



# Customs and Excise Management Act 1979

## 1979 CHAPTER 2

### PART VIII

#### WAREHOUSES AND QUEEN'S WAREHOUSES AND RELATED PROVISIONS ABOUT PIPE-LINES

#### 92 Approval of warehouses.

- (1) The Commissioners may approve, for such periods and subject to such conditions as they think fit, places of security for the deposit, keeping and securing—
- of imported goods chargeable as such with excise duty (whether or not also chargeable with customs duty) without payment of the excise duty;
  - of goods for exportation or for use as stores, being goods not eligible for home use;
  - of goods manufactured or produced in the United Kingdom [<sup>F1</sup>or the Isle of Man] and permitted by or under the customs and excise Acts to be warehoused without payment of any duty of excise chargeable thereon;
  - of goods imported into or manufactured or produced in the United Kingdom [<sup>F1</sup>or the Isle of Man] and permitted by or under the customs and excise Acts to be warehoused on drawback,

subject to and in accordance with warehousing regulations; and any place of security so approved is referred to in this Act as an “excise warehouse”.

[<sup>F2</sup>(2) Functions with respect to the approval of warehouses for the purposes of Article 38 of Commission Regulation (EEC) No. 3665/87 shall be exercised by the Commissioners; and a warehouse approved by them for such purposes is referred to in this Act as a “victualling warehouse”.]

- (3) The same place may be approved under this section both as a [<sup>F3</sup>victualling] and as an excise warehouse.
- (4) Notwithstanding subsection (2) above and the terms of the approval of the warehouse but subject to directions under subsection (5) below, goods of the following

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descriptions, not being goods chargeable with excise duty which has not been paid, that is to say—

- (a) goods originating in member States;
- (b) goods which are in free circulation in member States; and
- (c) goods placed on importation under a customs procedure (other than warehousing) involving the suspension of, or the giving of relief from, customs duties,

may be kept, without being warehoused, in a [<sup>F4</sup>victuall ing warehouse].

- (5) The Commissioners may from time to time give directions—
  - (a) as to the goods which may or may not be deposited in any particular warehouse or class of warehouse;
  - (b) as to the part of any warehouse in which any class or description of goods may be kept or secured.
- (6) If, after the approval of a warehouse as an excise warehouse, the occupier thereof makes without the previous consent of the Commissioners any alteration therein or addition thereto, [<sup>F5</sup>the making of the alteration or addition shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties)].
- (7) The Commissioners may at any time for reasonable cause revoke or vary the terms of their approval of any warehouse under this section.
- [<sup>F6</sup>(8) Where any person contravenes or fails to comply with any condition imposed or direction given by the Commissioners under this section, his contravention or failure to comply shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties).]

#### Textual Amendments

- F1** Words inserted by *Isle of Man Act 1979 (c. 58), Sch. 1 para. 21*
- F2** *S. 92(2)* substituted (01.01.1992) by S.I. 1991/2725, **reg. 3(4)(a)**
- F3** Word in *s. 92(3)* substituted (01.01.1992) by S.I. 1991/2725, **reg. 3(4)(b)**
- F4** Words in *s. 92(4)* substituted (01.01.1992) by S.I. 1991/2725, **reg. 3(4)(c)**
- F5** Words in *s. 92(6)* substituted (1.1.1995) by 1994 c. 9, s. 9(9), **Sch. 4 Pt. I para. 2(1)** (with *s. 19(3)*)
- F6** *S. 92(8)* substituted (1.1.1995) by 1994 c. 9, s. 9(9), **Sch. 4 Pt. I para. 2(2)** (with *s. 19(3)*); S.I. 1994/2679, **art. 3** (with *art. 4(3)*)

### 93 Regulation of warehouses and warehoused goods.

- [<sup>F7</sup>(1) The Commissioners may by regulations under this section (referred to in this Act as “warehousing regulations”)—
  - (a) prohibit the deposit or keeping of goods in a warehouse except where the occupier of the warehouse has been approved by the Commissioners in accordance with the regulations and where such conditions as may be prescribed in relation to that occupier are satisfied;
  - (b) otherwise regulate the deposit, keeping, securing and treatment of goods in a warehouse;
  - (c) make provision with respect to goods which are required to be deposited in a warehouse;

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- (d) regulate the removal of goods from a warehouse and make provision with respect to goods which have lawfully been permitted to be removed from a warehouse without payment of duty; and
  - (e) make provision, in relation to goods which have been warehoused or are required to be deposited in a warehouse with respect to the keeping, preservation and production of records and the furnishing of information.]
- (2) Warehousing regulations may, without prejudice to the generality of subsection (1) above, include provisions—
- (a) imposing or providing for the imposition under the regulations of conditions and restrictions subject to which goods may be deposited in [F8secured in], kept in or removed from warehouse or made available there to their owner for any prescribed purpose;
  - (b) requiring goods deposited in warehouse to be produced to or made available for inspection by an officer on request by him;
  - (c) permitting the carrying out on warehoused goods of such operations F9as may be prescribed by or allowed under the regulations in such manner and subject to such conditions and restrictions as may be imposed by or under the regulations;
  - (d) for determining, for the purpose of charging or securing the payment of duty, the duties of customs or excise and the rates thereof to be applied to warehoused goods (other than goods falling within section 92(2)(b) above) and in that connection—
    - (i) for determining the time by reference to which warehoused goods are to be classified;
    - (ii) for determining the time at which warehoused goods are to be treated as having been removed from warehouse;
    - (iii) for ascertaining the quantity which is to be taken as the quantity of warehoused goods;
  - [F10(da) providing for all or any prescribed purposes of the customs and excise Acts—
    - (i) for goods to be treated as warehoused where in a prescribed case they are in the custody or under the control of an approved occupier of a warehouse; and
    - (ii) for goods to be treated, at such times before the excise duty point for those goods as may be prescribed or as may be determined under the regulations, as goods which are required to be deposited in a warehouse;
  - (db) providing for the revocation of the approval under regulations of any occupier of a warehouse and applying, with modifications, any of the provisions of section 98 below in relation to such a revocation or to cases where such an approval is not renewed;]
  - (e) enabling the Commissioners to allow goods to be removed from warehouse without payment of duty in such circumstances and subject to such conditions as they may determine;
  - [F11(ee) providing that goods which are [F12required to be deposited in a warehouse], or which have been lawfully permitted to be removed from a warehouse without payment of duty, are to be treated as if, for all or any prescribed purposes of the customs and excise Acts, they were warehoused;]

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- (f) permitting goods to be destroyed or abandoned to the Commissioners without payment of customs duty in such circumstances and subject to such conditions as they may determine.
- [<sup>F13</sup>(fa) requiring goods which are required to be deposited in a warehouse or which have lawfully been permitted to be removed from a warehouse without payment of duty to be accompanied by such documents in such form and containing such particulars as may be prescribed;
- (fb) imposing or providing for the imposition under the regulations of requirements on persons concerned in any prescribed respect with the carriage of such goods to keep and preserve the documents that are required to accompany the goods;
- (fc) imposing or providing for the imposition under the regulations of requirements on a person so concerned to produce or cause to be produced any documents which are required to accompany any goods by virtue of paragraph (fa) above to an officer when required to do so for the purpose of allowing the officer to inspect them, to copy or take extracts from them or to remove them at a reasonable time and for a reasonable period;]
- [<sup>F14</sup>(g) imposing or providing for the imposition under the regulations of requirements on the occupier of a warehouse or the proprietor of goods in a warehouse or goods which have been in or are [<sup>F15</sup>required] to be deposited in a warehouse to keep and preserve such records as may be prescribed relating to his occupation of the warehouse or proprietorship of the goods;
- (h) imposing or providing for the imposition under the regulations of requirements on such an occupier or proprietor to preserve all other records kept by him for the purposes of any relevant business or activity, except any records which (or records of a class which) the Commissioners specify as not needing preservation;
- (j) imposing or providing for the imposition under the regulations of requirements on such an occupier or proprietor to produce or cause to be produced any records which he has been required to preserve by virtue of paragraph (g) or (h) above to an officer when required to do so for the purpose of allowing the officer to inspect them, to copy or take extracts from them or to remove them at a reasonable time and for a reasonable period;
- (k) imposing or providing for the imposition under the regulations of requirements on such an occupier or proprietor to furnish the Commissioners with any information relating to any relevant business or activity which they specify as information which they think it is necessary or expedient for them to be given for the protection of the revenue;
- (l) allowing a requirement to preserve any records which has been imposed by virtue of paragraph (h) above to be discharged by the preservation in a form approved by the Commissioners of the information contained in the records.]

and may contain such incidental or supplementary provisions as the Commissioners think necessary or expedient for the protection of the revenue.

[<sup>F16</sup>In this subsection “relevant business or activity” means, in relation to an occupier or proprietor, any business or activity of his which includes occupation of a warehouse or (as the case may be) proprietorship of goods in a warehouse or goods which have been in or are [<sup>F17</sup>required] to be deposited in a warehouse, where the goods are of a kind in which the proprietor trades or deals.]

[<sup>F18</sup>(2A) Where any documents [<sup>F19</sup>or records] removed under the powers conferred by subsection [<sup>F20</sup>(2)(fc) or (j)]above are lost or damaged the Commissioners shall be

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liable to compensate their owner for any expenses reasonably incurred by him in replacing or repairing the documents [<sup>F19</sup>or records].]

(3) Warehousing regulations may make different provision for [<sup>F21</sup>different cases, including different provision for different occupiers or descriptions of occupier, for] warehouses or parts of warehouses of different descriptions or for goods of different classes or descriptions or of the same class or description in different circumstances.

(4) Warehousing regulations may make provision about the removal of goods from one warehouse to another or from one part of a warehouse to another part or for treating goods remaining in a warehouse as if, for all or any prescribed purposes of the customs and excise Acts, they had been so removed; and regulations about the removal of goods may, for all or any prescribed purposes of those Acts, include provision for treating the goods as having been warehoused or removed from warehouse (where they would not otherwise be so treated).

(5) Warehousing regulations made by virtue of paragraph (a) or (c) of subsection (2) above may also provide for the forfeiture of goods in the event of non-compliance with any condition or restriction imposed by virtue of that paragraph or in the event of the carrying out of any operation on warehoused goods which is not by virtue of the said paragraph (c) permitted to be carried out in warehouse.

[<sup>F22</sup>(5A) Warehousing regulations made by virtue of any of paragraphs (fa) to (fc) or (g) to (j) of subsection (2) above may also provide for the forfeiture of the goods in question in the event of any contravention of, or non-compliance with, any requirements imposed by or under the regulations with respect to any documents or records relating to prescribed goods.]

(6) If any person fails to comply with any warehousing regulation or with any condition [<sup>F23</sup>restriction or requirement] imposed under a warehousing regulation [<sup>F24</sup>his failure to comply shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties)].]

[<sup>F25</sup>(7) In this section—

- (a) “prescribed” means prescribed by warehousing regulations;
- (b) references to goods which are [<sup>F26</sup>required to be deposited in a warehouse] are references to goods which have been entered for warehousing on importation, which have been removed from a producer’s premises for warehousing without payment of duty [<sup>F26</sup>which are to be warehoused on drawback or which are otherwise to be treated by virtue of subsection (2)(da)(ii) above as goods which are required to be deposited in a warehouse].]

#### Subordinate Legislation Made

- P1 S. 93: s. 93 power exercised (11.11.1991) by S.I. 1991/2564
- S. 93: s. 93 power exercised (04.12.1991) by S.I. 1991/2726
- S. 93: for previous exercise of this power, see Index to Government Orders

#### Textual Amendments

- F7 S. 93(1) substituted (9.12.1992) by Finance (No. 2) Act 1992 (c. 48), s. 3(1), Sch. 2 para. 2(1); S.I. 1992/3104, art. 2(1).
- F8 Words inserted by Finance Act 1981 (c. 35, SIF 40:1), s. 11, Sch. 8 Pt. I para. 2(a)
- F9 Words repealed by Finance Act 1988 (c. 39, SIF 40:1), ss. 9(2), 148, Sch. 14 Part I

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- F10** S. 93(2)(da)(db) inserted (9.12.1992) by Finance (No. 2) Act 1992 (c. 48), s. 3(1), **Sch. 2 para. 2(2)(a)**; S.I. 1992/3104, **art. 2(1)**.
- F11** S. 93(2)(ee) inserted by Finance Act 1986 (c. 41, SIF 40:1), s. 5, **Sch. 3 para. 3**
- F12** Words in s. 93(2)(ee) substituted (9.12.1992) by Finance (No. 2) Act 1992 (c. 48), s. 3(1), **Sch. 2 para. 2(2)(b)**; S.I. 1992/3104, **art. 2(1)**.
- F13** S. 93(2)(fa)-(fc) inserted (9.12.1992) by Finance (No. 2) Act 1992 (c. 48), s. 3(1), **Sch. 2 para. 2(2)(c)**; S.I. 1992/3104, **art. 2(1)**.
- F14** S. 93(2)(g)-(l) substituted for s. 93(2)(g) by Finance Act 1986 (c. 41, SIF 40:1), s. 5, **Sch. 3 para. 4** (which para. (g) was inserted by Finance Act 1981 (c. 35, SIF 40:1), s. 11(1), **Sch. 8 Pt. I para. 2(b)**, (para. 2(b) repealed by Finance Act 1986 (c.41, SIF 40:1), s. 114, **Sch. 23 Pt. I** )
- F15** Word in s. 93(2)(g) inserted (9.12.1992) by Finance (No. 2) Act 1992 (c. 48), s. 3(1), **Sch. 2 para. 2(2)(d)**; S.I. 1992/3104, **art. 2(1)**.
- F16** Paragraph inserted by Finance Act 1986 (c. 41, SIF 40:1), s. 5, **Sch. 3 para. 5**
- F17** Word in s. 93(2) inserted (9.12.1992) by Finance (No. 2) Act 1992 (c. 48), s. 3(1), **Sch. 2 para. 2(2)(e)**; S.I. 1992/3104, **art. 2(1)**.
- F18** S. 93(2A) inserted by Finance Act 1981 (c. 35, SIF 40:1), s. 11, **Sch. 8 Pt. I para. 2(c)**
- F19** Words in s. 93(2A) inserted (9.12.1992) by Finance (No. 2) Act 1992 (c. 48), s. 3(1), **Sch. 2 para. 2(3)(a)**; S.I. 1992/3104, **art. 2(1)**.
- F20** Words in s. 93(2A) substituted (9.12.1992) by virtue of Finance (No. 2) Act 1992 (c. 48), s. 3(1), **Sch. 2 para. 2(3)(b)**; S.I. 1992/3104, **art. 2(1)**.
- F21** Words in s. 93(3) inserted (9.12.1992) by Finance (No. 2) Act 1992 (c. 48), s. 3(1), **Sch. 2 para. 2(4)**; S.I. 1992/3104, **art. 2(1)**.
- F22** S. 93(5A) inserted (9.12.1992) by Finance (No. 2) Act 1992 (c. 48), s. 3(1), **Sch. 2 para. 2(5)**; S.I. 1992/3104, **art. 2(1)**.
- F23** Words substituted by Finance Act 1981 (c. 35, SIF 40:1), s. 11, **Sch. 8 Pt. I para. 2(d)**
- F24** Words in s. 93(6) substituted (1.1.1995) by 1994 c. 9, s. 9(9), **Sch. 4 Pt. I para. 3** (with s. 19(3)); S.I. 1994/2679, **art. 3**, **art. 4(3)**
- F25** S. 93(7) substituted by Finance Act 1986 (c. 41, SIF 40:1), s. 5, **Sch. 3 para. 7**
- F26** Words in s. 93(7)(b) substituted (9.12.1992) by Finance (No. 2) Act 1992 (c. 48), s. 3(1), **Sch. 2 para. 2(7)(a)(b)**; S.I. 1992/3104, **art. 2(1)**.

## 94 Deficiency in warehoused goods.

- (1) . . . <sup>F27</sup>, this section applies where goods have been warehoused and, before they are lawfully removed from warehouse in accordance with a proper clearance thereof, they are found to be missing or deficient.
- (2) <sup>F28</sup>...
- (3) In any case where this section applies, unless it is shown to the satisfaction of the Commissioners that the absence of or deficiency in the goods can be accounted for by natural waste or other legitimate cause, the Commissioners may .
  - [<sup>F29</sup>(a) require the occupier of the warehouse or the proprietor of the goods to pay immediately any duty, other than excise duty, chargeable or deemed under warehousing regulations to be chargeable on the relevant goods or, in the case of goods warehoused on drawback which could not lawfully be entered for home use, an amount equal to any drawback or allowance of such duty paid in respect of the relevant goods;
  - (b) assess, as being excise duty due from the occupier of the warehouse or the proprietor of the goods, the excise duty chargeable or deemed under warehousing regulations to be chargeable on the relevant goods or, in the case of goods warehoused on drawback which could not lawfully be entered for

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home use, an amount equal to any drawback or allowance of excise duty paid in respect of the relevant goods.]

[<sup>F30</sup>(3A) Where the Commissioners make an assessment under subsection (3)(b) above they shall notify the person assessed or his representative accordingly.]

(4) If, on the written demand of an officer, the occupier of the warehouse or the proprietor of the goods refuses to pay any sum which he is required to pay under subsection [<sup>F31</sup>(3)(a)] above he shall in addition be liable on summary conviction to a penalty of double that sum.

[<sup>F32</sup>(4A) If—

(a) the occupier of the warehouse or the proprietor of the goods refuses to pay any amount of excise duty to which he has been assessed under subsection (3) (b) above, and

(b) the conditions set out in subsection (4B) below are fulfilled,

he shall be liable on summary conviction to a penalty of double that amount.

(4B) The conditions are that—

[<sup>F33</sup>(a) the period of 30 days for accepting an offer of review under section 15C of the Finance Act 1994 or for appealing against the decision under section 16 of that Act has expired;]

(b) on any review under Chapter II of Part I of that Act the Commissioners’ decision (“the original decision”) in relation to the assessment has been confirmed (or treated as confirmed by virtue of [<sup>F34</sup>section 15F(8)] of that Act), or confirmed subject only to a reduction in the amount of duty due under the assessment; and

(c) [<sup>F35</sup>the final result of any appeal under section 16 of that Act, or of any further appeal,] is that the original decision has been confirmed, subject only to any reduction in the amount of duty due under the assessment; and “final result” means the result of the last of any such appeals, against which no appeal may be made (whether because of expiry of time or for any other reason).

(4C) Where the amount of excise duty due under subsection (3)(b) above is reduced in consequence of a review or appeal, the penalty to which the person assessed is liable under subsection (4A) above shall be a penalty of double the reduced amount.]

(5) This section has effect without prejudice to any penalty or forfeiture incurred under any other provision of the customs and excise Acts.

[<sup>F36</sup>(5A) In this section “the relevant goods” means the missing goods or the whole or any part of the deficiency, as the Commissioners see fit.]

[<sup>F37</sup>(6) The preceding provisions of this section so far as they have effect for-

(a) fixing the excise duty point for any goods chargeable with a duty of excise; or

(b) determining the person on whom any liability to pay any such duty is to fall,

shall have effect subject to the provisions of any regulations under section 1 of the Finance (No. 2) Act 1992; and accordingly, the power to make regulations under that section shall include power, for the purposes of, or in connection with, the making of any provision falling within paragraph (a) or (b) above, to modify any of the preceding provisions of this section and the provisions of section 95 below.]



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### Textual Amendments

- F27** Words repealed by [Finance Act 1981 \(c. 35, SIF 40:1\)](#), s. 139(6), [Sch. 19 Pt. III](#)
- F28** S. 94(2) repealed by [Finance Act 1981 \(c. 35, SIF 40:1\)](#), ss. 11, 139(6), [Sch. 8 para. 3](#), [Sch. 19 Pt. III](#)
- F29** S. 94(3)(a)(b) substituted for words in s. 94(3) (1.6.1997) by 1997 c. 16, s. 50(2), [Sch. 6 para. 3\(2\)](#): [S.I. 1997/1305, art. 2](#)
- F30** S. 94(3A) inserted (1.6.1997) by 1997 c. 16, s. 50(2), [Sch. 6 para. 3](#); [S.I. 1997/1305, art. 2](#)
- F31** Words in s. 94(4) substituted (1.6.1997) by 1997 c. 16, s. 50(2), [Sch. 6 para. 4](#); [S.I. 1997/1305, art. 2](#)
- F32** S. 94(4A)-(4C) inserted (1.6.1997) by 1997 c. 16, s. 50(2), [Sch. 6 para. 3\(5\)](#); [S.I. 1997/1305, art. 2](#)
- F33** S. 94(4B)(a) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), [Sch. 1 para. 90\(2\)](#)
- F34** Words in s. 94(4B)(b) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), [Sch. 1 para. 90\(3\)](#)
- F35** Words in s. 94(4B)(c) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), [Sch. 1 para. 90\(4\)](#)
- F36** S. 94(5A) inserted (1.6.1997) by 1997 c. 16, s. 50(2), [Sch. 6 para. 3\(6\)](#); [S.I. 1997/1305, art. 2](#)
- F37** S. 94(6) 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. 3](#); [S.I. 1992/2979, art. 4, Sch. Pt. II](#); [S.I. 1992/3261, art. 3, Sch.](#)

### Modifications etc. (not altering text)

- C1** S. 94 restricted (1.6.1997) by 1994 c. 9, s. 12A (as inserted (1.6.1997) by 1997 c. 16, s. 50(2), [Sch. 6 para. 1\(1\)](#)); [S.I. 1997/1305, art. 2](#)

## 95 Deficiency in goods occurring in course of removal from warehouse without payment of duty.

- (1) Where any goods have been lawfully permitted to be taken from a warehouse without payment of duty for removal to another warehouse or to some other place, section 94 above shall, subject to subsection (2) below [<sup>F38</sup>and to any such regulations as are mentioned in subsection (6) of that section], have effect in relation to those goods in the course of that removal as if those goods were still in warehouse.
- (2) In its application in relation to any goods by virtue of subsection (1) above, section 94 above shall have effect as if the following provisions were omitted, namely—
- (a)
- <sup>F39</sup>(b) the references in subsections (3) [<sup>F40</sup>, (4) and (4A)] to the occupier of the warehouse.

### Textual Amendments

- F38** Words in s. 95(1) 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. 4](#); [S.I. 1992/2979, art. 4, Sch. Pt. II](#); [S.I. 1992/3261, art. 3, Sch.](#)
- F39** S. 95(2)(a) repealed by [Finance Act 1981 \(c. 35, SIF 40:1\)](#), s. 139(6), [Sch. 19 Pt. III](#)
- F40** Words in s. 95(2)(b) substituted (1.6.1997) by 1997 c. 16, s. 50(2), [Sch. 6 para. 3\(7\)](#); [S.I. 1997/1305, art. 2](#)



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## 96 Deficiency in certain goods moved by pipe-line.

(1) This section applies where goods of any of the following descriptions, that is to say—

- (a) goods which are chargeable with a duty which has not been paid;
- (b) goods on which duty has been repaid or remitted in whole or in part; and
- (c) goods on which drawback has been paid,

are moved by pipe-line, or notified to the proper officer as being goods to be moved by pipe-line, and are at any time thereafter found to be missing or deficient.

(2) In any case where this section applies, unless it is shown to the satisfaction of the Commissioners that the absence of or deficiency in the goods can be accounted for by natural waste or other legitimate cause, the Commissioners may .

- [<sup>F41</sup>(a) require the owner of the pipe-line or the proprietor of the goods to pay immediately any duty, other than excise duty, unpaid or repaid on the relevant goods or, as the case may be, an amount equal to any drawback of such duty paid on the relevant goods;
- (b) assess, as being excise duty due from the owner of the pipe-line or the proprietor of the goods, the excise duty unpaid or repaid on the relevant goods or, as the case may be, an amount equal to any drawback of excise duty paid on the relevant goods.]

[<sup>F42</sup>(2A) Where the Commissioners make an assessment under subsection (2)(b) above they shall notify the person assessed or his representative accordingly.]

(3) If, on the written demand of an officer, any person refuses to pay any sum which he is required to pay under subsection [<sup>F43</sup>(2)(a)] above he shall in addition be liable on summary conviction to a penalty of double that sum.

[<sup>F44</sup>(3A) If—

- (a) any person refuses to pay any amount of excise duty to which he has been assessed under subsection (2)(b) above, and
- (b) the conditions set out in paragraphs (a) to (c) of section 94(4B) above (exhaustion of opportunities for review and appeal) are fulfilled,

he shall be liable on summary conviction to a penalty of double that amount.

(3B) Where the amount of excise duty due under subsection (2)(b) above is reduced in consequence of a review or appeal, the penalty to which the person assessed is liable under subsection (3A) above shall be a penalty of double the reduced amount.]

(4) For the purposes of this section any absence or deficiency in the case of goods moved by a pipe-line used for the importation or exportation of goods shall be deemed to have taken place within the United Kingdom unless the contrary is shown.

(5) This section has effect without prejudice to any penalty or forfeiture incurred under any other provision of the customs and excise Acts.

[<sup>F45</sup>(5A) In this section “the relevant goods” means the missing goods or the whole or any part of the deficiency, as the Commissioners see fit.]

[<sup>F46</sup>(6) The preceding provisions of this section so far as they have effect for—

- (a) fixing the excise duty point for any goods chargeable with a duty of excise; or
- (b) determining the person on whom any liability to pay any such duty is to fall,

shall have effect subject to the provisions of any regulations under section 1 of the Finance (No. 2) Act 1992; and, accordingly, the power to make regulations under that

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section shall include power, for the purposes of, or in connection with, the making of any provision falling within paragraph (a) or (b) above, to modify any of the preceding provisions of this section.]

#### Textual Amendments

- F41** S. 96(2)(a)(b) substituted (1.6.1997) for words in s. 96(2) by 1997 c. 16, s. 50(2), **Sch. 6 para. 4(2)**; S.I. 1997/1305, **art. 2**
- F42** S. 96(2A) inserted (1.6.1997) by 1997 c. 16, s. 50(2), **Sch. 6 para. 4(3)**; S.I. 1997/1305, **art. 2**
- F43** Words in s. 96(3) substituted (1.6.1997) by 1997 c. 16, s. 50(2), **Sch. 6 para. 4(4)**; S.I. 1997/1305, **art. 2**
- F44** S. 96(3A)(3B) inserted (1.6.1997) by 1997 c. 16, s. 50(2), **Sch. 6 para. 4(5)**; S.I. 1997/1305, **art. 2**
- F45** S. 96(5A) inserted (1.6.1997) by 1997 c. 16, s. 50(2), **Sch. 6 para. 4(6)**; S.I. 1997/1305, **art. 2**
- F46** S. 96(6) 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. 5**; S.I. 1992/2979, art. 4, **Sch. Pt. II**; S.I. 1992/3261, art. 3, **Sch.**

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

- C2** S. 96 restricted (1.6.1997) by 1994 c. 9, **ss. 12A, 12B** (as inserted by 1997 c. 16, s. 50(2), **Sch. 6 para. 1(1)**); S.I. 1997/1305, **art. 2**
- C3** S. 96(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)**)
- C4** S. 96(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. 96(1)(a) amended (1.1.1993) by S.I. 1992/3152, **reg. 11(a)**.

### 97 **Restriction on compensation for loss or damage to goods in, or for removal of goods from warehouse or pipe-line.**

- (1) This section applies to—
- (a) any loss or damage caused to goods while in a warehouse or pipe-line; and
  - (b) any unlawful removal of goods from a warehouse or pipe-line.
- (2) Subject to subsection (3) below, no compensation shall be payable by, and no action shall lie against, the Commissioners or any officer acting in the execution of his duty for any loss or damage to which this section applies or for any unlawful removal to which this section applies.
- (3) If any goods in a warehouse or pipe-line are destroyed, stolen or unlawfully removed by or with the assistance or connivance of an officer and that officer is convicted of the offence, then, except where the proprietor of the goods or the occupier of the warehouse or, as the case may be, the owner of the pipe-line was a party to the offence, the Commissioners shall pay compensation for any loss caused by any such destruction, theft or removal.
- (4) Where compensation is payable by virtue of subsection (3) above then, notwithstanding any provision of the Customs and Excise Acts 1979, no duty shall be payable on the goods by the proprietor of the goods or by the occupier of the warehouse or, as the case may be, the owner of the pipe-line, and any sum paid by way of duty on those goods by any of those persons before the conviction shall be repaid.

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## 98 Procedure on warehouse ceasing to be approved.

- (1) Where the Commissioners intend to revoke or not to renew their approval of a warehouse, they shall, not later than the beginning of the prescribed period ending with the date when the revocation is to take effect or the approval is due to expire, as the case may be, give notice of their intention, specifying therein the said date [<sup>F47</sup>and, unless the notice has been withdrawn or extended, the warehouse shall cease to be approved on that date].
- (2) the notice shall be given in writing and shall be deemed to have been served on all persons interested in any goods then deposited in that warehouse, or permitted under the Customs and Excise Acts 1979 to be so deposited between the date of the giving of the notice and the date specified therein, if addressed to the occupier of, and left at, the warehouse.
- [<sup>F48</sup>(3) If after the date on which the warehouse ceases to be approved any goods not duly cleared still remain in the former warehouse—
  - (a) they may be taken by an officer to a Queen’s warehouse and, without prejudice to section 99(3) below, if they are not cleared from it within one month may be sold; or
  - (b) if the Commissioners so allow, they may remain in the former warehouse and if they are not cleared from it within one month may be sold.
- (3A) Where in accordance with paragraph (b) above goods remain in the warehouse after the revocation or expiry of the Commissioners’ approval—
  - (a) subsection (6) and (7) of section 99 below shall apply to them as if they were deposited in a Queen’s warehouse under the Customs and Excise Acts 1979; and
  - (b) sections 93, 94, 95 and 97 above and section 100 below shall apply and any security given by bond or otherwise and any condition imposed by or under the customs and excise Acts shall continue to have effect, as if the former warehouse were still a warehouse.]
  - (4) In this section “the prescribed period” means—
    - (a) in the case of a warehouse which is a [<sup>F49</sup>victualling warehouse] but not also an excise warehouse, such period as may be prescribed by warehousing regulations;
    - (b) in the case of a warehouse which is or is also an excise warehouse, 3 months.

### Textual Amendments

**F47** Words inserted by [Finance Act 1981 \(c. 35, SIF 40:1\)](#), s. 11, [Sch. 8 para. 4\(a\)](#)

**F48** [S. 98\(3\)\(3A\)](#) substituted for s. 98(3) by [Finance Act 1981 \(c. 35, SIF 40:1\)](#), s. 11, [Sch. 8 para. 4\(b\)](#)

**F49** Words in [s. 98\(4\)](#) substituted (01.01.1992) by [S.I. 1991/2725](#), [reg. 3\(5\)](#)

### Modifications etc. (not altering text)

**C5** [S. 98\(3\)\(3A\)](#) applied with modifications (1.10.1999) by [S.I. 1999/1278](#), [reg. 10](#)

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## **99 Provisions as to deposit in Queen’s warehouse.**

- (1) The following provisions of this section shall have effect in relation to any goods which are deposited in a Queen’s warehouse under or by virtue of any provision of the Customs and Excise Acts 1979.
- (2) Such rent shall be payable while the goods are deposited as may be fixed by the Commissioners.
- (3) If the goods are of a combustible or inflammable nature or otherwise of such a character as to require special care or treatment—
  - (a) they shall, in addition to any other charges payable thereon, be chargeable with such expenses for securing, watching and guarding them as the Commissioners see fit;
  - (b) neither the Commissioners nor any officer shall be liable to make good any damage which the goods may have sustained; and
  - (c) if the proprietor of the goods has not cleared them within a period of 14 days from the date of deposit, they may be sold by the Commissioners;
 but, in the case of goods deposited by virtue of section 40(2) above, paragraph (c) above shall only apply if the goods are of a combustible or inflammable nature.
- (4) Save as permitted by or under the Customs and Excise Acts 1979, the goods shall not be removed from the warehouse until—
  - (a) any duty chargeable thereon; and
  - (b) any charges in respect thereof—
    - (i) for their removal to the warehouse, and
    - (ii) under subsections (2) and (3) above,
 have been paid and, in the case of goods requiring entry and not yet entered, until entry has been made thereof.
- (5) The officer having the custody of the goods may refuse to allow them to be removed until it is shown to his satisfaction that any freight charges due thereon have been paid.
- (6) If the goods are sold under or by virtue of any provision of the Customs and Excise Acts 1979, the proceeds of sale shall be applied—
  - (a) first, in paying any duty chargeable on the goods;
  - (b) secondly, in defraying any such charges as are mentioned in subsection (4) above; and
  - (c) thirdly, in defraying any charges for freight;
 and if the person who was immediately before the sale the proprietor of the goods makes application in that behalf the remainder, if any, shall be paid over to him.
- (7) When the goods are authorised to be sold under or by virtue of any provision of the Customs and Excise Acts 1979 but cannot be sold—
  - (a) if the goods are to be exported, for a sum sufficient to make the payment mentioned in paragraph (b) of subsection (6) above; or
  - (b) in any other case, for a sum sufficient to make the payments mentioned in paragraphs (a) and (b) of that subsection,
 the Commissioners may destroy the goods.

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

C6 S. 99 modified by S.I. 1986/260, regs. 5(ij), 18

**100 General offences relating to warehouses and warehoused goods.**

- (1) Any person who, except with the authority of the proper officer or for just and sufficient cause, opens any of the doors or locks of a warehouse or Queen’s warehouse or makes or obtains access to any such warehouse or to any goods warehoused therein shall be liable on summary conviction to a penalty of [<sup>F50</sup>level 5 on the standard scale] and may be detained.
- (2) Where—
  - (a) any goods which have been entered for warehousing [<sup>F51</sup>or are otherwise required to be deposited in a warehouse] are taken into the warehouse without the authority of, or otherwise than in accordance with any directions given by, the proper officer; or
  - (b) save as permitted by the Customs and Excise Acts 1979 or by or under warehousing regulations, any goods which have been entered for warehousing [<sup>F51</sup>or are otherwise required to be deposited in a warehouse] are removed without being duly warehoused or are otherwise not duly warehoused; or
  - (c) any goods which have been deposited in a warehouse or Queen’s warehouse are unlawfully removed therefrom or are unlawfully loaded into any ship, aircraft or vehicle for removal or for exportation or use as stores; or
  - [<sup>F52</sup>(d) any goods are concealed at a time before they are warehoused when they have been entered for warehousing or are otherwise required to be deposited in a warehouse or when they are required to be in the custody or under the control of the occupier of a warehouse; or]
  - (e) any goods which have been lawfully permitted to be removed from a warehouse or Queen’s warehouse without payment of duty for any purpose are not duly delivered at the destination to which they should have been taken in accordance with that permission,  
those goods shall be liable to forfeiture.
- (3) If any person who took, removed, loaded or concealed any goods as mentioned in subsection (2) above did so with intent to defraud Her Majesty of any duty chargeable thereon or to evade any prohibition or restriction for the time being in force with respect thereto under or by virtue of any enactment, he shall be guilty of an offence under this subsection and may be detained.
- (4) A person guilty of an offence under subsection (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>F53</sup>7 years], or to both.

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#### Textual Amendments

- F50** 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
- F51** Words in s. 100(2)(a)(b) inserted (9.12.1992) by [Finance \(No. 2\) Act 1992 \(c. 48\)](#), s. 3(1), [Sch. 2 para. 3\(a\)](#); [S.I. 1992/3104](#), [art. 2\(1\)](#).
- F52** [S. 100\(2\)\(d\)](#) substituted (9.12.1992) by [Finance \(No. 2\) Act 1992 \(c. 48\)](#), s. 3(1), [Sch. 2 para. 3\(b\)](#); [S.I. 1992/3104](#), [art. 2\(1\)](#).
- F53** Words substituted by [Finance Act 1988 \(c. 39, SIF 40:1\)](#), [s. 12\(1\)\(a\)\(6\)](#)

**Status:**

Point in time view as at 13/06/2011.

**Changes to legislation:**

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