



# Customs and Excise Management Act 1979

## 1979 CHAPTER 2

### PART XI

#### DETENTION OF PERSONS, FORFEITURE AND LEGAL PROCEEDINGS

##### *General provisions as to legal proceedings*

#### **145 Institution of proceedings.**

- (1) Subject to the following provisions of this section, no proceedings for an offence under the customs and excise Acts or for condemnation under Schedule 3 to this Act shall be instituted [<sup>F1</sup>except—
  - (a) by or with the consent of the Director of Revenue and Customs Prosecutions, or
  - (b) by order of, or with the consent of, the Commissioners for Her Majesty's Revenue and Customs.]
- (2) Subject to the following provisions of this section, any proceedings under the customs and excise Acts instituted [<sup>F2</sup>by order of the Commissioners] in a magistrates' court, and any such proceedings instituted [<sup>F2</sup>by order of the Commissioners] in a court of summary jurisdiction in Northern Ireland, shall be commenced in the name of an officer [<sup>F3</sup>of Revenue and Customs] .
- (3) Subsections (1) and (2) above shall not apply to proceedings on indictment in Scotland.
- (4) [<sup>F4</sup>In the case of the death, removal, discharge or absence of the officer in whose name any proceedings were commenced under subsection (2) above, those proceedings may be continued by any officer authorised in that behalf by the Commissioners.]
- (5) Nothing in the foregoing provisions of this section shall prevent the institution of proceedings for an offence under the customs and excise Acts by order and in the name

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of a law officer of the Crown in any case in which he thinks it proper that proceedings should be so instituted.

- (6) Notwithstanding anything in the foregoing provisions of this section, where any person has been detained for any offence for which he is liable to be detained under the customs and excise Acts, any court before which he is brought may proceed to deal with the case although the proceedings have not been instituted [ <sup>F5</sup> in accordance with this section. ] .

#### Textual Amendments

- F1** Words in s. 145(1) substituted (18.4.2005) by Commissioners for Revenue and Customs Act 2005 (c. 11), s. 53(1), **Sch. 4 para. 23(a)**; S.I. 2005/1126, art. 2(2)(h)
- F2** Words in s. 145(2) inserted (18.4.2005) by Commissioners for Revenue and Customs Act 2005 (c. 11), s. 53(1), **Sch. 4 para. 23(b)(i)**; S.I. 2005/1126, art. 2(2)(h)
- F3** Words in s. 145(2) inserted (18.4.2005) by Commissioners for Revenue and Customs Act 2005 (c. 11), s. 53(1), **Sch. 4 para. 23(b)(ii)**; S.I. 2005/1126, art. 2(2)(h)
- F4** S. 145(4) repealed (18.4.2005) by Commissioners for Revenue and Customs Act 2005 (c. 11), s. 53(1), **Sch. 4 para. 23(c)**, **Sch. 5**; S.I. 2005/1126, art. 2(2)(h)(i)
- F5** Words in s. 145(6) substituted (18.4.2005) by Commissioners for Revenue and Customs Act 2005 (c. 11), s. 53(1), **Sch. 4 para. 23(d)**; S.I. 2005/1126, art. 2(2)(h)

#### Modifications etc. (not altering text)

- C1** Ss. 145, 146 extended by Car Tax Act 1983 (c. 53, SIF 40:2), s. 1(4), **Sch. 1 para. 8(8)**, Value Added Tax Act 1983 (c. 55, SIF 40:2), **s. 39(9)**, S.I. 1987/1521, reg. 3(2)(b); 1987/2105, reg. 5(2) and 1988/1476, art. 5(2)
- C2** Ss. 145-148 applied (31.3.2002) by S.I. 2002/868, **reg. 4(4)**
- C3** S. 145(1)-(4) excluded (31.3.2002) by S.I. 2002/868, **reg. 4(5)**
- C4** Ss. 144-148, 150-155 applied (01.01.1992) by S.I. 1991/2724, **reg. 10(2)**  
 Ss. 144-148, 150-155 applied (01.01.1992) by S.I. 1991/2725, **reg. 6(2)**
- C5** Ss. 144-148, 150-155 applied (01.01.1992) by S.I. 1991/2727, **reg. 7(2)**
- C6** Ss. 145-152 extended (27.9.1993) by 1993 c. 36, **ss. 71(7)**, 78(1).
- C7** Ss. 144-148, 150-155 applied (23.6.1993) by S.I. 1993/1353, **reg. 4(2)**.
- C8** Ss. 145-155 applied (3.5.1994) by 1994 c. 9, s. 64, **Sch. 7 Pt. IV para. 11**  
 Ss. 145-155 applied (with modifications) (1.9.1994) by 1994 c. 23, ss. 72(12), 101(1), **Sch. 13 para. 13** (with **Sch. 13 para. 9**)  
 Ss. 145-155 applied (29.4.1996) by 1996 c. 8, s. 60, **Sch. 5 Pt. III para. 17**
- C9** S. 145 excluded (1.9.1994) by 1994 c. 22, **ss. 47(7)(a)**, 66(1) (with s. 57(4))  
 S. 145 applied (1.7.1995) (with modifications) by S.I. 1995/1447, **reg. 4(1)(b)**
- C10** Ss. 145-148 applied (1.3.1995) by S.I. 1995/271, **reg. 12(2)(3)**  
 Ss. 145-148 applied (15.11.1996) by S.I. 1996/2721, **reg. 12(2)**  
 Ss. 145-148 applied (with modifications) (15.7.1998) by S.I. 1998/1531, **reg. 4(4)(5)**  
 S. 145 applied (1.7.1999) by S.I. 1999/1618, **regs. 5(1)(b)**, 6  
 Ss. 145-148 applied (1.5.1999) by S.I. 1999/1261, **reg. 4(4)**  
 Ss. 145-148 applied (14.10.1999) by S.I. 1999/2821, **reg. 4(4)**  
 Ss. 145-148 applied (14.10.1999) by S.I. 1999/2822, **reg. 4(4)**  
 Ss. 145-148 applied (25.5.2000) by S.I. 2000/1408, **reg. 3(4)**  
 Ss. 145-155 applied (28.7.2000) by 2000 c. 17, s. 30(1), **Sch. 6 Pt. VIII para. 96**  
 Ss. 145-148 applied (28.9.2000) by S.I. 2000/2620, **reg. 12(2)**  
 Ss. 145-155 applied (11.5.2001) by 2001 c. 9, s. 26(5)  
 Ss. 145-155 applied (11.5.2001) by 2001 c. 9, s. 28, **Sch. 6 para. 5**

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- C11** Ss. 145-148 applied (6.2.2004) by The Democratic Republic of Congo (Financing and Financial Assistance and Technical Advice, Assistance and Training) (Penalties and Licences) Regulations 2004 (S.I. 2004/221), regs. 1(1), **4(4)** (with reg. 4(5))
- C12** Ss. 145-148 applied (19.2.2004) by The Sudan (Technical Assistance and Financing and Financial Assistance) (Penalties and Licences) Regulations 2004 (S.I. 2004/373), regs. 1(1), **4(4)** (with reg. 4(5))
- C13** Ss. 145-148 applied (26.2.2004) by The Liberia (Technical Assistance and Financing and Financial Assistance) (Penalties and Licences) Regulations 2004 (S.I. 2004/432), regs. 1(1), **4(4)** (with reg. 4(5))
- C14** Ss. 145-148 applied (3.3.2004) by The Trade in Controlled Goods (Embargoed Destinations) Order 2004 (S.I. 2004/318), arts. 1, **11(2)** (with art. 11(3))
- C15** Ss. 145-148 applied (1.5.2004) by Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) Order 2003 (S.I. 2003/2764), arts. 1, **21(4)**
- C16** Ss. 145-148 applied (1.5.2004) by The Trade in Goods (Control) Order 2003 (S.I. 2003/2765), arts. 1(1), **12(2)**
- C17** Ss. 145-148 applied (17.5.2004) by The Burma (Sale, Supply, Export, Technical Assistance, Financing and Financial Assistance and Shipment of Equipment) (Penalties and Licences) Regulations 2004 (S.I. 2004/1315), regs. 1(1), **4(4)**
- C18** S. 145 applied (1.7.2004) by The Goods Infringing Intellectual Property Rights (Customs) Regulations 2004 (S.I. 2004/1473), regs. 1, **7(1)(b)** (with reg. 2(3))
- C19** Ss. 145-148 applied (9.2.2005) by The Export Control (Iraq and Ivory Coast) Order 2005 (S.I. 2005/232), arts. 1(1), **5(4)**
- C20** Ss. 145-148 applied (27.6.2005) by The Export Control (Democratic Republic of Congo) Order 2005 (S.I. 2005/1677), arts. 1(1), **7(3)**
- C21** Ss. 145-148 applied (26.11.2005) by The Export Control (Uzbekistan) Order 2005 (S.I. 2005/3257), arts. 1(1), **6(3)**
- C22** Ss. 145-148 applied (27.7.2006) by The Export Control (Liberia) Order 2006 (S.I. 2006/2065), arts. 1(1), **7(3)**
- C23** Ss. 145-148 applied (30.7.2006) by The Technical Assistance Control Regulations 2006 (S.I. 2006/1719), regs. 1(1), **6(3)**
- C24** Ss. 145-148 applied (11.10.2006) by The Burma (Sale, Supply, Export, Technical Assistance, Financing and Financial Assistance) (Penalties and Licences) Regulations 2006 (S.I. 2006/2682), art. 1(1), **reg. 6(3)**
- C25** Ss. 145-148 applied (11.10.2006) by The Lebanon (Technical Assistance, Financing and Financial Assistance) (Penalties and Licences) Regulations 2006 (S.I. 2006/2681), regs. 1(1), **5(3)**
- C26** S. 145 applied (27.4.2007) by The Export Control (North Korea) Order 2007 (S.I. 2007/1334), arts. 1(1), **7(4)**
- C27** S. 145 applied (26.5.2007) by The Export Control (Iran) Order 2007 (S.I. 2007/1526), arts. 1(1), **6(4)**
- C28** S. 145(1)-(4) excluded (1.3.1995) by S.I. 1995/271, **reg. 12(3)**  
S. 145(1)-(4) excluded (15.11.1996) by S.I. 1996/2721, **reg. 12(3)**  
S. 145(1)-(4) excluded (1.5.1999) by S.I. 1999/1261, **reg. 4(5)**  
S. 145(1)-(4) excluded (14.10.1999) by S.I. 1999/2821, **reg. 4(5)**  
S. 145(1)-(5) excluded (14.10.1999) by S.I. 1999/2822, **reg. 4(5)**
- C29** S. 145(1)-(4) restricted (17.5.2004) by The Burma (Sale, Supply, Export, Technical Assistance, Financing and Financial Assistance and Shipment of Equipment) (Penalties and Licences) Regulations 2004 (S.I. 2004/1315), regs. 1(1), **4(5)**

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