



# Customs and Excise Management Act 1979

## 1979 CHAPTER 2

### 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.

*Status: Point in time view as at 01/07/2004.*

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

- C1** 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 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>F1</sup>(b) any officer or other person acting under the authority of the Commissioners]

[<sup>F2</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

- F1** S. 8(1)(b) substituted for s. 8(1)(b)(c) by [Finance Act 1982 \(c. 39, SIF 40:1\)](#), s. 12
- F2** Words added by [Finance Act 1982 \(c. 39, SIF 40:1\)](#), s. 12

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## **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.

## **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>M1</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.

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#### Marginal Citations

M1 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 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>F3</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

F3 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

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- (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>F4</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

- F4** 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

#### 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 [<sup>F5</sup>level 5 on the standard scale]and may be detained.

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### Textual Amendments

- F5** 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.
- 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>M2</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.

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- (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>F6</sup>subject however, to section 2 of the <sup>M3</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>M4</sup>Northern Ireland Constitution Act 1973, shall be dealt with as provided in section 10 of the <sup>M5</sup>Exchequer and Audit Departments Act 1866.
- (5) Notwithstanding anything in section 10 of the <sup>M6</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>F7</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.
- [<sup>F8</sup>Paragraph (b) above does not apply to a claim for repayment under section 137A below.]
- (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

- F6** Words substituted by [Isle of Man Act 1979 \(c. 58\), Sch. 1 para. 3](#)
- F7** S. 17(5)(a) repealed by [Finance Act 1989 \(c. 26, SIF 40:1\), ss. 17, 187\(1\), Sch. 17 Pt. I](#)
- F8** Words in s. 17(5) inserted (1.5.1995) by [1995 c. 4, s. 20\(2\)\(5\)](#), with effect from 1.12.1995 by [S.I. 1995/2892, art. 2](#)

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

- C2** S. 17 extended by [Copyright, Designs and Patents Act 1988 \(c. 48, SIF 67A\), s. 112\(5\)](#)
- C3** S. 17 applied (31.10.1994) by [1994 c. 26, s. 90\(5\); S.I. 1994/2550, art. 2](#)

#### Marginal Citations

- M2** [1866 c. 39.](#)
- M3** [1979 c. 58.](#)
- M4** [1973 c. 36.](#)
- M5** [1866 c. 39.](#)
- M6** [1866 c. 39.](#)

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## **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.



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