



# Customs and Excise Management Act 1979

## 1979 CHAPTER 2

### 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 the licence or trade in question, may be granted by the proper officer on payment of [<sup>F1</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>F2</sup>held] by those persons in respect of those premises [<sup>F3</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 [<sup>F4</sup>one month] after being so requested by an officer [<sup>F4</sup>his failure shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties)].

*Status: Point in time view as at 22/02/2017.*

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#### Textual Amendments

- F1** Words substituted by [Finance Act 1986 \(c. 41, SIF 40:1\)](#), s. 8(6), [Sch. 5 para. 1\(a\)](#)
- F2** Word substituted by [Finance Act 1986 \(c. 41, SIF 40:1\)](#), s. 8(6), [Sch. 5 para. 1\(b\)](#)
- F3** Words substituted by [Finance Act 1986 \(c. 41, SIF 40:1\)](#), s. 8(6), [Sch. 5 para. 1\(b\)](#)
- F4** Words in s. 101(4) substituted (1.1.1995) by 1994 c. 9, s. 9(9), [Sch. 4 Pt. I para. 5\(a\)\(b\)](#) (with s. 19(3)); S.I. 1994/2679, [art. 3](#) (with [art. 4\(3\)](#))

## 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>F5</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 <sup>F6</sup> ..., a penalty of [<sup>F7</sup>[<sup>F8</sup>level 5 on the standard scale]] [<sup>F8</sup>£20,000];
  - <sup>F9</sup>(aa) where the licence is a licence under [<sup>F10</sup>the Vehicle Excise and Registration Act 1994], a penalty of whichever is the greater of—
    - (i) level 3 on the standard scale, or
    - (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>F7</sup>level 3 on the standard scale].

#### Textual Amendments

- F5** Words substituted by [Finance Act 1986 \(c. 41, SIF 40:1\)](#), s. 8(6), [Sch. 5 para. 2](#)
- F6** Words in s. 102(3)(a) omitted (with effect in accordance with Sch. 24 para. 66(3) of the amending Act) by virtue of [Finance Act 2012 \(c. 14\)](#), [Sch. 24 para. 55](#) (with [Sch. 24 para. 62](#))
- 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. 102(3)(a): sum substituted for words (E.W.) (12.3.2015) by [The Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(Fines on Summary Conviction\) Regulations 2015 \(S.I. 2015/664\)](#), reg. 1(1), [Sch. 2 para. 1\(14\)](#) (with reg. 5(1))
- F9** 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)

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**F10** Words in s. 102(3)(aa) substituted (1.9.1994) by 1994 c. 22, ss. 9(4), 63, **Sch. 3 para. 15** (with s. 57(4))

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

**C1** S. 102 excluded (1.5.1995) by 1994 c. 22, **s. 19A** (as inserted (1.5.1995) by 1995 c. 4, s. 19, **Sch. 4 Pt. V para. 32(1)(4)** (with **Sch. 8 paras. 55(2), 57(1)**)

**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>F11</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.
- (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.

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#### Textual Amendments

**F11** Words substituted by [Finance Act 1986 \(c. 41, SIF 40:1\)](#), s. 8(6), [Sch. 5 para. 2](#)

**105,** ..... <sup>F12</sup>  
**106.**

#### Textual Amendments

**F12** 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 [<sup>F13</sup>his contravention or failure to comply shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties).]
- (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 [<sup>F14</sup>his doing so shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties).]

#### Textual Amendments

- F13** Words in s. 107(2) substituted (1.1.1995) by [1994 c. 9, s. 9\(9\)](#), [Sch. 4 Pt. I para. 6\(1\)](#) (with s. 19(3)); [S.I. 1994/2679, art. 3](#) (with art. 4(3))
- F14** Words in s. 107(3) substituted (1.1.1995) by [1994 c. 9, s. 9\(9\)](#), [Sch. 4 Pt. I para. 6\(2\)](#) (with s. 19(3)); [S.I. 1994/2679, art. 3](#) (with art. 4(3))

*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
  - (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.

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- (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, <sup>[F15]</sup>his contravention or failure to comply shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties).]

#### Textual Amendments

**F15** Words in s. 108(4) substituted (1.1.1995) by 1994 c. 9, s. 9(9), **Sch. 4 Pt. I para. 7** (with s. 19(3)); S.I. 1994/2679, **art. 3** (with **art. 4(3)**)

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

**C2** S. 108 applied (1.7.2005) by **The Denatured Alcohol Regulations 2005** (S.I. 2005/1524), **regs. 1, 9(5)**

### 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—

- (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

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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, [<sup>F16</sup>his use of the premises or article shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties), and any]such article and any goods found on any such premises or in any such article shall be liable to forfeiture.

<sup>F17</sup>(2) . . . . .

**Textual Amendments**

**F16** Words in s. 111(1) substituted (1.1.1995) by 1994 c. 9, s. 9(9), Sch. 4 Pt. I para. 8(1) (with s. 19(3)); S.I. 1994/2679, art. 3 (with art. 4(3))

**F17** S. 111(2) repealed (1.1.1995) by ss. 9(9), 258, Sch. 4 Pt. I para. 8(2), Sch. 26 Pt. III Note (with s. 19(3)); S.I. 1994/2679, art. 3 (with art. 4(3))

*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>F18</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>F19</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.
- (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.

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(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.

[<sup>F20</sup>(7) For the purposes of subsection (1)—

- (a) it does not matter if the premises in question are owned or used partly for the purposes of the trade and partly for other purposes (including as a dwelling), but
- (b) the officer may not enter or inspect any part of the premises that is used solely as a dwelling.

(8) Premises used to hold or store anything for the purposes of a revenue trader's trade are taken to be used by the revenue trader for the purposes of that trade, regardless of who owns or occupies the premises.]

#### Textual Amendments

**F18** Word inserted by [Finance Act 1981 \(c. 35, SIF 40:1\)](#), s. 11, [Sch. 8 Pt. I para. 6](#)

**F19** Words substituted by [Finance Act 1981 \(c. 35, SIF 40:1\)](#), s. 11, [Sch. 8 Pt. I para. 6](#)

**F20** S. 112(7)(8) inserted (1.4.2011) by [Finance \(No. 3\) Act 2010 \(c. 33\)](#), s. 29(2), [Sch. 13 para. 10](#); [S.I. 2011/777](#), art. 2

#### [<sup>F21</sup>112A Section 112: supplementary powers

- (1) The power in section 112(1) includes power to inspect any business documents that are on the premises.
- (2) “Business documents” means documents (or copies of documents) that relate to the carrying on of the revenue trader's trade, whether or not ones that a person may be required to produce under section 118B.
- (3) Subsections (4) to (8) of section 118B apply to documents inspected under section 112(1) as they apply to documents produced under section 118B.
- (4) The power in section 112(1) also includes power—
  - (a) to mark items that have been examined or inspected, and anything containing such items, for the purpose of indicating that they have been examined or inspected, and
  - (b) to obtain and record information (whether electronically or otherwise) relating to the premises, items and documents that have been examined or inspected.]

#### Textual Amendments

**F21** S. 112A inserted (1.4.2011) by [Finance \(No. 3\) Act 2010 \(c. 33\)](#), s. 29(2), [Sch. 13 para. 11](#); [S.I. 2011/777](#), art. 2

#### 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

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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 <sup>F22</sup> . . .
- (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>F23</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.

#### Textual Amendments

**F22** Words in s. 113(4) repealed (1.1.1995) by 1994 c. 9, s. 258, **Sch. 26 Pt. III** Note (with s. 19(3)); S.I. 1994/2679, **art. 3** (with **art. 4(3)**)

**F23** 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 [<sup>F24</sup>his use of that substance or liquor in that manner shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties); but section 10 of that Act (exception for cases of reasonable excuse) shall not apply in relation to conduct attracting a penalty by virtue of this subsection.]



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- (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

- F24** Words in s. 114(2) substituted (1.1.1995) by 1994 c. 9, s. 9(9), **Sch. 4 Pt. 1 para. 9** (with s. 19(3)); S.I. 1994/2679, **art. 3** (with **art. 4(3)**)

### 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.
- (4) If [<sup>F25</sup>the revenue trader] removes, conceals, withholds, damages or destroys a specimen, or alters, defaces, or obliterates any entry therein, [<sup>F25</sup>his doing so shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties)].
- [<sup>F26</sup>(5) For the purposes of subsection (4) above and without prejudice to section 10(1) of the Finance Act 1994 (exception for cases of reasonable excuse), conduct by an employee of the revenue trader or by any other person entitled to act on the trader's behalf in connection with his trade shall be deemed to be conduct by that trader except in so far as he took all reasonable steps to prevent it.]

#### Textual Amendments

- F25** Words in s. 115(4) substituted (1.1.1995) by 1994 c. 9, s. 9(9), **Sch. 4 Pt. 1 para. 10(1)(a)(b)** (with s. 19(3)); S.I. 1994/2679, **art. 3** (with **art. 4(3)**)
- F26** S. 115(5) inserted (1.1.1995) by 1994 c. 9, s. 9(9), **Sch. 4 Pt. 1 para. 10(2)** (with s. 19(3)); S.I. 1994/2679, **art. 3** (with **art. 4(3)**)

### 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.

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- (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 [<sup>F27</sup>the trader's failure to pay the duty on demand shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties) which shall be calculated by reference to the amount of the duty demanded and shall also attract daily penalties.].

#### Textual Amendments

**F27** Words in s. 116(3) substituted (1.1.1995) by 1994 c. 9, s. 9(9), **Sch. 4 Pt. I para. 11** (with s. 19(3)); S.I. 1994/2679, **art. 3** (with art. 4(3))

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

**C3** S. 116 modified (19.3.1997) by 1997 c. 16, **ss. 12(6)(b), 15**

<sup>F28</sup>**116A**.....

#### Textual Amendments

**F28** S. 116A repealed (1.1.1995) by 1994 c. 9, ss. 19, 258, **Sch. 26 Pt. III** Note (with s. 19(3)); S.I. 1994/2679, **art. 3** (with art. 4(3))

### 117 Execution and distress against revenue traders.

- (1) Where any sum is owing by a revenue trader in respect of any <sup>F29</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>F30</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>F31</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—

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- (a) at the time when the <sup>F29</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>F30</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.
- [<sup>F32</sup>(4A) This section does not apply for the purposes of levying distress in accordance with regulations under section 51 of the Finance Act 1997 or for the purposes of any execution under section 52 of that Act by diligence.]
- (5) . . . . .
  - <sup>F33</sup>(6) . . . . .
  - <sup>F33</sup>(7) . . . . .
  - <sup>F33</sup>(7A) . . . . .
- (8) In this section—  
<sup>F34</sup> . . . . .  
“relevant penalty” means a penalty incurred under the revenue trade provisions of the customs and excise Acts.
- [<sup>F35</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”;
  - <sup>F36</sup>(c) . . . . .
  - <sup>F36</sup>(d) . . . . .
  - <sup>F36</sup>(e) . . . . .
  - <sup>F36</sup>(f) . . . . .
- <sup>F36</sup>(10) . . . . . ]

**Textual Amendments**

- F29** 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).
- F30** 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).
- F31** 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).

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- F32** S. 117(4A) inserted (1.7.1997) by 1997 c. 16, s. 53(1); S. I. 1997/1432, art. 2
- F33** S. 117(5)-(7A) repealed (1.7.1997) by 1997 c. 16, s. s. 113, Sch. 18 Pt. V(2), Note; S.I. 1997/1433, art. 2
- F34** 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).
- F35** 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
- F36** S. 117(9)(c)-(f) and subsection (10) repealed (1.7.1997) by 1997 c. 16, s. 113, Sch. 18 Pt. V(2); S.I. 1997/1433, art. 2

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

- C4** 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))

**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.

**Status:**

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**Changes to legislation:**

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