a) in the entry relating to paragraph 1 (penalties: failure to notify and certain VAT and excise wrongdoing), after paragraph (q) insert –

63(r) after the entry relating to gambling duty insert the following entry –

| | |
|----------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------|
| “Soft drinks industry levy | Obligation under section 44 of Finance Act 2017 (of Parliament), as it has effect in the Island (obligation to give notice of liability to be registered).”. |
|----------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------|

- (b) The entry relating to paragraph 4 is amended as follows –

- (i) in the second column, for “Handling goods subject to unpaid excise duty.” substitute **63** Handling goods subject to unpaid excise duty etc. **62**; and

- (ii) for the entry in the third column substitute –

63(1) After sub-paragraph (1) insert –

63(1A) A penalty is payable by a person (P) where –

- (a) after a charge to soft drinks industry levy has arisen in respect of chargeable soft drinks, P acquires possession of them or is concerned with carrying, removing, depositing, keeping or otherwise dealing with them, and
- (b) at the time when P acquires possession of the chargeable soft drinks or is so concerned, a payment of soft drinks industry levy in respect of the chargeable soft drinks is due or payable and has not been paid. **62**.

(2) In paragraph (2) –

(a) for “sub-paragraph (1)” substitute **63** this paragraph **62**;

(b) for “1 of F(No. 2)A 1992” substitute **63** 143A of the Customs and Excise Management Act 1986 **62**;

(c) for “1(1)” substitute **63** 184(1) **62**; and

(d) at the end insert –

63 “chargeable soft drinks” has the same meaning as in Part 2 of Finance Act 2017

(of Parliament), as it has effect in the
Island. **22. 22**;

- (c) after the entry relating to paragraph 4, insert —
- | | | |
|----------------------------------------|---------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 22 Schedule 41, Paragraph 5. | Degrees of culpability | In sub-paragraph (4), after “deferred” insert 22 or (as the case may be) chargeable soft drinks in respect of which a payment of soft drinks industry levy is due and payable and has not been paid 22. 22 ; and |
|----------------------------------------|---------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
- (d) after the entry relating to paragraph 7, insert —
- | | | |
|-----------------------------------------|--------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 22 Schedule 41, Paragraph 10. | | After “deferred” insert 22 or (as the case may be) chargeable soft drinks in respect of which a payment of soft drinks industry levy is due and payable and has not been paid 22 . |
| Schedule 41, Paragraph 11. | | In paragraph 11(2)(d), after “deferred” insert 22 or (as the case may be) chargeable soft drinks in respect of which a payment of soft drinks industry levy is due and payable and has not been paid 22 . |
| Schedule 41, Paragraph 21. | Agency | (a) In sub-paragraph (4), for “paragraph 4” substitute 22 paragraph 4(1) 22 ; (b) After sub-paragraph (4) insert — 22 (5) In paragraph 4(1A) the reference to P acquiring possession of, or being concerned in dealing with, chargeable soft |

drinks in respect of which a payment of soft drinks industry levy is payable but has not been paid includes a person who acts on P's behalf in doing so; but P is not liable to a penalty in respect of any action by P's agent where P satisfies the Treasury or (on appeal) the VAT and Duties Tribunal that P took reasonable care to avoid it. ~~22~~. ~~22~~.

- (7) After Schedule 21B, insert —

22 SCHEDULE 21C

EXCEPTIONS, ADAPTATIONS AND MODIFICATIONS SUBJECT TO WHICH PART 2 (SECTIONS 25 TO 60) OF, AND SCHEDULES 8 TO 10 TO, THE FINANCE ACT 2017 (C.10 OF PARLIAMENT), AS AMENDED BY SECTION 68 OF FINANCE ACT 2019 SHALL HAVE EFFECT IN THE ISLAND ~~22~~

- (8) Following the new heading inserted by paragraph (7), insert the exceptions, adaptations and modifications to sections 25 to 60 of, and Schedules 8 to 10 to, the Finance Act 2017, as amended by section 68 of the Finance Act 2019, contained in the Schedule to this Order.

5 Amendment of Customs and Excise Acts (Application) Order 2011

- (1) The Customs and Excise Acts (Application) Order 2011⁶ is amended as follows.
- (2) In Schedule 1 (extent of the application of Schedule 55 to the Finance Act 2009 to the Island) —

⁶ SD 186/11, which has been amended by SD 0665/12, SD 0301/13 and SD 2015/0191.

- (a) in the entry relating to paragraph 1 (penalty for failure to make returns etc) of Schedule 55, after item 12 in the substituted Table insert —
- | | | |
|-----------|----------------------------------|-----------------------------------------------------------------------------------------------------------------------------------|
| <p>13</p> | <p>Soft drinks industry levy</p> | <p>Return under regulations under section 52 of the Finance Act 2017 (of Parliament), as it has effect in the Island. 12; and</p> |
|-----------|----------------------------------|-----------------------------------------------------------------------------------------------------------------------------------|
- (b) in the entry relating to paragraphs 13A to 13J (amount of penalty), in the third column, in the inserted entry relating to paragraph 13A, for “1 to 11” substitute 1 to 13 12.
- (3) In Schedule 2 (extent of application of Schedule 56 to the Finance Act 2009 to the Island) —
- (a) in the entry relating to paragraph 1 (penalty for failure to pay tax) of Schedule 56, after item 11 in the substituted Table insert —
- | | | | |
|------------|----------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------|
| <p>11A</p> | <p>Soft drinks industry levy</p> | <p>Amount payable under regulations under section 52 of Finance Act 2017 (of Parliament), or paragraphs 6 or 14 of Schedule 8 to that Act.</p> | <p>The date determined by or under regulations under section 52 of Finance Act 2017 (of Parliament). 12; and</p> |
|------------|----------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------|
- (b) in the entry relating to paragraph 3 (amount of penalty), in the third column, in the inserted entry relating to sub-paragraph (1)(a), for “2 or 12 to 14” substitute 2 or 11A to 14 12.

6 Amendment of Customs and Excise Acts (Application) Order 2011

- (1) The Customs and Excise Acts (Application) Order 2011⁷ is amended as follows.
- (2) Schedule 1 (extent of application of Schedule 23 to the Finance Act 2011 to the Island) is amended as follows —
- (a) for the entry relating to paragraphs 22 to 26 substitute —
- | | |
|-----------------|-------------------------------|
| <p>22 to 24</p> | <p>Omit</p> |
| <p>24A</p> | <p>Chargeable soft drinks</p> |
- After paragraph 24, insert —
- 12** “*Chargeable soft drinks*
- | | |
|------------|----------------------------|
| <p>24A</p> | <p>(1) A person who is</p> |
|------------|----------------------------|

⁷ SD 0667/11.

involved (in any capacity) in any of the following activities is a relevant data-holder —

- (a) producing chargeable soft drinks;
- (b) packaging chargeable soft drinks;
- (c) carrying on a business involving the sale of chargeable soft drinks.

(2) For the purposes of sub-paragraph(1), “chargeable soft drinks”, “producing” and “packaging” have the same meaning as in section 59 of the Finance Act 2017 (of Parliament). ~~22~~.

25 to 26

Omit. ~~22~~; and

(b) in the entry relating to paragraph 45 (tax), for paragraph (1) substitute —

~~22~~(1) In sub-paragraph (1), omit paragraphs (a) to (c), (e) to (i) and (j) to (m);

(1A) In sub-paragraph (1), after paragraph (i) insert —

“(ia) soft drinks industry levy,”; ~~22~~.

7 Amendment of Customs and Excise Acts (Interest Rate) (Application) Order 2011

(1) The Customs and Excise (Interest Rate) (Application) Order 2011⁸ is amended as follows.

(2) In Schedule 2 (extent of application of Schedule 53 and 54 to the Finance Act 2009 to the Island), after the entry relating to paragraphs 4 to 11 of Schedule 53, insert —

~~22~~ Schedule 53, Soft drinks After paragraph 11B insert —

⁸ SD 0919/11.

| | | |
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| Paragraph 11C | industry levy due from unregistered persons | <p>11C <i>Soft drinks industry levy due from unregistered persons</i></p> <p>11C (1) This paragraph applies where an amount of soft drinks industry levy is due from a person (P) in respect of a period during which P meets the liability condition (as defined for the purposes of section 46(2) of Finance Act 2017 (of Parliament)) but was not registered.</p> <p>(2) The late payment interest start date in respect of the amount is the date which would have been the late payment interest date in respect of that amount if P had been registered when P had first become liable to be registered. 11C, 11C.</p> |
|---------------|---------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

MADE 7TH FEBRUARY 2019

A L CANNAN
Minister for the Treasury



SCHEDULE

[Article 4(8)]

SCHEDULE 21C

**EXCEPTIONS, ADAPTATIONS AND MODIFICATIONS SUBJECT TO WHICH
PART 2 (SECTIONS 25 TO 60) OF, AND SCHEDULES 8 TO 10 TO, THE FINANCE
ACT 2017 (C.10 OF PARLIAMENT), AS AMENDED BY SECTION 68 OF FINANCE
ACT 2019 SHALL HAVE EFFECT IN THE ISLAND**

| <u>Provision of the Act</u> | <u>Subject matter</u> | <u>Exception, adaptation or modification</u> |
|-----------------------------|---------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Section 25 | Soft drinks industry levy | In subsection (2), for “The Commissioners are”, substitute “The Treasury is” . |
| Section 27 | Meaning of prepared drink | (1) In subsection (2)(b), for “Commissioners”, substitute “Treasury” . (2) In subsection (5), for “Commissioners”, substitute “Treasury” . |
| Section 29 | Sugar content condition | In subsection (4), for “Commissioners”, substitute “Treasury” . |
| Section 30 | Exempt soft drinks | In subsection (6), for “Commissioners”, substitute “Treasury” . |
| Section 31 | Charge to soft drinks industry levy | In subsection (1), for “6 April 2018”, substitute “1 April 2019” . |
| Section 32 | Chargeable events: soft drinks packaged in the UK | (1) In the heading, for “UK”, substitute “Island” . (2) In subsection (1), for “United Kingdom”, substitute “Island” . |
| Section 33 | Chargeable events: soft drinks imported | (1) In the heading, for “UK”, |

into the UK

substitute **“Island”**.

(2) In subsection (1), for “United Kingdom”, substitute **“Island”**.

(3) In subsection (4) —

(a) for the first “United Kingdom”, substitute **“Island”**; and

(b) for the second “United Kingdom”, substitute **“Island or United Kingdom”**.

(4) In subsection (10), for “Isle of Man”, substitute **“United Kingdom”**.

Section 34

Secondary warehousing regulations

For “Commissioners”, substitute **“Treasury”**.

Section 39

Tax credits

(1) In subsection (1), for “Commissioners”, substitute **“Treasury”**.

(2) In subsection (1)(a), for “United Kingdom”, substitute **“Island or”**.

(3) In subsection (4) —

(a) for the first “United Kingdom”, substitute **“Island”**;

(b) for the second “United Kingdom, substitute **“Island or United Kingdom”**; and

(c) for the third “United

| | | | |
|------------|---------------------------------------------------------|-----|-----------------------------------------------------------------------------------------------------------------------|
| | | | Kingdom”, substitute “Island”. |
| | | (4) | In subsection (5A), for “Isle of Man”, substitute “United Kingdom”. |
| Section 40 | The register | (1) | In subsection (1), for “Commissioners”, substitute “Treasury”. |
| | | (2) | In subsection (3), for “Commissioners think”, substitute “Treasury thinks”. |
| Section 41 | Liability to register: packagers | | In subsection (5), for “Commissioners”, substitute “Treasury”. |
| Section 44 | Notification of liability and registration | (1) | In subsection (1), for “Commissioners”, substitute “Treasury”. |
| | | (2) | In subsection (3), for “Commissioners are” and “Commissioners”, substitute “Treasury is” and “Treasury” respectively. |
| Section 45 | Voluntary registration: small producers | (1) | In subsection (1), for “Commissioners”, in both places where the word occurs, substitute “Treasury”. |
| | | (2) | In subsection (2), for “United Kingdom”, substitute “Island”. |
| Section 46 | Cancellation of registration under section 41, 42 or 43 | (1) | For “Commissioners”, in each place where the word occurs, substitute “Treasury”. |
| | | (2) | In subsections (7) and (8), for “they are”, in both places where |

| | | | |
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| | | | the words occur, substitute “it is” . |
| Section 47 | Cancellation of voluntary registration | (1) | For “Commissioners”, in each place where the word occurs, substitute “Treasury” . |
| | | (2) | In subsection (1), for “they are”, substitute “it is” . |
| Section 48 | Correction of the register | | For “Commissioners”, in both places where the word occurs, substitute “Treasury” . |
| Section 49 | Applications, notifications etc | | For “Commissioners”, in both places where the word occurs, substitute “Treasury” . |
| Section 50 | Fraudulent evasion | (1) | For subsection (3) substitute — |
| | | | <p>“(3) A person guilty of an offence under this section is liable on summary conviction to —</p> <p>(a) custody for a term not exceeding 6 months; or</p> <p>(b) a fine not exceeding level 4 on the standard scale or (if greater) 3 times the total amounts of soft drinks industry levy that were, or were intended to be, evaded; or</p> <p>(c) to both.</p> <p>(3A) A person guilty of an offence under this</p> |

| | | | |
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| | | | <p>section is liable on conviction on information to custody for a term not exceeding 7 years, to a fine or to both. 22.</p> |
| | | (2) | Omit subsection (6). |
| Section 51 | Failure to notify registration liability | (1) | In subsection (1), for “Commissioners”, substitute 23 Treasury 22 . |
| | | (2) | For subsection (4) substitute — |
| | | 23 (4) | <p>A person guilty of an offence under this section is liable on summary conviction to —</p> <p>(a) custody for a term not exceeding 6 months; or</p> <p>(b) a fine not exceeding level 4 on the standard scale or (if greater) 3 times the total amounts of soft drinks industry levy that were, or were intended to be, evaded; or</p> <p>(c) to both.</p> |
| | | (4A) | <p>A person guilty of an offence under this section is liable on conviction on information to custody for a term not exceeding 7 years, to a fine or to</p> |

| | | |
|------------|-------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------|
| | | both. 22 . |
| | | (3) In subsection (5) — |
| | | (a) for “Commissioners”, substitute 66 Treasury 22 ; and |
| | | (b) in paragraph (b), for “were”, substitute 66 was 22 . |
| | | (4) Omit subsection (7). |
| Section 52 | Payment, collection and recovery | In subsection (1), for “Commissioners”, substitute 66 Treasury 22 . |
| Section 53 | Records | For “Commissioners”, in each place where the word occurs, substitute 66 Treasury 22 . |
| Section 54 | Power to make further provision about enforcement | (1) In subsection (1), for “Commissioners”, substitute 66 Treasury 22 . |
| | | (2) In subsection (2)(f), omit “of Revenue and Customs”. |
| | | (3) In subsection (3), for “1979”, substitute 66 1986 22 . |
| Section 56 | Supplementary amendments | Omit. |
| Section 57 | Regulations: death, incapacity or insolvency of person carrying on a business | (1) In subsection (1), for “Commissioners”, substitute 66 Treasury 22 . |
| | | (2) In subsection (2)(a), for “Commissioners”, substitute 66 Treasury 22 . |

| | | | |
|-------------|----------------------------------------------------------|-------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| | | (3) | In subsection (2)(c), for “Commissioners think”, substitute “Treasury thinks” . |
| Section 58 | Provisional collection of soft drinks industry levy | Omit. | |
| Section 58A | Isle of Man: import and export of chargeable soft drinks | (1) | In the heading, for “Isle of Man”, substitute “United Kingdom” . |
| | | (2) | In subsection (1) — (a) for “Isle of Man”, in each place the words occur, substitute “United Kingdom” ; and (b) for “United Kingdom”, substitute “Island” . |
| | | (3) | In subsection (2) — (a) for “UK”, substitute “Island” ; and (b) for “United Kingdom”, substitute “Island” . |
| | | (4) | In subsections (3) and (4), for “UK”, substitute “Island” . |
| | | (5) | In subsection (5) — (a) for “United Kingdom”, substitute “Island” ; and (b) for “Isle of Man”, substitute “United Kingdom” . |
| Section 59 | Interpretation of Part 2 | (1) | In subsection (1) omit the definitions of — |

| | | |
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| | | (a) the Commissioners; and |
| | | (b) HMRC. |
| | | (2) In subsection (2) for “Commissioners”, substitute “Treasury” . |
| | | (3) In subsection (3)(b) omit “, an EU instrument”. |
| | | (4) In subsection (3)(c) for “Commissioners”, substitute “Treasury” . |
| | | (5) In subsection (4), for “Section 112 of CTA 2010 (meaning of connected person)”, substitute “Section 119C of the Income Tax Act 1970” . |
| Section 60 | Regulations | Omit subsections (2) to (5). |
| Schedule 8, Paragraph 2 | Assessments | (1) For “Commissioners”, in both places where the word occurs, substitute “Treasury” . |
| | | (2) In sub-paragraph (2)(a), for “their”, substitute “its” . |
| Schedule 8, Paragraph 3 | | (1) In sub-paragraph (1)(a), for “Commissioners have”, substitute “Treasury has” . |
| | | (2) In sub-paragraph (1)(c), for “Commissioners make”, substitute “Treasury makes” . |
| | | (3) For sub-paragraph (2) substitute — |
| | | “(2) The Treasury may, if it considers it appropriate |

in the light of the absence of a return for the earlier period, specify in the later assessment an amount of soft drinks industry levy due that is greater than the amount that it would have considered to be appropriate had it had regard only to the later period. 22.

Schedule 8,
Paragraph 4

For “Commissioners”, in each place where the word occurs, substitute 22 Treasury 22.

Schedule 8,
Paragraph 5

Supplementary assessments

- (1) For “Commissioners”, in both places where the word occurs, substitute 22 Treasury 22.
- (2) In sub-paragraph (2)(a), for “their”, substitute 22 its 22.

Schedule 8,
Paragraph 7

Time limits for assessments

In sub-paragraph (4), for “HMRC”, substitute 22 the Treasury 22.

Schedule 8,
Paragraph 8

Repayments of overpaid levy

- (1) In sub-paragraph (1), for “Commissioners”, substitute 22 Treasury 22.
- (2) In sub-paragraph (2), for “Commissioners are”, substitute 22 Treasury is 22.
- (3) In sub-paragraph (3), for “Commissioners”, substitute 22 Treasury 22.
- (4) In sub-paragraph (4), for “Commissioners are”, substitute 22 Treasury is 22.

SCHEDULE

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| Schedule 8, Paragraph 9 | Supplementary provisions about repayment etc. | For “Commissioners are”, substitute “Treasury is” . |
| Schedule 8, Paragraph 10 | | In sub-paragraph (1)(b), for “Commissioners”, substitute “Treasury” . |
| Schedule 8, Paragraph 11 | Reimbursement arrangements | (1) For “Commissioners”, in each place where the word occurs, substitute “Treasury” . (2) In sub-paragraph (3)(d), omit “of Revenue and Customs”. |
| Schedule 8, Paragraph 12 | Assessment for excessive repayment | (1) In sub-paragraph (1)(b), for “Commissioners were”, substitute “Treasury was” . (2) In sub-paragraph (2), for “Commissioners”, substitute “Treasury” . (3) In sub-paragraph (3) — (a) for “Commissioners”, substitute “Treasury” ; and (b) for “their”, substitute “its” . (4) In sub-paragraph (4)(b), for “Commissioners have”, substitute “Treasury has” . |
| Schedule 8, Paragraph 13 | Supplementary assessments | For “Commissioners”, in both places where the word occurs, substitute “Treasury” . |
| Schedule 8, Paragraph 15 | Time limits for assessments | (1) For “Commissioners”, substitute “Treasury” . |



| | | |
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| | | (2) For “their”, substitute “its” . |
| Schedule 9, Paragraph 1 | Sections 48(2) and 53(1): requirements imposed by regulations | In sub-paragraph (7), for “Schedule 24 to FA 2007,”, substitute “Schedule 24 to the Finance Act 2007 (of Parliament), as it has effect in the Island, ⁹ . |
| Schedule 9, Paragraph 2 | Section 53(2): requirements imposed by directions | In sub-paragraph (4), for “Schedule 24 to FA 2007,”, substitute “Schedule 24 to the Finance Act 2007 (of Parliament), as it has effect in the Island, ⁹ . |
| Schedule 9, Paragraph 3 | Power to alter amounts specified in paragraphs 1 and 2 | (1) In sub-paragraph (1) — (a) for “they” substitute “it” ; and (b) for “them” substitute “it” . (2) In sub-paragraph (3)(a), for “Act is passed”, substitute “Schedule comes into operation” . |
| Schedule 9, Paragraph 4 | Reasonable excuse | For “Commissioners”, substitute “Treasury” . |
| Schedule 9, Paragraph 5 | Power to make assessments | (1) In sub-paragraph (1)(a), for “Commissioners”, substitute “Treasury” . (2) In sub-paragraph (1)(b), for “they do so, they”, substitute “it does so, it” . (3) In sub-paragraph (2)(a), for “Commissioners have”, substitute “Treasury has” . |

⁹ Schedule 24 to the Finance Act 2007 (of Parliament) was applied in the Island by SD
0638/08.

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| | | (4) In sub-paragraph (5), for “Commissioners”, substitute “Treasury” . |
| Schedule 9, Paragraph 6 | Supplementary assessments | For “Commissioners”, in both places where the word occurs, substitute “Treasury” . |
| Schedule 9, Paragraph 8 | Time limits for assessments | For “HMRC”, substitute “the Treasury” . |
| Schedule 10, Paragraph 1 | Appealable decisions | (1) For “a decision of the Commissioners”, substitute “a decision of the Treasury” . (2) Omit “of Revenue and Customs”. (3) In sub-paragraph (1)(b), for “Commissioners are”, substitute “Treasury is” . (4) In sub-paragraph (1)(d), for “Commissioners”, substitute “Treasury” . (5) In sub-paragraph (1)(g), for “Commissioners are”, substitute “Treasury is” . (6) In sub-paragraph (1)(i) and (1)(o), in both places where the word occurs, for “Commissioners”, substitute “Treasury” . |
| Schedule 10, Paragraph 2 | Offer of review | For “HMRC”, substitute “The Treasury” . |
| Schedule 10, Paragraph 3 | Right to require review | For “HMRC”, substitute “the Treasury” . |

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| Schedule 10, Paragraph 4 | Review by HMRC | (1) | In the heading, for “HMRC”, substitute the Treasury . |
| | | (2) | In sub-paragraph (1) — (a) for the first “HMRC”, substitute The Treasury ; (b) in sub-paragraph (1)(a), for “they have”, substitute it has ; and (c) in sub-paragraph (1)(b), for “HMRC”, substitute the Treasury . |
| | | (3) | In sub-paragraphs (3) and (4), for “HMRC”, substitute The Treasury . |
| Schedule 10, Paragraph 5 | Extensions of time | (1) | In sub-paragraph (1), for “HMRC have” and “HMRC”, substitute the Treasury has and the Treasury respectively. |
| | | (2) | In sub-paragraph (2), for “HMRC”, in both places where the word occurs, substitute the Treasury . |
| Schedule 10, Paragraph 6 | Review out of time | (1) | In sub-paragraph (1)(a), for “HMRC have”, substitute the Treasury has . |
| | | (2) | In sub-paragraph (1)(b), for “HMRC”, substitute the Treasury . |
| | | (3) | In sub-paragraph (2), for the first “HMRC”, substitute The Treasury . |

| | | | |
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| | | (4) | In sub-paragraph (2)(a), for “HMRC”, substitute the Treasury is . |
| | | (5) | In sub-paragraphs (1)(b) and (c), for “HMRC are”, substitute the Treasury is is . |
| | | (6) | In sub-paragraph (3), for “HMRC”, substitute The Treasury is . |
| Schedule 10, Paragraph 7 | Nature of review etc. | (1) | In sub-paragraph (1), for “HMRC are”, substitute the Treasury is is . |
| | | (2) | In sub-paragraphs (2) to (4), for “HMRC”, in each place where the word occurs, substitute the Treasury is . |
| | | (3) | In sub-paragraph (6), for the first “HMRC”, substitute The Treasury is . |
| | | (4) | In sub-paragraph (6)(b), for “HMRC”, substitute the Treasury is . |
| | | (5) | In sub-paragraph (7), for “HMRC”, in each place where the word occurs, substitute the Treasury is . |
| | | (6) | In sub-paragraph (8), for “HMRC are”, substitute the Treasury is is . |
| | | (7) | In sub-paragraph (9), for “HMRC”, substitute the Treasury is . |

| | | |
|------------------------------|----------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Schedule 10, Paragraph 9 | “Appeal tribunal” | For “First-tier Tribunal” to the end, substitute the VAT and Duties Tribunal is . |
| Schedule 10, Paragraph 10 | Bringing of appeal | (1) In sub-paragraphs (3) and (4), for “HMRC are”, substitute the Treasury is is . (2) In sub-paragraphs (4)(a) and (c), for “HMRC have”, in each place where the words occur, substitute the Treasury has has . |
| Schedule 10, Paragraph 11 | Appeals: further provision | (1) In sub-paragraph (1) — (a) for “HMRC have”, substitute the Treasury has has ; and (b) for “them”, substitute it is . (2) In sub-paragraph (2), for “HMRC are”, in both places where the words occur, substitute the Treasury is is . (3) Omit sub-paragraph (3). |
| Schedule 10, Paragraph 13 | | For “Commissioners”, substitute the Treasury is . |
| Schedule 10, Paragraph 14 | | (1) For “Commissioners”, substitute the Treasury is . (2) Omit “of Revenue and Customs”. (3) For “HMRC”, substitute the Treasury is . |
| Schedule 10, Paragraph 15 | | For “Commissioners”, in each place where the word occurs, substitute |

¶ Treasury ¶.



EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Customs and Excise Acts (Application) Order 1979 (“the 1979 Order”) to apply certain provisions in Island law, and makes consequential amendments to other legislation already applied in Island law.

The newly-applied provisions are Part 2 (sections 25 to 60) of, and Schedules 8 to 10 to, the Finance Act 2017 (c.10 of Parliament), as amended by section 68 of the Finance Act 2019, which are concerned with the introduction and administration of the soft drinks industry levy (“the levy”), which will apply from 1 April 2019. The levy is aimed at producers and importers of soft drinks containing added sugar. The effect of the levy in the United Kingdom has already been seen, with soft drinks producers reformulating drinks to reduce the levels of added sugar. The levy is also designed to help tackle childhood obesity by encouraging portion size reduction and the marketing of low sugar alternatives.

The levy will have a main rate of 18 pence per litre, which will apply to added sugar drinks with a total content of 5 grams or more per 100 millilitres, and a higher rate of 24 pence per litre for drinks with 8 grams or more per 100 millilitres.

It will not apply to any drinks where no sugar is added. Milk-based drinks with a milk content of 75% or more and milk substitute drinks will not be subject to the levy. Fruit juice and vegetable juice will also not be subject to the levy. While alcoholic drinks with an ABV of up to 1.2% are within the scope of the levy, there will be provision to exclude certain drinks that fall within this category from the levy. There is also an exemption for small producers.

Articles 4 to 7 make various amendments to existing UK legislation, which have previously been applied in the Island, to provide for the administration and enforcement of the levy. These amendments include provision for the Treasury to obtain information from a taxable person to verify their tax position in relation to the levy. They also provide for penalties to apply to persons who fail in their obligations under the levy, such as failure to comply with registration requirements, submission of inaccurate returns, failure to submit returns and failure to make payments on time. The amendments also make provision for the Treasury to obtain data from various people to verify the tax position, and provides for interest to be charged on late payments. These powers and penalties already apply to other indirect taxes, including VAT, alcohol duties and air passenger duty.

Annex

Part 2 (Sections 25 to 60) of, and Schedules 8 to 10 to, the Finance Act 2017

Part 2

Soft drinks industry levy

Introductory

25 Soft drinks industry levy

- (1) A tax called “soft drinks industry levy” is to be charged in accordance with this Part.
- (2) ~~The Commissioners are~~ **The Treasury is** responsible for the collection and management of soft drinks industry levy.

26 “Soft drink” and “package”

- (1) “Soft drink” means—
 - (a) a beverage of an alcoholic strength not exceeding 1.2%;
 - (b) a liquid which, when prepared in a specified manner, constitutes a beverage within paragraph (a).
- (2) A liquid is prepared in a specified manner if it is—
 - (a) diluted with water,
 - (b) combined with crushed ice, or processed so as to create crushed ice,
 - (c) combined with carbon dioxide, or
 - (d) prepared by way of a process that involves any combination of the processes mentioned in paragraphs (a) to (c).
- (3) A person “packages” a soft drink if the person cans, bottles or otherwise packages the soft drink in a form in which—
 - (a) in the case of a soft drink within subsection (1)(a), it is suitable to be consumed without further preparation, and
 - (b) in the case of a soft drink within subsection (1)(b), it is suitable to be consumed when prepared in a specified manner (and without any other preparation),

and “packaged” is to be construed accordingly.

27 Meaning of “prepared drink”

- (1) In this Part a reference to “prepared drink” is a reference to—
 - (a) a soft drink within subsection (1)(a) of section 26;

- (b) a beverage that would result from preparing a liquid within subsection (1)(b) of that section—
 - (i) in a specified manner (see section 26(2)), and
 - (ii) in accordance with the relevant dilution ratio.
- (2) The “relevant dilution ratio” means—
 - (a) the dilution ratio stated on, or calculated by reference to information stated on, the packaging of the soft drink;
 - (b) where subsection (3) or (4) applies, the dilution ratio determined by the ~~Commissioners~~ **Treasury**.
- (3) This subsection applies where the packaging of the soft drink states neither the dilution ratio nor information by reference to which the dilution ratio can be calculated.
- (4) This subsection applies where—
 - (a) the dilution ratio, or information by reference to which the dilution ratio can be calculated, is stated on the packaging of the soft drink, and
 - (b) it is reasonable to assume that the main purpose, or one of the main purposes, of stating that particular dilution ratio or information is avoiding or reducing liability for soft drinks industry levy.
- (5) The ~~Commissioners~~ **Treasury** may by or under regulations make provision about the criteria for—
 - (a) determining a dilution ratio for the purposes of subsection (2)(b);
 - (b) determining whether the main purpose, or one of the main purposes, of stating a particular dilution ratio or information is avoiding or reducing liability for soft drinks industry levy.

Chargeable soft drinks

28 Meaning of “chargeable soft drink”

“Chargeable soft drink” means a packaged soft drink that—

- (a) meets the sugar content condition (see section 29), and
- (b) is not an exempt soft drink (see section 30).

29 Sugar content condition

- (1) A packaged soft drink meets the sugar content condition if it contains—
 - (a) added sugar ingredients, and
 - (b) at least 5 grams of sugars (whether or not as a result of containing added sugar ingredients) per 100 millilitres of prepared drink.

- (2) A packaged soft drink contains “added sugar ingredients” if any of the following are combined with other ingredients at any stage in the production of the soft drink—
 - (a) calorific mono-saccharides or di-saccharides;
 - (b) a substance containing calorific mono-saccharides or di-saccharides.
- (3) But a packaged soft drink does not contain “added sugar ingredients” only by reason of containing fruit juice, vegetable juice or milk (or any combination of them).
- (4) The ~~Commissioners~~ **Treasury** may by regulations make provision about what is, or is not, to be treated for the purposes of this Part as fruit juice, vegetable juice or milk.
- (5) Where regulations under subsection (4) contain a reference to an EU instrument or any provision of an EU instrument, the regulations may provide that the reference is to be construed as a reference to that instrument or that provision as amended from time to time.

30 Exempt soft drinks

- (1) The following are “exempt soft drinks”—
 - (a) milk-based drinks,
 - (b) milk substitute drinks,
 - (c) alcohol substitute drinks, and
 - (d) soft drinks of a specified description which are for use for medicinal or other specified purposes.
- (2) “Milk-based drink” means a soft drink which contains at least 75 millilitres of milk per 100 millilitres of prepared drink.
- (3) “Milk substitute drink” means a soft drink which—
 - (a) contains at least the specified quantities of calcium, and
 - (b) meets such other conditions as may be specified.
- (4) “Alcohol substitute drink” means a soft drink which—
 - (a) is similar to a particular kind of alcoholic beverage, and
 - (b) meets such other conditions as may be specified.
- (5) “Alcoholic beverage” means a beverage which is of an alcoholic strength exceeding 1.2%.
- (6) The ~~Commissioners~~ **Treasury** may by regulations make further provision about the criteria for determining what is, or is not, to be treated as an exempt soft drink.

- (7) Where regulations made under, or for the purposes of, this section contain a reference to an EU instrument or any provision of an EU instrument, the regulations may provide that the reference is to be construed as a reference to that instrument or that provision as amended from time to time.

Charging of the soft drinks industry levy

31 Charge to soft drinks industry levy

- (1) The charge to soft drinks industry levy arises on a chargeable event which occurs on or after ~~6 April 2018~~ **1 April 2019**.
- (2) Subsection (1) is subject to section 37 (small producer exemption).

32 Chargeable events: soft drinks packaged in the ~~UK~~ Island

- (1) This section applies where chargeable soft drinks are packaged by a person on premises in the ~~United Kingdom~~ **Island** (the “packaging premises”).
- (2) A chargeable event occurs on the removal of the chargeable soft drinks from the packaging premises.
- (3) But—
- (a) if, on removal from the packaging premises, the secondary warehousing condition is met in relation to the chargeable soft drinks, a chargeable event occurs at the time that the secondary warehousing condition ceases to be met in relation to those soft drinks (and not at the time mentioned in subsection (2));
- (b) if the chargeable soft drinks are made available for sale or free of charge before a chargeable event in relation to the soft drinks occurs under subsection (2) or paragraph (a), a chargeable event occurs at the time the soft drinks are made available (and not at the time mentioned in subsection (2) or paragraph (a)).
- (4) For the purposes of this section and section 33, the secondary warehousing condition is met, at any time, in relation to chargeable soft drinks if the chargeable soft drinks are, at that time—
- (a) in storage in a compliant warehouse, or
- (b) being transported—
- (i) from the packaging premises to a compliant warehouse, or
- (ii) between compliant warehouses,
- in compliance with such conditions and requirements as may be imposed by regulations under section 34.
- (5) References in this section and in section 33 to a “compliant warehouse” are references to premises—
- (a) that are, or are to be, used for the storage of chargeable soft drinks, and

- (b) in respect of which the conditions and requirements specified in regulations under section 34(a) are met.

33 Chargeable events: soft drinks imported into the ~~UK~~ Island

- (1) This section applies where chargeable soft drinks are imported into the ~~United Kingdom~~ **Island**.
- (2) A chargeable event occurs, in relation to imported chargeable soft drinks, on first receipt of the soft drinks by a relevant person (the “first recipient”).
- (3) But subsection (2) is subject to subsections (7) to (9).
- (4) The “first receipt” of imported chargeable soft drinks is the first occasion on which the soft drinks are delivered to a place in the ~~United Kingdom~~ **Island** which is a relevant person's place of business (including where the chargeable soft drinks are delivered from a place outside the ~~United Kingdom~~ **Island or United Kingdom** which is another place of business of the relevant person).
- (5) “Relevant person” means a person who carries on a business involving the sale of chargeable soft drinks.
- (6) The reference in subsection (5) to the sale of chargeable soft drinks includes a reference to—
- (a) sale by wholesale,
 - (b) sale by retail, and
 - (c) sale for consumption on or in the vicinity of premises on which the drinks are sold.
- (7) Subsection (8) applies if, on first receipt of the imported chargeable soft drinks, the place of business to which the soft drinks are delivered is a compliant warehouse.
- (8) Subject to subsection (9), a chargeable event occurs at the time that the secondary warehousing condition ceases to be met in relation to the imported chargeable soft drinks (and not at the time mentioned in subsection (2)).
- (9) If the chargeable soft drinks are made available for sale or free of charge by a relevant person (the “first seller”) before a chargeable event in relation to the soft drinks occurs under subsection (2) or (8), a chargeable event occurs at the time the chargeable soft drinks are made available (and not at the time mentioned in subsection (2) or (8)).
- (10) This section is subject to section 58A (~~Isle of Man~~ **United Kingdom**: import and export of chargeable soft drinks).

34 Secondary warehousing regulations

The ~~Commissioners~~ **Treasury** may by regulations make provision, for the purposes of sections 32 and 33—

- (a) specifying conditions and requirements in respect of premises on which chargeable soft drinks may be stored before the occurrence of a chargeable event (see section 32(5)(b));

- (b) specifying other conditions and requirements as to the storage of chargeable soft drinks for the purposes of the secondary warehousing condition (see section 32(4));
- (c) specifying conditions and requirements as to the transportation of chargeable soft drinks for the purposes of the secondary warehousing condition;
- (d) imposing obligations on specified persons to provide information in connection with the storage or transportation of chargeable soft drinks.

35 Liability to pay the levy

- (1) Where the charge to soft drinks industry levy arises on a chargeable event within section 32(2) or (3), the person who packages the chargeable soft drinks is liable to pay the amount charged.
- (2) Where the charge to soft drinks industry levy arises on a chargeable event within section 33(2) or (8), the relevant person who is the first recipient is liable to pay the amount charged.
- (3) Where the charge to soft drinks industry levy arises on a chargeable event within section 33(9), the relevant person who is the first seller is liable to pay the amount charged.

36 Levy rates

- (1) Soft drinks industry levy is charged—
 - (a) in the case of chargeable soft drinks that meet the higher sugar threshold, at the rate of £0.24 per litre of prepared drink;
 - (b) in the case of chargeable soft drinks that do not meet the higher sugar threshold, at the rate of £0.18 per litre of prepared drink.
- (2) A chargeable soft drink meets the higher sugar threshold if it contains at least 8 grams of sugars (whether or not as a result of containing added sugar ingredients) per 100 millilitres of prepared drink.

Exemption etc

37 Small producer exemption

- (1) No charge to soft drinks industry levy arises—
 - (a) on a chargeable event within section 32 in relation to chargeable soft drinks produced by a person who is, on the relevant day, a qualifying small producer;
 - (b) on a chargeable event within section 33 in relation to chargeable soft drinks produced by a person who is, on the relevant day, a small producer.
- (2) Chargeable soft drinks are “produced” by a person if they are packaged (by or on behalf of the person) for marketing under—
 - (a) the person's name or business name, or
 - (b) another name which is used in accordance with a licence granted to the person.
- (3) For the purposes of this section and section 38, the “relevant day”, in relation to chargeable soft drinks, is the day on which the charge to soft drinks industry levy on the chargeable soft drinks would (apart from this section) arise.
- (4) “Small producer” has the meaning given by section 38.

- (5) A person is a “qualifying small producer” if the person is a small producer who is either—
- (a) registered under section 45 (voluntary registration: small producers), or
 - (b) ineligible for registration under that section because the person does not meet the condition in section 45(2)(c) (voluntary registration eligibility conditions: packaging by a person other than the producer).

38 Meaning of “small producer”

- (1) A person (“the producer”) who produces chargeable soft drinks is a “small producer” on the relevant day if Conditions A and B are met.
- (2) Condition A is met if the aggregate of—
- (a) the amount of the producer's chargeable soft drinks within section 26(1)(a) in respect of which a relevant event has occurred during the relevant 12 month period, and
 - (b) the amount of prepared drink that would result from the producer's chargeable soft drinks within section 26(1)(b) in respect of which a relevant event has occurred during the relevant 12 month period,
- does not exceed the small producer threshold.
- (3) Condition B is met if there are reasonable grounds for believing that the aggregate of—
- (a) the amount of the producer's chargeable soft drinks within section 26(1)(a) in respect of which a relevant event will occur during the relevant 30 day period, and
 - (b) the amount of prepared drink that would result from the producer's chargeable soft drinks within section 26(1)(b) in respect of which a relevant event will occur during the relevant 30 day period,
- will not exceed the small producer threshold.
- (4) A “relevant event” occurs in respect of chargeable soft drinks on the removal of the chargeable soft drinks from the premises on which they are packaged.
- (5) But—
- (a) if, on removal from the premises on which the chargeable soft drinks are packaged, the secondary warehousing condition is met in relation to the soft drinks, a “relevant event” occurs in relation to those soft drinks at the time that the secondary warehousing condition ceases to be met in relation to them (and not at the time mentioned in subsection (4));
 - (b) if the chargeable soft drinks are made available for sale or free of charge before a relevant event in relation to the soft drinks occurs under subsection (4) or paragraph (a), a “relevant event” occurs at the time they are made available (and not at the time mentioned in subsection (4) or paragraph (a)).

- (6) For the purposes of subsections (2) and (3)—
 - (a) the “relevant 12 month period” is the period of 12 months ending with the end of the month that immediately precedes the month in which the relevant day falls, and
 - (b) the “relevant 30 day period” is the period of 30 days beginning with the relevant day.
- (7) The “small producer threshold” is 1 million litres.
- (8) References in this section to “the producer’s chargeable soft drinks” are references to chargeable soft drinks produced by the producer or a person connected with the producer.

39 Tax credits

- (1) The ~~Commissioners~~ **Treasury** may by regulations make provision in relation to cases where, after a charge to soft drinks industry levy has arisen in relation to chargeable soft drinks—
 - (a) the soft drinks are exported from the ~~United Kingdom~~ **Island or United Kingdom**;
 - (b) the soft drinks are lost or destroyed.
- (2) The provision that may be made is provision—
 - (a) for the liable person to be entitled to a tax credit in respect of any soft drinks industry levy charged on the soft drinks that are exported or (as the case may be) lost or destroyed;
 - (b) for the tax credit to be brought into account when the person is accounting for soft drinks industry levy due from the person for the prescribed accounting period or periods.
- (3) Regulations under this section may include provision—
 - (a) for any entitlement to a tax credit to be conditional on the making of a claim by the liable person, and specifying the period within which and the manner in which a claim may be made;
 - (b) for any entitlement to bring a tax credit into account to be conditional on compliance with prescribed requirements;
 - (c) specifying circumstances in which, and criteria for determining the period for which, a liable person 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 soft drinks industry levy in connection with entitlement or withdrawal of entitlement to a tax credit in prescribed circumstances;
 - (h) about the treatment of a tax credit where the liable person ceases to carry on a business involving the package or sale of chargeable soft drinks.
- (4) Regulations under paragraph (a) of subsection (1) may include provision for the sale or provision of chargeable soft drinks on passenger transport operating between the ~~United Kingdom~~ **Island** and a place outside of the ~~United Kingdom~~ **Island or United Kingdom** to be treated as “export from the ~~United Kingdom~~ **Island**” for the purposes of regulations under that paragraph.
- (5) Regulations under paragraph (b) of subsection (1) may include provision about the circumstances in which chargeable soft drinks are to be treated as lost or destroyed for the purposes of regulations under that paragraph.
- (5A) This section is subject to section 58A (~~Isle of Man~~ **United Kingdom**: import and export of chargeable soft drinks).
- (6) In this section—
- “liable person” means the person who is liable under section 35 to pay the charge to soft drinks industry levy referred to in subsection (1);
- “prescribed” means specified in, or determined in accordance with, regulations under this section.

Registration

40 The register

- (1) The ~~Commissioners~~ **Treasury** must establish and maintain a register for the purposes of this Part.
- (2) In this Part, “the register” means the register under subsection (1) and references to registration are to registration in it.
- (3) The register may contain such information as the ~~Commissioners think~~ **Treasury thinks** is required for the purposes of the collection and management of soft drinks industry levy.

41 Liability to register: packagers

- (1) A person becomes liable to be registered—
 - (a) at the end of any month, if the person has packaged any chargeable soft drinks in respect of which a chargeable event within section 32 has occurred during that month;
 - (b) on any day, if there are reasonable grounds for believing that, during the period of 30 days beginning with that day, a chargeable event

within section 32 will occur in respect of chargeable soft drinks packaged by the person.

- (2) But subsection (1) does not apply to a person if—
 - (a) the chargeable soft drinks packaged by the person are also produced by the person, and
 - (b) the person is not liable to be registered under section 42 (liability to register: producers).
- (3) Subsection (1) does not apply in relation to a person who is already registrable.
- (4) In this section and in sections 42 and 43 references to “a person who is already registrable” are references to a person who—
 - (a) is registered under this section, section 42 or section 43,
 - (b) is subject to a relevant notification requirement, or
 - (c) would, if the person had complied with a relevant notification requirement, be registered under this section, section 42 or section 43.
- (5) In subsection (4)(c) “relevant notification requirement” means a requirement under section 44(1) to notify the ~~Commissioners~~ **Treasury** of a liability to register—
 - (a) arising on a previous occasion, and
 - (b) in respect of which the notification period has expired.
- (6) In this section “notification period” has the meaning given by section 44(2).

42 Liability to register: producers

- (1) A person (“the producer”) who produces chargeable soft drinks becomes liable to be registered—
 - (a) at the end of any month, if the qualifying amount of the producer’s chargeable soft drinks in respect of which a chargeable event within section 32 has occurred during the immediately preceding period of 12 months exceeds the small producer threshold;
 - (b) on any day, if there are reasonable grounds for believing that the qualifying amount of the producer’s chargeable soft drinks in respect of which a chargeable event within section 32 will occur during the period of 30 days beginning with that day will exceed the small producer threshold.
- (2) The “qualifying amount” of chargeable soft drinks in respect of which a chargeable event occurs is the aggregate of—
 - (a) the amount of the chargeable soft drinks within section 26(1)(a) in respect of which the chargeable event occurs, and

- (b) the amount of prepared drink that would result from the chargeable soft drinks within section 26(1)(b) in respect of which the chargeable event occurs.
- (3) Subsection (1) does not apply in relation to a person who is already registrable.
- (4) References in this section to “the producer's chargeable soft drinks” are references to chargeable soft drinks produced by the producer or a person connected with the producer.

43 Liability to register: imported chargeable soft drinks

- (1) A person becomes liable to be registered—
 - (a) at the end of any month if, during that month, a chargeable event within section 33 has occurred—
 - (i) on the first receipt, or on the making available, of chargeable soft drinks by the person, or
 - (ii) on the secondary warehousing condition ceasing to be met in relation to chargeable soft drinks in respect of which the person is the first recipient;
 - (b) on any day, if there are reasonable grounds for believing that, during the period of 30 days beginning with that day, a chargeable event within section 33 will occur—
 - (i) on the first receipt, or on the making available, of chargeable soft drinks by the person, or
 - (ii) on the secondary warehousing condition ceasing to be met in relation to chargeable soft drinks in respect of which the person is the first recipient.
- (2) Subsection (1) does not apply in relation to a person who is already registrable.

44 Notification of liability and registration

- (1) A person who becomes liable to be registered under section 41, 42 or 43 must notify the ~~Commissioners~~ **Treasury** 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~~ **Treasury** is satisfied that a person is liable to be registered (whether or not the person has notified liability under subsection (1)), the ~~Commissioners~~ **Treasury** must register the person with effect from the day on which the liability to register arises.

45 Voluntary registration: small producers

- (1) The ~~Commissioners~~ **Treasury** must register a person who—
 - (a) meets the voluntary registration eligibility conditions, and

- (b) applies to the ~~Commissioners~~ **Treasury** for registration under this section.
- (2) The voluntary registration eligibility conditions are met by a person (P) if—
 - (a) P produces chargeable soft drinks,
 - (b) P is not liable to be registered under section 42 (liability to register: producers), and
 - (c) some or all of the chargeable soft drinks produced by P are packaged on premises in the ~~United Kingdom~~ **Island** by a person other than P.
- (3) A person who is registered under section 41 or 43 may also be registered under this section.

46 Cancellation of registration under section 41, 42 or 43

- (1) A registration under section 41, 42 or 43 may be cancelled only in accordance with this section.
- (2) For the purposes of this section, a person meets the “liability condition” at a particular time if—
 - (a) at the end of the preceding month, the condition in section 41(1)(a), 42(1)(a) or 43(1)(a) is met in relation to the person, or
 - (b) at that time, the condition in section 41(1)(b), 42(1)(b) or 43(1)(b) is met in relation to the person.
- (3) The ~~Commissioners~~ **Treasury** must cancel a person's registration under section 41, 42 or 43 if—
 - (a) the person requests the cancellation, and
 - (b) the person satisfies the ~~Commissioners~~ **Treasury** that the person does not, at the time of the request, meet the liability condition.
- (4) A cancellation under subsection (3) 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~~ **Treasury** and the person.
- (5) The ~~Commissioners~~ **Treasury** may cancel a person's registration under section 41, 42 or 43 if they are satisfied that the person does not meet the liability condition.
- (6) A cancellation under subsection (5) 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~~ **Treasury** and the person.

- (7) But the ~~Commissioners~~ **Treasury** must not cancel a registration under subsection (3) or (5) with effect from any time unless—
- (a) ~~they are~~ **it is** satisfied that it is not a time when the person would meet the liability condition, and
 - (b) it is reasonable to believe that the person will not become liable to be registered under section 41(1)(a) or 43(1)(a) during the period of 12 months beginning with that time.
- (8) The ~~Commissioners~~ **Treasury** may cancel a person's registration under section 41, 42 or 43 if ~~they are~~ **it is** 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.
- (9) A cancellation under subsection (8) is to be made with effect from the day on which the person was registered.

47 Cancellation of voluntary registration

- (1) The ~~Commissioners~~ **Treasury** may cancel a person's registration under section 45 if ~~they are~~ **it is** satisfied that the person does not meet the voluntary registration eligibility conditions (see subsection (2) of that section).
- (2) A cancellation under subsection (1) is to be made with effect from the day on which the person ceased to meet the voluntary registration eligibility conditions.
- (3) The ~~Commissioners~~ **Treasury** must cancel a person's registration under section 45 if the person requests the cancellation.
- (4) A cancellation under subsection (3) 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~~ **Treasury** and the person.

48 Correction of the register

- (1) The ~~Commissioners~~ **Treasury** 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~~ **Treasury** of changes in circumstances which are relevant to the register.

49 Applications, notifications etc

The ~~Commissioners~~ **Treasury** may by or under regulations make provision—

- (a) about the form and manner in which a notification under section 44 (notification of liability to register) is to be given;
- (b) about the information to be contained in or provided with a notification under that section;

- (c) about the form and manner of an application under section 45 (voluntary registration: small producers);
- (d) requiring applications, notifications and other communications with the ~~Commissioners~~ **Treasury** in connection with registration to be made electronically.

Offences

50 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 any other person) of soft drinks industry levy.
- (2) The references in subsection (1) to the evasion of soft drinks industry levy include references to obtaining, in circumstances where there is no entitlement to it—
 - (a) a tax credit under regulations under section 39;
 - (b) a repayment of soft drinks industry levy under Schedule 8.
- ~~(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, or~~
 - ~~(ii) to a fine not exceeding £20,000 or (if greater) 3 times the total of the amounts of soft drinks industry levy 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, or~~
 - ~~(ii) to a fine not exceeding the statutory maximum or (if greater) 3 times the total of the amounts of soft drinks industry levy 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, or~~
 - ~~(ii) to a fine not exceeding the statutory maximum or (if greater) 3 times the total of the amounts of soft drinks industry levy 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.~~

(3) A person guilty of an offence under this section is liable on summary conviction to –

- (a) custody for a term not exceeding 6 months; or**
- (b) a fine not exceeding level 4 on the standard scale or (if greater) 3 times the total amounts of soft drinks industry levy that were, or were intended to be, evaded; or**
- (c) to both.**

(3A) A person guilty of an offence under this section is liable on conviction on information to custody for a term not exceeding 7 years, to a fine or to both.

(4) For the purposes of subsection (3), the amounts of soft drinks industry levy that were, or were intended to be, evaded are to be taken as including—

- (a) the amount of any tax credit under regulations under section 39, and
- (b) the amount of any repayment of soft drinks industry levy under Schedule 8,

which was, or was intended to be, obtained in circumstances where there was no entitlement to it.

(5) In determining for the purposes of subsection (3) the amounts of soft drinks industry levy that were, or were intended to be, evaded, no account is to be taken of the extent to which any liability to levy of a person would be, or would have been, reduced by the amount of any tax credit or repayment of soft drinks industry levy to which the person was, or would have been, entitled.

~~(6) In relation to an offence committed before the commencement of section 154(1) of the Criminal Justice Act 2003 the reference in subsection (3)(a)(i) to 12 months is to be read as a reference to 6 months.~~

51 Failure to notify registration liability

- (1) A person who fails to comply with section 44(1) (obligation to notify the ~~Commissioners~~ **Treasury** of liability to be registered) commits an offence.
- (2) In proceedings against a person (P) for an offence under subsection (1), it is a defence for P to prove that P had a reasonable excuse for the failure to comply.
- (3) For the purposes of subsection (2)—
 - (a) 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;

- (b) 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.

~~(4) 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, or~~

~~(ii) to a fine not exceeding £20,000 or (if greater) 3 times the amount of the potential lost revenue, or~~

~~(iii) to both;~~

~~(b) on summary conviction in Scotland—~~

~~(i) to imprisonment for a term not exceeding 12 months, or~~

~~(ii) to a fine not exceeding the statutory maximum or (if greater) 3 times the amount of the potential lost revenue, or~~

~~(iii) to both;~~

~~(c) on summary conviction in Northern Ireland—~~

~~(i) to imprisonment for a term not exceeding 6 months, or~~

~~(ii) to a fine not exceeding the statutory maximum or (if greater) 3 times the amount of the potential lost revenue, or~~

~~(iii) to both;~~

~~(d) on conviction on indictment—~~

~~(i) to imprisonment for a term not exceeding 3 years,~~

~~(ii) to a fine, or~~

~~(iii) to both.~~

(4) A person guilty of an offence under this section is liable on summary conviction to –

(a) custody for a term not exceeding 6 months; or

(b) a fine not exceeding level 4 on the standard scale or (if greater) 3 times the total amounts of soft drinks industry levy that were, or were intended to be, evaded; or

(c) to both.

(4A) A person guilty of an offence under this section is liable on conviction on information to custody for a term not exceeding 7 years, to a fine or to both.

- (5) For the purposes of subsection (4), the “potential lost revenue” is the amount of soft drinks industry levy (if any) for which the person who committed the offence is liable for the period—
- (a) beginning with the date with effect from which the person is liable to be registered under this Part, and
 - (b) ending with the date on which the ~~Commissioners~~ **Treasury** received notification of, or otherwise ~~were~~ **was** satisfied as to, the person's liability to be registered under this Part.
- (6) In calculating potential lost revenue for the purposes of subsection (4), no account is to be taken of the fact that a potential loss of revenue from the person is or may be balanced by a potential over-payment by another person.
- ~~(7) In relation to an offence committed before the commencement of section 154(1) of the Criminal Justice Act 2003 the reference in subsection (4)(a)(i) to 12 months is to be read as a reference to 6 months.~~

Administration and enforcement

52 Payment, collection and recovery

- (1) The ~~Commissioners~~ **Treasury** may by regulations make provision about the payment, collection and recovery of soft drinks industry levy.
- (2) Regulations under subsection (1) may—
- (a) require persons who are or are liable to be registered under this Part to keep accounts for the purposes of the levy in the specified form and manner;
 - (b) require persons who are or are liable to be registered under this Part to make returns for the purposes of the levy;
 - (c) make provision for determining the periods (“accounting periods”) by reference to which payments of the levy are to be made;
 - (d) make provision about the times at which payments of the levy 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 for the correction of errors made in accounting for the levy.
- (3) Provision may be made by or under regulations under subsection (2)(b) about—
- (a) the periods by reference to which returns are to be made,
 - (b) the information to be included in returns,
 - (c) timing, and
 - (d) the form of, and method of, making returns.

- (4) Schedule 8 contains provision about recovery and overpayments.

53 Records

- (1) The ~~Commissioners~~ **Treasury** may by regulations require persons—
- (a) to keep, for purposes connected with soft drinks industry levy, records of specified matters, and
 - (b) to preserve records for a specified period.
- (2) A duty under regulations under this section to preserve records may be discharged—
- (a) by preserving them in any form and by any means, or
 - (b) by preserving the information contained in them in any form and by any means, subject to any specified conditions or exceptions.
- (3) The ~~Commissioners~~ **Treasury** may direct a person who is, or is liable to be, registered under this Part—
- (a) to keep such records as are specified in the direction;
 - (b) to preserve those records for a specified period.
- (4) The period specified in a direction under subsection (3)(b) may not exceed 6 years.
- (5) The ~~Commissioners~~ **Treasury** may not give a direction under subsection (3) unless they have reasonable grounds for believing that the records specified in the direction might assist in identifying chargeable soft drinks in respect of which soft drinks industry levy might not be paid.
- (6) A direction under subsection (3)—
- (a) must be given in writing,
 - (b) must specify the consequences under Schedule 9 of failure to comply with a requirement imposed under subsection (3), and
 - (c) may be revoked or replaced by a further direction.
- (7) Schedule 9 makes provision about penalties for failure to comply with requirements imposed by regulations or directions under this section.

54 Power to make further provision about enforcement

- (1) The ~~Commissioners~~ **Treasury** may by regulations make further provision about enforcement of soft drinks industry levy, including provision conferring powers of entry, search or seizure.
- (2) Regulations under this section may include provision—

- (a) conferring powers to enter and inspect premises that are used, or are reasonably believed to be used, in connection with the production, packaging, sale, import or export of chargeable soft drinks;
 - (b) conferring powers to stop, board and search ships, aircraft and other vehicles entering, leaving or situated on premises referred to in paragraph (a);
 - (c) conferring powers to inspect and take copies of business documents on premises referred to in paragraph (a);
 - (d) conferring powers to examine and take samples of soft drinks found on premises referred to in paragraph (a);
 - (e) for the detention and seizure of chargeable soft drinks in respect of which a specified requirement of this Part has been contravened;
 - (f) requiring a person to provide such facilities as are reasonably necessary for an officer of Revenue and Customs to carry out an examination or search or exercise other powers conferred by the regulations;
 - (g) about reviews of, and appeals against, decisions made for the purposes of the regulations.
- (3) Regulations under this section may, in particular, make provision by applying any provision of the Customs and Excise Management Act ~~1979~~ **1986**.

55 Appeals etc

Schedule 10 makes provision about appeals and reviews.

~~56~~ **Supplementary amendments**

~~Schedule 11 contains supplementary amendments relating to administration and enforcement of soft drinks industry levy.~~

Miscellaneous

57 Regulations: death, incapacity or insolvency of person carrying on a business

- (1) The ~~Commissioners~~ **Treasury** may by regulations make provision for the purposes of soft drinks industry levy in relation to cases where a person carries on a 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) Regulations under this section may include—
- (a) provision requiring the person who is carrying on the business (P) to notify the ~~Commissioners~~ **Treasury** that P is carrying on the business and of the event that led to P carrying it on;

- (b) provision 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) such other provision as the ~~Commissioners think~~ **Treasury thinks** fit for securing continuity in the application of this Part in cases to which the regulations apply.

58 — ~~Provisional collection of soft drinks industry levy~~

~~In section 1 of the Provisional Collection of Taxes Act 1968 (temporary statutory effect of House of Commons resolutions), in subsection (1), after “aggregates levy,” insert “soft drinks industry levy.”.~~

58A ~~Isle of Man United Kingdom: import and export of chargeable soft drinks~~

- (1) Subsections (2) and (3) apply if –
 - (a) chargeable soft drinks are imported into the ~~United Kingdom~~ **Island** from the ~~Isle of Man~~ **United Kingdom**, and
 - (b) a charge to soft drinks industry levy (the “corresponding charge”) arises in relation to the soft drinks under the law of the ~~Isle of Man~~ **United Kingdom**.
- (2) If the corresponding charge arises at a rate equal to, or greater than, the ~~UK~~ **Island** rate, the soft drinks are not to be treated as being imported into the ~~United Kingdom~~ **Island** for the purposes of section 33 (chargeable events: imported soft drinks).
- (3) If the corresponding charge arises at a rate lower than the ~~UK~~ **Island** rate, the amount of soft drinks industry levy charged under this Part in relation to the soft drinks is to be reduced by an amount equal to the corresponding charge.
- (4) In this section “the ~~UK~~ **Island** rate”, in relation to chargeable soft drinks, is the rate of soft drinks industry levy that would (apart from this section) be chargeable in relation to the soft drinks under this Part.
- (5) For the purposes of section 39(1)(a) (tax credits: exported soft drinks) or regulations made under that provision, chargeable soft drinks are not to be treated as being exported from the ~~United Kingdom~~ **Island** if the soft drinks are exported to the ~~Isle of Man~~ **United Kingdom**.

General

59 Interpretation of Part 2

- (1) In this Part—
 - “accounting period” is to be construed in accordance with section 52(2)(c);
 - “chargeable soft drink” has the meaning given by section 28;
 - ~~“the Commissioners” means the Commissioners for Her Majesty’s Revenue and Customs;~~
 - “compliant warehouse” is to be construed in accordance with section 32(5);

“first recipient” and “first receipt”, in relation to imported chargeable soft drinks, have the meaning given by section 33(2) and (4);

“first seller”, in relation to imported chargeable soft drinks, has the meaning given by section 33(9);

~~“HMRC” means Her Majesty’s Revenue and Customs;~~

“package” and “packaged” are to be construed in accordance with section 26(3);

“person who is already registrable” has the meaning given by section 41(4);

“prepared drink” has the meaning given by section 27(1);

“produce”, in relation to chargeable soft drinks, is to be construed in accordance with section 37(2);

“relevant person” has the meaning given by section 33(5);

“secondary warehousing condition” has the meaning given by section 32(4);

“small producer” has the meaning given by section 38;

“small producer threshold” has the meaning given by section 38(7);

“soft drink” has the meaning given by section 26(1);

“sugars” means anything that is required to be described as “sugars” for the purposes of a designated food labelling obligation (see subsection (3)).

- (2) In sections 30, 34, 52, 53(1) and (2) and 54 and in paragraph 11 of Schedule 8, “specified” means specified in regulations made by the ~~Commissioners~~ **Treasury** for the purposes of this Part.
- (3) In the definition of “sugars” in subsection (1), “designated food labelling obligation” means an obligation that—
 - (a) relates to the provision of nutritional information on the packaging of food or drinks,
 - (b) is imposed by an enactment, ~~an EU instrument~~ or subordinate legislation, and
 - (c) is designated by regulations made by the ~~Commissioners~~ **Treasury** for the purposes of this Part.
- (4) ~~Section 112 of CTA 2010 (meaning of connected person)~~ **Section 119C of the Income Tax Act 1970** applies for the purposes of this Part.
- (5) For the purposes of this Part, a person “packages” chargeable soft drinks if—
 - (a) the person packages soft drinks, and
 - (b) the packaged soft drinks are chargeable soft drinks.

60 Regulations

- (1) Regulations under this Part—
 - (a) may make different provision for different purposes;
 - (b) may include incidental, consequential, supplementary or transitional provision.
- ~~(2) Regulations under this Part are to be made by statutory instrument.~~
- ~~(3) A statutory instrument containing regulations under section 54 may not be made unless a draft of the instrument has been laid before and approved by a resolution of the House of Commons.~~
- ~~(4) Any other statutory instrument containing regulations under this Part is subject to annulment in pursuance of a resolution of the House of Commons.~~
- ~~(5) But subsection (4) does not apply to a statutory instrument containing only regulations under section 61 (commencement of this Part).~~

SCHEDULE 8

Soft drinks industry levy: recovery and overpayments

Part 1

Recovery

Recovery as debt due

1 Soft drinks industry levy is recoverable as a debt due to the Crown.

Assessments

- 2 (1) Sub-paragraph (2) applies where it appears to the ~~Commissioners~~ **Treasury**—
- (a) that any period is an accounting period by reference to which a person is liable to account for soft drinks industry levy,
 - (b) that an amount of soft drinks industry levy for which that person is liable to account by reference to that period has become due (but the amount due cannot be ascertained), and
 - (c) that there has been a relevant default by the person (see sub-paragraph (3)).
- (2) The ~~Commissioners~~ **Treasury** may—
- (a) assess the amount of soft drinks industry levy due from the person to the best of ~~their~~ **its** judgment, and
 - (b) notify the amount to the person.
- (3) The following are “relevant defaults”—
- (a) a failure to comply with a requirement of section 44 (notification of liability to register) or of regulations under section 48 (correction of the register);
 - (b) a failure to make a return required by regulations under section 52;
 - (c) a failure to keep documents, or provide facilities, necessary to verify returns required by those regulations;
 - (d) the making, in purported compliance with a requirement of the regulations, of an incomplete or incorrect return;
 - (e) a failure to comply with a requirement of regulations under section 53(1) (keeping and preserving records);
 - (f) an unreasonable delay in complying with a requirement, where the failure to comply would be a default within any of paragraphs (a) to (e).
- 3 (1) Sub-paragraph (2) applies where—

- (a) ~~the Commissioners have~~ **Treasury has** made an assessment for an accounting period as a result of a person's failure to make a return for that period,
- (b) the levy assessed has been paid but no proper return has been made for that period, and
- (c) as a result of a failure to make a return for a later accounting period, ~~the Commissioners make~~ **Treasury makes** another assessment (the "later assessment") under paragraph 2 in relation to the later period.

~~(2) The Commissioners may, if they consider it appropriate in the light of the absence of a return for the earlier period, specify in the later assessment an amount of soft drinks industry levy due that is greater than the amount that they would have considered to be appropriate had they had regard only to the later period.~~

(2) The Treasury may, if it considers it appropriate in the light of the absence of a return for the earlier period, specify in the later assessment an amount of soft drinks industry levy due that is greater than the amount that it would have considered to be appropriate had it had regard only to the later period.

4 (1) Sub-paragraph (2) applies where it appears to the ~~Commissioners~~ **Treasury** that—

- (a) any period is an accounting period by reference to which a person is liable to account for soft drinks industry levy,
- (b) an amount of soft drinks industry levy for which that person is liable to account by reference to that period has become due, and
- (c) the amount due can be ascertained by the ~~Commissioners~~ **Treasury**.

(2) The ~~Commissioners~~ **Treasury** may—

- (a) assess the amount of soft drinks industry levy due from the person, and
- (b) notify the amount to the person.

Supplementary assessments

5 (1) Sub-paragraph (2) applies where—

- (a) an assessment has been notified to a person under paragraph 2(2) or 4(2), and
- (b) it appears to the ~~Commissioners~~ **Treasury** that the amount which ought to have been assessed as due exceeds the amount that has already been assessed.

(2) The ~~Commissioners~~ **Treasury** may—

- (a) make a supplementary assessment of the amount of soft drinks industry levy due from the person to the best of ~~their~~ **its** judgment, and

- (b) notify the amount to that person.

Further provision about assessments under paragraphs 2, 4 and 5

- 6
2, 4
- (1) Where an amount has been assessed and notified to a person under paragraph or 5, it is recoverable on the basis that it is an amount of soft drinks industry levy due from that person.
- (2) But sub-paragraph (1) does not have effect if, or to the extent that, the assessment has been withdrawn or reduced.

Time limits for assessments

- 7
the
- (1) An assessment under paragraph 2, 4 or 5 may not be made after the end of the relevant period.
- (2) Except in a case within sub-paragraph (3), the relevant period is the period of 4 years from the end of the accounting period to which the assessment relates.
- (3) Where an assessment of an amount due from a person is made in a case involving loss of soft drinks industry levy—
- (a) brought about deliberately by the person, or
- (b) attributable to a failure by the person to comply with a requirement of section 44 (notification of liability to be registered) or a requirement of regulations under section 48 (correction of the register),
- the relevant period is the period of 20 years from the end of the accounting period to which the assessment relates.
- (4) In sub-paragraph (3)(a) the reference to loss brought about deliberately by a person includes a reference to a loss brought about as a result of the deliberate inaccuracy in a document given to ~~HMRG~~ **the Treasury** by the person.
- (5) In sub-paragraphs (3) and (4) references to a loss brought about by a person include references to a loss brought about by another person acting on behalf of that person.

Part 2

Overpayments

Repayments of overpaid levy

- 8
Commissioners
- (1) This paragraph applies where a person (P) has paid an amount to the **Treasury** by way of soft drinks industry levy which was not levy due.
- (2) The ~~Commissioners~~ **Treasury** is liable, on the making of a claim by P, to repay the amount.
- (3) The ~~Commissioners~~ **Treasury** may by regulations make provision about—

- (a) the form and manner of a claim;
 - (b) the information required in support of a claim.
- (4) Except as provided by this paragraph, the ~~Commissioners~~ **Treasury is** not liable to repay any amount paid by way of soft drinks industry levy by reason of the fact that it was not levy due.
- (5) This paragraph is subject to paragraph 9.

Supplementary provisions about repayment etc.

- 9 soft making
- (1) The ~~Commissioners~~ **Treasury is** not liable, on a claim for a repayment of drinks industry levy, to repay any amount paid more than 4 years before the of the claim.
- (2) It is a defence to any claim for repayment of an amount of soft drinks industry levy that the repayment of that amount would unjustly enrich the claimant.
- 10
- (1) This paragraph applies where—
- (a) an amount has been paid by way of soft drinks industry levy which (apart from paragraph 9(2)) would fall to be repaid to a person (P), and
 - (b) the whole or a part of the cost of the payment of that amount to the ~~Commissioners~~ **Treasury** has, for practical purposes, been borne by a person other than P.
- (2) Where loss or damage has been, or may be, incurred by P as a result of mistaken assumptions made in P's case about the operation of any provision relating to soft drinks industry levy, that loss or damage is to be disregarded, except to the extent of the quantified amount, in the making of a relevant determination.
- (3) In sub-paragraph (2) "the quantified amount" means the amount (if any) which is shown by P to constitute the amount that would appropriately compensate P for loss or damage shown by P to have resulted from the making of the mistaken assumptions.
- (4) A "relevant determination" means a determination for the purposes of paragraph 9(2) as to—
- (a) whether or to what extent the repayment of an amount would enrich P, or
 - (b) whether or to what extent an enrichment of P would be unjust.
- (5) The reference in sub-paragraph (2) to provision relating to soft drinks industry levy is a reference to any provision made by or under any enactment which relates to the levy or to any matter connected with it.

Reimbursement arrangements

- 11 (1) The ~~Commissioners~~ **Treasury** may by regulations make provision for reimbursement arrangements to be disregarded for the purposes of paragraph 9(2) except where the arrangements—
- (a) contain such provision as may be required by the regulations, and
 - (b) are supported by such undertakings to comply with the arrangements as may be required by the regulations to be given to the ~~Commissioners~~ **Treasury**.
- (2) In this paragraph “reimbursement arrangements” means arrangements for the purposes of a claim to a repayment of soft drinks industry levy which—
- (a) are made by a person for the purpose of securing that the person is not unjustly enriched by the repayment of any amount in pursuance of the claim, and
 - (b) provide for the reimbursement of a person who has for practical purposes borne the whole or any part of the cost of the original payment of that amount to the ~~Commissioners~~ **Treasury**.
- (3) Regulations under this paragraph may include provision requiring reimbursement arrangements to contain provision—
- (a) requiring a reimbursement for which the arrangements provide to be made within a specified period after the repayment to which it relates;
 - (b) for the repayment of amounts to the ~~Commissioners~~ **Treasury** where those amounts are not reimbursed in accordance with the arrangements;
 - (c) requiring interest paid by the ~~Commissioners~~ **Treasury** on any amount repaid by them to be treated in the same way as that amount for the purposes of any requirement under the arrangements to reimburse or repay the ~~Commissioners~~ **Treasury**;
 - (d) requiring records of a specified description relating to the arrangements to be kept and produced to the ~~Commissioners~~ **Treasury**, or to an officer ~~of Revenue and Customs~~;
 - (e) imposing obligations on specified persons for the purposes of provision made under paragraphs (a) to (d).
- (4) Regulations under this paragraph may—
- (a) make provision about the form, manner and timing of undertakings given to the ~~Commissioners~~ **Treasury** in accordance with the regulations, and
 - (b) provide for those matters to be determined by the ~~Commissioners~~ **Treasury** in accordance with the regulations.

Assessment for excessive repayment

- 12 (1) Sub-paragraph (3) applies where—

- (a) an amount has been paid at any time to a person by way of a repayment of soft drinks industry levy, and
 - (b) the amount paid exceeded the amount which the ~~Commissioners were~~ **Treasury was** liable at that time to repay to that person.
- (2) Sub-paragraph (3) also applies where a person is liable to pay any amount to the ~~Commissioners~~ **Treasury** in pursuance of an obligation imposed by regulations under paragraph 11(3)(b), (c) or (e).
- (3) The ~~Commissioners~~ **Treasury** may—
- (a) to the best of ~~their~~ **its** judgment, assess the amount of the excess (in a case within sub-paragraph (1)) or the amount due (in a case within sub-paragraph (2)), and
 - (b) notify the amount to the person.
- (4) Subject to sub-paragraph (5), where—
- (a) an assessment is made on any person under this paragraph in respect of a repayment of soft drinks industry levy, and
 - (b) the ~~Commissioners have~~ **Treasury has** power under Part 1 of this Schedule to make an assessment on that person as to an amount of the levy due from that person,

the assessments may be combined and notified to the person as one assessment.

- (5) A notice of a combined assessment under sub-paragraph (4) must separately identify the amount being assessed in respect of repayments of soft drinks industry levy.

Supplementary assessments

- 13 (1) Sub-paragraph (2) applies where—
- (a) an assessment has been notified to a person under paragraph 12, and
 - (b) it appears to the ~~Commissioners~~ **Treasury** that the amount which ought to have been assessed as due exceeds the amount that has already been assessed.
- (2) The ~~Commissioners~~ **Treasury** may—
- (a) on or before the last day on which the assessment under paragraph 12 could have been made, make a supplementary assessment of the amount of soft drinks industry levy due from the person, and
 - (b) notify the amount to that person.

Further provision about assessments under paragraphs 12 and 13

- 14 (1) Where an amount has been assessed and notified to a person under paragraph
12 or

13, it is recoverable on the basis that it is an amount of soft drinks industry levy due from that person.

- (2) But sub-paragraph (1) does not have effect if, or to the extent that, the assessment has been withdrawn or reduced.

Time limits for assessments

- 15 An assessment under paragraph 12 or 13 may not be made more than 2 years after evidence of facts sufficient in the opinion of the ~~Commissioners~~ **Treasury** to justify making the assessment comes to ~~their~~ **its** knowledge.

Part 3

Further provision about notices etc.

Notifications to a person's representative

- 16 (1) A notice of an assessment under paragraph 2, 5, 12 or 13 given to a person's representative is to be treated for the purposes of this Schedule as a notice given to the person in relation to whom the representative acts.
- (2) In sub-paragraph (1), "representative", in relation to a person, means—
- (a) any of that person's personal representatives;
 - (b) that person's trustee in bankruptcy, interim or permanent trustee or liquidator;
 - (c) any person holding office as receiver in relation to that person or any of that person's property;
 - (d) any other person acting in a representative capacity in relation to that person.

Service of notices

- 17 A notice under this Schedule may be given to a person by sending it to that person by post, addressed to the person's last known address.

SCHEDULE 9

Soft drinks industry levy: requirements to keep records etc: penalties

Part 1

Penalties

Sections 48(2) and 53(1): requirements imposed by regulations

- 1 (1) A person who fails to comply with a requirement imposed by regulations under section 48(2) or 53(1)(a) is liable to a penalty.
- (2) The amount of the penalty is equal to the relevant amount multiplied by the number of days on which the failure continues (up to a maximum of 100 days) or, if it is greater, to a penalty of £50.
- (3) In relation to a failure by a person to comply with the requirement, the amount of the penalty is to be determined by reference to the number of occasions in the period of 2 years preceding the beginning of the failure on which the person has previously failed to comply with that requirement.
- (4) But—
- (a) a continuing failure to comply with a requirement is to be regarded as one occasion of failure occurring on the date on which the failure began;
- (b) if the same omission gives rise to a failure to comply with more than one such requirement, it is to be regarded as the occasion of only one failure.
- (5) The relevant amount is—
- (a) if there has been no previous occasion of failure in the period mentioned in sub-paragraph (3), £5;
- (b) if there has been only one such occasion in that period, £10; and
- (c) in any other case, £15.
- (6) A person who fails to comply with a requirement to preserve records imposed by regulations under section 53(1)(b) is liable to a penalty of £500.
- (7) If by reason of conduct falling within sub-paragraph (1) or (6) a person is assessed to a penalty for a deliberate inaccuracy under ~~Schedule 24 to FA 2007~~, **Schedule 24 to the Finance Act 2007 (of Parliament), as it has effect in the Island**, that conduct does not also give rise to a penalty under this paragraph.

Section 53(2): requirements imposed by directions

- 2 (1) A person who fails to comply with a requirement imposed under section 53(2)(a) is liable to a penalty.

- (2) The amount of the penalty is equal to £200 multiplied by the number of days on which the failure continues (up to a maximum of 30 days).
- (3) A person who fails to comply with a requirement imposed under section 53(3)(b) is liable to a penalty of £500.
- (4) If by reason of conduct falling within sub-paragraph (1) or (3) a person is assessed to a penalty for a deliberate inaccuracy under ~~Schedule 24 to FA 2007~~, **Schedule 24 to the Finance Act 2007 (of Parliament), as it has effect in the Island**, that conduct does not also give rise to a penalty under this paragraph.

Power to alter amounts specified in paragraphs 1 and 2

- 3 money
- (1) If it appears to the Treasury that there has been a change in the value of money since the last relevant date, ~~they~~ **it** may by regulations substitute for the sums specified in paragraph 1(2), (5)(a) to (c) and (6) and paragraph 2(2) and (3) such other sums as appear to ~~them~~ **it** to be justified by the change.
 - (2) But regulations under sub-paragraph (1) may not apply to a failure which began before the date on which the regulations come into force.
 - (3) The "relevant date", in relation to a specified sum, means—
 - (a) the date on which this ~~Act is passed~~ **Schedule comes into operation**, and
 - (b) each date on which the power conferred by sub-paragraph (1) has been exercised in relation to that sum.

Reasonable excuse

- 4 paragraph 1 or
- (1) A failure by any person to comply with any requirement mentioned in paragraph 1 or 2 does not give rise to a liability to a penalty under this Schedule if the person concerned satisfies—
 - (a) the ~~Commissioners~~ **Treasury**, or
 - (b) on appeal, a tribunal,
 that there is a reasonable excuse for the failure.
 - (2) A failure for which there is a reasonable excuse is to be disregarded for the purposes of paragraph 1(5).
 - (3) For the purposes of this paragraph, in the case of a person (P)—
 - (a) an insufficiency of funds is not a reasonable excuse unless attributable to events outside P's control;
 - (b) where P relies on another person to do anything, that is not a reasonable excuse unless P took reasonable care to avoid the relevant failure;

- (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.

Part 2

Assessments

Power to make assessments

- 5 (1) Where a person becomes liable for a penalty under this Schedule—
- (a) the ~~Commissioners~~ **Treasury** may assess the penalty, and
 - (b) if ~~they do so, they~~ **it does so, it** must notify the amount to that person.
- (2) Where a person is liable to a penalty under paragraph 1 for failure to comply with a requirement imposed by regulations under section 48(2) or 53, no assessment of the penalty may be made under this paragraph unless—
- (a) the ~~Commissioners have~~ **Treasury has** given the person written notice of the consequences of a continuing failure to comply with that requirement, and
 - (b) the notice has been given during the period of 2 years preceding the assessment.
- (3) A notice under sub-paragraph (1) must specify a date, being not later than the date of the notice, to which the amount of the penalty is calculated.
- (4) If the penalty continues to accrue after that date, a further assessment or assessments may be made under this paragraph in respect of the accrued amounts.
- (5) If, within such period as may be notified by the ~~Commissioners~~ **Treasury** to the person liable to a penalty, the failure to comply with a requirement imposed by regulations under section 48(2), or by regulations or a direction under 53, is remedied, it is to be treated as remedied on the date specified under sub-paragraph (3).

Supplementary assessments

- 6 (1) Sub-paragraph (2) applies where—
- (a) an assessment has been notified to a person under paragraph 5, and
 - (b) it appears to the ~~Commissioners~~ **Treasury** that the amount which ought to have been assessed as due exceeds the amount that has already been assessed.
- (2) The ~~Commissioners~~ **Treasury** may—
- (a) make a supplementary assessment of the amount due from the person, and
 - (b) notify the amount to that person.

Further provision about assessments under this Schedule

- 7
5 or
- (1) Where an amount has been assessed and notified to a person under paragraph 6, it is recoverable on the basis that it is an amount of soft drinks industry levy due from that person.
 - (2) But sub-paragraph (1) does not have effect if, or to the extent that, the assessment has been withdrawn or reduced.

Time limits for assessments

- 8
relevant
- (1) An assessment under paragraph 5 may not be made after the end of the period.
 - (2) Except in a case within sub-paragraph (3), the relevant period is the period of 4 years from the end of the accounting period to which the assessment relates.
 - (3) Where an assessment of an amount due from a person in a case involving loss of soft drinks industry levy—
 - (a) brought about deliberately by the person, or
 - (b) attributable to a failure by the person to comply with a requirement imposed by regulations under section 53 (records),the relevant period is the period of 20 years from the end of the accounting period to which the assessment relates.
 - (4) In sub-paragraph (3)(a) the reference to loss brought about deliberately by a person includes a reference to a loss brought about as a result of the deliberate inaccuracy in a document given to **HMRG the Treasury** by the person.
 - (5) In sub-paragraphs (3) and (4) references to a loss brought about by a person include references to a loss brought about by another person acting on behalf of that person.

Further provision about notices

- 9
representative
- (1) A notice of an assessment under paragraph 5 or 6 given to a person's representative is to be treated for the purposes of this Schedule as a notice given to the person in relation to whom the representative acts.
 - (2) In this paragraph "representative", in relation to a person, has the meaning given by paragraph 16(2) of Schedule 8.
- 10 A notice under this Schedule may be given to a person by sending it to that person by post, addressed to the person's last known address.

SCHEDULE 10

Soft drinks industry levy: appeals and reviews

Part 1

Appealable decisions

Appealable decisions

- 1 A person may appeal against ~~a decision of the Commissioners~~ **a decision of the Treasury** or an officer of ~~Revenue and Customs~~ in respect of any of the following matters—
- (a) whether or not a person is liable to pay an amount of soft drinks industry levy;
 - (b) whether or not the ~~Commissioners~~ **Treasury is** liable to repay an amount to a person under paragraph 8(2) of Schedule 8 (overpaid levy);
 - (c) whether or not the repayment of an amount under that paragraph is excessive (see paragraph 12 of that Schedule);
 - (d) whether or not a person is liable to pay an amount to the ~~Commissioners~~ **Treasury** in pursuance of an obligation imposed by regulations under paragraph 11(3)(b), (c) or (e) of Schedule 8 (reimbursement arrangements);
 - (e) whether or not a person is liable to a penalty under paragraph 1(1) or (6) or 2(1) or (3) of Schedule 9 (requirements to keep records etc: penalties);
 - (f) the amount of soft drinks industry levy payable by a person;
 - (g) the amount that the ~~Commissioners~~ **Treasury is** liable to repay to a person under paragraph 8(2) of Schedule 8;
 - (h) where repayment of an amount under that paragraph is excessive, the amount of the excess;
 - (i) the amount that a person is liable to pay to the ~~Commissioners~~ **Treasury** in pursuance of an obligation imposed by regulations under paragraph 11(3)(b), (c) and (e) of Schedule 8;
 - (j) the amount of a penalty payable under paragraph 1(1) or (6) or 2(1) or (3) of Schedule 9;
 - (k) the determination of a dilution ratio under section 27(2)(b);
 - (l) the registration, or cancellation of registration, of a person under this Part for the purposes of soft drinks industry levy;
 - (m) the period by reference to which payments of soft drinks industry levy are to be made;
 - (n) a person's entitlement to a tax credit, the withdrawal of a tax credit, the amount of a tax credit or the period for which a tax credit is to be brought into account under regulations under section 39;

- (o) the giving of a direction by the ~~Commissioners~~ **The Treasury** under section 53(2) (keeping and preserving records).

Part 2

Reviews

Offer of review

- 2 (1) ~~HMRC~~ **The Treasury** must offer a person (P) a review of a decision that has been notified to P if an appeal in respect of the decision may be brought under paragraph 1.
- (2) The offer of the review must be made by notice given to P at the same time as the decision is notified to P.
- (3) This paragraph does not apply to the notification of the conclusions of a review.

Right to require review

- 3 (1) Any person (other than P) who has the right of appeal under paragraph 1 against a decision may require ~~HMRC~~ **the Treasury** to review that decision if that person has not appealed to the appeal tribunal.
- (2) A notification that such a person requires a review must be made within 30 days of that person becoming aware of the decision.

Review by ~~HMRC~~ the Treasury

- 4 (1) ~~HMRC~~ **The Treasury** must review a decision if—
- (a) ~~they have~~ **it has** offered a review of the decision under paragraph 2, and
- (b) P notifies ~~HMRC~~ **the Treasury** accepting the offer within 30 days from the date of the document containing the notification of the offer.
- (2) But P may not notify acceptance of the offer if P has already appealed to the appeal tribunal under paragraph 1.
- (3) ~~HMRC~~ **The Treasury** must review a decision if a person other than P notifies them under paragraph 3.
- (4) ~~HMRC~~ **The Treasury** may not review a decision if P, or another person, has appealed to the appeal tribunal under paragraph 1 in respect of the decision.

Extensions of time

- 5 (1) If under paragraph 2 ~~HMRC have~~ **the Treasury has** offered P a review of a decision, ~~HMRC~~ **the Treasury** may within the relevant period notify P that the relevant period

is extended.

- (2) If under paragraph 3 another person may require ~~HMRC~~ **the Treasury** to review a matter, ~~HMRC~~ **the Treasury** may within the relevant period notify the other person that the relevant period is extended.
- (3) If notice is given the relevant period is extended to the end of 30 days from—
 - (a) the date of the notice, or
 - (b) any other date set out in the notice or a further notice.
- (4) In this paragraph “relevant period” means—
 - (a) the period of 30 days referred to in—
 - (i) paragraph 4(1)(b) (in a case falling within sub-paragraph (1)), or
 - (ii) paragraph 3(2) (in a case falling within sub-paragraph (2)), or
 - (b) if notice has been given under sub-paragraph (1) or (2), that period as extended (or as most recently extended) in accordance with sub-paragraph (3).

Review out of time

- 6 (1) This paragraph applies if—
 - (a) ~~HMRC have~~ **the Treasury has** offered a review of a decision under paragraph 2 and P does not accept the offer within the time allowed under paragraph 4(1)(b) or 5(3), or
 - (b) a person who requires a review under paragraph 3 does not notify ~~HMRC~~ **the Treasury** within the time allowed under that paragraph or paragraph 5(3).
- (2) ~~HMRC~~ **The Treasury** must review the decision under paragraph 4 if—
 - (a) after the time allowed, P, or the other person, notifies ~~HMRC~~ **the Treasury** in writing requesting a review out of time,
 - (b) ~~HMRC are~~ **the Treasury is** satisfied that P, or the other person, had a reasonable excuse for not accepting the offer or requiring review within the time allowed, and
 - (c) ~~HMRC are~~ **the Treasury is** satisfied that P, or the other person, made the request without unreasonable delay after the excuse had ceased to apply.
- (3) ~~HMRC~~ **The Treasury** may not review a decision if P, or another person, has appealed to the appeal tribunal under paragraph 1 in respect of the decision.

Nature of review etc.

- 7 (1) This paragraph applies if ~~HMRC are~~ **the Treasury is** required to undertake a review

under paragraph 4 or 6.

- (2) The nature and extent of the review are to be such as appear appropriate to ~~HMRC~~ **the Treasury** in the circumstances.
- (3) For the purposes of sub-paragraph (2), ~~HMRC~~ **the Treasury** must, in particular, have regard to steps taken before the beginning of the review—
 - (a) by ~~HMRC~~ **the Treasury** in reaching the decision, and
 - (b) by any person in seeking to resolve disagreement about the decision.
- (4) The review must take account of any representations made by P, or the other person, at a stage which gives ~~HMRC~~ **the Treasury** a reasonable opportunity to consider them.
- (5) The review may conclude that the decision is to be—
 - (a) upheld,
 - (b) varied, or
 - (c) cancelled.
- (6) ~~HMRC~~ **The Treasury** must give P, or the other person, notice of the conclusions of the review and their reasoning within—
 - (a) a period of 45 days beginning with the relevant date, or
 - (b) such other period as ~~HMRC~~ **the Treasury** and P, or the other person, may agree.
- (7) In sub-paragraph (6) “relevant date” means—
 - (a) the date ~~HMRC~~ **the Treasury** received P’s notification accepting the offer of a review (in a case falling within paragraph 2), or
 - (b) the date ~~HMRC~~ **the Treasury** received notification from another person requiring review (in a case falling within paragraph 3), or
 - (c) the date on which ~~HMRC~~ **the Treasury** decided to undertake the review (in a case falling within paragraph 6).
- (8) Where ~~HMRC~~ **the Treasury** is required to undertake a review but do not give notice of the conclusions within the period specified in sub-paragraph (6), the review is to be treated as having concluded that the decision is upheld.
- (9) If sub-paragraph (8) applies ~~HMRC~~ **the Treasury** must notify P, or the other person, of the conclusion which the review is treated as having reached.

Service of notices

- 8 A notice under this Schedule may be given to a person by sending it to that person by post, addressed to the person’s last known address.

Appeals

"Appeal tribunal"

- 9 In this Schedule "appeal tribunal" means the ~~First-tier Tribunal or, where determined by or under Tribunal Procedure Rules, the Upper Tribunal~~ **VAT and Duties Tribunal**.

Bringing of appeals

- 10 (1) An appeal under paragraph 1 is to be made to the appeal tribunal before—
- (a) the end of the period of 30 days beginning with—
 - (i) in a case where P is the appellant, the date of the document notifying the decision to which the appeal relates, or
 - (ii) in a case where a person other than P is the appellant, the date that person becomes aware of the decision, or
 - (b) if later, the end of the relevant period (within the meaning of paragraph 5).
- (2) But that is subject to sub-paragraphs (3) to (5).
- (3) In a case where ~~HMRC are~~ **the Treasury is** required to undertake a review under paragraph 4—
- (a) an appeal may not be made until the conclusion date, and
 - (b) any appeal is to be made within the period of 30 days beginning with the conclusion date.
- (4) In a case where ~~HMRC are~~ **the Treasury is** requested to undertake a review by virtue of paragraph 6—
- (a) an appeal may not be made to the appeal tribunal—
 - (i) unless ~~HMRC have~~ **the Treasury has** notified P, or the other person, as to whether or not a review will be undertaken, and
 - (ii) if ~~HMRC have~~ **the Treasury has** notified P, or the other person, that a review will be undertaken, until the conclusion date;
 - (b) any appeal where paragraph (a)(ii) applies is to be made within the period of 30 days beginning with the conclusion date;
 - (c) if ~~HMRC have~~ **the Treasury has** notified P, or the other person, that a review will not be undertaken, an appeal may be made only if the appeal tribunal gives permission to do so.
- (5) In a case where paragraph 7(8) applies, an appeal may be made at any time from the end of the period specified in paragraph 7(6) to the date 30 days after the conclusion date.

- (6) An appeal may be made after the end of the period specified in sub-paragraph (1), (3)(b), (4)(b) or (5) if the appeal tribunal gives permission to do so.
- (7) In this paragraph “conclusion date” means the date of the document notifying the conclusions of the review.

Appeals: further provision

11
due

- (1) An appeal relating to a decision that an amount of soft drinks industry levy is from a person may not be considered by the appeal tribunal unless the amount which ~~HMRC have~~ **the Treasury has** determined to be due has been paid or deposited with ~~them~~ **it**.
- (2) In a case where the amount determined to be payable as soft drinks industry levy has not been paid or deposited an appeal may be considered—
- (a) if ~~HMRC are~~ **the Treasury is** satisfied (on the application of the appellant), or
- (b) if ~~HMRC are~~ **the Treasury is** not satisfied, the appeal tribunal decides, that the requirement to pay or deposit the amount determined would cause the appellant to suffer hardship.
- ~~(3) Notwithstanding the provisions of sections 11 and 13 of the Tribunals, Courts and Enforcement Act 2007 (rights of appeal) the decision of the appeal tribunal as to the issue of hardship is final.~~

Determinations on appeal

- 12 On an appeal against a decision mentioned in paragraph 1(a) or (c) to (e), the appeal tribunal may affirm or cancel the decision.
- 13 On an appeal against a decision mentioned in paragraph 1(f) to (j), the appeal tribunal may—
- (a) affirm the decision, or
- (b) substitute for that decision another decision that the ~~Commissioners~~ **Treasury** had power to make.
- 14 Subject to paragraph 15, on an appeal against a decision mentioned in paragraph 1(b) or (k) to (o), the appeal tribunal may—
- (a) affirm or cancel the decision;
- (b) substitute for that decision another decision that the ~~Commissioners~~ **Treasury**, or (as the case may be) an officer of ~~Revenue and Customs~~ had power to make;
- (c) vary the decision;
- (d) direct that the decision, so far as it remains in force, is to cease to have effect from such time as the tribunal may direct;

(e) require ~~HMRC~~ **the Treasury** to conduct a review, or a further review, of the decision.

15
appeal

(1) On an appeal against a decision mentioned in paragraph 1(k), (n) or (o), the tribunal may allow the appeal only if it considers that—

(a) the ~~Commissioners~~ **Treasury** could not reasonably have been satisfied that there were grounds for the decision, or

(b) if information brought to the attention of the appeal tribunal had been available to the ~~Commissioners~~ **Treasury** at the time the decision was made, the ~~Commissioners~~ **Treasury** could not reasonably have been satisfied that there were grounds for the decision.

(2) Where sub-paragraph (1) applies in relation to a decision mentioned in paragraph 1(o) (giving of a direction), the direction has effect pending the determination of the appeal.