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## **PART 1**

### PLASTIC PACKAGING TAX

#### *Introductory*

#### **1 Plastic packaging tax**

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

#### *Charging of plastic packaging tax*

#### **2 Charge to plastic packaging tax**

- (1) The charge to plastic packaging tax arises when a chargeable plastic packaging component is –
  - (a) produced in the United Kingdom by a person acting in the course of a business, or
  - (b) imported into the United Kingdom on behalf of such a person.
- (2) The reference in subsection (1) to “a business” includes any activity of a government department or other public authority, or of a charity, that is carried out for commercial purposes.
- (3) Subsection (1) is subject to section 11 (exempt plastic packaging components).

#### **3 Liability to pay plastic packaging tax**

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

#### **4 Rate**

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

## 5 Payment

- (1) Plastic packaging tax is to be paid by reference to accounting periods determined in accordance with regulations under section 19 (regulations about the payment, collection and recovery of plastic packaging tax).
- (2) References in this Part to “accounting periods” are to those accounting periods.

### *Interpretation*

## 6 Chargeable plastic packaging components

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

## 7 Meaning of “plastic packaging component”

- (1) A “packaging component” is –
  - (a) a product that is designed to be used, whether alone or in combination with other products, in the containment, protection, handling, delivery or presentation of goods, at any stage in the transportation of the goods from the producer to the user or consumer;
  - (b) a product not within paragraph (a) that is designed to be used solely or mainly by a user or consumer for the transportation, storage or preservation of goods.
- (2) A “plastic packaging component” is a packaging component that contains more plastic, when measured by weight, than any other single substance listed in regulations under subsection (6)(a).
- (3) A packaging component that contains plastic is taken to be a plastic packaging component unless it is shown that it is not such a component.
- (4) The Treasury may by regulations amend the meaning of “packaging component” by –
  - (a) adding descriptions of products, or

- (b) removing descriptions of products.
- (5) Regulations under subsection (4) may amend this Part.
- (6) The Commissioners may by regulations –
  - (a) list substances for the purposes of subsection (2);
  - (b) make provision about the methodology to be used, or the information or evidence required, to satisfy them that a packaging component that contains plastic is not a plastic packaging component.

## **8 Meaning of “plastic” and “recycled plastic”**

- (1) “Plastic” means a material consisting of a polymer, other than a cellulose-based polymer that has not been chemically modified, to which additives or other substances may have been added.
- (2) “Recycled plastic” is plastic that has been reprocessed from recovered material by means of a chemical or manufacturing process so that it can be used either for its original purpose or for other purposes.
- (3) The reference to a chemical or manufacturing process in subsection (2) does not include organic recycling.
- (4) “Recovered material” is pre-consumer material or post-consumer material that –
  - (a) has been collected and recovered as a material input, in lieu of new primary material, for a recycling or a manufacturing process, and
  - (b) would otherwise have been disposed of as waste or used for energy recovery.
- (5) “Pre-consumer material” is material that is –
  - (a) recovered from waste generated in a manufacturing process, and
  - (b) processed by a reprocessing facility.
- (6) “Post-consumer material” is material –
  - (a) that is generated by households or by commercial, industrial or institutional facilities in their role as end-users of the product, and
  - (b) that can no longer be used for its intended purpose.

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

## **9 Meaning of “imported”**

- (1) A chargeable plastic packaging component is imported into the United Kingdom –

- (a) in the case of a component that is subject to customs formalities within the meaning given by section 1(1) of the Customs and Excise Management Act 1979, as soon as all such formalities have been complied with in respect of the component, and
  - (b) in any other case, at the time of importation for the purposes of the customs and excise Acts.
- (2) In subsection (1)(b), “the customs and excise Acts” has the same meaning as in the Customs and Excise Act 1979 (see section 1(1) of that Act).
- (3) This section is subject to section 32 (Isle of Man: import and export of chargeable plastic packaging components).

*Deferrals, exemptions etc*

## 10 Plastic packaging components intended for export

- (1) A person’s liability to account for an amount by way of plastic packaging tax in relation to a plastic packaging component is –
- (a) deferred for as long as the direct export condition is met in relation to the component;
  - (b) cancelled if the component is exported from the United Kingdom before the end of the deferral period in accordance with regulations made by the Commissioners.
- (2) The direct export condition is met in relation to a component at any time if –
- (a) the time is within the deferral period;
  - (b) the person who is liable to pay the tax (“the liable person”) intends to export it (and has intended to export it at all times since it was produced or imported);
  - (c) any other conditions or requirements specified in regulations made by the Commissioners are met.
- (3) If the Commissioners are not satisfied of any matter within subsection (2) in relation to a component they may –
- (a) in a case where they are satisfied that the direct export condition was met but no longer is, notify the liable person that the condition is to be taken to have ceased to be met in relation to that component from a date specified in the notification, or
  - (b) in any other case, notify the liable person that the direct export condition is to be taken never to have been met in relation to that component.
- (4) The consequence of notification is that liability to account for an amount by way of plastic packaging tax –
- (a) in a case within subsection (3)(a), ceases to be deferred in accordance with subsection (1)(a) with effect from such date as the Commissioners may specify in the notification, or
  - (b) in a case within subsection (3)(b), is taken never to have been deferred in accordance with subsection (1)(a).
- (5) The deferral period in relation to a component is the period of 12 months beginning with the day on which the component is produced or imported.

- (6) This section does not apply to plastic packaging components that are used in the removal of goods from the United Kingdom and that are –
- (a) transport packaging or tertiary packaging within the meaning of regulation 3(2)(c) of the Packaging (Essential Requirements) Regulations 2015 (S.I. 2015/1640), or
  - (b) road, rail, ship and air containers.
- (7) This section is subject to section 32 (Isle of Man: import and export of chargeable plastic packaging components).

## 11 Exempt plastic packaging components

- (1) No charge to plastic packaging tax arises by virtue of section 2(1)(b) in relation to plastic packaging components that are used in the delivery of goods into the United Kingdom and that are –
- (a) transport packaging or tertiary packaging within the meaning of regulation 3(2)(c) of the Packaging (Essential Requirements) Regulations 2015 (S.I. 2015/1640), or
  - (b) road, rail, ship and air containers.
- (2) No charge to plastic packaging tax arises in relation to plastic packaging components if subsection (3), (4) or (6) applies to them.
- (3) This subsection applies to plastic packaging components if they are stores within the meaning of the Customs and Excise Management Act 1979 (see section 1 of that Act).
- (4) This subsection applies to plastic packaging components if they were produced or imported for use in the immediate packaging of a medicinal product.
- (5) In subsection (4) –
- “immediate packaging”, in relation to a medicinal product, has the meaning given by regulation 8(1) of the Human Medicines Regulations 2012 (S.I. 2012/1916);
  - “medicinal product” has the meaning given by regulation 2(1) of those Regulations.
- (6) This subsection applies to plastic packaging components if –
- (a) before or as soon as they have been produced or imported they are permanently designated or set aside for use other than as mentioned in section 7(1), and
  - (b) the producer or person on whose behalf they were imported keeps a record of that designation or setting aside.
- (7) The Treasury may by regulations make provision creating further exemptions from plastic packaging tax.

## 12 Tax credits

- (1) The Commissioners may by regulations make provision in relation to cases where after a person has become liable to account for plastic packaging tax in respect of a prescribed plastic packaging component (the “charged component”), that component is –
- (a) exported from the United Kingdom;

- (b) converted into a different packaging component.
- (2) The provision that may be made is provision –
- (a) for the person to be entitled to a tax credit in respect of any plastic packaging tax charged on the charged component;
  - (b) for the tax credit to be brought into account when the person is accounting for plastic packaging tax due from the person for the prescribed accounting period or periods;
  - (c) for the person to be entitled to a repayment of plastic packaging tax (instead of a tax credit) in prescribed cases.
- (3) Regulations under this section may include provision –
- (a) for any entitlement to a tax credit to be conditional on the making of a claim by the person, and specifying the period within which and the manner in which a claim may be made;
  - (b) for any entitlement to a tax credit or to bring a tax credit into account to be –
    - (i) conditional on compliance with prescribed requirements;
    - (ii) subject to prescribed minimum or maximum amounts;
  - (c) specifying circumstances in which, and criteria for determining the period for which, the person is or is not entitled to a tax credit;
  - (d) requiring a claim for a tax credit to be evidenced and quantified by reference to prescribed records and other documents;
  - (e) requiring a person claiming any entitlement to a tax credit to keep, for the prescribed period and in the prescribed form and manner, those records and documents and a record of prescribed information relating to the claim;
  - (f) for the withdrawal of a tax credit where any requirement of the regulations is not complied with;
  - (g) about adjustments of liability for plastic packaging tax in connection with entitlement or withdrawal of an entitlement to a tax credit in prescribed circumstances;
  - (h) about the treatment of a tax credit where the person ceases to carry on a business or otherwise is no longer liable to plastic packaging tax;
  - (i) for anything falling to be determined in accordance with the regulations to be determined by reference to a general or specific direction given in accordance with the regulations by the Commissioners;
  - (j) about the meaning of “converted” for the purposes of subsection (1)(b).
- (4) In this section, “prescribed” means specified in or under, or determined in accordance with provision made in or under, regulations under this section.

### *Registration*

## **13 The register**

- (1) The Commissioners must establish and maintain a register for the purposes of collecting and managing plastic packaging tax.
- (2) The register may contain such information as the Commissioners think is required for those purposes.

- (3) In this Part, “the register” means the register under subsection (1) and references to registration are to registration in it.

#### **14 Liability to register: producers and importers**

- (1) A person (P) who—
- (a) produces finished plastic packaging components, or
  - (b) on whose behalf finished plastic packaging components are imported,
- becomes liable to be registered on a given day if subsection (2) applies in relation to P on that day.
- (2) This subsection applies—
- (a) on any day, where there are reasonable grounds for believing that the amount of finished plastic packaging components that will be produced by, or imported on behalf of, P within the period of 30 days beginning with that day will equal or exceed 10 metric tonnes, or
  - (b) on the first day of any calendar month, where the amount of finished plastic packaging components produced by, or imported on behalf of, P over the 12 months ending with the day before that day equals or exceeds 10 metric tonnes.
- (3) Finished plastic packaging components to which section 11(1) or (3) applies are not to be taken into account for the purposes of subsection (2).
- (4) In the application of subsection (2)(b) to the first day of a month falling within the year beginning with 1 April 2022, that paragraph has effect as if for “over the 12 months” there were substituted “during the period beginning with 1 April 2022 and”.

#### **15 Notification of liability and registration**

- (1) A person who becomes liable to be registered under section 14 must notify the Commissioners of the liability before the end of the notification period.
- (2) The “notification period” is the period of 30 days beginning with the day on which the liability arises.
- (3) Where the Commissioners are satisfied that a person is liable to be registered (whether or not the person has notified liability under subsection (1)), the Commissioners must register the person with effect from the day on which the liability arises.
- (4) The Commissioners may by or under regulations make provision—
- (a) about the form and manner in which a notification under this section is to be given;
  - (b) about the information to be contained in or provided with a notification under this section;
  - (c) for the Commissioners to require further information from a person in connection with that person’s registration;
  - (d) requiring notifications and other communications with the Commissioners in connection with registration to be made electronically.

**16 Cancellation of registration**

- (1) A registration under section 14 may be cancelled only in accordance with this section.
- (2) The Commissioners may cancel a person's registration if –
  - (a) the person requests the cancellation, and
  - (b) the person satisfies the Commissioners that the person does not, on the day of the request, meet the liability condition.
- (3) The Commissioners may cancel a person's registration if they are satisfied that the person does not meet the liability condition and has not met the liability condition for a period of at least 12 months.
- (4) The Commissioners may cancel a person's registration if they are satisfied that the person did not meet the liability condition on the day on which the person was registered, and has not at any subsequent time met the liability condition.
- (5) A cancellation under subsection (2) is to be made with effect from –
  - (a) the day on which the request is made, or
  - (b) such later day as may be agreed between the Commissioners and that person.
- (6) A cancellation under subsection (3) is to be made with effect from –
  - (a) the day on which the person ceased to meet the liability condition, or
  - (b) such later day as may be agreed between the Commissioners and that person.
- (7) A cancellation under subsection (4) is to be made with effect from the day on which the person was registered.
- (8) But the Commissioners must not cancel a person's registration under subsection (2) or (3) if –
  - (a) there are outstanding amounts of plastic packaging tax, or amounts recoverable as plastic packaging tax, due from that person, or
  - (b) there is one or more outstanding returns for the purposes of plastic packaging tax due from that person.
- (9) The Commissioners may decline to cancel a person's registration on any day if they reasonably believe that the person will become liable to be registered under section 14 during the period of 12 months beginning with that day.
- (10) For the purposes of this section, a person meets the liability condition on a particular day if –
  - (a) the condition in 14(2)(a) is met in relation to that person on that day,
  - (b) the day is the first day of a month and the condition in 14(2)(b) is met in relation to that person on that day, or
  - (c) the day is in the same month as a day on which the condition in 14(2)(b) was met in relation to that person.

**17 Correction of the register**

- (1) The Commissioners may by regulations make provision about the correction of entries in the register.

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

*Administration and enforcement*

## **18 Measurement of weight etc**

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

## **19 Payment, collection and recovery**

- (1) The Commissioners may by regulations make provision about the payment, collection and recovery of plastic packaging tax.
- (2) Regulations under subsection (1) may –
  - (a) make provision for determining the periods (“accounting periods”) by reference to which payments of plastic packaging tax are to be made;
  - (b) require persons who are registered or who are liable to be registered under section 14 (“relevant persons”) to keep accounts for the purposes of plastic packaging tax in the specified form and manner;
  - (c) require relevant persons to make returns for the purposes of plastic packaging tax;
  - (d) make provision about the times at which payments of plastic packaging tax are to be made and methods of payment;
  - (e) require the amounts payable by reference to accounting periods to be calculated by or under the regulations;
  - (f) make provision for the correction of errors made in accounting for plastic packaging tax.
- (3) Provision may be made by or under regulations under subsection (2)(c) about –
  - (a) the form and manner of making returns;
  - (b) the information to be included in returns;
  - (c) the periods by reference to which returns are to be made;

(d) timing.

(4) Schedule 1 makes provision about recovery, overpayments and set-off.

## **20 Reviews and appeals**

Schedule 2 makes provision about reviews and appeals.

## **21 Records**

- (1) The Commissioners may by or under regulations require persons –
  - (a) to keep, for the purposes connected with plastic packaging tax, records of specified matters, and
  - (b) to preserve records for a specified period.
- (2) A duty under regulations under subsection (1) to preserve records may be discharged by preserving them, or the information contained in them, in any form and by any means, subject to any conditions or exceptions specified in the regulations.
- (3) The Commissioners 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 period specified in the direction.
- (4) The Commissioners 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 plastic packaging components in respect of which plastic packaging tax might not be paid.
- (5) A direction under subsection (3) –
  - (a) must be in writing,
  - (b) must specify the consequences under section 36 of a failure to comply with a requirement imposed under that section, and
  - (c) may be revoked or replaced by a further direction.
- (6) The period specified in regulations under subsection (1) or in a direction under subsection (3)(b) may not exceed 6 years beginning with the end of the accounting period to which the records relate.

## **22 Information and evidence**

Schedule 3 makes provision about the collection and sharing of information and about evidence.

## **23 Security for tax**

- (1) The Commissioners may by regulations prescribe circumstances in which a person who is liable to be registered under section 14 may be required to give security (or further security) of such amount and in such manner as the Commissioners may determine for the payment of any plastic packaging tax due, or which may become due, from the person.
- (2) The Commissioners may only exercise the power in subsection (1) if they consider it is necessary for the protection of the revenue.

*Miscellaneous***24 Statements for business customers**

- (1) A person who –
  - (a) supplies to a business customer a plastic packaging component in respect of which a charge to plastic packaging tax has arisen, and
  - (b) is liable to account for plastic packaging tax on that componentmust, when invoicing that customer in respect of that component, include with that invoice a statement of the amount of plastic packaging tax arising in relation to that component (a “PPT statement”).
- (2) A PPT statement must contain such particulars as the Commissioners may prescribe in regulations.
- (3) In this section, “business customer” means a person who is supplied with a plastic packaging component in the course of their carrying out a business (within the meaning of section 2(2)).

**25 Tax representatives of non-resident taxpayers**

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

relating to plastic packaging tax (including obligations and liabilities arising or incurred before the representative was appointed).

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

## 26 Adjustment of contracts

- (1) Subsection (2) applies where—
  - (a) a person (S) supplies a chargeable plastic packaging component that S has produced, or that was imported on behalf of S, to another person (P) under a contract,
  - (b) a payment falls to be made under the contract for the supply of the component, and

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

## **27 Groups of companies**

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

## **28 Prevention of artificial separation of business activities: directions**

- (1) This section, and section 29, apply for the purpose of preventing the maintenance or creation of any artificial separation of business activities carried on by two or more persons from resulting in an avoidance of plastic packaging tax.

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- (2) The Commissioners may make a direction under this section naming any person only if they are satisfied that—
    - (a) the person is producing or importing, or has produced or imported, chargeable plastic packaging components,
    - (b) the activities in the course of which the person produces or imports, or produced or imported, chargeable plastic packaging components form only part of certain activities, the other activities being carried on concurrently or previously (or both) by one or more other persons,
    - (c) the activities carried on by those persons have been, or are, artificially separated, having regard to whether the persons carrying on those activities are connected within the meaning of section 1122 of the Corporation Tax Act 2010 (“connected” persons), and
    - (d) if all the activities of those persons were taken into account, a single person carrying on that business would at the time of the direction be liable to be registered by virtue of section 14.
  - (3) Subsection (4) applies where, after making a direction under this section that specifies a description of business, it appears to the Commissioners that a person (P) who was not named in that direction is producing or importing, or has produced or imported, chargeable plastic packaging components in the course of activities which should be regarded as part of the activities of that business.
  - (4) The Commissioners may make a supplementary direction referring to the earlier direction and the description of business specified in it and adding P’s name to those of the persons named in the earlier direction with effect from—
    - (a) the date on which P began to produce or import those components, or
    - (b) if later, the date with effect from which the single taxable person referred to in the earlier direction became liable to be registered under this Part.
  - (5) If, immediately before a direction (including a supplementary direction) is made under this section, any person named in the direction is registered under this Part, the person ceases to be liable to be so registered with effect from the later of—
    - (a) the date with effect from which the single taxable person concerned became liable to be registered, and
    - (b) the date of the direction.
  - (6) A direction under this section must be served on each person named in it.

## **29 Prevention of artificial separation of business activities: effect of directions**

- (1) For the purposes of this Part, where a direction is made under section 28—
  - (a) the persons named in the direction are to be treated as a single taxable person carrying on the activities of a business described in the direction;
  - (b) the taxable person is to be liable to be registered under this Part with effect from—
    - (i) the date of the direction, or
    - (ii) from such later date as may be specified in the direction;
  - (c) the taxable person is to be registrable in such name as—

- (i) the persons named in the direction may jointly nominate in writing to the Commissioners not later than 14 days after the date of the direction, or
    - (ii) if no such name is nominated, in such name as may be specified in the direction;
  - (d) any production or import of chargeable plastic packaging components by or on behalf of one of the constituent members in the course of the activities of the taxable person is to be treated as production by or import on behalf of that person;
  - (e) each of the constituent members is to be jointly and severally liable for any plastic packaging tax due from the taxable person;
  - (f) any failure by the taxable person to comply with any requirement imposed by or under this Part is to be treated as a failure by each of the constituent members severally;
  - (g) subject to the preceding paragraphs, for the purposes of this Part the constituent members are to be treated as a partnership carrying on the business of the taxable person and any question as to the scope of the activities of that business at any time are to be determined accordingly.
- (2) Subsection (3) applies where –
- (a) it appears to the Commissioners that any person (P) who is one of the constituent members should no longer be regarded as such for the purposes of subsection (1)(e) and (f), and
  - (b) the Commissioners give notice to that effect.
- (3) P is not liable by virtue of subsection (1)(e) and (f) for anything done after the date specified in that notice (and accordingly on that date P is to be treated as having ceased to be a member of the partnership referred to in subsection (1)(g)).
- (4) In subsections (1) and (2), the “constituent members” means, in relation to a business specified in a direction under section 28, the persons named in the direction, together with any person named in a supplementary direction relating to that business (together being the persons who are to be treated as the taxable person).

### **30 Death, incapacity or insolvency of person carrying on a business: regulations**

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

- (c) about such other matters as the Commissioners think fit for securing continuity in the application of this Part in cases to which the regulations apply.

### **31 Transfer of business as a going concern: regulations**

- (1) The Commissioners may by regulations make provision for the purposes of plastic packaging tax in relation to cases where any business carried on by a person (P) is transferred to another person (T) as a going concern.
- (2) Regulations under this section may include –
  - (a) provision requiring P to inform the Commissioners of the transfer;
  - (b) provision for P’s liabilities and duties under this Part to become, to such extent as may be provided by the regulations, liabilities and duties of T;
  - (c) provision for any right of either P or T to a tax credit or repayment of plastic packaging tax to be satisfied by allowing the credit or making the repayment to the other;
  - (d) provision as to the preservation of any records or accounts relating to the business which, by virtue of any regulations under section 21, are required to be preserved for any period after the transfer;
  - (e) such other provision as the Commissioners think fit for securing continuity in the application of this Part in cases to which the regulations apply.
- (3) Regulations under this section may provide that no such provision as is mentioned in subsection (2)(b) or (c) has effect in relation to any transferor or transferee unless an application for the purpose has been made by them under the regulations.

### **32 Isle of Man: import and export of chargeable plastic packaging components**

- (1) Subsections (2) and (3) apply if –
  - (a) chargeable plastic packaging components are imported into the United Kingdom from the Isle of Man, and
  - (b) a charge corresponding to plastic packaging tax (the “corresponding charge”) arises in relation to the components under the law of the Isle of Man.
- (2) If the corresponding charge arises at a rate equal to, or greater than, the UK rate, the components are not to be treated as being imported in the United Kingdom for the purposes of section 2.
- (3) If the corresponding charge arises at a rate lower than the UK rate, the amount of plastic packaging tax charged under this Part in relation to the components is to be reduced by an amount equal to the corresponding charge.
- (4) In this section, “the UK rate” in relation to chargeable plastic packaging components is the rate of plastic packaging tax that would (apart from this section) be chargeable in relation to the components under this Part.
- (5) For the purposes of provision made by or under sections 10 and 12, chargeable plastic packaging components are not to be treated as being exported from the United Kingdom if the components are exported to the Isle of Man

*Offences and penalties***33 Fraudulent evasion**

- (1) A person commits an offence if the person is knowingly concerned in, or in the taking of steps with a view to, the fraudulent evasion (by that person or another person) of plastic packaging tax.
- (2) The reference in subsection (1) to the evasion of plastic packaging tax includes reference to obtaining, in circumstances where there is no entitlement to it –
  - (a) a tax credit under section 12;
  - (b) a repayment of plastic packaging tax under section 19.
- (3) A person guilty of an offence under this section is liable –
  - (a) on summary conviction in England and Wales –
    - (i) to imprisonment for a term not exceeding 12 months,
    - (ii) to a fine not exceeding £20,000 or (if greater) three times the total of the amounts of plastic packaging tax that were, or were intended to be, evaded, or
    - (iii) to both;
  - (b) on summary conviction in Scotland –
    - (i) to imprisonment for a term not exceeding 12 months,
    - (ii) to a fine not exceeding the statutory maximum or (if greater) three times the total of the amounts of plastic packaging tax that were, or were intended to be, evaded, or
    - (iii) to both;
  - (c) on summary conviction in Northern Ireland –
    - (i) to imprisonment for a term not exceeding 6 months,
    - (ii) to a fine not exceeding the statutory maximum or (if greater) three times the total of the amounts of plastic packaging tax that were, or were intended to be, evaded, or
    - (iii) to both;
  - (d) on conviction on indictment –
    - (i) to imprisonment for a term not exceeding 7 years,
    - (ii) to a fine, or
    - (iii) to both.
- (4) For the purposes of subsection (3), the amounts of plastic packaging tax that were, or were intended to be, evaded are to be taken as including –
  - (a) the amount of any tax credit under section 12, and
  - (b) the amount of any repayment of plastic packaging tax under section 19, which was, or was intended to be, obtained in circumstances when there was no entitlement to it.
- (5) In determining for the purposes of subsection (3) the amounts of plastic packaging tax that were, or were intended to be, evaded, no account is to be taken of the extent to which any liability to tax of a person would be, or would have been, reduced by the amount of any tax credit or repayment of plastic packaging tax to which the person was, or would have been, entitled.
- (6) In relation to an offence committed before the commencement of paragraph 24(2) of Schedule 22 to the Sentencing Act 2020, the reference in subsection (3)(a)(i) to 12 months is to be read as a reference to 6 months.

**34 Misstatements**

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

the maximum amount of the fine on summary conviction is the greater of £20,000 or the statutory maximum (as the case may be), and the amount equal to three times the sum of the amounts (if any) by which the return underestimates any person’s liability to plastic packaging tax.
- (5) In subsection (4) the reference to the amount by which a person’s liability to plastic packaging tax is understated is the sum of –
  - (a) the amount (if any) by which the person’s gross liability was understated, and
  - (b) the amount (if any) by which any entitlements of the person to tax credits and repayments of plastic packaging tax were overstated.
- (6) In subsection (5) “gross liability” means liability to plastic packaging tax before any deduction is made in respect of –

- (a) any entitlement to any tax credits under section 12 (tax credits), or
- (b) repayment of plastic packaging tax under section 19 (repayment etc).

### **35 Conduct involving evasions or misstatements**

- (1) A person commits an offence if the person's conduct during any particular period must have involved the person committing one or more offences under section 33 or 34.
- (2) For the purposes of any proceedings for an offence under this section it is immaterial whether the particulars of the offence or offences that must have been committed are known.
- (3) A person guilty of an offence under this section is liable (subject to subsection (4)) –
  - (a) on summary conviction in England and Wales –
    - (i) to imprisonment for a term not exceeding 6 months,
    - (ii) to a fine not exceeding £20,000, or
    - (iii) to both;
  - (b) on summary conviction in Scotland –
    - (i) to imprisonment for a term not exceeding 6 months,
    - (ii) to a fine not exceeding the statutory maximum, or
    - (iii) to both;
  - (c) on summary conviction in Northern Ireland –
    - (i) to imprisonment for a term not exceeding 6 months,
    - (ii) to a fine not exceeding the statutory maximum, or
    - (iii) to both;
  - (d) on conviction on indictment –
    - (i) to imprisonment for a term not exceeding 7 years,
    - (ii) to a fine, or
    - (iii) to both.
- (4) In the case of any offence under this section, the maximum amount of the fine on summary conviction is the greater of £20,000 or the statutory maximum (as the case may be), and the amount equal to three times the sum of the amounts of plastic packaging tax which are shown to be amounts that were or were intended to be evaded by the conduct in question.
- (5) For the purposes of subsection (4), the amounts of plastic packaging tax that were, or were intended to be, evaded are to be taken as including –
  - (a) the amount of any tax credit under section 12, and
  - (b) the amount of any repayment of plastic packaging tax under section 19, which was, or was intended to be, obtained in circumstances when there was no entitlement to it.
- (6) In determining for the purposes of subsection (4) the amounts of plastic packaging tax that were, or were intended to be, evaded, no account is to be taken of the extent to which any liability to tax of a person would be, or would have been, reduced by the amount of any tax credit or repayment of plastic packaging tax to which the person was, or would have been, entitled.

**36 Penalty for contravening relevant requirements**

- (1) Where a person (P) fails to comply with a relevant requirement, P is liable to—
  - (a) a fixed penalty of £500, and
  - (b) a daily penalty of £40 for each day, after the first, on which the person continues to fail to comply.
- (2) Where P is liable to a daily penalty in respect of a continuing failure to comply with a relevant requirement P is not liable to a further fixed penalty in respect of that failure.
- (3) P is not liable to a penalty under this section in respect of an act or omission in respect of which P—
  - (a) has been convicted of an offence, or
  - (b) is liable to a penalty under a provision amended by Part 1 of Schedule 6.
- (4) P is not liable to a penalty under this section if P satisfies the Commissioners or (on appeal) the First-tier Tribunal or Upper Tribunal that there is a reasonable excuse for the failure.
- (5) For the purposes of subsection (4)—
  - (a) an insufficiency of funds is not a reasonable excuse, unless it is attributable to events outside P’s control,
  - (b) where P relies on any other person to do anything, that is not a reasonable excuse unless P took reasonable care to avoid the failure, and
  - (c) where P had a reasonable excuse for the failure but the excuse has ceased, P is to be treated as having continued to have the excuse if the failure is remedied without unreasonable delay after the excuse ceased.
- (6) Where P is liable to a penalty under this section—
  - (a) the Commissioners or, on appeal, the appeal tribunal within the meaning of Schedule 2, may reduce the penalty to such amount (including nil) as they think proper;
  - (b) on an appeal relating to any penalty reduced by the Commissioners, the appeal tribunal may cancel the whole or any part of the Commissioners’ reduction.
- (7) In this section, “relevant requirement” means an obligation or a requirement imposed by or under—
  - (a) section 17 (variation and correction of the register);
  - (b) section 19 (payment, collection and recovery);
  - (c) section 21 (records);
  - (d) section 24 (statements);
  - (e) section 25 (tax representatives);
  - (f) section 30 (death, incapacity or insolvency of person carrying on a business);
  - (g) section 31 (transfer of business as a going concern);
  - (h) Schedule 4 (groups of companies).
- (8) The Treasury may by regulations amend subsection (1) so as to substitute for the amounts for the time being specified there amounts taking account of inflation.

- (9) The Commissioners may by regulations amend subsection (7) so as to add or remove a requirement relating to plastic packaging tax as a “relevant requirement”.
- (10) Schedule 5 makes provision about the assessment of penalties under this section.

### **37 Criminal proceedings**

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

#### *General*

### **38 Minor and consequential amendments**

Schedule 6 makes minor and consequential amendments to other legislation.

### **39 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 may make provision by reference to things specified in a notice that is –
  - (a) published in accordance with the regulations, and
  - (b) not withdrawn by a further notice.
- (3) Regulations under this Part are to be made by statutory instrument.
- (4) A statutory instrument containing regulations under section 7(4) or 8(8) is subject to the made affirmative procedure.
- (5) A statutory instrument containing regulations under the following provisions is also subject to the made affirmative procedure –
  - (a) section 11 (exempt plastic packaging components);
  - (b) section 36(8) (penalty for contravening relevant requirements).
- (6) Any other statutory instrument containing regulations under this Part is subject to annulment in pursuance of a resolution of the House of Commons.
- (7) But subsection (6) does not apply to a statutory instrument containing only regulations under section 40 (commencement of this Part).
- (8) Where a statutory instrument under this Act is subject to “the made affirmative resolution procedure” –
  - (a) it must be laid before the House of Commons after being made, and
  - (b) it ceases to have effect at the end of the period of 28 sitting days beginning with the day on which the instrument is made, unless within that period the instrument is approved by a resolution of the House of Commons.

- (9) Where regulations cease to have effect as a result of subsection (8), that does not—
  - (a) affect anything previously done under the regulations, or
  - (b) prevent the making of new regulations.
- (10) Any provision that may be included in regulations in a statutory instrument under this Act subject to the negative resolution procedure may be included in regulations in a statutory instrument subject to the made affirmative resolution procedure.
- (11) In this section, “sitting day” means a day on which the House of Commons is sitting (and a day is only a day on which the House of Commons is sitting if the House begins to sit on that day).

#### **40 Commencement etc**

- (1) This Part—
  - (a) comes into force on such day as the Treasury may by regulations appoint, and
  - (b) has effect in relation to packaging components that are produced in the United Kingdom or imported into the United Kingdom on or after 1 April 2022.
- (2) Regulations under this section may appoint different days for different purposes.

## SCHEDULES

### SCHEDULE 1

Section 19

#### PLASTIC PACKAGING TAX: RECOVERY AND OVERPAYMENTS

##### PART 1

##### RECOVERY

###### *Recovery as a debt due*

- 1 Plastic packaging tax is recoverable as a debt due to the Crown.

###### *Assessments of amounts of plastic packaging tax due*

- 2 (1) Sub-paragraph (2) applies where it appears to the Commissioners –
  - (a) that any period is an accounting period by reference to which a person who is registered or who is liable to be registered under section 14 is liable to account for plastic packaging tax,
  - (b) that an amount of plastic packaging tax for which that person is liable to account by reference to that period has become due, and
  - (c) that there has been a relevant default by that person (see sub-paragraph (3)).
- (2) The Commissioners –
  - (a) may –
    - (i) in a case where the amount of plastic packaging tax due from the person for that period cannot be ascertained, assess the amount due from the person for that period to the best of their judgement;
    - (ii) in any other case, assess the amount due from the person for that period, and
  - (b) where such an assessment is made, must notify the person of that amount.
- (3) The following are “relevant defaults” –
  - (a) a failure to comply with a requirement of regulations under section 17;
  - (b) a failure to make a return required to be made by regulations under section 19;
  - (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 those regulations, of an incomplete or incorrect return;

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- (e) a failure to comply with a requirement imposed by or under section 21;
  - (f) a failure to provide the Commissioners with complete or accurate information in complying with any requirement imposed by or under this Part;
  - (g) an unreasonable delay in complying with a requirement, where the failure to comply would be a default within any of paragraphs (a) to (f).
- (4) Where it appears to the Commissioners that a default falling within sub-paragraph (3) is a default by a person (A) on whom the requirement to make a return is imposed in A's capacity as the representative of another person (B), sub-paragraph (1)(b) applies as if the reference to the amount of plastic packaging tax due included a reference to any plastic packaging tax due from B.
- 3 (1) Sub-paragraph (2) applies where –
- (a) the Commissioners have made an assessment for an accounting period as a result of a person's failure to make a return for that period,
  - (b) the plastic packaging tax 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 another assessment ("the later assessment") under paragraph 2 in relation to the later period.
- (2) The Commissioners may, if they consider it appropriate in light of the absence of a proper return for the earlier period, specify in the later assessment an amount of plastic packaging tax due that is greater than the amount that they would have considered to be appropriate had they had regard only to the later period.

#### *Supplementary assessments*

- 4 (1) Sub-paragraph (2) applies where –
- (a) an assessment has been notified to a person under paragraph 2(2), and
  - (b) it appears to the Commissioners that the amount which ought to have been assessed as due exceeds the amount that has already been assessed.
- (2) The Commissioners –
- (a) may make a supplementary assessment of the amount of plastic packaging tax due from the person to the best of their judgment, and
  - (b) where such an assessment is made, must notify the person of that amount.

#### *Further provision about assessments under paragraphs 2 and 4*

- 5 (1) An amount assessed and notified to a person under paragraph 2 or 4 is recoverable on the basis that it is an amount of plastic packaging tax due from that person.
- (2) But sub-paragraph (1) does not apply if, or to the extent that, the assessment has been withdrawn or reduced.

*Time limits for assessments*

- 6 (1) An assessment under paragraph 2 or 4 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 plastic packaging tax –
- (a) brought about deliberately by the person, or
  - (b) attributable to a failure by the person to comply with a requirement of section 14 or a requirement of regulations under section 17,
- 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 reference to a loss brought about as a result of the deliberate inaccuracy in a document given to HMRC 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

REPAYMENTS

*Repayments of overpaid tax*

- 7 (1) This paragraph applies where a person (P) has paid an amount to the Commissioners by way of plastic packaging tax which was not tax due.
- (2) The Commissioners are liable, on the making of a claim by P, to repay the amount.
- (3) The Commissioners 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 are not liable to repay any amount paid by way of plastic packaging tax by reason of the fact that it was not tax due.
- (5) This paragraph is subject to paragraph 8.

*Supplementary provision about repayment etc*

- 8 (1) The Commissioners are not liable, on any claim for a repayment of plastic packaging tax, to repay any amount –
- (a) paid more than 4 years before the making of the claim;
  - (b) if, or to the extent that, any person has become entitled to a tax credit in respect of that amount by virtue of regulations under section 12.
- (2) It is a defence to any claim for repayment of an amount of plastic packaging tax that the repayment of that amount would unjustly enrich the claimant.

- 9 (1) This paragraph applies where –
- (a) an amount has been paid by way of plastic packaging tax which (apart from paragraph 8(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 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 provisions relating to plastic packaging tax, 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) –
- (a) “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, for any business carried on by P, from the making of the mistaken assumptions;
  - (b) a “relevant determination” means a determination for the purposes of paragraph 8(2) as to –
    - (i) whether or to what extent the repayment of an amount would enrich P, or
    - (ii) whether or to what extent any enrichment of P would be unjust.
- (4) The reference in sub-paragraph (2) to provisions relating to plastic packaging tax is a reference to –
- (a) any provision made by or under any enactment which relates to the tax or to any matter connected with it, or
  - (b) any notice published by the Commissioners under or for the purposes of any such provision.

#### *Reimbursement arrangements*

- 10 (1) The Commissioners may by regulations make provision for reimbursement arrangements to be disregarded for the purposes of paragraph 8(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 provisions of the arrangements as may be required by the regulations to be given to the Commissioners.
- (2) In this paragraph “reimbursement arrangements” means arrangements for the purposes of a claim to a repayment of plastic packaging tax 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.
- (3) Regulations under this paragraph may include, in particular, 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 where those amounts are not reimbursed in accordance with the arrangements;
  - (c) requiring interest paid by the Commissioners 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 make reimbursement or to repay the Commissioners;
  - (d) requiring records of a specified description relating to the arrangements to be kept and produced to the Commissioners, or to an officer of HMRC;
  - (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 in accordance with the regulations;
  - (b) provide for those matters to be determined by the Commissioners in accordance with the regulations.

*Assessment for excessive repayment*

- 11 (1) Sub-paragraph (3) applies where –
- (a) an amount has been paid at any time to a person by way of a repayment of plastic packaging tax, and
  - (b) the amount paid exceeded the amount which the Commissioners were 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 in pursuance of an obligation imposed by regulations under paragraph 10(3)(b), (c) or (e).
- (3) The Commissioners may –
- (a) to the best of their 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) where such an assessment is made, 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 plastic packaging tax, and
  - (b) the Commissioners have power under Part 1 of this Schedule to make an assessment on that person as to an amount of plastic packaging tax 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 plastic packaging tax.

*Supplementary assessments*

- 12 (1) Sub-paragraph (2) applies where –

- (a) an assessment has been notified to a person under paragraph 11, and
  - (b) it appears to the Commissioners that the amount which ought to have been assessed as due exceeds the amount that has already been assessed.
- (2) The Commissioners may –
- (a) on or before the last day on which the assessment under paragraph 11 could have been made, make a supplementary assessment of the amount of plastic packaging tax due from the person, and
  - (b) where such a supplementary assessment is made, notify the amount to that person.

*Further provision about assessments under paragraphs 11 and 12*

- 13 (1) Where an amount has been assessed and notified to a person under paragraph 11 or 12, it is recoverable on the basis that it is an amount of plastic packaging tax 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 limit for assessments*

- 14 An assessment under paragraph 11 or 12 may not be made more than 2 years after evidence of facts sufficient in the opinion of the Commissioners to justify making the assessment comes to their knowledge.

PART 3

FURTHER PROVISION ABOUT NOTICES UNDER PARTS 1 AND 2 OF THIS SCHEDULE

*Notifications to a person's representative*

- 15 (1) A notice of an assessment under paragraph 2, 4, 11 or 12 given to a person's representative is to be treated for the purposes of Parts 1 and 2 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 (including under section 25).

*Service of notices*

- 16 A notice under Part 1 or 2 of this Schedule may be given to a person by sending it to that person by post, addressed to the person's last known address.

PART 4

SET-OFF

*Amounts due in respect of plastic packaging tax*

- 17 (1) The Commissioners may by regulations make provision in relation to a case where –
- (a) a person is under a duty to pay to the Commissioners at any time an amount or amounts in respect of plastic packaging tax, and
  - (b) the Commissioners are under a duty to pay to that person at the same time an amount or amounts in respect of –
    - (i) plastic packaging tax, or
    - (ii) any other tax under their care and management.
- (2) Regulations under this paragraph may –
- (a) provide that if the total of the amount or amounts mentioned in sub-paragraph (1)(a) is greater than the total of the amount or amounts mentioned in sub-paragraph (1)(b), the latter may be set off against the former;
  - (b) provide that if the total of the amount or amounts mentioned in sub-paragraph (1)(b) is greater than the total of the amount or amounts mentioned in sub-paragraph (1)(a), the Commissioners may set off the latter in paying the former;
  - (c) provide that if the total of the amount or amounts mentioned in sub-paragraph (1)(a) is the same as the total of the amount or amounts mentioned in sub-paragraph (1)(b) no payment need be made in respect of the former or the latter;
  - (d) provide for any limitation on the time within which the Commissioners are entitled to take steps for recovering any amount due to them in respect of plastic packaging tax to be disregarded in specified cases, in determining whether any person is under such a duty to pay as is mentioned in sub-paragraph (1)(a);
  - (e) include provision treating any duty to pay mentioned in sub-paragraph (1) as discharged accordingly.
- (3) References in sub-paragraph (1) to an amount in respect of a particular tax include references not only to an amount of tax itself but also to other amounts such as interest and penalties that are or may be recovered as if they were amounts of tax.
- (4) In this paragraph –  
“specified” means specified in regulations under this paragraph;  
“tax” includes levy or duty.

*Other taxes*

- 18 (1) The Commissioners may by regulations make provision in relation to a case where –
- (a) a person is under a duty to pay to the Commissioners at any time an amount or amounts in respect of any tax (or taxes) under their care and management other than plastic packaging tax, and
  - (b) the Commissioners are under a duty at the same time to make –
    - (i) a repayment of plastic packaging tax to that person, or

- 
- (ii) to make any other payment to the person of any amount or amounts in respect of plastic packaging tax.
- (2) Regulations under this paragraph may –
- (a) provide that if the total of the amount or amounts mentioned in sub-paragraph (1)(a) is greater than the total of the amount or amounts mentioned in sub-paragraph (1)(b), the latter may be set off against the former;
  - (b) provide that if the total of the amount or amounts mentioned in sub-paragraph (1)(b) is greater than the total of the amount or amounts mentioned in sub-paragraph (1)(a), the Commissioners may set off the latter in paying the former;
  - (c) provide that if the total of the amount or amounts mentioned in sub-paragraph (1)(a) is the same as the total of the amount or amounts mentioned in sub-paragraph (1)(b) no payment need be made in respect of the former or the latter;
  - (d) provide for any limitation on the time within which the Commissioners are entitled to take steps for recovering any amount due to them in respect of plastic packaging tax to be disregarded in specified cases, in determining whether any person is under such a duty to pay as is mentioned in sub-paragraph (1)(a);
  - (e) include provision treating any duty to pay mentioned in sub-paragraph (1) as discharged accordingly.
- (3) References in sub-paragraph (1) to an amount in respect of a particular tax include references not only to an amount of tax itself but also to other amounts such as interest and penalties that are or may be recovered as if they were amounts of tax.
- (4) In this paragraph –
- “specified” means specified in regulations under this paragraph;
  - “tax” includes levy or duty.

*Restriction on powers to provide for set-off: insolvency*

- 19 (1) Regulations under paragraph 17 or 18 may not require any such amount or amounts as are mentioned in sub-paragraph (1)(b) of those paragraphs (“the credit”) to be set against any such amount or amounts as are mentioned in sub-paragraph (1)(a) of those paragraphs (“the debit”) in a case where –
- (a) an insolvency procedure has been applied to the person entitled to the credit,
  - (b) the credit became due after the procedure was applied, and
  - (c) the liability to pay the debit arose –
    - (i) before that procedure was applied, or
    - (ii) relates to, or to matters occurring in the course of, the carrying on of any business at times before the procedure was applied.
- (2) Sub-paragraphs (2) to (5) of paragraph 11 of Schedule 8 to FA 2001 (definition of insolvency procedure) apply for the purposes of this paragraph as they apply for the purposes of that paragraph.

SCHEDULE 2

Section 20

PLASTIC PACKAGING TAX: REVIEWS AND APPEALS

PART 1

APPEALABLE DECISIONS ETC

*Appealable decisions etc*

- 1 (1) A person may appeal against a decision of the Commissioners or an officer of HMRC in respect of any of the following matters—
  - (a) whether or not a person is liable to pay an amount of plastic packaging tax;
  - (b) the amount of plastic packaging tax payable by a person;
  - (c) the registration, or cancellation of registration, of a person under Part 1 of this Act for the purposes of plastic packaging tax;
  - (d) 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 12;
  - (e) a decision to require any security under regulations under section 23 or as to its amount;
  - (f) whether the Commissioners are liable to repay an amount to a person under paragraph 7(2) of Schedule 1 or the amount of such a repayment;
  - (g) whether or not the repayment of an amount under that paragraph is excessive (see paragraph 11 of that Schedule);
  - (h) the amount that a person is liable to pay the Commissioners in pursuance of an obligation imposed by regulations under paragraph 10(3)(b), (c) and (e) of that Schedule;
  - (i) whether or not a person is liable to a penalty under Part 1 of this Act or in respect of that Part or the amount of such a penalty;
  - (j) the period by reference to which payments of plastic packaging tax are to be made.
- (2) A person may also appeal against the following determinations and directions of the Commissioners or an officer of HMRC—
  - (a) a determination that a packaging component—
    - (i) is a plastic packaging component;
    - (ii) is chargeable;
  - (b) a direction under section 21(3);
  - (c) a determination or direction by the Commissioners under regulations under section 25—
    - (i) that a person must appoint a tax representative;
    - (ii) not to approve the appointment of a tax representative;
    - (iii) withdrawing their approval of a tax representative;
    - (iv) requiring the replacement of a tax representative;
  - (d) the giving of a direction or supplementary direction by the Commissioners under section 28(2) or (4);
  - (e) a determination in respect of an application under regulations under section 30 or 31;

- (f) a determination on an application under Schedule 4 for group treatment or a determination by the Commissioners to terminate group treatment under that Schedule.

- 2 In Parts 2 and 3 of this Schedule, references to a decision include references to a determination and a direction.

## PART 2

### REVIEWS

#### *Offer of review*

- 3 (1) HMRC 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*

- 4 (1) Any person (other than P) who has the right of appeal under paragraph 1 against a decision may require HMRC to review that decision if the person has not appealed to the appeal tribunal under that paragraph.
- (2) A notification that such a person requires a review must be made within the period of 30 days beginning with the day on which that person became aware of the decision.

#### *Review by HMRC*

- 5 (1) HMRC must review a decision if—
- (a) they have offered a review of the decision under paragraph 3, and
  - (b) P notifies HMRC accepting the offer within the period of 30 days beginning with the date of the document notifying P of the decision.
- (2) But P may not notify acceptance of the offer if P has already appealed to the appeal tribunal under paragraph 1.
- (3) HMRC must also review a decision if a person other than P notifies them under paragraph 4.
- (4) HMRC 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 for review*

- 6 (1) If under paragraph 3 HMRC have offered P a review of a decision, HMRC may within the relevant period notify P that the relevant period is extended.
- (2) If under paragraph 4 another person may require HMRC to review a matter, HMRC 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 the period of 30 days beginning with –
  - (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 5(1)(b) (in a case falling within sub-paragraph (1)), or
    - (ii) paragraph 4(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*

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

*Nature of review etc*

- 8 (1) This paragraph applies if HMRC are required to undertake a review under paragraph 5 or 7.
- (2) The nature and extent of the review are to be such as appear appropriate to HMRC in the circumstances.
- (3) For the purposes of sub-paragraph (2), HMRC must, in particular, have regard to steps taken before the beginning of the review –
  - (a) by HMRC 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 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 must give P, or the other person, notice of the conclusions of the review and their reasoning within –
- (a) the period of 45 days beginning with the relevant date, or
  - (b) such other period as HMRC and P, or HMRC and the other person, may agree.
- (7) In sub-paragraph (6), “the relevant date” means –
- (a) in a case falling within paragraph 3, the date HMRC received P’s notification accepting the offer of a review,
  - (b) in a case falling within paragraph 4, the date HMRC received notification from another person requiring a review, or
  - (c) in a case falling within paragraph 7, the date on which HMRC decided to undertake the review.
- (8) Where HMRC are 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 must notify P, or the other person, of the conclusion which the review is treated as having reached.

*Service of notices*

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

## PART 3

## APPEALS

*“Appeal tribunal”*

- 10 In this Schedule “appeal tribunal” means the First-tier Tribunal or, where determined by or under Tribunal Procedure Rules, the Upper Tribunal.

*Bringing of appeals*

- 11 (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 P of the decision to which the appeal relates or
    - (ii) in a case where a person other than P is the appellant, the day on which that person becomes aware of the decision, or
  - (b) if later, the end of the relevant period (within the meaning of paragraph 6).
- (2) But that is subject to sub-paragraphs (3) to (5).
- (3) In a case where HMRC are required to undertake a review under paragraph 5 –
- (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 that date.

- (4) In a case where HMRC are requested to undertake a review under paragraph 7 –
- (a) an appeal may not be made to the appeal tribunal –
    - (i) unless HMRC have notified P, or the other person, as to whether or not a review will be undertaken, and
    - (ii) if HMRC have 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 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 8(8) applies, an appeal may be made at any time from the end of the period specified in paragraph 8(6) to the date 30 days after the conclusion date.
- (6) An appeal may be made after the end of any period specified in this paragraph 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.

*Further provision about appeals*

- 12 (1) An appeal relating to a decision that an amount of plastic packaging tax is due from a person may not be considered by the appeal tribunal unless the amount which HMRC have determined to be due has been paid or deposited with HMRC.
- (2) But in a case where the amount determined to be payable as plastic packaging tax has not been paid or deposited an appeal may be considered if –
- (a) HMRC are satisfied on the application of the appellant, or
  - (b) if HMRC are not satisfied, the appeal tribunal decides on the application of the appellant,
- 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, the decision of the appeal tribunal as to the issue of hardship is final.

*Determinations on appeal*

- 13 (1) Where, on an appeal under paragraph 1 –
- (a) it is found that an assessment of the appellant is an assessment for an amount that is less than it ought to have been, and
  - (b) the appeal tribunal give a direction specifying the correct amount,
- the assessment has effect as an assessment of the amount specified in the direction and (without prejudice to any power under this Schedule to reduce the amount of interest payable on the amount of an assessment) as if it were an assessment notified to the appellant in that amount at the same time as the original assessment.

- 
- (2) On an appeal under paragraph 1, the powers of the appeal tribunal in relation to any decision of the Commissioners includes a power, where the tribunal allow an appeal on the ground that the Commissioners could not reasonably have arrived at the decision, either –
- (a) to 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, or
  - (b) to require the Commissioners to conduct, in accordance with the directions of the tribunal, a review or a further review of the original decision as appropriate.
- (3) Where, on an appeal under paragraph 1, the appeal tribunal find that a liability to a penalty or to an amount of interest arises, the tribunal must not give any direction for the modification of the amount payable in respect of that liability except –
- (a) in exercise of a power conferred on the tribunal by section 36(6) (penalties), or
  - (b) for the purpose of making the amount payable conform to the amount of the liability imposed by this Part.
- (4) Sections 85 and 85B of the Value Added Tax Act 1994 (settling of appeals by agreement and payment of tax where there is a further appeal) have effect as if –
- (a) the references to section 83 of that Act included references to paragraph of this Schedule, and
  - (b) the references to value added tax included references to plastic packaging tax.

## SCHEDULE 3

Section 22

## PLASTIC PACKAGING TAX: INFORMATION AND EVIDENCE

## PART 1

## INFORMATION

*Power to take samples*

- 1 (1) An authorised person may at any time take such samples from a component as the person requires for the purpose of determining how the component ought to be treated, or ought to have been treated, for the purposes of plastic packaging tax.
- (2) A sample may only be taken under this paragraph if the authorised person –
- (a) has reasonable cause to believe that the component is a chargeable plastic packaging component, and
  - (b) considers it necessary for the protection of the revenue against mistake or fraud.
- (3) A sample taken under this paragraph must be disposed of in such manner as the Commissioners may direct.
- (4) In this paragraph “authorised person” means a person acting under the authority of the Commissioners.

*Disclosure of information*

- 2 (1) The Commissioners may disclose information obtained or held by them in, or in connection with, their functions in relation to plastic packaging tax to –
- (a) the Secretary of State;
  - (b) the Environment Agency;
  - (c) the Scottish Environmental Protection Agency;
  - (d) Natural Resources Wales;
  - (e) the Medicines and Healthcare products Regulatory Agency;
  - (f) the Department of Agriculture, Environment and Rural Affairs in Northern Ireland or any agency thereof;
  - (g) an authorised officer of a person listed in paragraphs (a) to (f).
- (2) Information may only be disclosed under sub-paragraph (1) for the purpose of assisting a person listed in paragraphs (a) to (g) of that sub-paragraph in the performance of their duties.
- (3) A person listed in sub-paragraph (1)(a) to (g) may disclose information to the Commissioners, or to an authorised officer of the Commissioners, for the purposes of assisting the Commissioners in the performance of their duties relating to plastic packaging tax.
- (4) No charge may be made for any disclosure made by virtue of this paragraph.
- (5) Nothing in this paragraph permits the disclosure of information which, although disclosed in compliance with this paragraph, would contravene the data protection legislation.
- (6) In this paragraph “data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act).
- (7) References in this paragraph to an authorised officer of any person are to any person who has been designated by the principal as a person to and by whom information may be disclosed by virtue of this paragraph.

PART 2

EVIDENCE

*Evidence by certificate*

- 3 (1) A certificate of the Commissioners that –
- (a) a person was or was not at any time registered, or
  - (b) that a return required by regulations under section 19 has not been made or had not been made at any time,
- is, in any proceedings evidence, or in proceedings in Scotland sufficient evidence, of that fact.
- (2) A copy of any document provided to the Commissioners for the purposes of this Part and certified by them to be such a copy shall be admissible in any proceedings, whether civil or criminal, to the same extent as the document itself.
- (3) In any proceedings any document purporting to be a certificate under sub-paragraph (1) or (2) is to be taken to be such a certificate unless the contrary is shown.

*Inducements to provide information*

- 4 (1) This paragraph applies to –
- (a) criminal proceedings against a person in respect of an offence in connection with or in relation to plastic packaging tax;
  - (b) proceedings against a person for the recovery of a sum due in connection with or in relation to plastic packaging tax.
- (2) A statement made, or a document produced, by or on behalf of the person is not inadmissible in proceedings to which this paragraph applies only by reason that –
- (a) a matter falling within sub-paragraph (3) or (4) was drawn to that person’s attention, and
  - (b) the person was, or may have been, induced to make the statement or provide the document as a result.
- (3) The matters falling within this sub-paragraph are –
- (a) that, in relation to plastic packaging tax, the Commissioners may assess an amount due by way of a penalty instead of instituting criminal proceedings;
  - (b) that it is the practice of the Commissioners (without giving any undertaking as to whether they will make such an assessment in any case) to be influenced by whether a person –
    - (i) has made a full confession of any dishonest conduct to which the person has been, or is, a party;
    - (ii) has otherwise co-operated fully with any investigation.
- (4) The matter falling within this sub-paragraph is the fact that the Commissioners or, on appeal, an appeal tribunal have power by or under this Part to reduce a penalty.

## SCHEDULE 4

Section 27

## PLASTIC PACKAGING TAX: GROUPS OF COMPANIES

*Bodies eligible for group treatment*

- 1 (1) Two or more bodies are eligible to be treated as members of the same group for the purposes of this Part (“eligible bodies”) if –
- (a) they are all bodies corporate,
  - (b) at least one of the bodies has an established place of business in the United Kingdom, and
  - (c) they are all under the same control.
- (2) A body is eligible to be the representative member of a group if the body –
- (a) is resident in the United Kingdom, or
  - (b) has a permanent establishment in the United Kingdom.
- (3) A body is not an eligible body in relation to a group if it is a member of another group.
- 2 For the purposes of paragraph 1 –
- (a) two or more bodies are under the same control if –

- (i) one of them controls each of the others,
- (ii) one person (whether a body corporate or an individual) controls all of them, or
- (iii) two or more individuals carrying on a business in partnership control all of them;
- (b) a body corporate controls another body corporate only if –
  - (i) it is empowered by statute to control that body’s activities, or
  - (ii) it is that body’s holding company within the meaning of section 1159 of and Schedule 6 to the Companies Act 2006;
- (c) an individual controls, or individuals control, a body corporate only if they would be that body’s holding company within the meaning of those provisions, if were they a company.

#### *Application for group treatment*

- 3 (1) Two or more eligible bodies may apply to the Commissioners to be treated as members of the same group from the time specified in the application (the “specified time”).
- (2) An application under this paragraph must specify which body is to be the representative member.
- (3) The “specified time” means the beginning of the accounting period specified in the application but the period specified must not be before the beginning of the period in which the application is made.
- 4 (1) The Commissioners may only refuse an application under paragraph 3 if –
  - (a) it appears to them that the application –
    - (i) has been made in respect of a body that is not an eligible body, or
    - (ii) specifies as the representative body a body that is not eligible to be the representative body, or
  - (b) they consider it necessary to refuse the application for the protection of the revenue.
- (2) But the Commissioners may not refuse an application on the basis of subparagraph (1)(b) after the end of the period of 90 days beginning with the day on which the application is received by them.

#### *Applications to modify group treatment*

- 5 (1) Where two or more bodies are treated as members of the same group, the representative member may apply to the Commissioners to –
  - (a) treat another eligible body as a member of the group,
  - (b) change which member of the group is the representative member,
  - (c) exclude a member of the group, or
  - (d) terminate the treatment of the members as members of a group,
 from the time specified in the application (the “specified time”).
- (2) The “specified time” means the beginning of the accounting period specified in the application but the period specified must not be a period before the period in which the application is made.

- 6 (1) The Commissioners may only refuse an application under sub-paragraph 5(a) or 5(b) if they consider it necessary to refuse the application for the protection of the revenue.
- (2) The Commissioners may only refuse an application under sub-paragraph 5(c) or 5(d) if –
  - (a) the case does not fall within paragraph 8, and
  - (b) they consider it necessary to refuse the application for the protection of the revenue.

*Applications relating to group treatment*

- 7 Any application under this Schedule in respect of any bodies corporate must be made by –
  - (a) one of those bodies, or
  - (b) the person controlling those bodies.

*Termination of group treatment by the Commissioners*

- 8 The Commissioners may, by notice given to the members of the group concerned, terminate the treatment of any body corporate as a member of the group from the time specified in the notice where –
  - (a) it appears to the Commissioners that the body is not an eligible body in relation to the group, or
  - (b) the Commissioners consider it necessary to do so for the protection of the revenue.
- 9 Where –
  - (a) a body corporate ceases to be treated as a member of a group under paragraph 5(1)(c) or 8,
  - (b) immediately before that time the body was the representative member of the group,
  - (c) immediately after that time there are two or more bodies corporate who will continue to be treated as members of the group, and
  - (d) none of those bodies becomes the representative member under paragraph 5(1)(b),the Commissioners must, by notice given to such one of the bodies mentioned in paragraph (c) as they consider appropriate, substitute that body as the representative member from the time specified in the notice.
- 10 (1) The time specified in a notice under paragraph 8(a) may be a time before the giving of the notice but must not be before the time when the body ceased to be an eligible body.
- (2) The time specified in a notice under paragraph 8(b) must not be a time before the day on which the notice is given to the representative member.
- (3) The time specified in a notice under paragraph 9 may be a time before the giving of the notice.

*Notifications relating to group treatment*

- 11 (1) Where two or more bodies are treated as members of the same group and one of those bodies ceases to be an eligible body, that body must so notify the Commissioners.

- (2) A body corporate designated as a representative member of a group must not cease to have an established place of business in the United Kingdom without first notifying the Commissioners.

*Regulations about applications and notifications*

- 12 (1) The Commissioners may by regulations make provision about—
- (a) the timing of applications under this Schedule (including conferring power on the Commissioners to extend the time for making such applications);
  - (b) the form and manner of such applications;
  - (c) the information and particulars to be contained in or provided in connection with such applications.
- (2) The Commissioners may also by regulations make provision requiring a person who has made an application under this Schedule to notify the Commissioners if any of the information contained in or provided in connection with the application is or becomes inaccurate.
- (3) Sub-paragraph (1) applies in relation to notifications by the Commissioners under this Schedule as it applies in relation to applications under this Schedule.

SCHEDULE 5

Section 36

PLASTIC PACKAGING TAX: ASSESSMENT OF PENALTIES UNDER SECTION 36

*Interpretation*

- 1 In this Schedule “penalty” means a penalty under section 36 (penalty for contravening relevant requirements).

*Assessment etc of penalty*

- 2 Where a person is liable to a penalty, the Commissioners—
- (a) may assess the amount of that penalty, and
  - (b) where such an assessment is made, must notify the person of that amount.
- 3 (1) Sub-paragraph (2) applies where—
- (a) the Commissioners have made an assessment of a penalty, and
  - (b) it appears to the Commissioners that the amount which ought to have been assessed exceeds the amount that has already been assessed.
- (2) The Commissioners—
- (a) may make a supplementary assessment of the amount of the penalty, and
  - (b) where such an assessment is made, must notify the person of that amount.

*Further provision about assessments under paragraphs 2 and 3*

- 4 (1) An amount assessed and notified to a person under paragraph 2 or 3 is recoverable on the basis that it is an amount of plastic packaging tax due from that person.
- (2) But sub-paragraph (1) does not apply if, or to the extent that, the assessment has been withdrawn or reduced.
- 5 The fact that an act or omission giving rise to a penalty has ceased before an assessment is made under paragraph 2 or 3 does not affect the power of the Commissioners to make such an assessment.
- 6 (1) Sub-paragraph (2) applies where—
- (a) the Commissioners assess a person to an amount due by way of a penalty under paragraph 2 or 3, and
  - (b) the person is also assessed under Schedule 1 for an accounting period to which the act or omission attracting the penalty is referable.
- (2) The assessments under paragraph 2 or 3 and Schedule 1 may be combined and notified to the person as one assessment.
- (3) A notice of a combined assessment under sub-paragraph (2) must separately identify the penalty being assessed.

*Assessment etc of daily penalties*

- 7 (1) Where an assessment is made under paragraph 2 or 3 to an amount of a penalty to which any person is liable, the notification of that amount must specify a time, not later than the end of the day of the giving of the notification, to which the amount of any daily penalty is calculated.
- (2) For the purposes of sub-paragraph (1) “daily penalty” means a penalty imposed under section 36(1)(b).
- (3) If further penalties accrue in respect of a continuing failure after that date, a further assessment or further assessments may be made under paragraph 2 or 3 in respect of the amounts so accruing.
- 8 (1) Sub-paragraph (2) applies where—
- (a) an assessment to a penalty is made specifying a date for the purposes of paragraph 7(1) above, and
  - (b) the failure in question is remedied within such period as may for the purposes of this sub-paragraph have been notified by the Commissioners to the person liable for the penalty.
- (2) The failure is to be deemed for the purposes of any further liability to a penalty to have been remedied on the specified date.

*Time limits for assessments*

- 9 (1) An assessment under paragraph 2 or 3 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 act or omission to which the penalty relates.

- (3) Where an assessment under paragraph 2 or 3 is made in a case involving loss of plastic packaging tax –
- (a) brought about deliberately by the person, or
  - (b) attributable to a failure by the person to comply with a requirement of section 14 or a requirement of regulations under section 17,
- the relevant period is the period of 20 years from the act or omission to which the penalty relates.
- (4) In sub-paragraph (3)(a) the reference to loss brought about deliberately by a person includes reference to a loss brought about as a result of the deliberate inaccuracy in a document given to HMRC 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.

*Notifications to a person's representative*

- 10 (1) A notice of an assessment under paragraph 2 or 3 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 10(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 (including under section 25).

*Service of notices*

- 11 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 6

Section 38

PLASTIC PACKAGING TAX: AMENDMENTS OF OTHER LEGISLATION

PART 1

PENALTIES

*Failure to notify etc*

- 1 (1) Schedule 41 to FA 2008 (penalties: failure to notify etc) is amended as follows.
- (2) In the Table in paragraph 1, after the entries relating to insurance premium

tax, insert –

“Plastic packaging tax	Obligation under section 15 of FA 2021 (obligation to give notice of liability to be registered).”
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- (3) In paragraph 7(9) (potential lost revenue), in the opening words, after “insurance premium tax,” insert “plastic packaging tax,”.

*Failure to comply with requirements relating to returns*

- 2 (1) Schedule 55 to FA 2009 (penalty for failure to make returns etc) is amended as follows.
- (2) In paragraph 1(4), in the definition of “penalty date” for “13A” substitute “13B”.
- (3) In the table in paragraph 1, after item 13A insert –

“13B	Plastic packaging tax	Return under regulations under section 19 of FA 2021.”
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- 3 (1) In Schedule 10 to F(No.3)A 2010 (which prospectively amends Schedule 55 to FA 2009 (penalties for failure to make returns etc)) in paragraph 7, in the inserted paragraph 13A(1), after “13A” insert “, 13B”.
- (2) The amendments to Schedule 55 to FA 2009 made by Schedule 10 to F(No.3)A 2010 (including the amendment made by sub-paragraph (1)) are taken to have come into force for the purposes of plastic packaging tax on the day on which this paragraph comes into force.

*Failure to make payment on time*

- 4 In Schedule 56 to FA 2009, in the Table in paragraph 1 (penalty for failure to make payments on time) –
- (a) after item 11A insert –

“11AB	Plastic packaging tax	Amount payable under regulations under section 19 of FA 2021	The date determined by or under regulations under section 19 of FA 2021 as the date by which the amount must be paid.”
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(b) after item 16A insert –

“16AB	Plastic packaging tax	Amount assessed under Schedule 1 of FA 2021	The date by which the amount would have been required to be paid if it had been shown in the return.”
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- 5 (1) In Schedule 11 to F(No.3)A 2010 (which prospectively amends Schedule 56 to FA 2009 (penalties for failure to make payments)), in paragraph 2 –
- (a) in sub-paragraph (13)(a), in the substituted text of item 23 in the Table in paragraph 1 of Schedule 56 to FA 2009, for “or 11A” substitute “, 11A or 11B”;
  - (b) in sub-paragraph (14)(a), in the substituted text of item 24 in the Table in paragraph 1 of Schedule 56 to FA 2009, for “or 11A” substitute “, 11A or 11B”.
- (2) The amendments to Schedule 56 to FA 2009 made by Schedule 11 to F(No.3)A 2010 (including the amendments made by this paragraph) are taken to have come into force for the purposes of plastic packaging tax on the day on which paragraph 4 comes into force.

#### *Errors in documents*

- 6 In Schedule 24 to FA 2007 (penalties for errors), in the Table in paragraph 1, after the entry relating to the statement under section 1(1)(a) of the Petroleum Revenue Tax Act 1980, insert –

“Plastic packaging tax	Return under regulations under section 19 of FA 2021.”
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#### *Failure to disclose tax avoidance schemes*

- 7 In Schedule 17 to F(No.2)A 2017 (disclosure of tax avoidance schemes: indirect taxes), in paragraph 2(1), after “landfill tax” insert –  
“plastic packaging tax”.

#### *Modifications*

- 8 (1) Paragraph 16(1) of Schedule 41 to FA 2008 (penalties: failure to notify etc) has effect in its application to plastic packaging tax as if for “shall” there were substituted “may”.
- (2) The following provisions have effect in their application to plastic packaging tax as if in each case for “must” there were substituted “may” –
- (a) paragraph 18(1) of Schedule 55 to FA 2009 (penalty for failure to make returns etc);

- (b) paragraph 11(1) of Schedule 56 to FA 2009 (penalty for failure to make payments on time).

## PART 2

## MISCELLANEOUS

*Provisional collection of plastic packaging tax*

- 9 In section 1(1) of the Provisional Collection of Taxes Act 1968 (temporary statutory effect of House of Commons resolutions affecting income tax etc) after “digital services tax,” insert “plastic packaging tax,”.

*Isle of Man*

- 10 In section 1(1) of the Isle of Man Act 1979 (common duties), at the end insert—  
“(g) plastic packaging tax chargeable under the law of the United Kingdom or the Isle of Man.”

*HMRC powers to obtain information etc*

- 11 (1) Schedule 36 to FA 2008 (powers to obtain information etc) is amended as follows.  
(2) In the Table in paragraph 61A (involved third parties), after item 12 insert—

“13	A person involved (in any capacity) in the production, or importation to or exportation from the United Kingdom, of packaging components (within the meaning of section 7 of FA 2021) or in connected activities	Documents relating to matters in which the person is or has been involved	Plastic packaging tax.
14	A person involved (in any capacity) in the purchase or sale of plastic packaging components (within the meaning of section 7 of FA 2021) or of goods packaged in such components	Documents relating to matters in which the person is or has been involved	Plastic packaging tax.”

- (3) In paragraph 63(1) (meaning of “tax”), after paragraph (i) insert—  
“(iza) plastic packaging tax,”.

*Interest*

- 12 In Schedule 53 to FA 2009 (late payment interest) after paragraph 11C insert –

*“Plastic packaging tax due from unregistered persons*

- 11D (1) This paragraph applies where an amount of plastic packaging tax is due from a person (P) in respect of a period during which P meets the liability condition but was not registered.
- (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.
- (3) For the purposes of this paragraph P meets the “liability condition” at a particular time if –
- (a) at the end of the preceding month, the condition in section 14(2)(b) of FA 2021 (liability to register) is met in relation to P, or
  - (b) at that time, the condition in section 14(2)(a) of that Act is met in relation to P.”

*Serial tax avoidance*

- 13 In Schedule 18 to FA 2016 (serial tax avoidance), in paragraph 4(2), after “landfill tax” insert –  
“plastic packaging tax”.