



Customs and Excise Management Act 1979

1979 CHAPTER 2

^{F1}[PART IXA

PROTECTION OF THE REVENUES DERIVED FROM EXCISE DUTIES

Textual Amendments

F1 Pt. IXA (ss. 118A-118G) inserted (25.7.1991) by [Finance Act 1991 \(c. 31\)](#), s. 12, [Sch. 5](#)

^{F2}**118A Duty of revenue traders to keep records.**

- (1) The Commissioners may by regulations require every revenue trader—
 - (a) to keep such records as may be prescribed in the regulations; and
 - (b) to preserve those records for such period not exceeding six years as may be prescribed in the regulations or for such lesser period as the Commissioners may [^{F3}specify in writing (and different lesser periods may be specified for different cases)] .
- (2) Regulations under this section—
 - (a) may make different provision for different cases; and
 - (b) may be framed by reference to such records as may be specified in any notice published by the Commissioners in pursuance of the regulations and not withdrawn by a further notice.
- [^{F4}(3) A duty imposed by this section to preserve records may be discharged—
 - (a) by preserving them in any form and by any means, or
 - (b) by preserving the information contained in them in any form and by any means,subject to any conditions or exceptions specified in writing by the Commissioners.]

Status: Point in time view as at 22/02/2017.

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- ^{F5}(4)
- ^{F5}(5)
- ^{F5}(6)]
- ^{F6}(7)

Textual Amendments

- F2** Pt. IXA (ss. 118A-118G) inserted (25.7.1991) by [Finance Act 1991 \(c. 31\), s. 12, Sch. 5](#)
- F3** Words in s. 118A(1)(b) substituted (1.4.2011) by [Finance \(No. 3\) Act 2010 \(c. 33\), s. 29\(2\), Sch. 13 para. 1\(2\); S.I. 2011/777, art. 2](#)
- F4** S. 118A(3) substituted (1.4.2011) by [Finance \(No. 3\) Act 2010 \(c. 33\), s. 29\(2\), Sch. 13 para. 1\(3\); S.I. 2011/777, art. 2](#)
- F5** Ss. 118A(4)-(6) omitted (1.4.2011) by virtue of [Finance \(No. 3\) Act 2010 \(c. 33\), s. 29\(2\), Sch. 13 para. 1\(4\); S.I. 2011/777, art. 2](#)
- F6** S. 118A(7) repealed (3.5.1994) by [1994 c. 9, ss. 256\(4\), 258, Sch. 26 Pt. VIII\(3\)](#)

^{F7}**118B Duty of revenue traders and others to furnish information and produce documents.**

- (1) Every revenue trader shall—
- (a) furnish to the Commissioners, within such time and in such form as they may reasonably require, such information relating to—
- (i) any goods or services supplied by or to him in the course or furtherance of a business, or
 - (ii) any goods in the importation or exportation of which he is concerned in the course or furtherance of a business, [^{F8}or
 - (iii) any transaction or activity effected or taking place in the course or furtherance of a business,]
- as they may reasonably specify; and
- (b) upon demand made by an officer, produce or cause to be produced for inspection by that officer—
- (i) at the principal place of business of the revenue trader or at such other place as the officer may reasonably require, and
 - (ii) at such time as the officer may reasonably require,
- any documents relating to the goods or services or to the supply, importation or exportation [^{F9}or to the transaction or activity].
- (2) Where, by virtue of subsection (1) above, an officer has power to require the production of any documents from a revenue trader—
- (a) he shall have the like power to require production of the documents concerned from any other person who appears to the officer to be in possession of them; but
 - (b) if that other person claims a lien on any document produced by him, the production shall be without prejudice to the lien.
- (3) For the purposes of this section, the documents relating to the supply of goods or services, or the importation or exportation of goods, in the course or furtherance of

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- any business [^{F10}, or to any transaction or activity effected or taking place in the course or furtherance of any business,] shall be taken to include—
- (a) any profit and loss account and balance sheet, and
 - (b) any records required to be kept by virtue of section 118A above, relating to that business.
- (4) An officer may take copies of, or make extracts from, any document produced under subsection (1) or (2) above.
 - (5) If it appears to an officer to be necessary to do so, he may, at a reasonable time and for a reasonable period, remove any document produced under subsection (1) or (2) above and shall, on request, provide a receipt for any document so removed.
 - (6) Where a lien is claimed on a document produced under subsection (2) above, the removal of the document under subsection (5) above shall not be regarded as breaking the lien.
 - (7) Where a document removed by an officer under subsection (5) above is reasonably required for the proper conduct of a business he shall, as soon as practicable, provide a copy of the document, free of charge, to the person by whom it was produced or caused to be produced.
 - (8) Where any documents removed under the powers conferred by this section are lost or damaged, the Commissioners shall be liable to compensate their owner for any expenses reasonably incurred by him in replacing or repairing the documents.

Textual Amendments

- F7** Pt. IXA (ss. 118A-118G) inserted (25.7.1991) by [Finance Act 1991 \(c. 31\), s. 12, Sch. 5](#)
- F8** S. 118B(1)(a)(iii) and word preceding it inserted (19.3.1997) by [1997 c. 16, ss. 13\(2\), 15, Sch. 2 Pt. I para. 3\(a\)](#)
- F9** Words in s. 118B(1)(b) inserted (19.3.1997) by [1997 c. 16, ss. 13\(2\), 15, Sch. 2 Pt. I para. 3\(b\)](#)
- F10** Words in s. 118B(3) inserted (19.3.1997) by [1997 c. 16, ss. 13\(2\), 15, Sch. 2 Pt. I para. 3\(c\)](#)

Modifications etc. (not altering text)

- C1** S. 118B modified (3.5.1994) by [1994 c. 9, s. 40\(2\), Sch. 6 paras. 2, 4](#)

[^{F11}118B] Further duty to provide information and documents

- (1) An officer may by notice in writing require a person to provide documents if—
 - (a) they are reasonably required by the officer for the purpose of protecting, securing, collecting or managing revenues derived from duties of excise, and
 - (b) the officer has reasonable cause to believe that the person is in possession or control of them.
- (2) An officer may not give a notice under this section without the approval of the tribunal.
- (3) An application for approval may be made without notice (except as required under subsection (4)).
- (4) The tribunal may not give its approval unless—
 - (a) it is satisfied that, in the circumstances, the officer proposing to give the notice is justified in doing so,

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- (b) the person to whom the notice is to be given has been told that the documents are required and given a reasonable opportunity to make representations to an officer, and
 - (c) the tribunal has been given a summary of any representations made by that person.
- (5) Paragraphs (b) and (c) of subsection (4) do not apply to the extent that the tribunal is satisfied that taking the action specified in those paragraphs might prejudice the protection, security, collection or management of revenues derived from duties of excise.
- (6) A decision of the tribunal under this section is final (despite the provisions of sections 11 and 13 of the Tribunals, Courts and Enforcement Act 2007).
- (7) The following provisions of Schedule 36 to the Finance Act 2008 apply to a notice under this section as they apply to an information notice—
- (a) paragraphs 7 and 8 (complying with notices and producing copies of documents),
 - (b) paragraphs 15 and 16 (powers to copy and remove documents),
 - (c) Part 4 (restrictions on powers) except paragraphs 21, 21A and 28, and
 - (d) Part 9 (miscellaneous provisions and interpretation) so far as relevant to the provisions listed above.
- (8) The powers in this section apply to information as they apply to documents (and “documents” is to be read accordingly).
- (9) Nothing in this section affects or limits section 118B.

Textual Amendments

F11 Ss. 118BA-118BD inserted (1.4.2011) by [Finance \(No. 3\) Act 2010 \(c. 33\)](#), s. 29(2), [Sch. 13 para. 12](#); [S.I. 2011/777](#), art. 2

118BB Inspection powers: goods-based duties

- (1) This section applies to premises if an officer has reasonable cause to believe that—
- (a) the premises are used in connection with the supply, importation or exportation of goods of a class or description chargeable with a duty of excise, and
 - (b) any such goods, or documents relating to any such goods, are on the premises.
- (2) The officer may at any reasonable time enter and inspect the premises and inspect—
- (a) any goods found on the premises, and
 - (b) any documents found on the premises that appear to the officer to relate to the supply, importation or exportation of goods of a class or description chargeable to duty of excise.
- (3) For the purposes of this section—
- (a) it does not matter if the premises are used partly for a purpose mentioned in subsection (1)(a) 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.

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- (4) Premises used to hold or store goods in connection with their supply, importation or exportation are taken to be premises used in connection with the supply, importation or exportation of goods, regardless of who owns or occupies the premises.

Textual Amendments

F11 Ss. 118BA-118BD inserted (1.4.2011) by [Finance \(No. 3\) Act 2010 \(c. 33\)](#), s. 29(2), [Sch. 13 para. 12](#); [S.I. 2011/777](#), art. 2

[^{F12}118B] **Inspection powers: gaming duty and machine games duty**

- (1) Subsection (2) applies to premises if an officer has reasonable cause to believe that—
- section 10 gaming is taking place, has taken place or is about to take place on the premises, or
 - machines are located on the premises in respect of which a person is, has been or is about to become liable for machine games duty.
- (2) The officer may at any reasonable time enter and inspect the premises and inspect—
- accounts, records and other documents in the custody or control of any relevant person, and
 - any relevant equipment.
- (3) Subsection (1) does not permit an officer to enter or inspect a particular part of premises if—
- the officer has no reasonable cause to believe that paragraph (a) or, as the case may be, (b) of that subsection is satisfied with respect to that particular part, and
 - the part is used solely as a dwelling.
- (4) An officer may at any reasonable time (whether or not as part of an inspection under subsection (2)) require a relevant person or anyone acting on such a person's behalf—
- to open relevant equipment, and
 - to carry out any other operation that may be necessary to enable the officer to ascertain whether any gaming duty or machine games duty is payable in respect of it and, if so, how much.
- (5) A “relevant person” is—
- in relation to gaming duty, a person who is engaging, or whom the officer reasonably suspects of engaging, in section 10 gaming or in any activity by reason of which the person is or may become liable to gaming duty, and
 - in relation to machine games duty, a person who is, has been or is about to become liable to machine games duty or whom the officer reasonably suspects of being, having been or being about to become so liable.
- (6) “Relevant equipment” is—
- in relation to gaming duty, equipment that is being, or the officer reasonably suspects of having been or of being intended to be, used on the premises for or in connection with section 10 gaming, and
 - in relation to machine games duty, any equipment that is, or the officer reasonably suspects of being, a machine in respect of which a person is, has

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been or may become liable to machine games duty and any other equipment used in connection with such a machine.

(7) In this section—

- (a) “section 10 gaming” means gaming to which section 10 of the Finance Act 1997 applies, and
- (b) a reference to premises where a machine is located is to be read in accordance with Part 1 of Schedule 24 to the Finance Act 2012.]

Textual Amendments

- F11** Ss. 118BA-118BD inserted (1.4.2011) by [Finance \(No. 3\) Act 2010 \(c. 33\)](#), s. 29(2), [Sch. 13 para. 12](#); [S.I. 2011/777](#), art. 2
- F12** S. 118BC substituted (with effect in accordance with Sch. 24 para. 66(2) of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 24 para. 42\(1\)](#)

Inspection powers: betting duties and remote gaming duty

F13 **118BCA**

- (1) Subsection (2) applies to premises if an officer has reasonable cause to believe that—
- (a) betting facilities are being provided, have been provided or are to be provided there,
 - (b) a totalisator is being operated, has been operated or is to be operated there, or
 - (c) any business in respect of which a person is or may become liable to remote gaming duty is being carried on, has been carried on or is to be carried on there.
- (2) The officer may at any reasonable time enter and inspect the premises and inspect—
- (a) accounts, records and other documents in the custody or control of a relevant person, and
 - (b) any relevant equipment.
- (3) Subsection (1) does not permit an officer to enter or inspect a particular part of premises if—
- (a) the officer has no reasonable cause to believe that paragraph (a), (b) or (as the case may be) (c) of that subsection is satisfied with respect to that particular part, and
 - (b) that part is used only as a dwelling.
- (4) An officer may at any reasonable time (whether or not as part of an inspection under subsection (2)) require a relevant person or anyone acting on such a person's behalf—
- (a) to open any relevant equipment, and
 - (b) to carry out any other operation that may be necessary to enable the officer to ascertain whether any general betting duty, pool betting duty or remote gaming duty is payable in respect of it and, if so, how much.
- (5) A “relevant person” is a person—
- (a) who by virtue of being a bookmaker, being treated by section 133 of the Finance Act 2014 as a bookmaker or providing facilities for making bets is liable to general betting duty,
 - (b) who by virtue of being a bookmaker is liable to pool betting duty,
 - (c) who by virtue of entering into arrangements for chargeable persons to participate in remote gaming is liable to remote gaming duty, or

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- (d) who is reasonably suspected by the officer of being, having been or being about to become liable as mentioned in paragraph (a), (b) or (c).
- (6) “Relevant equipment” is equipment that is being, or that the officer reasonably suspects of having been or of being intended to be, used on the premises for or in connection with any activity that constitutes betting or gaming for the purposes of Part 3 of the Finance Act 2014 (see sections 150, 183 and 188).
- (7) Expressions used in this section and Part 3 of the Finance Act 2014 have the same meanings in this section as in that Part.]

Textual Amendments

- F11** Ss. 118BA-118BD inserted (1.4.2011) by [Finance \(No. 3\) Act 2010 \(c. 33\)](#), s. 29(2), [Sch. 13 para. 12](#); [S.I. 2011/777](#), art. 2
- F13** S. 118BCA inserted (1.12.2014) by [Finance Act 2014 \(c. 26\)](#), s. 198(2)(c), [Sch. 28 para. 12](#) (with [Sch. 29](#))

118BD Inspection powers: supplementary provision

- (1) If an officer, in the course of exercising a power under section 118BB [^{F14}, 118BC or 118BCA,] finds reason to believe that the premises are owned or used by a revenue trader (within the meaning of section 112), the officer may also exercise any power that the officer could have exercised under section 112 if the officer had entered the premises under that section.
- (2) Subsections (4) to (8) of section 118B apply to documents inspected under section 118BB [^{F14}, 118BC or 118BCA,] as they apply to documents produced under section 118B.
- (3) The powers under sections 118BB [^{F15}, 118BC and 118BCA] include power—
 - (a) to mark items that have been inspected, and anything containing such items, for the purpose of indicating that they have been inspected, and
 - (b) to obtain and record information (whether electronically or otherwise) relating to the premises, items and documents that have been inspected.]

Textual Amendments

- F11** Ss. 118BA-118BD inserted (1.4.2011) by [Finance \(No. 3\) Act 2010 \(c. 33\)](#), s. 29(2), [Sch. 13 para. 12](#); [S.I. 2011/777](#), art. 2
- F14** Words in s. 118BD(1)(2) substituted (1.12.2014) by [Finance Act 2014 \(c. 26\)](#), s. 198(2)(c), [Sch. 28 para. 13\(2\)](#) (with [Sch. 29](#))
- F15** Words in s. 118BD(3) substituted (1.12.2014) by [Finance Act 2014 \(c. 26\)](#), s. 198(2)(c), [Sch. 28 para. 13\(3\)](#) (with [Sch. 29](#))

^{F16}**118C Entry and search of premises and persons.**

- (1) For the purpose of exercising any powers under the customs and excise Acts an officer may at any reasonable time enter premises used in connection with the carrying on of a business.

^{F17}(2)

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^{F18}(2A)

^{F19}(2B)

(3) If a justice of the peace or, in Scotland, a justice (within the meaning of [^{F20}section 307 of the Criminal Procedure (Scotland) Act 1995]) is satisfied on information on oath—

(a) that there is reasonable ground for suspecting that a fraud offence which appears to be of a serious nature is being, has been or is about to be committed on any premises, or

(b) that evidence of the commission of such an offence is to be found there,
^{F21}_{[^{F22} ...}

^{F23}(c)

he may issue a warrant in writing authorising, subject to subsections (6) and (7) below, any officer to enter those premises, if necessary by force, at any time within the period of one month beginning with the date of the issue of the warrant and search them.

(4) Any officer who enters premises under the authority of a warrant under subsection (3) above may—

(a) take with him such other persons as appear to him to be necessary;

(b) seize and remove any documents or other things whatsoever found on the premises which he has reasonable cause to believe may be required as evidence for the purposes of proceedings in respect of a fraud offence which appears to him to be of a serious nature ^{F24} ...; and

(c) search or cause to be searched any person found on the premises whom he has reasonable cause to believe to be in possession of any such documents or other things;

but no woman or girl shall be searched by virtue of this subsection except by a woman.

(5) In subsections (3) and (4) above “a fraud offence” means an offence under any provision of section 167(1), 168 or 170 below ^{F25}

(6) The powers conferred by a warrant under this section shall not be exercisable—

(a) by more than such number of officers as may be specified in the warrant; nor

(b) outside such times of day as may be so specified; nor

(c) if the warrant so provides, otherwise than in the presence of a constable in uniform.

(7) An officer seeking to exercise the powers conferred by a warrant under this section or, if there is more than one such officer, that one of them who is in charge of the search shall provide a copy of the warrant endorsed with his name as follows—

(a) if the occupier of the premises concerned is present at the time the search is to begin, the copy shall be supplied to the occupier;

(b) if at the time the occupier is not present but a person who appears to the officer to be in charge of the premises is present, the copy shall be supplied to that person; and

(c) if neither paragraph (a) nor paragraph (b) above applies, the copy shall be left in a prominent place on the premises.

Textual Amendments

F16 Pt. IXA (ss. 118A-118G) inserted (25.7.1991) by [Finance Act 1991 \(c. 31\), s. 12, Sch. 5](#)

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- F17** S. 118C(2) omitted (1.4.2011) by virtue of Finance (No. 3) Act 2010 (c. 33), s. 29(2), **Sch. 13 para. 13**; S.I. 2011/777, art. 2
- F18** S. 118C(2A) omitted (1.4.2011) by virtue of Finance (No. 3) Act 2010 (c. 33), s. 29(2), **Sch. 13 para. 13**; S.I. 2011/777, art. 2
- F19** S. 118C(2B) omitted (1.4.2011) by virtue of Finance (No. 3) Act 2010 (c. 33), s. 29(2), **Sch. 13 para. 13**; S.I. 2011/777, art. 2
- F20** Words in s. 118C(3) inserted (1.4.1996) by 1995 c. 40, ss. 5, 7(2), **Sch. 4 para. 18(3)**
- F21** Word in 118C(3)(b) repealed (8.11.2007) by Finance Act 2007 (c. 11), s. 84(5), **Sch. 27 Pt. 5(1)**; S.I. 2007/3166, art. 2(c)
- F22** S. 118C(3)(c) and word preceding it inserted (19.3.1997) by 1997 c. 16, ss. 13(2), 15, **Sch. 2 Pt. 1 para. 4(3)**
- F23** S. 118C(3)(c) repealed (8.11.2007) by Finance Act 2007 (c. 11), s. 84(4)(5), Sch. 22 para. 5(a), **Sch. 27 Pt. 5(1)**; S.I. 2007/3166, art. 2(c)
- F24** Words in s. 118C(4)(b) repealed (8.11.2007) by Finance Act 2007 (c. 11), s. 84(4)(5), Sch. 22 para. 5(b), **Sch. 27 Pt. 5(1)**; S.I. 2007/3166, art. 2(c)
- F25** Words in s. 118C(5) repealed (8.11.2007) by Finance Act 2007 (c. 11), s. 84(4)(5), Sch. 22 para. 5(b), **Sch. 27 Pt. 5(1)**; S.I. 2007/3166, art. 2(c)

Modifications etc. (not altering text)

- C2** S. 118C(4): power of seizure extended (*prosp.*) by 2001 c. 16, ss. 50, 52-54, 68, 138(2), **Sch. 1 Pt. 1 para. 23**
- C3** S. 118C(4): powers of seizure extended (1.4.2003) by Criminal Justice and Police Act 2001 (c. 16), ss. 50, 138(2), **Sch. 1 para. 23** (with ss. 52-54, 68); S.I. 2003/708, art. 2(a)

F26 **118D Order for access to recorded information, etc.**

- (1) Where, on an application by an officer, a justice of the peace or, in Scotland, a justice (within the meaning of [F27] section 307 of the Criminal Procedure (Scotland) Act 1995) is satisfied that there are reasonable grounds for believing—
- that an offence in connection with a duty of excise is being, has been or is about to be committed, and
 - that any recorded information (including any document of any nature whatsoever) which may be required as evidence for the purpose of any proceedings in respect of such an offence is in the possession of any person,
- he may make an order under this section.
- (2) An order under this section is an order that the person who appears to the justice to be in possession of the recorded information to which the application relates shall—
- give an officer access to it, and
 - permit an officer to remove and take away any of it which he reasonably considers necessary,
- not later than the end of the period of seven days beginning with the date of the order or the end of such longer period as the order may specify.
- (3) The reference in subsection (2)(a) above to giving an officer access to the recorded information to which the application relates includes a reference to permitting the officer to take copies of it or to make extracts from it.
- (4) Where the recorded information consists of information [F28] stored in any electronic form, an order under this section shall have effect as an order to produce the information in a form in which it is visible and legible [F29] or from which it can readily

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be produced in a visible and legible form] and, if the officer wishes to remove it, in a form in which it can be removed.

(5) This section is without prejudice to sections [^{F30}118B to 118C] above.

Textual Amendments

- F26** Pt. IXA (ss. 118A-118G) inserted (25.7.1991) by [Finance Act 1991 \(c. 31\)](#), s. 12, [Sch. 5](#)
- F27** Words in s. 118D(1) substituted (1.4.1996) by [1995 c. 40, ss. 5, 7\(2\)](#), [Sch. 4 para. 18\(4\)](#)
- F28** Words in s. 118D(4) substituted (1.4.2003) by [Criminal Justice and Police Act 2001 \(c. 16\)](#), para. 13(2) (e)s. [138\(2\)](#), [Sch. 2 para. 13\(1\)\(a\)](#); [S.I. 2003/708](#), art. 2(k)
- F29** Words in s. 118D(4) inserted (1.4.2003) by [Criminal Justice and Police Act 2001 \(c. 16\)](#), para. 13(2) (e)s. [138\(2\)](#), [Sch. 2 para. 13\(1\)\(b\)](#); [S.I. 2003/708](#), art. 2(k)
- F30** Words in s. 118D(5) substituted (1.4.2011) by [Finance \(No. 3\) Act 2010 \(c. 33\)](#), s. 29(2), [Sch. 13 para. 14](#); [S.I. 2011/777](#), art. 2

^{F31}118E Procedure when documents etc. are removed.

- (1) An officer who removes anything in the exercise of a power conferred by or under section 118C or 118D above shall, if so requested by a person showing himself—
 - (a) to be the occupier of premises from which it was removed, or
 - (b) to have had custody or control of it immediately before the removal,
 provide that person with a record of what he removed.
- (2) The officer shall provide the record within a reasonable time from the making of the request for it.
- (3) Subject to subsection (7) below, if a request for permission to be granted access to anything which—
 - (a) has been removed by an officer, and
 - (b) is retained by the Commissioners for the purposes of investigating an offence,
 is made to the officer in overall charge of the investigation by a person who had custody or control of the thing immediately before it was so removed or by someone acting on behalf of such a person, the officer shall allow the person who made the request access to it under the supervision of an officer.
- (4) Subject to subsection (7) below, if a request for a photograph or copy of any such thing is made to the officer in overall charge of the investigation by a person who had custody or control of the thing immediately before it was so removed, or by someone acting on behalf of such a person, the officer shall—
 - (a) allow the person who made the request access to it under the supervision of an officer for the purpose of photographing it or copying it, or
 - (b) photograph or copy it, or cause it to be photographed or copied.
- (5) Where anything is photographed or copied under subsection (4)(b) above, the photograph or copy shall be supplied to the person who made the request.
- (6) The photograph or copy shall be supplied within a reasonable time from the making of the request.
- (7) There is no duty under this section to grant access to, or to supply a photograph or copy of, anything if the officer in overall charge of the investigation for the purposes

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of which it was removed has reasonable grounds for believing that to do so would prejudice—

- (a) that investigation;
 - (b) the investigation of an offence other than the offence for the purposes of the investigation of which the thing was removed; or
 - (c) any criminal proceedings which may be brought as a result of—
 - (i) the investigation of which he is in charge; or
 - (ii) any such investigation as is mentioned in paragraph (b) above.
- (8) Any reference in this section to the officer in overall charge of the investigation is a reference to the person whose name and address are endorsed on the warrant or order concerned as being the officer so in charge.

Textual Amendments

F31 Pt. IXA (ss. 118A-118G) inserted (25.7.1991) by [Finance Act 1991 \(c. 31\), s. 12, Sch. 5](#)

^{F32}118F Failure of officer to comply with requirements under section 118E.

- (1) Where, on an application made as mentioned in subsection (2) below, the appropriate judicial authority is satisfied that a person has failed to comply with a requirement imposed by section 118E above, the authority may order that person to comply with the requirement within such time and in such manner as may be specified in the order.
- (2) An application under subsection (1) above shall be made—
 - (a) in the case of a failure to comply with any of the requirements imposed by subsections (1) and (2) of section 118E above, by the occupier of the premises from which the thing in question was removed or by the person who had custody or control of it immediately before it was so removed, and
 - (b) in any other case, by the person who has such custody or control.
- (3) In this section “the appropriate judicial authority” means—
 - (a) in England and Wales, a magistrates’ court;
 - (b) in Scotland, the sheriff; and
 - (c) in Northern Ireland, a court of summary jurisdiction, as defined in Article 2(2) (a) of the Magistrates’ Courts (Northern Ireland) Order 1981.
- (4) Any application for an order under this section—
 - (a) in England and Wales, shall be made by way of complaint; or
 - (b) in Northern Ireland, shall be made by way of civil proceedings on complaint.
- (5) Sections 21 and 42(2) of the Interpretation Act (Northern Ireland) 1954 (rules and orders regulating procedure of courts etc and assignment of business to particular courts) shall apply as if any reference in those provisions to any enactment included a reference to this section.

Textual Amendments

F32 Pt. IXA (ss. 118A-118G) inserted (25.7.1991) by [Finance Act 1991 \(c. 31\), s. 12, Sch. 5](#)

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F33 118G Offences under Part IXA.

- [^{F34}(1)] If any person fails to comply with any requirement imposed under section 118A(1) [^{F35}, 118B [^{F36}, 118BC(4) or 118BCA(4)]] above, [^{F37}his failure to comply shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties) and, in the case of any failure to keep records, shall also attract daily penalties.]
- [^{F38}(2) Part 7 of Schedule 36 to the Finance Act 2008 (penalties) applies to a person who fails to comply with a notice under section 118BA as it applies to a person who fails to comply with an information notice.
- (3) Part 8 of that Schedule (offences) applies in relation to documents that are or are likely to be the subject of a notice under section 118BA as it applies in relation to documents that are or are likely to be the subject of an information notice (with the reference to approval of the tribunal in accordance with paragraph 3 or 5 of that Schedule being read as a reference to approval of the tribunal in accordance with section 118BA of this Act).]

Textual Amendments

- F33** Pt. IXA (ss. 118A-118G) inserted (25.7.1991) by [Finance Act 1991 \(c. 31\)](#), s. 12, [Sch. 5](#)
- F34** S. 118G renumbered as s. 118G(1) (1.4.2011) by [Finance \(No. 3\) Act 2010 \(c. 33\)](#), s. 29(2), [Sch. 13 para. 15\(2\)](#); [S.I. 2011/777](#), art. 2
- F35** Words in s. 118G(1) substituted (with effect in accordance with Sch. 24 para. 66(2) of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 24 para. 42\(2\)](#)
- F36** Words in s. 118G(1) substituted (1.12.2014) by [Finance Act 2014 \(c. 26\)](#), s. 198(2)(c), [Sch. 28 para. 14](#) (with [Sch. 29](#))
- F37** Words in s. 118G substituted (1.1.1995) by [1994 c. 9](#), s. 9(9), [Sch. 4 Pt. I para. 12](#) (with s. 19(3)); [S.I. 1994/2679](#), [art. 3](#) (with [art. 4\(3\)](#))
- F38** S. 118G(2)(3) inserted (1.4.2011) by [Finance \(No. 3\) Act 2010 \(c. 33\)](#), s. 29(2), [Sch. 13 para. 15\(3\)](#); [S.I. 2011/777](#), art. 2

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