



# Finance Act 1994

## 1994 CHAPTER 9

### PART I

#### CUSTOMS AND EXCISE

### CHAPTER II

#### APPEALS AND PENALTIES

#### *Supplemental provisions*

## 17 Interpretation

- (1) Subject to the following provisions of this section, expressions used in this Chapter and in the Management Act have the same meanings in this Chapter as in that Act.
- (2) In this Chapter—
  - “appeal tribunal” shall be construed in accordance with section 7(3) above;
  - “conduct” includes any act, omission or statement;
  - “contravention” includes a failure to comply, and cognate expressions shall be construed accordingly;
  - “the Community Customs Code” means the Regulation of the Council of the European Communities dated 12 October 1992 ([EEC](#) No. 2913/92 for establishing the Community Customs Code;
  - “the Management Act” means the Customs and Excise Management Act 1979;
  - “relevant duty” means any Community customs duty or agricultural levy of the European Community or any duty of excise; and
  - “subordinate legislation” has the same meaning as in the Interpretation Act 1978.

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*Status: This is the original version (as it was originally enacted).*

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- (3) For the purposes of this Chapter a contravention consisting in a failure to do something at or before a particular time shall be taken to continue after that time until the thing is done, and references in this Chapter to the remedying of such a contravention shall be construed accordingly.
- (4) References in this Chapter to a duty of excise do not include references to vehicles excise duty.

## **18 Consequential modifications of enactments**

- (1) Subject to subsection (2) below, references in the Management Act to a penalty shall not include references to a penalty under this Chapter.
- (2) Section 117 of the Management Act (execution and distress against revenue traders) shall have effect—
  - (a) as if any amount assessed as due from any person by way of a penalty under this Chapter, not being an amount in relation to which subsection (4) below applies, were an amount of excise duty payable by that person; and
  - (b) with the substitution, in subsection (7A)—
    - (i) for “estimated under section 116A above” of “assessed under section 12 of the Finance Act 1994”; and
    - (ii) for the word “estimated”, in the second and third places where it occurs, of “assessed”.
- (3) Section 127 of the Management Act (determination of disputes as to duties on imported goods) shall cease to have effect; and for subsection (5) of section 40 of the Value Added Tax Act 1983 (which provides for there to be no appeal with respect to any matter falling to be determined in accordance with section 127 of the Management Act) there shall be substituted the following subsection—
  - “(5) No appeal shall lie under this section with respect to the subject-matter of any decision which by virtue of section 24 above is a decision to which section 14 of the Finance Act 1994 (decisions subject to review) applies unless the decision—
    - (a) relates exclusively to one or both of the following matters, namely whether or not section 16(3) above applies in relation to the importation of the goods in question and (if it does not) the rate of tax charged on those goods; and
    - (b) is not one in respect of which notice has been given to the Commissioners under section 14 of that Act requiring them to review it.”
- (4) Sections 28 and 29 of the Betting and Gaming Duties Act 1981 (distress and pouncing) shall apply, as they apply in relation to any amount recoverable by way of general betting duty, in relation to any amount assessed as due from any person by way of a penalty incurred under this Chapter with respect to conduct connected with a duty or licence under that Act.
- (5) In section 29A(1)(d) of that Act of 1981 (certificate to be evidence of certain matters), for the words “or estimate made in pursuance of this Act” there shall be substituted “made in pursuance of this Act or in any assessment made under section 12 of the Finance Act 1994”.

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- (6) In section 35(1)(c) of the Finance Act 1993 (certificate to be evidence of certain matters), for the words “in an estimate made under section 116A of the Customs and Excise Management Act 1979” there shall be substituted “in any assessment made under section 12 of the Finance Act 1994”.
- (7) In section 827 of the Taxes Act 1988 (VAT penalties etc.), after subsection (1) there shall be inserted the following subsection—
  - “(1A) Where a person is liable to make a payment by way of a penalty under any of sections 8 to 11 of the Finance Act 1994 (penalties relating to excise), that payment shall not be allowed as a deduction in computing any income, profits or losses for any tax purposes.”
- (8) Subsections (1), (2) and (4) above shall be without prejudice to section 13(5) above; and subsection (7) above shall have effect in relation to any chargeable period ending after the coming into force of the provision which provides for the imposition of the penalty in question.

## **19 Commencement of Chapter**

- (1) Subject to section 18(8) above, this Chapter 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.
- (2) An order under this section may make such transitional provision and savings as appear to the Commissioners to be appropriate in connection with the bringing into force by such an order of any provision of this Chapter.
- (3) Nothing in any provision of this Chapter shall, in respect of conduct occurring before the coming into force of that provision, impose or affect any liability to any civil or criminal penalty or any liability of goods to forfeiture.