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**1 Soft drinks industry levy: flavour concentrates**

Schedule 1 amends Part 2 of FA 2017 (soft drinks industry levy).

## SCHEDULE 1

### SOFT DRINKS INDUSTRY LEVY: FLAVOUR CONCENTRATES

- 1 Part 2 of FA 2017 (soft drinks industry levy) is amended as follows.

*Meaning of “soft drink” and “package”*

- 2 (1) Section 26 (“soft drink” and “package”) is amended as follows.
- (2) At the end of subsection (1) insert “;
- “*(c)* a liquid flavouring (a “flavour concentrate”) which, when processed in a specified manner in a dispensing machine, constitutes a beverage within that paragraph.”
- (3) After subsection (2) insert –
- “(2A) A flavour concentrate is processed in a specified manner if –
- (a) either –
- (i) it is combined with added sugar ingredients, or
- (ii) it is combined with both added sugar ingredients and one or more other flavour concentrates; and
- (b) the flavour concentrate (or combination) is prepared in a specified manner.
- (2B) A “dispensing machine” is a machine designed to –
- (a) combine, process or prepare ingredients so as to produce a beverage, and
- (b) dispense the beverage for immediate consumption.
- (2C) In subsection (2A)(a), “added sugar ingredients” means anything within paragraph (a) or (b) of section 29(2).”
- (4) In subsection (3), after paragraph (b) insert “;
- (c) in the case of a soft drink within subsection (1)(c) –
- (i) it is suitable to be consumed when processed in a specified manner in a dispensing machine (and without any other processing or preparation), and
- (ii) it is ready for use in a dispensing machine.”.

*Meaning of “prepared drinks”*

- 3 (1) Section 27 (meaning of “prepared drinks”) is amended as follows.
- (2) At the end of subsection (1) insert “;
- “*(c)* a beverage that would result from –

- (i) processing a flavour concentrate within subsection (1)(c) of that section in a specified manner in a dispensing machine, and
  - (ii) in accordance with the relevant dispensing instructions.”.
- (3) In subsection (2)(b), for “subsection (3)” substitute “subsection (3)(a)”.
- (4) After subsection (2) insert –
  - “(2A) The “relevant dispensing instructions” means –
    - (a) the instructions for use of the flavour concentrate provided with, or for the purposes of use with, the concentrate or a dispensing machine with which it is designed to be used;
    - (b) where subsection (3)(b) or (4A) applies, the dispensing instructions determined by the Commissioners.”.
- (5) For subsection (3) substitute –
  - “(3) This subsection applies where –
    - (a) in a case within subsection (1)(b), the packaging of the soft drink states neither the dilution ratio nor information by reference to which the dilution ratio can be calculated;
    - (b) in a case within subsection (1)(c), no dispensing instructions are provided with, or for the purposes of use with, the flavour concentrate or with any dispensing machine with which it is designed to be used.”.
- (6) After subsection (4) insert –
  - “(4A) This subsection applies where –
    - (a) dispensing instructions are provided, and
    - (b) it is reasonable to assume that the main purpose, or one of the main purposes, of providing those particular dispensing instructions is avoiding or reducing liability for soft drinks industry levy.”.
- (7) In subsection (5) –
  - (a) after paragraph (a) insert –
    - “(aa) determining dispensing instructions for the purposes of subsection (2A)(b);”;
  - (b) for paragraph (b) substitute –
    - “(b) determining whether the main purpose, or one of the main purposes, of –
      - (i) stating a particular dilution ratio or information, or
      - (ii) providing particular dispensing instructions, is avoiding or reducing liability for soft drinks industry levy.”.

*Sugar content condition*

- 4 (1) Section 29 (sugar content condition) is amended as follows.
- (2) In subsection (1) –
  - (a) in the words before paragraph (a), omit “it contains”;

- (b) for paragraph (a) (but not the “and” at the end) substitute –
  - “(a) either –
    - (i) it is a soft drink within section 26(1)(c), or
    - (ii) it contains added sugar ingredients;”;
- (c) at the beginning of paragraph (b) insert “it contains”.

*Levy rates*

- 5 After section 36 (levy rates) insert –

**“36A Determining levy rate for flavour concentrates**

- (1) This section applies where –
  - (a) two or more flavour concentrates are formulated so as to be combined with one another in a dispensing machine (see section 26(2A)(a)(ii)), and
  - (b) each of those flavour concentrates is a chargeable soft drink.
- (2) The references in section 36(1) to a litre of prepared drink are treated, in relation to each of the flavour concentrates, as references to the relevant proportion of a litre of prepared drink.
- (3) The “relevant proportion” is –

$$\frac{1}{N}$$

where N is the number of flavour concentrates that are designed to be combined.”.

*Commencement*

- 6 The amendments made by this Schedule come into force on 1 April 2023 in relation to soft drinks that are packaged in, or imported into, the United Kingdom on or after that date.