



Finance (No. 2) Act 1992

1992 CHAPTER 48

PART I

CUSTOMS AND EXCISE, VALUE ADDED TAX AND CAR TAX

CHAPTER I

CUSTOMS AND EXCISE

Abolition of fiscal frontiers etc.

1 Powers to fix excise duty point.

- (1) Subject to the following provisions of this section, the Commissioners may by regulations make provision, in relation to any duties of excise on goods, for fixing the time when the requirement to pay any duty with which goods become chargeable is to take effect (“the excise duty point”).
- (2) Where regulations under this section fix an excise duty point for any goods, the rate of duty for the time being in force at that point shall be the rate used for determining the amount of duty to be paid in pursuance of the requirement that takes effect at that point.
- (3) Regulations under this section may provide for the excise duty point for any goods to be such of the following times as may be prescribed in relation to the circumstances of the case, that is to say—
 - (a) the time when the goods become chargeable with the duty in question;
 - (b) the time when there is a contravention of any prescribed requirements relating to any suspension arrangements applying to the goods;
 - (c) the time when the duty on the goods ceases, in the prescribed manner, to be suspended in accordance with any such arrangements;
 - (d) the time when there is a contravention of any prescribed condition subject to which any relief has been conferred in relation to the goods;

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- (e) such time after the time which, in accordance with regulations made by virtue of any of the preceding paragraphs, would otherwise be the excise duty point for those goods as may be prescribed;
- and regulations made by virtue of any of paragraphs (b) to (e) above may define a time by reference to whether or not at that time the Commissioners have been satisfied as to any matter.
- (4) Where regulations under this section prescribe an excise duty point for any goods, such regulations may also make provision—
- (a) specifying the person or persons on whom the liability to pay duty on the goods is to fall at the excise duty point (being the person or persons having the prescribed connection with the goods at that point or at such other time, falling no earlier than when the goods become chargeable with the duty, as may be prescribed); and
 - (b) where more than one person is to be liable to pay the duty, specifying whether the liability is to be both joint and several.
- (5) Schedule 1 to this Act (which contains minor and consequential amendments and savings for purposes connected with the other provision made by this section) shall have effect.
- (6) The power of the Commissioners to make regulations under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament and shall include power—
- (a) to make different provision for different cases, including different provision for different duties and different goods; and
 - (b) to make such incidental, supplemental, consequential and transitional provision as the Commissioners think necessary or expedient.
- (7) In this section—
- “the Commissioners” means the Commissioners of Customs and Excise;
 - “contravention” includes a failure to comply;
 - “customs and excise Acts” and “goods” have the same meanings as in the ^{M1}Customs and Excise Management Act 1979; and
 - “prescribed” means prescribed by regulations under this section;
- and references in this section to suspension arrangements are references to any provision made by or under the customs and excise Acts for enabling goods to be held or moved without payment of duty or any provision made by or under those Acts in connection with any provision enabling goods to be so held or moved.
- (8) This section and Schedule 1 to this Act shall come into force on such day as the Commissioners may by order made by statutory instrument appoint, and different days may be appointed under this subsection for different provisions and for different purposes.

Subordinate Legislation Made

- P1** S. 1(8) power partly exercised (30.11.1992): 1.12.1992 appointed for specified provisions by [S.I. 1992/2979](#), [arts. 3, 4](#), [Sch.](#) (with transitional provisions).
 S. 1(8) power partly exercised (17.12.1992): 1.1.1993 appointed for specified provisions by [S.I. 1992/3261](#), [art. 3](#), [Sch.](#) (with transitional provisions).

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S. 1(8) power partly exercised (21.5.1993): 1.6.1993 appointed for specified provisions y S.I. 1993.1341, art. 2, Sch.

Commencement Information

- II** S. 1(1)-(7) wholly in force (and power in s. 1(8) exercisable by virtue of [Interpretation Act 1978 \(c. 30\), s. 13](#)); s. 1 not in force at Royal Assent see s. 1(8); s. 1(1)-(4)(6)(7) wholly in force and s. 1(5) in force for certain purposes at 1.12.1992 by [S.I. 1992/2979, art. 3, Sch. Pt. I](#); s. 1(5) in force for further purposes at 1.1.1993 by [S.I. 1992/3261, art. 3, Sch.](#) (with transitional provisions in arts. 4, 5, 6, and 7) and s. 1(5) wholly in force at 1.6.1993 by [S.I. 1993/1341, art. 2, Sch.](#)

Marginal Citations

- M1** 1979 c. 2.

2 Power to provide for drawback of excise duty.

- (1) Subject to the following provisions of this section, the Commissioners may, in relation to any duties of excise, by regulations make provision [^{F1}(a)] conferring an entitlement to drawback of duty in prescribed cases where the Commissioners are satisfied that goods chargeable with duty have not been, and will not be, consumed in the United Kingdom [^{F2}]; and
- (b) conferring an entitlement to drawback of duty, in prescribed cases, on the shipment as stores, or warehousing in an excise warehouse for use as stores, of goods chargeable with duty]
- (2) The power of the Commissioners to make regulations under this section shall include power—
- (a) to provide for, or for the imposition of, the conditions to which an entitlement to drawback under the regulations is to be subject;
- (b) to provide for the determination of the person on whom any such entitlement is conferred;
- (c) to make different provision for different cases, including different provision for different duties and different goods; and
- (d) to make such incidental, supplemental, consequential and transitional provision as the Commissioners think necessary or expedient.
- (3) Without prejudice to the generality of subsection (2)(d) above, the power of the Commissioners to make regulations under this section shall include power, in relation to any drawback of duty to which any person is entitled by virtue of regulations under this section, to provide—
- (a) for entitlement to the drawback to be cancelled at any time after it has been conferred if there is a contravention of any conditions to which it is subject or in such other circumstances as may be prescribed; [^{F3}and
- (b) for such persons as may be prescribed to be liable to the Commissioners for sums paid or credited to any person in respect of any drawback that has been cancelled in accordance with any such regulations.]

[^{F4}(3A) If entitlement to drawback is cancelled under any provision contained in regulations by virtue of subsection (3) above the Commissioners—

- (a) may assess as being excise duty due from the prescribed person an amount equal to sums paid or credited to any person in respect of the drawback, and
- (b) may notify the prescribed person or his representative accordingly.

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- (3B) The reference in subsection (3A) above to the prescribed person is to such person as may be prescribed for the purposes of the subsection by regulations under this section.]
- (4) The power of the Commissioners to make regulations under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) In this section—
- “the Commissioners” means the Commissioners of Customs and Excise;
 - “contravention” includes a failure to comply;
 - [^{F5} “excise warehouse”, “goods”, “shipment”, “stores” and “warehousing” have the same meanings]as in the ^{M2}Customs and Excise Management Act 1979; and
 - “prescribed” means prescribed by regulations under this section.
- (6) This section shall come into force on such day as the Commissioners may by order made by statutory instrument appoint, and different days may be appointed under this subsection for different provisions and for different purposes.

Subordinate Legislation Made

- P2** S. 2(6) power fully exercised (30.11.1992): 1.12.1992 appointed day by [S.I. 1992/2979](#), [art. 3](#), [Sch. Pt. I](#) (with transitional provisions).

Textual Amendments

- F1** Words in s. 2(1) inserted (27.7.1999) by [1999 c. 16](#), [s. 11\(1\)](#)
- F2** Words in s. 2(1) and s. 2(1)(b) inserted (27.7.1999) by [1999 c. 16](#), [s. 11\(1\)](#)
- F3** S. 2(3)(b) and word repealed (1.9.2008 for specified purposes, 1.6.2009 for specified purposes) by [Finance Act 1998 \(c. 36\)](#), [Sch. 2 paras. 6\(2\), 12](#), [Sch. 27\(5\)](#); [S.I. 2008/2302](#), [arts. 2, 3](#); [S.I. 2009/1022](#), [arts. 2, 3](#)
- F4** S. 2(3A)(3B) inserted (1.9.2008 for specified purposes, 1.6.2009 for specified purposes) by [Finance Act 1998 \(c. 36\)](#), [Sch. 2 paras. 6\(3\), 12](#); [S.I. 2008/2302](#), [arts. 2, 3](#); [S.I. 2009/1022](#), [arts. 2, 3](#)
- F5** Words in s. 2(5) substituted (27.7.1999) by [1999 c. 16](#), [s. 11\(2\)](#)

Commencement Information

- I2** S. 2 wholly in force at 1.6.1993 S. 2 not in force at Royal assent see s. 2(6). S. 2 partly in force at 1.12.1992 by [S.I. 1992/2979](#), [art. 3](#), [Sch. Pt. I](#). S. 2 wholly in force at 1.6.1993 by [S.I. 1993/1341](#), [art. 2](#), [Sch.](#)

Marginal Citations

- M2** [1979 c. 2](#).

3 Protection of revenues derived from excise duties.

- (1) Schedule 2 to this Act (which makes additional provision for purposes connected with the protection of the revenues derived from excise duties) shall have effect.
- (2) This section and Schedule 2 to this Act shall come into force on such day as the Commissioners of Customs and Excise may by order made by statutory instrument appoint, and different days may be appointed under this subsection for different provisions and for different purposes.

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Subordinate Legislation Made

- P3** S. 3(2) power partly exercised (8.12.1992): 9.12.1992 appointed for specified provisions by S.I. 1992/3104, **art. 2**.
S. 3(2): power partly exercised (21.5.1993): 1.6.1993 appointed for specified provisions by S.I. 1993/1341, **art. 2, Sch.**

Commencement Information

- I3** S. 3 wholly in force at 9.12.1992 see s. 3(2) and S.I. 1992/3104, **art. 2(1)**.

4 Enforcement powers.

(1) Except in a case falling within subsection [^{F6}(1A) or] (2) below, the powers to which this section applies shall not be exercisable in relation to any person or thing entering or leaving [^{F7}Northern Ireland] so as to prevent, restrict or delay the movement of that person or thing between [^{F8}Northern Ireland and a member State or between] member States.

[^{F9}(1A) The first case in which a power to which this section applies may be exercised as mentioned in subsection (1) above is where it is necessary to exercise the power in order to ascertain whether the movement in question is or is not in fact between [^{F10}Northern Ireland and a member State or between] member States.]

(2) [^{F11}The second case in which a power to which this section applies may be exercised as mentioned in subsection (1) above is where] it is necessary to exercise the power for purposes connected with—

- (a) securing the collection of any ^{F12}... customs duty or giving effect to any [^{F13}Union customs legislation (within the meaning of Part 1 of the Taxation (Cross-border Trade) Act 2018)] relating to any such duty;
- (b) the enforcement of any prohibition or restriction for the time being in force by virtue of any [^{F14}provision of Union customs legislation] with respect to the movement of goods into or out of the member States; ^{F15}...
- (c) the enforcement of any prohibition or restriction for the time being in force by virtue of any enactment with respect to the importation or exportation of goods into or out of the United Kingdom [^{F16}; or
- (d) searching for cash that is recoverable property or intended for use in unlawful conduct]

(3) Subject to subsection (4) below, this section applies to any power which is conferred on the Commissioners of Customs and Excise or any officer or constable under any of the following provisions of the ^{M3}Customs and Excise Management Act 1979, that is to say—

- (a) section 21 (control of movement of aircraft into and out of the United Kingdom);
- (b) section 26 (power to regulate movement by land into and out of Northern Ireland);
- (c) section 27 (officers' powers of boarding);
- (d) section 28 (officers' powers of access);
- (e) section 29 (officers' powers to detain ships);
- (f) section 34 (power to prevent flight of aircraft);

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- (g) section 78 (questions as to baggage of person entering or leaving the United Kingdom);
- [^{F17}(ga) section 157A (general information powers in relation to persons entering or leaving the United Kingdom)]
- (h) section 164 (powers of search).
- (4) The Treasury may by order made by statutory instrument add any power conferred by any enactment contained in the customs and excise Acts to the powers to which this section applies; and a statutory instrument containing an order under this subsection shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) In this section—
- [^{F18}“cash” has the meaning given by section 289(6) and (7) of the Proceeds of Crime Act 2002;]
- ^{F19} ... ^{F20}
- “the customs and excise Acts” and “goods” have the same meanings as in the ^{M4}Customs and Excise Management Act 1979;
- [^{F21}“recoverable property” has the same meaning as in section 316(1) of the Proceeds of Crime Act 2002; and]
- [^{F21}“unlawful conduct” has the same meaning as in section 241 of that Act;]
- and for the purposes of this section a power shall be taken to be exercised otherwise than in relation to a person or thing entering or leaving the United Kingdom in any case where the power is exercisable irrespective of whether the person or thing in question is entering or leaving the United Kingdom.
- (6) This section shall come into force on 1st January 1993.

Textual Amendments

- F6** Words in s. 4(1) inserted (21.7.2009) by [Finance Act 2009 \(c. 10\), s. 112\(2\)](#)
- F7** Words in s. 4(1) substituted (17.12.2020 for specified purposes, 31.12.2020 in so far as not already in force) by [Taxation \(Post-transition Period\) Act 2020 \(c. 26\), s. 11\(1\)\(e\), Sch. 1 para. 13\(2\)\(a\)](#) (with [Sch. 2 para. 7\(7\)-\(9\)](#)); S.I. 2020/1642, reg. 9
- F8** Words in s. 4(1) substituted (17.12.2020 for specified purposes, 31.12.2020 in so far as not already in force) by [Taxation \(Post-transition Period\) Act 2020 \(c. 26\), s. 11\(1\)\(e\), Sch. 1 para. 13\(2\)\(b\)](#) (with [Sch. 2 para. 7\(7\)-\(9\)](#)); S.I. 2020/1642, reg. 9
- F9** S. 4(1A) inserted (21.7.2009) by [Finance Act 2009 \(c. 10\), s. 112\(3\)](#)
- F10** Words in s. 4(1A) substituted (17.12.2020 for specified purposes, 31.12.2020 in so far as not already in force) by [Taxation \(Post-transition Period\) Act 2020 \(c. 26\), s. 11\(1\)\(e\), Sch. 1 para. 13\(3\)](#) (with [Sch. 2 para. 7\(7\)-\(9\)](#)); S.I. 2020/1642, reg. 9
- F11** Words in s. 4(2) substituted (21.7.2009) by [Finance Act 2009 \(c. 10\), s. 112\(4\)](#)
- F12** Word in s. 4(2)(a) omitted (17.12.2020 for specified purposes, 31.12.2020 in so far as not already in force) by virtue of [Taxation \(Post-transition Period\) Act 2020 \(c. 26\), s. 11\(1\)\(e\), Sch. 1 para. 13\(4\)\(a\)\(i\)](#) (with [Sch. 2 para. 7\(7\)-\(9\)](#)); S.I. 2020/1642, reg. 9
- F13** Words in s. 4(2)(a) substituted (17.12.2020 for specified purposes, 31.12.2020 in so far as not already in force) by [Taxation \(Post-transition Period\) Act 2020 \(c. 26\), s. 11\(1\)\(e\), Sch. 1 para. 13\(4\)\(a\)\(ii\)](#) (with [Sch. 2 para. 7\(7\)-\(9\)](#)); S.I. 2020/1642, reg. 9
- F14** Words in s. 4(2)(b) substituted (17.12.2020 for specified purposes, 31.12.2020 in so far as not already in force) by [Taxation \(Post-transition Period\) Act 2020 \(c. 26\), s. 11\(1\)\(e\), Sch. 1 para. 13\(4\)\(b\)](#) (with [Sch. 2 para. 7\(7\)-\(9\)](#)); S.I. 2020/1642, reg. 9

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- F15** Word in s. 4(2)(b) repealed (25.1.2010) by Policing and Crime Act 2009 (c. 26), ss. 99(2)(a), 116(3)(b), **Sch. 8 Pt. 9**; S.I. 2010/52, art. 2
- F16** S. 4(2)(d) and word inserted (25.1.2010) by Policing and Crime Act 2009 (c. 26), ss. 99(2)(b), 116(3)(b); S.I. 2010/52, art. 2
- F17** S. 4(3)(ga) inserted (25.1.2010) by Policing and Crime Act 2009 (c. 26), ss. 98(2), 116(3)(a); S.I. 2010/52, art. 2
- F18** Words in s. 4(5) inserted (25.1.2010) by Policing and Crime Act 2009 (c. 26), ss. 99(3)(a), 116(3)(b); S.I. 2010/52, art. 2
- F19** Words in s. 4(5) omitted (17.12.2020 for specified purposes, 31.12.2020 in so far as not already in force) by virtue of Taxation (Post-transition Period) Act 2020 (c. 26), s. 11(1)(e), **Sch. 1 para. 13(5)** (with **Sch. 2 para. 7(7)-(9)**); S.I. 2020/1642, reg. 9
- F20** Word in s. 4(5) repealed (25.1.2010) by Policing and Crime Act 2009 (c. 26), ss. 99(3)(b), 116(3)(b), **Sch. 8 Pt. 9**; S.I. 2010/52, art. 2
- F21** Words in s. 4(5) inserted (25.1.2010) by Policing and Crime Act 2009 (c. 26), ss. 99(3)(c), 116(3)(b); S.I. 2010/52, art. 2

Modifications etc. (not altering text)

- C1** S. 4 applied (with modifications) (1.8.2021) by S.I. 1995/2518, regs. 133M(1), **133N(2)** (as inserted by The Value Added Tax (Amendment) (EU Exit) Regulations 2021 (S.I. 2021/715), regs. 1, 47)

Marginal Citations

- M3** 1979 c. 2.
M4 1979 c. 2.

5 Controls of persons entering the United Kingdom.

- (1) In section 78 of the Customs and Excise Management Act 1979 (controls of persons entering or leaving the United Kingdom), after subsection (2) there shall be inserted the following subsection —

“(2A) Subject to subsection (1A) above, where the journey of a person arriving by air in the United Kingdom is continued or resumed by air to a destination in the United Kingdom which is not the place where he is regarded for the purposes of this section as entering the United Kingdom, subsections (1) and (2) above shall apply in relation to that person on his arrival at that destination as they apply in relation to a person entering the United Kingdom.”

- (2) This section shall come into force on 1st January 1993.

Changes to legislation:

There are currently no known outstanding effects for the Finance (No. 2) Act 1992, Cross
Heading: Abolition of fiscal frontiers etc..