

Statutory Document No. 2019/0184

*Finance Act 2017*

## SOFT DRINKS INDUSTRY LEVY (ENFORCEMENT) (NO. 2) REGULATIONS 2019

*Laid before Tynwald:* 21<sup>st</sup> May 2019  
*Coming into Operation:* 1 April 2019

The Treasury makes the following Regulations under section 54 of the Finance Act 2017<sup>1</sup>, as it has effect in the Island.

### 1 Title

These Regulations are the Soft Drinks Industry Levy (Enforcement) (No. 2) Regulations 2019.

### 2 Commencement

These Regulations come into operation on 2 April 2019<sup>2</sup>.

### 3 Enforcement and application of provisions of the Customs and Excise Management Act 1986

- (1) The provisions of the Customs and Excise Management Act 1986 listed in the table in the Schedule apply for the purposes of enforcement of soft drinks industry levy<sup>3</sup>.
- (2) Regulations 4 to 6 apply in respect of the application of those provisions for those purposes.

### 4 Treatment of Part 2 of the Finance Act 2017, as it has effect in the Island, soft drinks industry levy and chargeable soft drinks for the purposes of the Customs and Excise Management Act 1986

- (1) Part 2 of the Finance Act 2017, as it has effect in the Island, is to be treated as an enactment relating to customs or excise for the purposes of

<sup>1</sup> Part 2 of the Finance Act 2017 was applied in the Island by SD 2019/0051.

<sup>2</sup> Tynwald Procedure - laying only under section 60 of the Finance Act 2017, as it has effect in the Island by SD 2019/0051.

<sup>3</sup> Soft drinks industry levy is defined in section 25(1) of the Finance Act 2017, as it has effect in the Island.

“the customs and excise Acts” in section 184(1) of the Customs and Excise Management Act 1986.

- (2) Soft drinks industry levy is to be treated as a duty of excise on goods for the purposes of “the revenue trade provisions of the customs and excise Acts” in section 184(1) of the Customs and Excise Management Act 1986.
- (3) Chargeable soft drinks<sup>4</sup> are to be treated as goods of a class or description which is subject to a duty of excise for the purposes of “revenue trader” in section 184(1) of the Customs and Excise Management Act 1986.

## **5 Fraudulent evasion of soft drinks industry levy treated as a “fraud offence”**

An offence under section 50 (fraudulent evasion) of the Finance Act 2017, as it has effect in the Island, is to be treated as a “fraud offence” for the purposes of section 124C(3) and (4) of the Customs and Excise Management Act 1986<sup>5</sup>.

## **6 Chargeable soft drinks liable to forfeiture**

- (1) For the purposes of the listed provisions, chargeable soft drinks are to be treated as if they were things liable to forfeiture under the customs and excise Acts where in respect of the drinks —
  - (a) a person is in contravention of section 35 (liability to pay the levy);
  - (b) a person has committed an offence under section 50 (fraudulent evasion); or
  - (c) a person has, contrary to regulations<sup>6</sup> made under section 52 (payment, collection and recovery) —
    - (i) failed to make a return; or
    - (ii) made a return which is incomplete or inaccurate.
- (2) References to sections in paragraph (1) are to those sections of the Finance Act 2017, as they have effect in the Island.
- (3) In paragraph (1), “the listed provisions” means the following provisions of the Customs and Excise Management Act 1986 —
  - (a) section 146;
  - (b) sections 151 to 163;
  - (c) section 166; and
  - (d) Schedules 2A and 3.

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<sup>4</sup> Chargeable soft drinks are defined in section 28 of the Finance Act 2017, as it has effect in the Island.

<sup>5</sup> Section 124C was inserted by GC 294/91 and amended by section 29(3) of the Criminal Justice, Police Powers and Other Amendments Act 2014.

<sup>6</sup> The Soft Drinks Industry Levy Regulations 2019 include regulations made under section 52.

**7 Revocation**

The Soft Drinks Industry Levy (Enforcement) Regulations 2019<sup>7</sup> are hereby revoked.

**MADE 01/04/2019**

**A L CANNAN**  
*Minister for the Treasury*

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<sup>7</sup> SD 2019/0053.



## SCHEDULE

[Regulation 3(1)]

<b>Provision of the Customs and Excise Management Act 1986</b>	<b>Description</b>
Section 19	Officers' powers of boarding
Section 20	Officers' powers of access, etc
Sections 117 and 117A <sup>8</sup>	Power of entry upon premises, etc of revenue traders and supplementary powers
Section 124BB <sup>9</sup>	Inspection powers: goods-based duties
Section 124BD <sup>10</sup>	Inspection powers: supplementary provisions
Section 124C	Entry and search of premises and persons
Section 146 and sections 151 to 163	Forfeiture and legal proceedings
Sections 165 to 167 <sup>11</sup>	General and miscellaneous powers
Section 170 <sup>12</sup>	Power to search vehicles or vessels
Schedule 2A <sup>13</sup>	Supplementary provisions relating to the detention of things liable to forfeiture
Schedule 3 <sup>14</sup>	Provisions relating to forfeiture

<sup>8</sup> Section 117A was inserted by SD 185/11.

<sup>9</sup> Section 124BB was inserted by SD 185/11.

<sup>10</sup> Section 124BD was inserted by SD 185/11 and amended by SD 668/12.

<sup>11</sup> Section 165 amended by the Police Powers and Procedures Act 1998. Section 166 amended by GC 271/88, the Police Powers and Procedures Act 1998 and SD 637/08.

<sup>12</sup> Section 170 was amended by GC 396/92.

<sup>13</sup> Schedule 2A was inserted by SD 294/13 and amended by SD 2016/0273.

<sup>14</sup> Schedule 3 was amended by the Performers' Protection Act 1996 and SD 2016/0273.

*EXPLANATORY NOTE**(This note is not part of the Regulations)*

These Regulations concern enforcement in relation to the soft drinks industry levy (“the levy”) introduced by the Soft Drink Industry Levy (Application) Order 2018<sup>15</sup>, which applies Part 2 of the Finance Act 2017 (c.10 of Parliament) to the Island.

Regulation 3 applies the provisions of the Customs and Excise Management Act 1986 (“CEMA 1986”) listed in the table in the Schedule for the purposes of enforcement of the levy.

Provisions of CEMA 1986 apply by reference to “the customs and excise Acts”, “the revenue trade provisions of the customs and excise Acts” and “revenue trader”, expressions defined in section 184(1) of CEMA 1986. Regulation 4 provides that Part 2 of the Finance Act 2017, as it has effect in the Island, soft drinks industry levy and chargeable soft drinks are to be treated, respectively, as an enactment, a duty of excise and goods liable to duty for the purposes of those expressions.

Regulation 5 provides that an offence under section 50 (fraudulent evasion) of the Finance Act 2017, as it has effect in the Island, is to be treated as a “fraud offence” for the purposes of section 124C(3) and (4) of CEMA 1986, which section relates to entry and search of premises and persons.

Regulation 6 provides that for the purposes of the provisions of CEMA listed, chargeable soft drinks are to be treated as if they were things liable to forfeiture under the customs and excise Acts (defined in section 184(1) of CEMA 1986) in the cases described in the regulation.

Regulation 7 revokes the Soft Drinks Industry Levy (Enforcement) Regulations 2019 which were made in error<sup>16</sup>.

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<sup>15</sup> SD 2019/0051.

<sup>16</sup> SD 2019/0053.