



# Customs and Excise Management Act 1979

## 1979 CHAPTER 2

### PART I

#### PRELIMINARY

#### 1 Interpretation.

(1) In this Act, unless the context otherwise requires—

“aerodrome ” means any area of land or water designed, equipped, set apart of commonly used for affording facilities for the landing and departure of aircraft;

<sup>F1</sup> . . .

“approved wharf ” has the meaning given by [<sup>F2</sup>section 20A] below;

“armed forces ” means the Royal Navy, the Royal Marines, the regular army and the regular air force, and any reserve or auxiliary force of any of those services which has been called out on permanent service, or called into actual service, or embodied;

“assigned matter ” means any matter in relation to which the Commissioners are for the time being required in pursuance of any enactment to perform any duties;

“boarding station ” means a boarding station for the time being appointed under section 19 below;

“boundary ” means the land boundary of Northern Ireland;

“British ship ” means a British ship within the meaning of the <sup>M1</sup>Merchant Shipping Act 1894, so, however, as not to include a ship registered in any country other than the United Kingdom, the Channel Islands, the Isle of Man or a colony within the meaning of the <sup>M2</sup>British Nationality Act 1948;

“claimant ”, in relation to proceedings for the condemnation of any thing as being forfeited, means a person claiming that the thing is not liable to forfeiture;

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**Changes to legislation:** Customs and Excise Management Act 1979 is up to date with all changes known to be in force on or before 26 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

“coasting ship ” has the meaning given by section 69 below;

“commander ”, in relation to an aircraft, includes any person having or taking the charge or command of the aircraft;

“the Commissioners ” means the Commissioners of Customs and Excise;

“Community transit goods ”—

(a) in relation to imported goods, means—

(i) goods which have been imported under the internal or external Community transit procedure for transit through the United Kingdom with a view to exportation where the importation was and the transit and exportation are to be part of one Community transit operation; or

(ii) goods which have, at the port or airport at which they were imported, been placed under the internal or external Community transit procedure for transit through the United Kingdom with a view to exportation where the transit and exportation are to be part of one Community transit operation;

(b) in relation to goods for exportation, means—

(i) goods which have been imported as mentioned in paragraph (a)(i) of this definition and are to be exported as part of the Community transit operation in the course of which they were imported; or

(ii) goods which have, under the internal or external Community transit procedure, transited the United Kingdom from the port or airport at which they were imported and are to be exported as part of the Community transit operation which commenced at that port or airport <sup>F3</sup>and for the purposes of paragraph (a)(i) above the Isle of Man shall be treated as if it were part of the United Kingdom];

“container ” includes any bundle or package and any box, cask or other receptacle whatsoever;

“the customs and excise Acts ” means the Customs and Excise Acts 1979 and any other enactment for the time being in force relating to customs or excise;

“the Customs and Excise Acts 1979 ” means—

this Act,

the <sup>M3</sup>Customs and Excise Duties (General Reliefs) Act 1979,

the <sup>M4</sup>Alcoholic Liquor Duties Act 1979,

the <sup>M5</sup>Hydrocarbon Oil Duties Act 1979,

<sup>F4</sup> . . . and

the <sup>M6</sup>Tobacco Products Duty Act 1979;

<sup>F5</sup> . . .

“customs and excise airport ” has the meaning given by section 21(7) below;

“customs and excise station ” has the meaning given by section 26 below;

<sup>F6</sup> “designation order ” has the meaning given by section 100A(5);]

“drawback goods ” means goods in the case of which a claim for drawback has been or is to be made;

“dutiable goods ”, except in the expression “dutiable or restricted goods ”, means goods of a class or description subject to any duty of customs or excise, whether or not those goods are in fact chargeable with that duty, and whether or not that duty has been paid thereon;

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“dutiable or restricted goods ” has the meaning given by section 52 below;

“examination station ” has the meaning given by [<sup>F7</sup>section 22A] below;

[<sup>F8</sup> “excise duty point ” has the meaning given by section 1 of the Finance (No. 2) Act 1992;]

“excise licence trade ” means, subject to subsection (5) below, a trade or business for the carrying on of which an excise licence is required;

“excise warehouse ” means a place of security approved by the Commissioners under subsection (1) (whether or not it is also approved under subsection (2)) of section 92 below, and, except in that section, also includes a distiller’s warehouse;

“exporter ”, in relation to goods for exportation or for use as stores, includes the shipper of the goods and any person performing in relation to an aircraft functions corresponding with those of a shipper;

[<sup>F9</sup> “free zone ” has the meaning given by section 100A(2);

“free zone goods ” has the meaning given by section [<sup>F10</sup>100C(4)(d)];

<sup>F11</sup> . . .]

“goods ” includes stores and baggage;

“holiday ”, in relation to any part of the United Kingdom, means any day that is a bank holiday in that part of the United Kingdom under the <sup>M7</sup>Banking and Financial Dealings Act 1971, Christmas Day, Good Friday and the day appointed for the purposes of customs and excise for the celebration of Her Majesty’s birthday;

“hovercraft ” means a hovercraft within the meaning of the <sup>M8</sup>Hovercraft Act 1968;

“importer ”, in relation to any goods at any time between their importation and the time when they are delivered out of charge, includes any owner or other person for the time being possessed of or beneficially interested in the goods and, in relation to goods imported by means of a pipe-line, includes the owner of the pipe-line;

“justice ” and “justice of the peace ” in Scotland includes a sheriff and in Northern Ireland, in relation to any powers and duties which can under any enactment for the time being in force be exercised and performed only by a resident magistrate, means a resident magistrate;

“land ” and “landing ”, in relation to aircraft, include alighting on water;

“law officer of the Crown ” means the Attorney General or in Scotland the Lord Advocate or in Northern Ireland the Attorney General for Northern Ireland;

“licence year ”, in relation to an excise licence issuable annually, means the period of 12 months ending on the date on which that licence expires in any year;

“master ”, in relation to a ship, includes any person having or taking the charge or command of the ship;

<sup>F12</sup>

.....  
 “night ” means the period between 11 pm and 5 am;

“occupier ”, in relation to any bonded premises, [<sup>F13</sup>includes any] person who has given security to the Crown in respect of those premises;

“officer ” means, subject to section 8(2) below, a person commissioned by the Commissioners;

“owner ”, in relation to an aircraft, includes the operator of the aircraft;

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“owner”, in relation to a pipe-line, means (except in the case of a pipe-line vested in the Crown which in pursuance of arrangements in that behalf is operated by another) the person in whom the line is vested and, in the said excepted case, means the person operating the line;

“perfect entry” means an entry made in accordance with [<sup>F14</sup>regulation 5 of the Customs Controls on Importation of Goods Regulations 1991] or warehousing regulations, as the case may require;

“pipe-line” has the meaning given by section 65 of the <sup>M9</sup>Pipe-lines Act 1962 (that Act being taken, for the purposes of this definition, to extend to Northern Ireland);

“port” means a port appointed by the Commissioners under section 19 below;

“prescribed area” means such an area in Northern Ireland adjoining the boundary as the Commissioners may by regulations prescribe;

“prescribed sum”, in relation to the penalty provided for an offence, has the meaning given by section 171(2) below;

“prohibited or restricted goods” means goods of a class or description of which the importation, exportation or carriage coastwise is for the time being prohibited or restricted under or by virtue of any enactment;

“proper”, in relation to the person by, with or to whom, or the place at which, anything is to be done, means the person or place appointed or authorised in that behalf by the Commissioners;

“proprietor”, in relation to any goods, includes any owner, importer, exporter, shipping or other person for the time being possessed of or beneficially interested in those goods;

“Queen’s warehouse” means any place provided by the Crown or appointed by the Commissioners for the deposit of goods for security thereof and of the duties chargeable thereon;

[<sup>F15</sup> “registered excise dealer and shipper” means a revenue trader approved and registered by the Commissioners under section 100G below;

“registered excise dealers and shippers regulations” means regulations under section 100G below;]

“the revenue trade provisions of the customs and excise Acts” means—

- (a) the provisions of the customs and excise Acts relating to the protection, security, collection or management of the revenues derived from the duties of excise on goods produced or manufactured in the United Kingdom;
- (b) the provisions of the customs and excise Acts relating to any activity or facility for the carrying on or provision of which an excise licence is required; <sup>F16</sup> . . .
- (c) the provisions of the <sup>M10</sup>Betting and Gaming Duties Act 1972 (so far as not included in paragraph (b) above) [<sup>F17</sup>; and
- (d) the provisions of Chapter II of Part I of the Finance Act 1993;]

“revenue trader” means

- (a) [<sup>F18</sup>any person carrying on a trade or business subject to any of the revenue trade provisions of the customs and excise Acts [<sup>F19</sup>or which consists of or includes—

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- (i) the buying, selling, importation, exportation, dealing in or handling of any goods of a class or description which is subject to a duty of excise (whether or not duty is chargeable on the goods); <sup>F20</sup> . . . ]
  - (ia) [<sup>F21</sup>the buying, selling, importation, exportation, dealing in or handling of tickets or chances on the taking of which lottery duty is or will be chargeable; or]
  - (ii) the financing or facilitation of any such transactions or activities [<sup>F22</sup>as are mentioned in sub-paragraph (i) or (ia) above],]
- , whether or not that trade or business is an excise licence trade, [<sup>F23</sup>; and
- (b) any person who is a wholesaler or an occupier of an excise warehouse (so far as not included in paragraph (a) above),
- includes a registered club];
- “ship ” and “vessel ” include any boat or other vessel whatsoever (and, to the extent provided in section 2 below, any hovercraft);
- “shipment ” includes loading into an aircraft, and “shipped ” and cognate expressions shall be construed accordingly;
- “stores ” means, subject to subsection (4) below, goods for use in a ship or aircraft and includes fuel and spare parts and other articles of equipment, whether or not for immediate fitting;
- “tons register ” means the tons of a ship’s net tonnage as ascertained and registered according to the tonnage regulations of the <sup>M11</sup>Merchant Shipping Act 1894 or, in the case of a ship which is not registered under that Act, ascertained in like manner as if it were to be so registered;
- “transit goods ”, except in the expression “Community transit goods ”, means imported goods entered on importation for transit or transshipment;
- “transit or transshipment ”, in relation to the entry of goods, means transit through the United Kingdom or transshipment with a view to the re-exportation of the goods in question [<sup>F24</sup>or transshipment of those goods for use as stores];
- “transit shed ” has the meaning given by [<sup>F25</sup>section 25A] below;
- [<sup>F26</sup>“United Kingdom waters ” means any waters (including inland waters) within the seaward limits of the territorial sea of the United Kingdom;]
- “vehicle ” includes a railway vehicle;
- [<sup>F27</sup>“victualling warehouse ” means a place of security approved by the Commissioners under subsection (2) (whether or not it is also a place approved under subsection (1) of section 92 below).]
- “warehouse ”, except in the expressions “Queen’s warehouse ” and “distiller’s warehouse ”, means a place of security approved by the Commissioners under subsection (1) or (2) or subsections (1) and (2) of section 92 below and, except in that section, also includes a distiller’s warehouse; and “warehoused ” and cognate expressions shall, subject to subsection (4) of that section [<sup>F28</sup>and any regulations made by virtue of section 93(2)(da)(i) or (ee) or (4) below], be construed accordingly;
- “warehousing regulations ” means regulations under section 93 below.
- (2) This Act and the other Acts included in the Customs and Excise Acts 1979 shall be construed as one Act but where a provision of this Act refers to this Act that reference is not to be construed as including a reference to any of the others.

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- (3) Any expression used in this Act or in any instrument made under this Act to which a meaning is given by any other Act included in the Customs and Excise Acts 1979 has, except where the context otherwise requires, the same meaning in this Act or any such instrument as in that Act; and for ease of reference the Table below indicates the expressions used in this Act to which a meaning is given by any other such Act—

*Alcoholic Liquor Duties Act 1979*

“beer ”  
 “brewer ” and “ brewer for sale ”  
 “cider ”  
 “compounder ”  
 “distiller ”  
 “distiller’s warehouse ”  
 “dutiable alcoholic liquor ”  
 “licensed ”, in relation to producers of wine or made-wine  
 “made-wine ”  
 “producer of made-wine ”  
 “producer of wine ”  
 “proof ”  
 “rectifier ”  
 “registered club ”  
 “spirits ”  
 [<sup>F29</sup> “wholesaler ”]  
 “wine ”

*Hydrocarbon Oil Duties Act 1979*

“rebate ”  
 “refinery ”

*Tobacco Products Duty Act 1979*

“tobacco products ”

- (4) Subject to section 12 of the <sup>M12</sup>Customs and Excise Duties (General Reliefs) Act 1979 (by which goods for use in naval ships or establishments may be required to be treated as exported), any goods for use in a ship or aircraft as merchandise for sale by retail to persons carried therein shall be treated for the purposes of the customs and excise Acts as stores, and any reference in those Acts to the consumption of stores shall, in relation to goods so treated, be construed as referring to the sale thereof as aforesaid.
- (5) A person who deals in or sells tobacco products in the course of a trade or business carried on by him shall be deemed for the purposes of this Act to be carrying on an excise licence trade (and to be a revenue trader) notwithstanding that no excise licence is required for carrying on that trade or business.
- (6) In computing for the purposes of this Act any period expressed therein as a period of clear days no account shall be taken of the day of the event from which the period is computed or of any Sunday or holiday.
- (7) The provisions of this Act in so far as they relate to customs duties apply, notwithstanding that any duties are imposed for the benefit of the Communities, as if the revenue from duties so imposed remained part of the revenues of the Crown.

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### Textual Amendments

- F1** Definition in s. 1(1) repealed (1.1.1993) by S.I. 1992/3095, regs. 3(1), 10(2), **Sch. 2**.
- F2** Words in s. 1(1) substituted (01.01.1992) by S.I. 1991/2724, **reg. 6(2)(a)**
- F3** Words inserted by **Isle of Man Act 1979** (c. 58), **Sch. 1 para. 2**
- F4** Words in s. 1(1) repealed (1.1.1993) by **Finance (No. 2) Act 1992** (c. 48), s. 82, **Sch. 18 Pt. II**.
- F5** In s. 1(1): definition of "custom warehouse" omitted (01.01.1992) by virtue of S.I. 1991/2725, **reg. 3(2)(a)**
- F6** Definition inserted by **Finance Act 1984** (c. 43, SIF 40:1), s. 8, **Sch. 4 Pt. II para. 1**
- F7** Words in s. 1(1) substituted (01.01.1992) by S.I. 1991/2724, **reg. 6(2)(b)**
- F8** Definition in s. 1(1) inserted (1.12.1992 in so far as mentioned in S.I. 1992/2979, **art. 4** and 1.1.1993 in so far as then not already in force) by **Finance (No. 2) Act 1992** (c. 48), s. 1(5), **Sch. 1 para. 1**; S.I. 1992/2979, **art. 4**, **Sch. 1 Pt. II**; S.I. 1992/3261, **art. 3**, **Sch.**
- F9** Definitions inserted by **Finance Act 1984** (c. 43, SIF 40:1), s. 8, **Sch. 4 Pt. II para. 1**
- F10** Words in s. 1(1) substituted (01.01.1992) by S.I. 1991/2727, **reg. 4(a)**
- F11** In s. 1(1): definition of "free zone regulations" omitted (01.01.1992) by virtue of S.I. 1991/2727, **reg. 4(b)**
- F12** Definition repealed by **Territorial Sea Act 1987** (c. 49, SIF 29:1), s. 3, **Sch. 2**
- F13** Words in s. 1(1) substituted (9.12.1992) by **Finance (No. 2) Act 1992** (c. 48), s. 3(1), **Sch. 2 para. 1(a)**; S.I. 1992/3104, **art. 2(1)**.
- F14** Words in s. 1(1) substituted (1.1.1993) by S.I. 1992/3095, **reg. 10(1)**, **Sch. 1 para. 2**.
- F15** Definitions in s. 1(1) inserted (25.7.1991) by **Finance Act 1991** (c. 31), **s. 11(1)**
- F16** Word in s. 1(1)(b) of definition of "revenue trade provisions" repealed (1.12.1993) by 1993 c. 34, ss. 30(2)(a), 213, **Sch. 23 Pt. I(7)** (with s. 40(2)(3)); S.I. 1993/2842, **art. 3(1)**.
- F17** S. 1(1)(d) and immediate preceding word of definition of "revenue trade provisions" inserted (1.12.1993) by 1993 c. 34, **s. 30(2)(b)** (with s. 40(2)(3)); S.I. 1993/2842, **art. 3(1)**.
- F18** "(a)" inserted by **Finance Act 1981** (c. 35, SIF 40:1), s. 11, **Sch. 8 Pt. I para. 1(1)**
- F19** Words in s. 1(1) inserted (25.7.1991) by **Finance Act 1991** (c. 31), **s. 11(2)**
- F20** Word in s. 1(1)(a)(i) of definition of "revenue trader" repealed (1.12.1993) by 1993 c. 34, s. 30(3)(a), 213, **Sch. 23 Pt. I(7)** (with ss. 40(2)(3)); S.I. 1993/2842, **art. 3(1)**.
- F21** S. 1(1)(ia) of definition of "revenue trader" inserted (1.12.1993) by 1993 c. 34, **s. 30(3)(b)** (with s. 40(2)(3)); S.I. 1993/2842, **art. 3(1)**.
- F22** Words in s. 1(1)(c) of definition of "revenue trader" inserted (1.12.1993) by 1993 c. 34, **s. 30(3)(c)** (with s. 40(2)(3)); S.I. 1993/2842, **art. 3(1)**.
- F23** Words substituted by **Finance Act 1981** (c. 35, SIF 40:1), s. 11, **Sch. 8 Pt. I para. 1(1)**
- F24** Words added by **Finance (No. 2) Act 1987** (c. 51), **s. 103(3)**
- F25** Words in s. 1(1) substituted (01.01.1992) by S.I. 1991/2724, **reg. 6(2)(c)**
- F26** Definition inserted by **Territorial Sea Act 1987** (c. 49, SIF 29:1), s. 3, **Sch. 1 para. 4(1)**
- F27** In s. 1(1): definition of "victualling warehouse" inserted (01.01.1992) by S.I. 1991/2725, **reg. 3(2)(b)**
- F28** Words in s. 1(1) inserted (9.12.1992) by **Finance (No. 2) Act 1992** (c. 48), s. 3(1), **Sch. 2 para. 1(b)**; S.I. 1992/3104, **art. 2(1)**.
- F29** Word inserted by **Finance Act 1981** (c. 35, SIF 40:1), s. 11, **Sch. 8 Pt. I para. 1(2)**

### Modifications etc. (not altering text)

- C1** S. 1 amended by S.I. 1987/2114, **reg. 2**

### Marginal Citations

- M1** 1894 c. 60.  
**M2** 1948 c. 56.  
**M3** 1979 c. 3.  
**M4** 1979 c. 4.  
**M5** 1979 c. 5.

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<b>M6</b>	1979 c. 7.
<b>M7</b>	1971 c. 80.
<b>M8</b>	1968 c. 59.
<b>M9</b>	1962 c. 58.
<b>M10</b>	1972 c. 25.
<b>M11</b>	1894 c. 60.
<b>M12</b>	1979 c. 3.

## 2 Application to hovercraft.

- (1) This Part, Parts III to VII and Parts X to XII of this Act shall apply as if references to ships or vessels included references to hovercraft, and the said Parts III to VII shall apply in relation to an approved wharf or transit shed which is not in a port as if it were in a port.
- (2) All other provisions of the customs and excise Acts shall apply as if references (however expressed) to goods or passengers carried in or moved by ships or vessels included references to goods or passengers carried in or moved by hovercraft.
- (3) In all the provisions of the customs and excise Acts “landed”, “loaded”, “master”, “shipped”, “shipped as stores”, “transshipment”, “voyage”, “waterborne” and cognate expressions shall be construed in accordance with subsections (1) and (2) above.
- (4) References in the customs and excise Acts to goods imported or exported by land, or conveyed into or out of Northern Ireland by land, include references to goods imported, exported or conveyed across any part of the boundary of Northern Ireland; and it is hereby declared that in those Acts references to vehicles include references to hovercraft proceeding over land or water or partly over land and partly over water.
- (5) Any power of making regulations or other instruments relating to the importation or exportation of goods conferred by the customs and excise Acts may be exercised so as to make provision for the importation or exportation of goods by hovercraft which is different from the provision made for the importation or exportation of goods by other means.

## 3 Application to pipe-lines.

- (1) In the customs and excise Acts “shipping” and “loading” and cognate expressions, where used in relation to importation or exportation, include, in relation to importation or exportation by means of a pipe-line, the conveyance of goods by means of the pipe-line and the charging and discharging of goods into and from the pipe-line, but subject to any necessary modifications.
- (2) In the customs and excise Acts “importer”, in relation to goods imported by means of a pipe-line, includes the owner of the pipe-line.
- (3) Any power of making regulations or other instruments relating to the importation or exportation of goods conferred by the customs and excise Acts may be exercised so as to make provision for the importation or exportation of goods by means of a pipe-line which is different from the provision made for the importation or exportation of goods by other means.



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#### **4 Application to certain Crown aircraft.**

- (1) The provisions of the Customs and Excise Acts 1979 relating to aircraft shall apply in relation to any aircraft belonging to or employed in the service of Her Majesty other than a military aircraft.
- (2) In this section “military aircraft” includes naval and air force aircraft and any aircraft commanded by a person in naval, military or air force service detailed for the purpose of such command.

#### **5 Time of importation, exportation, etc.**

- (1) The provisions of this section shall have effect for the purposes of the customs and excise Acts.
- (2) Subject to subsections (3) and (6) below, the time of importation of any goods shall be deemed to be—
  - (a) where the goods are brought by sea, the time when the ship carrying them comes within the limits of a port;
  - (b) where the goods are brought by air, the time when the aircraft carrying them lands in the United Kingdom or the time when the goods are unloaded in the United Kingdom, whichever is the earlier;
  - (c) where the goods are brought by land, the time when the goods are brought across the boundary into Northern Ireland.
- (3) In the case of goods brought by sea of which entry is not required under [<sup>F30</sup>regulation 5 of the Customs Controls on Importation of Goods Regulations 1991], the time of importation shall be deemed to be the time when the ship carrying them came within the limits of the port at which the goods are discharged.
- (4) Subject to subsections (5) and (7) below, the time of exportation of any goods from the United Kingdom shall be deemed to be—
  - (a) where the goods are exported by sea or air, the time when the goods are shipped for exportation;
  - (b) where the goods are exported by land, the time when they are cleared by the proper officer at the last customs and excise station on their way to the boundary.
- (5) In the case of goods of a class or description with respect to the exportation of which any prohibition or restriction is for the time being in force under or by virtue of any enactment which are exported by sea or air, the time of exportation shall be deemed to be the time when the exporting ship or aircraft departs from the last port or customs and excise airport at which it is cleared before departing for a destination outside the United Kingdom.
- (6) Goods imported by means of a pipe-line shall be treated as imported at the time when they are brought within the limits of a port or brought across the boundary into Northern Ireland.
- (7) Goods exported by means of a pipe-line shall be treated as exported at the time when they are charged into that pipe-line for exportation.
- (8) A ship shall be deemed to have arrived at or departed from a port at the time when the ship comes within or, as the case may be, leaves the limits of that port.

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### Textual Amendments

**F30** Words in s. 5(3) substituted (1.1.1993) by virtue of [S.I. 1992/3095](#), [reg. 10\(1\)](#), [Sch. 1 para.3](#).

### Modifications etc. (not altering text)

**C2** S. 5 excluded by [Value Added Tax Act 1983 \(c. 55, SIF 40:2\)](#), s. 50, [Sch. 10 para. 4\(2\)](#)

**C3** S. 5(3) modified by [S.I. 1986/260](#), [regs. 5\(a\)](#), 18

## PART II

### ADMINISTRATION

#### *Appointment and duties of Commissioners, officers, etc.*

### 6 Appointment and general duties of Commissioners, etc.

- (1) Her Majesty may from time to time, under the Great Seal of the United Kingdom, appoint persons to be Commissioners of Customs and Excise, and any person so appointed shall hold office during Her Majesty's pleasure and may be paid such remuneration and allowances as the Minister for the Civil Service may determine.
- (2) In addition to the duties conferred on them by or under any other enactment, the Commissioners shall, subject to the general control of the Treasury, be charged with the duty of collecting and accounting for, and otherwise managing, the revenues of customs and excise.
- (3) The Commissioners may commission such officers and appoint or authorise such other persons to discharge any duties in relation to any assigned matter on such terms and conditions, and may pay to them such remuneration and allowances, as the Commissioners may with the sanction of the Minister for the Civil Service determine.
- (4) The Commissioners may at their pleasure suspend, reduce, discharge or restore any officer or person so commissioned, appointed or authorised.
- (5) The days on which and the hours between which offices of customs and excise are to be open or officers are to be available for the performance of particular duties shall be such as the Commissioners may direct.

### Modifications etc. (not altering text)

**C4** References in s. 6 to the Minister for the Civil Service to be construed as references to the Treasury: [S.I. 1981/1670](#), [arts. 2\(1\)\(a\)](#), 3(5)

### 7 Privileges of Commissioners, etc.

- (1) Save as expressly provided by or under any enactment, no sum granted by way of remuneration or superannuation allowance to any person as being or having been a Commissioner, officer or person appointed by the Commissioners to discharge any duty relating to customs or excise shall before payment thereof to or for the use of

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that person be capable of assignment or be liable to be taken under or by virtue of any legal process.

- (2) The benefits and advantages arising from membership of the Customs Annuity and Benevolent Fund shall be available to and in respect of the Commissioners, all officers and all persons appointed by the Commissioners to discharge any duty relating to any assigned matter.

## 8 Exercise of powers and performance of duties.

- (1) Any act or thing required or authorised by or under any enactment to be done by the Commissioners or any of them may be done—
  - (a) by any one or more of the Commissioners; or
  - [<sup>F31</sup>(b) any officer or other person acting under the authority of the Commissioners][<sup>F32</sup>and any statement signed by one or more of the Commissioners certifying that a person specified in the statement was, at a time or for a purpose so specified, acting under the authority of the Commissioners shall be admissible in evidence, and in Scotland shall be sufficient evidence, of the fact so certified.]
- (2) Any person, whether an officer or not, engaged by the orders or with the concurrence of the Commissioners (whether previously or subsequently expressed) in the performance of any act or duty relating to an assigned matter which is by law required or authorised to be performed by or with an officer, shall be deemed to be the proper officer by or with whom that act or duty is to be performed.
- (3) Any person deemed by virtue of subsection (2) above to be the proper officer shall have all the powers of an officer in relation to the act or duty performed or to be performed by him as mentioned in that subsection.

### Textual Amendments

**F31** S. 8(1)(b) substituted for s. 8(1)(b)(c) by [Finance Act 1982 \(c. 39, SIF 40:1\)](#), s. 12

**F32** Words added by [Finance Act 1982 \(c. 39, SIF 40:1\)](#), s. 12

## 9 General duties of Commissioners in relation to customs matters concerning the European Communities.

For the purpose of implementing Community obligations the Commissioners shall co-operate with other customs services on matters of mutual concern, and (without prejudice to the foregoing) may for that purpose—

- (a) give effect, in accordance with such arrangements as they may direct or by regulations prescribe, to any Community requirement or practice as to the movement of goods between countries, including any rules requiring payment to be made in connection with the exportation of goods to compensate for any relief from customs duty allowed or to be allowed (and may recover any such payment as if it were an amount of customs duty unpaid); and
- (b) give effect to any reciprocal arrangements made between member States (with or without other countries or territories) for securing, by the exchange of information or otherwise, the due administration of their customs laws and the prevention or detection of fraud or evasion.

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## 10 Disclosure by Commissioners of certain information as to imported goods.

- (1) On being notified at any time by the Treasury that they are satisfied that it is in the national interest that the information in question should be disclosed to persons other than the Commissioners, the Commissioners may disclose through such person as may be specified in the notification such information to which this section applies, in respect of imported goods of such descriptions, as may be so specified.
- (2) The information to which this section applies is information contained in any document with which the Commissioners have been provided in pursuance of the Customs and Excise Acts 1979 for the purpose of making entry of any goods on their importation, being information of the following descriptions only, namely—
  - (a) the description of the goods, including any maker's catalogue number;
  - (b) the quantities of the goods imported in a particular period, so, however, that if any quantity is given by value it shall not also be given in any other form;
  - (c) the name of the maker of the goods;
  - (d) the country of origin of the goods;
  - (e) the country from which the goods were consigned.
- (3) Without prejudice to paragraph 10 of Schedule 7 to this Act, this section also applies to information of any of those descriptions contained in any document with which the Commissioners have been provided for that purpose after 7th March 1967 in pursuance of the <sup>M13</sup>Customs and Excise Act 1952.
- (4) The Treasury may by order add to the descriptions of information to which this section applies any further description of information contained in any document such as is mentioned in subsection (2) or (3) above other than the price of the goods or the name of the importer of the goods.
- (5) The power to make orders under subsection (4) above shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

### Marginal Citations

M13 1952 c. 44.

## 11 Assistance to be rendered by police, etc.

It shall be the duty of every constable and every member of Her Majesty's armed forces or coastguard to assist in the enforcement of the law relating to any assigned matter.

## 12 Power to hold inquiries.

- (1) The Commissioners may hold or cause to be held such inquiries as they consider necessary or desirable for the purposes of any assigned matter, including inquiries into the conduct of any officer or of any person appointed by them.
- (2) The person holding any such inquiry—
  - (a) may require any person, subject to the tender of the reasonable expenses of his attendance, to attend as a witness and give evidence or to produce any document in his possession or control which relates to any matter in question

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- at the inquiry and is such as would be subject to production in a court of law;  
and
- (b) may require evidence to be given on oath, and for that purpose shall have power to administer oaths.
- (3) If any person fails without reasonable excuse to comply with any such requirement as aforesaid, he shall be liable on summary conviction to a penalty of [<sup>F33</sup>level 1 on the standard scale].
- (4) Subject to the foregoing provisions of this section, the procedure and conduct of any inquiry under this section shall be such as the Commissioners may direct.

#### Textual Amendments

- F33** Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\), s. 289G](#) and (N.I) by [S.I. 1984/703 \(N.I. 3\), art. 5](#)

*Offences in connection with Commissioners, officers, etc.*

### 13 Unlawful assumption of character of officer, etc.

If, for the purpose of obtaining admission to any house or other place, or of doing or procuring to be done any act which he would not be entitled to do or procure to be done of his own authority, or for any other unlawful purpose, any person falsely assumes the name, designation or character of a Commissioner or officer or of a person appointed by the Commissioners he may be detained and shall, in addition to any other punishment to which he may have rendered himself liable, be liable—

- (a) on summary conviction, to a penalty of the prescribed sum, or to imprisonment for a term not exceeding 3 months, or to both; or
- (b) on conviction on indictment, to a penalty of any amount, or to imprisonment for a term not exceeding 2 years, or to both.

### 14 Failure to surrender commission, etc.

- (1) If any person to whom a commission or other written authority has been issued by the Commissioners is required by the Commissioners to deliver up or account to their satisfaction for that commission or authority and fails to comply within such period as may be specified in the requirement, he shall be liable on summary conviction to a penalty of [<sup>F34</sup>level 1 on the standard scale].
- (2) If the failure continues after he is convicted thereof he shall be guilty of a further offence and be liable on summary conviction to a penalty of £5 for every day on which the failure has so continued.

#### Textual Amendments

- F34** Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), ss. 38, 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\), ss. 289F, 289G](#) and (N.I.) by [S.I. 1984/703, \(N.I. 3\) arts. 4, 5](#)

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## 15 Bribery and collusion.

(1) If any Commissioner or officer or any person appointed or authorised by the Commissioners to discharge any duty relating to an assigned matter—

- (a) directly or indirectly asks for or takes in connection with any of his duties any payment or other reward whatsoever, whether pecuniary or other, or any promise or security for any such payment or reward, not being a payment or reward which he is lawfully entitled to claim or receive; or
- (b) enters into or acquiesces in any agreement to do, abstain from doing, permit, conceal or connive at any act or thing whereby Her Majesty is or may be defrauded or which is otherwise unlawful, being an act or thing relating to an assigned matter,

he shall be guilty of an offence under this section.

(2) If any person—

- (a) directly or indirectly offers or gives to any Commissioner or officer or to any person appointed or authorised by the Commissioners as aforesaid any payment or other reward whatsoever, whether pecuniary or other, or any promise or security for any such payment or reward; or
- (b) proposes or enters into any agreement with any Commissioner, officer or person appointed or authorised as aforesaid,

in order to induce him to do, abstain from doing, permit, conceal or connive at any act or thing whereby Her Majesty is or may be defrauded or which is otherwise unlawful, being an act or thing relating to an assigned matter, or otherwise to take any course contrary to his duty, he shall be guilty of an offence under this section.

(3) Any person committing an offence under this section shall be liable on summary conviction to a penalty of [F35level 5 on the standard scale]and may be detained.

### Textual Amendments

**F35** Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [ss. 38, 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), [ss. 289F, 289G](#) and (N.I.) by [S.I. 1984/703](#), (N.I. 3) arts. 5, 6

## 16 Obstruction of officers, etc.

(1) Any person who—

- (a) obstructs, hinders, molests or assaults any person duly engaged in the performance of any duty or the exercise of any power imposed or conferred on him by or under any enactment relating to an assigned matter, or any person acting in his aid; or
- (b) does anything which impedes or is calculated to impede the carrying out of any search for any thing liable to forfeiture under any such enactment or the detention, seizure or removal of any such thing; or
- (c) rescues, damages or destroys any thing so liable to forfeiture or does anything calculated to prevent the procuring or giving of evidence as to whether or not any thing is so liable to forfeiture; or
- (d) prevents the detention of any person by a person duly engaged or acting as aforesaid or rescues any person so detained.

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or who attempts to do any of the aforementioned things, shall be guilty of an offence under this section.

- (2) A person guilty of an offence under this section shall be liable—
  - (a) on summary conviction, to a penalty of the prescribed sum, or to imprisonment for a term not exceeding 3 months, or to both; or
  - (b) on conviction on indictment, to a penalty of any amount, or to imprisonment for a term not exceeding 2 years, or to both.
- (3) Any person committing an offence under this section and any person aiding or abetting the commission of such an offence may be detained.

### *Commissioners' receipts and expenses*

## 17 Disposal of duties, etc.

- (1) Save for such sums as may be required for any disbursements permitted by section 10 of the <sup>M14</sup>Exchequer and Audit Departments Act 1866, all money and securities for money collected or received in Great Britain for or on account of customs or excise shall be paid or remitted to and accounted for by the Bank of England in such manner as the Commissioners may with the approval of the Treasury direct, and shall be placed to the account in the books of the Bank entitled “the General Account of the Commissioners of Customs and Excise”.
- (2) The Bank shall deliver to the Commissioners each day a statement in writing of the money or securities for money, if any, received on that day from or on account of the Commissioners, and every statement so delivered shall be deemed to be a sufficient acknowledgement by the Bank of the receipt of the money and securities specified therein.
- (3) Any money and securities for money standing to the credit of the General Account shall be dealt with as provided in section 10 of the Exchequer and Audit Departments Act 1866 [<sup>F36</sup>subject however, to section 2 of the <sup>M15</sup>Isle of Man Act 1979 (payments of Isle of Man share of common duties)].
- (4) All money and securities for money collected or received in Northern Ireland for or on account of—
  - (a) duties of customs or excise on goods imported into or manufactured or produced in Northern Ireland; or
  - (b) any duties of excise specified in any order of the Treasury for the time being in force under section 37(3) of the <sup>M16</sup>Northern Ireland Constitution Act 1973,
 shall be dealt with as provided in section 10 of the <sup>M17</sup>Exchequer and Audit Departments Act 1866.
- (5) Notwithstanding anything in section 10 of the <sup>M18</sup>Exchequer and Audit Departments Act 1866 or in subsection (1) above as to the disbursements which may be made out of money collected or received for or on account of customs or excise—
  - (a)
  - <sup>F37</sup>(b) no repayment of sums overpaid in error shall be made unless the claim thereto is made and evidence in support thereof is submitted to the Commissioners within 6 years of the date of the overpayment and the claim is established to the satisfaction of the Commissioners.

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- (6) Any reference in this section to money and securities for money collected or received for or on account of customs or excise or of any duties thereof includes a reference to any sums received under or by virtue of any enactment relating to customs or excise or to those duties by way of pecuniary penalties or the pecuniary proceeds of any forfeiture, costs, or otherwise howsoever.

#### Textual Amendments

- F36** Words substituted by [Isle of Man Act 1979 \(c. 58\)](#), [Sch. 1 para. 3](#)  
**F37** [S. 17\(5\)\(a\)](#) repealed by [Finance Act 1989 \(c. 26, SIF 40:1\)](#), ss. 17, 187(1), [Sch. 17 Pt. I](#)

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

- C5** [S. 17](#) extended by [Copyright, Designs and Patents Act 1988 \(c. 48, SIF 67A\)](#), [s. 112\(5\)](#)  
**C6** [S. 17](#) applied (31.10.1994) by [1994 c. 26, s. 90\(5\)](#); S.I. 1994/2550, [art. 2](#)

#### Marginal Citations

- M14** 1866 c. 39.  
**M15** 1979 c. 58.  
**M16** 1973 c. 36.  
**M17** 1866 c. 39.  
**M18** 1866 c. 39.

## 18 Remuneration and expenses of Commissioners.

Any remuneration and allowances payable to the Commissioners under this Act and any expenses of the Commissioners under the Customs and Excise Acts 1979 shall be defrayed out of money provided by Parliament.

### PART III

#### CUSTOMS AND EXCISE CONTROL AREAS

## 19 Appointment of ports, etc.

- (1) The Commissioners may by order made by statutory instrument appoint and name as a port for the purposes of customs and excise any area in the United Kingdom specified in the order.
- (2) The appointment of any port for those purposes made before 1st August 1952 may be revoked, and the name or limits of any such port may be altered, by an order under subsection (1) above as if the appointment had been made by an order under that subsection.
- (3) The Commissioners may in any port from time to time appoint boarding stations for the purpose of the boarding of or disembarkation from ships by officers.



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## <sup>F38</sup>20 Approval of wharves

- (1) The Commissioners may approve, for such periods and subject to such conditions and restrictions as they think fit, places for the loading or unloading of goods or of any class or description of goods.
- (2) The Commissioners may at any time for reasonable cause revoke or vary the terms of any approval given under this section.
- (3) This section shall not apply in relation to goods imported on or after 1st January 1992 from a place outside the customs territory of the Community [<sup>F39</sup>or to any goods which are moving under the procedure specified in [<sup>F40</sup>Article 165 of Council Regulation (EEC) No. 2913/92 and Article 311 of Commission Regulation (EEC) No. 2454/93]] (transit procedures)] .

### Textual Amendments

**F38** Ss. 20 and 20(A) substituted (01.01.1992) for s. 20 by S.I. 1991/2724, reg. 6(3)

**F39** Words in s. 20(3) added (1.1.1993) by S.I. 1992/3095, reg. 3(2).

**F40** Words in s. 20(3) substituted (1.1.1994) by S.I. 1993/3014, reg. 2(2).

## <sup>F41</sup>20(A) Approved wharves

- (1) In this Act, references to an approved wharf are to—
  - (a) a place approved under section 20 above; or
  - (b) a place specified or approved under [<sup>F42</sup>Article 46 of Council Regulation (EEC) No. 2913/92](equivalent provision for goods imported on or after 1st January 1992 from a place outside the customs territory of the Community), other than an examination station.
- (2) Any person contravening or failing to comply with any condition or restriction attaching to an approval by virtue of which a place is an approved wharf shall be liable on summary conviction to a penalty of level 3 on the standard scale.
- (3) An officer may at any time enter an approved wharf and inspect it and any goods for the time being at the wharf.

### Textual Amendments

**F41** Ss. 20 and 20(A) substituted (01.01.1992) for s. 20 by S.I. 1991/2724, reg. 6(3)

**F42** Words in s. 20(A) substituted (1.1.1994) by S.I. 1993/3014, reg. 2(3).

## 21 Control of movement of aircraft, etc. into and out of the United Kingdom.

- (1) Save as permitted by the Commissioners, the commander of an aircraft entering the United Kingdom from a place outside the United Kingdom shall not cause or permit the aircraft to land—
  - (a) for the first time after its arrival in the United Kingdom; or
  - (b) at any time while it is carrying passengers or goods brought in that aircraft from a place outside the United Kingdom and not yet cleared,at any place other than a customs and excise airport.

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- [<sup>F43</sup>(1A) Subsection (1) above shall not apply by virtue only of the fact that the aircraft is carrying goods brought in it from a place outside the customs territory of the Community.]
- (2) Save as permitted by the Commissioners, no person importing [<sup>F44</sup>from a place within the customs territory of the Community] or concerned in [<sup>F44</sup>so] importing any goods in any aircraft shall bring the goods into the United Kingdom at any place other than a customs and excise airport.
- (3) Save as permitted by the Commissioners—
- (a) no person shall depart on a flight to a place or area outside the United Kingdom from any place in the United Kingdom other than a customs and excise airport; and
  - (b) the commander of any aircraft engaged in a flight from a customs and excise airport to a place or area outside the United Kingdom shall not cause or permit it to land at any place in the United Kingdom other than a customs and excise airport specified in the application for clearance for that flight.
- (4) Subsections (1) to (3) above shall not apply in relation to any aircraft flying from or to any place or area outside the United Kingdom to or from any place in the United Kingdom which is required by or under any enactment relating to air navigation, or is compelled by accident, stress of weather or other unavoidable cause, to land at a place other than a customs and excise airport; but, subject to subsection (5) below,—
- (a) the commander of any such aircraft—
    - (i) shall immediately report the landing to an officer or constable and shall on demand produce to him the journey log book belonging to the aircraft,
    - (ii) shall not without the consent of an officer permit any goods carried in the aircraft to be unloaded from, or any of the crew or passengers to depart from the vicinity of, the aircraft, and
    - (iii) shall comply with any directions given by an officer with respect to any such goods; and
  - (b) no passenger or member of the crew shall without the consent of an officer or constable leave the immediate vicinity of any such aircraft.
- [<sup>F45</sup>(4A) Subsection 4(a)(ii) and (iii) above shall not apply in relation to goods brought in the aircraft from a place outside the customs territory of the Community.]
- (5) Nothing in subsection (4) above shall prohibit—
- (a) the departure of passengers or crew from the vicinity of an aircraft; or
  - (b) the removal of goods from an aircraft,
- where that departure or removal is necessary for reasons of health, safety or the preservation of life or property.
- (6) Any person contravening or failing to comply with any provision of this section shall be liable on summary conviction to a penalty of [<sup>F46</sup>level 4 on the standard scale], or to imprisonment for a term not exceeding 3 months, or to both.
- (7) In this Act “customs and excise airport” means an aerodrome for the time being designated as a place for the landing or departure of aircraft for the purposes of the customs and excise Acts by an order made by the Secretary of State with the concurrence of the Commissioners which is in force under an Order in Council made in pursuance of [<sup>F47</sup>section 60 of the Civil Aviation Act 1982].

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[<sup>F48</sup>(8) References in this section to a place or area outside the United Kingdom do not include references to a place or area in the Isle of Man and in subsection (3)(b) above the reference to a place in the United Kingdom includes a reference to a place in the Isle of Man.]

#### Textual Amendments

- F43** S. 21(1A) inserted (01.01.1992) by S.I. 1991/2724, **reg. 6(4)(a)**
- F44** Words in s. 21(2) inserted (01.01.1992) by S.I. 1991/2724, **reg. 6(4)(b)**
- F45** S. 21(4A) inserted (01.01.1992) by S.I. 1991/2724, **reg. 6(5)**
- F46** Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), **ss. 38, 46** and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **ss. 289F, 289G** and (N.I.) by S.I. 1984/703, (N.I. 3) arts. 5, 6
- F47** Words substituted by Civil Aviation Act 1982 (c. 16, SIF 9), s. 109(2), **Sch. 15 para. 23**
- F48** S. 21(8) inserted by Isle of Man Act 1979 (c. 58), **Sch. 1 para. 4**

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

- C7** S. 21 restricted (1.1.1993) by Finance (No. 2) Act 1992 (c. 48), **s. 4(1)(3)(a)(6)**.

### [<sup>F49</sup>22 Approval of examination stations at customs and excise airports

- (1) The Commissioners may approve, for such periods and subject to such conditions and restrictions as they think fit, a part of, or a place at, any customs and excise airport for the loading and unloading of goods and the embarkation and disembarkation of passengers.
- (2) The Commissioners may at any time for reasonable cause revoke or vary the terms of any approval given under this section.
- (3) This section shall not apply in relation to goods imported on or after 1st January 1992 from a place outside the customs territory of the Community or to any goods which are moving under the procedure specified in [<sup>F50</sup>Article 165 of Council Regulation (EEC) No. 2913/92 and Article 311 of Commission Regulation (EEC) No. 2454/93]](transit procedures).

#### Textual Amendments

- F49** Ss. 22 and 22A substituted (01.01.1992) for s. 22 by S.I. 1991/2724, **reg. 6(6)**
- F50** Words in s. 22(3) substituted (1.1.1994) by S.I. 1993/3014, **reg. 2(2)**.

### <sup>F51</sup>22A Examination stations

- (1) In this Act, references to an examination station are to—
  - (a) a part of, or a place at, a customs and excise airport approved under section 22 above; or
  - (b) a place at such an airport specified or approved under [<sup>F52</sup>Article 46 of Council Regulation (EEC) No. 2913/92](equivalent provision for goods imported on or after 1st January 1992 from a place outside the customs territory of the Community).

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- (2) Any person contravening or failing to comply with any condition or restriction attaching to an approval by virtue of which a part of, or place at, a customs and excise airport is an examination station shall be liable on summary conviction to a penalty of level 3 on the standard scale.

#### Textual Amendments

- F51** Ss. 22 and 22A substituted (01.01.1992) for s. 22 by [S.I. 1991/2724](#), [reg. 6\(6\)](#)  
**F52** Words in s. 22A(1)(b) substituted (1.1.1994) by [S.I. 1993/3014](#), [reg. 2\(3\)](#).

### 23 Control of movement of hovercraft.

- (1) The Commissioners may by regulations impose conditions and restrictions as respects the movement of hovercraft and the carriage of goods by hovercraft, and in particular—
- (a) may prescribe the procedure to be followed by hovercraft proceeding to or from a port or any customs and excise airport or customs and excise station, and authorise the proper officer to give directions as to their routes; and
  - (b) may make provision for cases where by reason of accident, or in any other circumstance, it is impracticable to comply with any conditions or restrictions imposed or directions given as respects hovercraft.
- (2) Subsection (1) above shall apply to hovercraft proceeding to or from any approved wharf or transit shed which is not in a port as if it were a port.
- (3) If any person contravenes or fails to comply with any regulation made under subsection (1) above, or with any direction given by the Commissioners or the proper officer in pursuance of any such regulation, he shall be liable on summary conviction to a penalty of [<sup>F53</sup>level 3 on the standard scale]and any goods in respect of which the offence was committed shall be liable to forfeiture.

#### Textual Amendments

- F53** Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [ss. 38, 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), [ss. 289F, 289G](#) and (N.I.) by [S.I. 1984/703](#), (N.I. 3) arts. 5, 6

### 24 Control of movement of goods by pipe-line.

- (1) Goods shall not be imported or exported by means of a pipe-line that is not for the time being approved by the Commissioners for the purposes of this section.
- (2) Uncleared goods, that is to say—
- (a) imported goods, whether or not chargeable with duty, which have not been cleared out of charge, and in particular goods which are, or are to be, moved under section 30 below; or
  - (b) dutiable goods moved from warehouse without payment of duty,
- shall not be moved by means of a pipe-line that is not for the time being approved by the Commissioners for the purposes of this section.

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- (3) The Commissioners may give their approval under this section for such period and subject to such conditions as they think fit, and may at any time for reasonable cause—
  - (a) vary the terms of their approval; and
  - (b) (if they have given to the owner of the pipe-line not less than 3 months' written notice of their intention so to do) revoke their approval.
- (4) Section 49 of the <sup>M19</sup>Pipe-lines Act 1962 (procedure for service of documents under that Act) shall apply to a notice required by subsection (3)(b) above to be served on the owner of a pipe-line as it applies to a document required by that Act to be so served.
- (5) A person who—
  - (a) contravenes subsection (1) or (2) above, or contravenes or fails to comply with a condition imposed by the Commissioners under subsection (3) above; or
  - (b) except with the authority of the proper officer or for just and sufficient cause, obtains access to goods which are in, or in course of conveyance by, a pipe-line approved under this section,shall be guilty of an offence under this section and may be detained; and any goods in respect of which the offence was committed shall be liable to forfeiture.
- (6) A person guilty of an offence under this section shall be liable—
  - (a) on summary conviction, to a penalty of the prescribed sum, or to imprisonment for a term not exceeding 6 months, or to both; or
  - (b) on conviction on indictment, to a penalty of any amount, or to imprisonment for a term not exceeding 2 years, or to both.
- (7) In the application of subsection (4) above to Northern Ireland, the reference to the <sup>M20</sup>Pipe-lines Act 1962 shall have effect as if that Act extended to Northern Ireland.

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

- C8** S. 24(2)(b) modified by S.I. 1983/947, **regs. 12, 13** (which S.I. is revoked 1.1.1993 by S.I. 1992/3152, **reg. 1(2)**).
- C9** S. 24(2)(b) amended by S.I. 1985/1032, **reg. 11(a)** (which S.I. is revoked 1.1.1993 by S.I. 1992/3152, reg. 1(2)).
- S. 24(2)(b) amended (1.1.1993) by S.I. 1992/3152, **reg. 11(a)**.

**Marginal Citations**

- M19** 1962 c. 58.  
**M20** 1962 c. 58.

[<sup>F54</sup>25 **Approval of transit sheds**

- (1) The Commissioners may approve, for such periods and subject to such conditions and restrictions as they think fit, places for the deposit of goods imported and not yet cleared out of charge, including goods not yet reported and entered [<sup>F55</sup>under regulation 5 of the Customs Controls on Importation of Goods Regulations 1991]].
- (2) The Commissioners may at any time for reasonable cause revoke or vary the terms of any approval given under this section.
- (3) Subsection (1) above shall not apply in relation to goods imported on or after 1st January 1992 from a place outside the customs territory of the Community [<sup>F56</sup>or to any

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goods which are moving under the procedure specified in [<sup>F57</sup>Article 165 of Council Regulation (EEC) No. 2913/92 and Article 311 of Commission Regulation (EEC) No. 2454/93]](transit procedures)..

- (4) Where, by any local Act, provision is made for the landing of goods without entry for deposit in transit sheds authorised thereunder, the provisions of this Act relating to goods deposited in transit sheds approved under this section shall have effect in relation to goods deposited in transit sheds authorised under that Act.

#### Textual Amendments

- F54** Ss. 25 and 25A substituted (1.1.1992) for s. 25 by S.I. 1991/2724, reg. 6(7)  
**F55** Words in s. 25(1) substituted (1.1.1993) by S.I. 1992/3095, reg. 10(1), Sch. 1 para. 4.  
**F56** Words in s. 25(3) added (1.1.1993) by S.I. 1992/3095, reg. 3(2).  
**F57** Words in s. 25(3) substituted (1.1.1994) by S.I. 1993/3014, reg. 2(2).

## 25A <sup>F58</sup> Transit sheds

- (1) In this Act, references to a transit shed are to a place approved—
- (a) under section 25 above; or
  - (b) under [<sup>F59</sup>Article 51 of Council Regulation (EEC) No. 2913/92] (equivalent provision for goods imported on or after 1st January 1992 from a place outside the customs territory of the Community).
- (2) Any person contravening or failing to comply with any condition or restriction attaching to an approval by virtue of which a place is a transit shed shall be liable on summary conviction to a penalty of level 3 on the standard scale.
- (3) An officer may at any time enter a transit shed and inspect it and any goods for the time being in the transit shed.

#### Textual Amendments

- F58** Ss. 25 and 25A substituted (1.1.1992) for s. 25 by S.I. 1991/2724, reg. 6(7)  
**F59** Words in s. 25A(1)(b) substituted (1.1.1994) by 1993/3014, reg. 2(4).

## 26 Power to regulate movements of goods into and out of Northern Ireland by land.

- (1) The Commissioners may, for the purpose of safeguarding the revenue and for the better enforcement of any prohibition or restriction for the time being in force under or by virtue of any enactment with respect to the importation or exportation of any goods, make regulations—
- <sup>F60</sup>(a) .....
  - (b) appointing places for the examination and entry of and payment of any duty chargeable on any goods being imported or exported by land (referred to in this Act as “customs and excise stations”)
- [<sup>F61</sup>and any such regulations may make different provision in relation to different classes or descriptions of goods and, in particular, in relation to different classes or descriptions of vehicles].

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[<sup>F62</sup>(1A) In such cases and subject to compliance with such conditions as appear to the Commissioners to be appropriate, the Commissioners may dispense with any requirement of a regulation made under subsection (1) above]

(2) If any person contravenes or fails to comply with any regulation made under subsection (1) above [<sup>F63</sup>or any condition of a dispensation given under subsection (1A) above] he shall be liable on summary conviction to a penalty of [<sup>F64</sup>level 3 on the standard scale], and any goods in respect of which the offence was committed shall be liable to forfeiture.

#### Textual Amendments

**F60** S. 26(1)(a) repealed (1.1.1993) by S.I. 1992/3095, regs. 3(3), 10(2), **Sch.2**.

**F61** Words added by Finance Act 1983 (c. 28, SIF 40:1), s. 7(1)(b)

**F62** S. 26(1A) added by Finance Act 1983 (c. 28, SIF 40:1), s. 7(2)

**F63** Words inserted by Finance Act 1983 (c. 28, SIF 40:1), s. 7(3)

**F64** Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), ss. 38, 46 and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), ss. 289F, 289G and (N.I.) by S.I. 1984/703, (N.I. 3) arts. 5, 6

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

**C10** S. 26 restricted (1.1.1993) by Finance (No. 2) Act 1992 (c. 48), s. 4(1)(3)(b)(6).

## 27 Officers' powers of boarding.

(1) At any time while a ship is within the limits of a port, or an aircraft is at [<sup>F65</sup>an aerodrome], or [<sup>F66</sup>a vehicle is—

- (a) entering, leaving or about to leave the United Kingdom,
- (b) within the prescribed area,
- (c) within the limits of or entering or leaving a port or any land adjacent to a port and occupied wholly or mainly for the purpose of activities carried on at the port,
- (d) at, entering or leaving an aerodrome,
- (e) at, entering or leaving an approved wharf, transit shed, customs warehouse or free zone, or
- (f) at, entering or leaving any such premises as are mentioned in subsection (1) of section 112 below,

any officer] and any other person duly engaged in the prevention of smuggling may board the ship, aircraft or vehicle and remain therein and rummage and search any part thereof.

[<sup>F67</sup>(1A) For the purposes of subsection (1) above “customs warehouse” means a victualling warehouse or a place approved by the Commissioners under [<sup>F68</sup>Article 98 of Council Regulation (EEC) No. 2913/92 or Article 505 of Commission Regulation (EEC) No. 2454/93].]

(2) The Commissioners may station officers in any ship at any time while it is within the limits of a port, and if the master of any ship neglects or refuses to provide—  
(a) reasonable accommodation below decks for any officer stationed therein; or



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- (b) means of safe access to and egress from the ship in accordance with the requirements of any such officer,  
the master shall be liable on summary conviction to a penalty of [<sup>F69</sup>level 2 on the standard scale].

#### Textual Amendments

- F65** Words in s. 27(1) substituted (16.7.1992) by Finance (No. 2) Act (c. 48), s. 10(2).  
**F66** Words substituted by Finance Act 1987 (c. 16, SIF 40:1), s. 7(1)  
**F67** S. 27(1A) inserted (01.01.1992) by S.I. 1991/2725, reg. 3(3)  
**F68** Words in s. 27(1A) substituted (1.1.1994) by S.I. 1993/3014, reg. 2(5).  
**F69** Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 46 and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), s. 289G and (N.I.) by S.I. 1984/703, (N.I. 3) art. 5

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

- C11** S. 27 amended by S.I. 1987/2114, reg. 2 and by S.I. 1990/2167, art. 4, Sch. para. 1  
**C12** S. 27 restricted (1.1.1993) by Finance (No. 2) Act 1992 (c. 48), s. 4(1)(3)(c)(6).

## 28 Officers' powers of access, etc.

- (1) Without prejudice to section 27 above, the proper officer shall have free access to every part of any ship or aircraft at a port or [<sup>F70</sup>aerodrome] and of any vehicle [<sup>F71</sup>which falls within paragraphs (a) to (f) of subsection (1) of section 27 above or is] brought to a customs and excise station, and may—
- cause any goods to be marked before they are unloaded from that ship, aircraft or vehicle;
  - lock up, seal, mark or otherwise secure any goods carried in the ship, aircraft or vehicle or any place or container in which they are so carried; and
  - break open any place or container which is locked and of which the keys are withheld.
- (2) Any goods found concealed on board any such ship, aircraft or vehicle shall be liable to forfeiture.

#### Textual Amendments

- F70** Word in s. 28(1) substituted (16.7.1992) by Finance (No. 2) Act 1992 (c. 48), s. 10(3).  
**F71** Words inserted by Finance Act 1987 (c. 16, SIF 40:1), s. 7(2)

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

- C13** S. 28 amended by S.I. 1990/2167, art. 4, Sch. para. 1  
**C14** S. 28 restricted (1.1.1993) by Finance (No. 2) Act 1992 (c. 48), s. 4(1)(3)(d)(6).

## 29 Officers' powers of detention of ships, etc.

- (1) Where, in the case of a ship, aircraft or vehicle of which due report has been made under section 35 below, any goods are still on board that ship, aircraft or vehicle at the expiration of the relevant period, the proper officer may detain that ship, aircraft or vehicle until there have been repaid to the Commissioners—



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- (a) any expenses properly incurred in watching and guarding the goods beyond the relevant period, except, in the case of a ship or aircraft, in respect of the day of clearance inwards; and
  - (b) where the goods are removed by virtue of any provision of the Customs and Excise Acts 1979 from the ship, aircraft or vehicle to a Queen's warehouse, the expenses of that removal.
- (2) In subsection (1) above, "the relevant period" means—
- (a) in the case of a ship or vehicle, 21 clear days from the date of making due report of the ship or vehicle under section 35 below or such longer period as the Commissioners may in any case allow;
  - (b) in the case of an aircraft, 7 clear days from the date of making due report of the aircraft under that section or such longer period as the Commissioners may in any case allow.
- (3) Where, in the case of—
- (a) any derelict or other ship or aircraft coming, driven or brought into the United Kingdom under legal process, by stress of weather or for safety; or
  - (b) any vehicle in Northern Ireland which suffers any mishap.

it is necessary for the protection of the revenue to station any officer in charge thereof, whether on board or otherwise, the proper officer may detain that ship, aircraft or vehicle until any expenses thereby incurred by the Commissioners have been repaid.

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

**C15** S. 29 restricted (1.1.1993) by Finance (No. 2) Act 1992 (c. 48), s. 4(1)(3)(e)(6).

**C16** S. 29(3) amended by S.I. 1990/2167, art. 4, Sch. para. 2

**30 Control of movement of uncleared goods within or between port or airport and other places.**

- (1) The Commissioners may from time to time give general or special directions as to the manner in which, and the conditions under which, goods to which this section applies, or any class or description of such goods, may be moved within the limits of any port or customs and excise airport or between any port or customs and excise airport and any other place.
- (2) This section applies to goods chargeable with any duty which has not been paid, to drawback goods, and to any other goods which have not been cleared out of charge.
- (3) Any directions under subsection (1) above may require that any goods to which this section applies shall be moved only—
- (a) by persons licensed by the Commissioners for that purpose;
  - (b) in such ships, aircraft or vehicles or by such other means as may be approved by the Commissioners for that purpose;
- and any such licence or approval may be granted for such period and subject to such conditions and restrictions as the Commissioners think fit and may be revoked at any time by the Commissioners.
- (4) Any person contravening or failing to comply with any direction given or condition or restriction imposed, or the terms of any licence granted, by the Commissioners under

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this section shall be liable on summary conviction to a penalty of [<sup>F72</sup>level 2 on the standard scale].

#### Textual Amendments

**F72** Words substituted by virtue of (E.W.) **Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 46** and (S.) **Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), s. 289G** and (N.I.) by **S.I. 1984/703, (N.I. 3) art. 5**

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

**C17** **S. 30(1)** amended by **S.I. 1990/2167, art. 4, Sch. para. 3**

### 31 Control of movement of goods to and from inland clearance depot, etc.

(1) The Commissioners may by regulations impose conditions and restrictions as respects—

- (a) the movement of imported goods between the place of importation and a place approved by the Commissioners for the clearance out of charge of such goods [<sup>F73</sup>, a free zone][<sup>F74</sup>or a place of exportation of such goods]; and
- [<sup>F75</sup>(aa) the movement of goods between—
  - (i) a free zone and a place approved by the Commissioners for the clearance out of charge of such goods,
  - (ii) such a place and a free zone, and
  - (iii) a free zone and another free zone;]
- (b) the movement of goods intended for export between a place approved by the Commissioners for the examination of such goods [<sup>F76</sup>, or a place designated by the proper officer under section 53(4) or 58(3) below,] and the place of exportation.

(2) Regulations under subsection (1) above may in particular—

- (a) require the goods to be moved within such period and by such route as may be specified by or under the regulations;
- (b) require the goods to be carried in a vehicle or container complying with such requirements and secured in such manner as may be so specified;
- (c) prohibit, except in such circumstances as may be so specified, any unloading or loading of the vehicle or container or any interference with its security.

[<sup>F77</sup>(2A) Any documents required to be made or produced as a result of regulations made under subsection (1) above shall be made or produced in such form and manner and contain such particulars as the Commissioners may direct; but the Commissioners may relax any requirement imposed under the regulations that any specific document be made or produced and if they do so may impose substituted requirements.]

(3) If any person contravenes or fails to comply with any regulation under subsection (1) above or any requirement imposed by or under any such regulation [<sup>F78</sup>or a direction made under subsection (2A) above or any requirement imposed under that subsection], that person and the person then in charge of the goods shall each be liable on summary conviction to a penalty of [<sup>F79</sup>level 4 on the standard scale] and any goods in respect of which the offence was committed shall be liable to forfeiture.

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### Textual Amendments

- F73** Words inserted by [Finance Act 1984 \(c. 43, SIF 40:1\)](#), s. 8, [Sch. 4 Pt. II para. 2\(a\)](#)
- F74** Words inserted by [Finance Act 1981 \(c. 35, SIF 40:1\)](#), s. 10(2)(4), [Sch. 7 Pt. II para. 1\(2\)\(a\)](#) (by s. 10(4) it is provided that [s. 10\(2\)](#) does not affect the operation of the 1979 Act in relation to goods exported before 1.10.1981)
- F75** [S. 31\(1\)\(aa\)](#) inserted by [Finance Act 1984 \(c. 43, SIF 40:1\)](#), s. 8, [Sch. 4 Pt. II para. 2\(b\)](#)
- F76** Words inserted by [Finance Act 1981 \(c. 35, SIF 40:1\)](#), s. 10(2)(4), [Sch. 7 Pt. II para. 1\(2\)\(b\)](#) (by s. 10(4) it is provided that [s. 10\(2\)](#) does not affect the operation of the 1979 Act in relation to goods exported before 1.10.1981)
- F77** [S. 31\(2A\)](#) inserted by [Finance Act 1981 \(c. 35, SIF 40:1\)](#), s. 10(2)(4), [Sch. 7 Pt. II para. 1\(3\)](#) (by s. 10(4) it is provided that [s. 10\(2\)](#) does not affect the operation of the 1979 Act in relation to goods exported before 1.10.1981)
- F78** Words inserted by [Finance Act 1981 \(c. 35, SIF 40:1\)](#), s. 10(2)(4), [Sch. 7 Pt. II para. 1\(4\)](#) (by s. 10(4) it is provided that [s. 10\(2\)](#) does not affect the operation of the 1979 Act in relation to goods exported before 1.10.1981)
- F79** Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [s. 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), [s. 289G](#) (as inserted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [s. 54](#)) and (N.I.) by [S.I. 1984/703](#), (N.I. 3) art. 5

## 32 Penalty for carrying away officers.

- (1) If any ship or aircraft departs from any place, or any vehicle crosses the boundary out of Northern Ireland, carrying on board without his consent any officer of customs and excise or other Government officer, including an officer of the Government of Northern Ireland, the master of the ship or commander of the aircraft or the person in charge of the vehicle shall be liable on summary conviction to a penalty of [<sup>F80</sup>level 3 on the standard scale].
- (2) Without prejudice to the liability of any person under subsection (1) above, the amount of any expenses incurred by the Commissioners or by any Government department, including a department of the Government of Northern Ireland, by reason of the carrying away of any officer may be recovered summarily as a civil debt from that person or from the owner of the ship, aircraft or vehicle concerned.
- (3) For the purposes of this section, the guard of a railway train shall be deemed to be the person in charge of any vehicle forming part of that train.

### Textual Amendments

- F80** Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [ss. 38, 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), [ss. 289F, 289G](#) and (N.I.) by [S.I. 1984/703](#), (N.I. 3) arts. 5, 6

### Modifications etc. (not altering text)

- C18** [S. 32\(1\)](#) amended by [S.I. 1990/2167](#), art. 4, [Sch. para. 4](#)

## 33 Power to inspect aircraft, aerodromes, records, etc.

- (1) The commander of an aircraft shall permit an officer at any time to board the aircraft and inspect—

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- (a) the aircraft and any goods loaded therein; and
  - (b) all documents relating to the aircraft or to goods or persons carried therein;
- and an officer shall have the right of access at any time to any place to which access is required for the purpose of any such inspection.
- (2) The person in control of any aerodrome shall permit an officer at any time to enter upon and inspect the aerodrome and all buildings and goods thereon.
- (3) The person in control of an aerodrome licensed under any enactment relating to air navigation and, if so required by the Commissioners, the person in control of any other aerodrome shall—
- (a) keep a record in such form and manner as the Commissioners may approve of all aircraft arriving at or departing from the aerodrome;
  - (b) keep that record available and produce it on demand to any officer, together with all other documents kept on the aerodrome which relate to the movement of aircraft; and
  - (c) permit any officer to make copies of and take extracts from any such record or document.
- (4) If any person contravenes or fails to comply with any of the provisions of this section he shall be liable on summary conviction to a penalty of [<sup>F81</sup>level 4 on the standard scale] or to imprisonment for a term not exceeding 3 months, or to both.

#### Textual Amendments

**F81** Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [ss. 38, 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), [ss. 289F, 289G](#) and (N.I.) by [S.I. 1984/703](#), (N.I. 3) arts. 5, 6

### 34 Power to prevent flight of aircraft.

- (1) If it appears to any officer or constable that an aircraft is intended or likely to depart for a destination outside the United Kingdom [<sup>F82</sup>and the Isle of Man] from—
- (a) any place other than a customs and excise airport; or
  - (b) a customs and excise airport before clearance outwards is given,
- he may give such instructions and take such steps by way of detention of the aircraft or otherwise as appear to him necessary in order to prevent the flight.
- (2) Any person who contravenes any instructions given under subsection (1) above shall be liable on summary conviction to a penalty of [<sup>F83</sup>level 4 on the standard scale], or to imprisonment for a term not exceeding 3 months, or to both.
- (3) If an aircraft flies in contravention of any instruction given under subsection (1) above or notwithstanding any steps taken to prevent the flight, the owner and the commander thereof shall, without prejudice to the liability of any other person under subsection (2) above, each be liable on summary conviction to a penalty of [<sup>F84</sup>level 4 on the standard scale], or to imprisonment for a term not exceeding 3 months, or to both, unless he proves that the flight took place without his consent or connivance.

#### Textual Amendments

**F82** Words inserted by [Isle of Man Act 1979 \(c. 58\)](#), [Sch. 1 para. 5](#)

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**F83** Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), ss. 38, 46 and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), ss. 289F, 289G and (N.I.) by S.I. 1984/703, (N.I. 3) arts. 5, 6

**F84** Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), ss. 38, 46 and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), ss. 289F, 289G and (N.I.) by S.I. 1984/703, (N.I. 3) arts. 5, 6

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

**C19** S. 34 restricted (1.1.1993) by Finance (No. 2) Act 1992 (c. 48), s. 4(1)(3)(f)(6).

## PART IV

### CONTROL OF IMPORTATION

#### *Inward entry and clearance*

#### **35 Report inwards.**

- (1) Report shall be made in such form and manner and containing such particulars as the Commissioners may direct of every ship and aircraft to which this section applies<sup>F85</sup>  
.....
- (2) This section applies to every ship arriving at a port—
  - (a) from any place outside the United Kingdom; or
  - (b) carrying any goods brought in that ship from some place outside the United Kingdom and not yet cleared on importation.
- (3) This section applies to every aircraft arriving at any place in the United Kingdom—
  - (a) from any place or area outside the United Kingdom; or
  - (b) carrying passengers or goods taken on board that aircraft at a place outside the United Kingdom, being passengers or goods either—
    - (i) bound for a destination in the United Kingdom and not already cleared at a customs and excise airport; or
    - (ii) bound for a destination outside the United Kingdom.
- (4) The Commissioners may make regulations prescribing the procedure for making report under this section.
- (5) If the person by whom the report should be made fails to make report as required by or under this section—
  - (a) he shall be liable on summary conviction to a penalty of [<sup>F86</sup>level 3 on the standard scale]; and
  - (b) any goods required to be reported which are not duly reported may be detained by any officer until so reported or until the omission is explained to the satisfaction of the Commissioners, and may in the meantime be deposited in a Queen's warehouse.
- (6) The person making the report shall at the time of making it answer all such questions relating to the ship, [<sup>F87</sup>or aircraft], to the goods carried therein, to the crew and to the voyage, [<sup>F87</sup>or flight] as may be put to him by the proper officer; and if he refuses

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to answer he shall be liable on summary conviction to a penalty of [<sup>F88</sup>level 3 on the standard scale].

(7) If at any time after a ship or aircraft carrying goods brought therein from any place outside the United Kingdom arrives [<sup>F89</sup>in or over United Kingdom waters], <sup>F90</sup> . . . and before report has been made in accordance with this section—

- (a) bulk is broken; or
- (b) any alteration is made in the stowage of any goods carried so as to facilitate the unloading of any part thereof before due report has been made; or
- (c) any part of the goods is staved, destroyed or thrown overboard or any container is opened,

and the matter is not explained to the satisfaction of the Commissioners, the master of the ship or commander of the aircraft <sup>F90</sup> . . . shall be liable on summary conviction to a penalty of [<sup>F91</sup>level 3 on the standard scale].

<sup>F92</sup>(8) . . . . .

[<sup>F93</sup>(9) References in this section to a place, area or destination outside the United Kingdom do not include referenes to a place, area or destination in the Isle of Man and in subsection (3)(b)(i) above the reference to a destination in the United Kingdom includes a reference to a destination in the Isle of Man.]

#### Textual Amendments

- F85** Words in s. 35(1) repealed (1.1.1993) by S.I. 1992/3095, regs. 3(4)(a), 10(2), **Sch.2**.
- F86** Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), **ss. 38, 46** and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **ss. 289F, 289G** and (N.I.) by S.I. 1984/703, (N.I. 3) arts. 5, 6
- F87** Words in s. 35(6) substituted (1.1.1993) by S.I. 1992/3095, **reg. 3(4)(b)(i)(ii)**.
- F88** Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), **ss. 38, 46** and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **ss. 289F, 289G** and (N.I.) by S.I. 1984/703, (N.I. 3) arts. 5, 6
- F89** Words substituted by Territorial Sea Act 1987 (c. 49, SIF 29:1), s. 3, **Sch. 1 para. 4(2)**
- F90** Words in s. 35(7) repealed (1.1.1993) by S.I. 1992/3095, regs. 3(4)(c)(i)(ii), 10(2), **Sch.2**.
- F91** Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), **ss. 38, 46** and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **ss. 289F, 289G** and (N.I.) by S.I. 1984/703, (N.I. 3) arts. 5, 6
- F92** S. 35(8) repealed (1.1.1993) by S.I. 1992/3095, regs. 3(4)(d), 10(2), **Sch.2**.
- F93** S. 35(9) inserted by Isle of Man Act 1979 (c. 58), **Sch. 1 para. 6**

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

- C20** S. 35(1) amended by S.I. 1990/2167, art. 4, **Sch. para. 5(1)**
- C21** S. 35(7) amended by S.I. 1990/2167, art. 4, **Sch. para. 5(2)**

## 36 Provisions as to Her Majesty's ships, etc.

(1) The person in command of any ship having a commission from Her Majesty or any foreign State which has on board any goods loaded in any place outside the United Kingdom [<sup>F94</sup>and the Isle of Man] shall, before any such goods are unloaded, or at any time when called upon to do so by the proper officer, deliver to the proper officer an account of the goods in accordance with subsection (2) below, and if he fails so to do he shall be liable on summary conviction to a penalty of [<sup>F95</sup>level 3 on the standard scale].



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- (2) An account of goods under subsection (1) above shall be in such form, and shall contain to the best of the knowledge of the person delivering the account such particulars, and shall be delivered in such manner, as the Commissioners may direct.
- (3) The person delivering such an account shall when delivering it answer all such questions relating to the goods as may be put to him by the proper officer and if he refuses to answer he shall be liable on summary conviction to a penalty of [<sup>F96</sup>level 3 on the standard scale].
- (4) Subject in the case of ships having a commission from Her Majesty to any regulations made by the Treasury, the provisions of Parts III to VII of this Act as to the boarding and search of ships shall have effect in relation to such a ship as aforesaid as they have effect in relation to any other ship, and any officer may remove to a Queen's warehouse any goods loaded as aforesaid found on board the ship.

#### Textual Amendments

- F94** Words inserted by [Isle of Man Act 1979 \(c. 58\), Sch. 1 para. 7](#)
- F95** Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), ss. 38, 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\), ss. 289F, 289G](#) and (N.I.) by [S.I. 1984/703, \(N.I. 3\) arts. 5, 6](#)
- F96** Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), ss. 38, 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\), ss. 289F, 289G](#) and (N.I.) by [S.I. 1984/703, \(N.I. 3\) arts. 5, 6](#)

<sup>F97</sup>**37** .....

#### Textual Amendments

- F97** [S. 37](#) repealed (1.1.1993) by [S.I. 1992/3095, regs. 3\(5\), 10\(2\), Sch.2](#).

#### [<sup>F98</sup>**37A** Initial and supplementary entries.

[ The Commissioners may—

- <sup>F99</sup>(1) (a) give such directions as they think fit for enabling an entry under regulation 5 of the Customs Controls on Importation of Goods Regulations 1991 to consist of an initial entry and a supplementary entry where the importer is authorised for the purposes of this section in accordance with the directions; and
- (b) include in the directions such supplementary provision in connection with entries consisting of initial and supplementary entries as they think fit.]

[ Without prejudice to section 37 above, a direction under that section may —

- <sup>F100</sup>(1A) (a) provide that where the importer is not authorised for the purposes of this section but a person who is so authorised is appointed as his agent for the purpose of entering the goods, the entry may consist of an initial entry made by the person so appointed and a supplementary entry so made, and
- (b) make such supplementary provision in connection with entries consisting of initial and supplementary entries made as mentioned in paragraph (a) above as the Commissioners think fit.]

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[ Where—

- <sup>F101</sup>(2) (a) an initial entry made under subsection (1) above has been accepted and the importer has given security by deposit of money or otherwise to the satisfaction of the Commissioners for payment of the unpaid duty, or
- (b) an initial entry made under subsection (1A) above has been accepted and the person making the entry on the importer's behalf has given such security as is mentioned in paragraph (a) above,

the goods may] be delivered without payment of any duty chargeable in respect of the goods, but any such duty shall be paid within such time as the Commissioners may direct.

- (3) An importer who makes an initial entry [<sup>F102</sup>under subsection (1) above] shall complete the entry by delivering the supplementary entry within such time as the Commissioners may direct.

[ A person who makes an initial entry under subsection (1A) above on behalf of an <sup>F103</sup>(3A) importer shall complete the entry by delivering the supplementary entry within such time as the Commissioners may direct.]

- (4) For the purposes of the customs and excise Acts an entry of goods shall be taken to have been delivered when an initial entry of the goods has been delivered, and accepted when an initial entry has been accepted.]

#### Textual Amendments

**F98** Ss. 37A–C inserted by Finance Act 1984 (c. 43, SIF 40:1), s. 9, **Sch. 5 para. 2**

**F99** S. 37A(1) substituted (1.1.1993) by S.I. 1992/3095, reg. 10(1), **Sch. 1 para.5**.

**F100** S. 37A(1A) inserted by Finance Act 1990 (c. 29, SIF 40:1), s. 7, **Sch. 3 para. 2(3)**

**F101** Words substituted by Finance Act 1990 (c. 29, SIF 40:1), s. 7, **Sch. 3 para. 2(4)**

**F102** Words inserted by Finance Act 1990 (c. 29, SIF 40:1), s. 7, **Sch. 3 para. 2(5)**

**F103** S. 37A(3A) inserted by Finance Act 1990 (c. 29, SIF 40:1), s. 7, **Sch. 3 para. 2(6)**

#### 37B Postponed entry.

- (1) The Commissioners may, if they think fit, direct that where—
- (a) such goods as may be specified in the direction are imported by an importer authorised for the purposes of this subsection;
- (b) the importer has delivered a document relating to the goods to the proper officer, in such form and manner, containing such particulars and accompanied by such documents as the Commissioners may direct; and
- (c) the document has been accepted by the proper officer,
- the goods may be delivered before an entry of them has been delivered or any duty chargeable in respect of them has been paid.

[<sup>F104</sup>(1A) The Commissioners may, if they think fit, direct that where—

- (a) such goods as may be specified in the direction are imported by an importer who is not authorised for the purposes of this subsection;
- (b) a person who is authorised for the purposes of this subsection is appointed as his agent for the purpose of entering the goods;



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- (c) the person so appointed has delivered a document relating to the goods to the proper officer, in such form and manner, containing such particulars and accompanied by such documents as the Commissioners may direct; and
  - (d) the document has been accepted by the proper officer,
- the goods may be delivered before an entry of them has been delivered or any duty chargeable in respect of them has been paid.]

(2) The Commissioners may, if they think fit, direct that where—

- (a) such goods as may be specified in the direction are imported by an importer authorised for the purposes of this subsection;
  - (b) the goods have been removed from the place of importation to a place approved by the Commissioners for the clearance out of charge of such goods; and
  - (c) the conditions mentioned in subsection (3) below have been satisfied,
- the goods may be delivered before an entry of them has been delivered or any duty chargeable in respect of them has been paid.

(3) The conditions are that—

- (a) on the arrival of the goods at the approved place the importer delivers to the proper officer a notice of the arrival of the goods in such form and containing such particulars as may be required by the directions;
- (b) within such time as may be so required the importer enters such particulars of the goods and such other information as may be so required in a record maintained by him at such place as the proper officer may require; and
- (c) the goods are kept secure in the approved place for such period as may be required by the directions.

[<sup>F105</sup>(3A) The Commissioners may, if they think fit, direct that where—

- (a) such goods as may be specified in the direction are imported by an importer who is not authorised for the purposes of this subsection;
- (b) a person who is authorised for the purposes of this subsection is appointed as his agent for the purpose of entering the goods;
- (c) the goods have been removed from the place of importation to a place approved by the Commissioners for the clearance out of charge of such goods; and
- (d) the conditions mentioned in subsection (3B) below have been satisfied.

the goods may be delivered before an entry of them has been delivered or any duty chargeable in respect of them has been paid.

(3B) The conditions are that—

- (a) on the arrival of the goods at the approved place the person appointed as the agent of the importer for the purpose of entering the goods delivers to the proper officer a notice of the arrival of the goods in such form and containing such particulars as may be required by the directions;
- (b) within such time as may be so required the person appointed as the agent of the importer for the purpose of entering the goods enters such particulars of the goods and such other information as may be so required in a record maintained by him at such place as the proper officer may require; and
- (c) the goods are kept secure in the approved place for such period as may be required by the directions.]

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- (4) The Commissioners may direct that the condition mentioned in subsection (3)(a) [<sup>F106</sup>or (3B)(a)] above shall not apply in relation to any goods specified in the direction and such a direction may substitute another condition.
- (5) No goods shall be delivered under [<sup>F107</sup>subsection (1) or (2) above] unless the importer gives security by deposit of money or otherwise to the satisfaction of the Commissioners for the payment of any duty chargeable in respect of the goods which is unpaid.
- [<sup>F108</sup>(5A) No goods shall be delivered under subsection (1A) or (3A) above unless the person appointed as the agent of the importer for the purpose of entering the goods gives security by deposit of money or otherwise to the satisfaction of the Commissioners for the payment of any duty chargeable in respect of the goods which is unpaid.]
- (6) Where goods of which no entry has been made have been delivered under [<sup>F109</sup>subsection (1) or (2) above], the importer shall deliver an entry of the goods under [<sup>F110</sup>regulation 5 of the Customs Controls on Importation of Goods Regulations 1991] within such time as the Commissioners may direct.
- [<sup>F111</sup>(6A) Where goods of which no entry has been made have been delivered under subsection (1A) or (3A) above, the person appointed as the agent of the importer for the purpose of entering the goods shall deliver an entry of the goods under section 37(1) above within such time as the Commissioners may direct.]
- (7) For the purposes of section 43(2)(a) below such an entry shall be taken to have been accepted—
- (a) in the case of goods delivered by virtue of a direction under subsection (1) [<sup>F112</sup>or (1A)] above, on the date on which the document mentioned in that subsection was accepted; and
  - (b) in the case of goods delivered by virtue of a direction under subsection (2) above, on the date on which particulars of the goods were entered as mentioned in subsection (3)(b) above. [<sup>F113</sup>and
  - (c) in the case of goods delivered by virtue of a direction under subsection (3A) above, on the date on which particulars of the goods were entered as mentioned in subsection (3B)(b) above.]

#### Textual Amendments

**F104** S. 37B(1A) inserted by Finance Act 1990 (c. 29, SIF 40:1), s. 7, **Sch. 3 para. 3(2)**

**F105** S. 37B(3A)(3B) inserted by Finance Act 1990 (c. 29, SIF 40:1), s. 7, **Sch. 3 para. 3(3)**

**F106** Words inserted by Finance Act 1990 (c. 29, SIF 40:1), s. 7, **Sch. 3 para. 3(4)**

**F107** Words substituted by Finance Act 1990 (c. 29, SIF 40:1), s. 7, **Sch. 3 para. 3(5)**

**F108** S. 37B(5A) inserted by Finance Act 1990 (c. 29, SIF 40:1), s. 7, **Sch. 3 para. 3(6)**

**F109** Words substituted by Finance Act 1990 (c. 29, SIF 40:1), s. 7, **Sch. 3 para. 3(7)**

**F110** Words in s. 37B(6) substituted (1.1.1993) by S.I. 1992/3095, reg. 10(1), **Sch. 1 para. 6.**

**F111** S. 37B(6A) inserted by Finance Act 1990 (c. 29, SIF 40:1), s. 7, **Sch. 3 para. 3(8)**

**F112** Words inserted by Finance Act 1990 (c. 29, SIF 40:1), s. 7, **Sch. 3 para. 3(9)(a)**

**F113** Words inserted by Finance Act 1990 (c. 29, SIF 40:1), s. 7, **Sch. 3 para. 3(9)(b)**

### 37C Provisions supplementary to ss. 37A and 37B.

- (1) The Commissioners may, if they think fit—

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- (a) authorise any [<sup>F114</sup>person] for the purposes of section 37A, or 37B(1) [<sup>F115</sup>, (1A), (2) or (3A)] above; and
  - (b) suspend or cancel the authorisation of any [<sup>F116</sup>person] where it appears to them that he has failed to comply with any requirement imposed on him by or under this Part of this Act or that there is other reasonable cause for suspension or cancellation.
- (2) The Commissioners may give directions—
- (a) imposing such requirements as they think fit on any [<sup>F117</sup>person] authorised under this section; or
  - (b) varying any such requirements previously imposed.
- (3) If any person without reasonable excuse contravenes any requirement imposed by or under section 37A, 37B or this section he shall be liable on summary conviction to a penalty of level 4 on the standard scale.

**Textual Amendments**

- F114** Word substituted by Finance Act 1990 (c. 29, SIF 40:1), s. 7, Sch. 3 para. 4(2)(a)
- F115** Words substituted by Finance Act 1990 (c. 29, SIF 40:1), s. 7, Sch. 3 para. 4(2)(b)
- F116** Word substituted by Finance Act 1990 (c. 29, SIF 40:1), s. 7, Sch. 3 para. 4(3)
- F117** Word substituted by Finance Act 1990 (c. 29, SIF 40:1), s. 7, Sch. 3 para. 4(4)

<sup>F118</sup>**38** .....

**Textual Amendments**

- F118** S. 38 repealed (1.1.1993) by S.I. 1992/3095, regs. 3(5), 10(2), Sch.2.

<sup>F119</sup>**38A** .....

**Textual Amendments**

- F119** S. 38A. repealed (1.1.1993) by S.I. 1992/3095, regs. 3(5), 10(2), Sch.2.

[<sup>F120</sup>**38B** Correction and cancellation of entry.

- (1) Where goods have been entered for home use or for free circulation the importer may correct any of the particulars contained in an entry of the goods after it has been accepted if—
  - (a) the goods have not been cleared from customs and excise charge;
  - (b) he has not been notified by an officer that the goods are to be examined; and
  - (c) the entry has not been found by an officer to be incorrect.
- (2) The proper officer may permit or require any correction allowed by subsection (1) above to be made by the delivery of a substituted entry.

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- (3) An entry of goods may at the request of the importer be cancelled at any time before the goods are cleared from customs and excise charge if the importer proves to the satisfaction of the Commissioners that the entry was delivered by mistake or that the goods cannot be cleared for free circulation.]

#### Textual Amendments

**F120** S. 38B inserted by Finance Act 1981 (c. 35, SIF 40:1), s. 10(1), Sch. 6 para. 4

### 39 Entry of surplus stores.

- (1) With the permission of the proper officer, surplus stores of any ship or aircraft—
- (a) if intended for private use and in quantities which do not appear to him to be excessive, may be entered and otherwise treated as if they were goods imported in the ship or aircraft; or
  - (b) in any other case may, subject to subsection (2) below, be entered for warehousing notwithstanding that they could not lawfully be imported as merchandise.
- (2) Goods entered for warehousing by virtue of subsection (1)(b) above shall not, except with the sanction of the Commissioners, be further entered, or be removed from the warehouse, otherwise than for use as stores.

### 40 Removal of uncleared goods to Queen's warehouse.

- (1) Where in the case of any imported goods—
- (a) entry has not been made thereof by the expiration of the relevant period; or
  - [<sup>F121</sup>(b) at the expiration of 21 clear days from the date when they were presented at the proper office of customs and excise they have not been produced for examination and clearance and the failure to produce them is attributable to an act or omission for which the importer is responsible; or]
  - (c) being goods imported by sea and not being in large quantity, they are at any time after the arrival of the importing ship at the port at which they are to be unloaded the only goods remaining to be unloaded from that ship at that port, the proper officer may cause the goods to be deposited in a Queen's warehouse.
- (2) Where any small package or consignment of goods is imported, the proper officer may at any time after the relevant date cause that package or consignment to be deposited in a Queen's warehouse to await entry.
- (3) Without prejudice to section 99(3) below, if any goods deposited in a Queen's warehouse by the proper officer under this section are not cleared by the importer thereof—
- (a) in the case of goods which are in the opinion of the Commissioners of a perishable nature, forthwith; or
  - (b) in any other case, within 3 months after they have been so deposited or such longer time as the Commissioners may in any case allow,
- the Commissioners may sell them.
- (4) In this section—

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- (a) “the relevant period” means a period of, in the case of goods imported by air, 7 or, in any other case, 14 clear days from the relevant date; and
  - (b) “the relevant date” means, subject to subsection (5) below, the date when report was made of the importing ship, aircraft or vehicle or of the goods under section 35 above, or, where no such report was made, the date when it should properly have been made.
- (5) Where any restriction is placed upon the unloading of goods from any ship or aircraft by virtue of any enactment relating to the prevention of epidemic and infectious diseases, then, in relation to that ship or aircraft, “the relevant date” in this section means the date of the removal of the restriction.

#### Textual Amendments

**F121** S. 40(1)(b) substituted by Finance Act 1981 (c. 35, SIF 40:1), s. 10(1), **Sch. 6 para. 5**

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

**C22** S. 40 modified by S.I. 1986/260, **regs. 5(c)**, 18

### 41 Failure to comply with provisions as to entry.

Without prejudice to any liability under any other provision of the Customs and Excise Acts 1979, and person making entry of goods on their importation who fails to comply with any of the requirements of this Part of this Act in connection with that entry shall be liable on summary conviction to a penalty of [<sup>F122</sup>level 2 on the standard scale], and the goods in question shall be liable to forfeiture [<sup>F123</sup>but this section shall not apply to—

- (a) any failure which has been or may be remedied by virtue of section 38(B)(1); or
- (b) any failure in respect of an entry which by virtue of section 38(B)(3) has been or may be cancelled at his request.]

#### Textual Amendments

**F122** Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 46 and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), s. 289G and (N.I.) by S.I. 1984/703, (N.I. 3) art. 5

**F123** Words and s. 41(a)(b) inserted by Finance Act 1981 (c. 35, SIF 40:1), s. 10(1), **Sch. 6 para. 6**

### 42 Power to regulate unloading, removal, etc. of imported goods.

- (1) The Commissioners may make regulations—
- (a) prescribing the procedure to be followed by a ship arriving at a port, an aircraft arriving at a customs and excise airport, or a person conveying goods into Northern Ireland by land;
  - (b) regulating the unloading, landing, movement and removal of goods on their importation;

and different regulations may be made with respect to importation by sea, air or land respectively.

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- (2) If any person contravenes or fails to comply with any regulation made under this section or with any direction given by the Commissioners or the proper officer in pursuance of any such regulation, he shall be liable on summary conviction to a penalty of [<sup>F124</sup>level 3 on the standard scale] and any goods in respect of which the offence was committed shall be liable to forfeiture.
- [<sup>F125</sup>(3) Subsection (1)(b) above shall not apply in relation to goods imported on or after 1st January 1992 from a place outside the customs territory of the Community [<sup>F126</sup>or to any goods which are moving under the procedure specified in [<sup>F127</sup>Article 165 of Council Regulation (EEC) No. 2913/92 and Article 311 of Commission Regulation (EEC) No. 2454/93]](transit procedures).]

#### Textual Amendments

- F124** Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), ss. 38, 46 and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), ss. 289F, 289G and (N.I.) by S.I. 1984/703, (N.I. 3) arts. 5, 6
- F125** S. 42(3) inserted (01.01.1992) by S.I. 1991/2724, reg. 6(9)
- F126** Words in s. 42(3) added (1.1.1993) by S.I. 1992/3095, reg. 3(2).
- F127** Words in s. 42(3) substituted (1.1.1994) by S.I. 1993/3014, reg. 2(2).

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

- C23** S. 42(1)(a) amended by S.I. 1990/2167, art. 4, Sch. para. 6

### Provisions as to duty on imported goods

#### 43 Duty on imported goods.

- (1) Save as permitted by or under the customs and excise Acts or section 2(2) of the <sup>M21</sup>European Communities Act 1972 or any Community regulation or other instrument having the force of law, no imported goods shall be delivered or removed on importation until the importer has paid to the proper officer any duty chargeable thereon, and that duty shall, in the case of goods of which entry is made, be paid on making the entry.
- (2) [<sup>F128</sup>Subject to subsections (2A), (2B) [<sup>F129</sup>(2C) and (2D)] below,] the duties of customs or excise and the rates thereof chargeable on imported goods—
- [<sup>F130</sup>(a) if entry is made thereof, except where the entry is for warehousing, or if they are declared under section 78 below, shall be those in force with respect to such goods at the time when the entry is accepted or the declaration is made;]
- (b) if entry [<sup>F131</sup>or, in the case of goods entered by bill of sight, perfect entry] is made thereof for warehousing, shall be ascertained in accordance with warehousing regulations;
- [<sup>F132</sup>(c) if no entry is made thereof and the goods are not declared under section 78 below shall be—
- (i) as respects Community customs duties, those in force with respect to such goods at the time of their entry into the customs territory of the Community; and
- (ii) as respects other duties, those in force with respect to such goods at the time of their importation.]

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- [<sup>F133</sup>(2A) Where the Commissioners require a duty of customs to be paid because of a failure to comply with a condition or other obligation imposed under section 47 or 48 below (not being a condition or obligation required to be complied with before the goods were allowed to be removed or delivered) the duty shall be charged as if entry of the goods had been accepted at the time when the non-compliance occurred.
- (2B) Where any duties of customs are chargeable in respect of waste or debris resulting from the destruction of imported goods in free circulation, those duties and their rates shall be those in force at the time when the goods were destroyed.
- (2C) As respects goods which have been unlawfully removed from customs charge, subsection (2)(c) above shall have effect with respect to any duties of customs as if they had entered the customs territory of the Community, or, as the case may be, had been imported at the time of their removal.]
- [<sup>F134</sup>(2D) Nothing in the provisions of subsections (1) and (2) above or of subsection (6) below or in any exception to any of those provisions made by or under any of sections 44 to 48 below shall have effect for the purposes of any duty of excise chargeable on any goods for which—
- (a) the excise duty point is fixed by regulations under section 1 of the Finance (No. 2) Act 1992; and
  - (b) the applicable rate of duty is determined in accordance with subsection (2) of that section.]
- (3) Any goods brought or coming into the United Kingdom by sea otherwise than as cargo, stores or baggage carried in a ship shall be chargeable with the like duty, if any, as would be applicable to those goods if they had been imported as merchandise; and if any question arises as to the origin of the goods they shall, unless that question is determined under section 120 below, section 14 of the <sup>M22</sup>Customs and Excise Duties (General Reliefs) Act 1979 (produce of the sea or continental shelf) or under a Community regulation or other instrument having the force of law, be deemed to be the produce of such country as the Commissioners may on investigation determine.
- [<sup>F135</sup>(4) Where, in accordance with approval given by the Commissioners, entry of goods is made by any method involving the use of a computer, subsection (2) above shall have effect as if the reference in paragraph (a) to the time of the delivery of the entry were a reference to the time when particulars contained in the entry are accepted by the computer.]
- (5) Subject to sections 10 and 11 of the Customs and Excise Duties (General Reliefs) Act 1979 (reliefs for re-imported goods) and save as provided by or under any such enactments or instruments as are mentioned in subsection (1) above, any goods which are re-imported into the United Kingdom [<sup>F136</sup>after exportation from the United Kingdom or the Isle of Man], whether they were manufactured or produced in or outside the United Kingdom and whether or not any duty was paid thereon at a previous importation, shall be treated for the purpose of charging duty—
- (a) as if they were being imported for the first time; and
  - (b) in the case of goods manufactured or produced in the United Kingdom, as if they had not been so manufactured or produced.
- [<sup>F137</sup>(6) Where entry of goods is made otherwise than for warehousing and there is a reduction in the rate of duty of customs or excise chargeable on the goods between—
- (a) the time mentioned in subsection (2)(a) above; and



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- (b) the time when the goods are cleared from customs and excise charge, the rate of the duty chargeable on the goods shall, if the importer so requests, be that in force at the time mentioned in paragraph (b) above unless clearance of the goods has been delayed by reason of any act or omission for which the importer is responsible.
- (7) Notwithstanding section 6(5) of the European Communities Act 1972 “duty of customs” in subsection (6) above does not include any agricultural levy.
- (8) Where the samples are taken of goods under section 38A above and the quantity of the goods covered by the entry which is subsequently delivered does not include the samples the duties of customs and the rates of those duties chargeable on the samples shall be those in force at the time when the application under subsection (1) of that section was made and shall be determined by reference to the particulars contained in the application.
- (9) Where a substituted entry is delivered under section 38(2) or 38B(2) above the entry referred to in subsection (2)(a) above is the original entry.]

#### Textual Amendments

- F128** Words inserted by [S.I. 1982/1324, reg. 2\(2\)](#)
- F129** Words in s. 43(2) substituted (1.12.1992 in so far as mentioned in [S.I. 1992/2979, art. 4](#) and 1.1.1993 in so far as then not already in force) by Finance (No. 2) Act 1992 (c. 48), s. 1(5), [Sch. 1 para. 2\(a\)](#); [S.I. 1992/2979, art. 4, Sch. Pt. 2](#); [S.I. 1992/3261, art. 3, Sch.](#)
- F130** S. 43(2)(a) substituted by Finance Act 1981 (c. 35, SIF 40:1), s. 10(1), [Sch. 6 para. 7\(2\)](#)
- F131** Words repealed by Finance Act 1981 (c. 35, SIF 40:1), [Sch. 19 Pt. 1](#)
- F132** S. 43(2)(c) substituted by [S.I. 1982/1324, reg. 2\(3\)](#)
- F133** S. 43(2A)–(2C) inserted by [S.I. 1982/1324, reg. 2\(4\)](#)
- F134** S. 43(2D) inserted (1.12.1992 in so far as mentioned in [S.I. 1992/2979, art. 4](#) and 1.1.1993 in so far as then not already in force) by Finance (No. 2) Act 1992 (c. 48), s. 1(5), [Sch. 1 para. 2\(b\)](#); [S.I. 1992/2979, art. 4, Sch. Pt. 2](#); [S.I. 1992/3261, art. 3, Sch.](#)
- F135** S. 43(4) repealed by Finance Act 1981 (c. 35, SIF 40:1), s. 139(6), [Sch. 19 Pt. 1](#)
- F136** Words substituted by Isle of Man Act 1979 (c. 58), [Sch. 1 para. 8](#)
- F137** S. 43(6)–(9) inserted by Finance Act 1981 (c. 35, SIF 40:1), s. 10(1), [Sch. 6 para. 7\(4\)](#)

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

- C24** S. 43 modified by [S.I. 1986/260, regs. 5\(d\)](#) (as substituted by [S.I. 1986/1019, reg. 2](#)), 18
- C25** S. 43(1) modified by [S.I. 1983/947, regs. 12, 13](#), 1988/1810, reg. 4 and 1988/1898, reg. 4 ([S.I. 1983/947](#) is revoked 1.1.1993 by [S.I. 1992/3152, reg. 1\(2\)](#))
- C26** S. 43(1) amended by [S.I. 1985/1032, reg. 11\(a\)](#) (which [S.I.](#) is revoked 1.1.1993 by [S.I. 1992/3152, reg. 1\(2\)](#))  
 S. 43(1) amended by [S.I. 1992/3152, reg. 11\(a\)](#).  
 S. 43: s. 43(1)(a) expressed to be amended (1.11.1993 - 31.10.1996) by virtue of [S.I. 1992/3152, reg. 11\(a\)](#) (with [S.I. 1996/2537, reg. 15\(b\)](#))
- C27** S. 43(5) excluded (20.10.1995) by [S.I. 1995/2518, reg. 118\(c\)\(i\)](#)

#### Marginal Citations

- M21** 1972 c. 68.  
**M22** 1979 c. 3.



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**44 Exclusion of s. 43(1) for importers etc. keeping standing deposits.**

Where the Commissioners so direct, section 43(1) above shall not apply if and so long as the importer or his agent pays to, and keeps deposited with, the Commissioners a sum by way of standing deposit sufficient in their opinion to cover any duty which may become payable in respect of goods entered by that importer or agent, and if the importer or agent complies with such other conditions as the Commissioners may impose.

**45 Deferred payment of customs duty.**

- (1) The Commissioners may by regulations provide for the payment of customs duty to be deferred in such cases as may be specified by the regulations and subject to such conditions as may be imposed by or under the regulations; and duty of which payment is deferred under the regulations shall be treated, for such purposes as may be specified thereby, as if it had been paid.
- (2) Regulations under this section may make different provision for goods of different descriptions or for goods of the same description in different circumstances.

**46 Goods to be warehoused without payment of duty.**

Any goods which are on their importation permitted to be entered for warehousing shall be allowed, subject to such conditions or restrictions as may be imposed by or under warehousing regulations, to be warehoused without payment of duty.

**47 Relief from payment of duty of goods entered for transit or transhipment.**

Where any goods are entered for transit or transhipment, the Commissioners may allow the goods to be removed for that purpose, subject to such conditions and restrictions as they see fit, without payment of duty.

**48 Relief from payment of duty of goods temporarily imported.**

In such cases as the Commissioners may by regulations prescribe, where the Commissioners are satisfied that goods are imported only temporarily with a view to subsequent re-exportation, they may permit the goods to be delivered on importation, subject to such conditions as they see fit to impose, without payment of duty.

*Forfeiture, offences, etc. in connection with importation*

**49 Forfeiture of goods improperly imported.**

- (1) Where—
  - (a) except as provided by or under the Customs and Excise Acts 1979, any imported goods, being goods chargeable on their importation with customs or excise duty, are, without payment of that duty—
    - (i) unshipped in any port,
    - (ii) unloaded from any aircraft in the United Kingdom,
    - (iii) unloaded from any vehicle in, or otherwise brought across the boundary into, Northern Ireland, or

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- (iv) removed from their place of importation or from any approved wharf, examination station or transit shed; or
  - (b) any goods are imported, landed or unloaded contrary to any prohibition or restriction for the time being in force with respect thereto under or by virtue of any enactment; or
  - (c) any goods, being goods chargeable with any duty or goods the importation of which is for the time being prohibited or restricted by or under any enactment, are found, whether before or after the unloading thereof, to have been concealed in any manner on board any ship or aircraft or, while in Northern Ireland, in any vehicle; or
  - (d) any goods are imported concealed in a container holding goods of a different description; or
  - (e) any imported goods are found, whether before or after delivery, not to correspond with the entry made thereof; or
  - (f) any imported goods are concealed or packed in any manner appearing to be intended to deceive an officer, those goods shall, subject to subsection (2) below, be liable to forfeiture.
- (2) Where any goods, the importation of which is for the time being prohibited or restricted by or under any enactment, are on their importation either—
- (a) reported as intended for exportation in the same ship, aircraft or vehicle; or
  - (b) entered for transit or transshipment; or
  - (c) entered to be warehoused for exportation or for use as stores,
- the Commissioners may, if they see fit, permit the goods to be dealt with accordingly.

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

- C28** S. 49 modified by S.I. 1986/260, **regs. 5(e)**, 18
- C29** S. 49(1) amended by S.I. 1990/2167, art. 4, **Sch. para. 7**
- C30** S. 49(1)(a) modified by S.I. 1983/947, **regs. 12, 13** (which S.I. is revoked 1.1.1993 by S.I. 1992/3152, **reg. 1(2)**)
- C31** S. 49(1)(a) amended by S.I. 1985/1032, **reg. 11(a)** (which S.I. is revoked 1.1.1993 by S.I. 1992/3152, **reg. 1(2)**)
- S. 49(1)(a) amended (1.11.1996) by S.I. 1992/3152, **reg. 11(a)** (as amended (1.11.1996) by S.I. 1996/2537, **reg. 15(b)**).

**50 Penalty for improper importation of goods.**

- (1) Subsection (2) below applies to goods of the following descriptions, that is to say—
- (a) goods chargeable with a duty which has not been paid; and
  - (b) goods the importation, landing or unloading of which is for the time being prohibited or restricted by or under any enactment.
- (2) If any person with intent to defraud Her Majesty of any such duty or to evade any such prohibition or restriction as is mentioned in subsection (1) above—
- (a) unships or lands in any port or unloads from any aircraft in the United Kingdom or from any vehicle in Northern Ireland any goods to which this subsection applies, or assists or is otherwise concerned in such unshipping, landing or unloading; or

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- (b) removes from their place of importation or from any approved wharf, examination station, transit shed or customs and excise station any goods to which this subsection applies or assists or is otherwise concerned in such removal,  
he shall be guilty of an offence under this subsection and may be detained.
- (3) If any person imports or is concerned in importing any goods contrary to any prohibition or restriction for the time being in force under or by virtue of any enactment with respect to those goods, whether or not the goods are unloaded, and does so with intent to evade the prohibition or restriction, he shall be guilty of an offence under this subsection and may be detained.
- (4) Subject to subsection (5) [<sup>F138</sup>or (5A)] below, a person guilty of an offence under subsection (2) or (3) above shall be liable—
- (a) on summary conviction, to a penalty of the prescribed sum or of three times the value of the goods, whichever is the greater, or to imprisonment for a term not exceeding 6 months, or to both; or
  - (b) on conviction on indictment, to a penalty of any amount, or to imprisonment for a term not exceeding [<sup>F139</sup>7 years], or to both.
- (5) In the case of an offence under subsection (2) or (3) above in connection with a prohibition or restriction on importation having effect by virtue of section 3 of the <sup>M23</sup>Misuse of Drugs Act 1971, subsection (4) above shall have effect subject to the modifications specified in Schedule 1 to this Act.
- [<sup>F140</sup>(5A) In the case of an offence under subsection (2) or (3) above in connection with the prohibition contained in section 20 of the Forgery and Counterfeiting Act 1981, subsection (4)(b) above shall have effect as if for the words “2 years” there were substituted the words “10 years”.]
- (6) If any person—
- (a) imports or causes to be imported any goods concealed in a container holding goods of a different description; or
  - (b) directly or indirectly imports or causes to be imported or entered any goods found, whether before or after delivery, not to correspond with the entry made thereof,
- he shall be liable on summary conviction to a penalty of three times the value of the goods or [<sup>F141</sup>level 3 on the standard scale], whichever is the greater.
- (7) In any case where a person would, apart from this subsection, be guilty of—
- (a) an offence under this section in connection with the importation of goods contrary to a prohibition or restriction; and
  - (b) a corresponding offence under the enactment or other instrument imposing the prohibition or restriction, being an offence for which a fine or other penalty is expressly provided by that enactment or other instrument,
- he shall not be guilty of the offence mentioned in paragraph (a) of this subsection.

#### Textual Amendments

**F138** Words inserted by [Forgery and Counterfeiting Act 1981 \(c. 45, SIF 39:7\)](#), s. **23(1)(a)**

**F139** Words substituted by [Finance Act 1988 \(c. 33, SIF 40:1\)](#), s. **12(1)(a)(6)**

**F140** [S. 50\(5A\)](#) inserted by [Forgery and Counterfeiting Act 1981 \(c. 45, SIF 39:7\)](#), s. **23(1)(b)**

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**F141** Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c.48, SIF 39:1), ss. 38, 46 and (S.) Criminal Procedure (Scotland) Act 1975 (c.21, SIF 39:1), ss. 289F, 289G and (N.I.) by S.I. 1984/703, (N.I. 3) arts. 5, 6

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

**C32** S. 50(2) amended by S.I. 1990/2167, art. 4, Sch. para. 8

**Marginal Citations**

**M23** 1971 c. 38.

**51 Special provisions as to proof in Northern Ireland.**

- (1) If goods of any class or description chargeable with duty on their importation from the Republic of Ireland are found in the possession or control of any person<sup>F142</sup> in Northern Ireland, any officer or any person having by law in Northern Ireland the powers of an officer may require that person to furnish proof that the goods have not been imported from the Republic of Ireland or that the duty chargeable on their importation has been paid.
- (2) If proof of any matter is required to be furnished in relation to any goods under subsection (1) above but is not furnished to the satisfaction of the Commissioners, the goods shall, for the purposes of proceedings under the customs and excise Acts, be deemed to have been unlawfully imported from the Republic of Ireland without payment of duty, unless the contrary is proved.

**Textual Amendments**

**F142** Words repealed by Finance Act 1983 (c. 28, SIF 40:1), s. 7(5), Sch. 10 Pt. I

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

- C33** S. 51 amended by S.I. 1985/1032, reg. 11(a) (which S.I. is revoked 1.1.1993 by S.I. 1992/3152, reg. 1(2))
- C34** S. 51 modified by S.I. 1983/947, regs. 12, 13 (which S.I. is revoked 1.1.1993 by S.I. 1992/3152, reg. 1(2))
- C35** S. 51 amended (1.1.1993) by S.I. 1992/3152, reg. 11(a).

**PART V**

CONTROL OF EXPORTATION

*Outward entry and clearance of goods*

**52 Meaning for this Part of “dutiable or restricted goods”.**

[<sup>F143</sup>(1)] For the purposes of this Part of this Act “dutiable or restricted goods” are goods of the following descriptions, that is to say—

- (a) goods from warehouse, other than goods which have been kept, without being warehoused, in a warehouse by virtue of section 92(4) below;
- (b) transit goods;

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- (c) any other goods chargeable with any duty which has not been paid;
- (d) drawback goods;
- (e) goods with respect to the exportation of which any restriction is for the time being in force under or by virtue of any enactment;
- (f) any goods required by or under any provision of this Act other than a provision of this Part or by or under a provision of any other Act to be entered before exportation or before shipment for exportation or as stores.
- [<sup>F144</sup>(g) goods incorporating or resulting from the use of inward processing goods or any goods which, following a determination by the Commissioners, are to be treated for customs purposes as inward processing goods in substitution for such goods.]

[<sup>F145</sup>(2) In this section “inward processing goods” means goods imported for the purpose of being worked on, processed or used in any process or repaired and on the importation of which relief from import duty or agricultural levy was given on condition that goods incorporating or resulting from the use of them would be exported outside the Community; and in this subsection “agricultural levy” means any tax or charge, not being a customs duty, provided for under the common agricultural policy or under any special arrangements which, pursuant to Article 235 of the EEC Treaty are applicable to goods resulting from the processing of agricultural products.]

#### Textual Amendments

**F143** Provisions of s. 52 renumbered as s. 52(1) by [Finance Act 1981 \(c. 35, SIF 40:1\)](#), s. 10(2)(4), [Sch. 7 Pt. II para. 2\(1\)\(3\)](#) (by s. 10(4) it is provided that s. 10(2) does not affect the operation of the 1979 Act in relation to goods exported before 1.10.1981)

**F144** S. 52(1)(g) inserted by [Finance Act 1981 \(c. 35, SIF 40:1\)](#), s. 10(2)(4), [Sch. 7 Pt. II para. 2\(1\)\(2\)](#) (by s. 10(4) it is provided that s. 10(2) does not affect the operation of the 1979 Act in relation to goods exported before 1.10.1981)

**F145** S. 52(2) inserted by [Finance Act 1981 \(c. 35, SIF 40:1\)](#), s. 10(2)(4), [Sch. 7 Pt. II para. 2\(1\)\(3\)](#) (by s. 10(4) it is provided that s. 10(2) does not affect the operation of the 1979 Act in relation to goods exported before 1.10.1981)

#### [<sup>F146</sup>53 Entry outwards of goods.

- (1) Subject to the provisions of this Part of this Act, before any goods other than Community transit goods are exported or shipped as stores for use on a voyage or flight to an eventual destination outside the United Kingdom and the Isle of Man there shall be delivered by the exporter to the proper officer an entry outwards of the goods in such form and manner, containing such particulars and accompanied by such documents as the Commissioners may direct.
- (2) Except with the permission of the Commissioners no entry shall be delivered before the goods have been presented to the proper officer.
- (3) Where the Commissioners permit an entry to be delivered before presentation of the goods, the goods must be presented to the proper officer within such time as the Commissioners may allow; and if the goods are not so presented the entry shall be treated as not having been delivered.

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- (4) Goods may be treated as presented to the proper officer if notice is given, in such form and manner as the Commissioners may direct, to the proper officer of the presence of the goods at a place designated by him.
- (5) An entry in respect of dutiable or restricted goods shall not be accepted unless security is given to the satisfaction of the Commissioners that the goods will, within such time as the Commissioners think reasonable, be exported and discharged at the destination for which they are entered or which is otherwise specified by the exporter or, in the case of goods for use as stores, that they will be duly so used or otherwise accounted for to the satisfaction of the Commissioners.
- (6) Acceptance of an entry by the proper officer shall be signified in such manner as the Commissioners may direct; and once acceptance of an entry in respect of any goods has been signified, the goods shall not be removed from the place where they were at the time of acceptance without the permission of the proper officer.
- (7) The Commissioners may relax all or any of the requirements imposed by this section as they think fit in relation to any goods and, if they do so, may impose substituted requirements.
- (8) If any dutiable or restricted goods of which entry is required under this section are shipped for exportation or as stores or are waterborne for such shipment before entry has been delivered and accepted, the goods shall be liable to forfeiture and where the shipping or making waterborne is done with fraudulent intent any person concerned therein with knowledge of that intent shall be guilty of an offence under this subsection and may be detained.
- (9) A person guilty of an offence under subsection (8) above shall be liable—
  - (a) on summary conviction, to a penalty of the prescribed sum or of three times the value of the goods, whichever is the greater, or to imprisonment for a term not exceeding six months, or to both; or
  - (b) on conviction on indictment, to a penalty of any amount, or to imprisonment for a term not exceeding [<sup>F147</sup>seven years] or to both.
- (10) If any goods which are not dutiable or restricted goods and of which entry is required under this section are exported or shipped for exportation or as stores before entry has been delivered and accepted, the exporter shall be liable on summary conviction to a penalty of [<sup>F148</sup>level 4 on the standard scale].
- (11) Any person who removes any goods in contravention of subsection (6) above or contravenes or fails to comply with any requirement imposed under subsection (7) above shall be liable on summary conviction to a penalty of [<sup>F148</sup>level 4 on the standard scale].
- (12) If any dutiable or restricted goods are found not to correspond with any entry in respect of them delivered under this section, they shall be liable to forfeiture.]

#### Textual Amendments

**F146** Ss. 53–58E substituted for ss. 53–58 by [Finance Act 1981 \(c. 35, SIF 40:1\)](#), s. 10(2)(4), [Sch. 7 Pt. I](#) (by s. 10(4) it is provided that s. 10(2) does not affect the operation of the 1979 Act in relation to goods exported before 1.10.1981)

**F147** Words substituted by [Finance Act 1988 \(c. 39, SIF 40:1\)](#), s. 12(1)(a)(6)

**Status:** Point in time view as at 01/01/1994. This version of this Act contains provisions that are not valid for this point in time.

**Changes to legislation:** Customs and Excise Management Act 1979 is up to date with all changes known to be in force on or before 26 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

**F148** Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [s. 46](#), (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), [s. 289G](#) and (N.I.) by [S.I. 1984/703](#), (N.I. 3) art. 5

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

**C36** S. 53 modified by [S.I. 1986/260](#), [regs. 5\(f\)\(i\)](#), 18

**C37** S. 53 amended by [S.I. 1990/2167](#), [art. 4](#), [Sch. para. 9](#)

**54 Acceptance of incomplete entry.**

- (1) The proper officer may, if he thinks fit, accept an entry which does not in every respect comply with section 53 above, but he shall not do so in a case in which the goods have not been presented.
- (2) Where an entry is accepted under this section the exporter shall, within such time as the Commissioners may allow, deliver to the proper officer such of the particulars or documents as were required to be, but were not, contained in or delivered with the entry or, if the proper officer so permits, deliver to him a substituted entry complying in all respects with section 53 above.
- (3) If any person fails to comply with subsection (2) above he shall be liable on summary conviction to a penalty of [<sup>F149</sup>level 4 on the standard scale].

**Textual Amendments**

**F149** Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [s. 46](#), (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), [s. 289G](#) and (N.I.) by [S.I. 1984/703](#), (N.I. 3) art. 5

**55 Correction and cancellation of entry.**

- (1) The exporter may correct any of the particulars contained in an entry of goods under section 53 above after it has been accepted if—
  - (a) the appropriate authority has not been given for the removal of the goods; and
  - (b) the exporter has not been notified by an officer that the goods are to be examined; and
  - (c) the entry has not been found by an officer to be incorrect;and in paragraph (a) above “the appropriate authority” means—
  - (i) in the case of goods which have been presented to the proper officer at a place approved by the Commissioners under section 31(1)(b) above or at a place designated by the proper officer under section 53 above, any authority to remove the goods from the place where they were presented to the proper officer which is required under section 31 above or permission under section 53(6) above, and
  - (ii) in any other case, the authority to load the goods which is required under section 57(4) or section 66 below.
- (2) Particulars in an entry may be corrected after the giving of such authority as is mentioned in subsection (1)(a) above if they relate to a matter which can be established in the absence of the goods.
- (3) The proper officer may permit or require any correction allowed by subsection (1) above to be made by the delivery of a substituted entry.



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- (4) Subject to subsection (5) below, an entry which has been accepted may be cancelled at the request of the exporter if he delivers to the proper officer all copies of the entry and such other documents delivered to him on or in connection with the entry as the Commissioners may require and shows to the satisfaction of the Commissioners that—
- (a) the goods are in the United Kingdom and the arrangements for exporting them have been cancelled; and
  - (b) any payment to which he is entitled from the Commissioners or under a Community instrument by virtue of exporting the goods has been repaid or will not be paid.
- (5) An entry shall not be cancelled under subsection (4) above—
- (a) in a case where the exporter is informed by an officer that the goods are to be examined, until the examination has taken place; and
  - (b) until the exporter has complied with any requirements imposed by the Commissioners as to the movement of the goods in respect of which the entry was made to such places as they may specify.
- (6) Where an entry in respect of goods which are not dutiable or restricted goods is cancelled under subsection (4) above, the exporter shall within such period as may be specified by directions given by the Commissioners furnish them with such information and such documents relating to the goods as may be specified in the directions.
- (7) Any person who contravenes or fails to comply with subsection (6) above shall be liable on summary conviction to a penalty of [<sup>F150</sup>level 4 on the standard scale].

#### Textual Amendments

**F150** Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [s. 46](#), (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), [s. 289G](#) and (N.I.) by [S.I. 1984/703](#), (N.I. 3) art. 5

## 56 Failure to export.

- (1) Where any goods in respect of which an entry has been accepted have not been shipped or exported by land, an officer may by notice given to the exporter require the goods to be exported within such time as is specified in the notice; and if the notice is not complied with the entry shall be treated as cancelled.
- (2) Where, in the case of any such goods as are mentioned in subsection (1) above which are due to be loaded into a ship or aircraft specified in the entry or by the person having charge of them at the port or customs and excise airport of intended shipment, no notice has been served under that subsection and the goods have not been shipped by the time the ship or aircraft departs from the port or airport at which it has been cleared by the proper officer, then—
  - (a) the entry shall be treated as cancelled at that time; and
  - (b) if the goods are dutiable or restricted goods, they shall be liable to forfeiture unless notice of the failure to export them is given to the proper officer immediately after that time.
- (3) Where an entry in respect of dutiable or restricted goods is treated as cancelled by virtue of this section—

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- (a) if the exporter would have been entitled to a payment of any sum from the Commissioners or under a Community instrument by virtue of exporting the goods, he shall take such steps as the Commissioners may direct to ensure that the sum is not paid to him or, if it has already been paid, he shall (unless the Commissioners agree to his retaining it) repay it within seven days or such longer period as the Commissioners may allow;
  - (b) the exporter shall within such period as may be specified by directions given by the Commissioners furnish them with such information and such documents as may be specified in the directions; and
  - (c) if the goods have not been forfeited under subsection (2)(b) above, they shall be warehoused or, if the Commissioners so require, shall be moved to such place as the Commissioners may specify.
- (4) Where an entry in respect of goods which are not dutiable or restricted goods is treated as cancelled by virtue of this section, the exporter shall within such period as may be specified by directions given by the Commissioners furnish them with such information and such documents relating to the goods as may be specified in the directions.
- (5) Any person who contravenes or fails to comply with subsection (3) above shall be liable on summary conviction to a penalty of [<sup>F151</sup>level 5 on the standard scale] and the goods shall be liable to forfeiture.
- (6) Any person who contravenes or fails to comply with subsection (4) above shall be liable on summary conviction to a penalty of [<sup>F151</sup>level 4 on the standard scale].

#### Textual Amendments

**F151** Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 46](#), (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\), s. 289G](#) and (N.I.) by [S.I. 1984/703, \(N.I. 3\) art. 5](#)

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

**C38** S. 56 modified by [S.I. 1986/260, regs. 5\(f\)\(ii\)](#), 18

**C39** S. 56(1)(2) amended by [S.I. 1990/2167, art. 4, Sch. para. 10](#)

## 57 Delivery of entry by owner of exporting ship etc.

- (1) The Commissioners may direct that any entry required to be delivered under section 53 above in respect of any goods which are to be shipped or exported in a ship or aircraft and the documents which are required to accompany it shall, instead of being delivered by the exporter be delivered by the loader (that is to say the owner of the ship or aircraft or a person appointed by him) and such delivery shall be treated as delivery by the exporter for the purposes of this Part of this Act.
- (2) The proper officer shall not accept an entry which is delivered in pursuance of subsection (1) above unless the goods in respect of which the entry is made are under the control of the loader at the time of the delivery.
- (3) Directions under this section may impose on the loader requirements as to—
  - (a) the place, time and manner in which entries and any documents required by virtue of section 31 above are to be delivered;
  - (b) the production to the proper officer of such documents as may be specified in the directions; and

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- (c) the information to be supplied to the proper officer and the form and manner in which the information is to be supplied.
- (4) Directions under this section may also require that the goods in respect of which the entry is to be made shall not be loaded into the ship or aircraft in which they are to be exported without the authority of the proper officer.
- (5) Directions under this section may authorise an officer to relax all or any of the requirements imposed by the directions and, if he does so, to impose substituted requirements.
- (6) If a person without reasonable excuse fails to comply with any requirement imposed on him under this section he shall be liable on summary conviction to a penalty of [<sup>F152</sup>level 4 on the standard scale] or in the case of a failure to comply with a requirement imposed by virtue of subsection (4) above to a penalty of [<sup>F152</sup>level 5 on the standard scale].
- (7) For the purposes of this section a ship subject to charter by demise shall be treated as owned by the charterer.

#### Textual Amendments

**F152** Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 46](#), (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\), s. 289G](#) and (N.I.) by [S.I. 1984/703, \(N.I. 3\) art. 5](#)

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

**C40** S. 57(1)(4) amended by [S.I. 1990/2167, art. 4, Sch. para. 11](#)

## 58 Simplified clearance procedure.

- (1) If the Commissioners think fit so to direct goods which are not dutiable or restricted goods may be shipped for exportation without entry under section 53 above if—
  - (a) the exporter is registered in a register of exporters maintained by the Commissioners for the purposes of this section; and
  - (b) before the goods are shipped the conditions mentioned in subsection (3) below are satisfied.
- (2) The Commissioners may for the purposes of this section—
  - (a) enter in a register maintained by them any person applying for registration and appearing to them to be concerned in the exportation of goods and to satisfy such requirements for registration as they may think fit to impose;
  - (b) give directions imposing requirements on registered persons including, in particular, requirements as to the keeping of records and accounts and the giving of access to them;
  - (c) assign to registered persons numbers for use under this section; and
  - (d) suspend or cancel the registration of any person if it appears to them that he has failed to comply with any direction under this section or with section 58B(1) or (2) below or that there is other reasonable cause for suspension or cancellation.
- (3) The conditions referred to in subsection (1) above are—
  - (a) that the goods are presented to the proper officer;

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- (b) that the exporter delivers to the proper officer and the proper officer accepts such document relating to the goods as the directions may require bearing an endorsement which contains a number assigned to the exporter under this section; and
  - (c) that the exporter complies with such other requirements as the directions may impose;
- and goods may be treated as presented to the proper officer if notice is given, in such form and manner as the Commissioners may direct, to the proper officer of the presence of the goods at a place designated by him.
- (4) The document referred to in subsection (3)(b) above shall be delivered in such manner as the directions may require and acceptance of that document by the proper officer shall be signified in such manner as the Commissioners may direct; and once acceptance of a document relating to any goods has been signified, the goods shall not be removed from the place they were at the time of acceptance without the permission of the proper officer.
  - (5) Directions under this section may contain provision enabling the Commissioners to exclude shipments of goods from their operation in such cases as the Commissioners think fit by giving notice to that effect in accordance with the directions.
  - (6) The Commissioners may relax any requirement imposed under this section as they think fit in relation to any goods and, if they do so, may impose substituted requirements.
  - (7) Sections 55 and 57 above and section 58D(3) below shall apply in relation to a document required to be delivered under subsection (3)(b) above as they apply in relation to an entry and section 56 above shall apply in relation to goods in respect of which such a document has been accepted under that subsection as it applies to goods in respect of which an entry has been accepted.

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

C41 S. 58 modified by [S.I. 1986/260](#), [regs. 5\(f\)\(iii\)](#), 18

**58A Local export control.**

- (1) If the Commissioners think fit so to direct, goods may be shipped for exportation or exported by land without entry under section 53 above if—
  - (a) the exporter is registered in a register maintained by the Commissioners for the purposes of this section; and
  - (b) the conditions mentioned in subsection (3) below are satisfied.

[<sup>F153</sup>and, subject to and to such modifications as may be specified in the directions, this section and section 58D below shall apply in relation to goods which, for the purposes of any Community regulation relating to export refunds or monetary compensatory amounts, are treated as exports as if the supply of the goods were their exportation or, as the case may require, their shipping for exportation]
- (2) The Commissioners may for the purposes of this section—
  - (a) maintain a register of exporters whose premises are approved by the Commissioners under section 31 above for the examination of goods intended for export;

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- (b) enter in the register any such persons applying for registration who satisfy such requirements for registration as the Commissioners may think fit to impose;
  - (c) give directions imposing requirements on registered persons including, in particular, requirements as to the keeping of records and accounts and the giving of access to them;
  - (d) assign to registered persons numbers for use under this section; and
  - (e) suspend or cancel the registration of any person if it appears to them that he has failed to comply with any direction under this section or with section 58B(1) or (2) below or that there is other reasonable cause for suspension or cancellation.
- (3) The conditions referred to in subsection (1) above are—
- (a) that before the goods are removed from the approved premises—
    - (i) the exporter delivers to the proper officer, at such time and place as he may require, a notice of the intention to remove the goods, being a notice in such form and containing such particulars as may be required by the directions; and
    - (ii) on such day as the proper officer may appoint (not being earlier than the day that notice is delivered or later than the day the goods are removed) the exporter enters such particulars of the goods and of such other matters as may be required by the directions in a record maintained by him at such place as the proper officer may require; and
  - (b) that before the goods are shipped [<sup>F154</sup>for exportation or exported by land], the exporter delivers to the proper officer such document relating to the goods as the directions may require bearing an endorsement which contains a number assigned to the exporter under this section and complies with such other requirements as the directions may impose.
- (4) The directions may impose requirements as to—
- (a) the manner in which the notice referred to in paragraph (a)(i) of subsection (3) above shall be delivered and the form it should take;
  - (b) the manner and form in which the record referred to in paragraph (a)(ii) of that subsection should be maintained; and
  - (c) the place at which and the manner in which the document referred to in paragraph (b) of that subsection should be delivered;
- and the conditions mentioned in that subsection shall not be treated as satisfied unless any requirements which are so imposed are complied with.
- (5) The Commissioners may, in addition to any exporter within subsection (2)(a) above, enter in the register any person who applies to them to be registered and satisfies them—
- (a) that the exporter is a company under the applicant's control; or
  - (b) that the exporter has agreed to the registration of the applicant in addition to the exporter.
- (6) Where in pursuance of subsection (5) above both an exporter and another person are registered—
- (a) the proper officer shall direct which of them shall do the things mentioned in subsection (3) above and section 58B(1) below; and

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- (b) the registration of both of them may be cancelled or suspended under subsection (2)(e) above if it appears to the Commissioners that either of them has failed as mentioned in that subsection.
- (7) The Commissioners may relax any requirement imposed under this section as they think fit in relation to any goods and, if they do so, may impose substituted requirements.
- [<sup>F155</sup>(7A) Without prejudice to the powers of the Commissioners under subsection (7) above, they may direct that, in relation to goods of a description specified in the directions which are shipped for exportation or exported by land by an exporter of a description so specified, paragraph (a) of subsection (3) above shall have effect as if—
- (a) in sub-paragraph (i) the words “time and” were omitted; and
  - (b) for sub-paragraph (ii) there were substituted—
    - “(ii) at the time that notice is delivered or immediately thereafter, the exporter enters such particulars of the goods and of such other matters as may be required by the directions in a record maintained by him at such place as the proper officer may require; and
    - (iii) the proper officer informs the exporter that he consents to the removal of the goods; and”.]
- (8) Section 56 above shall apply in relation to goods in respect of which particulars have been entered in a record under subsection (3)(a) above as it applies in relation to goods in respect of which an entry has been accepted.

#### Textual Amendments

**F153** Words inserted by [Finance Act 1987 \(c. 16, SIF 40:1\)](#), [s. 8\(1\)](#)

**F154** Words inserted by [Finance Act 1987 \(c. 16, SIF 40:1\)](#), [s. 8\(2\)](#)

**F155** S. 58A(7A) inserted by [Finance Act 1987 \(c. 16, SIF 40:1\)](#), [s. 8\(3\)](#)

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

**C42** S. 58A modified by [S.I. 1986/260](#), [regs. 5\(f\)\(iv\)](#), 18

### 58B Provisions supplementary to ss. 58 and 58A.

- (1) Where by virtue of section 58 or 58A above goods have been shipped for exportation or exported by land without entry under section 53 above, the exporter shall deliver to the proper officer a specification of the goods containing, as the Commissioners may direct, either the particulars that would have been required to be contained in the entry or such other particulars as may be so directed.
- (2) The specification referred to in subsection (1) above may, if the Commissioners permit, be a single specification relating to the goods exported during a particular period and shall be delivered at such place and in such manner and by such time as the Commissioners may allow.
- (3) If any person fails to deliver a specification in accordance with the foregoing provisions of this section or delivers a specification which is incorrect and does not correct it within a period of fourteen days following delivery, he shall be liable on summary conviction to a penalty of f [<sup>F156</sup>level 4 on the standard scale].



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- (4) In connection with any arrangements approved by the Commissioners for recording particulars of exported goods by computer they may relax the requirements of subsections (1) and (2) above by suspending the obligation to deliver the specifications there mentioned on condition that—
- (a) the particulars which should otherwise be contained in the specifications, or such of those particulars as the Commissioners may specify, are recorded by computer in accordance with the arrangements; and
  - (b) the particulars so recorded are subsequently delivered to the proper officer within such time as the Commissioners may specify;
- but subject to such other conditions as they may impose.
- (5) If any person without reasonable excuse fails to comply with a requirement imposed on him by or under section 58 or 58A above he shall be liable on summary conviction to a penalty of [<sup>F156</sup>level 4 on the standard scale].
- (6) If any person for the purpose of enabling goods to be shipped in accordance with either of those sections furnishes any document bearing a number assigned under that section which is not one for the time being assigned to him or to another person who has consented to his furnishing the document bearing that number, he shall be liable on summary conviction to a penalty of [<sup>F156</sup>level 4 on the standard scale].
- (7) In sections 58 and 58A above references to a person registered under either of those sections do not include references to a person whose registration is for the time being suspended; and for the purposes of subsection (6) above a person whose registration is for the time being suspended shall be regarded as not having any number assigned to him.

#### Textual Amendments

**F156** Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [s. 46](#), (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), [s. 289G](#) and (N.I.) by [S.I. 1984/703](#), (N.I. 3) art. 5

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

**C43** S. 58B modified by [S.I. 1986/260](#), [regs. 5\(g\)](#), 18

### 58C Pipe-lines and export of ships and aircraft.

- (1) For the purposes of this Part of this Act goods which are to be exported by means of a pipe-line shall be treated as having been presented to the proper officer when notice of the goods to be exported has been given to the proper officer and accepted by him.
- (2) Notice under subsection (1) above shall be given by such person and in such form and manner and shall contain such particulars as the Commissioners may direct.
- (3) A ship or aircraft departing from the United Kingdom which—
- (a) is within the definition of dutiable or restricted goods in section 52 above; or
  - (b) is a ship built, or aircraft manufactured, in the United Kingdom departing for the first time for a voyage or flight to a place outside the United Kingdom for the purpose of its delivery to a consignee outside the United Kingdom,
- shall be treated for the purposes of this Part of this Act both as goods shipped for exportation and as the exporting ship or aircraft and, in the case of a ship or aircraft within paragraph (b) above, the owner of the ship or aircraft or, where the owner is



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outside the United Kingdom, the builder of the ship or the manufacturer of the aircraft shall be deemed to be the exporter.

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

**C44** S. 58C(3) modified and amended by [S.I. 1990/2167](#), art. 4, [Sch. para. 12](#)

**58D Operative date for Community purposes.**

- (1) Except as provided by any Community regulation or other instrument having the force of law and subject to subsection (3) below, the operative date for determining whether any, and if so what, levy or other charge provided for under any Community provision governing the exportation of goods is due in respect of the goods and for applying any other such provision including, in particular, any provision whereby any refund or relief is due in respect of the goods shall be such date as is mentioned in subsection (2) below.
- (2) The date referred to in subsection (1) above is—
  - (a) in a case where an entry or a document such as is mentioned in section 58(3)(b) above is delivered, the date of acceptance of the entry or document;
  - (b) in the case of goods particulars of which are entered in a record in accordance with section 58A(3)(a)(ii) above, [<sup>F157</sup>as set out in section 58A(7A)(b) above, the day entry is made];
  - (c) in the case of goods in relation to which substituted requirements are imposed under section 53(7) or 58(6) above, such date as the Commissioners may specify;
  - (d) in any other case, the date on which the goods are shipped or exported by land or, if that date cannot be established to the Commissioners' satisfaction, such date as they may specify.
- (3) At the time when the proper officer accepts an entry delivered in pursuance of section 57(1) above he may direct that the operative date for the purposes of this section shall be the date on which the entry was furnished by the exporter to the loader.
- (4) Where a substituted entry is delivered under section 54(2) or 55(3) above the entry referred to in subsection (2)(a) and (3) above is the original entry.

**Textual Amendments**

**F157** Words substituted by [Finance Act 1987 \(c. 16, SIF 40:1\)](#), s. 8(4)

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

**C45** S. 58D amended by [S.I. 1990/2167](#), art. 4, [Sch. para. 9](#)

**58E Authentication of Community customs documents.**

- (1) In such cases as the Commissioners may direct, an officer shall not authenticate any Community customs documents unless—
  - (a) there is presented with the document—
    - (i) an entry relating to the goods in question and complying with section 53 above; or

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- (ii) a document relating to the goods and complying with section 58(3)(b) above; or
  - (iii) a document to be used instead of an entry or such a document as aforesaid by virtue of substituted requirements imposed under section 53(7) or 58(6) above; and
- (b) the officer marks the Community customs document and the entry or other document referred to in paragraph (a) above with a registration number allocated by the Commissioners for that purpose.
- (2) Subject to subsections (3) and (4) below, a person who has obtained an authenticated Community customs document in respect of any goods shall surrender it at the office at which it was obtained, together with the entry or other documents marked under subsection (1)(b) above (“the marked export document”), unless—
- (a) the goods are shipped, or cleared by the proper officer for export by land, before the end of such period as may be specified by directions given by the Commissioners; and
  - (b) the marked export document is delivered to the proper officer as required by or under the provisions mentioned in subsection (1)(a) above.
- (3) The proper officer may, on an application made to him before the end of the period mentioned in subsection (2) above, permit the retention of the authenticated Community customs document and the marked export document.
- (4) The proper officer may at any time require a person who has obtained an authenticated Community customs document in respect of any goods to surrender to him that document and the marked export document.
- (5) If a person without reasonable excuse fails to comply with subsection (2) above he shall be liable on summary conviction to a penalty of [<sup>F158</sup>level 4 on the standard scale]; and if a person without reasonable excuse fails to comply with a requirement imposed under subsection (4) above he shall be liable on summary conviction to a penalty of [<sup>F158</sup>level 5 on the standard scale].
- (6) In this section “Community customs document” means a document which in accordance with any Community instrument or any agreement permitted under such an instrument or in accordance with any arrangements made between the Commissioners and any other customs authority—
- (a) is used to indicate whether or not the goods are Community goods or are subject to duty at a preferential rate in any country with which the Community has an agreement of association; and
  - (b) is required to be authenticated by the customs authorities of the member State from which they are exported.
- (7) In subsection (6) above “Community goods” means—
- (a) goods which satisfy the conditions laid down in Articles 9 and 10 of the E.E.C. Treaty; and
  - (b) goods to which the E.C.S.C. Treaty applies and which under the terms of that Treaty are in free circulation within the European Coal and Steel Community.

#### Textual Amendments

**F158** Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 46, (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), s. 289G and (N.I.) by S.I. 1984/703, (N.I. 3) art. 5

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

C46 S. 58E amended by S.I. 1990/2167, art. 4, Sch. para. 9

PROSPECTIVE

### 59 Restrictions on putting export goods alongside for loading.

- (1) This section applies to all goods which are required [<sup>F159</sup>to be exported in accordance with the applicable export provisions].
- (2) The Commissioners may make regulations—
  - (a) prohibiting, as from such date as is specified in the regulations, the putting of any goods to which this section applies alongside any [<sup>F160</sup>vehicle other than a road vehicle] for loading for exportation, except under a written authority in that behalf obtained in accordance with, and in such form as is specified in, the regulations; and
  - (b) requiring any person putting goods alongside a [<sup>F161</sup>vehicle other than a road vehicle] under one or more such authorities to endorse the authority or each of the authorities with such particulars as are specified in the regulations, and to deliver the endorsed authority or authorities, together with a written statement of the number of authorities delivered, to the proper officer within such period as is so specified.
- (3) Regulations under subsection (2) above may make different provision for different circumstances.
- (4) Without prejudice to section 3 above, subsection (2) above shall apply to the charging of goods into a pipe-line for exportation as it applies to the putting of goods alongside a ship or aircraft for loading for exportation.
- (5) The Commissioners may relax any requirement imposed under subsection (2) above as they think fit in relation to any goods.
- (6) Any person who contravenes or fails to comply with any regulation under subsection (2) above shall be liable on summary conviction to a penalty of [<sup>F162</sup>level 3 on the standard scale].
- (7) This section shall not come into force until such day as the Commissioners may appoint by order made by statutory instrument.

#### Textual Amendments

- F159** Words in s. 59(1) substituted (13.9.2018 for specified purposes) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(1)(a), [Sch. 7 para. 60\(2\)](#)
- F160** Words in s. 59(2)(a) substituted (13.9.2018 for specified purposes) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(1)(a), [Sch. 7 para. 60\(3\)](#)
- F161** Words in s. 59(2)(b) substituted (13.9.2018 for specified purposes) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(1)(a), [Sch. 7 para. 60\(3\)](#)
- F162** Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [ss. 38, 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), [ss. 289F, 289G](#) and (N.I.) by [S.I. 1984/703](#), (N.I. 3) arts. 5, 6

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

C47 Power of appointment conferred by s. 59(7) not exercised

### 60 Additional restrictions as to certain export goods.

- (1) No person shall export any dutiable or restricted goods falling within paragraphs (a) to (d) of section 52 above, or enter any such goods for exportation, in any ship of less than 40 tons register.
- (2) Subsection (1) above shall not apply to hovercraft, but dutiable or restricted goods shall only be exported in a hovercraft if it is of a class or description for the time being approved by the Commissioners and subject to such conditions and restrictions as they may impose.
- (3) Any goods shipped or entered contrary to subsection (1) or (2) above shall be liable to forfeiture.
- (4) A person contravening or failing to comply with subsection (2) above, or with any condition or restriction imposed thereunder, shall be liable on summary conviction to a penalty of three times the value of the goods or [<sup>F163</sup>level 3 on the standard scale], whichever is the greater.

(5)<sup>F164</sup>

#### Textual Amendments

**F163** Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **ss. 38, 46** and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), **ss. 289F, 289G** and (N.I.) by [S.I. 1984/703](#), (N.I. 3) arts. 5, 6

**F164** S. 60(5)–(7) repealed by [Finance Act 1981 \(c. 35, SIF 40:1\)](#), s. 139, **Sch. 19 Pt. II**

### 61 Provisions as to stores.

- (1) The Commissioners may give directions—
  - (a) as to the quantity of any goods which may be carried in any ship or aircraft as stores for use on a voyage or flight to an eventual destination outside the United Kingdom;
  - <sup>F165</sup>(aa) as to the descriptions of vessel on which goods carried as stores may be used in port without payment of duty in accordance with section 103(1) of the Finance (No. 2) Act 1987;
  - (ab) as to the quantity of any goods which may be carried as stores for use in port as mentioned in paragraph (aa) above and as to the time within which such goods or any specified quantities of them may be so used; and]
  - (b) as to the authorisation to be obtained for the supply and carriage of, and the procedure to be followed in supplying, any goods as stores for use as mentioned in paragraph (a) [<sup>F166</sup>or paragraph (aa)]above, whether or not any duty is chargeable or has been paid, or any drawback is payable, in respect of those goods.
- (2) Save as provided in subsection (3) below and in section 18 of the <sup>M24</sup>Hydrocarbon Oil Duties Act 1979 (relief for fuel for ships in home waters) and notwithstanding anything in the customs and excise Acts, goods shall not be permitted to be shipped

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- as stores without payment of duty or on drawback except in a ship of not less than 40 tons register or in an aircraft departing for a voyage or flight [<sup>F167</sup>to a country outside the United Kingdom].
- (3) The Commissioners may, in such cases and subject to such conditions and restrictions as they see fit, permit goods to be shipped as mentioned in subsection (2) above in
- [<sup>F168</sup>(a) any ship departing from the United Kingdom, being either a ship of not less than 40 tons register departing for a voyage not falling within subsection (2) above or a ship of less than 40 tons register; or
- (b) any aircraft departing from the United Kingdom for a flight not falling within that subsection.]
- (4) For the purposes of subsections (2) and (3) above, all hovercraft (of whatever size) shall be treated as ships of less than 40 tons register.
- (5) If any goods shipped or carried as stores for use on a voyage or flight to an eventual destination outside the United Kingdom [<sup>F169</sup>or for use in port without payment of duty] are without the authority of the proper officer landed or unloaded at any place in the United Kingdom—
- (a) the goods shall be liable to forfeiture; and
- (b) the master or commander and the owner of the ship or aircraft shall each be liable on summary conviction to a penalty of three times the value of the goods or [<sup>F170</sup>level 3 on the standard scale], whichever is the greater.
- (6) The proper officer may lock up, mark, seal or otherwise secure any goods entered, shipped or carried as stores for use as mentioned in subsection (5) above or any place or container in which such goods are kept or held.
- (7) If any ship or aircraft which has departed from any port or customs and excise airport for a destination outside the United Kingdom carrying stores fails to reach the destination for which it was cleared outwards and returns to any place within the United Kingdom, then—
- (a) if the failure was not due to stress of weather, mechanical defect or any other unavoidable cause and any deficiency is discovered in the said goods; or
- (b) if the failure was due to any such cause as is mentioned in paragraph (a) above and any deficiency is discovered in the said goods which, in the opinion of the Commissioners, exceeds the quantity which might fairly have been consumed having regard to the length of time between the ship's or aircraft's departure and return as aforesaid,
- the master of the ship or the commander of the aircraft shall be liable on summary conviction to a penalty of [<sup>F171</sup>level 2 on the standard scale], and shall also pay on the deficiency or, as the case may be, on the excess deficiency any duty chargeable on the importation of such goods.
- (8) Any duty payable under subsection (7) above shall be recoverable summarily as a civil debt.
- [<sup>F172</sup>(9) References in this section to a country or destination outside the United Kingdom do not include references to, or a destination in, the Isle of Man; and subsection (5) above applies whether the goods were shipped in the United Kingdom or the Isle of Man.]

#### Textual Amendments

**F165** S. 61(1)(aa)(ab) added by Finance (No. 2) Act 1987 (c. 51), s. 103(4)

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- F166** Words inserted by Finance (No. 2) Act 1987 (c. 51), s. 103(4)
- F167** Words substituted by Finance Act 1981 (c. 35, SIF 40:1), s. 10(2)(4), Sch. 7 Pt. II para. 4(1)(2) (by s. 10(4) it is provided that s. 10(2) does not affect the operation of the 1979 Act in relation to goods exported before 1.10.1981)
- F168** S. 61(3)(a)(b) substituted for words from “any ship” onwards by Finance Act 1981 (c. 35, SIF 40:1), s. 10(2)(4), Sch. 7 Pt. II para. 4(1)(3) (by s. 10(4) it is provided that s. 10(2) does not affect the operation of the 1979 Act in relation to goods exported before 1.10.1981)
- F169** Words inserted by Finance (No. 2) Act 1987 (c. 51), s. 103(5)
- F170** Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), ss. 38, 46 and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), ss. 289F, 289G and (N.I.) by S.I. 1984/703, (N.I. 3) arts. 5, 6
- F171** Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 46 and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), s. 289G and (N.I.) by S.I. 1984/703, (N.I. 3) art. 5
- F172** S. 61(9) (which was inserted by Isle of Man Act 1979 (c. 58), Sch. 1 para. 11) substituted by virtue of Finance Act 1981 (c. 35, SIF 40:1), s. 10(2)(4), Sch. 7 Pt. II para. 4(1)(4) (by s. 10(4) it is provided that s. 10(2) does not affect the operation of the 1979 Act in relation to goods exported before 1.10.1981)

#### Marginal Citations

**M24** 1979 c. 5.

## 62 Information, documentation, etc. as to export goods.

- (1) The Commissioners may give directions under this subsection imposing on persons specified in the directions requirements as to the giving of information with respect to, or the furnishing of documents in connection with, goods exported, or intended to be exported, in any such vehicle or container as is specified in the directions, or by such other means, or in accordance with any such commercial procedure, as is so specified.
- (2) The Commissioners may give directions under this subsection providing that, before any goods are shipped for exportation, a number identifying the goods in compliance with the directions is to be given in accordance with the directions by and to such persons as are specified in the directions.  
  
This subsection shall not come into force until such day as the Commissioners may appoint by order made by statutory instrument.
- (3) The Commissioners may relax any requirement imposed under subsection (1) or (2) above as they think fit in relation to any goods.
- (4) Any person who contravenes or fails to comply with any direction given under subsection (1) or (2) above shall be liable on summary conviction to a penalty of [<sup>F173</sup>level 3 on the standard scale].

#### Textual Amendments

- F173** Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), ss. 38, 46 and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), ss. 289F, 289G and (N.I.) by S.I. 1984/703, (N.I. 3) arts. 5, 6



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

**C48** Power of appointment conferred by s. 62(2) not exercised

*Outward entry and clearance of ships, etc.*

**63 Entry outwards of exporting ships.**

- (1) Where a ship is to load any goods at a port for exportation [<sup>F174</sup>to a place outside the member States] or as stores for use on a voyage to an eventual destination outside [<sup>F175</sup>those States], the master of the ship shall, before any goods are taken on board that ship at that port, other than goods for exportation loaded in accordance with a stiffening order issued by the proper officer, deliver to the proper officer—
  - (a) an entry outwards of the ship in such form and manner and containing such particulars as the Commissioners may direct; and
  - (b) a certificate from the proper officer of the clearance inwards or coastwise of the ship of her last voyage with cargo; and
  - (c) if the ship has already loaded goods at some other port for exportation or as stores for use as aforesaid or has been cleared in ballast from some other port, the clearance outwards of the ship from that other port.
- (2) If, on the arrival at any port of a ship carrying goods coastwise from one place in the United Kingdom to another such place, it is desired that the ship shall proceed with those goods or any of them to a place outside the [<sup>F176</sup>member States], entry outwards shall be made of that ship (whether or not any other goods are to be loaded at that port) and of any of those goods which are dutiable or restricted goods as if the goods were to be loaded for exportation at that port, but any such entry may, subject to such conditions as the Commissioners see fit to impose, be made without the goods being first discharged.
- (3) A ship may, subject to subsection (4) below, be entered outwards from a port under this section notwithstanding that before departing for any place outside the United Kingdom the ship is to go to another port.
- (4) A ship carrying cargo brought in that ship from some place outside the United Kingdom and intended to be discharged in the United Kingdom may only be entered outwards by virtue of subsection (3) above subject to such conditions as the Commissioners see fit to impose.
- (5) If, when a ship is required by this section to be entered outwards from any port, any goods are taken on board that ship at that port, except in accordance with such a stiffening order as is mentioned in subsection (1) above, before the ship is so entered, the goods shall be liable to forfeiture and the master of the ship shall be liable on summary conviction to a penalty of [<sup>F177</sup>level 3 on the standard scale].
- (6) Where goods are taken on board a ship as mentioned in subsection (5) above or made waterborne for that purpose with fraudulent intent, any person concerned therein with knowledge of that intent may be detained and shall be liable—
  - (a) on summary conviction, to a penalty of the prescribed sum or of three times the value of the goods, whichever is the greater, or to imprisonment for a term not exceeding 6 months, or to both; or
  - (b) on conviction on indictment, to a penalty of any amount, or to imprisonment for a term not exceeding [<sup>F178</sup>7 years], or to both.



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[<sup>F179</sup>(7) References in this section to a destination or place outside the United Kingdom [<sup>F180</sup>or the member States] do not include references to a destination or place in the Isle of Man and in subsections (2) and (4) above references to a place in the United Kingdom and to discharge in the United Kingdom include references to a place in the Isle of Man and to discharge in the Island.]

#### Textual Amendments

**F174** Words in s. 63(1) inserted (1.1.1993) by S.I. 1992/3095, reg. 3(6)(a).

**F175** Words in s. 63(1) substituted (1.1.1993) by S.I. 1992/3095, reg. 3(6)(a).

**F176** Words in s. 63(2) substituted (1.1.1993) by S.I. 1992/3095, reg. 3(6)(b).

**F177** Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), ss. 38, 46 and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), ss. 289F, 289G and (N.I.) by S.I. 1984/703, (N.I. 3) arts. 5, 6

**F178** Words substituted by Finance Act 1988 (c. 39, SIF 40:1), s. 12(1)(a)(6)

**F179** S. 63(7) inserted by Isle of Man Act 1979 (c. 58), Sch. 1 para. 12

**F180** Words in s. 63(7) inserted (1.1.1993) by S.I. 1992/3095, reg. 3(6)(c).

## 64 Clearance outwards of ships and aircraft.

- (1) Save as permitted by the Commissioners, no ship or aircraft shall depart from any port or customs and excise airport from which it commences, or at which it touches during, a voyage or flight to an eventual destination outside the [<sup>F181</sup>member States][<sup>F182</sup>and the Isle of Man] until clearance of the ship or aircraft for that departure has been obtained from the proper officer at that port or airport.
- (2) The Commissioners may give directions—
  - (a) as to the procedure for obtaining clearance under this section;
  - (b) as to the documents to be produced and the information to be furnished by any person applying for such clearance.
- (3) Where clearance is sought under this section for any ship which is in ballast or has on board no goods other than stores, the baggage of passengers carried in that ship, chalk, slate, or empty returned containers upon which no freight or profit is earned, the proper officer in granting clearance thereof shall, on the application of the master, clear the ship as in ballast.
- (4) Any officer may board any ship which is cleared outwards from a port at any time while the ship is [<sup>F183</sup>in United Kingdom waters] and require the production of the ship's clearance, and if the master refuses to produce it or to answer such questions as the officer may put to him concerning the ship, cargo and intended voyage, he shall be liable on summary conviction to a penalty of [<sup>F184</sup>level 1 on the standard scale].
- (5) Every ship departing from a port shall, if so required for the purpose of disembarking an officer or of further examination, bring to at the boarding station, and if any ship fails to comply with any such requirement the master shall be liable on summary conviction to a penalty of [<sup>F184</sup>level 2 on the standard scale].
- (6) If any ship or aircraft required to be cleared under this section departs from any port or customs and excise airport without a valid clearance, the master or commander shall be liable on summary conviction to a penalty of [<sup>F185</sup>level 3 on the standard scale].

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- (7) If, where any aircraft is required to obtain clearance from any customs and excise airport under this section, any goods are loaded, or are waterborne for loading, into that aircraft at that airport before application for clearance has been made, the goods shall be liable to forfeiture and, where the loading or making waterborne is done with fraudulent intent, any person concerned therein with knowledge of that intent shall be guilty of an offence under this subsection and may be detained.
- (8) A person guilty of an offence under subsection (7) above shall be liable—
- (a) on summary conviction, to a penalty of the prescribed sum or of three times the value of the goods, whichever is the greater, or to imprisonment for a term not exceeding 6 months, or to both; or
  - (b) on conviction on indictment, to a penalty of any amount, or to imprisonment for a term not exceeding 2 years, or to both.

#### Textual Amendments

**F181** Words in s. 64(1) substituted (1.1.1993) by S.I. 1992/3095, reg. 3(7).

**F182** Words inserted by Isle of Man Act 1979 (c. 58), Sch. 1 para. 13

**F183** Words substituted by Territorial Sea Act 1987 (c. 49, SIF 29:1), s. 3, Sch. 1 para. 4(3)(a)

**F184** Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 46 and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), s. 289G and (N.I.) by S.I. 1984/703, (N.I. 3) art. 5

**F185** Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), ss. 38, 46 and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), ss. 289F, 289G and (N.I.) by S.I. 1984/703, (N.I. 3) arts. 5, 6

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

**C49** S. 64(1) amended by S.I. 1990/2167, art. 4, Sch. para. 13

**C50** S. 64(6)(7) amended by S.I. 1990/2167, art. 4, Sch. para. 13

## 65 Power to refuse or cancel clearance of ship or aircraft.

- (1) For the purpose of the detention thereof in pursuance of any power or duty conferred or imposed by or under any enactment, or for the purpose of securing compliance with any provision of the Customs and Excise Acts 1979 or of any other enactment or of any instrument made thereunder, being a provision relating to the importation or exportation of goods—
- (a) the proper officer may at any time refuse clearance of any ship or aircraft; and
  - (b) where clearance has been granted to a ship or aircraft, any officer may at any time while the ship is within the limits of any port or the aircraft is at any customs and excise airport demand that the clearance shall be returned to him.
- (2) Any such demand may be made either orally or in writing on the master of the ship or commander of the aircraft, and if made in writing may be served—
- (a) by delivering it to him personally; or
  - (b) by leaving it at his last known place of abode; or
  - (c) by leaving it on board the ship or aircraft with the person appearing to be in charge or command thereof.
- (3) Where a demand for the return of a clearance is made as aforesaid—
- (a) the clearance shall forthwith become void; and

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- (b) if the demand is not complied with, the master of the ship or the commander of the aircraft shall be liable on summary conviction to a penalty of [<sup>F186</sup>level 3 on the standard scale].

#### Textual Amendments

**F186** Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [ss. 38, 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), [ss. 289F, 289G](#) and (N.I.) by [S.I. 1984/703](#), (N.I. 3) arts. 5, 6

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

- C51** S. 65 extended (1.1.1996) by [1995 c. 22, s. 3\(3\)](#), 9(4)  
**C52** S. 65(1)(2) amended by [S.I. 1990/2167](#), art. 4, [Sch. para. 14](#)  
**C53** S. 65(3) amended by [S.I. 1990/2167](#), art. 4, [Sch. para. 14\(2\)](#)

*General regulation of exportation, etc.*

## 66 Power to make regulations as to exportation, etc.

- (1) The Commissioners may make regulations—
- (a) regulating with respect to ships and aircraft respectively the loading and making waterborne for loading of goods for exportation or as stores and the embarking of passengers for a destination outside the United Kingdom [<sup>F187</sup>and the Isle of Man];
  - (b) prescribing the procedure to be followed and the documents to be produced and information to be furnished by any person conveying goods out of Northern Ireland by land;
  - (c) requiring delivery of a manifest containing such particulars as the Commissioners may direct of all cargo carried in an exporting ship and, if the Commissioners so direct, such other documents relating to the cargo as are specified in the direction;
  - (d) requiring delivery of a certificate of the fuel shipped in any ship departing from a port for a place outside the United Kingdom [<sup>F187</sup>and the Isle of Man].
- (2) If any person contravenes or fails to comply with any regulation made under this section, he shall be liable on summary conviction to [<sup>F188</sup>a penalty of [<sup>F189</sup>level 4 on the standard scale], or in the case of a contravention of or a failure to comply with a regulation made under subsection (1)(b) above a penalty of [<sup>F189</sup>level 5 on the standard scale],]and any goods in respect of which the offence was committed shall be liable to forfeiture.

#### Textual Amendments

- F187** Words inserted by [Isle of Man Act 1979 \(c. 58\)](#), [Sch. 1 para. 14](#)  
**F188** Words substituted for “a penalty of £100” by [Finance Act 1981 \(c. 35, SIF 40:1\)](#), [s. 10\(2\)\(4\)](#), [Sch. 7 Pt. II para. 5](#) (by section 10(4) it is provided that section 10(2) does not affect the operation of the 1979 Act in relation to goods exported before 1.10.1981)  
**F189** Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [s. 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), [s. 289G](#) and (N.I.) by [S.I. 1984/703](#), (N.I. 3) art. 5

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

C54 S. 66(1) amended by S.I. 1990/2167, art. 4, Sch. para. 15

### *Offences in relation to exportation*

#### 67 Offences in relation to exportation of goods.

(1) If any goods which have been loaded or retained on board any ship or aircraft for exportation are not exported to and discharged at a place outside the United Kingdom but are unloaded in the United Kingdom, then, unless—

- (a) the unloading was authorised by the proper officer; and
- (b) except where that officer otherwise permits, any duty chargeable and unpaid on the goods is paid and any drawback or allowance paid in respect thereof is repaid,

the master of the ship or the commander of the aircraft and any person concerned in the unshipping, relanding, landing, unloading or carrying of the goods from the ship or aircraft without such authority, payment or repayment shall each be guilty of an offence under this section.

(2) The Commissioners may impose such conditions as they see fit with respect to any goods loaded or retained as mentioned in subsection (1) above which are permitted to be unloaded in the United Kingdom.

(3) If any person contravenes or fails to comply with, or is concerned in any contravention of or failure to comply with, any condition imposed under subsection (2) above he shall be guilty of an offence under this section.

(4) Where any goods loaded or retained as mentioned in subsection (1) above or brought to a customs and excise station for exportation by land are—

- (a) goods from warehouse, other than goods which have been kept, without being warehoused, in a warehouse by virtue of section 92(4) below;
- (b) transit goods;
- (c) other goods chargeable with a duty which has not been paid; or
- (d) drawback goods,

then if any container in which the goods are held is without the authority of the proper officer opened, or any mark, letter or device on any such container or on any lot of the goods is without that authority cancelled, obliterated or altered, every person concerned in the opening, cancellation, obliteration or alteration shall be guilty of an offence under this section.

(5) Any goods in respect of which an offence under this section is committed shall be liable to forfeiture and any person guilty of an offence under this section shall be liable on summary conviction to a penalty of three times the value of the goods or [<sup>F190</sup>level 3 on the standard scale], whichever is the greater.

#### Textual Amendments

**F190** Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), ss. 38, 46 and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), ss. 289F, 289G and (N.I.) by S.I. 1984/703, (N.I. 3) arts. 5, 6

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

- C55** S. 67(1) amended by S.I. 1990/2167, art. 4, **Sch. para. 16**
- C56** S. 67(1)(b) modified by S.I. 1983/947, **regs. 12, 13** (which S.I. is revoked 1.1.1993 by S.I. 1992/3152, **reg. 1(2)**)
- C57** S. 67(1)(b) amended by S.I. 1985/1032, **reg. 11(a)** (which S.I. is revoked 1.1.1993 by S.I. 1992/3152, **reg. 1(2)**)  
 S. 67(1)(b) amended (1.1.1993) by S.I. 1992/3152, **reg. 11(a)**.

**68 Offences in relation to exportation of prohibited or restricted goods.**

- (1) If any goods are—
- (a) exported or shipped as stores; or
  - (b) brought to any place in the United Kingdom for the purpose of being exported or shipped as stores,

and the exportation or shipment is or would be contrary to any prohibition or restriction for the time being in force with respect to those goods under or by virtue of any enactment, the goods shall be liable to forfeiture and the exporter or intending exporter of the goods and any agent of his concerned in the exportation or shipment or intended exportation or shipment shall each be liable on summary conviction to a penalty of three times the value of the goods or [<sup>F191</sup>level 3 on the standard scale], whichever is the greater.

- (2) Any person knowingly concerned in the exportation or shipment as stores, or in the attempted exportation or shipment as stores, of any goods with intent to evade any such prohibition or restriction as is mentioned in subsection (1) above shall be guilty of an offence under this subsection and may be detained.

- (3) Subject to subsection (4) [<sup>F192</sup>or (4A)] below, a person guilty of an offence under subsection (2) above shall be liable—

- (a) on summary conviction, to a penalty of the prescribed sum or of three times the value of the goods, whichever is the greater, or to imprisonment for a term not exceeding 6 months, or to both; or
- (b) on conviction on indictment, to a penalty of any amount, or to imprisonment for a term not exceeding [<sup>F193</sup>7 years], or to both.

- (4) In the case of an offence under subsection (2) above in connection with a prohibition or restriction on exportation having effect by virtue of section 3 of the <sup>M25</sup>Misuse of Drugs Act 1971, subsection (3) above shall have effect subject to the modifications specified in Schedule 1 to this Act.

[<sup>F194</sup>(4A) In the case of an offence under subsection (2) above in connection with the prohibition contained in section 21 of the Forgery and Counterfeiting Act 1981, subsection (3)(b) above shall have effect as if for the words “2 years” there were substituted the words “10 years”.]

- (5) If by virtue of any such restriction as is mentioned in subsection (1) above any goods may be exported only when consigned to a particular place or person and any goods so consigned are delivered to some other place or person, the ship, aircraft or vehicle in which they were exported shall be liable to forfeiture unless it is proved to the satisfaction of the Commissioners that both the owner of the ship, aircraft or vehicle and the master of the ship, commander of the aircraft or person in charge of the vehicle—

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- (a) took all reasonable steps to secure that the goods were delivered to the particular place to which or person to whom they were consigned; and
  - (b) did not connive at or, except under duress, consent to the delivery of the goods to that other place or person.
- (6) In any case where a person would, apart from this subsection, be guilty of—
- (a) an offence under subsection (1) or (2) above; and
  - (b) a corresponding offence under the enactment or instrument imposing the prohibition or restriction in question, being an offence for which a fine or other penalty is expressly provided by that enactment or other instrument,
- he shall not be guilty of the offence mentioned in paragraph (a) of this subsection.

#### Textual Amendments

**F191** Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [ss. 38, 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), [ss. 289F, 289G](#) and (N.I.) by [S.I. 1984/703](#), (N.I. 3) arts. 5, 6

**F192** Words inserted by [Forgery and Counterfeiting Act 1981 \(c. 45, SIF 39:7\)](#), [s. 23\(2\)\(a\)](#)

**F193** Words substituted by [Finance Act 1988 \(c. 39, SIF 40:1\)](#), [s. 12\(1\)\(a\)\(6\)](#)

**F194** [S. 68\(4A\)](#) inserted by [Forgery and Counterfeiting Act 1981 \(c. 45, SIF 39:7\)](#), [s. 23\(2\)\(b\)](#)

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

**C58** S. 68 amended (1.7.1991) by [Criminal Justice \(International Co-operation\) Act 1990 \(c. 5, SIF 39:1\)](#), [s. 13\(2\)](#); [S.I. 1991/1072](#), [art. 2Sch. Pt. II](#)

**C59** S. 68(1)(3)(a)(b) modified by [S.I. 1991/1285](#), [reg. 6\(a\)-\(c\)](#)

**C60** S. 68(2) excluded (1.3.1995) by [S.I. 1995/271](#), [reg. 11\(1\)](#)  
S. 68(2) excluded (15.11.1996) by [S.I. 1996/2721](#), [reg. 11\(1\)](#)  
S. 68(2) excluded (28.9.2000) by [S.I. 2000/2620](#), [reg. 11\(1\)](#)

#### Marginal Citations

**M25** [1971 c. 38](#).

### [<sup>F195</sup> 68A Offences in relation to agricultural levies.

- (1) Without prejudice to section 11(1) of the Finance Act 1982, if any person is, in relation to any goods, in any way knowingly concerned in any fraudulent evasion or attempt at evasion of any agricultural levy chargeable on the export of the goods, he shall be guilty of an offence and may be detained.

- [ A person guilty of an offence under this section shall be liable—
- <sup>F196</sup>(2) (a) on summary conviction, to a penalty of the prescribed sum or of three times the value of the goods, whichever is the greater, or to imprisonment for a term not exceeding 6 months, or to both; or
- (b) on conviction on indictment, to a penalty of any amount, or to imprisonment for a term not exceeding 7 years, or to both.]

- (3) Any goods in respect of which an offence under this section is committed shall be liable to forfeiture.

- (4) In this section “agricultural levy” has the same meaning as in section 6 of the European Communities Act 1972 and the provisions of this section apply notwithstanding that any such levy may be payable to the Intervention Board for Agricultural Produce.]



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#### Textual Amendments

**F195** S. 68A added by Finance Act 1982 (c. 39, SIF 40:1), s. 11(2)

**F196** S. 68A(2) substituted by Finance Act 1988 (c. 39, SIF 40:1), s. 12(2)(6)

### [<sup>F197</sup> 68B Special provisions as to proof in Northern Ireland.

- (1) If goods of any class or description chargeable with agricultural levies on their exportation from the United Kingdom are found in the possession or control of any person within the prescribed area in Northern Ireland, any officer or any person having by law in Northern Ireland the powers of an officer may require that person to furnish proof either—
  - (a) that the goods are not intended for such exportation; or
  - (b) that the goods are intended for such exportation and any entry required to be made or security required to be given in connection with that exportation has been or will be made or given.
- (2) If proof of any matter is required to be furnished in relation to any goods under subsection (1) above but is not so furnished, the goods shall be liable to forfeiture.
- (3) In subsection (1) above “agricultural levy” has the same meaning as in section 6 of the European Communities Act 1972.]

#### Textual Amendments

**F197** S. 68B inserted by Finance Act 1983 (c. 28, SIF 40:1), s. 8

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

**C61** S. 68B amended by S.I. 1987/2114, reg. 2

## PART VI

### CONTROL OF COASTWISE TRAFFIC

#### 69 Coasting trade.

- (1) Subject to section 70 below, any ship for the time being engaged in the trade of carrying goods coastwise between places in the United Kingdom [<sup>F198</sup> or between a place in the United Kingdom and a place in the Isle of Man] shall for the purposes of the Customs and Excise Acts 1979 be a coasting ship.
- (2) Subject to that section, no goods not yet entered on importation and no goods for exportation shall be carried in a ship engaged in the trade of carrying goods coastwise.
- (3) The Commissioners may from time to time give directions as to what trade by water between places in the United Kingdom [<sup>F198</sup> or between a place in the United Kingdom and a place in the Isle of Man] is or is not to be deemed to be carrying goods coastwise.



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#### Textual Amendments

**F198** Words inserted by [Isle of Man Act 1979 \(c. 58\), Sch. 1 para. 15](#)

### 70 Coasting trade—exceptional provisions.

- (1) The Commissioners may, subject to such conditions and restrictions as they see fit to impose, permit a ship to carry goods coastwise notwithstanding that the ship is carrying goods brought therein from some place outside the United Kingdom and not yet entered on importation; but a ship so permitted to carry goods coastwise shall not for the purposes of the Customs and Excise Acts 1979 be a coasting ship.
- (2) The Commissioners may, subject to such conditions and restrictions as they see fit to impose, permit goods brought by an importing ship to some place in the United Kingdom but consigned to and intended to be delivered at some other such place to be transhipped before due entry of the goods has been made to another ship for carriage coastwise to that other place.
- (3) Where any ship has begun to load goods at any place in the United Kingdom for exportation or as stores for use on a voyage to an eventual destination outside the United Kingdom and is to go to any other such place to complete loading, the Commissioners may, subject to such conditions as they see fit to impose, permit that ship to carry other goods coastwise until she has completed her loading.
- (4) If, where any goods are permitted to be carried coastwise in any ship under this section, the goods are loaded, unloaded, carried or otherwise dealt with contrary to any condition or restriction imposed by the Commissioners, the goods shall be liable to forfeiture and the master of the ship shall be liable on summary conviction to a penalty of [<sup>F199</sup>level 2 on the standard scale].
- [<sup>F200</sup>(5) References in this section to a place or destination outside the United Kingdom do not include references to a place or destination in the Isle of Man and in subsection (2) above the reference to some other place in the United Kingdom includes a reference to a place in the Isle of Man.]

#### Textual Amendments

**F199** Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\), s. 289G](#) and (N.I.) by [S.I. 1984/703, \(N.I. 3\) art. 5](#)

**F200** [S. 70\(5\)](#) inserted by [Isle of Man Act 1979 \(c. 58\), Sch. 1 para. 16](#)

### 71 Clearance of coasting ship and transire.

- (1) Subject to the provisions of this section and save as permitted by the Commissioners, before any coasting ship departs from any port the master thereof shall deliver to the proper officer an account in such form and manner and containing such particulars as the Commissioners may direct; and that account when signed by the proper officer shall be the transire, that is to say, the clearance of the ship from that port and the pass for any goods to which the account relates.

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- (2) The Commissioners may, subject to such conditions as they see fit to impose, grant a general transire in respect of any coasting ship and any goods carried therein.
- (3) Any such general transire may be revoked by the proper officer by notice in writing delivered to the master or the owner of the ship or to any member of the crew on board the ship.
- (4) If a coasting ship departs from any port without a correct account having been delivered, except as permitted by the Commissioners or under and in compliance with any conditions imposed on the grant of a general transire, the master shall be liable on summary conviction to a penalty of [<sup>F201</sup>level 2 on the standard scale].

#### Textual Amendments

**F201** Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\), s. 289G](#) and (N.I.) by [S.I. 1984/703, \(N.I. 3\)](#) art. 5

## 72 Additional powers of officers in relation to coasting ships.

- (1) The proper officer may examine any goods carried or to be carried in a coasting ship—
  - (a) at any time while they are on board the ship; or
  - (b) at any place in the United Kingdom to which the goods have been brought for shipment in, or at which they have been unloaded from, the ship.
- (2) For the purpose of examining any goods in pursuance of subsection (1) above, the proper officer may require any container to be opened or unpacked; and any such opening or unpacking and any repacking shall be done by or at the expense of the proprietor of the goods.
- (3) The proper officer—
  - (a) may board and search a coasting ship at any time during its voyage;
  - (b) may at any time require any document which should properly be on board a coasting ship to be produced or brought to him for examination;
 and if the master of the ship fails to produce or bring any such document to the proper officer when required, he shall be liable on summary conviction to a penalty of [<sup>F202</sup>level 2 on the standard scale].

#### Textual Amendments

**F202** Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\), s. 289G](#) and (N.I.) by [S.I. 1984/703, \(N.I. 3\)](#) art. 5

## 73 Power to make regulations as to carriage of goods coastwise, etc.

- (1) The Commissioners may make regulations as to the carriage of goods coastwise—
  - (a) regulating the loading and unloading and the making waterborne for loading of the goods;

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- (b) requiring the keeping and production by the master of a coasting ship of such record of the cargo carried in that ship as may be prescribed by the regulations.
- (2) If any person contravenes or fails to comply with any regulation made under this section, he shall be liable on summary conviction to a penalty of [<sup>F203</sup>level 3 on the standard scale] and any goods in respect of which the offence was committed shall be liable to forfeiture.

#### Textual Amendments

**F203** Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), ss. 38, 46 and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), ss. 289F, 289G and (N.I.) by S.I. 1984/703, (N.I. 3) arts. 5, 6

## 74 Offences in connection with carriage of goods coastwise.

- (1) If in the case of any coasting ship—
- (a) any goods are taken on board or removed therefrom at sea or at any place outside the United Kingdom; or
  - (b) except for some unavoidable cause, the ship touches at any place outside the United Kingdom or deviates from her voyage; or
  - (c) the ship touches at any place outside the United Kingdom and the master does not report that fact in writing to the proper officer at the first port at which the ship arrives thereafter,
- the master of the ship shall be liable on summary conviction to a penalty of [<sup>F204</sup>level 3 on the standard scale].
- (2) Any goods which are shipped and carried coastwise, or which, having been carried coastwise, are unloaded in any place in the United Kingdom, otherwise than in accordance with the provisions of sections 69 to 71 above or of any regulations made under section 73 above, or which are brought to any place for the purpose of being so shipped and carried coastwise, shall be liable to forfeiture.
- (3) If any goods—
- (a) are carried coastwise or shipped as stores in a coasting ship contrary to any prohibition or restriction for the time being in force with respect thereto under or by virtue of any enactment; or
  - (b) are brought to any place in the United Kingdom for the purpose of being so carried or shipped,
- then those goods shall be liable to forfeiture and the shipper or intending shipper of the goods shall be liable on summary conviction to a penalty of [<sup>F204</sup>level 3 on the standard scale].
- (4) In any case where a person would, apart from this subsection, be guilty of—
- (a) an offence under subsection (3) above; and
  - (b) a corresponding offence under the enactment or other instrument imposing the prohibition or restriction in question, being an offence for which a fine or other penalty is expressly provided by that enactment or other instrument,
- he shall not be guilty of the offence mentioned in paragraph (a) of this subsection.

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[<sup>F205</sup>(5) References in this section to a place outside the United Kingdom do not include references to a place in the Isle of Man.]

#### Textual Amendments

- F204** Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **ss. 38, 46** and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), **ss. 289F, 289G** and (N.I.) by [S.I. 1984/703](#), (N.I. 3) arts. 5, 6
- F205** [S. 74\(5\)](#) inserted by [Isle of Man Act 1979 \(c. 58\)](#), **Sch. 1 para. 17**

## PART VII

### CUSTOMS AND EXCISE CONTROL: SUPPLEMENTARY PROVISIONS

#### *Special requirements as to movement of certain goods*

#### 75 Explosives.

- (1) No goods which are explosives within the meaning of the <sup>M26</sup>Explosives Act 1875 shall be loaded into any ship or aircraft for exportation, exported by land or shipped for carriage coastwise as cargo, until due entry has been made of the goods in such form and manner and containing such particulars as the Commissioners may direct.
- (2) Without prejudice to sections 53 and 60 above, any goods required to be entered under this section which are loaded, exported or shipped as mentioned in subsection (1) above without being entered under this section shall be liable to forfeiture, and the exporter or, as the case may be, shipper shall be liable on summary conviction to a penalty of [<sup>F206</sup>level 3 on the standard scale].

#### Textual Amendments

- F206** Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **ss. 38, 46** and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), **ss. 289F, 289G** and (N.I.) by [S.I. 1984/703](#), (N.I. 3) arts. 5, 6

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

- C62** [S. 75\(1\)](#) amended by [S.I. 1990/2167](#), art. 4, **Sch. para. 17**

#### Marginal Citations

- M26** [1875 c. 17](#).

#### *[ Keeping and preservation of records]*

#### 75A Records relating to importation and exportation.

- (1) Every person who is concerned (in whatever capacity) in the importation or exportation of goods of which [<sup>F207</sup>for that purpose an entry is required by regulation 5 of the Customs Controls on Importation of Goods Regulations 1991 or an entry

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- or specification is required by or under this Act] shall keep such records as the Commissioners may require.
- (2) The Commissioners may require any records kept in pursuance of this section to be preserved for such period not exceeding four years as they may require.
  - (3) The duty under this section to preserve records may be discharged by the preservation of the information contained therein by such means as the Commissioners may approve; and where that information is so preserved a copy of any document forming part of the records shall, subject to the following provisions of this section, be admissible in evidence in any proceedings, whether civil or criminal, to the same extent as the records themselves.
  - (4) The Commissioners may, as a condition of an approval under subsection (3) above of any means of preserving information, impose such reasonable requirements as appear to them necessary for securing that the information will be as readily available to them as if the records themselves had been preserved.
  - (5) The Commissioners may at any time for reasonable cause revoke or vary the conditions of any approval given under subsection (3) above.
  - (6) A statement contained in a document produced by a computer shall not by virtue of subsection (3) above be admissible in evidence—
    - (a) in civil proceedings in England and Wales, except in accordance with sections 5 and 6 of the Civil Evidence Act 1968;
    - (b) in criminal proceedings in England and Wales, except in accordance with sections 68 to 70 of the Police and Criminal Evidence Act 1984;
    - (c) in civil proceedings in Northern Ireland, except in accordance with sections 2 and 3 of the Civil Evidence Act (Northern Ireland) 1971; and
    - (d) in criminal proceedings in Northern Ireland, except in accordance with the said sections 2 and 3, which shall, for the purposes of this section, apply with the necessary modifications to such proceedings.

#### Textual Amendments

**F207** Words in s. 75A(1) substituted (1.1.1993) by S.I. 1992/3095, reg. 10(1), Sch. 1 para.7.

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

**C63** S. 75A restricted (3.5.1994) by 1994 c. 9, s. 20(5)(a)

### [<sup>F208</sup>75B Records relating to firearms

- (1) Every person who is concerned (in whatever capacity) in the importation or exportation of weapons or firearms within the meaning of Council Directive 91/477/EEC<sup>F209</sup> (control of acquisition and possession of such goods) shall keep such records as the Commissioners may require for the purposes of that Directive.
- (2) Subsections (2) to (6) of section 75A above shall apply in relation to any requirement under this section and to the records kept in pursuance of this section as they apply in relation to any requirement under that section and to the records kept in pursuance of that section.]

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#### Textual Amendments

**F208** Ss. 75B, 75C inserted (1.1.1993) by S.I. 1992/3095, reg. 3(8).

**F209** OJ No. L256, 13.9.91, p. 51.

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

**C64** S. 75B restricted (3.5.1994) by 1994 c. 9, s. 20(5)(a)

### <sup>F210</sup>75C Records relating to goods subject to certain transit arrangements

- (1) Every person who is concerned (in whatever capacity) in the importation or exportation of goods which are subject to the transit arrangements set out in [<sup>F211</sup>Title II of Part II of Commission Regulation (EEC) No. 2454/93] shall keep such records as the Commissioners may require for the purposes of [<sup>F212</sup>Article 324] of that Regulation (verification of procedures and documents).
- (2) Subsections (2) to (6) of section 75A above shall apply in relation to any requirement under this section and to the records kept in pursuance of this section as they apply in relation to any requirement under that section and to the records kept in pursuance of that section.

#### Textual Amendments

**F210** Ss. 75B, 75C inserted (1.1.1993) by S.I. 1992/3095, reg. 3(8).

**F211** Words in s. 75C(1) substituted (1.1.1994) by S.I. 1993/3014, reg. 2(6)(a).

**F212** Words in s. 75C(1) substituted (1.1.1994) by S.I. 1993/3014, reg. 2(6)(b).

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

**C65** S. 75C restricted (3.5.1994) by 1994 c. 9, s. 20(5)(a)

76 .....<sup>F213</sup>

#### Textual Amendments

**F213** S. 76 repealed by Finance Act 1981 (c. 35, SIF 40:1), s. 139, Sch. 19 Pt. II

### *Additional provisions as to information*

### 77 Information in relation to goods imported or exported.

- (1) An officer may require any person—
  - (a) concerned with the <sup>F214</sup>shipment for carriage coastwise of goods of which [<sup>F215</sup>for that purpose an entry is required by regulation 5 of the Customs Controls on Importation of Goods Regulations 1991 or an entry or specification is required by or under this Act]; or
  - (b) concerned in the carriage, unloading, landing or loading of goods which are being or have been imported or exported,



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to furnish in such form as the officer may require any information relating to the goods and to produce and allow the officer to inspect and take extracts from or make copies of any invoice, bill of lading or other book or document whatsoever relating to the goods.

- (2) If any person without reasonable cause fails to comply with a requirement imposed on him under subsection (1) above he shall be liable on summary conviction to a penalty of [<sup>F216</sup>level 3 on the standard scale].
- (3) Where any prohibition or restriction to which this subsection applies, that is to say, any prohibition or restriction under or by virtue of any enactment with respect to—
- (a) the exportation of goods to any particular destination; or
  - (b) the exportation of goods of any particular class or description to any particular destination,

is for the time being in force, then, if any person about to ship for exportation or to export any goods or, as the case may be, any goods of that class or description, in the course of making entry thereof before shipment or exportation makes a declaration as to the ultimate destination thereof, and the Commissioners have reason to suspect that the declaration is untrue in any material particular, the goods may be detained until the Commissioners are satisfied as to the truth of the declaration, and if they are not so satisfied the goods shall be liable to forfeiture.

- (4) Any person concerned in the exportation of any goods which are subject to any prohibition or restriction to which subsection (3) above applies shall, if so required by the Commissioners, satisfy the Commissioners that those goods have not reached any destination other than that mentioned in the entry delivered in respect of the goods.
- (5) If any person required under subsection (4) above to satisfy the Commissioners as mentioned in that subsection fails to do so, then, unless he proves—
- (a) that he did not consent to or connive at the goods reaching any destination other than that mentioned in the entry delivered in respect of the goods; and
  - (b) that he took all reasonable steps to secure that the ultimate destination of the goods was not other than that so mentioned,
- he shall be liable on summary conviction to a penalty of three times the value of the goods or [<sup>F216</sup>level 3 on the standard scale], whichever is the greater.

#### Textual Amendments

**F214** Words repealed by [Finance Act 1987 \(c. 16, SIF 40:1\)](#), ss. 10, 72(7), [Sch. 16 Part III](#)

**F215** Words in s. 77(1)(a) substituted (1.1.1993) by [S.I. 1992/3095, reg. 10\(1\)](#), [Sch. 1 para.7](#).

**F216** Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [ss. 38, 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), [ss. 289F, 289G](#) and (N.I.) by [S.I. 1984/703](#), (N.I. 3) arts. 5, 6

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

**C66** S. 77(1) modified by [S.I. 1986/260, regs. 5\(h\)](#), 18

#### [<sup>F217</sup>77A Information powers.

- (1) Every person who is concerned (in whatever capacity) in the importation or exportation of goods for which [<sup>F218</sup>for that purpose an entry is required by regulation 5 of the Customs Controls on Importation of Goods Regulations 1991 or an entry or specification is required by or under this Act] shall—



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- (a) furnish to the Commissioners, within such time and in such form as they may reasonably require, such information relating to the goods or to the importation or exportation as the Commissioners may reasonably specify; and
- (b) if so required by an officer, produce or cause to be produced for inspection by the officer—
  - (i) at the principal place of business of the person upon whom the demand is made or at such other place as the officer may reasonably require, and
  - (ii) at such time as the officer may reasonably require,
 any documents relating to the goods or to the importation or exportation.
- (2) Where, by virtue of subsection (1) above, an officer has power to require the production of any documents from any such person as is referred to in that subsection, he shall have the like power to require production of the documents concerned from any other person who appears to the officer to be in possession of them; but where any such other person claims a lien on any document produced by him, the production shall be without prejudice to the lien.
- (3) An officer may take copies of, or make extracts from, any document produced under subsection (1) or subsection (2) above.
- (4) If it appears to him to be necessary to do so, an officer may, at a reasonable time and for a reasonable period, remove any document produced under subsection (1) or subsection (2) above and shall, on request, provide a receipt for any document so removed; and where a lien is claimed on a document produced under subsection (2) above, the removal of the document under this subsection shall not be regarded as breaking the lien.
- (5) Where a document removed by an officer under subsection (4) above is reasonably required for the proper conduct of a business, the officer shall, as soon as practicable, provide a copy of the document, free of charge, to the person by whom it was produced or caused to be produced.
- (6) Where any documents removed under the powers conferred by this section are lost or damaged, the Commissioners shall be liable to compensate their owner for any expenses reasonably incurred by him in replacing or repairing the documents.
- (7) If any person fails to comply with a requirement under this section, he shall be liable on summary conviction to a penalty of level 3 on the standard scale.]

#### **Textual Amendments**

**F217** S. 77A inserted by [Finance Act 1987 \(c. 16, SIF 40:1\)](#), **s. 10**

**F218** Words in s. 77A(1) substituted (1.1.1993) by [S.I. 1992/3095, reg. 10\(1\)](#), **Sch. 1 para.7**.

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

**C67** S. 77A restricted (3.5.1994) by [1994 c. 9, s. 20\(5\)\(b\)](#)

### [<sup>F219</sup>**77B Information powers relating to firearms**

- (1) Every person who is concerned (in whatever capacity) in the importation or exportation of weapons or firearms within the meaning of the Directive mentioned in section 75B(1) above shall—

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- (a) furnish to the Commissioners, within such time and in such form as they may reasonably require, such information relating to such goods or to the importation or exportation as the Commissioners may specify for the purposes of that Directive; and
  - (b) if so required by an officer for such purposes, produce or cause to be produced for inspection by the officer—
    - (i) at the principal place of business of the person upon whom the demand is made or at such other place as the officer may reasonably require, and
    - (ii) at such time as the officer may reasonably require, any documents relating to such goods or to the importation or exportation.
- (2) Subsections (2) to (7) of section 77A <sup>F220</sup> above shall apply in relation to any requirement under this section as they apply in relation to any requirement under that section.]

#### Textual Amendments

**F219** Ss. 77B, 77C inserted (1.1.1993) by S.I. 1992/3095, reg. 3(9).

**F220** The amount of the penalty on the level of the standard scale referred to in section 77A(7) has been increased most recently in relation to England and Wales and Scotland by the [Criminal Justice Act 1991 \(c.53\)](#), [section 17](#), which was brought into force by S.I. 1992/333; the amount in relation to Northern Ireland is set out in S.R. (N.I.) 1984 No. 253.

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

**C68** S. 77B restricted (3.5.1994) by 1994 c. 9, s. 20(5)(b)

#### <sup>F221</sup>77C Information powers relating to goods subject to certain transit arrangements

- (1) Every person who is concerned (in whatever capacity) in the importation or exportation of goods which are subject to the transit arrangements set out in the Commission Regulation mentioned in section 75C(1) above shall—
- (a) furnish to the Commissioners, within such time and in such form as they may reasonably require, such information relating to the goods or to the importation or exportation as the Commissioners may specify for the purposes of [<sup>F222</sup>Article 324] of that Regulation (verification of procedures and documents); and
  - (b) if so required by an officer for such purposes, produce or cause to be produced for inspection by the officer—
    - (i) at the principal place of business of the person upon whom the demand is made or at such other place as the officer may reasonably require, and
    - (ii) at such time as the officer may reasonably require, any documents relating to such goods or to the importation or exportation.
- (2) Subsections (2) to (7) of section 77A above shall apply in relation to any requirement under this section as they apply in relation to any requirement under that section.

#### Textual Amendments

**F221** Ss. 77B, 77C inserted (1.1.1993) by S.I. 1992/3095, reg. 3(9).

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**F222** Words in s. 77C(1)(a) substituted (1.1.1994) by S.I. 1993/3014, reg. 2(7).

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

**C69** S. 77C restricted (3.5.1994) by 1994 c. 9, s. 20(5)(b)

**78 Customs and excise control of persons entering or leaving the United Kingdom.**

(1) Any person entering the United Kingdom shall, at such place and in such manner as the Commissioners may direct, declare any thing contained in his baggage or carried with him which—

- (a) he has obtained outside the United Kingdom; or
- (b) being dutiable goods or chargeable goods, he has obtained in the United Kingdom without payment of duty or tax,

and in respect of which he is not entitled to exemption from duty and tax by virtue of any order under section 13 of the <sup>M27</sup>Customs and Excise Duties (General Reliefs) Act 1979 (personal reliefs).

In this subsection “chargeable goods” means goods on the importation of which value added tax is chargeable or goods obtained in the United Kingdom before 1st April 1973 which are chargeable goods within the meaning of the <sup>M28</sup>Purchase Tax Act 1963; and “tax” means value added tax or purchase tax.

[<sup>F223</sup>(1A) Subsection (1) above does not apply to a person entering the United Kingdom from the Isle of Man as respects anything obtained by him in the Island unless it is chargeable there with duty or value added tax and he has obtained it without payment of the duty or tax.]

[<sup>F224</sup>(1B) Subsection (1) above does not apply to a person entering the United Kingdom from another member State, except—

- (a) where he arrives at a customs and excise airport in an aircraft in which he began his journey in a place outside the member States; or
- (b) as respects such of his baggage as—
  - (i) is carried in the hold of the aircraft in which he arrives at a customs and excise airport, and
  - (ii) notwithstanding that it was transferred on one or more occasions from aircraft to aircraft at an airport in a member State, began its journey by air from a place outside the member States.]

(2) Any person entering or leaving the United Kingdom shall answer such questions as the proper officer may put to him with respect to his baggage and any thing contained therein or carried with him, and shall, if required by the proper officer, produce that baggage and any such thing for examination at such place as the Commissioners may direct.

[<sup>F225</sup>(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.]

(3) Any person failing to declare any thing or to produce any baggage or thing as required by this section shall be liable on summary conviction to a penalty of three times the

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value of the thing not declared or of the baggage or thing not produced, as the case may be, or [<sup>F226</sup>level 3 on the standard scale], whichever is the greater.

- (4) Any thing chargeable with any duty or tax which is found concealed, or is not declared, and any thing which is being taken into or out of the United Kingdom contrary to any prohibition or restriction for the time being in force with respect thereto under or by virtue of any enactment, shall be liable to forfeiture.

#### Textual Amendments

**F223** S. 78(1A) inserted by Isle of Man Act 1979 (c. 58), Sch. 1 para. 18

**F224** S. 78(1B) inserted (1.1.1993) by S.I. 1992/3095, reg. 3(10).

**F225** S. 78(2A) inserted (1.1.1993) by Finance (No. 2) Act 1992 (c. 48), s. 5(1)(2).

**F226** Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), ss. 38, 46 and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), ss. 289F, 289G and (N.I.) by S.I. 1984/703, (N.I. 3) arts. 5, 6

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

**C70** S. 78 restricted (1.1.1993) by Finance (No. 2) Act 1992 (c. 48), s. 4(1)(3)(g)(6).

#### Marginal Citations

**M27** 1979 c. 3.

**M28** 1963 c. 9.

## 79 Power to require evidence in support of information.

- (1) The Commissioners may, if they consider it necessary, require evidence to be produced to their satisfaction in support of any information required by or under Parts III to VII of this Act to be provided in respect of goods imported or exported.
- (2) Without prejudice to subsection (1) above, where any question as to the duties chargeable on any imported goods, or the operation of any prohibition or restriction on importation, depends on any question as to the place from which the goods were consigned, or any question where they or other goods are to be treated as grown, manufactured or produced, or any question as to payments made or relief from duty allowed in any country or territory, then—
- (a) the Commissioners may require the importer of the goods to furnish to them, in such form as they may prescribe, proof of—
- (i) any statement made to them as to any fact necessary to determine that question, or
- (ii) the accuracy of any certificate or other document furnished in connection with the importation of the goods and relating to the matter in issue,
- and if such proof is not furnished to their satisfaction, the question may be determined without regard to that statement or to that certificate or document; and
- (b) if in any proceedings relating to the goods or to the duty chargeable thereon the accuracy of any such certificate or document comes in question, it shall be for the person relying on it to furnish proof of its accuracy.

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## **80 Power to require information or production of documents where origin of goods exported is evidenced under Community law or practice.**

- (1) Where on the exportation of any goods from the United Kingdom there has been furnished for the purpose of any Community requirement or practice any certificate or other evidence as to the origin of those goods, or as to payments made or relief from duty allowed in any country or territory, then, for the purpose of verifying or investigating that certificate or evidence, the Commissioners or an officer may require the exporter, or any other person appearing to the Commissioners or officer to have been concerned in any way with the goods, or with any goods from which, directly or indirectly, they have been produced or manufactured, or to have been concerned with the obtaining or furnishing of the certificate or evidence,—
  - (a) to furnish such information, in such form and within such time, as the Commissioners or officer may specify in the requirement; or
  - (b) to produce for inspection, and to allow the taking of copies or extracts from, such invoices, bills of lading, books or documents as may be so specified.
- (2) Any person who, without reasonable cause, fails to comply with a requirement imposed on him under subsection (1) above shall be liable on summary conviction to a penalty of [<sup>F227</sup>level 3 on the standard scale].

### **Textual Amendments**

**F227** Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [ss. 38, 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), [ss. 289F, 289G](#) and (N.I.) by [S.I. 1984/703](#), (N.I. 3) arts. 5, 6

### *Prevention of smuggling*

## **81 Power to regulate small craft.**

- (1) In this section “small ships” means—
  - (a) ships not exceeding 100 tons register; and
  - (b) hovercraft, of whatever size.
- (2) The Commissioners may make general regulations with respect to small ships and any such regulations may in particular make provision as to the purposes for which and the limits within which such ships may be used.
- (3) Different provision may be made by regulations under this section for different classes or descriptions of small ships.
- (4) The Commissioners may, in respect of any small ship, grant a licence exempting that ship from all or any of the provisions of any regulations made under this section.
- (5) Any such licence may be granted for such period, for such purposes and subject to such conditions and restrictions as the Commissioners see fit, and may be revoked at any time by the Commissioners.
- (6) Any small ship which, except under and in accordance with the terms of a licence granted under this section, is used contrary to any regulation made under this section, and any ship granted such a licence which is found not to have that licence on board, shall be liable to forfeiture.

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- (7) Every boat belonging to a British ship and every other vessel not exceeding 100 tons register, not being a [<sup>F228</sup> fishing vessel registered under Part II of the Merchant Shipping Act 1988], and every hovercraft, shall be marked in such manner as the Commissioners may direct, and any such boat, vessel or hovercraft which is not so marked shall be liable to forfeiture.

#### Textual Amendments

**F228** Words substituted by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), s. 57(4), [Sch. 6](#)

### 82 Power to haul up revenue vessels, patrol coasts, etc.

- (1) The person in command or charge of any vessel in the service of Her Majesty which is engaged in the prevention of smuggling—
- (a) may haul up and leave that vessel on any part of the coast or of the shore or bank of any river or creek; and
  - (b) may moor that vessel at any place below high water mark on any part of the coast or of any such shore or bank.
- (2) Any officer and any person acting in aid of an officer or otherwise duly engaged in the prevention of smuggling may for that purpose patrol upon and pass freely along and over any part of the coast or of the shore or bank of any river or creek, over any railway or aerodrome or land adjoining any aerodrome, and over any land in Northern Ireland within the prescribed area.
- (3) Nothing in this section shall authorise the use of or entry into any garden or pleasure ground.

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

**C71** [S. 82](#) amended by [S.I. 1987/2114](#), [reg. 2](#)

### 83 Penalty for removing seals, etc.

- (1) Where, in pursuance of any power conferred by the customs and excise Acts or of any requirement imposed by or under those Acts, a seal, lock or mark is used to secure or identify any goods for any of the purposes of those Acts and—
- (a) at any time while the goods are in the United Kingdom or within the limits of any port or on passage between ports in the United Kingdom [<sup>F229</sup> or between a port in the United Kingdom and a port in the Isle of Man], the seal, lock or mark is wilfully and prematurely removed or tampered with by any person; or
  - (b) at any time before the seal, lock or mark is lawfully removed, any of the goods are wilfully removed by any person,
- that person and the person then in charge of the goods shall each be liable on summary conviction to a penalty of [<sup>F230</sup> level 4 on the standard scale].
- (2) For the purposes of subsection (1) above, goods in a ship or aircraft shall be deemed to be in the charge of the master of the ship or commander of the aircraft.



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- (3) Where, in pursuance of any Community requirement or practice which relates to the movement of goods between countries or of any international agreement to which the United Kingdom is a party and which so relates,—
- (a) a seal, lock or mark is used (whether in the United Kingdom or elsewhere) to secure or identify any goods for customs or excise purposes; and
  - (b) at any time while the goods are in the United Kingdom, the seal, lock or mark is wilfully and prematurely removed or tampered with by any person,
- that person and the person then in charge of the goods shall each be liable on summary conviction to a penalty of [<sup>F230</sup>level 4 on the standard scale].

#### Textual Amendments

**F229** Words inserted by [Isle of Man Act 1979 \(c. 58\)](#), [Sch. 1 para. 19](#)

**F230** Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [s. 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), [s. 289G](#) and (N.I.) by [S.I. 1984/703](#), (N.I. 3) art. 5

#### 84 Penalty for signalling to smugglers.

- (1) In this section references to a “prohibited signal” or a “prohibited message” are references to a signal or message connected with the smuggling or intended smuggling of goods into or out of the United Kingdom.
- (2) Any person who by any means makes any prohibited signal or transmits any prohibited message from any part of the United Kingdom or from any ship or aircraft for the information of a person in any ship or aircraft or across the boundary shall be liable on summary conviction to a penalty of [<sup>F231</sup>level 3 on the standard scale], or to imprisonment for a term not exceeding 6 months, or to both, and may be detained; and any equipment or apparatus used for sending the signal or message shall be liable to forfeiture.
- (3) Subsection (2) above applies whether or not the person for whom the signal or message is intended is in a position to receive it or is actually engaged at the time in smuggling goods.
- (4) If, in any proceedings under subsection (2) above, any question arises as to whether any signal or message was a prohibited signal or message, the burden of proof shall lie upon the defendant or claimant.
- (5) If any officer or constable or any member of Her Majesty’s armed forces or coastguard has reasonable grounds for suspecting that any prohibited signal or message is being or is about to be made or transmitted from any ship, aircraft, vehicle, house or place, he may board or enter that ship, aircraft, vehicle, house or place and take such steps as are reasonably necessary to stop or prevent the sending of the signal or message.

#### Textual Amendments

**F231** Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [ss. 38, 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), [ss. 289F, 289G](#) and (N.I.) by [S.I. 1984/703](#), (N.I. 3) arts. 5, 6



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

C72 S. 84(2) amended by S.I. 1990/2167, art. 4, Sch. para. 18

### 85 Penalty for interfering with revenue vessels, etc.

- (1) Any person who save for just and sufficient cause interferes in any way with any ship, aircraft, vehicle, buoy, anchor, chain, rope or mark which is being used for the purposes of any functions of the Commissioners under Parts III to VII of this Act shall be liable on summary conviction to a penalty of [<sup>F232</sup>level 1 on the standard scale].
- (2) Any person who fires upon any vessel, aircraft or vehicle in the service of Her Majesty while that vessel, aircraft or vehicle is engaged in the prevention of smuggling shall be liable on conviction on indictment to imprisonment for a term not exceeding 5 years.

#### Textual Amendments

**F232** Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 46 and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), s. 289G and (N.I.) by S.I. 1984/703, (N.I. 3) art. 5

### 86 Special penalty where offender armed or disguised.

Any person concerned in the movement, carriage or concealment of goods—

- (a) contrary to or for the purpose of contravening any prohibition or restriction for the time being in force under or by virtue of any enactment with respect to the importation or exportation thereof; or
- (b) without payment having been made of or security given for any duty payable thereon,

who, while so concerned, is armed with any offensive weapon or disguised in any way, and any person so armed or disguised found in the United Kingdom in possession of any goods liable to forfeiture under any provision of the customs and excise Acts relating to imported goods or prohibited or restricted goods, shall be liable on conviction on indictment to imprisonment for a term not exceeding 3 years and may be detained.

### 87 Penalty for offering goods for sale as smuggled goods.

If any person offers any goods for sale as having been imported without payment of duty, or as having been otherwise unlawfully imported, then, whether or not the goods were so imported or were in fact chargeable with duty, the goods shall be liable to forfeiture and the person so offering them for sale shall be liable on summary conviction to a penalty of three times the value of the goods or [<sup>F233</sup>level 3 on the standard scale], whichever is the greater, and may be detained.

#### Textual Amendments

**F233** Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), ss. 38, 46 and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), ss. 289F, 289G and (N.I.) by S.I. 1984/703, (N.I. 3) arts. 5, 6

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*Forfeiture of ships, etc. for certain offences*

**88 Forfeiture of ship, aircraft or vehicle constructed, etc. for concealing goods.**

Where—

- (a) a ship is or has been [<sup>F234</sup>in United Kingdom waters]; or
- (b) an aircraft is or has been at any place, whether on land or on water, in the United Kingdom; or
- (c) a vehicle is or has been within the limits of any port or at any aerodrome or, while in Northern Ireland, within the prescribed area,

while constructed, adapted, altered or fitted in any manner for the purpose of concealing goods, that ship, aircraft or vehicle shall be liable to forfeiture.

**Textual Amendments**

**F234** Words substituted by [Territorial Sea Act 1987 \(c. 49, SIF 29:1\), s. 3, Sch. 1 para. 4\(3\)\(b\)](#)

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

**C73** [S. 88](#) amended by [S.I. 1987/2114, reg. 2](#) and by [S.I. 1990/2167, art. 4, Sch. para. 19](#)

**89 Forfeiture of ship jettisoning cargo, etc.**

(1) If any part of the cargo of a ship is thrown overboard or is staved or destroyed to prevent seizure—

- (a) while the ship is [<sup>F235</sup>in United Kingdom waters]; or
- (b) where the ship, having been properly summoned to bring to by any vessel in the service of Her Majesty, fails so to do and chase is given, at any time during the chase,

the ship shall be liable to forfeiture.

(2) For the purposes of this section a ship shall be deemed to have been properly summoned to bring to—

- (a) if the vessel making the summons did so by means of an international signal code or other recognised means and while flying her proper ensign; and
- (b) in the case of a ship which is not a British ship, if at the time when the summons was made the ship was [<sup>F235</sup>in United Kingdom waters].

**Textual Amendments**

**F235** Words substituted by [Territorial Sea Act 1987 \(c. 49, SIF 29:1\), s. 3, Sch. 1 para. 4\(3\)\(c\)](#)

**90 Forfeiture of ship or aircraft unable to account for missing cargo.**

Where a ship has been within the limits of any port [<sup>F236</sup>in the United Kingdom or the Isle of Man], or an aircraft has been in the United Kingdom [<sup>F236</sup>or the Isle of Man], with a cargo on board and a substantial part of that cargo is afterwards found [<sup>F236</sup>in the United Kingdom] to be missing, then, if the master of the ship or commander of the aircraft fails to account therefor to the satisfaction of the Commissioners, the ship or aircraft shall be liable to forfeiture.

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### Textual Amendments

**F236** Words inserted by [Isle of Man Act 1979 \(c. 58\), Sch. 1 para. 20](#)

## 91 Ships failing to bring to.

- (1) If, save for just and sufficient cause, any ship which is liable to forfeiture or examination under or by virtue of any provision of the Customs and Excise Acts 1979 does not bring to when required to do so, the master of the ship shall be liable on summary conviction to a penalty of [<sup>F237</sup>level 2 on the standard scale].
- (2) Where any ship liable to forfeiture or examination as aforesaid has failed to bring to when required to do so and chase has been given thereto by any vessel in the service of Her Majesty and, after the commander of that vessel has hoisted the proper ensign and caused a gun to be fired as a signal, the ship still fails to bring to, the ship may be fired upon.

### Textual Amendments

**F237** Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\), s. 289G](#) and (N.I.) by [S.I. 1984/703, \(N.I. 3\) art. 5](#)

## PART VIII

### WAREHOUSES AND QUEEN’S WAREHOUSES AND RELATED PROVISIONS ABOUT PIPE-LINES

## 92 Approval of warehouses.

- (1) The Commissioners may approve, for such periods and subject to such conditions as they think fit, places of security for the deposit, keeping and securing—
  - (a) of imported goods chargeable as such with excise duty (whether or not also chargeable with customs duty) without payment of the excise duty;
  - (b) of goods for exportation or for use as stores, being goods not eligible for home use;
  - (c) of goods manufactured or produced in the United Kingdom [<sup>F238</sup>or the Isle of Man] and permitted by or under the customs and excise Acts to be warehoused without payment of any duty of excise chargeable thereon;
  - (d) of goods imported into or manufactured or produced in the United Kingdom [<sup>F238</sup>or the Isle of Man] and permitted by or under the customs and excise Acts to be warehoused on drawback,subject to and in accordance with warehousing regulations; and any place of security so approved is referred to in this Act as an “excise warehouse”.

- [<sup>F239</sup>(2) Functions with respect to the approval of warehouses for the purposes of Article 38 of Commission Regulation ([EEC No. 3665/87](#)) shall be exercised by the Commissioners; and a warehouse approved by them for such purposes is referred to in this Act as a “victualling warehouse”.]

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- (3) The same place may be approved under this section both as a [F240victualling] and as an excise warehouse.
- (4) Notwithstanding subsection (2) above and the terms of the approval of the warehouse but subject to directions under subsection (5) below, goods of the following descriptions, not being goods chargeable with excise duty which has not been paid, that is to say—
- (a) goods originating in member States;
  - (b) goods which are in free circulation in member States; and
  - (c) goods placed on importation under a customs procedure (other than warehousing) involving the suspension of, or the giving of relief from, customs duties,
- may be kept, without being warehoused, in a [F241victualling warehouse].
- (5) The Commissioners may from time to time give directions—
- (a) as to the goods which may or may not be deposited in any particular warehouse or class of warehouse;
  - (b) as to the part of any warehouse in which any class or description of goods may be kept or secured.
- (6) If, after the approval of a warehouse as an excise warehouse, the occupier thereof makes without the previous consent of the Commissioners any alteration therein or addition thereto, he shall be liable on summary conviction to a penalty of [F242level 4 on the standard scale].
- (7) The Commissioners may at any time for reasonable cause revoke or vary the terms of their approval of any warehouse under this section.
- (8) Any person contravening or failing to comply with any condition imposed or direction given by the Commissioners under this section shall be liable on summary conviction to a penalty of [F242level 3 on the standard scale].

#### Textual Amendments

**F238** Words inserted by [Isle of Man Act 1979 \(c. 58\), Sch. 1 para. 21](#)

**F239** [S. 92\(2\)](#) substituted (01.01.1992) by [S.I. 1991/2725, reg. 3\(4\)\(a\)](#)

**F240** Word in [s. 92\(3\)](#) substituted (01.01.1992) by [S.I. 1991/2725, reg. 3\(4\)\(b\)](#)

**F241** Words in [s. 92\(4\)](#) substituted (01.01.1992) by [S.I. 1991/2725, reg. 3\(4\)\(c\)](#)

**F242** Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), ss. 38, 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\), ss. 289F, 289G](#) and (N.I.) by [S.I. 1984/703, \(N.I. 3\) arts. 5, 6](#)

### 93 Regulation of warehouses and warehoused goods.

- [F243(1) The Commissioners may by regulations under this section (referred to in this Act as “warehousing regulations”)—
- (a) prohibit the deposit or keeping of goods in a warehouse except where the occupier of the warehouse has been approved by the Commissioners in accordance with the regulations and where such conditions as may be prescribed in relation to that occupier are satisfied;

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- (b) otherwise regulate the deposit, keeping, securing and treatment of goods in a warehouse;
  - (c) make provision with respect to goods which are required to be deposited in a warehouse;
  - (d) regulate the removal of goods from a warehouse and make provision with respect to goods which have lawfully been permitted to be removed from a warehouse without payment of duty; and
  - (e) make provision, in relation to goods which have been warehoused or are required to be deposited in a warehouse with respect to the keeping, preservation and production of records and the furnishing of information.]
- (2) Warehousing regulations may, without prejudice to the generality of subsection (1) above, include provisions—
- (a) imposing or providing for the imposition under the regulations of conditions and restrictions subject to which goods may be deposited in [<sup>F244</sup>secured in], kept in or removed from warehouse or made available there to their owner for any prescribed purpose;
  - (b) requiring goods deposited in warehouse to be produced to or made available for inspection by an officer on request by him;
  - (c) permitting the carrying out on warehoused goods of such operations <sup>F245</sup>as may be prescribed by or allowed under the regulations in such manner and subject to such conditions and restrictions as may be imposed by or under the regulations;
  - (d) for determining, for the purpose of charging or securing the payment of duty, the duties of customs or excise and the rates thereof to be applied to warehoused goods (other than goods falling within section 92(2)(b) above) and in that connection—
    - (i) for determining the time by reference to which warehoused goods are to be classified;
    - (ii) for determining the time at which warehoused goods are to be treated as having been removed from warehouse;
    - (iii) for ascertaining the quantity which is to be taken as the quantity of warehoused goods;
  - [<sup>F246</sup>(da) providing for all or any prescribed purposes of the customs and excise Acts—
    - (i) for goods to be treated as warehoused where in a prescribed case they are in the custody or under the control of an approved occupier of a warehouse; and
    - (ii) for goods to be treated, at such times before the excise duty point for those goods as may be prescribed or as may be determined under the regulations, as goods which are required to be deposited in a warehouse;
  - (db) providing for the revocation of the approval under regulations of any occupier of a warehouse and applying, with modifications, any of the provisions of section 98 below in relation to such a revocation or to cases where such an approval is not renewed;]
  - (e) enabling the Commissioners to allow goods to be removed from warehouse without payment of duty in such circumstances and subject to such conditions as they may determine;
  - [<sup>F247</sup>(ee) providing that goods which are [<sup>F248</sup>required to be deposited in a warehouse], or which have been lawfully permitted to be removed from a warehouse

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without payment of duty, are to be treated as if, for all or any prescribed purposes of the customs and excise Acts, they were warehoused;]

- (f) permitting goods to be destroyed or abandoned to the Commissioners without payment of customs duty in such circumstances and subject to such conditions as they may determine.
- [<sup>F249</sup>(fa) requiring goods which are required to be deposited in a warehouse or which have lawfully been permitted to be removed from a warehouse without payment of duty to be accompanied by such documents in such form and containing such particulars as may be prescribed;
- (fb) imposing or providing for the imposition under the regulations of requirements on persons concerned in any prescribed respect with the carriage of such goods to keep and preserve the documents that are required to accompany the goods;
- (fc) imposing or providing for the imposition under the regulations of requirements on a person so concerned to produce or cause to be produced any documents which are required to accompany any goods by virtue of paragraph (fa) above to an officer when required to do so for the purpose of allowing the officer to inspect them, to copy or take extracts from them or to remove them at a reasonable time and for a reasonable period;]
- [<sup>F250</sup>(g) imposing or providing for the imposition under the regulations of requirements on the occupier of a warehouse or the proprietor of goods in a warehouse or goods which have been in or are [<sup>F251</sup>required] to be deposited in a warehouse to keep and preserve such records as may be prescribed relating to his occupation of the warehouse or proprietorship of the goods;
- (h) imposing or providing for the imposition under the regulations of requirements on such an occupier or proprietor to preserve all other records kept by him for the purposes of any relevant business or activity, except any records which (or records of a class which) the Commissioners specify as not needing preservation;
- (j) imposing or providing for the imposition under the regulations of requirements on such an occupier or proprietor to produce or cause to be produced any records which he has been required to preserve by virtue of paragraph (g) or (h) above to an officer when required to do so for the purpose of allowing the officer to inspect them, to copy or take extracts from them or to remove them at a reasonable time and for a reasonable period;
- (k) imposing or providing for the imposition under the regulations of requirements on such an occupier or proprietor to furnish the Commissioners with any information relating to any relevant business or activity which they specify as information which they think it is necessary or expedient for them to be given for the protection of the revenue;
- (l) allowing a requirement to preserve any records which has been imposed by virtue of paragraph (h) above to be discharged by the preservation in a form approved by the Commissioners of the information contained in the records.]

and may contain such incidental or supplementary provisions as the Commissioners think necessary or expedient for the protection of the revenue.

[<sup>F252</sup>In this subsection “relevant business or activity” means, in relation to an occupier or proprietor, any business or activity of his which includes occupation of a warehouse or (as the case may be) proprietorship of goods in a warehouse or goods which have been in or are [<sup>F253</sup>required] to be deposited in a warehouse, where the goods are of a kind in which the proprietor trades or deals.]

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- [<sup>F254</sup>(2A) Where any documents [<sup>F255</sup>or records] removed under the powers conferred by subsection [<sup>F256</sup>(2)(fc) or (j)] above are lost or damaged the Commissioners shall be liable to compensate their owner for any expenses reasonably incurred by him in replacing or repairing the documents [<sup>F255</sup>or records].]
- (3) Warehousing regulations may make different provision for [<sup>F257</sup>different cases, including different provision for different occupiers or descriptions of occupier, for] warehouses or parts of warehouses of different descriptions or for goods of different classes or descriptions or of the same class or description in different circumstances.
- (4) Warehousing regulations may make provision about the removal of goods from one warehouse to another or from one part of a warehouse to another part or for treating goods remaining in a warehouse as if, for all or any prescribed purposes of the customs and excise Acts, they had been so removed; and regulations about the removal of goods may, for all or any prescribed purposes of those Acts, include provision for treating the goods as having been warehoused or removed from warehouse (where they would not otherwise be so treated).
- (5) Warehousing regulations made by virtue of paragraph (a) or (c) of subsection (2) above may also provide for the forfeiture of goods in the event of non-compliance with any condition or restriction imposed by virtue of that paragraph or in the event of the carrying out of any operation on warehoused goods which is not by virtue of the said paragraph (c) permitted to be carried out in warehouse.
- [<sup>F258</sup>(5A) Warehousing regulations made by virtue of any of paragraphs (fa) to (fc) or (g) to (j) of subsection (2) above may also provide for the forfeiture of the goods in question in the event of any contravention of, or non-compliance with, any requirements imposed by or under the regulations with respect to any documents or records relating to prescribed goods.]
- (6) If any person fails to comply with any warehousing regulation or with any condition [<sup>F259</sup>restriction or requirement] imposed under a warehousing regulation he shall be liable on summary conviction to a [<sup>F260</sup>penalty of an amount not exceeding level 5 on the standard scale, together with a penalty of £20 for each day on which the failure continues].
- [<sup>F261</sup>(7) In this section—
- (a) “prescribed” means prescribed by warehousing regulations;
  - (b) references to goods which are [<sup>F262</sup>required to be deposited in a warehouse] are references to goods which have been entered for warehousing on importation, which have been removed from a producer’s premises for warehousing without payment of duty [<sup>F262</sup>which are to be warehoused on drawback or which are otherwise to be treated by virtue of subsection (2)(da)(ii) above as goods which are required to be deposited in a warehouse].]

#### Subordinate Legislation Made

- PI** [S. 93: s. 93 power exercised \(11.11.1991\) by S.I. 1991/2564](#)  
[S. 93: s. 93 power exercised \(04.12.1991\) by S.I. 1991/2726](#)  
[S. 93: for previous exercise of this power, see Index to Government Orders](#)



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### Textual Amendments

- F243** S. 93(1) substituted (9.12.1992) by Finance (No. 2) Act 1992 (c. 48), s. 3(1), **Sch. 2 para. 2(1)**; S.I. 1992/3104, **art. 2(1)**.
- F244** Words inserted by Finance Act 1981 (c. 35, SIF 40:1), s. 11, **Sch. 8 Pt. I para. 2(a)**
- F245** Words repealed by Finance Act 1988 (c. 39, SIF 40:1), ss. 9(2), 148, **Sch. 14 Part I**
- F246** S. 93(2)(da)(db) inserted (9.12.1992) by Finance (No. 2) Act 1992 (c. 48), s. 3(1), **Sch. 2 para. 2(2)(a)**; S.I. 1992/3104, **art. 2(1)**.
- F247** S. 93(2)(ee) inserted by Finance Act 1986 (c. 41, SIF 40:1), s. 5, **Sch. 3 para. 3**
- F248** Words in s. 93(2)(ee) substituted (9.12.1992) by Finance (No. 2) Act 1992 (c. 48), s. 3(1), **Sch. 2 para. 2(2)(b)**; S.I. 1992/3104, **art. 2(1)**.
- F249** S. 93(2)(fa)-(fc) inserted (9.12.1992) by Finance (No. 2) Act 1992 (c. 48), s. 3(1), **Sch. 2 para. 2(2)(c)**; S.I. 1992/3104, **art. 2(1)**.
- F250** S. 93(2)(g)-(l) substituted for s. 93(2)(g) by Finance Act 1986 (c. 41, SIF 40:1), s. 5, **Sch. 3 para. 4** (which para. (g) was inserted by Finance Act 1981 (c. 35, SIF 40:1), s. 11(1), **Sch. 8 Pt. I para. 2(b)**, (para. 2(b) repealed by Finance Act 1986 (c.41, SIF 40:1), s. 114, **Sch. 23 Pt. I** )
- F251** Word in s. 93(2)(g) inserted (9.12.1992) by Finance (No. 2) Act 1992 (c. 48), s. 3(1), **Sch. 2 para. 2(2)(d)**; S.I. 1992/3104, **art. 2(1)**.
- F252** Paragraph inserted by Finance Act 1986 (c. 41, SIF 40:1), s. 5, **Sch. 3 para. 5**
- F253** Word in s. 93(2) inserted (9.12.1992) by Finance (No. 2) Act 1992 (c. 48), s. 3(1), **Sch. 2 para. 2(2)(e)**; S.I. 1992/3104, **art. 2(1)**.
- F254** S. 93(2A) inserted by Finance Act 1981 (c. 35, SIF 40:1), s. 11, **Sch. 8 Pt. I para. 2(c)**
- F255** Words in s. 93(2A) inserted (9.12.1992) by Finance (No. 2) Act 1992 (c. 48), s. 3(1), **Sch. 2 para. 2(3)(a)**; S.I. 1992/3104, **art. 2(1)**.
- F256** Words in s. 93(2A) substituted (9.12.1992) by virtue of Finance (No. 2) Act 1992 (c. 48), s. 3(1), **Sch. 2 para. 2(3)(b)**; S.I. 1992/3104, **art. 2(1)**.
- F257** Words in s. 93(3) inserted (9.12.1992) by Finance (No. 2) Act 1992 (c. 48), s. 3(1), **Sch. 2 para. 2(4)**; S.I. 1992/3104, **art. 2(1)**.
- F258** S. 93(5A) inserted (9.12.1992) by Finance (No. 2) Act 1992 (c. 48), s. 3(1), **Sch. 2 para. 2(5)**; S.I. 1992/3104, **art. 2(1)**.
- F259** Words substituted by Finance Act 1981 (c. 35, SIF 40:1), s. 11, **Sch. 8 Pt. I para. 2(d)**
- F260** Words in s. 93(6) substituted (9.12.1992) by Finance (No. 2) Act 1992 (c. 48), s. 3(1), **Sch. 2 para. 2(6)**; S.I. 1992/3104, **art. 2(1)**.
- F261** S. 93(7) substituted by Finance Act 1986 (c. 41, SIF 40:1), s. 5, **Sch. 3 para. 7**
- F262** Words in s. 93(7)(b) substituted (9.12.1992) by Finance (No. 2) Act 1992 (c. 48), s. 3(1), **Sch. 2 para. 2(7)(a)(b)**; S.I. 1992/3104, **art. 2(1)**.

## 94 Deficiency in warehoused goods.

- (1) . . . <sup>F263</sup>, this section applies where goods have been warehoused and, before they are lawfully removed from warehouse in accordance with a proper clearance thereof, they are found to be missing or deficient.
- (2)
- <sup>F264</sup>(3) In any case where this section applies, unless it is shown to the satisfaction of the Commissioners that the absence of or deficiency in the goods can be accounted for by natural waste or other legitimate cause, the Commissioners may require the occupier of the warehouse or the proprietor of the goods to pay immediately in respect of the missing goods or of the whole or any part of the deficiency, as they see fit, the duty chargeable or deemed under warehousing regulations to be chargeable on such goods or, in the case of goods warehoused on drawback which could not lawfully be entered

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for home use, an amount equal to the drawback and any allowance paid in respect of the goods.

(4) If, on the written demand of an officer, the occupier of the warehouse or the proprietor of the goods refuses to pay any sum which he is required to pay under subsection (3) above he shall in addition be liable on summary conviction to a penalty of double that sum.

(5) This section has effect without prejudice to any penalty or forfeiture incurred under any other provision of the customs and excise Acts.

[<sup>F265</sup>(6) The preceding provisions of this section so far as they have effect for-

- (a) fixing the excise duty point for any goods chargeable with a duty of excise; or
- (b) determining the person on whom any liability to pay any such duty is to fall,

shall have effect subject to the provisions of any regulations under section 1 of the Finance (No. 2) Act 1992; and accordingly, the power to make regulations under that section shall include power, for the purposes of, or in connection with, the making of any provision falling within paragraph (a) or (b) above, to modify any of the preceding provisions of this section and the provisions of section 95 below.]

#### Textual Amendments

- F263** Words repealed by Finance Act 1981 (c. 35, SIF 40:1), s. 139(6), **Sch. 19 Pt. III**
- F264** S. 94(2) repealed by Finance Act 1981 (c. 35, SIF 40:1), ss. 11, 139(6), Sch. 8 para. 3, **Sch. 19 Pt. III**
- F265** S. 94(6) inserted (1.12.1992 in so far as mentioned in S.I. 1992/2979, **art. 4** and 1.1.1993 in so far as then not already in force) by Finance (No. 2) Act 1992 (c. 48), s. 1(5), **Sch. 1 para.3**; S.I. 1992/2979, **art. 4, Sch. Pt.II**; S.I. 1992/3261, **art. 3, Sch.**

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

- C74** S. 94 restricted (16.5.1997) by 1994 c. 9, **ss. 12A, 12B** (as inserted by 1997 c. 16, s. 50(2), **Sch. 6 para. 1(1)**); S.I. 1997/1305, **art. 2**

## 95 Deficiency in goods occurring in course of removal from warehouse without payment of duty.

(1) Where any goods have been lawfully permitted to be taken from a warehouse without payment of duty for removal to another warehouse or to some other place, section 94 above shall, subject to subsection (2) below [<sup>F266</sup>and to any such regulations as are mentioned in subsection (6) of that section], have effect in relation to those goods in the course of that removal as if those goods were still in warehouse.

(2) In its application in relation to any goods by virtue of subsection (1) above, section 94 above shall have effect as if the following provisions were omitted, namely—

- (a)
- <sup>F267</sup>(b) the references in subsections (3) and (4) to the occupier of the warehouse.

#### Textual Amendments

- F266** Words in s. 95(1) inserted (1.12.1992 in so far as mentioned in S.I. 1992/2979, **art. 4** and 1.1.1993 in so far as then not already in force) by Finance (No. 2) Act 1992 (c. 48), s. 1(5), **Sch. 1 para.4**; S.I. 1992/2979, **art. 4, Sch. Pt.II**; S.I. 1992/3261, **art. 3, Sch.**

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**F267** S. 95(2)(a) repealed by Finance Act 1981 (c. 35, SIF 40:1), s. 139(6), **Sch. 19 Pt. III**

## 96 Deficiency in certain goods moved by pipe-line.

- (1) This section applies where goods of any of the following descriptions, that is to say—
- (a) goods which are chargeable with a duty which has not been paid;
  - (b) goods on which duty has been repaid or remitted in whole or in part; and
  - (c) goods on which drawback has been paid,
- are moved by pipe-line, or notified to the proper officer as being goods to be moved by pipe-line, and are at any time thereafter found to be missing or deficient.
- (2) In any case where this section applies, unless it is shown to the satisfaction of the Commissioners that the absence of or deficiency in the goods can be accounted for by natural waste or other legitimate cause, the Commissioners may require the owner of the pipe-line or the proprietor of the goods to pay immediately in respect of the missing goods, or in respect of the whole or any part of the deficiency, as they see fit, the amount of the duty unpaid or repaid thereon or, as the case may be, an amount equal to the drawback paid thereon.
- (3) If, on the written demand of an officer, any person refuses to pay any sum which he is required to pay under subsection (2) above he shall in addition be liable on summary conviction to a penalty of double that sum.
- (4) For the purposes of this section any absence or deficiency in the case of goods moved by a pipe-line used for the importation or exportation of goods shall be deemed to have taken place within the United Kingdom unless the contrary is shown.
- (5) This section has effect without prejudice to any penalty or forfeiture incurred under any other provision of the customs and excise Acts.
- [<sup>F268</sup>(6) The preceding provisions of this section so far as they have effect for—
- (a) fixing the excise duty point for any goods chargeable with a duty of excise; or
  - (b) determining the person on whom any liability to pay any such duty is to fall,
- shall have effect subject to the provisions of any regulations under section 1 of the Finance (No. 2) Act 1992; and, accordingly, the power to make regulations under that section shall include power, for the purposes of, or in connection with, the making of any provision falling within paragraph (a) or (b) above, to modify any of the preceding provisions of this section.]

### Textual Amendments

**F268** S. 96(6) inserted (1.12.1992 in so far as mentioned in S.I. 1992/2979, **art. 4** and 1.1.1993 in so far as then not already in force) by Finance (No. 2) Act 1992 (c. 48), s. 1(5), **Sch. 1 para.5**; S.I. 1992/2979, **art. 4, Sch. Pt.II**; S.I. 1992/3261, **art. 3, Sch.**

### Modifications etc. (not altering text)

- C75** S. 96 restricted (1.6.1997) by 1994 c. 9, s. **12A** (as inserted (1.6.1997) by 1997 c. 16, s. 50(2), **Sch. 6 para. 1(1)**); S.I. 1997/1305, **art. 2**
- C76** S. 96(1)(a) modified by S.I. 1983/947, **regs. 12, 13** (which S.I. is revoked 1.1.1993 by S.I. 1992/3152, **reg. 1(2)**)
- C77** S. 96(1)(a) amended by S.I. 1985/1032, **reg. 11(a)** (which S.I. is revoked 1.1.1993 by S.I. 1992/3152, **reg. 1(2)**)

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S. 96(1)(a) amended (1.1.1993) by S.I. 1992/3152, reg. 11(a).

**97 Restriction on compensation for loss or damage to goods in, or for removal of goods from warehouse or pipe-line.**

- (1) This section applies to—
  - (a) any loss or damage caused to goods while in a warehouse or pipe-line; and
  - (b) any unlawful removal of goods from a warehouse or pipe-line.
- (2) Subject to subsection (3) below, no compensation shall be payable by, and no action shall lie against, the Commissioners or any officer acting in the execution of his duty for any loss or damage to which this section applies or for any unlawful removal to which this section applies.
- (3) If any goods in a warehouse or pipe-line are destroyed, stolen or unlawfully removed by or with the assistance or connivance of an officer and that officer is convicted of the offence, then, except where the proprietor of the goods or the occupier of the warehouse or, as the case may be, the owner of the pipe-line was a party to the offence, the Commissioners shall pay compensation for any loss caused by any such destruction, theft or removal.
- (4) Where compensation is payable by virtue of subsection (3) above then, notwithstanding any provision of the Customs and Excise Acts 1979, no duty shall be payable on the goods by the proprietor of the goods or by the occupier of the warehouse or, as the case may be, the owner of the pipe-line, and any sum paid by way of duty on those goods by any of those persons before the conviction shall be repaid.

**98 Procedure on warehouse ceasing to be approved.**

- (1) Where the Commissioners intend to revoke or not to renew their approval of a warehouse, they shall, not later than the beginning of the prescribed period ending with the date when the revocation is to take effect or the approval is due to expire, as the case may be, give notice of their intention, specifying therein the said date [<sup>F269</sup>and, unless the notice has been withdrawn or extended, the warehouse shall cease to be approved on that date].
- (2) the notice shall be given in writing and shall be deemed to have been served on all persons interested in any goods then deposited in that warehouse, or permitted under the Customs and Excise Acts 1979 to be so deposited between the date of the giving of the notice and the date specified therein, if addressed to the occupier of, and left at, the warehouse.
- [<sup>F270</sup>(3) If after the date on which the warehouse ceases to be approved any goods not duly cleared still remain in the former warehouse—
  - (a) they may be taken by an officer to a Queen’s warehouse and, without prejudice to section 99(3) below, if they are not cleared from it within one month may be sold; or
  - (b) if the Commissioners so allow, they may remain in the former warehouse and if they are not cleared from it within one month may be sold.
- (3A) Where in accordance with paragraph (b) above goods remain in the warehouse after the revocation or expiry of the Commissioners’ approval—

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- (a) subsection (6) and (7) of section 99 below shall apply to them as if they were deposited in a Queen’s warehouse under the Customs and Excise Acts 1979; and
  - (b) sections 93, 94, 95 and 97 above and section 100 below shall apply and any security given by bond or otherwise and any condition imposed by or under the customs and excise Acts shall continue to have effect, as if the former warehouse were still a warehouse.]
- (4) In this section “the prescribed period” means—
- (a) in the case of a warehouse which is a [F271victualling warehouse] but not also an excise warehouse, such period as may be prescribed by warehousing regulations;
  - (b) in the case of a warehouse which is or is also an excise warehouse, 3 months.

#### Textual Amendments

**F269** Words inserted by [Finance Act 1981 \(c. 35, SIF 40:1\)](#), s. 11, [Sch. 8 para. 4\(a\)](#)

**F270** [S. 98\(3\)\(3A\)](#) substituted for s. 98(3) by [Finance Act 1981 \(c. 35, SIF 40:1\)](#), s. 11, [Sch. 8 para. 4\(b\)](#)

**F271** Words in [s. 98\(4\)](#) substituted (01.01.1992) by [S.I. 1991/2725](#), [reg. 3\(5\)](#)

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

**C78** [S. 98\(3\)\(3A\)](#) applied with modifications (1.10.1999) by [S.I. 1999/1278](#), [reg. 10](#)

## 99 Provisions as to deposit in Queen’s warehouse.

- (1) The following provisions of this section shall have effect in relation to any goods which are deposited in a Queen’s warehouse under or by virtue of any provision of the Customs and Excise Acts 1979.
- (2) Such rent shall be payable while the goods are deposited as may be fixed by the Commissioners.
- (3) If the goods are of a combustible or inflammable nature or otherwise of such a character as to require special care or treatment—
  - (a) they shall, in addition to any other charges payable thereon, be chargeable with such expenses for securing, watching and guarding them as the Commissioners see fit;
  - (b) neither the Commissioners nor any officer shall be liable to make good any damage which the goods may have sustained; and
  - (c) if the proprietor of the goods has not cleared them within a period of 14 days from the date of deposit, they may be sold by the Commissioners;
 but, in the case of goods deposited by virtue of section 40(2) above, paragraph (c) above shall only apply if the goods are of a combustible or inflammable nature.
- (4) Save as permitted by or under the Customs and Excise Acts 1979, the goods shall not be removed from the warehouse until—
  - (a) any duty chargeable thereon; and
  - (b) any charges in respect thereof—
    - (i) for their removal to the warehouse, and
    - (ii) under subsections (2) and (3) above,

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have been paid and, in the case of goods requiring entry and not yet entered, until entry has been made thereof.

- (5) The officer having the custody of the goods may refuse to allow them to be removed until it is shown to his satisfaction that any freight charges due thereon have been paid.
- (6) If the goods are sold under or by virtue of any provision of the Customs and Excise Acts 1979, the proceeds of sale shall be applied—
  - (a) first, in paying any duty chargeable on the goods;
  - (b) secondly, in defraying any such charges as are mentioned in subsection (4) above; and
  - (c) thirdly, in defraying any charges for freight;and if the person who was immediately before the sale the proprietor of the goods makes application in that behalf the remainder, if any, shall be paid over to him.
- (7) When the goods are authorised to be sold under or by virtue of any provision of the Customs and Excise Acts 1979 but cannot be sold—
  - (a) if the goods are to be exported, for a sum sufficient to make the payment mentioned in paragraph (b) of subsection (6) above; or
  - (b) in any other case, for a sum sufficient to make the payments mentioned in paragraphs (a) and (b) of that subsection,the Commissioners may destroy the goods.

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

C79 S. 99 modified by S.I. 1986/260, regs. 5(ij), 18

**100 General offences relating to warehouses and warehoused goods.**

- (1) Any person who, except with the authority of the proper officer or for just and sufficient cause, opens any of the doors or locks of a warehouse or Queen’s warehouse or makes or obtains access to any such warehouse or to any goods warehoused therein shall be liable on summary conviction to a penalty of [F272]level 5 on the standard scale] and may be detained.
- (2) Where—
  - (a) any goods which have been entered for warehousing [F273]or are otherwise required to be deposited in a warehouse] are taken into the warehouse without the authority of, or otherwise than in accordance with any directions given by, the proper officer; or
  - (b) save as permitted by the Customs and Excise Acts 1979 or by or under warehousing regulations, any goods which have been entered for warehousing [F273]or are otherwise required to be deposited in a warehouse] are removed without being duly warehoused or are otherwise not duly warehoused; or
  - (c) any goods which have been deposited in a warehouse or Queen’s warehouse are unlawfully removed therefrom or are unlawfully loaded into any ship, aircraft or vehicle for removal or for exportation or use as stores; or
  - [F274](d) any goods are concealed at a time before they are warehoused when they have been entered for warehousing or are otherwise required to be deposited in a warehouse or when they are required to be in the custody or under the control of the occupier of a warehouse; or]



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- (e) any goods which have been lawfully permitted to be removed from a warehouse or Queen’s warehouse without payment of duty for any purpose are not duly delivered at the destination to which they should have been taken in accordance with that permission,  
those goods shall be liable to forfeiture.
- (3) If any person who took, removed, loaded or concealed any goods as mentioned in subsection (2) above did so with intent to defraud Her Majesty of any duty chargeable thereon or to evade any prohibition or restriction for the time being in force with respect thereto under or by virtue of any enactment, he shall be guilty of an offence under this subsection and may be detained.
- (4) A person guilty of an offence under subsection (3) above shall be liable—
- (a) on summary conviction, to a penalty of the prescribed sum or of three times the value of the goods, whichever is the greater, or to imprisonment for a term not exceeding 6 months, or to both; or
  - (b) on conviction on indictment, to a penalty of any amount, or to imprisonment for a term not exceeding [<sup>F275</sup>7 years], or to both.

#### Textual Amendments

- F272** Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **ss. 38, 46** and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), **ss. 289F, 289G** and (N.I.) by [S.I. 1984/703](#), (N.I. 3) arts. 5, 6
- F273** Words in [s. 100\(2\)\(a\)\(b\)](#) inserted (9.12.1992) by [Finance \(No. 2\) Act 1992 \(c. 48\)](#), s. 3(1), **Sch. 2 para. 3(a)**; [S.I. 1992/3104](#), **art. 2(1)**.
- F274** [S. 100\(2\)\(d\)](#) substituted (9.12.1992) by [Finance \(No. 2\) Act 1992 \(c. 48\)](#), s. 3(1), **Sch. 2 para. 3(b)**; [S.I. 1992/3104](#), **art. 2(1)**.
- F275** Words substituted by [Finance Act 1988 \(c. 39, SIF 40:1\)](#), **s. 12(1)(a)(6)**

## [<sup>F276</sup>PART VIII A

### FREE ZONES

#### Textual Amendments

- F276** [Pt. VIII A \(ss. 100A–F\)](#) inserted by [Finance Act 1984 \(c. 43, SIF 40:1\)](#), s. 8, **Sch. 4 Pt. I**

#### 100A Designation of free zones.

- (1) The Treasury may by order designate any area in the United Kingdom as a special area for customs purposes.
- (2) An area so designated shall be known as a “free zone”.
  - (3) An order under subsection (1) above—
    - (a) shall have effect for such period as shall be specified in the order;
    - (b) may be made so as to take effect, in relation to the area or any part of the area designated by a previous order under this section, on the expiry of the period specified in the previous order;



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- (c) shall appoint one or more persons as the responsible authority or authorities for the free zone;
  - (d) may impose on any responsible authority such conditions or restrictions as may be specified; and
  - (e) may be revoked if the Commissioners are satisfied that there has been a failure to comply with any condition or restriction.
- (4) The Treasury may by order—
- (a) from time to time vary—
    - (i) the conditions or restrictions imposed by a designation order; or
    - (ii) with the agreement of the responsible authority, the area designated;  
or
  - (b) appoint one or more persons as the responsible authority or authorities for a free zone either in addition to or in substitution for any person appointed as such by a designation order.
- (5) In this Act “designation order” means an order made under subsection (1) above.
- (6) Any order under this section shall be made by statutory instrument.

**Subordinate Legislation Made**

- P2** S. 100A power exercised by [S.I.1991/1737](#)
  - S. 100A power exercised by [S.I.1991/1738](#)
  - S. 100A power exercised by [S.I.1991/1739](#)
  - S. 100A power exercised by [S.I.1991/1740](#)
- For previous exercises of this power, see Index to Government Orders

**F277 100B**.....

**Textual Amendments**

- F277** S. 100B repealed (1.1.1992) by [S.I. 1991/2727](#), [reg.3\(1\)](#) (with saving in [reg. 3\(2\)](#)); S. 100B is expressed to be repealed (1.9.1994) by [1994 c. 23](#),ss. 100(2), 101(1), Sch. 15

**F278 100C Free zone goods: customs duties, etc.**

**F278**(1).....

**F278**(2).....

**F278**(3).....

- (4) [<sup>F279</sup>The Commissioners, with respect to free zone goods or the movement of goods into any free zone, may by regulations make provision—]
- (a) for relief from the whole or part of any value added tax chargeable on the importation of goods into the United Kingdom in such circumstances as they may determine;
  - (b) in place of, or in addition to, any provision made by section 4 or 5 of the Value Added Tax Act <sup>M29</sup>1983 or any other enactment, for determining the

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time when a supply of goods which are or have been free zone goods is to be treated as taking place for the purposes of the charge to value added tax; and

(c) as to the treatment, for the purposes of value added tax, of goods which are manufactured or produced within a free zone from other goods or which have other goods incorporated in them while they are free zone goods.

[<sup>F280</sup>(d) references in this Act to “free zone goods” are references to goods which are within a free zone.]

<sup>F278</sup>(5) .....

**Textual Amendments**

**F278** S. 100C (except for subsection (4)) repealed (1.1.1992) by S.I. 1991/2727, **reg.3(1)** (with saving in reg. 3(2))

**F279** Words in s. 100C(4) substituted (1.1.1992) by S.I. 1991/2727, **reg. 5(a)**

**F280** S. 100C(4)(d) inserted (1.1.1992) by S.I. 1991/2727, **reg. 5(b)**

**Marginal Citations**

**M29** 1983 c. 55(40:2).

<sup>F281</sup>**100D** .....

**Textual Amendments**

**F281** S. 100D repealed (1.1.1992) by S.I. 1991/2727, **reg. 3(1)** (with saving in reg. 3(2))

<sup>F282</sup>**100E** .....

**Textual Amendments**

**F282** S. 100E repealed (1.1.1992) by S.I. 1991/2727, **reg.3(1)** (with saving in reg. 3(2))

**100F Powers of search.**

(1) Any person entering or leaving a free zone shall answer such questions as any officer may put to him with respect to any goods and shall, if required by the officer, produce those goods for examination at such place as the Commissioners may direct.

(2) At any time while a vehicle is entering or leaving a free zone, any officer may board the vehicle and search any part of it.

(3) Any officer may at any time enter upon and inspect a free zone and all buildings and goods within the zone.]

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## **[<sup>F283</sup>PART VIII B**

### REGISTERED EXCISE DEALERS AND SHIPPERS

#### **Textual Amendments**

**F283** Pt. VIII B (ss. 100G-100J) inserted (25.7.1991) by [Finance Act 1991 \(c. 31\), s. 11\(3\), Sch. 4](#)

#### **<sup>F284</sup>100G Registered excise dealers and shippers.**

- (1) For the purpose of administering, collecting or protecting the revenues derived from duties of excise, the Commissioners may by regulations under this section (in this Act referred to as “registered excise dealers and shippers regulations”)—
  - (a) confer or impose such powers, duties, privileges and liabilities as may be prescribed in the regulations upon any person who is or has been a registered excise dealer and shipper; and
  - (b) impose on persons other than registered excise dealers and shippers, or in respect of any goods of a class or description specified in the regulations, such requirements or restrictions as may by or under the regulations be prescribed with respect to registered excise dealers and shippers or any activities carried on by them.
- (2) The Commissioners may approve, and enter in a register maintained by them for the purpose, any revenue trader who applies for registration under this section and who appears to them to satisfy such requirements for registration as they may think fit to impose.
- (3) In the customs and excise Acts “registered excise dealer and shipper” means a revenue trader approved and registered by the Commissioners under this section.
- (4) The Commissioners may approve and register a person under this section for such periods and subject to such conditions or restrictions as they may think fit or as they may by or under the regulations prescribe.
- (5) The Commissioners may at any time for reasonable cause revoke or vary the terms of their approval or registration of any person under this section.
- (6) The regulations may make provision for treating revenue traders as approved and registered under this section in cases where they are members of a group of companies (within the meaning of the regulations) which is approved and registered in accordance with the regulations.]

#### **Textual Amendments**

**F284** Pt. VIII B (ss. 100G-100J) inserted (25.7.1991) by [Finance Act 1991 \(c. 31\), s. 11\(3\), Sch. 4](#)

#### **[<sup>F285</sup>100H Registered excise dealers and shippers regulations.**

- (1) Without prejudice to the generality of section 100G above, registered excise dealers and shippers regulations may, in particular, make provision—
  - (a) regulating the approval and registration of persons as registered excise dealers and shippers and the variation or revocation of any such approval or

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registration or of any condition or restriction to which such an approval or registration is subject;

- (b) regulating any activities carried on by or for a registered excise dealer and shipper and, in particular, the importation, exportation, buying, selling, loading, unloading, delivery, movement, holding, deposit, security, treatment or removal of, or the carrying out of operations on, or the effecting of any other transaction relating to, any goods of a class or description subject to a duty of excise;
- (c) authorising a registered excise dealer and shipper to carry out or arrange for the carrying out of any prescribed activity falling within paragraph (b) above in relation to goods chargeable with a duty of excise which has not been paid, but subject to prescribed conditions or restrictions and to prescribed requirements for the payment of the unpaid duty;
- (d) exempting registered excise dealers and shippers from compliance with such provisions made by or under the customs and excise Acts as may be prescribed, or applying such provisions in relation to registered excise dealers and shippers with prescribed modifications or adaptations, or applying in relation to registered excise dealers and shippers such substitute provisions as may be prescribed in place of any such provisions;
- (e) requiring, except as otherwise permitted by the Commissioners, goods which are subject to a duty of excise that has not been paid and which are not consigned to an excise warehouse—
  - (i) to be consigned to a registered excise dealer and shipper; and
  - (ii) to be accompanied by such documents in such form and such manner and containing such particulars as may be prescribed;
- <sup>F286</sup>(f) .....
- (g) for securing and collecting any duty of excise [<sup>F287</sup>on goods which have been or may be the subject of a transaction involving a registered excise dealer and shipper];
- [<sup>F288</sup>(h) for determining, in relation to goods which are the subject of a transaction involving a registered excise dealer and shipper, the duties of excise chargeable on those goods and the rates of those duties and, in that connection, the method of charging the duties;]
- (j) permitting payment of excise duty by a registered excise dealer and shipper to be deferred, subject to compliance with prescribed conditions;
- (k) for relieving registered excise dealers and shippers from liability to pay excise duty on goods in prescribed circumstances;
- (l) for cases where a registered excise dealer and shipper acts as agent for some other person (whether a registered excise dealer and shipper or not);
- (m) requiring registered excise dealers and shippers to keep and make available for inspection such records relating to their activities as such as may be prescribed;
- [<sup>F289</sup>(ma) imposing requirements with respect to, or to the production of, the documents required to accompany goods which are the subject of a transaction involving a registered excise dealer and shipper on any person concerned in any prescribed respect with the carriage of those goods, or providing for the imposition under the regulations of any such requirements;]
- (n) for goods in the United Kingdom which are liable to a duty of excise which has not been paid to be subject to forfeiture for any breach of—

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- (i) registered excise dealers and shippers regulations, so far as relating to goods chargeable with a duty of excise which has not been paid, or
  - (ii) any condition or restriction imposed by or under any such regulations so far as so relating.
- (2) Registered excise dealers and shippers regulations may make different provision for persons or goods of different classes or descriptions, for different circumstances and for different cases.
- (3) In this section “prescribed” means prescribed in registered excise dealers and shippers regulations or prescribed by the Commissioners under any such regulations.

#### Textual Amendments

- F285** Pt. VIII B (ss. 100G-100J) inserted (25.7.1991) by Finance Act 1991 (c. 31), s. 11(3), Sch. 4
- F286** S. 100H(1)(f) repealed (1.12.1992 in so far as mentioned in S.I. 1992/2979, art. 4 and 1.1.1993 in so far as then not already in force) by Finance (No. 2) Act 1992 (c. 48), ss. 1(5), 82, Sch. 1 para. 6(1)(a) (2), Sch. 18 Pt. I Note 1; S.I. 1992/2979, art. 4, Sch. Pt. II; S.I. 1992/3261, art. 3, Sch.
- F287** Words in s. 100H(1)(g) substituted (1.12.1992 in so far as mentioned in S.I. 1992/2979, art. 4 and 1.1.1993 in so far as then not already in force) by Finance (No. 2) Act 1992 (c. 48), s. 1(5), Sch. 1 para. 6(1)(b)(2); S.I. 1992/2979, art. 4, Sch. Pt. II; S.I. 1992/3261, art. 3, Sch.
- F288** S. 100H(1)(h) substituted (1.12.1992 in so far as mentioned in S.I. 1992/2979, art. 4 and 1.1.1993 in so far as then not already in force) by Finance (No. 2) Act 1992 (c. 48), s. 1(5), Sch. 1 para. 6(1)(c) (2); S.I. 1992/2979, art. 4, Sch. Pt. II; S.I. 1992/3261, art. 3, Sch.
- F289** S. 100H(1)(ma) inserted (9.12.1992) by Finance (No. 2) Act 1992 (c. 48), s. 3(1), Sch. 2 para.4; S.I. 1992/3104, art. 2(1).

#### [<sup>F290</sup>100J] Contravention of regulations etc.

If any person contravenes any provision of registered excise dealers and shippers regulations or fails to comply with any condition or restriction which the Commissioners impose upon him under section 100G above or by or under any such regulations, he shall be liable on summary conviction to a penalty of any amount not exceeding level 5 on the standard scale and any goods in respect of which the offence was committed shall be liable to forfeiture.]

#### Textual Amendments

- F290** Pt. VIII B (ss. 100G-100J) inserted (25.7.1991) by Finance Act 1991 (c. 31), s. 11(3), Sch.4

## PART IX

### CONTROL OF EXCISE LICENCE TRADES AND REVENUE TRADERS

#### *Excise licences—general provisions*

#### 101 Excise licences.

- (1) An excise licence shall be in such form and contain such particulars as the Commissioners may direct and, subject to the provisions of any enactment relating to

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the licence or trade in question, may be granted by the proper officer on payment of [<sup>F291</sup>any appropriate duty].

- (2) An excise licence for the carrying on of a trade shall be granted in respect of one set of premises only, but a licence for the same trade may be granted to the same person in respect of each of two or more sets of premises.
- (3) Where an excise licence trade is carried on at any set of premises by two or more persons in partnership, then, subject to the provisions of any enactment relating to the licence or trade in question, not more than one licence shall be required to be [<sup>F292</sup>held] by those persons in respect of those premises [<sup>F293</sup>at any one time].
- (4) Without prejudice to any other requirement as to the production of licences contained in the Customs and Excise Acts 1979, if any person who is the holder of an excise licence to carry on any trade or to manufacture or sell any goods fails to produce his licence for examination within a reasonable time after being so requested by an officer he shall be liable on summary conviction to a penalty of [<sup>F294</sup>level 2 on the standard scale].

#### Textual Amendments

**F291** Words substituted by Finance Act 1986 (c. 41, SIF 40:1), s. 8(6), **Sch. 5 para. 1(a)**

**F292** Word substituted by Finance Act 1986 (c. 41, SIF 40:1), s. 8(6), **Sch. 5 para. 1(b)**

**F293** Words substituted by Finance Act 1986 (c. 41, SIF 40:1), s. 8(6), **Sch. 5 para. 1(b)**

**F294** Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 46 and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), s. 289G and (N.I.) by S.I. 1984/703, (N.I. 3) art. 5

## 102 Payment for excise licences by cheque.

- (1) Any government department or local authority having power to grant an excise licence may, if they think fit, grant the licence upon receipt of a cheque for the amount of [<sup>F295</sup>any duty]payable thereon.
- (2) Where a licence is granted to any person on receipt of a cheque and the cheque is subsequently dishonoured, the licence shall be void as from the time when it was granted, and the department or authority who granted it shall send to that person, by letter sent by registered post or the recorded delivery service and addressed to him at the address given by him when applying for the licence, a notice requiring him to deliver up the licence within the period of 7 days from the date when the notice was posted.
- (3) If a person who has been required under subsection (2) above to deliver up a licence fails to comply with the requirement within the period mentioned in that subsection he shall be liable on summary conviction to a penalty of the following amount, that is to say—
  - (a) where the licence is a gaming licence or a gaming machine licence, a penalty of [<sup>F296</sup>level 5 on the standard scale];
  - <sup>F297</sup>(aa) where the licence is a licence under the Vehicles (Excise) Act 1971, a penalty of whichever is the greater of—
    - (i) level 3 on the standard scale, or

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- (ii) an amount equal to five times the annual rate of duty that was payable on the grant of the licence or would have been so payable if it had been taken out for a period of twelve months.]
- (b) in any other case, a penalty of [<sup>F296</sup>level 3 on the standard scale].

#### Textual Amendments

**F295** Words substituted by Finance Act 1986 (c. 41, SIF 40:1), s. 8(6), **Sch. 5 para. 2**

**F296** Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), **ss. 38, 46** and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **ss. 289F, 289G** and (N.I.) by S.I. 1984/703, (N.I. 3) arts. 5, 6

**F297** By Finance Act 1987 (c. 16, SIF 40:1), s. 2(6), **Sch. 1 Pt. III para. 20** it is provided that s. 102 as it applies in relation to licences granted under the Vehicles (Excise) Act 1971 has effect with the insertion of s. 102(3)(aa)

### 103 Renewal of excise licences.

- (1) Subject to subsection (2) below, where a person who has taken out an excise licence issuable annually in respect of any trade takes out a fresh licence in respect of that trade for the next following licence year, then, subject to the provisions of any enactment relating to the licence or trade in question, the fresh licence shall bear the date of the day immediately following that on which the previous licence expires.
- (2) Where an application for the fresh licence is made after the day on which the previous licence expires or such later day as the Commissioners may in any case allow, the licence shall bear the date of the day when the application is made.

### 104 Transfer and removal of excise licence trades and licences.

- (1) Subject to any provision of the Customs and Excise Acts 1979 or of any other enactment relating to the licence or trade in question, where the holder of an excise licence to carry on any trade dies, or where the holder of such a licence in respect of premises specified therein leaves those premises, the proper officer may transfer that licence in such manner as the Commissioners may direct, without any additional payment, to some other person for the remainder of the period for which the licence was granted.
- (2) Subject to any such provision as aforesaid, where any person who holds an excise licence in respect of any premises removes his trade to other premises on which it may be lawfully carried on, the proper officer may authorise in such manner as the Commissioners may direct the carrying on, without any additional payment other than any required to be paid by subsection (3) below, of that trade on those other premises for the remainder of the period for which the licence was granted.
- (3) Where, in a case falling within subsection (2) above, the amount of [<sup>F298</sup>any duty] payable on the grant of the licence was determined by reference to the annual value of the premises in respect of which it was granted and would have been greater if the licence had originally been granted in respect of the premises to which the trade is removed, such additional sum shall be payable as bears the same proportion to the difference as the remainder of the period for which the licence was granted bears to a year.



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- (4) Notwithstanding anything in subsections (1) to (3) above, where by any other enactment relating to the licence or trade in question the authorisation of any court or other authority or the production of any certificate is required for such a transfer or removal of an excise licence trade as is mentioned in this section, no transfer or removal, of an excise licence to carry on that trade shall be granted unless it is shown to the satisfaction of the proper officer that the authorisation or certificate has been granted.

**Textual Amendments**

**F298** Words substituted by [Finance Act 1986 \(c. 41, SIF 40:1\)](#), s. 8(6), [Sch. 5 para. 2](#)

**105,** ..... **F299**  
**106.**

**Textual Amendments**

**F299** Ss. 105, 106 repealed by [Finance Act 1981 \(c. 35, SIF 40:1\)](#), ss. 11, 139(6), [Sch. 8 Pt. I para. 5](#), [Sch. 19 Pt. III](#)

**107 Power to require person carrying on excise licence trade to display sign.**

- (1) The Commissioners may require any person holding an excise licence to carry on any trade to affix to and maintain on the premises in respect of which the licence is granted, in such form and manner and containing such particulars as they may direct, a notification of the person to whom and the purpose for which the licence is granted.
- (2) If any person contravenes or fails to comply with any requirement made or direction given under this section he shall be liable on summary conviction to a penalty of [<sup>F300</sup>level 2 on the standard scale].
- (3) If any person not duly licensed to carry on an excise licence trade affixes to any premises any sign or notice purporting to show that he is so licensed he shall be liable on summary conviction to a penalty of [<sup>F300</sup>level 2 on the standard scale].

**Textual Amendments**

**F300** Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), s. 46 and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), s. 289G and (N.I.) by [S.I. 1984/703](#), (N.I. 3) art. 5

*General provisions as to entries of premises, etc.*

**108 Making of entries.**

- (1) Where by or under the revenue trade provisions of the customs and excise Acts any person is required to make entry of any premises or article—
- (a) the entry shall be made in such form and manner and contain such particulars;
- and

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- (b) the premises or article shall be, and be kept, marked in such manner, as the Commissioners may direct.
- (2) No entry shall be valid unless the person by whom it was made—
- (a) had at the time of its making attained the age of 18 years; and
- (b) was at that time and is for the time being a true and real owner of the trade in respect of which the entry was made.
- (3) Where any person required to make entry is a body corporate—
- (a) the entry shall be signed by a director, general manager, secretary or other similar officer of the body and, except where authority for that person to sign has been given under the seal of the body, shall be made under that seal; and
- (b) both the body corporate and the person by whom the entry is signed shall be liable for all duties charged in respect of the trade to which the entry relates.
- (4) If any person making entry of any premises or article contravenes or fails to comply with any direction of the Commissioners given under this section with respect thereto, he shall be liable on summary conviction to a penalty of [<sup>F301</sup>level 3 on the standard scale].

#### Textual Amendments

**F301** Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [ss. 38, 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), [ss. 289F, 289G](#) and (N.I.) by [S.I. 1984/703](#), (N.I. 3) arts. 5, 6

#### 109 New or further entries of same premises.

- (1) The Commissioners may at any time, by notice in writing to the person by whom any existing entry was signed addressed to him at any premises entered by him, require a new entry to be made of any premises or article to which the existing entry relates, and the existing entry shall, without prejudice to any liability incurred, become void at the expiration of 14 days from the delivery of the notice.
- (2) Save as permitted by the Commissioners and subject to such conditions as they may impose, no premises or article of which entry has been made by any person shall, while that entry remains in force, be entered by any other person for any purpose of the revenue trade provisions of the customs and excise Acts, and any entry made in contravention of this subsection shall be void.
- (3) Where the person by whom entry has been made of any premises absconds or quits possession of the premises and discontinues the trade in respect of which the entry was made, and the Commissioners permit a further entry to be made of the premises by some other person, the former entry shall be deemed to have been withdrawn and shall be void.

#### 110 Proof as to entries.

For the purpose of any proceedings before any court, if any question arises as to whether or not entry under the revenue trade provisions of the customs and excise Acts has been made by any person, or of any premises or article, or for any purpose, then—

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- (a) if a document purporting to be an original entry made by the person, or of the premises or article, or for the purpose, in question is produced to the court by an officer, that document shall, until the contrary is proved, be sufficient evidence that the entry was so made; and
- (b) if the officer in whose custody any such entry, if made, would be gives evidence that the original entries produced by him to the court constitute all those in his custody and that no such entry as is in question is among them, it shall be deemed, until the contrary is proved, that no such entry has been made.

### 111 Offences in connection with entries.

- (1) If any person uses for any purpose of his trade any premises or article required by or under the revenue trade provisions of the customs and excise Acts to be entered for that purpose without entry having been duly made thereof, he shall be liable on summary conviction to a penalty of [<sup>F302</sup>level 4 on the standard scale], and any such article and any goods found on any such premises or in any such article shall be liable to forfeiture.
- (2) If any person who has made entry of any premises or article fraudulently uses those premises or that article for any purpose other than that for which entry was made thereof he shall be liable on summary conviction to a penalty of [<sup>F302</sup>level 3 on the standard scale].

#### Textual Amendments

**F302** Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **ss. 38, 46** and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), **ss. 289F, 289G** and (N.I.) by [S.I. 1984/703](#), (N.I. 3) arts. 5, 6

#### *General provisions as to revenue traders*

### 112 Power of entry upon premises, etc. of revenue traders.

- (1) An officer may, subject to subsection (2) below, at any time enter upon any premises of which entry is made, or is required by or under the revenue trade provisions of the customs and excise Acts to be made, or any other premises owned or used by a revenue trader for the purposes of his trade and may inspect the premises and search for, examine and take account of any machinery [<sup>F303</sup>vehicles], vessels, utensils, goods or materials belonging to or in any way connected with that trade.
- (2) Except in the case of such traders as are mentioned in subsection (3) below, no officer shall exercise the powers conferred on him by subsection (1) above by night unless he is accompanied by a constable.
- (3) Where any such premises as are mentioned in subsection (1) above are those of a distiller, rectifier, compounder, brewer for sale, producer of wine, producer of made-wine [<sup>F304</sup>maker of cider or occupier of an excise warehouse], and an officer, after having demanded admission into the premises and declared his name and business at the entrance thereof, is not immediately admitted, that officer and any person acting in his aid may, subject to subsection (4) below, break open any door or window of the premises or break through any wall thereof for the purpose of obtaining admission.

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- (4) No officer or person acting in his aid shall exercise the powers conferred on him by subsection (3) above by night unless he is accompanied by a constable.
- (5) Subsection (1) above applies to vehicles, vessels, aircraft, hovercraft or structures in or from which tobacco products are sold or dealt in or dutiable alcoholic liquors are sold by retail as it applies to premises.
- (6) This section applies to the occupier of a refinery as it applies to a distiller, whether or not the occupier is a revenue trader.

#### Textual Amendments

**F303** Word inserted by [Finance Act 1981 \(c. 35, SIF 40:1\)](#), s. 11, [Sch. 8 Pt. I para. 6](#)

**F304** Words substituted by [Finance Act 1981 \(c. 35, SIF 40:1\)](#), s. 11, [Sch. 8 Pt. I para. 6](#)

### 113 Power to search for concealed pipes, etc.

- (1) If an officer has reasonable grounds to suspect that any secret pipe or other means of conveyance, cock, vessel or utensil is kept or used by a revenue trader to whom this section applies, that officer may, subject to subsection (2) below, at any time, break open any part of the premises of that trader and forcibly enter thereon and so far as is reasonably necessary break up the ground in or adjoining those premises or any wall thereof to search for that pipe or other means of conveyance, cock, vessel or utensil.
- (2) No officer shall exercise the powers conferred on him by subsection (1) above by night unless he is accompanied by a constable.
- (3) If the officer finds any such pipe or other form of conveyance leading to or from the trader's premises, he may enter any other premises from or into which it leads, and so far as is reasonably necessary break up any part of those other premises to trace its course, and may cut it away and turn any cock thereon, and examine whether it conveys or conceals any goods chargeable with a duty of excise, or any materials used in the manufacture of such goods, in such manner as to prevent a true account thereof from being taken.
- (4) Every such pipe or other means of conveyance, cock, vessel or utensil as aforesaid, and all goods chargeable with a duty of excise or materials for the manufacture of such goods found therein, shall be liable to forfeiture, and the trader shall be liable on summary conviction to a penalty of [<sup>F305</sup>level 3 on the standard scale].
- (5) If any damage is done in any such search as aforesaid and the search is unsuccessful, the Commissioners shall make good the damage.
- (6) The revenue traders to whom this section applies are distillers, rectifiers, compounders, [<sup>F306</sup>registered brewers], producers of wine, producers of made-wine and makers of cider.
- (7) This section also applies to the occupier of a refinery as it applies to the traders mentioned in subsection (6) above, whether or not the occupier is a revenue trader.

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#### Textual Amendments

- F305** Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **ss. 38, 46** and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), **ss. 289F, 289G** and (N.I.) by [S.I. 1984/703](#), (N.I. 3) arts. 5, 6
- F306** Words in [s. 113\(6\)](#) substituted (1.6.1993) by [Finance Act 1991 \(c. 31\)](#), **s. 7(4)(5)**, SCh. 2 para. 1(a); [S.I. 1993/1152](#), **art. 3(a)**

### 114 Power to prohibit use of certain substances in exciseable goods.

- (1) If it appears to the satisfaction of the Commissioners that any substance or liquor is used, or is capable of being used, in the manufacture or preparation for sale of any goods chargeable, as goods manufactured or produced in the United Kingdom, with a duty of excise, and that that substance or liquor is of a noxious or detrimental nature or, being a chemical or artificial extract or product, may affect prejudicially the interests of the revenue, the Commissioners may by regulations prohibit the use of that substance or liquor in the manufacture or preparation for sale of any goods specified in the regulations.
- (2) If while any such regulations are in force any person knowingly uses a substance or liquor thereby prohibited in the manufacture or preparation for sale of any goods specified in the regulations he shall be liable on summary conviction to a penalty of [<sup>F307</sup>level 3 on the standard scale].
- (3) Any substance or liquor the use of which is for the time being prohibited by any such regulations found in the possession of any person licensed for the manufacture or sale of any goods specified in the regulations, and any goods in the manufacture or preparation of which any substance or liquid has been used contrary to any such prohibition, shall be liable to forfeiture.

#### Textual Amendments

- F307** Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **ss. 38, 46** and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), **ss. 289F, 289G** and (N.I.) by [S.I. 1984/703](#), (N.I. 3) arts. 5, 6

### 115 Power to keep specimen on premises of revenue traders.

- (1) The proper officer may place and leave on the premises of a revenue trader a specimen, that is to say, a document in which may be entered any particulars relating to the trader's trade from time to time recorded by that or any other officer.
- (2) Any such specimen shall be deposited at some place on premises entered by the trader where convenient access may be had thereto at any time by the trader and by any officer, and any officer may at any time remove the specimen and deposit a new one in its place.
- (3) Where any charge of duty made by an officer upon a trader is not recorded in a specimen, the officer shall, if so required in writing by the trader at the time when the officer takes his account for the purpose of charging duty, give to the trader a copy of the charge in writing under his hand.

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- (4) If any person other than an officer removes, conceals, withholds, damages or destroys a specimen, or alters, defaces, or obliterates any entry therein, he shall be liable on summary conviction to a penalty of [<sup>F308</sup>level 4 on the standard scale].

#### Textual Amendments

**F308** Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [ss. 38, 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), [ss. 289F, 289G](#) and (N.I.) by [S.I. 1984/703](#), (N.I. 3) arts. 5, 6

### 116 Payment of excise duty by revenue traders.

- (1) Every revenue trader shall pay any duty of excise payable in respect of his trade at or within such time, at such place and to such person as the Commissioners may direct whether or not payment of that duty has been secured by bond or otherwise.
- (2) If any duty payable is not paid in accordance with subsection (1) above, it shall be paid on demand made by the Commissioners either to the trader personally or by delivering the demand in writing at his place of abode or business.
- (3) If any duty is not paid on demand made under subsection (2) above the trader shall in addition be liable on summary conviction to a penalty of double the amount due.

### [<sup>F309</sup>116A] Power to estimate excise duties.

- (1) Where an amount is due on account of any excise duty [<sup>F310</sup>to which this section applies] but the Commissioners are unable to ascertain the amount of the duty properly due because—
- (a) returns, accounts, records, or other documents have not been made, kept, preserved or produced by [<sup>F311</sup>a revenue trader] as required by or under the provisions of the customs and excise Acts; or
  - (b) it appears to the Commissioners that any returns, accounts, records or other documents so made, kept, preserved or produced are incomplete or incorrect, they may estimate the amount due.
- (2) Without prejudice to the recovery of the full amount due or to the making of a further estimate, the amount estimated shall be recoverable as duty properly due unless in any action relating thereto the person liable proves the amount properly due and that amount is less than the amount estimated.

[ This section applies to any excise duty other than one in relation to which provision <sup>F312</sup>(3) for estimation is made by the Betting and Gaming Duties Act 1981 (that is to say, general betting, gaming licence and bingo duties). ]

#### Textual Amendments

**F309** [S. 116A](#) inserted by [Finance Act 1981 \(c. 35, SIF 40:1\)](#), s. 11, [Sch. 8 Pt. I para. 7](#)

**F310** Words inserted by [Finance Act 1989 \(c. 26, SIF 40:1\)](#), [s. 15\(2\)\(a\)](#)

**F311** Words substituted by [Finance Act 1989 \(c. 26, SIF 40:1\)](#), [s. 15\(2\)\(b\)](#)

**F312** [S. 116A\(3\)](#) inserted by [Finance Act 1989 \(c. 26, SIF 40:1\)](#), [s. 15\(3\)](#)

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## 117 Execution and distress against revenue traders.

(1) Where any sum is owing by a revenue trader in respect of any<sup>F313</sup> . . . excise duty or of any relevant penalty, all the following things which are in the possession or custody of that trader or of any agent of his or of any other person on his behalf shall be liable to be taken in execution in default of the payment of that sum, that is to say—

- (a) all goods liable to [<sup>F314</sup>any] excise duty, whether or not that duty has been paid;
- (b) all materials for manufacturing or producing any such goods; and
- (c) all apparatus, equipment, machinery, tools, vessels and utensils for, or for preparing any such materials for, such manufacture or production, or by which the trade in respect of which the duty is imposed is carried on.

[<sup>F315</sup>(1A) In subsection (1) above as it applies in relation to a sum owing by a revenue trader in respect of lottery duty or of a relevant penalty—

- (a) references to goods liable to any excise duty include lottery tickets on the taking of which lottery duty will be chargeable, and
- (b) “the trade in respect of which the duty is imposed” includes any trade or business carried on by the revenue trader that consists of or includes the buying, selling, importation, exportation, dealing in or handling of tickets or chances on the taking of which lottery duty is or will be chargeable.]

(2) Subsection (1) above shall also apply in relation to things falling within paragraph (a), (b) or (c) of that subsection which, although they are not still in the possession or custody of the trader, an agent of his or other person on his behalf, were in such possession or custody—

- (a) at the time when the<sup>F313</sup> . . . excise duty was charged or became chargeable or at any time while it was owing; or
- (b) at the time of the commission of the offence for which the penalty was incurred.

(3) Notwithstanding anything in subsection (1) or (2) above, but subject to subsection (4) below, where the proper officer has taken account of and charged any goods chargeable with [<sup>F314</sup>any] excise duty and those goods are in the ordinary course of trade sold for full and valuable consideration to a bona fide purchaser and delivered into his possession before the issue of any warrant or process for distress or seizure of the goods, those goods shall not be liable to be seized under this section.

(4) Where any goods have been seized under this section, the burden of proof that the goods are by virtue of subsection (3) above not liable to be so seized shall lie upon the person claiming that they are not so liable.

(5) Where any<sup>F313</sup> . . . excise duty payable by a revenue trader remains unpaid after the time within which it is payable, the proper officer may by warrant signed by him empower any person to distrain any thing liable to be taken in execution under this section and, subject to subsection (6) below, to sell any thing so distrained by public auction after giving 6 days’ notice of the sale.

(6) Where, under subsection (5) above, any thing has been distrained in respect of duty payable by a distiller, brewer, licensed producer of wine, licensed producer of made-wine or registered maker of cider he may,<sup>F316</sup> at any time before the day appointed for the sale remove the whole or part of any products of or materials for his manufacture which have been so distrained upon paying to the proper officer in or towards payment of the duty the true value of those products or materials.



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- (7) The proceeds of any sale under subsection (5) above shall be applied in or towards payment of the costs and expenses of the distress and sale and in or towards payment of the duty due from the trader, and the surplus (if any) shall be paid to the trader.
- [<sup>F317</sup>(7A) Where distress is levied under this section for any amount estimated under section 116A above and it is afterwards proved that the amount properly due was less than the amount estimated, that shall not affect the legality of the distress or anything done under this section in connection therewith, but the proceeds of sale shall be applied under subsection (7) above in accordance with the amount properly due and not in accordance with the amount estimated]
- (8) In this section—  
<sup>F318</sup> . . .  
“relevant penalty” means a penalty incurred under the revenue trade provisions of the customs and excise Acts.
- [<sup>F319</sup>(9) This section shall apply to Scotland subject to the following modifications—
- (a) in subsection (3) for the words from “issue” to the end there shall be substituted the words “granting of a warrant for the recovery of a sum owing by the revenue trader, those goods shall not be liable to be taken in execution under this section.”;
  - (b) in subsection (4) for the word “seized” in both places where it occurs there shall be substituted the words “taken in execution”;
  - (c) subsection (10) below shall apply in place of subsection (5);
  - (d) in subsection (6) for the word “distrained” in both places where it occurs there shall be substituted the words “taken into possession”;
  - (e) in subsection (7) for the words “of the distress and sale” there shall be substituted the words “incurred in the taking into possession and sale of the things under that subsection”;
  - (f) in subsection (7A) for the words “distress is levied” there shall be substituted the words “things are taken into possession” and for the word “distress” where second occurring there shall be substituted the words “taking into possession”.
- (10) The sheriff, on an application by the proper officer accompanied by a certificate by him that relevant excise duty payable by a revenue trader remains unpaid after the time within which it is payable, may grant a warrant authorising a sheriff officer—
- (a) to take into possession, by force if necessary, anything liable to be taken in execution under this section and for that purpose to open shut and lockfast places; and
  - (b) to sell anything so taken into possession by public auction after giving 6 days notice of the sale.]

#### Textual Amendments

**F313** Words in s. 117(1)(2)(a)(5) repealed (9.12.1992) by Finance (No. 2) Act 1992 (c. 48), ss. 3(1), 82, Sch. 2 para. 5(a), **Sch. 18 Pt. I** Note 2; S.I. 1992/3104, **art. 2(1)**.

**F314** Words in s. 117(1)(a)(3) substituted (9.12.1992) by Finance (No. 2) Act 1992 (c. 48), s. 3(1), **Sch. 2 para. 5(b)**; S.I. 1992/3104, **art. 2(1)**.

**F315** S. 117(1A) inserted (1.12.1993) by 1993 c. 34, **s. 30(4)** (with s. 40(2)(3)); S.I. 1993/2842, **art. 3(1)**.

**F316** Words repealed by Finance Act 1981 (c. 35, SIF 40:1), s. 139, **Sch. 19 Pt. III**

**F317** S. 117(7A) inserted by Finance Act 1981 (c. 35, SIF 40:1), s. 11, **Sch. 8 Pt. I para. 8**

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**F318** Definition in s. 117(8) repealed (9.12.1992) by Finance (No. 2) Act 1992 (c. 48), ss. 3(1), 82, Sch. 2 para. 5(c), **Sch. 18 Pt. I** Note 2; S.I. 1992/3104, **art. 2(1)**.

**F319** S. 117(9)(10) substituted (S.) for s. 117(9) by Debtors (Scotland) Act 1987 (c. 18, SIF 45:2), s. 108(1), **Sch. 6 para. 21** with Sch. 7 para. 5

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

**C80** S. 117 amended (1.1.1995) by 1994 c. 9, s. **18(2)(8)** (with s. 19(3)); S.I. 1994/2679, **art. 3** (with art 4(3))

**C81** S. 117(7A) amended (1.1.1995) by 1994 c. 9, s. **18(2)(b)(8)** (with s. 19(3)); S.I. 1994/2679, **art. 3** (with art. 4(3))

**118 Liability of ostensible owner or principal manager.**

Any person who acts ostensibly as the owner or who is a principal manager of the business of a revenue trader in respect of which entry of any premises or article has been made or who occupies or uses any entered premises or article shall, notwithstanding that he is under full age, be liable in like manner as the real and true owner of the business for all duties charged and all penalties incurred in respect of that business.

[<sup>F320</sup>**PART IXA**

**PROTECTION OF THE REVENUES DERIVED FROM EXCISE DUTIES]**

**Textual Amendments**

**F320** Pt. IXA (ss. 118A-118G) inserted (25.7.1991) by Finance Act 1991 (c. 31), s. 12, **Sch. 5**

<sup>F321</sup>**118A Duty of revenue traders to keep records.**

- (1) The Commissioners may by regulations require every revenue trader—
  - (a) to keep such records as may be prescribed in the regulations; and
  - (b) to preserve those records for such period not exceeding six years as may be prescribed in the regulations or for such lesser period as the Commissioners may require.
- (2) Regulations under this section—
  - (a) may make different provision for different cases; and
  - (b) may be framed by reference to such records as may be specified in any notice published by the Commissioners in pursuance of the regulations and not withdrawn by a further notice.
- (3) Any duty imposed under this section to preserve records may be discharged by the preservation of the information contained therein by such means as the Commissioners may approve.
- (4) Where any information is preserved in accordance with subsection (3) above, a copy of any document forming part of the records in question shall, subject to the following provisions of this section, be admissible in evidence in any proceedings, whether civil or criminal, to the same extent as the records themselves.

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- (5) The Commissioners may, as a condition of approving under subsection (3) above any means of preserving information contained in any records, impose such reasonable requirements as appear to them necessary for securing that the information will be as readily available to them as if the records themselves had been preserved.
- (6) A statement contained in a document produced by a computer shall not by virtue of subsection (4) above be admissible in evidence—
- (a) in civil proceedings in England and Wales, except in accordance with sections 5 and 6 of the Civil Evidence Act 1968;
  - (b) in criminal proceedings in England and Wales, except in accordance with sections 69 and 70 of the Police and Criminal Evidence Act 1984 and Part II of the Criminal Justice Act 1988;
  - (c) in civil proceedings in Scotland, except in accordance with sections 13 and 14 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1968;
  - (d) in criminal proceedings in Scotland, except in accordance with the said sections 13 and 14, which shall, for the purposes of this section, apply with the necessary modifications to such proceedings;
  - (e) in civil proceedings in Northern Ireland, except in accordance with sections 2 and 3 of the Civil Evidence Act (Northern Ireland) 1971; and
  - (f) in criminal proceedings in Northern Ireland, except in accordance with Article 68 of the Police and Criminal Evidence (Northern Ireland) Order 1989 and Part II of the Criminal Justice (Evidence Etc.) (Northern Ireland) Order 1988.
- (7) Notwithstanding the preceding provisions of this section, in criminal proceedings the court may, for special cause, require oral evidence to be given of any matter of which evidence could ordinarily be given by means of a certificate under—
- (a) section 5(4) of the Civil Evidence Act 1968,
  - (b) section 13(4) of the Law Reform (Miscellaneous Provisions) Scotland Act 1968, or
  - (c) section 2(4) of the Civil Evidence Act (Northern Ireland) 1971.

#### Textual Amendments

**F321** Pt. IXA (ss. 118A-118G) inserted (25.7.1991) by [Finance Act 1991 \(c. 31\), s. 12, Sch. 5](#)

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

**C82** [S. 118A\(6\)\(c\)\(d\)](#) amended (3.5.1994) by [1994 c. 9, s. 256\(2\)\(a\)](#), (3)

### <sup>F322</sup>**118BDuty of revenue traders and others to furnish information and produce documents.**

- (1) Every revenue trader shall—
- (a) furnish to the Commissioners, within such time and in such form as they may reasonably require, such information relating to—
    - (i) any goods or services supplied by or to him in the course or furtherance of a business, or
    - (ii) any goods in the importation or exportation of which he is concerned in the course or furtherance of a business,as they may reasonably specify; and

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- (b) upon demand made by an officer, produce or cause to be produced for inspection by that officer—
- (i) at the principal place of business of the revenue trader or at such other place as the officer may reasonably require, and
  - (ii) at such time as the officer may reasonably require,
- any documents relating to the goods or services or to the supply, importation or exportation.
- (2) Where, by virtue of subsection (1) above, an officer has power to require the production of any documents from a revenue trader—
- (a) he shall have the like power to require production of the documents concerned from any other person who appears to the officer to be in possession of them; but
  - (b) if that other person claims a lien on any document produced by him, the production shall be without prejudice to the lien.
- (3) For the purposes of this section, the documents relating to the supply of goods or services, or the importation or exportation of goods, in the course or furtherance of any business shall be taken to include—
- (a) any profit and loss account and balance sheet, and
  - (b) any records required to be kept by virtue of section 118A above, relating to that business.
- (4) An officer may take copies of, or make extracts from, any document produced under subsection (1) or (2) above.
- (5) If it appears to an officer to be necessary to do so, he may, at a reasonable time and for a reasonable period, remove any document produced under subsection (1) or (2) above and shall, on request, provide a receipt for any document so removed.
- (6) Where a lien is claimed on a document produced under subsection (2) above, the removal of the document under subsection (5) above shall not be regarded as breaking the lien.
- (7) Where a document removed by an officer under subsection (5) above is reasonably required for the proper conduct of a business he shall, as soon as practicable, provide a copy of the document, free of charge, to the person by whom it was produced or caused to be produced.
- (8) Where any documents removed under the powers conferred by this section are lost or damaged, the Commissioners shall be liable to compensate their owner for any expenses reasonably incurred by him in replacing or repairing the documents.

#### Textual Amendments

**F322** Pt. IXA (ss. 118A-118G) inserted (25.7.1991) by [Finance Act 1991 \(c. 31\)](#), s. 12, [Sch. 5](#)

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

**C83** [S. 118B](#) modified (3.5.1994) by [1994 c. 9](#), s. 40(2), [Sch. 6](#) paras. 2, 4

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<sup>F323</sup> **118C Entry and search of premises and persons.**

- (1) For the purpose of exercising any powers under the customs and excise Acts an officer may at any reasonable time enter premises used in connection with the carrying on of a business.
- (2) Where an officer has reasonable cause to believe that any premises are used in connection with the supply, importation or exportation of goods of a class or description chargeable with a duty of excise and that any such goods are on those premises, he may at any reasonable time enter and inspect those premises and inspect any goods found on them.
- (3) If a justice of the peace or, in Scotland, a justice (within the meaning of section 462 of the Criminal Procedure (Scotland) Act 1975) is satisfied on information on oath—
  - (a) that there is reasonable ground for suspecting that a fraud offence which appears to be of a serious nature is being, has been or is about to be committed on any premises, or
  - (b) that evidence of the commission of such an offence is to be found there,he may issue a warrant in writing authorising, subject to subsections (6) and (7) below, any officer to enter those premises, if necessary by force, at any time within the period of one month beginning with the date of the issue of the warrant and search them.
- (4) Any officer who enters premises under the authority of a warrant under subsection (3) above may—
  - (a) take with him such other persons as appear to him to be necessary;
  - (b) seize and remove any documents or other things whatsoever found on the premises which he has reasonable cause to believe may be required as evidence for the purposes of proceedings in respect of a fraud offence which appears to him to be of a serious nature; and
  - (c) search or cause to be searched any person found on the premises whom he has reasonable cause to believe to be in possession of any such documents or other things;but no woman or girl shall be searched by virtue of this subsection except by a woman.
- (5) In subsections (3) and (4) above “a fraud offence” means an offence under any provision of section 167(1), 168 or 170 below.
- (6) The powers conferred by a warrant under this section shall not be exercisable—
  - (a) by more than such number of officers as may be specified in the warrant; nor
  - (b) outside such times of day as may be so specified; nor
  - (c) if the warrant so provides, otherwise than in the presence of a constable in uniform.
- (7) An officer seeking to exercise the powers conferred by a warrant under this section or, if there is more than one such officer, that one of them who is in charge of the search shall provide a copy of the warrant endorsed with his name as follows—
  - (a) if the occupier of the premises concerned is present at the time the search is to begin, the copy shall be supplied to the occupier;
  - (b) if at the time the occupier is not present but a person who appears to the officer to be in charge of the premises is present, the copy shall be supplied to that person; and
  - (c) if neither paragraph (a) nor paragraph (b) above applies, the copy shall be left in a prominent place on the premises.

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#### Textual Amendments

**F323** Pt. IXA (ss. 118A-118G) inserted (25.7.1991) by [Finance Act 1991 \(c. 31\)](#), s. 12, [Sch. 5](#)

#### <sup>F324</sup>**118D** Order for access to recorded information, etc.

- (1) Where, on an application by an officer, a justice of the peace or, in Scotland, a justice (within the meaning of section 462 of the Criminal Procedure (Scotland) Act 1975) is satisfied that there are reasonable grounds for believing—
  - (a) that an offence in connection with a duty of excise is being, has been or is about to be committed, and
  - (b) that any recorded information (including any document of any nature whatsoever) which may be required as evidence for the purpose of any proceedings in respect of such an offence is in the possession of any person, he may make an order under this section.
- (2) An order under this section is an order that the person who appears to the justice to be in possession of the recorded information to which the application relates shall—
  - (a) give an officer access to it, and
  - (b) permit an officer to remove and take away any of it which he reasonably considers necessary,
 

not later than the end of the period of seven days beginning with the date of the order or the end of such longer period as the order may specify.
- (3) The reference in subsection (2)(a) above to giving an officer access to the recorded information to which the application relates includes a reference to permitting the officer to take copies of it or to make extracts from it.
- (4) Where the recorded information consists of information contained in a computer, an order under this section shall have effect as an order to produce the information in a form in which it is visible and legible and, if the officer wishes to remove it, in a form in which it can be removed.
- (5) This section is without prejudice to sections 118B and 118C above.

#### Textual Amendments

**F324** Pt. IXA (ss. 118A-118G) inserted (25.7.1991) by [Finance Act 1991 \(c. 31\)](#), s. 12, [Sch. 5](#)

#### <sup>F325</sup>**118E** Procedure when documents etc. are removed.

- (1) An officer who removes anything in the exercise of a power conferred by or under section 118C or 118D above shall, if so requested by a person showing himself—
  - (a) to be the occupier of premises from which it was removed, or
  - (b) to have had custody or control of it immediately before the removal,
 

provide that person with a record of what he removed.
- (2) The officer shall provide the record within a reasonable time from the making of the request for it.

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- (3) Subject to subsection (7) below, if a request for permission to be granted access to anything which—
- (a) has been removed by an officer, and
  - (b) is retained by the Commissioners for the purposes of investigating an offence, is made to the officer in overall charge of the investigation by a person who had custody or control of the thing immediately before it was so removed or by someone acting on behalf of such a person, the officer shall allow the person who made the request access to it under the supervision of an officer.
- (4) Subject to subsection (7) below, if a request for a photograph or copy of any such thing is made to the officer in overall charge of the investigation by a person who had custody or control of the thing immediately before it was so removed, or by someone acting on behalf of such a person, the officer shall—
- (a) allow the person who made the request access to it under the supervision of an officer for the purpose of photographing it or copying it, or
  - (b) photograph or copy it, or cause it to be photographed or copied.
- (5) Where anything is photographed or copied under subsection (4)(b) above, the photograph or copy shall be supplied to the person who made the request.
- (6) The photograph or copy shall be supplied within a reasonable time from the making of the request.
- (7) There is no duty under this section to grant access to, or to supply a photograph or copy of, anything if the officer in overall charge of the investigation for the purposes of which it was removed has reasonable grounds for believing that to do so would prejudice—
- (a) that investigation;
  - (b) the investigation of an offence other than the offence for the purposes of the investigation of which the thing was removed; or
  - (c) any criminal proceedings which may be brought as a result of—
    - (i) the investigation of which he is in charge; or
    - (ii) any such investigation as is mentioned in paragraph (b) above.
- (8) Any reference in this section to the officer in overall charge of the investigation is a reference to the person whose name and address are endorsed on the warrant or order concerned as being the officer so in charge.

#### Textual Amendments

**F325** Pt. IXA (ss. 118A-118G) inserted (25.7.1991) by [Finance Act 1991 \(c. 31\)](#), s. 12, [Sch. 5](#)

#### <sup>F326</sup>**118F Failure of officer to comply with requirements under section 118E.**

- (1) Where, on an application made as mentioned in subsection (2) below, the appropriate judicial authority is satisfied that a person has failed to comply with a requirement imposed by section 118E above, the authority may order that person to comply with the requirement within such time and in such manner as may be specified in the order.
- (2) An application under subsection (1) above shall be made—



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- (a) in the case of a failure to comply with any of the requirements imposed by subsections (1) and (2) of section 118E above, by the occupier of the premises from which the thing in question was removed or by the person who had custody or control of it immediately before it was so removed, and
  - (b) in any other case, by the person who has such custody or control.
- (3) In this section “the appropriate judicial authority” means—
- (a) in England and Wales, a magistrates’ court;
  - (b) in Scotland, the sheriff; and
  - (c) in Northern Ireland, a court of summary jurisdiction, as defined in Article 2(2) (a) of the Magistrates’ Courts (Northern Ireland) Order 1981.
- (4) Any application for an order under this section—
- (a) in England and Wales, shall be made by way of complaint; or
  - (b) in Northern Ireland, shall be made by way of civil proceedings on complaint.
- (5) Sections 21 and 42(2) of the Interpretation Act (Northern Ireland) 1954 (rules and orders regulating procedure of courts etc and assignment of business to particular courts) shall apply as if any reference in those provisions to any enactment included a reference to this section.

**Textual Amendments**

**F326** Pt. IXA (ss. 118A-118G) inserted (25.7.1991) by [Finance Act 1991 \(c. 31\), s. 12, Sch. 5](#)

**<sup>F327</sup>118G Offences under Part IXA.**

If any person fails to comply with any requirement imposed under section 118A(1) or section 118B above, he shall be liable on summary conviction to a penalty of any amount not exceeding level 5 on the standard scale.

**Textual Amendments**

**F327** Pt. IXA (ss. 118A-118G) inserted (25.7.1991) by [Finance Act 1991 \(c. 31\), s. 12, Sch.5](#)

**PART X**

DUTIES AND DRAWBACKS—GENERAL PROVISIONS

*General provisions relating to imported goods*

**119 Delivery of imported goods on giving of security for duty.**

- (1) Where it is impracticable immediately to ascertain whether any or what duty is payable in respect of any imported goods which are entered for home use [<sup>F328</sup>or for free circulation], whether on importation or from warehouse [<sup>F329</sup>or free zone], the Commissioners may, if they think fit and notwithstanding any other provision of the Customs and Excise Act 1979, allow those goods to be delivered upon the importer

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giving security by deposit of money or otherwise to their satisfaction for payment of any amount unpaid which may be payable by way of duty.

- [<sup>F330</sup>(2) The Commissioners may for the purposes of subsection (1) above treat goods as entered for home use notwithstanding that the entry does not contain all the particulars required for perfect entry if it contains as many of those particulars as are then known to the importer, and in that event the importer shall supply the remaining particulars as soon as may be to the Commissioners.]
- (3) Where goods are allowed to be delivered under this section, the Commissioners shall, when they have determined the amount of duty which in their opinion is payable, give to the importer a notice specifying that amount.
- (4) On the giving of a notice under subsection (3) above the amount specified in the notice or, where any amount has been deposited under subsection (1) above, any difference between those amounts shall forthwith be paid or repaid as the case may require.
- (5) Subject to subsection (6) below, if the importer disputes the correctness of the amount specified in a notice given to him under subsection (3) above he may at any time within 3 months of the date of the notice make such a requirement for reference to arbitration or such an application to the court as is provided for by section 127 below, and that section shall have effect accordingly.
- (6) No requirement or application shall be made by virtue of subsection (5) above until any sum falling to be paid by the importer under subsection (4) above has been paid, and where any sum so falls to be paid no interest shall be paid under section 127(2) below in respect of any period before that sum is paid.

#### Textual Amendments

**F328** Words inserted by [Finance Act 1981 \(c. 35, SIF 40:1\)](#), s. 10(1), [Sch. 6 para. 8](#)

**F329** Words inserted by [Finance Act 1984 \(c. 43, SIF 40:1\)](#), s. 8, [Sch. 4 Pt. II para. 4](#)

**F330** [S. 119\(2\)](#) repealed (*prosp.*) by [Finance Act 1981 \(c. 35, SIF 40:1\)](#), s. 139(6), [Sch. 19 Pt. I](#)

## 120 Regulations for determining origin of goods.

- (1) The Secretary of State may by regulations make provision for determining, for the purposes of any duty of customs or excise, the origin of any goods in cases where it does not fall to be determined under a Community regulation or any Act or other instrument having the force of law.
- (2) Regulations under this section may—
- make provision as to the evidence which is to be required or is to be sufficient for the purpose of showing that goods are of a particular origin; and
  - make different provision for different purposes and in relation to goods of different descriptions.
- (3) Subject to the provisions of any regulations under this section, where in connection with a duty of customs or excise chargeable on any goods any question arises as to the origin of the goods, the Commissioners may require the importer of the goods to furnish to them, in such form as they may prescribe, proof of any statement made to them as to any fact necessary to determine that question; and if such proof is not furnished to their satisfaction, the question may be determined without regard to that statement.

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**121 Power to impose restrictions where duty depends on certain matters other than use.**

Where any question as to the duties of customs or excise chargeable on any imported goods depends on any matter (other than the use to be made of the goods) not reasonably ascertainable from an examination of the goods, and that question is not in law conclusively determined by the production of any certificate or other document, then, on the importation of those goods, the Commissioners may impose such conditions as they see fit for the prevention of abuse or the protection of the revenue (including conditions requiring security for the observance of any conditions so imposed).

**122 Regulations where customs duty depends on use.**

- (1) The Commissioners may, in accordance with subsection (2) below, make regulations applying in cases where any question as to the duties of customs chargeable on any goods depends on the use to be made of them.
- (2) In cases in which a Community instrument makes provision for the purpose of securing that the relevant use is made of the goods, regulations under this section may make provision for any matter which under the instrument is required or authorised to be dealt with by the authorities of member States or which otherwise arises out of the instrument; and in other cases regulations under this section may make such provision for that purpose as appears to the Commissioners to be necessary or expedient.

**123 Repayment of duty where goods returned or destroyed by importer.**

- (1) Subject to such conditions as the Commissioners see fit to impose, where it is shown to the satisfaction of the Commissioners—
  - (a) that goods were imported in pursuance of a contract of sale and that the description, quality, state or condition of the goods was not in accordance with the contract or that the goods were damaged in transit; and
  - (b) that the importer with the consent of the seller either—
    - (i) returned the goods unused to the seller and for that purpose complied with the provisions of section 53 above as to entry in like manner as if they had been dutiable or restricted goods for the purposes of Part V of this Act; or
    - (ii) destroyed the goods unused,

the importer shall be entitled to obtain from the Commissioners repayment of any [<sup>F331</sup>excise duty] paid on the importation of the goods.
- (2) Nothing in this section shall apply to goods imported on approval, or on sale or return, or on other similar terms.

**Textual Amendments**

**F331** Words substituted by [S.I. 1980/1825, reg. 2](#)

**124 Forfeiture for breach of certain conditions.**

- (1) Where—

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- (a) any imported goods have been relieved from customs or excise duty chargeable on their importation or have been charged with duty at a reduced rate; and
  - (b) any condition or other obligation required to be complied with in connection with the relief or with the charge of duty at that rate is not complied with, the goods shall be liable to forfeiture.
- (2) The provisions of this section shall apply whether or not any undertaking or security has been given for compliance with the condition or obligation or for the payment of the duty payable apart therefrom, and the forfeiture of any goods under this section shall not affect any liability of any person who has given any such undertaking or security.

## 125 Valuation of goods for purpose of ad valorem duties.

- (1) For the purposes of any duty for the time being chargeable on any imported goods by reference to their value (whether a Community customs duty or not), the value of the goods shall, subject to subsection (2) below, be taken according to the rules applicable in the case of Community customs duties, and duty shall be paid on that value.
- (2) In relation to an importation in the course of trade within the Communities the value of any imported goods for the purposes mentioned in subsection (1) above shall be determined on the basis of a delivery to the buyer at the port or place of importation into the United Kingdom.
- (3) The Commissioners may make regulations for the purpose of giving effect to the foregoing provisions of this section, and in particular for requiring any importer or other person concerned with the importation of goods—
  - (a) to furnish to the Commissioners in such form as they may require, such information as is in their opinion necessary for a proper valuation of the goods; and
  - (b) to produce any books of account or other documents of whatever nature relating to the purchase, importation or sale of the goods by that person.
- (4) If any person contravenes or fails to comply with any regulation made under subsection (3) above he shall be liable on summary conviction to a penalty of [<sup>F332</sup>level 3 on the standard scale].

### Textual Amendments

**F332** Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [ss. 38, 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), [ss. 289F, 289G](#) and (N.I.) by [S.I. 1984/703](#), (N.I. 3) arts. 5, 6

### Modifications etc. (not altering text)

**C84** [S. 125\(1\)](#) excluded (20.10.1995) by [S.I. 1995/2518](#), [reg. 118\(c\)\(ii\)](#)

**C85** [S. 125\(2\)](#) excluded (20.10.1995) by [S.I. 1995/2518](#), [reg. 118\(c\)\(ii\)](#)

**C86** [S. 125\(3\)](#) amended by [Value Added Tax Act 1983 \(c. 55, SIF 40:2\)](#), [s. 24\(2\)](#)

[S. 125\(3\)](#) modified (20.10.1995) by [S.I. 1995/2518](#), [reg. 121](#) (and (1.4.2000) by [reg. 121\(3\)](#) of that S.I. as substituted by [S.I. 2000/634](#), [reg. 6](#))

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## 126 Charge of excise duty on manufactured or composite imported articles.

- (1) Subject to subsections (2) to (4) below, if any imported goods contain as a part or ingredient thereof any article chargeable with excise duty, excise duty shall be chargeable on the goods in respect of each such article according to the quantity thereof appearing to the Commissioners to be used in the manufacture or preparation of the goods.
- (2) Where, in the opinion of the Treasury, it is necessary for the protection of the revenue, such imported goods shall be chargeable with the amount of excise duty with which they would be chargeable if they consisted wholly of the chargeable article or, if the goods contain more than one such article, of that one of the chargeable articles which will yield the highest amount of excise duty.
- (3) Schedule 2 to this Act shall have effect with respect to the excise duties to be charged, and the excise drawbacks to be allowed, on imported composite goods containing a dutiable part or ingredient and with respect to rebates and drawbacks of excise duties charged in accordance with that Schedule.
- (4) Subsections (1) and (2) above do not apply where other provision is made by any other enactment relating to excise duties on imported goods.
- (5) Any rebate which can be allowed by law on any article when separately charged shall be allowed in charging goods under subsection (1) or (2) above in respect of any quantity of that article used in the manufacture or preparation of the goods.

### Modifications etc. (not altering text)

C87 S. 126 excluded (20.10.1995) by S.I. 1995/2518, reg. 118(c)(iii)

## 127 Determination of disputes as to duties on imported goods.

- (1) If, before the delivery of any imported goods out of charge, any dispute arises as to whether any or what duty is payable on those goods, the importer shall pay the amount demanded by the proper officer but may, not later than 3 months after the date of the payment—
  - (a) if the dispute is in relation to the value of the goods, require the question to be referred to the arbitration of a referee appointed by the Lord Chancellor (not being an official of any government department), whose decision shall be final and conclusive; or
  - (b) in any other case, apply to the High Court or, in Scotland, to the Court of Session for a declaration as to the amount of duty, if any, properly payable on the goods.
- (2) If on any such reference or application the referee or court determines that a lesser or no amount was properly payable in respect of duty on the goods, the amount overpaid shall be repaid by the Commissioners, together with interest thereon from the date of the overpayment at such rate as the referee or court may determine; and any sum so repaid shall be accepted by the importer in satisfaction of all claims in respect of the importation of the goods in question and the duty payable thereon and of all damages and expenses incidental to the dispute other than the costs of the proceedings.
- (3) The procedure on any reference to a referee under this section shall be such as may be determined by the referee.

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

- C88** S. 127 modified by S.I. 1983/947, **regs. 12, 13** (which S.I. is revoked 1.1.1993 by S.I. 1992/3152, **reg. 1(2)**)
- C89** S. 127 amended by S.I. 1985/1032, **reg. 11(a)** (which S.I. is revoked 1.1.1993 by S.I. 1992/3152, **reg. 1(2)**)
- C90** S. 127 amended (1.1.1993) by S.I. 1992/3152, **reg. 11(a)**.

### <sup>F333</sup> *Deferred payment of excise duty on goods*

#### Textual Amendments

- F333** S. 127A inserted by Finance Act 1983 (c. 28, SIF 40:1), s. 6

#### **127A Deferred payment of excise duty on goods.**

- (1) The Commissioners may by regulations make provision for the payment [<sup>F334</sup>(in accordance, where any requirement to pay the duty takes effect, with that requirement)] of any excise duty on goods of a prescribed kind to be deferred, in prescribed cases, subject to such conditions or requirements as may be imposed—
- (a) by the regulations; or
  - (b) where the regulations so provide, by the Commissioners.
- (2) Any duty payment of which is deferred under the regulations shall be treated, for prescribed purposes, as if it had been paid.
- (3) Where—
- (a) any excise duty to which an application for deferment of duty made under the regulations relates is payable on goods on their removal from an excise warehouse; and
  - (b) the Commissioners are not satisfied—
    - (i) that the conditions imposed under section 92(1) above in relation to the warehouse have been complied with by the occupier of the warehouse; or
    - (ii) that the warehousing regulations made by virtue of section 93(2)(g) above have been complied with by the occupier or by the proprietor of the goods;the Commissioners may, notwithstanding any provision of the regulations, refuse the application or refuse it in so far as it relates to those goods.
- Nothing in this subsection shall be taken to prejudice the power of the Commissioners to prescribe the cases in which excise duty may be deferred.
- (4) Regulations under this section may make different provision for goods of different descriptions or for goods of the same description in different circumstances.
- (5) In this section “prescribed” means prescribed by regulations made under this section.]



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#### Textual Amendments

**F334** Words in s. 127A(1) inserted (1.12.1992 in so far as mentioned in S.I. 1992/2979, art. 4 and 1.1.1993 in so far as then not already in force) by Finance (No. 2) Act 1992 (c. 48), s. 1(5), Sch. 1 para.7; S.I. 1992/2979, art. 4, Sch. Pt.II; S.I. 1992/3261, art. 3,Sch.

### *General provisions relating to charge of duty on and delivery of goods*

#### 128 Restriction of delivery of goods.

- (1) During any period not exceeding 3 months specified at any time by order of the Commissioners for the purposes of this section, the Commissioners may refuse to allow the removal for home use on payment of duty, or the sending out for home use after the charging of duty, of goods of any class or description chargeable with a duty of <sup>F335</sup>excise, notwithstanding payment of that duty, in quantities exceeding those which appear to the Commissioners to be reasonable in the circumstances.
- (2) Where the Commissioners have during any such period exercised their powers under this section with respect to goods of any class or description, then, in the case of any such goods which are removed or sent out for home use after the end of that period, the duties of <sup>F335</sup>excise and the rates thereof chargeable on those goods shall, notwithstanding any other provision of the customs and excise Acts relating to the determination of those duties and rates, be those in force at the date of the removal or sending out of the goods.

#### Textual Amendments

**F335** Words repealed by Finance Act 1981 (c. 35, SIF 40:1), ss. 10(1), 139(6), Sch. 6 para. 9, Sch. 19 Pt. I

#### 129 Power to remit or repay duty on denatured goods.

- (1) Subject to subsection (2) below, where any goods—
  - (a) which have been imported but not yet cleared for any purpose for which they may be entered on importation; or
  - (b) which are [<sup>F336</sup>chargeable with a duty the requirement to pay which has not yet taken effect],

have by reason of their state or condition ceased to be worth the full duty chargeable thereon and have been denatured in such manner as the Commissioners may direct and in accordance with such conditions as they see fit to impose, the Commissioners may remit or repay the whole or part of any duty chargeable or paid thereon, or waive repayment of the whole or part of any drawback paid on their warehousing, upon the delivery of the goods for use for such purposes as the Commissioners may allow.

[<sup>F337</sup>(1A) The reference in subsection (1) above to goods which are chargeable with a duty the requirement to pay which has not yet taken effect shall be construed as a reference to any goods which are warehoused or, in the application of that section in relation to a duty of excise, to any goods at a time, before the excise duty point for those goods, when they are chargeable with such a duty.]

- (2) Subsection (1) above does not apply in relation to spirits.



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- (3) Where, whether under subsection (1) above or otherwise, any goods chargeable with duty have gone into home use after having been denatured by mixture with some other substance, any person who separates the goods from that other substance shall be guilty of an offence under this subsection and may be detained, and the goods shall be liable to forfeiture.
- (4) A person guilty of an offence under subsection (3) above shall be liable—
- (a) on summary conviction, to a penalty of the prescribed sum or of three times the value of the goods, whichever is the greater, or to imprisonment for a term not exceeding 6 months, or to both; or
  - (b) on conviction on indictment, to a penalty of any amount, or to imprisonment for a term not exceeding 2 years, or to both.

[<sup>F338</sup>(5) Subsection (1)(a) above shall not apply in relation to goods imported on or after 1st January 1992 from a place outside the customs territory of the Community.]

#### Textual Amendments

**F336** Words in s. 129(1)(b) substituted (9.12.1992) by Finance (No. 2) Act 1992 (c. 48), s. 3(1), **Sch. 2 para. 6(a)**; S.I. 1992/3104, **art. 2(1)**.

**F337** S. 129(1A) inserted (9.12.1992) by Finance (No. 2) Act 1992 (c. 48), s. 3(1), **Sch. 2 para. 6(b)**; S.I. 1992/3104, **art. 2(1)**.

**F338** S. 129(5) inserted (01.01.1992) by S.I. 1991/2724, **reg. 6(10)**

### 130 Power to remit or repay duty on goods lost or destroyed, etc.

- (1) Where it is shown to the satisfaction of the Commissioners that any goods chargeable with any duty have been lost or destroyed by unavoidable accident—
- (a) after importation but before clearance for any purpose for which they might be entered on importation; or
  - (b) in the case of goods chargeable with a duty of excise on their manufacture or production or on their removal from the place of their manufacture or production, at any time before their removal from that place; or
  - (c) while in a warehouse or Queen's warehouse; or
  - (d) at any time while that duty is otherwise lawfully unpaid, except when payment of that duty has become due but has been allowed by the Commissioners to be deferred; or
  - (e) at any time after drawback of that duty has been paid,
- the Commissioners may remit or repay any duty chargeable or paid thereon or waive repayment of any drawback paid on their warehousing.
- (2) The Commissioners may, at the request of the proprietor of the goods in question and subject to compliance with such conditions as the Commissioners see fit to impose, permit the destruction of, and waive payment of duty or repayment of drawback on—
- (a) any part of any warehoused goods which becomes damaged or surplus by reason of the carrying out of any permitted operation on those goods in warehouse, and any refuse resulting from any such operation; and
  - (b) any imported goods not yet cleared for any purpose for which they might be entered on importation or any warehoused goods, being in either case goods

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which have by reason of their state or condition ceased to be worth the full duty chargeable thereon.

### **131 Enforcement of bond in respect of goods removed without payment of duty.**

If any goods which have been lawfully permitted to be removed for any purpose without payment of duty are unlawfully taken from any ship, aircraft, vehicle or place before that purpose is accomplished, the Commissioners may if they see fit enforce any bond given in respect thereof notwithstanding that any time prescribed in the bond for accomplishing that purpose has not expired.

*Drawback, allowances, duties, etc.—general*

### **132 Extension of drawback.**

- (1) Without prejudice to any other provision of the Customs and Excise Acts 1979 or any other Act, where drawback is allowable on the shipment of any goods as stores, the like drawback shall, subject to such conditions and restrictions as the Commissioners see fit to impose, be allowed on the warehousing in an excise warehouse of those goods for use as stores.
- (2) Without prejudice to any other provision of the Customs and Excise Acts 1979 or any other Act, where drawback would be payable on the exportation of any goods, or on the warehousing of any goods for exportation, then, subject to such conditions and restrictions as the Commissioners see fit, the like drawback shall be payable on the shipment of any such goods as stores or, as the case may be, on their warehousing in an excise warehouse for use as stores.

### **133 General provisions as to claims for drawback.**

- (1) Any claim for drawback shall be made in such form and manner and contain such particulars as the Commissioners may direct.
- (2) Where drawback has been claimed in the case of any goods subsections (3) to (6) below shall apply in relation to the claim.
- (3) No drawback shall be payable unless it is shown to the satisfaction of the Commissioners that duty in respect of the goods or of the article contained therein or used in the manufacture or preparation thereof in respect of which the claim is made has been duly paid and has not been drawn back.
- (4) No drawback shall be paid until the person entitled thereto or his agent has made a declaration in such form and manner and containing such particulars as the Commissioners may direct that the conditions on which the drawback is payable have been fulfilled.
- (5) The Commissioners may require any person who has been concerned at any stage with the goods or article—
  - (a) to furnish such information as may be reasonably necessary to enable the Commissioners to determine whether duty has been duly paid and not drawn back and for enabling a calculation to be made of the amount of drawback payable; and

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- (b) to produce any book of account or other document of whatever nature relating to the goods or article.
- (6) If any person fails to comply with any requirement made under subsection (5) above, he shall be liable on summary conviction to a penalty of [<sup>F339</sup>level 3 on the standard scale].

#### Textual Amendments

**F339** Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), ss. 38, 46 and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), ss. 289F, 289G and (N.I.) by S.I. 1984/703, (N.I. 3) arts. 5, 6

### 134 Drawback and allowance on goods damaged or destroyed after shipment.

- (1) Where it is proved to the satisfaction of the Commissioners that any goods after being duly shipped for exportation have been destroyed by accident on board the exporting ship or aircraft, any amount payable in respect of the goods by way of drawback, allowance or repayment of duty shall be payable in the same manner as if the goods had been exported to their destination.
- (2) Where it is proved to the satisfaction of the Commissioners that any goods, after being duly shipped for exportation, have been materially damaged by accident on board the exporting ship or aircraft, and the goods are with the consent of and in accordance with any conditions imposed by the Commissioners reloaded or unloaded again in or brought back into the United Kingdom and either abandoned to the Commissioners or destroyed, any amount payable in respect of the goods by way of drawback, allowance or repayment of duty shall be paid as if they had been duly exported and not so reloaded, unloaded or brought back.
- (3) Notwithstanding any provision of the Customs and Excise Acts 1979 or any other Act relating to the reimportation of exported goods, the person to whom any amount is payable or has been paid under subsection (2) above shall not be required to pay any duty in respect of any goods reloaded, unloaded or brought back under that subsection.

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

**C91** S. 134 amended by S.I. 1990/2167, art. 4, Sch. para. 20

### 135 Time limit on payment of drawback or allowance.

No payment shall be made in respect of any drawback or allowance unless the debenture or other document authorising payment is presented for payment within 2 years from the date of the event on the happening of which the drawback or allowance became payable.

### 136 Offences in connection with claims for drawback, etc.

- [<sup>F340</sup>(1) If any person, with intent to defraud Her Majesty, obtains or attempts to obtain, or does anything whereby there might be obtained by any person, any amount by way

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of drawback, allowance, remission or repayment of, or any rebate from, any duty in respect of any goods which—

- (a) is not lawfully payable or allowable in respect thereof; or
- (b) is greater than the amount so payable or allowable,

he shall be guilty of an offence under this subsection.

(1A) If any person, without such intent as is mentioned in subsection (1) above, does any of the things there mentioned, he shall be guilty of an offence under this subsection.

(2) A person guilty of an offence under subsection (1) above shall be liable—

- (a) on summary conviction, to a penalty of the prescribed sum or of three times the value of the goods, whichever is the greater, or to imprisonment for a term not exceeding 6 months, or to both; or
- (b) on conviction on indictment, to a penalty of any amount, or to imprisonment for a term not exceeding 7 years, or to both;

and a person guilty of an offence under subsection (1A) above shall be liable on summary conviction to a penalty of level 3 on the standard scale or three times the amount which was or might have been improperly obtained or allowed, whichever is the greater.]

(3) Any goods in respect of which an offence under subsection (1) [<sup>F341</sup>or (1A)] above is committed shall be liable to forfeiture; but in the case of a claim for drawback, the Commissioners may, if they see fit, instead of seizing the goods either refuse to allow any drawback thereon or allow only such drawback as they consider proper.

(4) Without prejudice to the foregoing provisions of this section, if, in the case of any goods upon which a claim for drawback, allowance, remission or repayment of duty has been made, it is found that those goods do not correspond with any entry made thereof in connection with that claim, the goods shall be liable to forfeiture and any person by whom any such entry or claim was made shall be liable on summary conviction to a penalty of three times the amount claimed or [<sup>F342</sup>level 3 on the standard scale], whichever is the greater.

(5) Subsection (4) above applies in the case of any goods upon which a claim for drawback, allowance, remission or repayment of duty has been made where it is found that the goods, if sold for home use, would realise less than the amount claimed as it applies where the finding specified in that subsection is made except that it does not apply by virtue of this subsection to any claim under—

- (a) section 123 or 134(2) above; or
- (b) section 46, 61 or 64 of the <sup>M30</sup>Alcoholic Liquor Duties Act 1979 (remission or repayment of duty on certain spoilt liquors).

[<sup>F343</sup>(6) Without prejudice to section 6(5) of the European Communities Act 1972 (which provides for the application of certain enactments, including this section, if the Commissioners are charged with the performance on behalf of the Intervention Board for Agricultural Produce, of certain duties in relation to the payment of refunds or allowances on goods exported or to be exported from the United Kingdom)—

- (a) references in this section to amounts by way of drawback include amounts payable by the Intervention Board for Agricultural Produce by virtue of Community arrangements to which section 6(3) of that Act applies; and
- (b) in relation to such amounts, subsection (3) above shall have effect with the omission of the words from “but in the case” onwards.]

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#### Textual Amendments

**F340** S. 136(1)(1A)(2) substituted for s. 136(1)(2) by Finance Act 1988 (c. 39, SIF 40:1), s. 12(3)(6)

**F341** Words inserted by Finance Act 1988 (c. 39, SIF 40:1), s. 12(3)(6)

**F342** Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), ss. 38, 46 and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), ss. 289F, 289G and (N.I.) by S.I. 1984/703, (N.I. 3) arts. 5, 6

**F343** S. 136(6) inserted by Finance Act 1982 (c. 39, SIF 40:1), s. 11(3)

#### Marginal Citations

**M30** 1979 c. 4

### 137 Recovery of duties and calculation of duties, drawbacks, etc.

- (1) Without prejudice to any other provision of the Customs and Excise Acts 1979, any amount due by way of customs or excise duty may be recovered as a debt due to the Crown.
- (2) Any duty, drawback, allowance or rebate the rate of which is expressed by reference to a specified quantity or weight of any goods shall, subject to subsection (3) below, be chargeable or allowable on any fraction of that quantity or weight of the goods, and the amount payable or allowable on any such fraction shall be calculated proportionately.
- (3) The Commissioners may for the purposes of subsection (2) above determine the fractions to be taken into account in the case of any weight or quantity.
- (4) For the purpose of calculating any amount due from or to any person under the customs and excise Acts by way of duty, drawback, allowance, repayment or rebate any fraction of a penny in that amount shall be disregarded.

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

**C92** S. 137(1) modified (19.3.1997) by 1997 c. 16, ss. 12(6)(c), 15

VALID FROM 01/12/1995

#### <sup>F344</sup> 137A Recovery of overpaid excise duty.

- (1) Where a person pays to the Commissioners an amount by way of excise duty which is not due to them, the Commissioners are liable to repay that amount.
- (2) The Commissioners shall not be required to make any such repayment unless a claim is made to them in such form, and supported by such documentary evidence, as may be prescribed by them by regulations; and regulations under this subsection may make different provision for different cases.
- (3) It is a defence to a claim for repayment that the repayment would unjustly enrich the claimant.
- (4) No claim for repayment may be made after the expiry of the period of six years beginning with the date of the payment or, if later, the date on which the claimant

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(or, where the right to repayment has been assigned or otherwise transmitted, any predecessor in title of his) discovered, or could with reasonable diligence have discovered, that the amount was not due.

- (5) Except as provided by this section the Commissioners are not liable to repay an amount paid to them by way of excise duty by reason of the fact that it was not due to them.]

#### Textual Amendments

**F344** S. 137A inserted (1.12.1995) by 1995 c. 4, s. 20(1)(5); S.I. 1995/2892, art. 2

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

**C93** S. 137A modified (19.3.1997) by 1997 c. 16, ss. 12(6), 15

power to modify conferred (19.3.1997) by 1997 c. 16, s. 50(1), Sch. 5 Pt. I para. 3

**C94** S. 137(3) amended (19.3.1997) by 1997 c. 16, s. 50(1), Sch. 5 Pt. I para. 1(a)

## PART XI

### DETENTION OF PERSONS, FORFEITURE AND LEGAL PROCEEDINGS

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

**C95** Pt. XI amended by Customs and Excise Duties (General Reliefs) Act 1979 (c. 3), s. 15(4)

#### *Detention of persons*

### 138 Provisions as to detention of persons.

- (1) Any person who has committed, or whom there are reasonable grounds to suspect of having committed, any offence for which he is liable to be detained under the customs and excise Acts may be detained by any officer <sup>F345</sup> or any member of Her Majesty's armed forces or coastguard at any time within [<sup>F346</sup>20 years] from the date of the commission of the offence.
- (2) Where it was not practicable to detain any person so liable at the time of the commission of the offence, or where any such person having been then or subsequently detained for that offence has escaped, he may be detained by any officer <sup>F345</sup> or any member of Her Majesty's armed forces or coastguard at any time and may be proceeded against in like manner as if the offence had been committed at the date when he was finally detained.
- (3) Where any person who is a member of the crew of any ship in Her Majesty's employment or service is detained by an officer for an offence under the customs and excise Acts, the commanding officer of the ship shall, if so required by the detaining officer, keep that person secured on board that ship until he can be brought before a court and shall then deliver him up to the proper officer.

- [<sup>F347</sup>(4) Where any person has been arrested by a person who is not an officer—
- (a) by virtue of this section; or

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- (b) by virtue of section 24 of the Police and Criminal Evidence Act 1984 in its application to offences under the customs and excise Acts, [<sup>F348</sup>or
- (c) by virtue of Article 26 of the Police and Criminal Evidence (Northern Ireland) Order 1989 in its application to such offences,]

the person arresting him shall give notice of the arrest to an officer at the nearest convenient office of customs and excise.]

#### Textual Amendments

**F345** Words repealed by [Police and Criminal Evidence Act 1984 \(c. 60, SIF 95\)](#), s. 119, [Sch. 7 Pt. I](#) and by [S.I. 1989/1341 \(N.I. 12\)](#), art. 90(2)(3), [Sch. 7 Pt. I](#)

**F346** Words substituted by [Finance Act 1988 \(c. 39, SIF 40:1\)](#), s. 11(1)(3)

**F347** S. 138(4) substituted by [Police and Criminal Evidence Act 1984 \(c. 60, SIF 95\)](#), s. 119(1), [Sch. 6 para. 37](#)

**F348** Words added by [S.I. 1989/1341 \(N.I. 12\)](#), art. 90(1), [Sch. 6 para. 9](#)

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

**C96** S. 138 amended (2.8.1993) by [S.I. 1993/1813](#), art. 6, [Sch. 3 para. 2\(1\)\(a\)\(2\)\(c\)](#); s. 138 amended by the said [S.I. 1993/1813](#), art. 6, [Sch. 3 para. 2](#) as incorporated (with modifications) (1.12.1997) by [S.I. 1994/1405](#), art. 6, [Sch. 3 para. 3](#)

S. 138 applied (1.3.1995) by [S.I. 1995/271](#), [reg. 12\(1\)](#)

S. 138 applied (15.11.1996) by [S.I. 1996/2721](#), [reg. 12\(1\)](#)

S. 138 applied (with modifications) (15.7.1998) by [S.I. 1998/1531](#), [reg. 4\(3\)](#)

S. 138 applied (1.5.1999) by [S.I. 1999/1261](#), [reg. 4\(3\)](#)

S. 138 applied (14.10.1999) by [S.I. 1999/2821](#), [reg. 4\(3\)](#)

S. 138 applied (14.10.1999) by [S.I. 1999/2822](#), [reg. 4\(3\)](#)

S. 138 applied (25.5.2000) by [S.I. 2000/1408](#), [reg. 3\(3\)](#)

S. 138 applied (28.9.2000) by [S.I. 2000/2620](#), [reg. 12\(1\)](#)

S. 138 applied (31.3.2002) by [S.I. 2002/868](#), [reg. 4\(3\)](#)

### Forfeiture

#### 139 Provisions as to detention, seizure and condemnation of goods, etc.

- (1) Any thing liable to forfeiture under the customs and excise Acts may be seized or detained by any officer or constable or any member of Her Majesty's armed forces or coastguard.
- (2) Where any thing is seized or detained as liable to forfeiture under the customs and excise Acts by a person other than an officer, that person shall, subject to subsection (3) below, either—
  - (a) deliver that thing to the nearest convenient office of customs and excise; or
  - (b) if such delivery is not practicable, give to the Commissioners at the nearest convenient office of customs and excise notice in writing of the seizure or detention with full particulars of the thing seized or detained.
- (3) Where the person seizing or detaining any thing as liable to forfeiture under the customs and excise Acts is a constable and that thing is or may be required for use in connection with any proceedings to be brought otherwise than under those Acts it may, subject to subsection (4) below, be retained in the custody of the police until



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either those proceedings are completed or it is decided that no such proceedings shall be brought.

- (4) The following provisions apply in relation to things retained in the custody of the police by virtue of subsection (3) above, that is to say—
- (a) notice in writing of the seizure or detention and of the intention to retain the thing in question in the custody of the police, together with full particulars as to that thing, shall be given to the Commissioners at the nearest convenient office of customs and excise;
  - (b) any officer shall be permitted to examine that thing and take account thereof at any time while it remains in the custody of the police;
  - (c) nothing in the <sup>M31</sup>Police (Property) Act 1897 shall apply in relation to that thing.
- (5) Subject to subsections (3) and (4) above and to Schedule 3 to this Act, any thing seized or detained under the customs and excise Acts shall, pending the determination as to its forfeiture or disposal, be dealt with, and, if condemned or deemed to have been condemned or forfeited, shall be disposed of in such manner as the Commissioners may direct.
- (6) Schedule 3 to this Act shall have effect for the purpose of forfeitures, and of proceedings for the condemnation of any thing as being forfeited, under the customs and excise Acts.
- (7) If any person, not being an officer, by whom any thing is seized or detained or who has custody thereof after its seizure or detention, fails to comply with any requirement of this section or with any direction of the Commissioners given thereunder, he shall be liable on summary conviction to a penalty of [<sup>F349</sup>level 2 on the standard scale].
- (8) Subsections (2) to (7) above shall apply in relation to any dutiable goods seized or detained by any person other than an officer notwithstanding that they were not so seized as liable to forfeiture under the customs and excise Acts.

#### Textual Amendments

**F349** Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\), s. 289G](#) and (N.I.) by [S.I. 1984/703, \(N.I. 3\) art. 5](#)

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

**C97** [S. 139](#) extended by [S.I. 1987/1521, reg. 3\(2\)](#); 1987/2105, reg. 5(1); 1988/1476, art. 5(1)

**C98** [S. 139](#) extended (E.W.S.) by [Scotch Whisky Act 1988 \(c. 22, SIF 109:1\), s. 1\(4\)](#)

**C99** [S. 139](#) amended by [S.I. 1988/1852 \(N.I. 19\), art. 4\(2\)](#)

**C100** [S. 139](#) extended (01.01.1992) by [S.I. 1991/2724, reg. 10\(1\)](#)  
[S. 139](#) extended (01.01.1992) by [S.I. 1991/2725, reg. 6\(1\)](#)

**C101** [S. 139](#) extended (01.01.1992) by [S.I. 1991/2727, reg. 7\(1\)](#)

**C102** [S. 139](#) applied (23.6.1993) by [S.I. 1993/1353, reg. 4\(1\)](#)  
[S. 139](#) applied (1.7.1995) (with modifications) by [S.I. 1995/1447, reg. 4\(1\)](#)

#### Marginal Citations

**M31** 1897 c. 30.

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## 140 Forfeiture of spirits.

Where, by any provision of, or of any instrument made under, the Customs and Excise Acts 1979, any spirits become liable to forfeiture by reason of some offence committed by a revenue trader, then—

- (a) where that provision specifies the quantity of those spirits but does not specify the spirits so liable, the Commissioners may seize the equivalent of that quantity<sup>F350</sup> from any spirits in the stock of that trader; and
- (b) where that provision specifies the spirits so liable the Commissioners may, if they think fit, seize instead of the spirits so specified an equivalent quantity<sup>F350</sup> of any other spirits in the stock of that trader.

### Textual Amendments

**F350** Words repealed by S.I. 1979/241, arts. 39, 41

## 141 Forfeiture of ships, etc. used in connection with goods liable to forfeiture.

- (1) Without prejudice to any other provision of the Customs and Excise Acts 1979, where any thing has become liable to forfeiture under the customs and excise Acts—
  - (a) any ship, aircraft, vehicle, animal, container (including any article of passengers' baggage) or other thing whatsoever which has been used for the carriage, handling, deposit or concealment of the thing so liable to forfeiture, either at a time when it was so liable or for the purposes of the commission of the offence for which it later became so liable; and
  - (b) any other thing mixed, packed or found with the thing so liable, shall also be liable to forfeiture.
- (2) Where any ship, aircraft, vehicle or animal has become liable to forfeiture under the customs and excise Acts, whether by virtue of subsection (1) above or otherwise, all tackle, apparel or furniture thereof shall also be liable to forfeiture.
- (3) Where any of the following, that is to say—
  - (a) any ship not exceeding 100 tons register;
  - (b) any aircraft; or
  - (c) any hovercraft,

becomes liable to forfeiture under this section by reason of having been used in the importation, exportation or carriage of goods contrary to or for the purpose of contravening any prohibition or restriction for the time being in force with respect to those goods, or without payment having been made of, or security given for, any duty payable thereon, the owner and the master or commander shall each be liable on summary conviction to a penalty equal to the value of the ship, aircraft or hovercraft or [<sup>F351</sup>level 5 on the standard scale], whichever is the less.

### Textual Amendments

**F351** Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), ss. 38, 46 and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), ss. 289F, 289G and (N.I.) by S.I. 1984/703, (N.I. 3) arts. 5, 6

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

**C103** S. 141 amended by S.I. 1988/1852 (N.I. 19), **art. 4(2)**

**C104** S. 141 extended (E.W.S.) by Scotch Whisky Act 1988 (c. 22, SIF 109:1), **s. 1(4)**

**C105** S. 141(3) amended by S.I. 1990/2167, art. 4, **Sch. para. 21**

**142 Special provision as to forfeiture of larger ships.**

- (1) Notwithstanding any other provision of the Customs and Excise Acts 1979, a ship of 250 or more tons register shall not be liable to forfeiture under or by virtue of any provision of the Customs and Excise Acts 1979, except under section 88 above, unless the offence in respect of or in connection with which the forfeiture is claimed—
- (a) was substantially the object of the voyage during which the offence was committed; or
  - (b) was committed while the ship was under chase by a vessel in the service of Her Majesty after failing to bring to when properly summoned to do so by that vessel.
- (2) For the purposes of this section, a ship shall be deemed to have been properly summoned to bring to—
- (a) if the vessel making the summons did so by means of an international signal code or other recognised means and while flying her proper ensign; and
  - (b) in the case of a ship which is not a British ship, if at the time when the summons was made the ship was [<sup>F352</sup>in United Kingdom waters].
- (3) For the purposes of this section, all hovercraft (of whatever size) shall be treated as ships of less than 250 tons register.
- (4) The exemption from forfeiture of any ship under this section shall not affect any liability to forfeiture of goods carried therein.

**Textual Amendments**

**F352** Words substituted by **Territorial Sea Act 1987 (c. 49, SIF 29:1), s. 3 para. 4(3)(d)**

**143 Penalty in lieu of forfeiture of larger ship where responsible officer implicated in offence.**

- (1) Where any ship of 250 or more tons register would, but for section 142 above, be liable to forfeiture for or in connection with any offence under the customs and excise Acts and, in the opinion of the Commissioners, a responsible officer of the ship is implicated either by his own act or by neglect in that offence, the Commissioners may fine that ship such sum not exceeding £50 as they see fit.
- (2) For the purposes of this section, all hovercraft (of whatever size) shall be treated as ships of less than 250 tons register.
- (3) Where any ship is liable to a fine under subsection (1) above but the Commissioners consider that fine an inadequate penalty for the offence, they may take proceedings in accordance with Schedule 3 to this Act, in like manner as they might but for section 142 above have taken proceedings for the condemnation of the ship if notice of claim had been given in respect thereof, for the condemnation of the ship in such sum not exceeding £500 as the court may see fit.

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- (4) Where any fine is to be imposed or any proceedings are to be taken under this section, the Commissioners may require such sum as they see fit, not exceeding £50 or, as the case may be, £500, to be deposited with them to await their final decision or, as the case may be, the decision of the court, and may detain the ship until that sum has been so deposited.
- (5) No claim shall lie against the Commissioners for damages in respect of the payment of any deposit or the detention of any ship under this section.
- (6) For the purposes of this section—
  - (a) “responsible officer”, in relation to any ship, means the master, a mate or an engineer of the ship and, in the case of a ship carrying a passenger certificate, the purser or chief steward and, in the case of a ship manned wholly or partly by Asiatic seamen, the serang or other leading Asiatic officer of the ship;
  - (b) without prejudice to any other grounds upon which a responsible officer of any ship may be held to be implicated by neglect, he may be so held if goods not owned to by any member of the crew are discovered in a place under that officer’s supervision in which they could not reasonably have been put if he had exercised proper care at the time of the loading of the ship or subsequently.

#### **144 Protection of officers, etc. in relation to seizure and detention of goods, etc.**

- (1) Where, in any proceedings for the condemnation of any thing seized as liable to forfeiture under the customs and excise Acts, judgment is given for the claimant, the court may, if it sees fit, certify that there were reasonable grounds for the seizure.
- (2) Where any proceedings, whether civil or criminal, are brought against the Commissioners, a law officer of the Crown or any person authorised by or under the Customs and Excise Acts 1979 to seize or detain any thing liable to forfeiture under the customs and excise Acts on account of the seizure or detention of any thing, and judgment is given for the plaintiff or prosecutor, then if either—
  - (a) a certificate relating to the seizure has been granted under subsection (1) above; or
  - (b) the court is satisfied that there were reasonable grounds for seizing or detaining that thing under the customs and excise Acts,the plaintiff or prosecutor shall not be entitled to recover any damages or costs and the defendant shall not be liable to any punishment.
- (3) Nothing in subsection (2) above shall effect any right of any person to the return of the thing seized or detained or to compensation in respect of any damage to the thing or in respect of the destruction thereof.
- (4) Any certificate under subsection (1) above may be proved by the production of either the original certificate or a certified copy thereof purporting to be signed by an officer of the court by which it was granted.

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

**C106** S. 144 extended by S.I. 1987/1521, **reg. 3(2)(a)**

**C107** 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)**

**C108** Ss. 144-148, 150-155 applied (01.01.1992) by S.I. 1991/2727, **reg. 7(2)**

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- C109** Ss. 144-148, 150-155 applied (23.6.1993) by S.I. 1993/1353, **reg. 4(2)**.  
 S. 144 applied (1.7.1995) (with modifications) by S.I. 1995/1447, **reg. 4(1)(a)**  
 S. 144 applied (1.7.1999) (with modifications) by S.I. 1999/1618, **regs. 5(1)(a), 6**  
 S. 144 applied (1.7.1999) by S.I. 1999/1618, **reg. 6(4)**

### *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 except by order of the Commissioners.
- (2) Subject to the following provisions of this section, any proceedings under the customs and excise Acts instituted in a magistrates' court, and any such proceedings instituted in a court of summary jurisdiction in Northern Ireland, shall be commenced in the name of an officer.
- (3) Subsections (1) and (2) above shall not apply to proceedings on indictment in Scotland.
- (4) 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 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 by order of the Commissioners or have not been commenced in the name of an officer.

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

- C110** 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)
- C111** Ss. 145-148 applied (31.3.2002) by S.I. 2002/868, **reg. 4(4)**
- C112** S. 145(1)-(4) excluded (31.3.2002) by S.I. 2002/868, **reg. 4(5)**
- C113** 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)**
- C114** Ss. 144-148, 150-155 applied (01.01.1992) by S.I. 1991/2727, **reg. 7(2)**
- C115** Ss. 145-152 extended (27.9.1993) by 1993 c. 36, **ss. 71(7), 78(1)**.
- C116** Ss. 144-148, 150-155 applied (23.6.1993) by S.I. 1993/1353, **reg. 4(2)**.
- C117** 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**
- C118** 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)**

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- C119** 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**
- C120** 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)**

## 146 Service of process.

- (1) Any summons or other process issued anywhere in the United Kingdom for the purpose of any proceedings under the customs and excise Acts may be served on the person to whom it is addressed in any part of the United Kingdom without any further endorsement, and shall be deemed to have been duly served—
- if delivered to him personally; or
  - if left at his last known place of abode or business or, in the case of a body corporate, at their registered or principal office; or
  - if left on board any vessel or aircraft to which he may belong or have lately belonged.

- (2) Any summons, notice, order or other document issued for the purposes of any proceedings under the customs and excise Acts, or of any appeal from the decision of the court in any such proceedings, may be served by an officer.

In this subsection “appeal” includes an appeal by way of case stated.

- (3) This section shall not apply in relation to proceedings instituted in the High Court or Court of Session.

### Modifications etc. (not altering text)

- C121** 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)
- C122** Ss. 145-148 applied (31.3.2002) by S.I. 2002/868, re. 4(4)
- C123** 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)**
- C124** Ss. 144-148, 150-155 applied (01.01.1992) by S.I. 1991/2727, **reg. 7(2)**
- C125** Ss. 145-152 extended (27.9.1993) by 1993 c. 36, **ss. 71(7), 78.**
- C126** Ss. 144-148, 150-155 applied (23.6.1993) by S.I. 1993/1353, **reg. 4(2)**
- C127** Ss. 145-155 applied (3.5.1994) by 1994 c. 9, s. 64, **Sch. 7 Pt. IV para. 11**



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- 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**
- C128** 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)**
- 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)**
- S. 146 applied (1.7.1999) by S.I. 1999/1618, **regs. 5(1)(b), 6**
- 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**
- C129** S. 146 applied (1.7.1995) (with modifications) by S.I. 1995/1447, **reg. 4(1)(b)**
- C130** S. 146(1)(c) amended by S.I. 1990/2167, art. 4, **Sch. para. 22**

**[<sup>F353</sup>146A Time limits for proceedings.**

- (1) Except as otherwise provided in the customs and excise Acts, and notwithstanding anything in any other enactment, the following provisions shall apply in relation to proceedings for an offence under those Acts.
- (2) Proceedings for an indictable offence shall not be commenced after the end of the period of 20 years beginning with the day on which the offence was committed.
- (3) Proceedings for a summary offence shall not be commenced after the end of the period of 3 years beginning with that day but, subject to that, may be commenced at any time within 6 months from the date on which sufficient evidence to warrant the proceedings came to the knowledge of the prosecuting authority.
- (4) For the purposes of subsection (3) above, a certificate of the prosecuting authority as to the date on which such evidence as is there mentioned came to that authority's knowledge shall be conclusive evidence of that fact.
- (5) In the application of this section to Scotland—
  - (a) in subsection (2), “proceedings for an indictable offence” means proceedings on indictment;
  - (b) in subsection (3), “proceedings for a summary offence” means summary proceedings.
- (6) In the application of this section to Northern Ireland—
  - (a) “indictable offence” means an offence which, if committed by an adult, is punishable on conviction on indictment (whether only on conviction on indictment, or either on conviction on indictment or on summary conviction);
  - (b) “summary offence” means an offence which, if committed by an adult, is punishable only on summary conviction.
- (7) In this section, “prosecution authority” means the Commissioners and includes, in Scotland, the procurator fiscal.]



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### Textual Amendments

**F353** S. 146A inserted by [Finance Act 1989 \(c. 26, SIF 40:1\)](#), [s. 16\(1\)\(4\)](#)

### Modifications etc. (not altering text)

- C131** Ss. 145-148 applied (31.3.2002) by [S.I. 2002/868](#), [reg. 4\(4\)](#)
- C132** 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\(2\)](#)
- C133** Ss. 144-148, 150-155 applied (01.01.1992) by [S.I. 1991/2727](#), [reg. 7\(2\)](#)
- C134** Ss. 145-152 extended (27.9.1993) by [1993 c. 36](#), [ss. 71\(7\)](#), 78.
- C135** Ss. 144-148, 150-155 applied (23.6.1993) by [S.I. 1993/1353](#), [reg. 4\(2\)](#)
- C136** 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](#)  
Ss. 145-155 applied (29.4.1996) by [1996 c. 8](#), s. 60, [Sch. 5 Pt. III para. 17](#)
- C137** S. 146A excluded (1.9.1994) by [1994 c. 22](#), [ss. 47\(7\)](#), 66(1) (with s. 57(4))
- C138** 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\(4\)](#)  
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 (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. 145-148 applied (14.10.1999) by [S.I. 1999/2822](#), [reg. 4\(4\)](#)  
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](#)

## 147 Proceedings for offences.

(1)

<sup>F354</sup>(2) Where, in England or Wales, a magistrates' court has begun to inquire into an information charging a person with an offence under the customs and excise Acts as examining justices the court shall not proceed under [<sup>F355</sup>section 25(3) of the <sup>M32</sup>Magistrates' Courts Act 1980] to try the information summarily without the consent of—

- (a) the Attorney General, in a case where the proceedings were instituted by his order and in his name; or
- (b) the Commissioners, in any other case.

(3) In the case of proceedings in England or Wales, without prejudice to any right to require the statement of a case for the opinion of the High Court, the prosecutor may appeal to the Crown Court against any decision of a magistrates' court in proceedings for an offence under the customs and excise Acts.

(4) In the case of proceedings in Northern Ireland, without prejudice to any right to require the statement of a case for the opinion of the High Court, the prosecutor may appeal to the county court against any decision of a court of summary jurisdiction in proceedings for an offence under the customs and excise Acts.

(5)<sup>F356</sup>

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### Textual Amendments

**F354** S. 147(1) repealed by [Finance Act 1989 \(c. 26, SIF 40:1\)](#), ss. 16(2)(4), 187(1), [Sch. 17 Pt. I](#)

**F355** Words substituted by [Magistrates' Courts Act 1980 \(c. 43, SIF 82\)](#), s. 154, [Sch. 7 para. 176](#)

**F356** S. 147(5) repealed by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), s. 77, [Sch. 14 para. 42](#)

### Modifications etc. (not altering text)

**C139** Ss. 147, 148 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. 1987/2105, reg. 5(2) and 1988/1476, art. 5(2)

**C140** 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\(2\)](#)

**C141** Ss. 144-148, 150-155 applied (01.01.1992) by S.I. 1991/2727, [reg. 7\(2\)](#)

**C142** Ss. 145-152, extended (27.9.1993) by 1993 c. 36, [ss. 71\(7\)](#), 78.

**C143** Ss. 144-148, 150-155 applied (23.6.1993) by S.I. 1993/1353, [reg. 4\(2\)](#)

**C144** 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 [s. 57\(4\)](#))

Ss. 145-155 applied (29.4.1996) by 1996 c. 8, s. 60, [Sch. 5 Pt. III para. 17](#)

**C145** 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 (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 (with modifications) (15.7.1998) by S.I. 1998/1531, [reg. 4\(4\)\(5\)](#)

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](#)

Ss. 145-148 applied (31.3.2002) by S.I. 2002/868, [reg. 4\(4\)](#)

### Marginal Citations

**M32** [1980 c. 43](#).

## 148 Place of trial for offences.

- (1) Proceedings for an offence under the customs and excise Acts may be commenced—
- (a) in any court having jurisdiction in the place where the person charged with the offence resides or is found; or
  - (b) if any thing was detained or seized in connection with the offence, in any court having jurisdiction in the place where that thing was so detained or seized or was found or condemned as forfeited; or
  - (c) in any court having jurisdiction anywhere in that part of the United Kingdom, namely—
    - (i) England and Wales,
    - (ii) Scotland, or
    - (iii) Northern Ireland,
 in which the place where the offence was committed is situated.

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- (2) Where any such offence was committed at some place outside the area of any commission of the peace, the place of the commission of the offence shall, for the purpose of the jurisdiction of any court, be deemed to be any place in the United Kingdom where the offender is found or to which he is first brought after the commission of the offence.
- (3) The jurisdiction under subsection (2) above shall be in addition to and not in derogation of any jurisdiction or power of any court under any other enactment.

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

- C146** Ss. 147, 148 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. 1987/2105, reg. 5(2) and 1988/1476, art. 5(2)
- C147** 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\(2\)](#)
- C148** Ss. 144-148, 150-155 applied (01.01.1992) by S.I. 1991/2727, [reg. 7\(2\)](#)
- C149** Ss. 145-52 extended (27.9.1993) by [1993 c. 36, ss. 71\(7\)](#), 78.
- C150** Ss. 144-148, 150-155 applied (23.6.1993) by S.I. 1993/1353, [reg. 4\(2\)](#)
- C151** 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](#)  
Ss. 145-155 applied (29.4.1996) by [1996 c. 8, s. 60, Sch. 5 Pt. III para. 17](#)
- C152** 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\(4\)](#)  
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](#)  
Ss. 145-148 applied (31.3.2002) by S.I. 2002/868, [reg. 4\(4\)](#)

**149 Non-payment of penalties, etc.: maximum terms of imprisonment.**

- (1) Where, in any proceedings for an offence under the customs and excise Acts, a magistrates' court in England or Wales or a court of summary jurisdiction in Scotland, in addition to ordering the person convicted to pay a penalty for the offence—
  - (a) orders him to be imprisoned for a term in respect of the same offence; and
  - (b) further (whether at the same time or subsequently) orders him to be imprisoned for a term in respect of non-payment of that penalty or default of a sufficient distress to satisfy the amount of that penalty.the aggregate of the terms for which he is so ordered to be imprisoned shall not exceed 15 months.

(2)

- <sup>F357</sup>(3) Where, under any enactment for the time being in force in Northern Ireland, a court of summary jurisdiction has power to order a person to be imprisoned in respect of the non-payment of a penalty, or of the default of a sufficient distress to satisfy

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the amount of that penalty, for a term in addition and succession to a term of imprisonment imposed for the same offence as the penalty, then in relation to a sentence for an offence under the customs and excise Acts the aggregate of those terms of imprisonment may, notwithstanding anything in any such enactment, be any period not exceeding 15 months.

#### Textual Amendments

**F357** S. 149(2) repealed by [Criminal Justice \(Scotland\) Act 1980 \(c. 62, SIF 39:1\)](#), s. 83(3), **Sch. 8**

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

**C153** S. 149 extended by [Car Tax Act 1983 \(c. 53, SIF 40:2\)](#), s. 1(4), **Sch. 1 para. 8(8)** and [Value Added Tax Act 1983 \(c. 55, SIF 40:2\)](#), s. 39(9)

**C154** Ss. 145-152 extended (27.9.1993) by 1993 c. 36, **ss. 71(7)**, 78

**C155** 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**

Ss. 145-155 applied (28.7.2000) by 2000 c. 17, s. 30(1), **Sch. 6 Pt. VIII para. 96**

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**

**C156** S. 149(1) excluded (25.8.2000) by 2000 c. 6, **ss. 140(3)**, 168(1)

### 150 Incidental provisions as to legal proceedings.

- (1) Where liability for any offence under the customs and excise Acts is incurred by two or more persons jointly, those persons shall each be liable for the full amount of any pecuniary penalty and may be proceeded against jointly or severally as the Commissioners may see fit.
- (2) In any proceedings for an offence under the customs and excise Acts instituted in England, Wales or Northern Ireland, any court by whom the matter is considered may mitigate any pecuniary penalty as they see fit.
- (3) In any proceedings for an offence or for the condemnation of any thing as being forfeited under the customs and excise Acts, the fact that security has been given by bond or otherwise for the payment of any duty or for compliance with any condition in respect of the non-payment of which or non-compliance with which the proceedings are instituted shall not be a defence.

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

**C157** Ss. 150, 151 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. 1987/2105, reg. 5(2) and 1988/1476, art. 5(2)

**C158** 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)**

**C159** Ss. 144-148, 150-155 applied (01.01.1992) by S.I. 1991/2727, **reg. 7(2)**

**C160** Ss. 145-152 extended (27.9.1993) by 1993 c. 36, **ss. 71(7)**, 78.

**C161** Ss. 144-148, 150-155 applied (23.6.1993) by S.I. 1993/1353, **reg. 4(2)**.

**C162** 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](#))

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Ss. 145-155 applied (29.4.1996) by 1996 c. 8, s. 60, **Sch. 5 Pt. III para. 17**  
Ss. 150-155 applied (1.3.1995) by S.I. 1995/271, **reg. 12(2)**  
Ss. 150-155 applied (15.11.1996) by S.I. 1996/2721, **reg. 12(2)**  
Ss. 150-155 applied (1.5.1999) by S.I. 1999/1261, **reg. 4(4)**  
Ss. 150-155 applied (14.10.1999) by S.I. 1999/2821, **reg. 4(4)**  
Ss. 150-155 applied (14.10.1999) by S.I. 1999/2822, **reg. 4(4)**  
Ss. 150-155 applied (with modifications) (15.7.1998) by S.I. 1998/1531, **reg. 4(4)**  
Ss. 150-155 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. 150-155 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**  
ss. 150-155 applied (31.3.2003) by S.I. 2002/868, **reg. 4(4)**

## 151 Application of penalties.

The balance of any sum paid or recovered on account of any penalty imposed under the customs and excise Acts, after paying any such compensation or costs as are mentioned in <sup>F358</sup>section 139 of the <sup>M33</sup>Magistrates' Courts Act 1980] to persons other than the Commissioners shall, notwithstanding any local or other special right or privilege of whatever origin, be accounted for and paid to the Commissioners or as they direct.

### Textual Amendments

**F358** Words substituted by Magistrates' Courts Act 1980 (c. 43, SIF 82), s. 154, **Sch. 7 para. 177**

### Modifications etc. (not altering text)

**C163** Ss. 150, 151 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. 1987/2105, reg. 5(2) and 1988/1476, art. 5(2)  
**C164** 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)**  
**C165** Ss. 144-148, 150-155 applied (01.01.1992) by S.I. 1991/2727, **reg. 7(2)**  
**C166** Ss. 145-152 extended (27.9.1993) by 1993 c. 36, **ss. 71(7), 78.**  
**C167** Ss. 144-148, 150-155 applied (23.6.1993) by S.I. 1993/1353, **reg. 4(2)**  
S. 151 excluded (1.9.1994) by 1994 c. 22, **ss. 56(2), 66(1)** (with s. 57(4))  
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**  
Ss. 150-155 applied (1.3.1995) by S.I. 1995/271, **reg. 12(2)**  
Ss. 150-155 applied (15.11.1996) by S.I. 1996/2721, **reg. 12(2)**  
Ss. 150-155 applied (1.5.1999) by S.I. 1999/1261, **reg. 4(4)**  
Ss. 150-155 applied (14.10.1999) by S.I. 1999/2821, **reg. 4(4)**  
Ss. 150-155 applied (14.10.1999) by S.I. 1999/2822, **reg. 4(4)**  
Ss. 150-155 applied (with modifications) (15.7.1998) by S.I. 1998/1531, **reg. 4(4)**  
Ss. 150-155 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. 150-155 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**  
Ss. 150-155 applied (31.3.2002) by S.I. 2002/868, **reg. 4(4)**

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### Marginal Citations

**M33** 1980 c. 43.

## 152 Powers of Commissioners to mitigate penalties, etc.

The Commissioners may, as they see fit—

- (a) stay, sist or compound any proceedings for an offence or for the condemnation of any thing as being forfeited under the customs and excise Acts; or
- (b) restore, subject to such conditions (if any) as they think proper, any thing forfeited or seized under those Acts; or
- (c) after judgment, mitigate or remit any pecuniary penalty imposed under those Acts; or
- (d) order any person who has been imprisoned to be discharged before the expiration of his term of imprisonment, being a person imprisoned for any offence under those Acts or in respect of the non-payment of a penalty or other sum adjudged to be paid or awarded in relation to such an offence or in respect of the default of a sufficient distress to satisfy such a sum;

but paragraph (a) above shall not apply to proceedings on indictment in Scotland.

### Modifications etc. (not altering text)

- C168** Ss. 152–155 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)
- C169** 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\(2\)](#)
- C170** Ss. 144–148, 150–155 applied (01.01.1992) by S.I. 1991/2727, [reg. 7\(2\)](#)
- C171** Ss. 145–152 extended (27.9.1993) by [1993 c. 36, ss. 71\(7\)](#), 78.
- C172** Ss. 144–148, 150–155 applied (23.6.1993) by S.I. 1993/1353, [reg. 4\(2\)](#)  
 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](#)  
 Ss. 150–155 applied (1.3.1995) by S.I. 1995/271, [reg. 12\(2\)](#)  
 Ss. 150–155 applied (15.11.1996) by S.I. 1996/2721, [reg. 12\(2\)](#)  
 Ss. 150–155 applied (1.5.1999) by S.I. 1999/1261, [reg. 4\(4\)](#)  
 Ss. 150–155 applied (14.10.1999) by S.I. 1999/2821, [reg. 4\(4\)](#)  
 Ss. 150–155 applied (14.10.1999) by S.I. 1999/2822, [reg. 4\(4\)](#)  
 Ss. 150–155 applied (with modifications) (15.7.1998) by S.I. 1998/1531, [reg. 4\(4\)](#)  
 Ss. 152–155 applied (1.7.1995) by S.I. 1995/1447, [reg. 4\(1\)\(b\)](#)  
 Ss. 152–155 applied (1.7.1999) by S.I. 1999/1618, [regs. 5\(1\)\(b\)](#), 6  
 Ss. 150–155 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. 150–155 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](#)  
 Ss. 150–155 applied (31.3.2002) by S.I. 2002/868, [reg. 4\(4\)](#)



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### 153 Proof of certain documents.

- (1) Any document purporting to be signed either by one or more of the Commissioners, or by their order, or by any other person with their authority, shall, until the contrary is proved, be deemed to have been so signed and to be made and issued by the Commissioners, and may be proved by the production of a copy thereof purporting to be so signed.
- (2) Without prejudice to subsection (1) above, the <sup>M34</sup>Documentary Evidence Act 1868 shall apply in relation to—
  - (a) any document issued by the Commissioners;
  - (b) any document issued before 1st April 1909, by the Commissioners of Customs or the Commissioners of Customs and the Commissioners of Inland Revenue jointly;
  - (c) any document issued before that date in relation to the revenue of excise by the Commissioners of Inland Revenue,as it applies in relation to the documents mentioned in that Act.
- (3) That Act shall, as applied by subsection (2) above, have effect as if the persons mentioned in paragraphs (a) to (c) of that subsection were included in the first column of the Schedule to that Act, and any of the Commissioners or any secretary or assistant secretary to the Commissioners were specified in the second column of that Schedule in connection with those persons.
- [<sup>F359</sup>(4) A photograph of any document delivered to the Commissioners for any customs or excise purpose and certified by them to be such a photograph shall be admissible in any proceedings, whether civil or criminal, to the same extent as the document itself.]

#### Textual Amendments

**F359** S. 153(4) inserted by [Finance Act 1981 \(c. 35, SIF 40:1\)](#), s. 11, **Sch. 8 Pt. I para. 9**

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

**C173** Ss. 152–155 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)

**C174** 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)**

**C175** Ss. 144–148, 150–155 applied (01.01.1992) by S.I. 1991/2727, **reg. 7(2)**

**C176** Ss. 144–148, 150–155 applied (23.6.1993) by S.I. 1993/1353, **reg. 4(2)**

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**

Ss. 150–155 applied (1.3.1995) by S.I. 1995/271, **reg. 12(2)**

Ss. 150–155 applied (15.11.1996) by S.I. 1996/2721, **reg. 12(2)**

Ss. 150–155 applied (1.5.1999) by S.I. 1999/1261, **reg. 4(4)**

Ss. 150–155 applied (14.10.1999) by S.I. 1999/2821, **reg. 4(4)**

Ss. 150–155 applied (14.10.1999) by S.I. 1999/2822, **reg. 4(4)**

Ss. 152–155 applied (1.7.1999) by S.I. 1999/1618, **regs. 5(1)(b)**, 6

Ss. 150–155 applied (with modifications) (15.7.1998) by S.I. 1998/1531, **reg. 4(4)**

Ss. 152–155 applied (1.7.1995) (with modifications) by S.I. 1995/1447, **reg. 4(1)(b)**

Ss. 150–155 applied (25.5.2000) by S.I. 2000/1408, **reg. 3(4)**



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Ss. 145-155 applied (28.7.2000) by 2000 c. 17, s. 30(1), **Sch. 6 Pt. VIII para. 96**  
 Ss. 150-155 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**  
 Ss. 150-155 applied (31.3.2002) by S.I. 2002/868, **reg. 4(4)**

#### **Marginal Citations**

**M34** 1868 c. 37.

### **154 Proof of certain other matters.**

- (1) An averment in any process in proceedings under the customs and excise Acts—
- (a) that those proceedings were instituted by the order of the Commissioners; or
  - (b) that any person is or was a Commissioner, officer or constable, or a member of Her Majesty's armed forces or coastguard; or
  - (c) that any person is or was appointed or authorised by the Commissioners to discharge, or was engaged by the orders or with the concurrence of the Commissioners in the discharge of, any duty; or
  - (d) that the Commissioners have or have not been satisfied as to any matter as to which they are required by any provision of those Acts to be satisfied; or
  - (e) that any ship is a British ship; or
  - (f) that any goods thrown overboard, staved or destroyed were so dealt with in order to prevent or avoid the seizure of those goods,
- shall, until the contrary is proved, be sufficient evidence of the matter in question.
- (2) Where in any proceedings relating to customs or excise any question arises as to the place from which any goods have been brought or as to whether or not—
- (a) any duty has been paid or secured in respect of any goods; or
  - (b) any goods or other things whatsoever are of the description or nature alleged in the information, writ or other process; or
  - (c) any goods have been lawfully imported or lawfully unloaded from any ship or aircraft; or
  - (d) any goods have been lawfully loaded into any ship or aircraft or lawfully exported or were lawfully waterborne; or
  - (e) any goods were lawfully brought to any place for the purpose of being loaded into any ship or aircraft or exported; or
  - (f) any goods are or were subject to any prohibition of or restriction on their importation or exportation,

then, where those proceedings are brought by or against the Commissioners, a law officer of the Crown or an officer, or against any other person in respect of anything purporting to have been done in pursuance of any power or duty conferred or imposed on him by or under the customs and excise Acts, the burden of proof shall lie upon the other party to the proceedings.

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

**C177** Ss. 152–155 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)

**C178** Ss. 144-148, 150-155 applied (01.01.1992) by S.I. 1991/2724, **reg. 10(2)**

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- Ss. 144-148, 150-155 applied (01.01.1992) by S.I. 1991/2725, **reg. 6(2)**
- C179** Ss. 144-148, 150-155 applied (01.01.1992) by S.I. 1991/2727, **reg. 7(2)**
- C180** S. 154 extended (27.9.1993) by 1993 c. 36, **ss. 71(7), 78.**
- C181** Ss. 144-148, 150-155 applied (23.6.1993) by S.I. 1993/1353, **reg. 4(2)**
- 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**
- Ss. 150-155 applied (1.3.1995) by S.I. 1995/271, **reg. 12(2)**
- Ss. 150-155 applied (15.11.1996) by S.I. 1996/2721, **reg. 12(2)**
- Ss. 150-155 applied (1.5.1999) by S.I. 1999/1261, **reg. 4(4)**
- Ss. 150-155 applied (14.10.1999) by S.I. 1999/2821, **reg. 4(4)**
- Ss. 150-155 applied (14.10.1999) by S.I. 1999/2822, **reg. 4(4)**
- Ss. 152-155 applied (1.7.1999) by S.I. 1999/1618, **regs. 5(1)(b), 6**
- Ss. 150-155 applied (with modifications) (15.7.1998) by S.I. 1998/1531, **reg. 4(4)**
- Ss. 152-155 applied (1.7.1995) (with modifications) by S.I. 1995/1447, **reg. 4(1)(b)**
- Ss. 150-155 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. 150-155 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**
- Ss. 150-155 applied (31.3.2002) by S.I. 2002/868, **reg. 4(4)**
- C182** S. 154(2) modified by **Car Tax Act 1983 (c. 53, SIF 40:2), s. 1(4), Sch. 1 para. 8(9)** and **Value Added Tax Act 1983 (c. 55, SIF 40:2), s. 39(9)**
- C183** S. 154(2) amended by S.I. 1990/2167, **art. 4, Sch. para. 23**
- S. 154(2) applied (17.3.2000) by S.I. 1992/3155, **art. 3A(6)** (as inserted (17.3.2000) by S.I. 2000/426, **art. 3, Sch. 1 para. 9**)

## 155 Persons who may conduct proceedings.

- (1) Any officer or any other person authorised in that behalf by the Commissioners may, although he is not a barrister, advocate or solicitor, conduct any proceedings before any magistrates' court in England or Wales or court of summary jurisdiction in Scotland or Northern Ireland or before any examining justices, being proceedings under any enactment relating to an assigned matter or proceedings arising out of the same circumstances as any proceedings commenced under any such enactment, whether or not the last mentioned proceedings are persisted in.
- (2) Any person who has been admitted as a solicitor and is employed by the Commissioners may act as a solicitor in any proceedings in England, Wales or Northern Ireland relating to any assigned matter notwithstanding that he does not hold a current practising certificate.

### Modifications etc. (not altering text)

- C184** Ss. 152–155 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)**
- C185** 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)**
- C186** Ss. 144-148, 150-155 applied (01.01.1992) by S.I. 1991/2727, **reg. 7(2)**
- C187** Ss. 144-148, 150-155 applied (23.6.1993) by S.I. 1993/1353, **reg. 4(2)**

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 Ss. 150-155 applied (with modifications) (15.7.1998) by S.I. 1998/1531, **reg. 4(4)**  
 Ss. 152-155 applied (1.7.1995) by S.I. 1995/1447, **reg. 4(1)(b)**  
 Ss. 150-155 applied (1.5.1999) by S.I. 1999/1261, **reg. 4(4)**  
 Ss. 150-155 applied (14.10.1999) by S.I. 1999/2821, **reg. 4(4)**  
 Ss. 150-155 applied (14.10.1999) by S.I. 1999/2822, **reg. 4(4)**  
 Ss. 152-155 applied (1.7.1999) by S.I. 1999/1618, **regs. 5(1)(b), 6**  
 Ss. 150-155 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**  
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 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**  
 Ss. 145-155 applied (31.3.2002) by S.I. 2002/868, **reg. 4(4)**

*Saving for outlying enactments of certain general provisions as to offences*

## 156 Saving for outlying enactments of certain general provisions as to offences.

- (1) In subsections (2), (3) and (4) below (which reproduce certain enactments not required as general provisions for the purposes of the enactments re-enacted in the Customs and Excise Acts 1979) “the outlying provisions of the customs and excise Acts” means—
- (a) the <sup>M35</sup>Betting and Gaming Duties Act 1972, as for the time being amended; and
  - (b) all other provisions of the customs and excise Acts, as for the time being amended, which were passed before the commencement of this Act and are not re-enacted in the Customs and Excise Acts 1979.
- (2) It is hereby declared that any act or omission in respect of which a pecuniary penalty (however described) is imposed by any of the outlying provisions of the customs and excise Acts is an offence under that provision; and accordingly in this Part of this Act any reference to an offence under the customs and excise Acts includes a reference to such an act or omission.
- (3) Subject to any express provision made by the enactment in question, an offence under any of the outlying provisions of the customs and excise Acts—
- (a) where it is punishable with imprisonment for a term of 2 years, with or without a pecuniary penalty, shall be punishable either on summary conviction or on conviction on indictment;
  - (b) in any other case, shall be punishable on summary conviction.
- <sup>F360F361</sup>(4) The maximum term of imprisonment which may be imposed on summary conviction in the sheriff court of an offence under any of the outlying provisions of the customs and excise Acts shall be 6 months.
- (5) Where, in Scotland, an offence under any of the outlying provisions of the customs and excise Acts is triable only summarily by virtue of subsection (3)(b) above, the penalty for the offence shall be that to which a person was liable on summary conviction of

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the offence immediately before 29th July 1977 (the date of the passing of the Criminal Law Act <sup>M36</sup>1977) subject to any increase by virtue of section 289C(5) of the Criminal Procedure (Scotland) Act <sup>M37</sup>1975 or Part IV of the Criminal Justice Act 1982.]

#### Textual Amendments

**F360** S. 156(4)(5) substituted for s. 156(4) by Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 77, **Sch. 14 para. 43(b)**

**F361** Words repealed by Criminal Justice Act 1982 (c. 48, SIF 39:1), ss. 77, 78, **Sch. 14 para. 43(a)**, Sch. 16

#### Marginal Citations

**M35** 1972 c. 25.

**M36** 1977 c. 45(39:3).

**M37** 1975 c. 21(39:1).

## PART XII

### GENERAL AND MISCELLANEOUS

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

**C188** Pt. XII amended by Customs and Excise Duties (General Reliefs) Act 1979 (c. 3), s. 15(4)

*General powers, etc.*

#### 157 Bonds and security.

- (1) Without prejudice to any express requirement as to security contained in the customs and excise Acts, the Commissioners may, if they see fit, require any person to give security by bond or otherwise for the observance of any condition in connection with customs or excise.
- (2) Any bond taken for the purposes of any assigned matter—
  - (a) shall be taken on behalf of Her Majesty; and
  - (b) shall be valid notwithstanding that it is entered into by a person under full age; and
  - (c) may be cancelled at any time by or by order of the Commissioners.

#### 158 Power to require provision of facilities.

- (1) A person to whom this section applies, that is to say, a revenue trader and any person required by the Commissioners under the Customs and Excise Acts 1979 to give security in respect of any premises or place to be used for the examination of goods by an officer, shall—
  - (a) provide and maintain such appliances and afford such other facilities reasonably necessary to enable an officer to take any account or make any examination or search or to perform any other of his duties on the premises of that trader or at the bonded premises or place as the Commissioners may direct;

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- (b) keep any appliances so provided in a convenient place approved by the proper officer for that purpose; and
  - (c) allow the proper officer at any time to use anything so provided and give him any assistance necessary for the performance of his duties.
- (2) Any person who contravenes or fails to comply with any provision of subsection (1) above shall be liable on summary conviction to a penalty of [<sup>F362</sup>level 3 on the standard scale].
- (3) A person to whom this section applies shall provide and maintain any fitting required for the purpose of affixing any lock which the proper officer may require to affix to the premises of that person or any part thereof or to any vessel, utensil or other apparatus whatsoever kept thereon, and in default—
- (a) the fitting may be provided or any work necessary for its maintenance may be carried out by the proper officer, and any expenses so incurred shall be paid on demand by that person; and
  - (b) if that person fails to pay those expenses on demand, he shall in addition be liable on summary conviction to a penalty of [<sup>F362</sup>level 3 on the standard scale].
- (4) If any person to whom this section applies or any servant of his—
- (a) wilfully destroys or damages any such fitting as is mentioned in subsection (3) above or any lock or key provided for use therewith, or any label or seal placed on any such lock; or
  - (b) improperly obtains access to any place or article secured by any such lock; or
  - (c) has any such fitting or any article intended to be secured by means thereof so constructed that that intention is defeated,
- he shall be liable on summary conviction to a penalty of [<sup>F362</sup>level 5 on the standard scale] and may be detained.

#### Textual Amendments

**F362** Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [ss. 38, 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), [ss. 289F, 289G](#) and (N.I.) by [S.I. 1984/703](#), (N.I. 3) arts. 5, 6

#### 159 Power to examine and take account of goods.

- (1) Without prejudice to any other power conferred by the Customs and Excise Acts 1979, an officer may examine and take account of any goods—
- (a) which are imported; or
  - (b) which are in a warehouse or Queen’s warehouse; or
  - <sup>F363</sup>(bb) which are in a free zone; or]
  - (c) which have been loaded into any ship or aircraft at any place in the United Kingdom [<sup>F364</sup>or the Isle of Man]; or
  - (d) which are entered for exportation or for use as stores; or
  - (e) which are brought to any place in the United Kingdom for exportation or for shipment for exportation or as stores; or
  - (f) in the case of which any claim for drawback, allowance, rebate, remission or repayment of duty is made;
- and may for that purpose require any container to be opened or unpacked.

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- (2) Any examination of goods by an officer under the Customs and Excise Acts 1979 shall be made at such place as the Commissioners appoint for the purpose.
- (3) In the case of such goods as the Commissioners may direct, and subject to such conditions as they see fit to impose, an officer may permit goods to be skipped on the quay or bulked, sorted, lotted, packed or repacked before account is taken thereof.
- (4) Any opening, unpacking, weighing, measuring, repacking, bulking, sorting, lotting, marking, numbering, loading, unloading, carrying or landing of goods or their containers for the purposes of, or incidental to, the examination by an officer, removal or warehousing thereof shall be done, and any facilities or assistance required for any such examination shall be provided, by or at the expense of the proprietor of the goods.
- (5) If any imported goods which an officer has power under the Customs and Excise Acts 1979 to examine are without the authority of the proper officer removed from customs and excise charge before they have been examined, those goods shall be liable to forfeiture.
- (6) If any goods falling within subsection (5) above are removed by a person with intent to defraud Her Majesty of any duty chargeable thereon or to evade any prohibition or restriction for the time being in force with respect thereto under or by virtue of any enactment, that person shall be guilty of an offence under this subsection and may be detained.
- (7) A person guilty of an offence under subsection (6) above shall be liable—
  - (a) on summary conviction, to a penalty of the prescribed sum or of three times the value of the goods, whichever is the greater, or to imprisonment for a term not exceeding 6 months, or to both; or
  - (b) on conviction on indictment, to a penalty of any amount, or to imprisonment for a term not exceeding [<sup>F365</sup>7 years], or to both.
- (8) Without prejudice to the foregoing provisions of this section, where by this section or by or under any other provision of the Customs and Excise Acts 1979 an account is authorised or required to be taken of any goods for any purpose by an officer, the Commissioners may, with the consent of the proprietor of the goods, accept as the account of those goods for that purpose an account taken by such other person as may be approved in that behalf by both the Commissioners and the proprietor of the goods.

#### Textual Amendments

**F363** S. 159(1)(bb) inserted by Finance Act 1984 (c. 43, SIF 40:1), s. 8, **Sch. 4 Pt. II para. 5**

**F364** Words inserted by Isle of Man Act 1979 (c. 58), **Sch. 1 para. 22**

**F365** Words substituted by Finance Act 1988 (c. 39, SIF 40:1), **s. 12(1)(a)(6)**

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

**C189** S. 159(1) amended by S.I. 1990/2167, art. 4, **Sch. para. 24**

## 160 Power to take samples.

- (1) An officer may at any time take samples of any goods—
  - (a) which he is empowered by the Customs and Excise Acts 1979 to examine; or



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- (b) which are on premises where goods chargeable with any duty are manufactured, prepared or subjected to any process; or
  - (c) which, being dutiable goods, are held by any person as stock for his business or as materials for manufacture or processing.
- (2) Where an officer takes from any vessel, pipe or utensil on the premises of any of the following revenue traders, that is to say, a distiller, [<sup>F366</sup>registered brewer], producer of wine, producer of made-wine or maker of cider, a sample of any product of, or of any materials for, the manufacture of that trader—
- (a) the trader may, if he wishes, stir up and mix together the contents of that vessel, pipe or utensil before the sample is taken; and
  - (b) the sample taken by the officer shall be deemed to be representative of the whole contents of that vessel, pipe or utensil.
- (3) Any sample taken under this section shall be disposed of and accounted for in such manner as the Commissioners may direct.
- (4) Where any sample is taken under this section from any goods chargeable with a duty of customs or excise after that duty has been paid, other than—
- (a) a sample taken when goods are first entered on importation; or
  - (b) a sample taken from goods in respect of which a claim for drawback, allowance, rebate, remission or repayment of that duty is being made,
- and the sample so taken is to be retained, the officer taking it shall, if so required by the person in possession of the goods, pay for the sample on behalf of the Commissioners such sum as reasonably represents the wholesale value thereof.

#### Textual Amendments

**F366** Words in s. 160(2) substituted (1.6.1993) by Finance Act 1991 (c. 31), s. 7(4)(5), Sch. 2 para. 1(a); S.I. 1993/1152, art. 3, Sch. 1 Pt. 2

VALID FROM 28/07/2000

#### <sup>F367</sup>161A Power to search premises: search warrant.

- (1) If a justice of the peace is satisfied by information upon oath given by an officer that there are reasonable grounds to suspect that anything liable to forfeiture under the customs and excise Acts is kept or concealed in any building or place, he may by warrant under his hand authorise any officer, and any person accompanying an officer, to enter and search the building or place named in the warrant.
- (2) An officer or other person so authorised has power—
  - (a) to enter the building or place at any time, whether by day or night, on any day, and search for, seize, and detain or remove any such thing, and
  - (b) so far as is necessary for the purpose of such entry, search, seizure, detention or removal, to break open any door, window or container and force and remove any other impediment or obstruction.
- (3) Where there are reasonable grounds to suspect that any still, vessel, utensil, spirits or materials for the manufacture of spirits is or are unlawfully kept or deposited in any



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building or place, subsections (1) and (2) above apply in relation to any constable as they would apply in relation to an officer.

- (4) The powers conferred by a warrant under this section are exercisable until the end of the period of one month beginning with the day on which the warrant is issued.
- (5) A person other than a constable shall not exercise the power of entry conferred by this section by night unless accompanied by a constable.

#### Textual Amendments

**F367** S. 161 and s. 161A substituted for s. 161 (28.7.2000) by 2000 c. 17, s. 25

### 161 Power to search premises.

- (1) Without prejudice to any other power conferred by the Customs and Excise Acts 1979 but subject to subsection (2) below, where there are reasonable grounds to suspect that any thing liable to forfeiture under the customs and excise Acts is kept or concealed in any building or place, any officer having a writ of assistance may—
  - (a) enter that building or place at any time, whether by day or night, on any day, and search for, seize, and detain or remove any such thing; and
  - (b) so far as is reasonably necessary for the purpose of such entry, search, seizure, detention or removal, break open any door, window or container and force and remove any other impediment or obstruction.
- (2) No officer shall exercise the power of entry conferred on him by subsection (1) above by night unless he is accompanied by a constable.
- (3) Without prejudice to subsection (1) above or to any other power conferred by the Customs and Excise Acts 1979, if a justice of the peace is satisfied by information upon oath given by an officer that there are reasonable grounds to suspect that any thing liable to forfeiture under the customs and excise Acts is kept or concealed in any building or place, he may by warrant under his hand given on any day authorise [<sup>F368</sup> any officer and any person accompanying an officer to enter and search the building or place named in the warrant within one month from that day].
- (4) An officer or [<sup>F369</sup> other person so authorised] shall thereupon have the like powers in relation to the building or place named in the warrant, subject to the like conditions as to entry by night, as if he were an officer having a writ of assistance and acting upon reasonable grounds of suspicion.
- (5) Where there are reasonable grounds to suspect that any still, vessel, utensil, spirits or materials for the manufacture of spirits is or are unlawfully kept or deposited in any building or place, subsections (3) and (4) above shall apply in relation to any constable as they would apply in relation to an officer.
- (6) A writ of assistance shall continue in force during the reign in which it is issued and for 6 months thereafter.

#### Textual Amendments

**F368** Words substituted by Police and Criminal Evidence Act 1984 (c. 60, SIF 95), s. 119(1), Sch. 6 para. 38(a)

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**F369** Words substituted by [Police and Criminal Evidence Act 1984 \(c. 60, SIF 95\)](#), s. 119(1), [Sch. 6 para. 38\(b\)](#)

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

**C190** [S. 161](#) extended (E.W.S.) by [Scotch Whisky Act 1988 \(c. 22, SIF 109:1\)](#), s. 1(4)

**C191** [S. 161](#) amended by [S.I. 1988/1852](#), (N.I. 19), art. 4(2)

**162 Power to enter land for or in connection with access to pipelines.**

Where any thing conveyed by a pipe-line is chargeable with a duty of customs and excise which has not been paid, an officer may enter any land adjacent to the pipe-line in order to get to the pipe-line for the purpose of exercising in relation to that thing any power conferred by or under the Customs and Excise Acts 1979 or to get from the pipe-line after an exercise of any such power.

This section does not extend to Northern Ireland.

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

**C192** [S. 162](#) modified by [S.I. 1983/947](#), [regs. 12, 13](#) (which S.I. is revoked 1.1.1993 by [S.I. 1992/3152](#), [reg. 1\(2\)](#))

**C193** [S. 162](#) amended by [S.I. 1985/1032](#), [reg. 11\(a\)](#) (which S.I. is revoked 1.1.1993 by [S.I. 1992/3152](#), [reg. 1\(2\)](#))

**C194** [S. 162](#) amended (1.1.1993) by [S.I. 1992/3152](#), [reg. 11\(a\)](#).

**163 Power to search vehicles or vessels.**

(1) Without prejudice to any other power conferred by the Customs and Excise Acts 1979, where there are reasonable grounds to suspect that any vehicle or vessel is or may be carrying any goods which are—

- (a) chargeable with any duty which has not been paid or secured; or
- (b) in the course of being unlawfully removed from or to any place; or
- (c) otherwise liable to forfeiture under the customs and excise Acts,

any officer or constable or member of Her Majesty's armed forces or coastguard may stop and search that vehicle or vessel.

(2) If when so required by any such officer, constable or member the person in charge of any such vehicle or vessel refuses to stop or to permit the vehicle or vessel to be searched, he shall be liable on summary conviction to a penalty of [<sup>F370</sup>level 3 on the standard scale].

[<sup>F371</sup>(3) This section shall apply in relation to aircraft as it applies in relation to vehicles or vessels but the power to stop and search in subsection (1) above shall not be available in respect of aircraft which are airborne.]

**Textual Amendments**

**F370** Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [ss. 38, 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), [ss. 289F, 289G](#) (as inserted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [s. 54](#)) and (N.I.) by [S.I. 1984/703](#), (N.I. 3) arts. 5, 6

**F371** [S. 163\(3\)](#) inserted (16.7.1992) by [Finance \(No. 2\) Act 1992 \(c. 48\)](#), [s. 10\(4\)](#).

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

**C195** S. 163 amended by S.I. 1988/1852 (N.I. 19), **art. 4(2)**

**C196** S. 163 extended (E.W.S.) by Scotch Whisky Act 1988 (c. 22, SIF 109:1), **s. 1(4)**

VALID FROM 28/07/2000

**[<sup>F372</sup>163A] Power to search articles.**

- (1) Without prejudice to any other power conferred by the Customs and Excise Acts 1979, where there are reasonable grounds to suspect that a person in the United Kingdom (referred to in this section as “the suspect”) has with him, or at the place where he is, any goods to which this section applies, an officer may—
  - (a) require the suspect to permit a search of any article that he has with him or at that place, and
  - (b) if the suspect is not under arrest, detain him (and any such article) for so long as may be necessary to carry out the search.
- (2) The goods to which this section applies are dutiable alcoholic liquor, or tobacco products, which are—
  - (a) chargeable with any duty of excise, and
  - (b) liable to forfeiture under the customs and excise Acts.
- (3) Notwithstanding anything in subsection (4) of section 24 of the <sup>M38</sup>Criminal Law (Consolidation) (Scotland) Act 1995 (detention and questioning by customs officers), detention of the suspect under subsection (1) above shall not prevent his subsequent detention under subsection (1) of that section.]

**Textual Amendments**

**F372** S. 163A inserted (28.7.2000) by 2000 c. 17, **s. 26**

**Marginal Citations**

**M38** 1995 c. 39.

**164 Power to search persons.**

- (1) Where there are reasonable grounds to suspect that any person to whom this section applies [<sup>F373</sup>(referred to in this section as “the suspect”)] is carrying any article—
  - (a) which is chargeable with any duty which has not been paid or secured; or
  - (b) with respect to the importation or exportation of which any prohibition or restriction is for the time being in force under or by virtue of any enactment.

[<sup>F374</sup>an officer may exercise the powers conferred by subsection (2) below and, if the suspect is not under arrest, may detain him for so long as may be necessary for the exercise of those powers and (where applicable) the exercise of the rights conferred by subsection (3) below].

[<sup>F375</sup>(2) The officer may require the suspect—

- (a) to permit such a search of any article which he has with him; and

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- (b) subject to subsection (3) below, to submit to such searches of his person, whether rub-down, strip or intimate, as the officer may consider necessary or expedient; but no such requirement may be imposed under paragraph (b) above without the officer informing the suspect of the effect of subsection (3) below.
- (3) If the suspect is required to submit to a search of his person, he may require to be taken—
- (a) except in the case of a rub-down search, before a justice of the peace or a superior of the officer concerned; and
  - (b) in the excepted case, before such a superior;
- and the justice or superior shall consider the grounds for suspicion and direct accordingly whether the suspect is to submit to the search.
- (3A) A rub-down or strip search shall not be carried out except by a person of the same sex as the suspect; and an intimate search shall not be carried out except by a suitably qualified person.]
- (4) This section applies to the following persons, namely—
- (a) any person who is on board or has landed from any ship or aircraft;
  - (b) any person entering or about to leave the United Kingdom;
  - (c) any person within the dock area of a port;
  - (d) any person at a customs and excise airport;
  - (e) any person in, entering or leaving any approved wharf or transit shed which is not in a port;
  - [<sup>F376</sup>(ee) any person in, entering or leaving a free zone;]
  - (f) in Northern Ireland, any person travelling from or to any place which is on or beyond the boundary.
- [<sup>F377</sup>(5) In this section—
- “intimate search” means any search which involves a physical examination (that is, an examination which is more than simply a visual examination) of a person’s body orifices;
- “rub-down search” means any search which is neither an intimate search nor a strip search;
- “strip search” means any search which is not an intimate search but which involves the removal of an article of clothing which—
- (a) is being worn (wholly or partly) on the trunk; and
  - (b) is being so worn either next to the skin or next to an article of underwear;
- “suitably qualified person” means a registered medical practitioner or a registered nurse.
- (6) Notwithstanding anything in subsection (4) of section 48 of the Criminal Justice (Scotland) Act <sup>M39</sup>1987 (detention and questioning by customs officers), detention of the suspect under subsection (1) above shall not prevent his subsequent detention under subsection (1) of that section.]

#### Textual Amendments

**F373** Words inserted by Finance Act 1988 (c. 39, SIF 40:1), s. 10(1)(a)(b)

**F374** Words substituted by Finance Act 1988 (c. 39, SIF 40:1), s. 10(1)(a)(b)

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**F375** S. 164(2)–(3A) substituted for s. 164(2)(3) by Finance Act 1988 (c. 39, SIF 40:1), s. 10(2)

**F376** S. 164(4)(ee) inserted by Finance Act 1984 (c. 43, SIF 40:1), s. 8, Sch. 4 para. 6

**F377** S. 164(5)(6) inserted by Finance Act 1988 (c. 39, SIF 40:1), s. 10(3)

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

**C197** S. 164 amended by S.I. 1990/2167, art. 4, Sch. para. 25

**C198** S. 164 restricted (1.1.1993) by Finance (No. 2) Act 1992 (c. 48), s. 4(1)(3)(h)(6).

**Marginal Citations**

**M39** 1987 c. 41(39:1).

**165 Power to pay rewards.**

Subject to any directions of the Treasury as to amount, the Commissioners may at their discretion pay rewards in respect of any service which appears to them to merit reward rendered to them by any person in relation to any assigned matter.

**166 Agents.**

- (1) If any person requests an officer or a person appointed by the Commissioners to transact any business relating to an assigned matter with him on behalf of another person, the officer or person so appointed may refuse to transact that business with him unless written authority from that other person is produced in such form as the Commissioners may direct.
- (2) Subject to subsection (1) above, anything required by the Customs and Excise Acts 1979 to be done by the importer or exporter of any goods may, except where the Commissioners otherwise require, be done on his behalf by an agent.

*General offences*

**167 Untrue declarations, etc.**

- (1) If any person either knowingly or recklessly—
  - (a) makes or signs, or causes to be made or signed, or delivers or causes to be delivered to the Commissioners or an officer, any declaration, notice, certificate or other document whatsoever; or
  - (b) makes any statement in answer to any question put to him by an officer which he is required by or under any enactment to answer,being a document or statement produced or made for any purpose of any assigned matter, which is untrue in any material particular, he shall be guilty of an offence under this subsection and may be detained; and any goods in relation to which the document or statement was made shall be liable to forfeiture.
- (2) Without prejudice to subsection (4) below, a person who commits an offence under subsection (1) above shall be liable—
  - (a) on summary conviction, to a penalty of the prescribed sum, or to imprisonment for a term not exceeding 6 months, or to both; or
  - (b) on conviction on indictment, to a penalty of any amount, or to imprisonment for a term not exceeding 2 years, or to both.

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(3) If any person—

- (a) makes or signs, or causes to be made or signed, or delivers or causes to be delivered to the Commissioners or an officer, any declaration, notice, certificate or other document whatsoever; or
- (b) makes any statement in answer to any question put to him by an officer which he is required by or under any enactment to answer.

being a document or statement produced or made for any purpose of any assigned matter, which is untrue in any material particular, then, without prejudice to subsection (4) below, he shall be liable on summary conviction to a penalty of [<sup>F378</sup>level 4 on the standard scale].

- (4) Where by reason of any such document or statement as is mentioned in subsection (1) or (3) above the full amount of any duty payable is not paid or any overpayment is made in respect of any drawback, allowance, rebate or repayment of duty, the amount of the duty unpaid or of the overpayment shall be recoverable as a debt due to the Crown or may be summarily recovered as a civil debt.

**Textual Amendments**

**F378** Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **ss. 38, 46** and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), **ss. 289F, 289G** and (N.I.) by [S.I. 1984/703](#), (N.I. 3) arts. 5, 6

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

**C199** [S. 167](#) excluded (E.W.S.) by [Film Levy Finance Act 1981 \(c. 16, SIF 45A\)](#), **s. 7(5)**

**C200** [S. 167](#) amended by [Finance Act 1985 \(c. 54, SIF 40:1\)](#), **s. 10(6)(c)**

**C201** [S. 167](#) restricted (1.6.1997) by [1994 c. 9, s. 12A](#) (as inserted by [1997 c. 16, s. 50\(2\)](#), [Sch. 6 para. 1\(1\)](#)); [S.I. 1997/1305, art. 2](#)

**C202** [s. 167\(2\)\(a\)](#) modified (1.12.1992) by [S.I. 1992/2790, reg.12](#).

**168 Counterfeiting documents, etc.**

(1) If any person—

- (a) counterfeits or falsifies any document which is required by or under any enactment relating to an assigned matter or which is used in the transaction of any business relating to an assigned matter; or
- (b) knowingly accepts, receives or uses any such document so counterfeited or falsified; or
- (c) alters any such document after it is officially issued; or
- (d) counterfeits any seal, signature, initials or other mark of, or used by, any officer for the verification of such a document or for the security of goods or for any other purpose relating to an assigned matter,

he shall be guilty of an offence under this section and may be detained.

(2) A person guilty of an offence under this section shall be liable—

- (a) on summary conviction, to a penalty of the prescribed sum, or to imprisonment for a term not exceeding 6 months, or to both; or
- (b) on conviction on indictment, to a penalty of any amount, or to imprisonment for a term not exceeding 2 years, or to both.



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

**C203** S. 168 amended by [Finance Act 1985 \(c. 54, SIF 40:1\)](#), [s. 10\(6\)\(d\)](#)

**C204** S. 168(2)(a) modified (1.12.1992) by [S.I. 1992/2790, reg.12](#).

### 169 False scales, etc.

- (1) If any person required by or under the customs and excise Acts to provide scales for any purpose of those Acts provides, uses or permits to be used any scales which are false or unjust he shall be guilty of an offence under this section.
- (2) Where any article is or is to be weighed, counted, gauged or measured for the purposes of the taking of an account or the making of an examination by an officer, then if—
  - (a) any such person as is mentioned in subsection (1) above; or
  - (b) any person by whom or on whose behalf the article is weighed, counted, gauged or measured,does anything whereby the officer is or might be prevented from, or hindered or deceived in, taking a true and just account or making a due examination, he shall be guilty of an offence under this section.

This subsection applies whether the thing is done before, during or after the weighing, counting, gauging or measuring of the article in question.

- (3) Any person committing an offence under this section shall be liable on summary conviction to a penalty of [<sup>F379</sup>level 4 on the standard scale] and any false or unjust scales, and any article in connection with which the offence was committed, shall be liable to forfeiture.
- (4) In this section “scales” includes weights, measures and weighing or measuring machines or instruments.

#### Textual Amendments

**F379** Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [ss. 38, 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), [ss. 289F, 289G](#) and (N.I.) by [S.I. 1984/703](#), (N.I. 3) arts. 5, 6

### 170 Penalty for fraudulent evasion of duty, etc.

- (1) Without prejudice to any other provision of the Customs and Excise Acts 1979, if any person—
  - (a) knowingly acquires possession of any of the following goods, that is to say—
    - (i) goods which have been unlawfully removed from a warehouse or Queen’s warehouse;
    - (ii) goods which are chargeable with a duty which has not been paid;
    - (iii) goods with respect to the importation or exportation of which any prohibition or restriction is for the time being in force under or by virtue of any enactment; or



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- (b) is in any way knowingly concerned in carrying, removing, depositing, harbouring, keeping or concealing or in any manner dealing with any such goods,  
 and does so with intent to defraud Her Majesty of any duty payable on the goods or to evade any such prohibition or restriction with respect to the goods he shall be guilty of an offence under this section and may be detained.
- (2) Without prejudice to any other provision of the Customs and Excise Acts 1979, if any person is, in relation to any goods, in any way knowingly concerned in any fraudulent evasion or attempt at evasion—
- (a) of any duty chargeable on the goods;
  - (b) of any prohibition or restriction for the time being in force with respect to the goods under or by virtue of any enactment; or
  - (c) of any provision of the Customs and Excise Acts 1979 applicable to the goods,
- he shall be guilty of an offence under this section and may be detained.
- (3) Subject to subsection (4) [<sup>F380</sup>or (4A)] below, a person guilty of an offence under this section shall be liable—
- (a) on summary conviction, to a penalty of the prescribed sum or of three times the value of the goods, whichever is the greater, or to imprisonment for a term not exceeding 6 months, or to both; or
  - (b) on conviction on indictment, to a penalty of any amount, or to imprisonment for a term not exceeding [<sup>F381</sup>7 years], or to both.
- (4) In the case of an offence under this section in connection with prohibition or restriction on importation or exportation having effect by virtue of section 3 of the <sup>M40</sup>Misuse of Drugs Act 1971, subsection (3) above shall have effect subject to the modifications specified in Schedule 1 to this Act.
- [<sup>F382</sup>(4A) In the case of an offence under this section in connection with the prohibitions contained in sections 20 and 21 of the Forgery and Counterfeiting Act 1981, subsection (3)(b) above shall have effect as if for the words “2 years” there were substituted the words “10 years”.]
- (5) In any case where a person would, apart from this subsection, be guilty of—
- (a) an offence under this section in connection with a prohibition or restriction; and
  - (b) a corresponding offence under the enactment or other instrument imposing the prohibition or restriction, being an offence for which a fine or other penalty is expressly provided by that enactment or other instrument,
- he shall not be guilty of the offence mentioned in paragraph (a) of this subsection.
- [<sup>F383</sup>(6) Where any person is guilty of an offence under this section, the goods in respect of which the offence was committed shall be liable to forfeiture.]

#### Textual Amendments

**F380** Words inserted by [Forgery and Counterfeiting Act 1981 \(c. 45, SIF 39:7\)](#), s. 23(3)(a)

**F381** Words substituted by [Finance Act 1988 \(c. 39, SIF 40:1\)](#), s. 12(1)(a)(6)

**F382** [S. 170\(4A\)](#) inserted by [Forgery and Counterfeiting Act 1981 \(c. 45, SIF 39:7\)](#), s. 23(3)(b)

**F383** [S. 170\(6\)](#) inserted (9.12.1992) by [Finance \(No. 2\) Act 1992 \(c. 48\)](#), s. 3(1), [Sch. 2 para.7](#); S.I. 1992/3104, [art. 2\(1\)](#).

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#### Marginal Citations

M40 1971 c. 38.

### [<sup>F384</sup>170A] Offence of handling goods subject to unpaid excise duty.

- (1) Subject to subsection (2) below, if—
  - (a) after the excise duty point for any goods which are chargeable with a duty of excise, a person acquires possession of those goods or is concerned in carrying, removing, depositing, keeping or otherwise dealing with those goods; and
  - (b) at the time when he acquires possession of those goods or is so concerned, the duty on the goods has not been paid and its payment has not been deferred, that person shall be liable, on summary conviction, to a penalty of an amount not exceeding level 5 on the standard scale.
- (2) In proceedings for an offence under this section it shall be a defence to show that the person who acquired possession of the goods or was concerned in carrying, removing, depositing, keeping or otherwise dealing with them—
  - (a) acted in accordance with the directions of, or with the consent of, the proper officer; or
  - (b) was not himself the person, or one of the persons, liable to pay the unpaid duty and at the time when he acted either—
    - (i) had no grounds for suspecting that the goods were chargeable with a duty of excise that had not yet been paid; or
    - (ii) believed on reasonable grounds that the duty had been paid or its payment deferred or that the liability to pay the duty had not yet taken effect.]

#### Textual Amendments

F384 S. 170A wholly in force (1.6.1993) by 1992 c. 48, s. 3(1), Sch. 2 para. 8; S.I. 1993/1341, art. 2, Sch.

### [<sup>F385</sup>170B] Offence of taking preparatory steps for evasion of excise duty.

- (1) If any person is knowingly concerned in the taking of any steps with a view to the fraudulent evasion, whether by himself or another, of any duty of excise on any goods, he shall be liable—
  - (a) on summary conviction, to a penalty of the prescribed sum or of three times the amount of the duty, whichever is the greater, or to imprisonment for a term not exceeding six months or to both; and
  - (b) on conviction on indictment, to a penalty of any amount or to imprisonment for a term not exceeding seven years or to both.
- (2) Where any person is guilty of an offence under this section, the goods in respect of which the offence was committed shall be liable to forfeiture.

#### Textual Amendments

F385 S. 170B wholly in force (1.6.1993) by 1992 c. 48, s. 3(1), Sch. 2 para. 8; S.I. 1993/1341, art. 2, Sch.

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## 171 General provisions as to offences and penalties.

(1) Where—

- (a) by any provision of any enactment relating to an assigned matter a punishment is prescribed for any offence thereunder or for any contravention of or failure to comply with any regulation, direction, condition or requirement made, given or imposed thereunder; and
- (b) any person is convicted in the same proceedings of more than one such offence, contravention or failure,

that person shall be liable to that punishment for each such offence, contravention or failure of which he is so convicted.

(2) In this Act the “prescribed sum”, in relation to the penalty provided for an offence, means—

- (a) if the offence was committed in England [<sup>F386</sup>or Wales], the prescribed sum within the meaning of [<sup>F387</sup>section 32 of the Magistrates’ Courts Act 1980 (£1,000 or other sum substituted by order under section 143(1) of that Act)];
- (b) if the offence was committed in Scotland, the prescribed sum within the meaning of section 289B of the <sup>M41</sup>Criminal Procedure (Scotland) Act 1975 (£1,000 or other sum substituted by order under section 289D(1) of that Act);
- [<sup>F388</sup>(c) if the offence was committed in Northern Ireland, the prescribed sum within the meaning of Article 4 of the Fines and Penalties (Northern Ireland) Order 1984 (£1,000 or other sum substituted by order under Article 17 of that Order);]

and in subsection (1)(a) above, the reference to a provision by which a punishment is prescribed includes a reference to a provision which makes a person liable to a penalty of the prescribed sum within the meaning of this subsection.

<sup>F389</sup>(2A) .....

(3) Where a penalty for an offence under any enactment relating to an assigned matter is required to be fixed by reference to the value of any goods, that value shall be taken as the price which those goods might reasonably be expected to have fetched, after payment of any duty or tax chargeable thereon, if they had been sold in the open market at or about the date of the commission of the offence for which the penalty is imposed.

(4) Where an offence under any enactment relating to an assigned matter which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

In this subsection “director”, in relation to any body corporate established by or under any enactment for the purpose of carrying on under national ownership any industry or part of an industry or undertaking, being a body corporate whose affairs are managed by the members thereof, means a member of that body corporate.

(5) Where in any proceedings for an offence under the customs and excise Acts any question arises as to the duty or the rate thereof chargeable on any imported goods, and it is not possible to ascertain the relevant time specified in section 43 above [<sup>F390</sup>or the relevant excise duty point], that duty or rate shall be determined as if the goods had been imported without entry at the time when the proceedings were commenced

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**Changes to legislation:** Customs and Excise Management Act 1979 is up to date with all changes known to be in force on or before 26 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

[<sup>F390</sup>or, as the case may be, as if the time when the proceedings were commenced was the relevant excise duty point.]

**Textual Amendments**

- F386** Words substituted by [S.I. 1984/703](#), (N.I. 3) Sch. 6 para. 7(a)
- F387** Words substituted by [Magistrates' Courts Act 1980 \(c. 43, SIF 82\)](#), s. 154, [Sch. 7 para. 178](#)
- F388** [S. 171\(2\)\(c\)](#) inserted by [S.I. 1984/703](#), (N.I. 3) Sch. 6 para. 7(b)
- F389** [S. 171\(2A\)](#) repealed (5.11.1993) by [1993 c. 50](#), s. 1(1), [Sch 1, Pt. XIV Gp. 2](#).
- F390** Words in [s. 171\(5\)](#) inserted (9.12.1992) by [Finance \(No. 2\) Act 1992 \(c. 48\)](#), s. 3(1), [Sch. 2 para. 9\(a\)](#) (b); [S.I. 1992/3104](#), [art. 2\(1\)](#).

**Marginal Citations**

- M41** [1975 c. 21](#).

*Miscellaneous*

**172 Regulations.**

- (1) Any power to make regulations under this Act shall be exercisable by statutory instrument.
- (2) Subject to subsection (3) below, a statutory instrument containing regulations made under this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) A statutory instrument containing regulations made under section 120 above shall be subject to annulment in pursuance of a resolution of the House of Commons.

**173 Directions.**

Directions given under any provision of this Act may make different provision for different circumstances and may be varied or revoked by subsequent directions thereunder.

**174** .....<sup>F391</sup>

**Textual Amendments**

- F391** [S. 174](#) repealed by [Isle of Man Act 1979 \(c. 58\)](#), [Sch. 2](#)

**175 Scotland—special provisions.**

- (1) In the application of this Act to Scotland—
  - (a) any reference to costs shall be construed as a reference to expenses;
  - (b) any provision that any amount shall be recoverable summarily as a civil debt shall be construed as if the word “summarily” were omitted;
  - (c) any reference to a plaintiff shall be construed as a reference to a pursuer;

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- (d) any reference to a magistrates' court shall be construed as a reference to the sheriff court.

(2)<sup>F392</sup>

#### Textual Amendments

**F392** S. 175(2) repealed by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1980 \(c. 55, SIF 72:2\)](#), s. 28(2), [Sch. 3](#)

### 176 Game licences. S.R. & O. 1908/844.

- (1) Subject to the following provisions of this section, and save as expressly provided in section 102 above, the provisions of this Act relating to excise shall not apply in relation to the excise duties on licences to kill game and on licences to deal in game (which, by virtue of the Order in Council made under section 6 of the <sup>M42</sup>Finance Act 1908, are leviable by local authorities).
- (2) The Treasury may by order provide that, subject to such modifications, if any, as may be specified in the order, any provision of this Act so specified which confers or imposes powers, duties or liabilities with respect to excise duties and to the issue and cancellation of excise licences on which those duties are imposed and to other matters relating to excise duties and licences shall have effect in relation to a local authority and their officers with respect to the duties and licences referred to in subsection (1) above as they have effect in relation to the Commissioners and officers with respect to other excise duties and licences; and those provisions and, subject as aforesaid, any provisions relating to punishments and penalties in connection therewith shall have effect accordingly.
- (3) Any order under this section shall be made by statutory instrument and may amend the Order in Council made under section 6 of the Finance Act 1908.
- (4) Notwithstanding anything in section 145 above as applied under subsection (2) above, a local authority may authorise the bringing by any constable of proceedings, or any particular proceedings, for an offence under this or any other Act relating to the duties referred to in subsection (1) above.
- (5) A document purporting to be a copy of a resolution authorising the bringing of proceedings in accordance with subsection (4) above and to be signed by an officer of the local authority shall be evidence, until the contrary is shown, that the bringing of the proceedings was duly authorised.
- (6) This section extends to England and Wales only.

#### Marginal Citations

**M42** 1908 c. 16.

### 177 Consequential amendments, repeals and saving and transitional provisions.

- (1) The enactments specified in Schedule 4 to this Act shall be amended in accordance with the provisions of that Schedule.

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(2)

<sup>F393</sup>(3) The enactments specified in Schedule 6 to this Act are hereby repealed to the extent specified in the third column of that Schedule.

(4) The saving and transitional provisions contained in Schedule 7 to this Act shall have effect.

(5) The provisions of Schedules 4, 5 and 7 to this Act shall not be taken as prejudicing the operation of sections 15 to 17 of the <sup>M43</sup>Interpretation Act 1978 (which relate to the effect of repeals).

#### Textual Amendments

**F393** S. 177(2) repealed by [Statute Law \(Repeals\) Act 1986 \(c. 12\)](#), s. 1(1), [Sch. 1 Pt. III](#)

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

**C205** The text of s. 177(1)(3) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991

#### Marginal Citations

**M43** [1978 c. 30.](#)

### 178 Citation and commencement.

(1) This Act may be cited as the Customs and Excise Management Act 1979.

(2) This Act, the <sup>M44</sup>Customs and Excise Duties (General Reliefs) Act 1979, the <sup>M45</sup>Alcoholic Liquor Duties Act 1979, the <sup>M46</sup>Hydrocarbon Oil Duties Act 1979 <sup>F394</sup> and the <sup>M47</sup>Tobacco Products Duty Act 1979 may be cited together as the Customs and Excise Acts 1979.

(3) This Act shall come into operation on 1st April 1979.

#### Textual Amendments

**F394** Words in s. 178(2) repealed (1.1.1993) by [Finance \(No. 2\) Act 1992 \(c. 48\)](#), s. 82, [Sch. 18 Pt. II](#).

#### Marginal Citations

**M44** [1979 c. 3.](#)

**M45** [1979 c. 4.](#)

**M46** [1979 c. 5.](#)

**M47** [1979 c. 7.](#)

**Status:**

Point in time view as at 01/01/1994. This version of this Act contains provisions that are not valid for this point in time.

**Changes to legislation:**

Customs and Excise Management Act 1979 is up to date with all changes known to be in force on or before 26 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.