



# Customs and Excise Management Act 1979

## 1979 CHAPTER 2

### 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>F1</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—

*Status: Point in time view as at 01/06/1997.*

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- (a) he shall be liable on summary conviction to a penalty of [<sup>F2</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>F3</sup>or aircraft], to the goods carried therein, to the crew and to the voyage, [<sup>F3</sup>or flight] 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>F4</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>F5</sup>in or over United Kingdom waters], <sup>F6</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>F6</sup>. . . shall be liable on summary conviction to a penalty of [<sup>F7</sup>level 3 on the standard scale].

<sup>F8</sup>(8) . . . . .

[<sup>F9</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

- F1** Words in s. 35(1) repealed (1.1.1993) by S.I. 1992/3095, regs. 3(4)(a), 10(2), **Sch.2**.
- F2** 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
- F3** Words in s. 35(6) substituted (1.1.1993) by S.I. 1992/3095, **reg. 3(4)(b)(i)(ii)**.
- 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. 5, 6
- F5** Words substituted by Territorial Sea Act 1987 (c. 49, SIF 29:1), s. 3, **Sch. 1 para. 4(2)**
- F6** Words in s. 35(7) repealed (1.1.1993) by S.I. 1992/3095, regs. 3(4)(c)(i)(ii), 10(2), **Sch.2**.
- F7** 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
- F8** S. 35(8) repealed (1.1.1993) by S.I. 1992/3095, regs. 3(4)(d), 10(2), **Sch.2**.
- F9** S. 35(9) inserted by Isle of Man Act 1979 (c. 58), **Sch. 1 para. 6**

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

- C1** S. 35(1) amended by S.I. 1990/2167, art. 4, **Sch. para. 5(1)**

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**C2** 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>F10</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>F11</sup>level 3 on the standard scale].
- (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>F12</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**

**F10** Words inserted by *Isle of Man Act 1979 (c. 58), Sch. 1 para. 7*

**F11** 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*

**F12** 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>F13</sup>**37** .....

#### **Textual Amendments**

**F13** *S. 37* repealed (1.1.1993) by *S.I. 1992/3095, regs. 3(5), 10(2), Sch.2.*

### **[<sup>F14</sup>37A Initial and supplementary entries.**

[ The Commissioners may—

- <sup>F15</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

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- (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>F16</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.]

[ Where—

- <sup>F17</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>F18</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>F19</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

- F14** Ss. 37A–C inserted by Finance Act 1984 (c. 43, SIF 40:1), s. 9, **Sch. 5 para. 2**
- F15** S. 37A(1) substituted (1.1.1993) by S.I. 1992/3095, reg. 10(1), **Sch. 1 para.5.**
- F16** S. 37A(1A) inserted by Finance Act 1990 (c. 29, SIF 40:1), s. 7, **Sch. 3 para. 2(3)**
- F17** Words substituted by Finance Act 1990 (c. 29, SIF 40:1), s. 7, **Sch. 3 para. 2(4)**
- F18** Words inserted by Finance Act 1990 (c. 29, SIF 40:1), s. 7, **Sch. 3 para. 2(5)**
- F19** 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

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(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>F20</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;
- (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>F21</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

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- 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.]
- (4) The Commissioners may direct that the condition mentioned in subsection (3)(a) [<sup>F22</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>F23</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>F24</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>F25</sup>subsection (1) or (2) above], the importer shall deliver an entry of the goods under [<sup>F26</sup>regulation 5 of the Customs Controls on Importation of Goods Regulations 1991] within such time as the Commissioners may direct.
- [<sup>F27</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>F28</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>F29</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

- F20** S. 37B(1A) inserted by Finance Act 1990 (c. 29, SIF 40:1), s. 7, **Sch. 3 para. 3(2)**
- F21** S. 37B(3A)(3B) inserted by Finance Act 1990 (c. 29, SIF 40:1), s. 7, **Sch. 3 para. 3(3)**
- F22** Words inserted by Finance Act 1990 (c. 29, SIF 40:1), s. 7, **Sch. 3 para. 3(4)**
- F23** Words substituted by Finance Act 1990 (c. 29, SIF 40:1), s. 7, **Sch. 3 para. 3(5)**
- F24** S. 37B(5A) inserted by Finance Act 1990 (c. 29, SIF 40:1), s. 7, **Sch. 3 para. 3(6)**
- F25** Words substituted by Finance Act 1990 (c. 29, SIF 40:1), s. 7, **Sch. 3 para. 3(7)**
- F26** Words in s. 37B(6) substituted (1.1.1993) by S.I. 1992/3095, reg. 10(1), **Sch. 1 para.6.**

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- F27** S. 37B(6A) inserted by Finance Act 1990 (c. 29, SIF 40:1), s. 7, **Sch. 3 para. 3(8)**
- F28** Words inserted by Finance Act 1990 (c. 29, SIF 40:1), s. 7, **Sch. 3 para. 3(9)(a)**
- F29** 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—
  - (a) authorise any [<sup>F30</sup>person] for the purposes of section 37A, or 37B(1) [<sup>F31</sup>, (1A), (2) or (3A)] above; and
  - (b) suspend or cancel the authorisation of any [<sup>F32</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>F33</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**

- F30** Word substituted by Finance Act 1990 (c. 29, SIF 40:1), s. 7, **Sch. 3 para. 4(2)(a)**
- F31** Words substituted by Finance Act 1990 (c. 29, SIF 40:1), s. 7, **Sch. 3 para. 4(2)(b)**
- F32** Word substituted by Finance Act 1990 (c. 29, SIF 40:1), s. 7, **Sch. 3 para. 4(3)**
- F33** Word substituted by Finance Act 1990 (c. 29, SIF 40:1), s. 7, **Sch. 3 para. 4(4)**

<sup>F34</sup>**38** .....

#### **Textual Amendments**

- F34** S. 38 repealed (1.1.1993) by S.I. 1992/3095, regs. 3(5), 10(2), **Sch.2**.

<sup>F35</sup>**38A** .....

#### **Textual Amendments**

- F35** S. 38A. repealed (1.1.1993) by S.I. 1992/3095, regs. 3(5), 10(2), **Sch.2**.

### **[<sup>F36</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—

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- (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.
- (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

**F36** 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>F37</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



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- (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—
- (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

**F37** 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)

**C3** 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>F38</sup>level 2 on the standard scale], and the goods in question shall be liable to forfeiture [<sup>F39</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

**F38** 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

**F39** 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;

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(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.

(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>F40</sup>level 3 on the standard scale] and any goods in respect of which the offence was committed shall be liable to forfeiture.

[<sup>F41</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>F42</sup>or to any goods which are moving under the procedure specified in [<sup>F43</sup>Article 165 of Council Regulation (EEC) No. 2913/92 and Article 311 of Commission Regulation (EEC) No. 2454/93]](transit procedures).]

#### Textual Amendments

**F40** 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

**F41** S. 42(3) inserted (01.01.1992) by S.I. 1991/2724, reg. 6(9)

**F42** Words in s. 42(3) added (1.1.1993) by S.I. 1992/3095, reg. 3(2).

**F43** Words in s. 42(3) substituted (1.1.1994) by S.I. 1993/3014, reg. 2(2).

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

**C4** 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>M1</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>F44</sup>Subject to subsections (2A), (2B) [<sup>F45</sup>(2C) and (2D)] below,] the duties of customs or excise and the rates thereof chargeable on imported goods—

[<sup>F46</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>F47</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>F48</sup>(c) if no entry is made thereof and the goods are not declared under section 78 below shall be—

*Status: Point in time view as at 01/06/1997.*

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- (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.]
- [<sup>F49</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>F50</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>M2</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>F51</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>F52</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

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- (b) in the case of goods manufactured or produced in the United Kingdom, as if they had not been so manufactured or produced.
- [<sup>F53</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
- (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

- F44** Words inserted by [S.I. 1982/1324, reg. 2\(2\)](#)
- F45** 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.](#)
- F46** S. 43(2)(a) substituted by Finance Act 1981 (c. 35, SIF 40:1), s. 10(1), [Sch. 6 para. 7\(2\)](#)
- F47** Words repealed by Finance Act 1981 (c. 35, SIF 40:1), [Sch. 19 Pt. 1](#)
- F48** S. 43(2)(c) substituted by [S.I. 1982/1324, reg. 2\(3\)](#)
- F49** S. 43(2A)–(2C) inserted by [S.I. 1982/1324, reg. 2\(4\)](#)
- F50** 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.](#)
- F51** S. 43(4) repealed by Finance Act 1981 (c. 35, SIF 40:1), s. 139(6), [Sch. 19 Pt. 1](#)
- F52** Words substituted by Isle of Man Act 1979 (c. 58), [Sch. 1 para. 8](#)
- F53** 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)

- C5** S. 43 modified by [S.I. 1986/260, regs. 5\(d\)](#) (as substituted by [S.I. 1986/1019, reg. 2](#)), 18
- C6** 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\(2\)](#))
- C7** 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\(b\)](#))
- C8** S. 43(5) excluded (20.10.1995) by [S.I. 1995/2518, reg. 118\(c\)\(i\)](#)

*Status: Point in time view as at 01/06/1997.*

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#### **Marginal Citations**

**M1** 1972 c. 68.

**M2** 1979 c. 3.

#### **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 transshipment.**

Where any goods are entered for transit or transshipment, 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—

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- (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
    - (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)**

- C9** S. 49 modified by [S.I. 1986/260](#), [regs. 5\(e\)](#), 18
- C10** S. 49(1) amended by [S.I. 1990/2167](#), art. 4, [Sch. para. 7](#)
- C11** 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\(2\)](#))
- C12** 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.

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(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
- (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 [<sup>F54</sup>(5), (5A) or (5B)]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>F55</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>M3</sup>Misuse of Drugs Act 1971, subsection (4) above shall have effect subject to the modifications specified in Schedule 1 to this Act.

[<sup>F56</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”.]

[<sup>F57</sup>(5B) In the case of an offence under subsection (2) or (3) above in connection with the prohibition contained in regulation 2 of the Import of Seal Skins Regulations 1996, subsection (4) above shall have effect as if—

- (a) for paragraph (a) there were substituted the following—
  - “(a) on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding three months, or to both”; and
- (b) in paragraph (b) for the words “7 years” there were substituted the words “2 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,

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he shall be liable on summary conviction to a penalty of three times the value of the goods or [<sup>F58</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

- F54** Words in s. 50(4) substituted (15.11.1996) by S.I. 1996/2686, art. 4(a)  
**F55** Words substituted by Finance Act 1988 (c. 33, SIF 40:1), s. 12(1)(a)(6)  
**F56** S. 50(5A) inserted by Forgery and Counterfeiting Act 1981 (c. 45, SIF 39:7), s. 23(1)(b)  
**F57** S. 50(5B) inserted (15.11.1996) by S.I. 1996/2686, reg. 4(1)(b)  
**F58** 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)

- C13** S. 50 applied (31.3.2002) by S.I. 2002/528, reg. 5(4)  
**C14** S. 50(2) amended by S.I. 1990/2167, art. 4, Sch. para. 8

#### Marginal Citations

- M3** 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>F59</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

- F59** Words repealed by Finance Act 1983 (c. 28, SIF 40:1), s. 7(5), Sch. 10 Pt. I

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

- C15** 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))



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**C16** 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)**)

**C17** S. 51 amended (1.1.1993) by S.I. 1992/3152, **reg. 11(a)**.

**Status:**

Point in time view as at 01/06/1997.

**Changes to legislation:**

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