



HM Revenue  
& Customs



HM Treasury

# Soft Drinks Industry Levy

## **Consultation document**

Publication date: 18 August 2016

Closing date for comments: 13 October 2016

<b>Subject of this consultation:</b>	A new UK-wide Soft Drinks Industry Levy that will apply to the production and importation of soft drinks containing added sugar.
<b>Scope of this consultation:</b>	The government announced as part of Budget 2016 that we would introduce a new Soft Drinks Industry Levy from April 2018. This consultation sets out proposals for how the levy will be designed and implemented. We are now asking for your views on the impact of these proposals to help determine the final design of the levy.
<b>Who should read this:</b>	Individuals or organisations interested in the policy scope and public health objectives of the levy should read and comment on chapters 2 and 3. Individuals and organisations that may be directly affected by the levy or have a particular interest in the soft drinks industry should also consider responding to chapters 4 to 9 of the consultation.
<b>Duration:</b>	8 weeks, starting on 18 August 2016 and ending on 13 October 2016.
<b>Lead officials:</b>	Mark Lloyd, Business and International Tax, HM Treasury Lorna Horton, Indirect Tax Projects Team, HM Revenue and Customs.
<b>How to respond or enquire about this consultation:</b>	Please email enquiries and responses to: <a href="mailto:indirecttax.projectteam@hmrc.gsi.gov.uk">indirecttax.projectteam@hmrc.gsi.gov.uk</a>  Written enquiries and responses can be posted to: Lorna Horton, HM Revenue & Customs, Indirect Tax Project Team, Room 3/35, 100 Parliament Street, London, SW1A 2BQ.
<b>Additional ways to be involved:</b>	A joint team from HM Treasury and HMRC will consider written submissions and research provided by respondents. The team is also available to meet with interested parties in order to gather a broad range of views.
<b>After the consultation:</b>	Responses will be taken into account in refining the design of the scheme and we will then publish a formal response document. This will be followed by a technical consultation on draft legislation and legislation in Finance Bill 2017. Liability for the levy will begin from April 2018.
<b>Getting to this stage:</b>	The government has considered the arguments and evidence put forward by public health experts, including evidence that sugar-sweetened soft drinks in particular are a major factor in childhood obesity. The government has considered other countries' approaches to taxing soft drinks, and carried out numerous discussions with stakeholders, to help inform the proposals in this document.
<b>Previous engagement:</b>	This is the first public written consultation on the issue. HM Treasury and HMRC officials have been carrying out informal engagement with a range of interested stakeholders since Budget 2016.

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**On request this document can be produced in Welsh and alternative formats including large print, audio and Braille formats**

# Foreword

Tackling obesity is a national challenge. The UK has one of the highest obesity rates in the developed world. Childhood obesity in particular is a major concern. Today nearly a third of children aged 2 to 15 years are overweight or obese,<sup>1</sup> and we know that many of these children will go on to become obese adults.<sup>2</sup>

Obesity drives disease. It increases the risk of heart disease, type 2 diabetes, stroke and some cancers.<sup>3</sup> We now spend more each year on treating obesity and diabetes than we do on the police and fire services combined.<sup>4</sup> This cannot go on.

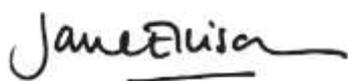
Health experts have identified sugary drinks as one of the biggest contributors to childhood obesity and a source of empty calories.<sup>5 6</sup> A 330 millilitre can of full-sugar cola typically contains nine teaspoons of sugar. Some popular drinks have as many as thirteen teaspoons. This can be more than double a child's daily recommended added sugar intake in just a single can of drink.

The government recognises that this is a problem. Many in the soft drinks industry have recognised this too, and have started to reformulate their product mix. Some companies have started to reduce the sugar content of their drinks, move consumers towards diet and sugar-free variants, and reduce portion sizes for high sugar beverages.

We welcome these actions, but it is clear that we need to go further and faster. The new Soft Drinks Industry Levy, announced at Budget 2016, creates strong incentives for further soft drinks reformulation. The levy is designed so that, by taking reasonable steps to reduce sugar content, UK producers and importers of soft drinks can pay less or escape the charge altogether.

The levy is expected to raise £520 million in the first year, with revenues falling over time as producers and consumers shift their behaviour. Across England the government will invest the revenue during this parliament in giving school-aged children a brighter and healthier future, including programmes to reduce obesity and encourage physical activity and balanced diets.<sup>7</sup>

Companies have two years to reformulate before the levy begins in April 2018. Your responses to this consultation will help ensure we implement the levy in a way that is fair, robust and best meets its objectives while minimising burdens on businesses. I hope that you are able to take the time to respond.



**Jane Ellison**  
**Financial Secretary to the Treasury**

<sup>1</sup> Public Health England (2015) Sugar reduction: responding to the challenge

<sup>2</sup> Singh AS, Mulder C, Twisk JWR, van Mechelen W, Chinapaw MJM. Tracking of childhood overweight into adulthood: a systematic review of the literature. *Obesity Review* 2008; 9: 474–488.

<sup>3</sup> [http://www.noo.org.uk/NOO\\_about\\_obesity/obesity\\_and\\_health/health\\_risk\\_child](http://www.noo.org.uk/NOO_about_obesity/obesity_and_health/health_risk_child)

<sup>4</sup> McKinsey Global Institute (2014) *Overcoming Obesity: An Initial Economic Analysis*

<sup>5</sup> The Scientific Advisory Committee on Nutrition. (2015) *Carbohydrates and Health*. Online. Available from: <https://www.gov.uk/government/groups/scientific-advisory-committee-on-nutrition>

<sup>6</sup> Public Health England (2015) Sugar reduction: responding to the challenge

<sup>7</sup> The devolved administrations will receive equivalent funding through the Barnett formula in the usual way.

# 1. Introduction

## The costs of obesity

- 1.1 Almost two thirds of adults in England are now overweight or obese.<sup>8</sup> The proportion of children classed as overweight or obese in the UK overall is amongst the highest in the developed world.<sup>9</sup><sup>10</sup> Younger generations are becoming obese at earlier ages and staying obese for longer.<sup>11</sup>
- 1.2 Obesity can ruin lives. The number of children admitted to hospital for obesity and related conditions has quadrupled in the last decade.<sup>12</sup> Individuals who are obese in their early years are more likely to be obese adults, putting them at a higher risk of ill-health, disability and premature death.<sup>13</sup> <sup>14</sup>
- 1.3 Obesity also has costs to society. The estimated indirect cost to the UK economy from obesity is between £27 billion<sup>15</sup> and £46 billion.<sup>16</sup> The direct cost to the NHS includes £6.1 billion a year on overweight and obesity-related ill health<sup>17</sup> and £8.8 billion for type 2 diabetes.<sup>18</sup>

## The role of sugar consumption in obesity and other health problems

- 1.4 The evidence shows that children in the UK are consuming too many calories and, in particular, too much sugar.<sup>19</sup> There is a link between high sugar intake and excess calorie consumption, which increases the risk of weight gain and obesity.<sup>20</sup>
- 1.5 Sugar consumption is also a leading cause of tooth decay in children, with tooth extractions now the main reason for hospital admissions for children aged 5 – 9 years. Tooth extractions for under 18s cost the NHS £35 million per year, with data showing that there has been a 26% increase in the number, and 66%

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<sup>8</sup> Health Survey for England, 2014. Available from: <http://www.hscic.gov.uk/catalogue/PUB19295>

<sup>9</sup> Health and Social Care Information Centre (2015, National Child Measurement Programme, England 2014/15)

<sup>10</sup> 'Healthy Weight, Healthy Lives: A toolkit for developing local strategies', Dr Kerry Swanton for the National Heart Forum/Cross Government Obesity Unit/Faculty of Public Health, 2008.

<sup>11</sup> Johnson W, Li L, Kuh D, Hardy R (2015) How Has the Age-Related Process of Overweight or Obesity Development Changed over Time? Coordinated Analyses of Individual Participant Data from Five United Kingdom Birth Cohorts. *PLoS Med* 12(5)

<sup>12</sup> Jones Nielsen JD, Lavery AA, Millett C, Mainous Iii AG, Majeed A, Saxena S. (2013) Rising Obesity-Related Hospital Admissions among Children and Young People in England: National Time Trends Study. *PLoS ONE*. 8:6, e65764.

<sup>13</sup> Lake, J.K., Power, C., & Cole, T.J. (1997) Child to adult body mass index in the 1958 British birth cohort: associations with parental obesity. *Archives of Disease in Childhood*. 77, 376-381.

<sup>14</sup> Singh AS, Mulder C, Twisk JWR, van Mechelen W, Chinapaw MJM. Tracking of childhood overweight into adulthood: a systematic review of the literature. *Obes Rev* 2008; 9: 474–488.

<sup>15</sup> Butland B, Jebb S, Kopelman P, et al. (2007) Tackling obesities: future choices – project report (2nd Ed). Foresight Programme of the Government Office for Science.

<sup>16</sup> McKinsey Global Institute (2014) Overcoming Obesity: An Initial Economic Analysis.

<sup>17</sup> Scarborough P, Bhatnagar P, Wickramasinghe KK, Allender S, Foster C, Rayner M. The economic burden of ill health due to diet, physical inactivity, smoking, alcohol and obesity in the UK: an update to 2006–07 NHS costs. *Journal of Public Health*. 2011; 33(4): 527–535.

<sup>18</sup> [https://www.diabetes.org.uk/about\\_us/news\\_landing\\_page/nhs-spending-on-diabetes-to-reach-169-billion-by-2035/](https://www.diabetes.org.uk/about_us/news_landing_page/nhs-spending-on-diabetes-to-reach-169-billion-by-2035/)

<sup>19</sup> National Diet and Nutrition Survey: results from Years 1 to 4 (combined) of the rolling programme for 2008/09 to 2011/12 <https://www.gov.uk/government/publications/national-diet-and-nutrition-survey-results-from-years-1-to-4-combined-of-the-rolling-programme-for-2008-and-2009-to-2011-and-2012>

<sup>20</sup> The Scientific Advisory Committee on Nutrition. (2015) Carbohydrates and Health. Online. Available from: <https://www.gov.uk/government/groups/scientific-advisory-committee-on-nutrition>

increase in the cost, of hospital-based extractions for children over the last four and five years respectively.<sup>21</sup>

- 1.6 The Scientific Advisory Committee on Nutrition recommends that, for those aged two and upwards, average sugar intake should not exceed 5% of total dietary energy (halving the previous recommendation). The Committee also recommends that consumption of sugar-sweetened drinks should be minimised by both children and adults.<sup>22</sup> The government has accepted these recommendations and has integrated them into the official UK advice on what constitutes the best diet for health.

## The Soft Drink Industry Levy

- 1.7 Sugar-sweetened soft drinks have been identified by public health experts as a major contributor to sugar consumption and an important factor in childhood obesity. Consuming just one full-sugar 330 millilitre can of cola takes a child over their recommended daily intake of sugar for the day. These drinks generally represent empty calories, and are a leading contributor to sugar intakes for both children and adults.<sup>23</sup>
- 1.8 At the Budget in March 2016, the government announced a new levy on soft drinks companies from April 2018 with the objective of encouraging companies to reformulate their product mix to reduce the added sugar in their products.
- 1.9 The Soft Drinks Industry Levy will be charged to producers and importers of soft drinks with added sugar. It will apply to volumes of added sugar drinks with total sugar content of 5 grams or more per 100 millilitres, with a higher rate for drinks with 8 grams or more per 100 millilitres. It will not apply to any drink where no sugar is added, or to alcoholic beverages with alcohol content above 0.5% ABV, which cannot lawfully be sold in a shop to under-18s.
- 1.10 The Chief Medical Officer has said that producer-led reformulation and resizing are the key wins for tackling obesity. The levy differs from a consumption tax as it is explicitly aimed at encouraging producer-led behaviour change. The levy is designed so that, if producers bring down the sugar content in their products, reduce portion sizes and help customers to choose low sugar and sugar-free brands, then they can pay less or no levy.
- 1.11 Many companies have already taken steps to reduce sugar levels across their product range. It is the government's intention that this good work continues.

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<sup>21</sup> Figures can be found at <https://www.gov.uk/government/collections/nhs-reference-costs>, and are referenced in the following press release: [http://www.local.gov.uk/media-releases/-/journal\\_content/56/10180/7784916/NEWS](http://www.local.gov.uk/media-releases/-/journal_content/56/10180/7784916/NEWS)

<sup>22</sup> The Scientific Advisory Committee on Nutrition. (2015) Carbohydrates and Health. Online. Available from: <https://www.gov.uk/government/groups/scientific-advisory-committee-on-nutrition>

<sup>23</sup> National Diet and Nutrition Survey: results from Years 1 to 4 (combined) of the rolling programme for 2008/09 to 2011/12 <https://www.gov.uk/government/publications/national-diet-and-nutrition-survey-results-from-years-1-to-4-combined-of-the-rolling-programme-for-2008-and-2009-to-2011-and-2012>

## The policy

1.12 The following policy details are not within the scope of this consultation:

- HMRC will implement and administer the levy.
- The levy will apply to both UK producers and UK importers of added sugar soft drinks. It will apply in respect of added sugar soft drinks brought into the UK from any country, including EU countries.
- It will be designed to provide a relief or exemption for the smallest operators, or low volumes of production or imports.
- The levy will apply to added sugar soft drinks with total sugar content of 5 grams or more per 100 millilitres, with a higher rate for drinks with 8 grams or more per 100 millilitres.
- The levy will apply from April 2018.

## What is the government consulting on?

1.13 This consultation sets out the policy proposals for the levy, and the high level implementation outline to ensure that the levy is introduced in a way that best meets its objectives while minimising burdens on business.

1.14 Chapters 2 to 8 set out exactly what issues the government is consulting on and include a number of specific questions on:

- The definitions of the products in scope of the levy
- The most appropriate treatment of certain products
- The appropriate taxing point, and who will be liable to pay the levy
- How to minimise administrative burdens by keeping the smallest operators out of scope of the levy charge
- How to account for imports and exports
- The approach to compliance and how to minimise any avoidance or evasion risks

## 2. About you

2.1 Businesses, organisations and individuals may have different perspectives, and we are interested in understanding the context of the answers you give to all the questions in this consultation.

**Q1 - Are you:**

- a) a business?\***
- b) an organisation? If so, please provide details (e.g. trade / health body)**
- c) an individual**

**\*If you answered 'a) a business' please specify which of the following describe your business:**

- **a UK producer of soft drinks to which you own the brand.**
- **a UK 'contract' or licensed producer of soft drinks on behalf of someone else.**
- **a UK packager of soft drinks that you have produced.**
- **a UK packager of soft drinks that someone else has produced.**
- **an overseas producer of soft drinks.**
- **an importer of soft drinks into the UK.**
- **a UK retailer.**
- **a UK wholesaler or distributor.**
- **a business providing goods or services that support the production, packaging, importation or supply of soft drinks in the UK – please provide details.**
- **another type of business – please provide details.**

Please include all descriptions that apply to you.

In all cases, it would be helpful to know the volume of soft drinks that you produce, package, import, directly export, or retail on an annual basis. Any such information provided will be treated as commercially sensitive and will not be disclosed.

**Q2 - If you are in business, where is your business established?**

- **UK**
- **Isle of Man**
- **Other EU - please state**
- **Non EU - please state**

**Q3 - If you are in business, how many staff do you employ across the UK?**

- **Fewer than 10**
- **10 - 100**
- **101 - 500**
- **More than 500**

**Q4. If you are a business that produces soft drinks, how much of your yearly production, in litres, would you expect to be liable for the levy?**

## 3. Soft drinks within the scope of the levy

### Background

- 3.1 The Soft Drinks Industry Levy (“the levy”) will apply to pre-packaged soft drinks with added sugar where the total sugar content is 5 grams or more per 100 millilitres (g/100ml). There will be a higher rate for drinks with 8g/100ml or more.
- 3.2 The levy will apply to liquids on the basis of their ready-to-drink composition. Pre-packaged dilutable cordials, squashes and syrups will be taxed according to their composition at recommended diluted volumes – ‘as drunk’. This includes pre-packaged ‘bag in box’ syrups often purchased by pubs and restaurants to dilute on the premises before serving. This section of the consultation outlines some potential approaches to achieving this objective and seeks initial views on compliance arrangements.
- 3.3 As a charge aimed at driving reformulation within the pre-packaged soft drinks market, the industry levy will be charged at the upper part of the supply chain, to producers and importers. High street operators such as pubs, cafes and juice bars will not be liable for the levy. Businesses like these that mix and serve drinks containing pre-packaged ingredients with added sugar will not need to register. Any liable pre-packaged ingredients they use will have been taxed ‘at source’ – i.e. when manufactured and packaged, or imported to the UK.
- 3.4 Legislation will define ‘added sugars’ for the specific purposes of applying the levy. The government has made clear that fruit juices will not be subject to the levy, and it is our intention that the legal definition of ‘added sugars’ used for the levy should exclude fruit juice, fruit puree, and fruit juice concentrate. We seek views in this section of the document on how to ensure these are kept out of scope of the definition of added sugars used for the levy.
- 3.5 The government has also announced an intention that milk-based drinks will be excluded from the levy. This section therefore seeks respondents’ views on the most appropriate approach to milk-based drinks, and the potential definition of an exempt drink. Alcoholic drinks are also not in scope of the soft drinks industry levy, and this section tests the appropriate definition of an alcoholic drink for the purposes of the levy.

### Defining the drinks products within scope of the levy

- 3.6 Legislation will define the type of products that will fall within the scope of the levy. This will be broadly in line with the commonly understood definition of a beverage as a liquid which is consumed, or diluted for consumption, to slake thirst. Legislation will specify that a beverage is within the scope of the levy if it meets the following criteria:
  - It is pre-packaged (e.g. in a bottle, can, carton, bag-in-box or other similar container) and not intended for use in further manufacturing processes

- It contains added sugars, as will be defined in the legislation
- It has no alcohol or an alcohol content of 0.5% or less by volume
- It has a total sugar content of 5.0 grams or more per 100 millilitres

### Defining added sugars for the purposes of the levy

- 3.7 Legislation will define those sugars which, if added in the course of manufacture, will bring the product within scope of the levy, when the other conditions set out above are met.
- 3.8 Added sugars are broadly defined as *added calorific carbohydrate sugars and syrups containing mono- or di-saccharides*.
- 3.9 These would include, without limitation, sugars as defined in the Specified Sugar Products (England) Regulations 2003 (S.I. 2003/1563)<sup>24</sup> (listed in Annex A), honey as defined in the Honey (England) Regulations 2015 (S.I. 2015/1348)<sup>25</sup> (listed in Annex B), and any other sugar ingredients added to sweeten including but not limited to ingredients such as maltose, brown sugar or cane molasses, maple syrup or lactose. Glucose syrups would also be covered within this definition.<sup>26</sup>
- 3.10 When any of the above ingredients is added during the manufacture of the product, and the total sugar content is 5g/100ml or more, the product will be within the scope of the levy. The only exception to this will be where the ingredient falls within the relevant definition of an exempt fruit product. See the next sub-section.
- 3.11 If none of the sugars defined above are added during the manufacturing process, the product will not be within the scope of the levy, irrespective of the total sugar content.

**Q5.a - Do respondents agree that a definition of 'added sugars' as set out in the consultation is sufficient to capture the types of sugar commonly added to soft drinks?**

**Q5.b – If the above definition would be insufficient or could be improved, can respondents propose a suitable definition of sugar contained in UK regulations or guidance, or regulations/guidance from other jurisdictions, which would be suitable for the intentions of the soft drinks levy?**

<sup>24</sup> Analogous regulations apply in Scotland, Wales & Northern Ireland.

<sup>25</sup> Analogous regulations apply in Scotland, Wales & Northern Ireland.

<sup>26</sup> Glucose syrups cover a wide category of ingredients often used for sweetening purposes in some soft drinks. They may contain primarily glucose or varying proportions of fructose. Such syrups are covered in the Specified Sugar Products Regulations 2003. Alternatives names include fructose-glucose syrup, glucose- fructose syrup, fructose syrup, high fructose glucose syrup (high fructose corn syrup is a US term) and iso-glucose.

## Fruit products and the definition of added sugars

- 3.12 Any fruit juice drink that does not contain added sugars will not be subject to the levy. This is the same as for any other drink that does not contain added sugars.
- 3.13 However, some water-based soft drinks are sweetened or flavoured using fruit-derived products, including fruit juices, purees, concentrates, and syrups. In line with the reformulation aim of the levy, the government intends to ensure that certain fruit ingredients do not fall within scope of the legislative definition of added sugars for the levy when they are mixed with any other liquid to form a soft drink. These allowable ingredients should include:
1. Fruit juices and purees
  2. Fruit juice from concentrate
  3. Concentrated fruit juice
  4. Water-extracted fruit juice
  5. Dehydrated fruit juice and powdered fruit juice
- 3.14 As a basis for drawing the relevant definitions we propose that where products defined in Schedules 2 to 6 of the Fruit Juices and Fruit Nectars (England) Regulations 2013 (S.I. 2013/2775) are used to sweeten, the additive will not be considered added sugar for the purposes of the levy. We may look to include or exclude ingredients from this list depending on responses to this consultation.
- 3.15 The Fruit Juices and Fruit Nectars (England) Regulations also list, in Schedule 7, requirements for products known as fruit nectars. Although not common in the UK, these are fruit juice products to which sugars or other sweeteners may be added. Such products may contain up to 20% added sugars. The presence of added sugars in a fruit nectar product would entail that the product would be liable to the levy if total sugars exceed 5g/100ml.
- 3.16 Some relevant schedules from the Fruit Juices and Fruit Nectars (England) Regulations 2013 are outlined in Annex C, and the full text can be found at:
- [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/192357/fruit-juice-si-20130425.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/192357/fruit-juice-si-20130425.pdf)
- 3.17 Respondents are invited to submit views and evidence on the treatment of such products and the way they are labelled in the list of ingredients.

**Q5.c – Do respondents agree that the Fruit Juices and Fruit Nectars (England) Regulations 2013 provide a reasonable reference point for legislation which achieves the aim of keeping pure fruit products outside of the scope of the definition of added sugars?**

## Dilutable liquids

- 3.18 Dilutable cordials, squash and syrups are liquids that are packaged for subsequent dilution with water or other liquids before they are consumed. These products may be diluted at home by a consumer, or by a retailer serving drinks on their premises such as a restaurant, pub or other food or drink outlet.
- 3.19 Added sugar dilutables will be subject to the levy, where the diluted drink contains 5g/100ml of sugar or more. These products will be taxed according to diluted volumes at their recommended dilution ratio as stated on the packaging.
- 3.20 Dilutables and cordials usually have a dilution ratio on the packaging of 1:4 or 1:5 for cordials and often 1:7 for 'bag in box' syrups. Liable producers and importers will have to report the relevant dilution ratios to HMRC and pay the levy on the ready-to-drink beverages that can be produced from the reported volume of dilutable product. Therefore a 1 litre bottle of cordial that can produce 5 litres of diluted drink will be taxed as 5 litres of drink.
- 3.21 HMRC will issue guidance on what it considers to be a standard dilution ratio based on stated dilution ratios for a range of products currently on the market. HMRC will also critically evaluate any products with a non-standard dilution ratio to prevent abuse. We are particularly keen to hear from producers and importers whose products have non-standard dilution ratios.
- 3.22 **Iced drinks** (e.g. 'slushy' drinks) are very similar to liquid soft drinks, and are sometimes presented as a variant on a soft drink brand. They are generally prepared for consumption by diluting a sugar syrup in water if using a 'slush' machine or directly in crushed ice. As this process is comparable to other dilutable products captured by the levy, we consider slush to be within the scope of the levy.
- 3.23 As with other forms of cordial and syrup, slush syrups will be taxed according to diluted volumes at their recommended dilution ratio, usually 1:5 or 1:6. Liable producers and importers will have to report the relevant dilution ratios to HMRC as part of the levy's reporting requirements.

**Q6 – Would requiring liable producers and importers to pay the levy on cordials and dilutables at diluted volumes present reporting or compliance problems for particular businesses? If so, please provide evidence and suggest any alternative approaches.**

## Liquid drinks flavourings

- 3.24 Liquid drinks flavourings are pre-packaged sugar syrups and flavourings which are often added to hot beverages or cocktails. These syrups may not be integral to the drink (e.g. a coffee such as a latte made in a cafe or restaurant), but are dissolved with the drink to alter flavour (e.g. to add hazelnut flavour, gingerbread flavour etc.) and can represent a significant addition of sugar to the drink.

- 3.25 However, unlike dilutable syrups or cordials, these products do not always carry a recommended dilution ratio against which liability to the levy could be assessed. These products have similarities to other food products such as golden syrup which could significantly complicate the design and administration of the levy. If liquids drinks flavourings were to be brought within the scope of the levy, we may need to consider taxing them at separate thresholds and rates. We therefore propose not to include these products within the levy, but we will keep this position under review and consider responses to this consultation before confirming the approach.

**Q7 – Respondents are invited to submit views on the treatment of liquid drinks flavourings as regards the soft drinks industry levy.**

**The approach to milk-based drinks**

- 3.26 Many milk-based drinks are made and served on the premises in cafes or restaurants, and these drinks would therefore not fall within the scope of the levy, which will apply only to producers and importers of pre-packaged drinks.
- 3.27 The government has also announced that certain types of pre-packaged milk-based drinks will not be subject to the levy, and we are seeking views as part of this consultation on the most appropriate approach.
- 3.28 Milk and milk-products are a source of protein, calcium, potassium, phosphorus and iodine, as well as the vitamins B2 and B12. It is essential for children's health that they consume the required amounts of these nutrients as part of a balanced diet.
- 3.29 Milk and other dairy products feature on Public Health England's official 'Eat Well' plate of foods that should be consumed regularly. Children between the ages of one and three years need to have around 350mg of calcium a day. A 300ml serving of milk (just over half a pint) would provide this.
- 3.30 We want to make sure that any milk drink which is exempt from the levy is sufficiently high in milk content that the product carries the nutritional benefits of milk. As such we intend that only pre-packaged drinks containing at least 75% milk would be outside the scope of the levy. Where a drink contains less than 75% milk and also contains added sugar, with a total sugar content of 5g/100ml or more, then it will be subject to the levy.

**Q8 – Do respondents agree that a minimum proportion of 75% milk is necessary to ensure that only nutrient-rich milk drinks are exempt from the levy? If not, what alternative test or treatment would you propose and why?**

**Water-based plant milk drinks**

- 3.31 Plant milk drinks, such as soya, almond, rice or coconut milk, are primarily made from water and may have added sugar. We therefore propose that such drinks are potentially within the scope of the levy on the basis that their composition is similar to that of other water-based drinks in scope. In practice,

however, many of these plant based drinks contain less than 5g sugar per 100ml and would therefore fall into the untaxed levy band, and so variants of these drinks will continue to be produced with no levy due.

- 3.32 We are aware that water-based plant milk drinks may be consumed as replacements for dairy milk by people affected by lactose and dairy intolerances, and that in some cases they are fortified with calcium and other vitamins. It is not our intention to capture medicinal products under the levy, and in the case where any added sugar lactose or dairy substitute product is licensed for a specific medicinal use, it will be exempt from the levy (see medicinal products section on page 15). As part of this consultation we invite views on the proposed approach to water-based plant milk drinks, and the proposed exclusions for medicinal products.

**Q9 – Respondents are invited to submit evidence on the composition of lactose-free and dairy-free milk substitutes, and the practical effects of including water-based drinks of this kind within the levy.**

### Non-soft drink products

- 3.33 **Candy sprays** are considered a confectionery item, and are not consumed in the same way or in the same quantities as soft drinks. It is therefore proposed that these products will not be within the scope of the levy.
- 3.34 **Ice lollies** are frozen products and will not be within the scope of the levy. However, some ice lolly type products are sold in liquid form, for home freezing, and we are aware that there may be an avoidance risk if operators begin to market sugar-sweetened drinks as frozen products in packaging which could be used for home freezing. We will therefore monitor producer and consumer behaviour and keep this under review.
- 3.35 We propose to keep **dissolvable powders** out of the scope of levy. Dissolvable powders are currently not a large proportion of the UK soft drinks market. However, we will keep this aspect of the policy under review, in particular we will continue to monitor the size of the market, and any signs of switching away from liquid cordials and syrups towards these products.

**Q10 – Do respondents agree with the proposed treatment of candy sprays, ice lollies, and dissolvable powders?**

### Drinks with alcoholic content up to 0.5% ABV

- 3.36 In the UK it is lawful for individuals under 18 years of age to purchase pre-packaged drinks of up to 0.5% ABV in a shop or supermarket. This includes drinks such as shandies which may have significant levels of added sugar. The levy is therefore expected to capture drinks with alcoholic content up to 0.5% as part of the pre-packaged soft drinks market.
- 3.37 However, we are aware that a number of lower alcohol versions of alcoholic drinks such as wine, beer and cider may fall into this category, and we are

mindful of the public health benefits of reducing alcohol consumption. Companies have improved the availability of low alcohol alternatives to aid adults in controlling their alcohol intake and we seek views from respondents on how the levy should treat these low alcohol products.

**Q11 – We seek evidence and views from respondents on the types of added-sugar low alcohol products that may be captured by the levy, and the appropriate approach to these products in the levy legislation.**

### **Added sugar soft drinks used for medicinal purposes**

3.38 We are aware that some added sugar soft drinks can be used for self-treatment of medical conditions. It is our intention that where a product/ingredient has been licensed for a specific medicinal use in the UK it will be considered for exclusion from the levy. The current list of such products in England and Wales can be found at the below web address, and there are equivalent lists applicable within Northern Ireland and Scotland.

<http://www.drugtariff.nhsbsa.nhs.uk/#/00315892-DC/DC00315886/Part%20XV%20-%20Borderline%20Substances>

3.39 However, in order to avoid the abuse of the levy we will need to monitor this area closely and we invite responses on the proposed approach.

**Q12 – We welcome views of health professionals and organisations in identifying whether there are any other criteria for deciding whether a particular soft drink should be out of scope of the levy for medical reasons.**

### **Equalities impacts**

3.40 It is not currently anticipated that this measure will have adverse impacts on any group with protected characteristics, as set out in Section 10 (Assessment of Impacts), and we will continue to assess this during the policy development process.

**Q13 - Respondents are invited to submit any evidence that the final levy design could have potentially adverse impacts on groups with protected characteristics.**

## 4. Liability for the levy

### When liability arises

- 4.1 Liability for the levy will arise at the point of production or importation, where the product is not intended for use in further manufacturing processes.
- 4.2 In the case of UK-based production this is likely to be at the point at which the company packages the product, so in the case of syrups intended for dilution in bars and restaurants the product becomes liable for the levy when the syrup is packaged rather than when it is diluted. We believe this to be the most practical option for producers to operate and also for HMRC to administer.
- 4.3 In the case of imports, the levy will become due when liable products are imported into the UK. Products such as syrups imported for use in commercial manufacturing processes will not be taxed at the point they enter the UK, as the final soft drink product will be taxed later in the chain. Imports and exports are considered in more detail in Chapter 7.

### Liability – UK-based production

- 4.4 Our intention for UK-based production is that the packager or bottler of the liable product should be the person liable to register and pay the levy, whether they are the legal owner of the product or not. The packager or bottler of liable products is best placed to know the precise volumes of liable product being produced. This option provides the most certainty for businesses and minimises additional administrative burdens.
- 4.5 However, without modification this approach could lead to small UK producers who contract out some or all of their production to larger entities incurring the levy – which is contrary to the government’s objective to provide relief for small operators (see Chapter 5 below). To ensure small UK producers can still benefit from an exemption when they contract out production we are considering different options and seek views from businesses on the workability of these options.
- 4.6 We may consider allowing the contracted party, once they have conducted due diligence that a small producer is eligible for the exemption or relief, to inform HMRC through their return that they are producing on behalf of an unconnected small UK producer. This approach would then switch the liability to the small producer, who could claim the relief or exemption. If this option were to be considered preferable, producers acting as a contract packager or bottler may be required to provide this evidence to HMRC and to retain appropriate evidence in their business records.
- 4.7 Under this option the taxable person would differ only where the small producer was able to prove that their total production (their own and any contracted out) was below the level at which they would be required to pay the levy. Otherwise the packager or bottler would retain the liability for the levy. HMRC would use

the information provided to carry out risk-based analysis to ensure there is no abuse.

- 4.8 An alternative option would be to treat whoever legally owned the drinks at the point of packaging or bottling as liable for the levy. Under this second model, companies who contracted out the production of their drinks to a separate company may still be liable for the levy as legal owner.
- 4.9 Where a legal owner contracts out packaging or bottling to one or more different entities, this could be a simpler approach to ensuring that eligible small operators are able to claim the relief or exemption. This approach would also reduce the amount of information that the contracted party has to provide on a regular basis.
- 4.10 However, we have concerns over the ability of the legal owner to know the precise volumes that are being packaged or bottled at any given time. This option could lead to the legal owner being dependent on the contracted party to provide information to determine liability for the levy.
- 4.11 A third option would be to treat the brand owner as the person liable for the levy. This would mean that a company that entirely contracts out the manufacture and distribution of a branded product would still be liable to pay the levy. As above, we think this option could impose significant additional burdens on some businesses, as information may need to be sourced from one business to another to calculate liability and therefore we do not see it as the best option.
- 4.12 We particularly welcome views on these alternative options from producers and brand owners involved in long-term licensing and contract agreements.

**Q14 – Do you agree that making the packager or bottler liable for payment of the levy is the least burdensome option for producers of soft drinks? If not, which option is preferable?**

**Q15 – What is the best way of ensuring that small producers who contract out the manufacture of their products to a larger entity can benefit from the small operator relief/exclusion?**

**Q16 – What are the expected one-off and on-going costs for entities acting as a contract packager or bottler who may be required to:**

- **conduct due diligence that a small producer is underneath the threshold**
- **inform HMRC of this through their return**
- **Maintain and produce evidence regarding small producers in their business records**

### **Liability - imported products**

- 4.13 The majority of added sugar soft drinks sold in the UK are produced within the UK, and the liability for the levy will fall on the UK producer. However, where

liable soft drinks are imported into the UK we propose that the entity who receives those goods into the UK will be liable to register and pay the levy.

- 4.14 For the purpose of the levy, imports mean any goods brought into the UK from the EU or from outside the EU.
- 4.15 In practice the importer may be a wholesaler, a retailer, a UK-based producer, or any other business that deals in the distribution or transport of added sugar soft drinks. The importer would be liable to register, account for and pay as set out in Chapter 7.
- 4.16 Alternatively, HMRC could treat the overseas exporter as the importer, and require them to register and pay the levy. However, given that soft drinks are usually imported into the UK through intermediaries, and not by the company that produces the products, we do not consider this model of importer liability to be viable.

**Q17 – Do respondents agree that the proposed treatment and above definitions for importers are appropriate? If not, please specify why.**

### **Spillages during the packaging or bottling process**

- 4.17 We understand that there can be routine wastage or spillage of liquids during the production process, prior to the point the levy becomes due.
- 4.18 Under current proposals, as the levy only becomes due once bottled, none of this wastage or spillage will become liable to the levy.

**Q18 – Do the current proposals adequately ensure that any wastage or spillage during the production process but before the product is bottled is not liable to the levy?**

### **Spoilt, spilt or unfit for use - after the packaging or bottling process**

- 4.19 It is our understanding that the process of manufacturing soft drinks and the nature of the product mean that it is rare for soft drinks to become spoilt or unfit for use once they have been bottled. As such we do not believe there is a need to adjust the levy liability for spoilt or unfit soft drinks. Under current proposals no adjustments will be made for spoilt or unfit soft drinks when producers calculate either their levy liability or whether they are eligible for the small producer relief.
- 4.20 However, we are willing to receive representations from industry on this point and will review our position based on the evidence received during the consultation. If we were to offer adjustments on levy liable products that had been spoilt or unfit for use we would seek to mirror provisions already in place for the Beer Duty regime.

- 4.21 Under the Beer Duty regime, no adjustments are made for spoilt or returned beer when calculating whether the brewery's output is sufficiently small to qualify for small brewery beer relief.
- 4.22 However, relief from the duty is given to beer which 'has become spoilt or unfit for use'. Relief can only be granted once the goods have been reprocessed or destroyed. Usually, the relief can only be claimed by the producer – although other registered producers that buy spoilt goods can request relief but only in advance of reprocessing/destruction. A full audit trail is required to show that duty was originally paid.

**Q19 – We would be grateful if industry could provide examples of where soft drinks have become spoilt, spilt or unfit for use after the bottling process – together with quantities involved.**

### **Products given away free of charge – e.g. samples, gifts and provision to staff**

- 4.23 While free samples and gifts may be used by soft drinks producers as part of their marketing operations, products that are given away after they have been bottled will still be liable for the levy. Any liable product given away as a gift or sample will still count when calculating eligibility for the small operator exemption or universal relief threshold.
- 4.24 HMRC consider that providing a relief would also add significant complexity to the regime and increase risk of abuse.

**Q20 – Do respondents agree products which are given away free of charge should still be liable to the levy? If not, please provide examples of where relief may be appropriate and why.**

## 5. Excluding small operators

- 5.1 The government's objective is to exclude the smallest operators from the levy. The purpose of this exclusion is to balance the administrative costs to HMRC of collecting the levy against the revenue likely to accrue from enforcing the levy below the threshold. This is a common practice across business tax regimes, including in VAT and Business Rates. There are a number of different options which could achieve this objective.
- 5.2 The limit for the exclusion or relief has not yet been set and we wish to use this consultation to determine an appropriate level. We would still expect small soft drinks producers to work towards reducing the sugar content of their added sugar products, particularly if, as their business production grows, they may become liable to the levy over time.
- 5.3 The first option is to exclude both small importers and small producers from the levy provided the volume they import or produce is below a set level. Once a company's production and/or importation volumes exceed the stated limit they would become liable for the levy on all production and/or imports.
- 5.4 An alternative option would be to provide a universal relief on the first portion of liable products. This model would disregard either a set volume of liable products each year on a rolling 12 month (backward looking) basis, or a given annual levy liability in pounds sterling, similar to the income tax personal allowance.
- 5.5 Under this option a company will only pay the levy above a given production volume or relief level and this allowance or relief would be available to all operators. As is the case with other taxes HMRC administers, we would seek to balance the costs of collecting against the estimated revenue to ensure that small producers producing very small volumes of soft drinks will not be brought into the regime.

**Q21 – What is an appropriate production or import level to define a small operator for the purposes of any exemption or relief? Please provide any evidence available on the broader market to support your claim. If you consider yourself to be a smaller producer or importer of added sugar soft drinks, please let us know how many litres of liable product by levy bands you produced, imported and/or exported in the last 12 months, to enable us to determine the appropriate level of any threshold.**

**Q22 – What is the best model for achieving the small operator policy intent - a production exemption for small operators or a small universal relief?**

## 6. Treatment of imports and exports

- 6.1 As detailed in Chapter 4, in the case of imports, the levy will become due when soft drinks liable to the levy are imported into the UK.
- 6.2 The importer is considered to be the entity who receives those goods into the UK. That entity will be liable to register and pay the levy. In practice the importer may be a wholesaler, a retailer, a UK based producer, or any other business that deals in the sale or distribution of added sugar soft drinks.
- 6.3 Products such as syrups imported for use in commercial manufacturing processes will not be taxed at the point they enter the UK, as the final product will be taxed later in the chain.

### Risk of abuse - importation

- 6.4 We are aware that having a small operator exemption or universal relief could create incentives for an increase in the number of smaller operators importing soft drinks into the UK below the relief level or threshold. HMRC intends to explore a full range of legislative and operational countermeasures to address any non-compliance risks associated with importers and will continue to engage with interested stakeholders throughout the coming months.

**Q23 – We would welcome information from industry on the UK demand and supply for imported soft drinks and views on how the levy could change this.**

**Q24 – Will the small importer exemption or the universal relief create a significant risk to the effectiveness of the levy? If yes please provide evidence and/or suggest possible legislative or operational countermeasures.**

### Imports used for international travel

- 6.5 We are aware that some airlines and transport companies import soft drinks into the UK for consumption on ferries, trains and flights leaving the UK. There may be a case for exempting these businesses from the levy provided they can prove the drinks are not being consumed in the UK. A levy exemption of this kind would be similar to the VAT treatment for goods imported into the UK for consumption on flights, trains and ferries leaving the UK, which are currently exempt from VAT. We will review this position based on the evidence we receive.

**Q25 – Should added sugar soft drinks imported into the UK for consumption while travelling internationally be exempted from the levy, provided evidence is provided that the drinks have left the UK? If not, why?**

### Export Credit Scheme

- 6.6 The levy is intended to encourage the reformulation of soft drinks sold in the UK. Several other countries have taxes and levies on soft drinks, and as such it

is currently our intention that exports will not be subject to the levy. We will have to balance this objective against the risk of fraud such schemes can create. 'Export' refers here to any sales outside the UK. It is our intention that the export credit will be limited to the person paying the levy.

- 6.7 Exports could be relieved from the levy through an exemption that applies upfront (i.e. at the time of packaging/bottling) or by means of a credit against future levy liability after the export has taken place.
- 6.8 Our current understanding is that it would be very difficult for all soft drinks producers to reliably identify and distinguish all drinks for export at the time of packaging/bottling. This would also introduce additional compliance risks for HMRC. Therefore we propose that a relief for exports is only provided after the goods have been exported and this is achieved via a credit against the levy, adjusted on the relevant tax return.
- 6.9 In addition we are minded to restrict the credit to operators who directly export their products as those businesses will have robust evidence proving that the levy had been paid on the drinks and that those drinks were exported. Any alternative approach separates the original levy payment from the export and, as a result, increases the opportunity for abuse.
- 6.10 We are aware that the exporter is not always the producer of the goods. Therefore we are willing to consider representations for allowing a producer to claim an export credit on any liable product where there is robust evidence, obtained within a specified time frame, from their customers proving that the export took place. The risks and obligations around claiming the refund would remain with the producer.
- 6.11 We expect that most UK exporters of soft drinks will already be registered for VAT and complying with all of the relevant evidence requirements to support the zero-rating of despatches to EU Member States and exports to other countries outside the UK. VAT Notice 725 and VAT Notice 703 provide details of the type of evidence that is likely to be acceptable for claiming an export credit for the levy. Detailed guidance will be developed to help businesses collect and retain adequate evidence of export.
- 6.12 We are particularly interested to hear from UK producers of soft drinks who directly export, and also from producers who sell their product to wholesalers who may later export the products.

**Q26 – Do respondents agree that the proposal to provide an export credit against future levy liability, restricted to direct exports by the producer, is the best overall solution? If not, please explain what solution you believe would work better.**

**Q27 – Do you make products that will be liable for the levy and will be exported? If you do not directly export these products can you provide information regarding the length of your supply chain, and how easily you could gather and provide proof of export to HMRC?**

**Q28 – What are the expected one-off and on-going costs for:**

- **obtaining and keeping evidence regarding the entitlement to a credit**
- **claiming the credit through the return**

### **Exports and small operators**

6.13 Chapter 5 sets out the government’s proposals to relieve small operators from the levy. Whenever a producer is calculating their eligibility for relief, they will be required to take into account all of their drinks which are liable to the levy on production. This will include drinks produced for sale to a UK customer and those for export.

6.14 We believe that this is the most simple and straightforward option but we are keen to hear views from small UK based producers of soft drinks who are significant exporters.

**Q29 – Do respondents agree that producers of soft drinks should include all of the drinks they produce which are liable to the levy (UK market and exports) when determining their eligibility for relief as a small operator? If not, please provide evidence in support of your answer.**

## 7. Registration and reporting

- 7.1 From 2018, producers and importers who are liable for the tax will have to register with HMRC, report information regarding their taxable products, and pay their tax liability on a quarterly basis.
- 7.2 The government is committed to minimising burdens for taxpayers and building a transparent and accessible tax system fit for the digital age. HMRC operates on a 'digital by default' basis and will look to mandate digital channels by which all businesses within the scope of the levy must register, report and pay online. We will work closely with customers to ensure that the system meets user needs.

### Registration process and requirements

- 7.3 Producers and importers who are liable for the levy will need to register with HMRC. A responsible person in the business will be required to provide certain information, which may include:
- a) the name and address of the business;
  - b) their VAT or CT number, if applicable
  - c) names and addresses of manufacturing/bottling plants where the production of tax liable drinks takes place;
  - d) the product lines along with previous/expected volumes that are liable for the main rate of tax;
  - e) the product lines along with previous/expected volumes that are liable for the higher rate of tax;
  - f) specification of whether they own the brand, or whether it is produced under a contract, including the name of the business they are producing for.
- 7.4 Businesses which produce or import less than the small operator or universal relief threshold in a rolling 12 month period will not be required to be registered. Businesses which produce or import less than the threshold will need to monitor their production volumes and will be required to register if there is an expectation that they will breach the threshold within a rolling 12 month period.

**Q30 – Do you agree that these registration requirements are appropriate? If not, please specify why.**

**Q31 – Please provide details of the one-off costs for registering with HMRC.**

### Deregistration

- 7.5 There will be a facility to allow producers or importers to deregister where they cease trading in or producing added sugar soft drinks, or fall under the threshold for a period of time.

- 7.6 We anticipate that once registered, producers and importers who then fall under the threshold can provide us with nil returns for a period of time, after which they can apply to be deregistered.
- 7.7 We wish to avoid a situation where seasonal producers have to deregister and reregister due to fluctuations in production volumes and are keen to hear views from seasonal producers to better understand their customer needs.

**Q32 – Do you agree that these deregistration requirements are appropriate?**

**Filing returns and other requirements**

- 7.8 Once registered, businesses will need to submit a quarterly tax return online. This will include information about the soft drinks produced in the period and the tax to be paid. Businesses will be required to make an electronic payment of the tax due. Payment will be required within a month of filing the tax return.
- 7.9 Our initial thinking is that businesses will be required to report the following:
- By product line - how many litres of product liable for the main rate had been produced or imported
  - By product line - how many litres of product liable for the higher rate had been produced or imported
  - By product line - how many litres of levy paid product, liable for the main rate, had been exported
  - By product line - how many litres of levy paid product, liable for the higher rate produced had been exported
  - Dilution ratio for cordials and/or 'bag in box' syrups produced or imported.
  - Any change in contract manufacture agreements (i.e. if an agreement ceases and a product is no longer produced, or if a new agreement and a new product is being produced)
- 7.10 As this is a self-declared tax, businesses may also be required to report their overall liability, depending on the final design of the digital solution.
- 7.11 The majority of UK based producers and importers should have ready access to this information, or be able to source this information from their contract producer. We are particularly interested to hear from any UK based producer or importer that believes it could not readily access this information.

**Q33 – In your view, will the reporting requirements be straight-forward to comply with? If not, why? If feasible, please provide information on how many product lines you produce by levy bands that will be liable for the levy.**

**Q34 – Please provide details of the expected one-off and on-going costs of completing, filing, and paying the return.**

## Making use of existing data

7.12 HMRC always looks to make best use of existing data to reduce burdens on business.

7.13 We have identified that Intrastat declarations and EC Sales Lists could provide useful compliance data to HMRC. There are also a number of industry data sources that we may also utilise to ensure compliance with the levy.

**Q35 – Are respondents aware of any other data sources that HMRC could rely upon to support compliance and/or reduce reporting requirements on businesses?**

## Other registration / reporting issues

**Q36 – Are there another other issues with the proposed registration and reporting requirements that you think we should know about?**

## 8. Ensuring compliance

- 8.1 It is critical that the levy is implemented in a way that minimises the risk of avoidance or evasion and provides a level playing field for compliant operators. HMRC puts compliance and customer service at the heart of everything we do. We strive to promote compliance by helping customers get it right first time and by designing out the opportunity for non-compliance.
- 8.2 HMRC will minimise non-compliance by exploiting our digital channels, using what we know about individuals and companies to identify risks as they arise and giving customers the opportunity to correct their mistakes before they reach HMRC.
- 8.3 Where there is non-compliance HMRC will respond accordingly.
- 8.4 Previous chapters have already included some important questions about delivering a compliant regime. This chapter looks at other compliance risks that have been identified and how to minimise them. We invite respondents to flag any other risks that the consultation hasn't covered.

### Compliance powers

- 8.5 In order to ensure compliance with the levy, HMRC will rely on the types of compliance powers we use to administer our other duties. For example these powers will allow us to compulsorily register businesses that are liable to be registered for the levy but have failed to do so.
- 8.6 They will also enable HMRC to challenge the content of any return and assess for additional liability where appropriate.

### Compliance and product testing

- 8.7 There are some particular aspects of the levy where bespoke compliance powers and enforcement measures may be appropriate. This is likely to include the power to require producers of dilutable cordials to pay the levy at a standard dilution ratio where we believe their dilution ratio has been set to avoid the levy. We will monitor dilution ratios and may intervene if we consider producers are attempting to reduce the amount of levy they pay by simply changing the stated dilution ratio without reformulating the product.
- 8.8 Businesses will be required to test the sugar content of liable products on at least a yearly basis to ensure that sugar content of the product reflects the levels declared on the product packaging, and keep the results in their business records. We understand that producers continually test their products and record their findings so this should not represent an additional burden on businesses.
- 8.9 We are considering requiring this testing to be conducted by an independent tester on an annual basis - and particularly want to hear views from the industry

on this point. We may also require mandatory testing of products where we consider businesses may have been non-compliant.

- 8.10 We are aware that it will be less straightforward to require product testing on imported soft drinks. We therefore welcome input on what equivalent product testing obligations we could require of importers of soft drinks.

**Q37 – If producers are required to test their products annually and record their findings, please provide details of any additional one-off or on-going costs (i.e. over and above those already incurred).**

**Q38 – Are there types of product testing that would help determine appropriate dilution ratios for dilutable products?**

**Q39 – Are there any sugar content tests that would be appropriate for imported drinks?**

## Penalties

- 8.11 Penalties are applied to encourage taxpayers to comply with their obligations, to act as a sanction for those who do not, and to reassure the compliant majority that they will not be disadvantaged by those who do not play by the rules. We do not use penalties as a way of raising revenue, or to offset our running costs. In essence, we want compliance, not penalties.
- 8.12 HMRC proposes to introduce new penalties and sanctions for failure to comply with the scheme. HMRC will consider creating a specific new offence for importers and producers who are liable for the levy and who have failed to register or pay the levy on their production or imports. Additional penalties and sanctions may include criminal prosecution, civil penalties and seizure of goods.
- 8.13 There will be penalties for other breaches, including late registration, late notification, late payment and incorrect notifications.
- 8.14 HMRC has been consulting on a review of its penalty regime. Any penalties introduced as part of the soft drinks industry levy will be consistent with the outcome of this review.

**Q40 – Do respondents agree that the above proposals for compliance and penalties are appropriate?**

## Risk of abuse - UK production

- 8.15 We have considered the risk posed by a UK producer splitting their business into a number of companies (e.g. on a brand by brand basis) in order to benefit from the small producers exemption, or the universal relief. As the soft drinks sector in the UK is dominated by large producers we believe it would be uneconomical for these businesses to fragment.

- 8.16 However, we will have provisions in place to prevent fragmentation. Our current proposal is to adopt similar anti-fragmentation measures to those which prevent abuse of the Beer Duty ‘Small Brewery Beer’ relief.
- 8.17 These provisions would ensure that all connected companies (using the ‘connected persons’ definition set out in section 1122 of the Corporation Tax Act 2010) are treated as a single entity when determining whether they are able to benefit from the small producers exemption.

**Q41 – Are our anti-abuse proposals sufficient to tackle the risk of fragmentation (abuse of the small operator exemption) from UK based soft drinks producers?**

**Approach to compliance and support to customers**

- 8.18 Large businesses that will be liable for the bulk of the levy already have HMRC CRMs (Customer Relationship Managers). Compliance work for those businesses will be mostly managed through existing processes. Small and mid-sized businesses who are required to pay the levy will be given appropriate support and guidance.
- 8.19 In addition, HMRC is considering creating a central team to both provide advice to taxpayers, and to monitor compliance.

**Q42 – What would compliance arrangements and support would businesses like to see?**

**Other compliance issues**

**Q43 – Do respondents have any other concerns or suggestions around potential compliance risks?**

## 9. Understanding commercial practices

- 9.1 One of the key objectives of this consultation is to add to our understanding of how the soft drinks sector operates in the UK and how it will be affected by the levy.
- 9.2 HMRC acknowledges that requiring businesses to register and comply with new rules will have an impact on businesses, and may increase their administrative burdens. HMRC will seek to understand the impact and mitigate as far as possible any adverse costs and impacts. This is important as we want to implement the levy in a way which is the most effective, while minimising any costs or burdens on affected businesses.
- 9.3 Throughout this consultation document, specific questions are being asked which we hope will help develop our understanding. However, we appreciate that the industry is complex and we want to provide industry and other experts with the opportunity of explaining any information which they believe could be relevant to the design and implementation of the levy.
- 9.4 We are particularly keen to learn more about how small businesses and importers might be affected.

**Q44 – Unless already covered in your responses to other questions within this document, please tell us about how your business operates and how you think it would be impacted by the levy, including additional administrative burdens?**

**Q45 – Are there any specific impacts on small and micro businesses that are not covered? If so, please provide details of the anticipated one-off and on-going costs and burdens.**

**Q46 – Are there any specific impacts on importers that are not covered? If so, please provide details of the anticipated one-off and on-going costs and burdens.**

# 10. Assessment of impacts

## Summary of Impacts

Exchequer impact (£m)	2016 - 17	2017 - 18	2018 - 19	2019 - 20	2020 - 21
	+/-	+/-	+520	+500	+455
	<p>These figures were set out in Table 2.1 of Budget 2016 and have been certified by the Office for Budget Responsibility. More detail can be found in the policy costing document published alongside the Budget 2016 document.</p>				
<b>Economic impact</b>	<p>Obesity places economic and financial burdens on both individuals and wider society.</p> <p>The levy is designed to encourage soft drinks producers and importers to reformulate their products and move consumers towards healthier choices. Where the levy is successful in influencing behaviour and lowers overall consumption of high sugar drinks we expect positive net economic outcomes from reduced sugar intake in diets.</p> <p>The costing accounts for a behavioural response where producers reformulate their product mix by lowering sugar content, promoting lower sugar alternatives, and reducing portion sizes for high sugar, liable drinks.</p> <p>Companies can reformulate and reduce their levy liability, they do not have to pass on the charge to consumers. They have two years from the announcement until the levy comes in to change their products. However, if they choose to pass the levy on, there will be a more direct consumer behavioural response from changes to prices.</p> <p>The final effect will depend both on the levy rates charged for each sugar band and on producer responses, including product reformulation and pass-through rates.</p>				
<b>Impact on individuals, households and families</b>	<p>Obesity as a health condition can have major costs for individuals and families, and it increases the likelihood of obese individuals developing a wide range of serious health problems, such as type 2 diabetes, heart disease and a number of cancers. These diseases can reduce individuals' quality of life and ability to work.</p> <p>The financial impact of the levy on individuals and households will depend both on the levy rates charged for each sugar band and on producer responses, including product reformulation and pass-through rates.</p>				

	<p>The levy is not expected to directly impact on family formation, stability or breakdown.</p>
<p><b>Equalities impacts</b></p>	<p>It is not anticipated that this measure will have adverse impacts on any group with protected characteristics.</p> <p>Whilst we recognise soft drinks with high levels of added sugar may have a role to play in raising blood glucose levels for people living with type 1 diabetes or other illnesses where sugar intake is a medical factor, there will continue to be a range of drinks containing sugar which will not be subject to the levy and can be a suitable alternative for individuals managing medical conditions which may require them to consume sugary drink or food.</p> <p>Under the current proposals, drinks containing at least 75% of milk will not be within the scope of the levy. We recognise that some people are unable to drink dairy products and that there is evidence of a higher incidence of lactose intolerance amongst certain ethnic groups in the UK. In some cases people may use alternative plant-based drinks as a substitute for dairy milk, and we are keeping this aspect under review.</p> <p>This will be confirmed through consultation.</p>
<p><b>Impact on businesses and Civil Society Organisations</b></p>	<p>Anticipated one-off burdens for businesses liable to pay the levy include: registration, familiarisation and training, developing the required reporting framework to complete tax returns, registration.</p> <p>There will be an ongoing requirement to keep appropriate records and fill in a regular tax return for the levy.</p> <p><u>Small and micro businesses</u> The smallest businesses will be exempt from the levy. The exemption threshold will be set in light of consultation responses, and we will explore any additional impacts on small businesses at that point.</p>
<p><b>Impact on HMRC or other public sector delivery organisations</b></p>	<p>At this stage, HMRC expects to incur one-off capital costs to develop systems for collecting the levy. There will be on-going resources costs from 2017-18 to implement this change. Cost estimates will be reviewed and updated as necessary based on the outcome of this consultation.</p>
<p><b>Other impacts</b></p>	<p>These proposals are not expected to have any other impacts. This will be reviewed in light of consultation responses.</p>

# 11. Summary of consultation questions

Q1 - Are you:

a) a business?\*

b) an organisation? If so, please provide details (e.g. trade / health body) c) an individual

\*If you answered 'a) a business' please specify which of the following describe your business:

- a UK producer of soft drinks to which you own the brand.
- a UK 'contract' or licensed producer of soft drinks on behalf of someone else.
- a UK packager of soft drinks that you have produced.
- a UK packager of soft drinks that someone else has produced.
- an overseas producer of soft drinks.
- an importer of soft drinks into the UK.
- a UK retailer.
- a UK wholesaler or distributor.
- a business providing goods or services that support the production, packaging, importation or supply of soft drinks in the UK – please provide details.
- another type of business – please provide details.

Q2 - If you are in business, where is your business established?

- UK
- Isle of Man
- Other EU - please state
- Non EU - please state

Q3 - If you are in business, how many staff do you employ across the UK?

- Fewer than 10
- 10 - 100
- 101 - 500
- More than 500

Q4 If you are a business that produces soft drinks, how much of your yearly production, in litres, would you expect to be liable for the levy?

Q5.a - Do respondents agree that a definition of 'added sugars' as set out in the consultation is sufficient to capture the types of sugar commonly added to soft drinks?

Q5.b – If the above definition would be insufficient or could be improved, can respondents propose a suitable definition of sugar contained in UK regulations or guidance, or regulations/guidance from other jurisdictions, which would be suitable for the intentions of the soft drinks levy?

Q5.c – Do respondents agree that the Fruit Juices and Fruit Nectars (England) Regulations 2013 provide a reasonable reference point for legislation which achieves the aim of keeping pure fruit products outside of the scope of the definition of added sugars?

Q6 – Would requiring liable producers and importers to pay the levy on cordials and dilutables at diluted volumes present reporting or compliance problems for particular businesses? If so, please provide evidence and suggest any alternative approaches.

Q7 – Respondents are invited to submit views on the treatment of liquid drinks flavourings as regards the soft drinks industry levy.

Q8 – Do respondents agree that a minimum proportion of 75% milk is necessary to ensure that only nutrient-rich milk drinks are exempt from the levy? If not, what alternative test or treatment would you propose and why?

Q9 – Respondents are invited to submit evidence on the composition of lactose-free and dairy-free milk substitutes, and the practical effects of including water-based drinks of this kind within the levy.

Q10 – Do respondents agree with the proposed treatment of candy sprays, ice lollies, and dissolvable powders?

Q11 – We seek evidence and views from respondents on the types of added-sugar low alcohol products that may be captured by the levy, and the appropriate approach to these products in the levy legislation.

Q12 – We welcome views of health professionals and organisations in identifying whether there are any other criteria for deciding whether a particular soft drink should be out of scope of the levy for medical reasons.

Q13 - Respondents are invited to submit any evidence that the final levy design could have potentially adverse impacts on groups with protected characteristics.

Q14 – Do you agree that making the packager or bottler liable for payment of the levy is the least burdensome option for producers of soft drinks? If not, which option is preferable?

Q15 – What is the best way of ensuring that small producers who contract out the manufacture of their products to a larger entity can benefit from the small operator relief/exclusion?

Q16 – What are the expected one-off and on-going costs for producers acting as a contract packager or bottler who may be required to:

- conduct due diligence that a small producer is underneath the threshold
- inform HMRC of this through their return
- Maintain and produce evidence regarding small producers in their business records.

Q17 – Do respondents agree that the proposed treatment and above definitions for importers are appropriate? If not, please specify why.

Q18 – Do the current proposals adequately ensure that any wastage or spillage during the production process but before the product is bottled is not liable to the levy?

Q19 – We would be grateful if industry could provide examples of where soft drinks have become spoilt, spilt or unfit for use after the bottling process – together with quantities involved.

Q20 – Do respondents agree products which are given away free of charge should still be liable to the levy? If not, please provide examples of where relief may be appropriate and why.

Q21 – What is an appropriate production or import level to define a small operator for the purposes of any exemption or relief? Please provide any evidence available on the broader market to support your claim. If you consider yourself to be a smaller producer or importer of added sugar soft drinks, please let us know how many litres of liable product by levy bands you produced, imported and/or exported in the last 12 months, to enable us to determine the appropriate level of any threshold.

Q22 – What is the best model for achieving the small operator policy intent - a production exemption for small operators or a small universal relief?

Q23 – We would welcome information from industry on the UK demand and supply for imported soft drinks and views on how the levy could change this.

Q24 – Will the small importer exemption or the universal relief create a significant risk to the effectiveness of the levy? If yes please provide evidence and/or suggest possible legislative or operational countermeasures.

Q25 – Should added sugar soft drinks imported into the UK for consumption while travelling internationally be exempted from the levy, provided evidence is provided that the drinks have left the UK? If not, why?

Q26 – Do respondents agree that the proposal to provide an export credit against future levy liability, restricted to direct exports by the producer, is the best overall solution? If not, please explain what solution you believe would work better.

Q27 – Do you make products that will be liable for the levy and will be exported? If you do not directly export these products can you provide information regarding the length of your supply chain, and how easily you could gather and provide proof of export to HMRC?

Q28 – What are the expected one-off and on-going costs for:

- obtaining and keeping evidence regarding the entitlement to a credit
- claiming the credit through the return.

Q29 – Do respondents agree that producers of soft drinks should include all of the drinks they produce which are liable to the levy (UK market and exports) when determining their eligibility for relief as a small operator? If not, please provide evidence in support of your answer.

Q30 – Do you agree that these registration requirements are appropriate? If not, please specify why.

- Q31 – Please provide details of the one-off costs for registering with HMRC.
- Q32 – Do you agree that these deregistration requirements are appropriate?
- Q33 – In your view, will the reporting requirements be straight-forward to comply with? If not, why? If feasible, please provide information on how many product lines you produce by levy bands that will be liable for the levy.
- Q34 – Please provide details of the expected one-off and on-going costs of completing, filing and paying the return.
- Q35 – Are respondents aware of any other data sources that HMRC could rely upon to support compliance and/or reduce reporting requirements on businesses?
- Q36 – Are there another other issues with the proposed registration and reporting requirements that you think we should know about?
- Q37 – If producers are required to test their products annually and record their findings, please provide details of any additional one-off or on-going costs (i.e. over and above those already incurred).
- Q38 – Are there types of product testing that would help determine appropriate dilution ratios for dilutable products?
- Q39 – Are there any sugar content tests that would be appropriate for imported drinks?
- Q40 – Do respondents agree that the above proposals for compliance and penalties are appropriate?
- Q41 – Are our anti-abuse proposals sufficient to tackle the risk of fragmentation (abuse of the small operator exemption) from UK based soft drinks producers?
- Q42 – What would compliance arrangements and support would businesses like to see?
- Q43 – Do respondents have any other concerns or suggestions around potential compliance risks?
- Q44 – Unless already covered in your responses to other questions within this document, please tell us about how your business operates and how you think it would be impacted by the levy, including additional administrative burdens?
- Q45 – Are there any specific impacts on small and micro businesses that are not covered? If so, please provide details of the anticipated one-off and on-going costs and burdens.
- Q46 – Are there any specific impacts on importers that are not covered? If so, please provide details of the anticipated one-off and on-going costs and burdens.

## 12. The consultation process

This consultation is being conducted in line with the Tax Consultation Framework. There are 5 stages to tax policy development:

- Stage 1 Setting out objectives and identifying options.
- Stage 2 Determining the best option and developing a framework for implementation including detailed policy design.
- Stage 3 Drafting legislation to effect the proposed change.
- Stage 4 Implementing and monitoring the change.
- Stage 5 Reviewing and evaluating the change.

This consultation is taking place during stage 2 of the process. The purpose of the consultation is to seek views on the detailed policy design and a framework for implementation of a specific proposal, rather than to seek views on alternative proposals.

### How to respond

A summary of the questions in this consultation is included at chapter 10.

Responses should be sent by 13 October 2016, by e-mail to [indirecttax.projectteam@hmrc.gsi.gov.uk](mailto:indirecttax.projectteam@hmrc.gsi.gov.uk) or by post to: Lorna Horton, Indirect Tax Projects Team, HMRC, Room 3/35, 100 Parliament Street, London, SW1A 2BQ.

### **Please do not send consultation responses to the Consultation Coordinator.**

Paper copies of this document or copies in Welsh and alternative formats (large print, audio and Braille) may be obtained free of charge from the above address. This document can also be accessed from [HMRC's GOV.UK pages](#). All responses will be acknowledged, but it will not be possible to give substantive replies to individual representations.

When responding please say if you are a business, individual or representative body. In the case of representative bodies please provide information on the number and nature of people you represent.

### Confidentiality

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes. These are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004.

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals with, amongst other things, obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on HM Revenue and Customs (HMRC).

HMRC will process your personal data in accordance with the DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

### Consultation Principles

This consultation is being run in accordance with the government's Consultation Principles. [If you wish to explain your choice of consultation period, this is the place. Also, if you are holding additional meetings or using alternative means of engaging, please mention this here].

The Consultation Principles are available on the Cabinet Office website:  
<http://www.cabinetoffice.gov.uk/resource-library/consultation-principles-guidance>

If you have any comments or complaints about the consultation process please contact:

John Pay, Consultation Coordinator, Budget Team, HM Revenue & Customs, 100 Parliament Street, London, SW1A 2BQ.

Email: [hmrc-consultation.co-ordinator@hmrc.gsi.gov.uk](mailto:hmrc-consultation.co-ordinator@hmrc.gsi.gov.uk)

**Please do not send responses to the consultation to this address.**

# Annex A: Definition of added sugars - Specified Sugar Products (England) Regulations 2003

	<b>Product name</b>	<b>Definition</b>
<b>1</b>	Semi-white sugar	Purified and crystallised sucrose of sound and fair marketable quality with the following characteristics: A. polarisation not less than 99.5 °Z B. invert sugar content not more than 0.1 % by weight C. loss on drying not more than 0.1 % by weight.
<b>2</b>	Sugar or white sugar	Purified and crystallised sucrose of sound and fair marketable quality with the following characteristics: A. polarisation not less than 99.7 °Z B. invert sugar content not more than 0.04 % by weight C. loss on drying not more than 0.06 % by weight D. type of colour not more than nine points determined in accordance with point (a) of Part B.
<b>3</b>	Extra-white sugar	The product having the characteristics referred to in point 2(a), (b) and (c) and in respect of which the total number of points determined according to the provisions of Part B does not exceed eight, and not more than: — four for the colour type, — six for the ash content, — three for the colour in solution.
<b>4</b>	Sugar solution	The aqueous solution of sucrose with the following characteristics: A. dry matter not less than 62 % by weight B. invert sugar content (ratio of fructose to dextrose: $1.0 \pm 0.2$ ) not more than 3 % by weight of dry matter C. conductivity ash not more than 0.1 % by weight of dry matter, determined in accordance with point (b) of Part B D. colour in solution not more than 45 ICUMSA units.
<b>5</b>	Invert sugar solution	The aqueous solution of sucrose partially inverted by hydrolysis, in which the proportion of invert sugar does not predominate, with the following characteristics: A. dry matter not less than 62 % by weight B. invert sugar content ratio of fructose to dextrose ( $1.0 \pm 0.1$ ) C. more than 3 % but not more than 50 % by weight of dry matter D. conductivity ash not more than 0.4 % by weight of dry matter, determined in accordance with point (b) of Part B.
<b>6</b>	Invert sugar syrup	The aqueous solution, which has possibly been crystallised, of sucrose that has been partly inverted via hydrolysis, in which

		the invert sugar content (fructose/dextrose quotient $1.0 \pm 0.1$ ), must exceed 50 % by weight of dry matter, but which must otherwise meet the requirements laid down in point 5(a) and (c).
<b>7</b>	Glucose syrup	The purified and concentrated aqueous solution of nutritive saccharides obtained from starch and/or inulin, with the following characteristics: A. dry matter not less than 70 % by weight B. dextrose equivalent not less than 20 % by weight of dry matter and C. expressed as D-glucose D. sulphated ash not more than 1 % by weight of dry matter.
<b>8</b>	Dried glucose syrup	Partially dried glucose syrup with at least 93 % by weight of dry matter, but which must otherwise meet the requirements laid down in point 7(b) and (c).
<b>9</b>	Dextrose or dextrose monohydrate	Purified and crystallised D-glucose containing one molecule of water of crystallisation, with the following characteristics: A. dextrose (D-glucose) not less than 99.5 % by weight of dry matter B. dry matter not less than 90 % by weight C. sulphated ash not more than 0.25 % by weight of dry matter.
<b>10</b>	Dextrose or dextrose anhydrous	Purified and crystallised D-glucose not containing water of crystallisation, with at least 98 % by weight of dry matter, but which must otherwise meet the requirements laid down in point 9(a) and (c).
<b>11</b>	Fructose	Purified crystallised D-fructose with the following characteristics: <ul style="list-style-type: none"> <li>• fructose content 98 % minimum</li> <li>• glucose content 0.5 % maximum</li> <li>• loss on drying not more than 0.5 % by weight</li> <li>• conductivity ash not more than 0.1 % by weight determined in accordance with point (b) of Part B</li> </ul>

# Annex B: Definition of honey – The Honey (England) Regulations 2015

## **Definition of “honey” and different types of honey**

(1) In these Regulations “honey” means the natural sweet substance produced by *Apis mellifera* bees from the nectar of plants or from secretions of living parts of plants or excretions of plant-sucking insects on the living parts of plants which the bees collect, transform by combining with specific substances of their own, deposit, dehydrate, store and leave in honeycombs to ripen and mature.

## Annex C: Definitions of fruit juices - The Fruit Juices and Fruit Nectars (England) Regulations 2013 (Schedules 2-7)

Schedule	Product name	Specification
2	Fruit juice	<ol style="list-style-type: none"> <li>1. Fruit juice is the fermentable but unfermented product obtained from the edible part of fruit which is sound, ripe and fresh or preserved by chilling or freezing of one or more kinds mixed together having the characteristic colour, flavour and taste typical of the juice of the fruit from which it comes.</li> <li>2. As well as the product mentioned in paragraph 1, and without prejudice to entries numbers 4 and 7 of Schedule 11, the fruit juice may contain any of the following—               <ol style="list-style-type: none"> <li>(a) an authorised additional ingredient;</li> <li>(b) an authorised additional substance;</li> <li>(c) restored flavour, pulp and cells (or any one or more of them) obtained by suitable physical means from the same species of fruit;</li> <li>(d) in the case of grape juice, restored salts of tartaric acids; and</li> <li>(e) in the case of tomato juice, salt, spices and aromatic herbs.</li> </ol> </li> <li>3. In the case of citrus fruits, except for lime, the fruit juice must come from the endocarp.</li> <li>4. In the case of lime juice, the fruit juice must come from the endocarp or the whole fruit.</li> <li>5. Where a juice is processed from a fruit with pips, seeds and peel, parts or components of pips, seeds and peel must not be incorporated in the juice.</li> <li>6. Paragraph 5 does not apply in a case where parts or components of pips, seeds and peel cannot be removed by good manufacturing practices.</li> <li>7. Fruit juice may be mixed with fruit purée in the production of the fruit juice.</li> <li>8. No treatment, except for an authorised treatment, may be used in the manufacture of a fruit juice.</li> <li>9. The Brix level of the product must be the Brix level of the juice as extracted from the fruit and must not be modified, except by blending with the juice of the same species of fruit.</li> </ol>

3	Fruit juice from concentrate	<ol style="list-style-type: none"> <li>1. Fruit juice from concentrate is the product obtained by reconstituting concentrated fruit juice with potable water that meets the criteria set out in Council Directive 98/83/EC.</li> <li>2. In a case where a fruit juice from concentrate is manufactured from a fruit specified in column 2 of Schedule 13, the soluble solids content of the finished product must have a Brix level of at least the level specified in the corresponding entry in column 3 of that Schedule, as read together with the Notes to that Schedule.</li> <li>3. In a case where a fruit juice from concentrate is manufactured from a fruit that is not specified in column 2 of Schedule 13, the soluble solids content of the finished product must have a Brix level of the juice as extracted from the fruit used to make the concentrate.</li> <li>4. The product must be prepared by suitable processes that maintain the essential physical, chemical, organoleptical and nutritional characteristics of an average type of juice of the fruit from which it comes.</li> <li>5. In the production of the product, concentrated fruit juice, or both fruit juice and concentrated fruit juice, may be mixed with— <ol style="list-style-type: none"> <li>(a) fruit purée;</li> <li>(b) concentrated fruit purée; or</li> <li>(c) both fruit purée and concentrated fruit purée.</li> </ol> </li> <li>6. As well as the ingredients mentioned in paragraphs 1 and 5, the product may contain any of the following— <ol style="list-style-type: none"> <li>(d) an authorised additional ingredient;</li> <li>(e) an authorised additional substance;</li> <li>(f) restored flavour, pulp and cells (or any one or more of them) obtained by suitable physical means from the same species of fruit; and</li> <li>(d) in the case of tomato juice from concentrate, salt, spices and aromatic herbs.</li> </ol> </li> <li>7. No treatment, except for an authorised treatment, may be used in the manufacture of a product.</li> <li>8. Any reference to a Brix level in this Schedule is a reference to the Brix level of a juice exclusive of the soluble solids of any added optional ingredients and additives.</li> </ol>
4	Concentrated fruit juice	<ol style="list-style-type: none"> <li>1. Concentrated fruit juice is the product obtained from fruit juice of one or more fruit species by the</li> </ol>

		<p>physical removal of a specific proportion of its water content.</p> <ol style="list-style-type: none"> <li>2. Where the product is intended for direct consumption, the proportion of water content removed must be at least 50%.</li> <li>3. As well as the ingredients mentioned in paragraph 1, the product may contain any of the following— <ol style="list-style-type: none"> <li>a. an authorised additional ingredient;</li> <li>b. an authorised additional substance; and</li> <li>c. restored flavour, pulp and cells (or any one or more of them) obtained by suitable physical means from the same species of fruit.</li> </ol> </li> <li>4. No treatment, except for an authorised treatment, may be used in the manufacture of a product.</li> </ol>
<b>5</b>	Water extracted fruit juice	<ol style="list-style-type: none"> <li>1. Water extracted fruit juice is the product obtained by diffusion with water of— <ol style="list-style-type: none"> <li>(a) pulpy whole fruit whose juice cannot be extracted by any physical means; or</li> <li>(b) dehydrated whole fruit.</li> </ol> </li> <li>2. As well as the ingredients mentioned in paragraph 1, the product may contain either, or both, of the following— <ol style="list-style-type: none"> <li>(a) an authorised additional ingredient; and</li> <li>(b) an authorised additional substance.</li> </ol> </li> <li>3. No treatment, except for an authorised treatment, may be used in the manufacture of a product.</li> </ol>
<b>6</b>	Dehydrated fruit juice and powdered fruit juice	<ol style="list-style-type: none"> <li>1. Dehydrated fruit juice or powdered fruit juice is the product obtained from fruit juice of one or more fruit species by the physical removal of virtually all of its water content.</li> <li>2. As well as the ingredients mentioned in paragraph 1, the product may contain either, or both, of the following— <ol style="list-style-type: none"> <li>(a) an authorised additional ingredient; and</li> <li>(b) an authorised additional substance.</li> </ol> </li> <li>3. No treatment, except for an authorised treatment, may be used in the manufacture of a product.</li> </ol>
<b>7</b>	Fruit nectars	<ol style="list-style-type: none"> <li>1. Fruit nectar is the fermentable but unfermented product that is obtained by adding water to a juice listed in paragraph 2 either with or without one or both of the substances listed in paragraph 3.</li> <li>2. The juices are— <ol style="list-style-type: none"> <li>(a) fruit juice;</li> <li>(b) fruit juice from concentrate;</li> <li>(c) concentrated fruit juice;</li> <li>(d) water extracted fruit juice;</li> </ol> </li> </ol>

		<ul style="list-style-type: none"> <li>(e) dehydrated fruit juice;</li> <li>(f) powdered fruit juice;</li> <li>(g) fruit purée;</li> <li>(h) concentrated fruit purée; or</li> <li>(i) any mixture of the products mentioned in subparagraphs (a) to (h).</li> </ul> <ol style="list-style-type: none"> <li>3. The substances are— <ul style="list-style-type: none"> <li>(a) sugars, and</li> <li>(b) honey.</li> </ul> </li> <li>4. The amount of sugars or honey, or sugars and honey, added to the product in accordance with paragraph 1 must not exceed 20% of the total weight of the finished product.</li> <li>5. The product must contain the minimum content of fruit juice, fruit purée, or a mixture of such juice and purée, specified in Part 2.</li> <li>6. Where the product is manufactured without added sugar or with reduced energy value, sugars may be replaced wholly or partially by sweeteners in accordance with the requirements of Regulation 1333/2008.</li> <li>7. As well as the ingredients mentioned in paragraphs 1, 2, 3, 5 and 6, the product may contain any of the following— <ul style="list-style-type: none"> <li>(a) an authorised additional ingredient;</li> <li>(b) an authorised additional substance;</li> <li>(c) restored flavour, pulp and cells (or any one or more of them) obtained by suitable physical means from the same species of fruit; and</li> <li>(d) sweeteners (which may be added in addition to any sugar or honey added in accordance with paragraph 1 as read with paragraph 3).</li> </ul> </li> <li>8. No treatment, except for an authorised treatment, may be used in the manufacture of a product.</li> </ol>
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