

Statutory Document No. 2022/0093



*Customs and Excise Act 1993*

## **PLASTIC PACKAGING TAX (APPLICATION) (AMENDMENT) ORDER 2022<sup>1</sup>**

*Approved by Tynwald: 26 April 2022*

*Coming into operation in accordance with article 2*

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The Treasury makes the following Order under section 1(1) and (3)(d) of the Customs and Excise Act 1993.

### **1 Title**

This Order is the Plastic Packaging Tax (Application) (Amendment) Order 2022.

### **2 Commencement**

This Order comes into operation on 1 April 2022<sup>1</sup>.

### **3 Application and effect**

- (1) The applied legislation applies to the Island, as part of the law of the Island, subject to the exceptions, adaptations and modifications contained in the Schedule to this Order.
- (2) In this Order, “the applied legislation” means Schedule 12 to the Finance Act 2022 (an Act of Parliament)<sup>2</sup>.

**MADE 2 MARCH 2022**

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<sup>1</sup> Section 3(1) of the Customs and Excise Act 1993 provides that an order made under section 1 shall be laid before Tynwald as soon as is practicable after it is made (and in any case not later than the second sitting of Tynwald following the making of the order) and if at the sitting at which it is laid Tynwald fails to approve the order it shall cease to have effect.

<sup>2</sup> 2022 c.3 (of Parliament).



## SCHEDULE

[Article 3(1)]

**EXCEPTIONS, ADAPTATIONS AND MODIFICATIONS SUBJECT TO WHICH  
SCHEDULE 12 TO THE FINANCE ACT 2022 (C.3 OF PARLIAMENT) SHALL  
HAVE EFFECT IN THE ISLAND**

**1 General modifications**

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

**2 Specific modifications**

<u>Provision of the Act</u>	<u>Subject matter</u>	<u>Exception, adaptation or modification</u>
Schedule 12, paragraph 1	Plastic packaging tax	For “FA 2021”, substitute <b>“Finance Act 2021</b> , as it has effect in the Isle of Man <sup>3</sup> <b>”</b> .
Schedule 12, paragraph 3	Time of importation	(1) In subsection (1)(b), in the inserted subsection (3), for “United Kingdom”, substitute <b>“Isle of Man”</b> . (2) Omit subsection (2).
Schedule 12, paragraph 4	Reliefs for persons enjoying certain immunities and privileges	In subsection (3), in the inserted subsection (5), for “section 13B(1) of the Customs and Excise Duties (General Reliefs) Act 1979”, substitute <b>“section 11C(1) of the Customs and Excise Duties (General Reliefs) Act 1986 (of Tynwald)”</b> <sup>4</sup> .
Schedule 12, paragraph 6	Groups	(1) In subsection (4), in the inserted subsection (3A), for “they consider”, substitute <b>“it considers”</b> . (2) In subsection (5)(a)(ii), in the substituted subparagraph (3) — (a) for “receive”, substitute <b>“receives”</b> ; (b) for “they must”, substitute <b>“it must”</b> ; (c) for “they accept or refuse”, substitute <b>“it accepts or refuses”</b> ; and (d) for “they accept”, substitute <b>“it accepts”</b> . (3) In subsection (5)(b)(ii), in the substituted subparagraph (2) — (a) for “receive”, substitute <b>“receives”</b> ; (b) for “they must”, substitute <b>“it must”</b> ;

<sup>3</sup> Part 2 of Finance Act 2021 (of Parliament) has effect in the Island by SD 2021/0295.

<sup>4</sup> AT 40 of 1986.

		(c) for “they accept or refuse”, substitute <b>“it accepts or refuses”</b> ; and (d) for “they accept”, substitute <b>“it accepts”</b> .
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Annex

**SCHEDULE 12**

Section 84

**PLASTIC PACKAGING TAX**

1 Part 2 of ~~FA 2021~~ **Finance Act 2021, as it has effect in the Isle of Man**<sup>5</sup> (plastic packaging tax) is amended as follows.

*No charge for persons below de minimis*

2 In section 43 (charge to plastic packaging tax), after subsection (2) insert—  
“(2A) A person who is neither registered nor liable to be registered (see sections 55 to 57) is to be treated, for the purposes of subsection (1) of this section, as not acting in the course of a business.”

*Time of importation*

3(1) In section 50 (time of importation)—  
(a) in subsection (2), for “This section” substitute “Subsection (1)”;  
(b) after subsection (2) insert—  
“(3) The ~~Commissioners~~ **Treasury** may by regulations make provision about when a chargeable plastic packaging component is imported into the ~~United Kingdom~~ **Isle of Man** for the purposes of plastic packaging tax.  
(4) Regulations under subsection (3) may amend this Part.”

~~(2) In section 84 (regulations), in subsection (5), after paragraph (b) insert—  
“(ba) section 50(3) (timing of importation);”.~~

*Reliefs for persons enjoying certain immunities and privileges*

4(1) Section 55 (liability to register: producers and importers) is amended as follows.

(2) In subsection (1), at the end insert “(subject to subsection (5))”.

(3) After subsection (4) insert—

- “(5) Subsection (1) does not apply to any person for the time being listed in ~~section 13B(1) of the Customs and Excise Duties (General Reliefs) Act 1979~~ **section 11C(1) of the Customs and Excise Duties (General Reliefs) Act 1986 (of Tynwald)**<sup>6</sup> (members of visiting forces etc).  
(6) The ~~Commissioners~~ **Treasury** may by regulations make provision about the administration of the disapplication of subsection (1) by subsection (5), including provision making it subject to conditions or requirements set out in the regulations.”

*Records*

5 In section 63 (records), in subsection (3), for the words from “6 years” to the end substitute “—  
(a) in a case where the records relate to an accounting period, 6 years beginning with the day after the end of the accounting period to which the records relate, or  
(b) in any other case, 6 years beginning with the day on which the records are created.”.

*Groups*

6(1) Section 71 (groups of companies) is amended in accordance with subparagraphs (2) to (4).

<sup>5</sup> Part 2 of Finance Act 2021 (of Parliament) has effect in the Island by SD 2021/0295.

<sup>6</sup> AT 40 of 1986.

- (2) In subsection (1), in the words after paragraph (b), after "is" insert "treated as".
- (3) In subsection (2)—
- (a) after "Part" insert ", and save as otherwise provided by or under this Part,";
  - (b) after "if" insert "—
    - (a) ";
  - (c) after "P" insert ",
    - (b) it had assumed all other obligations in relation to plastic packaging tax that, apart from this subsection, would have been obligations of P, and
    - (c) it had assumed all entitlements in relation to plastic packaging tax that—
      - (i) apart from this subsection, would have been entitlements of P, and
      - (ii) arose after P and the representative member began to be treated as members of the same group."
- (4) after subsection (3) insert—
- "(3A) The ~~Commissioners~~ **Treasury** may by regulations make such further provision as ~~they consider~~ **it considers** appropriate about—
- (a) a body corporate that is treated as a member of a group being treated as if it had or had not assumed an entitlement given by or under this Part (ignoring the regulations) to another body corporate that is treated as a member of the group;
  - (b) the performance or discharge by a body corporate that is treated as a member of a group of an obligation or liability imposed by or under this Part (ignoring the regulations) on another body corporate that is treated as a member of the group."
- (5) In Schedule 13 (groups of companies)—
- (a) in paragraph 3 (application for group treatment)—
    - (i) in sub-paragraph (1), omit the words from "from" to the end;
    - (ii) for sub-paragraph (3) substitute—
 

"(3) Where the ~~Commissioners~~ receive **Treasury receives** an application under sub-paragraph (1), ~~they must~~ **it must**, by notice to the applicants or the body that is to be the representative member—

      - (a) confirm whether ~~they accept or refuse~~ **it accepts or refuses** the application, and
      - (b) if ~~they accept~~ **it accepts** the application, specify a date from which the applicants are to be treated as members of the same group.

(4) The ~~Commissioners~~ **Treasury** must give the notice within the period of 90 days beginning with the day on which the application is received.

(5) The date mentioned in sub-paragraph (3)(b) must be within that period."
  - (b) in paragraph 5 (applications to modify group treatment)—
    - (i) in sub-paragraph (1), omit the words after paragraph (d);
    - (ii) for sub-paragraph (2) substitute—
 

"(2) Where the ~~Commissioners~~ receive **Treasury receives** an application under sub-paragraph (1), ~~they must~~ **it must**, by notice to the applicant and, in a case within sub-paragraph (1)(b), the proposed new representative member—

      - (a) confirm whether ~~they accept or refuse~~ **it accepts or refuses** the application, and

- (b) if ~~they accept~~ **it accepts** the application, specify a date from which the application is to be treated as having been accepted.
- (3) The ~~Commissioners~~ **Treasury** must give the notice within the period of 90 days beginning with the day on which the application is received.
- (4) The date mentioned in sub-paragraph (2)(b) must be within that period."

*Secondary liability and assessment notices etc: acting in the course of a related business*

- 7 In Schedule 9 (secondary liability and assessment notices and joint and several liability notices), in paragraph 21 (interpretation: related businesses), in paragraph (b)(ii)—
- (a) for "unincorporated association" substitute "unincorporated body (other than a partnership)", and
  - (b) for "the association" substitute "the body".

## ENDNOTES

### Table of Endnote References

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<sup>1</sup> The format of this legislation has been changed as provided for under section 75 of, and paragraph 2 of Schedule 1 to, the Legislation Act 2015. The changes have been approved by the Attorney General after consultation with the Clerk of Tynwald as required by section 76 of the Legislation Act 2015.