



# Customs and Excise Management Act 1979

## 1979 CHAPTER 2

### PART IX

#### CONTROL OF EXCISE LICENCE TRADES AND REVENUE TRADERS

##### *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>F1</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>F2</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.

*Status: Point in time view as at 01/07/2004.*

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- (5) Subsection (1) above applies to vehicles, vessels, aircraft, hovercraft or structures in or from which tobacco products are sold or dealt in or dutiable alcoholic liquors are sold by retail as it applies to premises.
- (6) This section applies to the occupier of a refinery as it applies to a distiller, whether or not the occupier is a revenue trader.

#### Textual Amendments

- F1** Word inserted by [Finance Act 1981 \(c. 35, SIF 40:1\)](#), s. 11, [Sch. 8 Pt. I para. 6](#)
- F2** Words substituted by [Finance Act 1981 \(c. 35, SIF 40:1\)](#), s. 11, [Sch. 8 Pt. I para. 6](#)

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

- (1) If an officer has reasonable grounds to suspect that any secret pipe or other means of conveyance, cock, vessel or utensil is kept or used by a revenue trader to whom this section applies, that officer may, subject to subsection (2) below, at any time, break open any part of the premises of that trader and forcibly enter thereon and so far as is reasonably necessary break up the ground in or adjoining those premises or any wall thereof to search for that pipe or other means of conveyance, cock, vessel or utensil.
- (2) No officer shall exercise the powers conferred on him by subsection (1) above by night unless he is accompanied by a constable.
- (3) If the officer finds any such pipe or other form of conveyance leading to or from the trader's premises, he may enter any other premises from or into which it leads, and so far as is reasonably necessary break up any part of those other premises to trace its course, and may cut it away and turn any cock thereon, and examine whether it conveys or conceals any goods chargeable with a duty of excise, or any materials used in the manufacture of such goods, in such manner as to prevent a true account thereof from being taken.
- (4) Every such pipe or other means of conveyance, cock, vessel or utensil as aforesaid, and all goods chargeable with a duty of excise or materials for the manufacture of such goods found therein, shall be liable to forfeiture<sup>F3</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>F4</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

- F3** 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))
- F4** 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\(a\)](#)

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#### **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>F5</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.]
- (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**

- F5** 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>F6</sup>the revenue trader] removes, conceals, withholds, damages or destroys a specimen, or alters, defaces, or obliterates any entry therein, [<sup>F6</sup>his doing so shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties).].
- [<sup>F7</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.]

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#### Textual Amendments

- F6** Words in s. 115(4) substituted (1.1.1995) by 1994 c. 9, s. 9(9), **Sch. 4 Pt. I para. 10(1)(a)(b)** (with s. 19(3)); S.I. 1994/2679, **art. 3** (with art. 4(3))
- F7** S. 115(5) inserted (1.1.1995) by 1994 c. 9, s. 9(9), **Sch. 4 Pt. I 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.
- (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>F8</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

- F8** 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)

- C1** S. 116 modified (19.3.1997) by 1997 c. 16, **ss. 12(6)(b), 15**

### <sup>F9</sup>116A .....

#### Textual Amendments

- F9** 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>F10</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>F11</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.

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[<sup>F12</sup>(1A) In subsection (1) above as it applies in relation to a sum owing by a revenue trader in respect of lottery duty or of a relevant penalty—

- (a) references to goods liable to any excise duty include lottery tickets on the taking of which lottery duty will be chargeable, and
- (b) “the trade in respect of which the duty is imposed” includes any trade or business carried on by the revenue trader that consists of or includes the buying, selling, importation, exportation, dealing in or handling of tickets or chances on the taking of which lottery duty is or will be chargeable.]

(2) Subsection (1) above shall also apply in relation to things falling within paragraph (a), (b) or (c) of that subsection which, although they are not still in the possession or custody of the trader, an agent of his or other person on his behalf, were in such possession or custody—

- (a) at the time when the <sup>F10</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>F11</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>F13</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>F14</sup>(6) . . . . .

<sup>F14</sup>(7) . . . . .

<sup>F14</sup>(7A) . . . . .

(8) In this section—

<sup>F15</sup>  
. . .

“relevant penalty” means a penalty incurred under the revenue trade provisions of the customs and excise Acts.

[<sup>F16</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>F17</sup>(c) . . . . .

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F17(d) .....  
 F17(e) .....  
 F17(f) .....

F17(10) .....]

#### **Textual Amendments**

- F10** 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\(1\)](#).
- F11** 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\(1\)](#).
- F12** 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\(1\)](#).
- F13** S. 117(4A) inserted (1.7.1997) by [1997 c. 16, s. 53\(1\)](#); S. I. 1997/1432, [art. 2](#)
- F14** 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](#)
- F15** 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\(1\)](#).
- F16** 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
- F17** 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)**

- C2** 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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