



Customs and Excise Management Act 1979

1979 CHAPTER 2

PART X

DUTIES AND DRAWBACKS—GENERAL PROVISIONS

General provisions relating to imported goods

^{F1}119 Delivery of imported goods on giving of security for duty.

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Textual Amendments

F1 S. 119 omitted (with effect in accordance with s. 318(3) of the amending Act) by virtue of [Finance \(No. 2\) Act 2023 \(c. 30\), s. 318\(2\)](#)

^{F2}120 Regulations for determining origin of goods.

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Textual Amendments

F2 S. 120 omitted (13.9.2018 for specified purposes, 31.12.2020 in so far as not already in force) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\), s. 57\(1\)\(a\), Sch. 7 para. 91](#) (with savings and transitional provisions in [S.I. 2020/1449, reg. 3](#) and [2020 c. 26, Sch. 2 para. 7\(7\)-\(9\)](#)); [S.I. 2020/1642, reg. 4\(a\)](#)

Status: Point in time view as at 11/07/2023.

Changes to legislation: Customs and Excise Management Act 1979, Part X is up to date with all changes known to be in force on or before 19 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

121 Power to impose restrictions where duty depends on certain matters ^{F3}....

Where any question as to the duties of customs or excise chargeable on any imported goods depends on any matter ^{F4}... not reasonably ascertainable from an examination of the goods, and that question is not in law conclusively determined by the production of any certificate or other document, then, on the importation of those goods, the Commissioners may impose such conditions as they see fit for the prevention of abuse or the protection of the revenue (including conditions requiring security for the observance of any conditions so imposed).

Textual Amendments

- F3** Words in s. 121 heading omitted (13.9.2018 for specified purposes, 31.12.2020 in so far as not already in force) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(1)(a), [Sch. 7 para. 92\(3\)](#) (with savings and transitional provisions in [S.I. 2020/1449, reg. 3](#) and [2020 c. 26, Sch. 2 para. 7\(7\)-\(9\)](#)); [S.I. 2020/1642, reg. 4\(a\)](#)
- F4** Words in s. 121 omitted (13.9.2018 for specified purposes, 31.12.2020 in so far as not already in force) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(1)(a), [Sch. 7 para. 92\(2\)](#) (with savings and transitional provisions in [S.I. 2020/1449, reg. 3](#) and [2020 c. 26, Sch. 2 para. 7\(7\)-\(9\)](#)); [S.I. 2020/1642, reg. 4\(a\)](#)

^{F5}122 Regulations where customs duty depends on use.

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Textual Amendments

- F5** [S. 122](#) omitted (13.9.2018 for specified purposes, 31.12.2020 in so far as not already in force) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(1)(a), [Sch. 7 para. 93](#) (with savings and transitional provisions in [S.I. 2020/1449, reg. 3](#) and [2020 c. 26, Sch. 2 para. 7\(7\)-\(9\)](#)); [S.I. 2020/1642, reg. 4\(a\)](#)

123 Repayment of duty where goods returned or destroyed by importer.

- (1) Subject to such conditions as the Commissioners see fit to impose, where it is shown to the satisfaction of the Commissioners—
- (a) that goods were imported in pursuance of a contract of sale and that the description, quality, state or condition of the goods was not in accordance with the contract or that the goods were damaged in transit; and
 - (b) that the importer with the consent of the seller either—
 - (i) returned the goods unused to the seller [^{F6}and, if the export of the goods was required to be made in accordance with the applicable export provisions, the requirements were met;] or
 - (ii) destroyed the goods unused,
 the importer shall be entitled to obtain from the Commissioners repayment of any [^{F7}excise duty] paid on the importation of the goods.
- (2) Nothing in this section shall apply to goods imported on approval, or on sale or return, or on other similar terms.

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Textual Amendments

- F6** Words in s. 123(1)(b)(i) substituted (13.9.2018 for specified purposes, 31.12.2020 in so far as not already in force) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(1)(a), [Sch. 7 para. 94](#) (with savings and transitional provisions in S.I. 2020/1449, reg. 3 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(a)
- F7** Words substituted by [S.I. 1980/1825](#), [reg. 2](#)

124 Forfeiture for breach of certain conditions.

(1) Where—

- (a) any imported goods have been relieved from customs or excise duty chargeable [^{F8}by reference to] their importation or have been charged with duty at a reduced rate; and
- (b) any condition or other obligation required to be complied with in connection with the relief or with the charge of duty at that rate is not complied with, the goods shall be liable to forfeiture.

(2) The provisions of this section shall apply whether or not any undertaking [^{F9}, security or other guarantee] has been given for compliance with the condition or obligation or for the payment of the duty payable apart therefrom, and the forfeiture of any goods under this section shall not affect any liability of any person who has given any such undertaking [^{F9}, security or other guarantee].

Textual Amendments

- F8** Words in s. 124(1)(a) substituted (13.9.2018 for specified purposes, 31.12.2020 in so far as not already in force) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(1)(a), [Sch. 7 para. 95\(2\)](#) (with savings and transitional provisions in S.I. 2020/1449, reg. 3 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(a)
- F9** Words in s. 124(2) substituted (13.9.2018 for specified purposes, 31.12.2020 in so far as not already in force) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(1)(a), [Sch. 7 para. 95\(3\)](#) (with savings and transitional provisions in S.I. 2020/1449, reg. 3 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(a)

^{F10}125 Valuation of goods for purpose of ad valorem duties.

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Textual Amendments

- F10** S. 125 omitted (13.9.2018 for specified purposes, 31.12.2020 in so far as not already in force) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(1)(a), [Sch. 7 para. 96](#) (with savings and transitional provisions in S.I. 2020/1449, reg. 3 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(a)

Modifications etc. (not altering text)

- C1** S. 125(1)(2) restricted (1.8.2021) by S.I. 1995/2518, regs. 133AB(c), 133L, 133N (as inserted by [The Value Added Tax \(Amendment\) \(EU Exit\) Regulations 2021 \(S.I. 2021/715\)](#), regs. 1, [43](#), [47](#))

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C2 S. 125(3) modified (1.8.2021) by S.I. 1995/2518, regs. 133AE(1), 133L (as inserted by [The Value Added Tax \(Amendment\) \(EU Exit\) Regulations 2021 \(S.I. 2021/715\)](#), regs. 1, 43, 47)

126 Charge of excise duty on manufactured or composite imported articles.

- (1) Subject to subsections (2) to (4) below, if any imported goods contain as a part or ingredient thereof any article chargeable with excise duty, excise duty shall be chargeable on the goods in respect of each such article according to the quantity thereof appearing to the Commissioners to be used in the manufacture or preparation of the goods.
- (2) Where, in the opinion of the Treasury, it is necessary for the protection of the revenue, such imported goods shall be chargeable with the amount of excise duty with which they would be chargeable if they consisted wholly of the chargeable article or, if the goods contain more than one such article, of that one of the chargeable articles which will yield the highest amount of excise duty.
- (3) Schedule 2 to this Act shall have effect with respect to the excise duties to be charged, and the excise drawbacks to be allowed, on imported composite goods containing a dutiable part or ingredient and with respect to rebates and drawbacks of excise duties charged in accordance with that Schedule.
- (4) Subsections (1) and (2) above do not apply where other provision is made by any other enactment relating to excise duties on imported goods.
- (5) Any rebate which can be allowed by law on any article when separately charged shall be allowed in charging goods under subsection (1) or (2) above in respect of any quantity of that article used in the manufacture or preparation of the goods.

Modifications etc. (not altering text)

- C3** S. 126 excluded (20.10.1995) by S.I. 1995/2518, [reg. 118\(c\)\(iii\)](#)
- C4** S. 126 excluded (1.8.2021) by S.I. 1995/2518, regs. 133AB(c), 133L, 133N (as inserted by [The Value Added Tax \(Amendment\) \(EU Exit\) Regulations 2021 \(S.I. 2021/715\)](#), regs. 1, 43, 47)

^{F11}127

Textual Amendments

- F11** S. 127 repealed (1.1.1995) by 1994 c. 9, ss. 18(3), 258, [Sch. 26 Pt. III](#) Note (with s. 19(3)); S.I. 1994/2679, [art. 3](#) (with [art. 4\(3\)](#))

^{F12} Deferred payment of excise duty on goods

Textual Amendments

- F12** S. 127A inserted by [Finance Act 1983 \(c. 28, SIF 40:1\)](#), s. 6

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127A Deferred payment of excise duty on goods.

- (1) The Commissioners may by regulations make provision for the payment [^{F13}(in accordance, where any requirement to pay the duty takes effect, with that requirement)] of any excise duty on goods of a prescribed kind to be deferred, in prescribed cases, subject to such conditions or requirements as may be imposed—
 - (a) by the regulations; or
 - (b) where the regulations so provide, by the Commissioners.
- (2) Any duty payment of which is deferred under the regulations shall be treated, for prescribed purposes, as if it had been paid.
- (3) Where—
 - (a) any excise duty to which an application for deferment of duty made under the regulations relates is payable on goods on their removal from an excise warehouse; and
 - (b) the Commissioners are not satisfied—
 - (i) that the conditions imposed under section 92(1) above in relation to the warehouse have been complied with by the occupier of the warehouse; or
 - (ii) that the warehousing regulations made by virtue of section 93(2)(g) above have been complied with by the occupier or by the proprietor of the goods;the Commissioners may, notwithstanding any provision of the regulations, refuse the application or refuse it in so far as it relates to those goods.

Nothing in this subsection shall be taken to prejudice the power of the Commissioners to prescribe the cases in which excise duty may be deferred.
- (4) Regulations under this section may make different provision for goods of different descriptions or for goods of the same description in different circumstances.
- (5) In this section “prescribed” means prescribed by regulations made under this section.]

Textual Amendments

F13 Words in s. 127A(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.7](#); [S.I. 1992/2979, art. 4, Sch. Pt.II](#); [S.I. 1992/3261, art. 3](#), Sch.

General provisions relating to charge of duty on and delivery of goods

128 Restriction of delivery of goods.

- (1) During any period not exceeding 3 months specified at any time by order of the Commissioners for the purposes of this section, the Commissioners may refuse to allow the removal for home use on payment of duty, or the sending out for home use after the charging of duty, of goods of any class or description chargeable with a duty of ^{F14}excise, notwithstanding payment of that duty, in quantities exceeding those which appear to the Commissioners to be reasonable in the circumstances.

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- (2) Where the Commissioners have during any such period exercised their powers under this section with respect to goods of any class or description, then, in the case of any such goods which are removed or sent out for home use after the end of that period, the duties of ^{F14}excise and the rates thereof chargeable on those goods shall, notwithstanding any other provision of the customs and excise Acts relating to the determination of those duties and rates, be those in force at the date of the removal or sending out of the goods.

Textual Amendments

F14 Words repealed by Finance Act 1981 (c. 35, SIF 40:1), ss. 10(1), 139(6), Sch. 6 para. 9, Sch. 19 Pt. I

129 Power to remit or repay duty on denatured goods.

- (1) Subject to subsection (2) below, where any goods—
 - ^{F15}(a)
 - (b) which are [^{F16}chargeable with a [^{F17}a duty of excise] the requirement to pay which has not yet taken effect],

have by reason of their state or condition ceased to be worth the full [^{F18}duty of excise] chargeable thereon and have been denatured in such manner as the Commissioners may direct and in accordance with such conditions as they see fit to impose, the Commissioners may remit or repay the whole or part of any [^{F18}duty of excise] chargeable or paid thereon, or waive repayment of the whole or part of any drawback paid on their warehousing, upon the delivery of the goods for use for such purposes as the Commissioners may allow.

^{F19}(1A) The reference in subsection (1) above to goods which are [^{F20}chargeable with a duty of excise] the requirement to pay which has not yet taken effect shall be construed as a reference to any goods which are warehoused or ^{F21}... to any goods at a time, before the excise duty point for those goods, when they are chargeable with such a duty.]

- (2) Subsection (1) above does not apply in relation to spirits.
- (3) Where, whether under subsection (1) above or otherwise, any goods chargeable with duty have gone into home use after having been denatured by mixture with some other substance, any person who separates the goods from that other substance shall be guilty of an offence under this subsection and may be detained, and the goods shall be liable to forfeiture.
- (4) A person guilty of an offence under subsection (3) above shall be liable—
 - (a) on summary conviction, to a penalty of [^{F22}the prescribed sum][^{F22}£20,000] 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 2 years, or to both.

^{F23}(5)

Textual Amendments

F15 S. 129(1)(a) and word omitted (13.9.2018 for specified purposes, 31.12.2020 in so far as not already in force) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(1)(a), Sch. 7 para. 97(2)

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- (a) (with savings and transitional provisions in S.I. 2020/1449, reg. 3 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(a)
- F16** Words in s. 129(1)(b) substituted (9.12.1992) by Finance (No. 2) Act 1992 (c. 48), s. 3(1), **Sch. 2 para. 6(a)**; S.I. 1992/3104, **art. 2(1)**.
- F17** Words in s. 129(1)(b) substituted (13.9.2018 for specified purposes, 31.12.2020 in so far as not already in force) by Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(1)(a), **Sch. 7 para. 97(2)(b)** (with savings and transitional provisions in S.I. 2020/1449, reg. 3 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(a)
- F18** Words in s. 129(1) substituted (13.9.2018 for specified purposes, 31.12.2020 in so far as not already in force) by Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(1)(a), **Sch. 7 para. 97(2)(c)** (with savings and transitional provisions in S.I. 2020/1449, reg. 3 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(a)
- F19** S. 129(1A) inserted (9.12.1992) by Finance (No. 2) Act 1992 (c. 48), s. 3(1), **Sch. 2 para. 6(b)**; S.I. 1992/3104, **art. 2(1)**.
- F20** Words in s. 129(1A) substituted (13.9.2018 for specified purposes, 31.12.2020 in so far as not already in force) by Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(1)(a), **Sch. 7 para. 97(3)(a)** (with savings and transitional provisions in S.I. 2020/1449, reg. 3 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(a)
- F21** Words in s. 129(1A) omitted (13.9.2018 for specified purposes, 31.12.2020 in so far as not already in force) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(1)(a), **Sch. 7 para. 97(3)(b)** (with savings and transitional provisions in S.I. 2020/1449, reg. 3 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(a)
- F22** S. 129(4)(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(15)** (with reg. 5(1))
- F23** S. 129(5) omitted (13.9.2018 for specified purposes, 31.12.2020 in so far as not already in force) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(1)(a), **Sch. 7 para. 97(4)** (with savings and transitional provisions in S.I. 2020/1449, reg. 3 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(a)

F24 **130 Power to remit or repay duty on goods lost or destroyed, etc.**

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Textual Amendments

- F24** S. 130 omitted (13.9.2018 for specified purposes, 31.12.2020 in so far as not already in force) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(1)(a), **Sch. 7 para. 98** (with savings and transitional provisions in S.I. 2020/1449, reg. 3 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(a)

131 Enforcement of bond in respect of goods removed without payment of [^{F25}excise] duty.

If any goods which have been lawfully permitted to be removed for any purpose without [^{F26}payment of excise duty] are unlawfully taken from any ^{F27}... vehicle or place before that purpose is accomplished, the Commissioners may if they see fit enforce any bond given in respect thereof notwithstanding that any time prescribed in the bond for accomplishing that purpose has not expired.

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Textual Amendments

- F25** Word in s. 131 heading inserted (13.9.2018 for specified purposes, 31.12.2020 in so far as not already in force) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(1)(a), [Sch. 7 para. 99\(4\)](#) (with savings and transitional provisions in S.I. 2020/1449, reg. 3 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(a)
- F26** Words in s. 131 substituted (13.9.2018 for specified purposes, 31.12.2020 in so far as not already in force) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(1)(a), [Sch. 7 para. 99\(2\)](#) (with savings and transitional provisions in S.I. 2020/1449, reg. 3 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(a)
- F27** Words in s. 131 omitted (13.9.2018 for specified purposes, 31.12.2020 in so far as not already in force) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(1)(a), [Sch. 7 para. 99\(3\)](#) (with savings and transitional provisions in S.I. 2020/1449, reg. 3 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(a)

Drawback, allowances, duties, etc.—general

132 Extension of drawback.

- (1) Without prejudice to any other provision of the Customs and Excise Acts 1979 or any other Act, where drawback is allowable on the shipment of any goods as stores, the like drawback shall, subject to such conditions and restrictions as the Commissioners see fit to impose, be allowed on the warehousing in an excise warehouse of those goods for use as stores.
- (2) Without prejudice to any other provision of the Customs and Excise Acts 1979 or any other Act, where drawback would be payable on the exportation of any goods, or on the warehousing of any goods for exportation, then, subject to such conditions and restrictions as the Commissioners see fit, the like drawback shall be payable on the shipment of any such goods as stores or, as the case may be, on their warehousing in an excise warehouse for use as stores.

133 General provisions as to claims for drawback.

[^{F28}(A1) This section applies in relation to any claim for drawback for the purposes of any excise duty.]

- (1) Any claim for drawback shall be made in such form and manner and contain such particulars as the Commissioners may direct.
- (2) Where drawback has been claimed in the case of any goods [^{F29}subsections (4) to (6)] below shall apply in relation to the claim.
- ^{F30}(3)
- (4) No drawback shall be paid until the person entitled thereto or his agent has made a declaration in such form and manner and containing such particulars as the Commissioners may direct that the conditions on which the drawback is payable have been fulfilled.
- (5) The Commissioners may require any person who has been concerned at any stage with the goods or article—

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- (a) to furnish such information as may be reasonably necessary to enable the Commissioners to determine whether duty has been duly paid and not drawn back and for enabling a calculation to be made of the amount of drawback payable; and
 - (b) to produce any book of account or other document of whatever nature relating to the goods or article.
- (6) If any person fails to comply with any requirement made under subsection (5) above, he shall be liable on summary conviction to a penalty of [^{F31}level 3 on the standard scale].

Textual Amendments

- F28** S. 133(A1) inserted (13.9.2018 for specified purposes, 31.12.2020 in so far as not already in force) by Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(1)(a), **Sch. 7 para. 100** (with savings and transitional provisions in S.I. 2020/1449, reg. 3 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(a)
- F29** Words in s. 133(2) substituted (24.7.2002) 2002 c. 23, s. 21(1)(a)
- F30** S. 133(3) repealed (24.7.2002) by 2002 c. 23, ss. 21(1)(b), 141, **Sch. 40 Pt.I(6)**
- F31** 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

134 Drawback and allowance on goods damaged or destroyed after shipment.

[^{F32}(A1) This section applies only for the purposes of excise duty.]

- (1) Where it is proved to the satisfaction of the Commissioners that any goods after being duly shipped for exportation have been destroyed by accident on board the exporting ship or aircraft, any amount payable in respect of the goods by way of drawback, allowance or repayment of duty shall be payable in the same manner as if the goods had been exported to their destination.
- (2) Where it is proved to the satisfaction of the Commissioners that any goods, after being duly shipped for exportation, have been materially damaged by accident on board the exporting ship or aircraft, and the goods are with the consent of and in accordance with any conditions imposed by the Commissioners reloaded or unloaded again in or brought back into the United Kingdom and either abandoned to the Commissioners or destroyed, any amount payable in respect of the goods by way of drawback, allowance or repayment of duty shall be paid as if they had been duly exported and not so reloaded, unloaded or brought back.
- (3) Notwithstanding any provision of the Customs and Excise Acts 1979 or any other Act relating to the reimportation of exported goods, the person to whom any amount is payable or has been paid under subsection (2) above shall not be required to pay any duty in respect of any goods reloaded, unloaded or brought back under that subsection.

Textual Amendments

- F32** S. 134(A1) inserted (13.9.2018 for specified purposes, 31.12.2020 in so far as not already in force) by Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(1)(a), **Sch. 7 para. 101** (with savings and transitional provisions in S.I. 2020/1449, reg. 3 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(a)

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Modifications etc. (not altering text)

C5 S. 134 amended by S.I. 1990/2167, art. 4, Sch. para. 20

135 Time limit on payment of drawback or allowance.

No payment shall be made in respect of any drawback or allowance [^{F33}for the purposes of any excise duty] unless the debenture or other document authorising payment is presented for payment within 2 years from the date of the event on the happening of which the drawback or allowance became payable.

Textual Amendments

F33 Words in s. 135 inserted (13.9.2018 for specified purposes, 31.12.2020 in so far as not already in force) by Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(1)(a), Sch. 7 para. 102 (with savings and transitional provisions in S.I. 2020/1449, reg. 3 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(a)

[^{F34}136 Offences in connection with claims for drawback, etc.

- (1) If any person, with intent to defraud Her Majesty, obtains or attempts to obtain, or does anything whereby there might be obtained by any person, any amount by way of drawback, allowance, remission or repayment of, or any rebate from, any duty in respect of any goods which—
 - (a) is not lawfully payable or allowable in respect thereof; or
 - (b) is greater than the amount so payable or allowable,
 he shall be guilty of an offence under this subsection.
- (1A) If any person, without such intent as is mentioned in subsection (1) above, does any of the things there mentioned, he shall be guilty of an offence under this subsection.
- (2) A person guilty of an offence under subsection (1) above shall be liable—
 - (a) on summary conviction, to a penalty of [^{F35}the prescribed sum][^{F35}£20,000] 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 7 years, or to both;
 and a person guilty of an offence under subsection (1A) above shall be liable on summary conviction to a penalty of level 3 on the standard scale or three times the amount which was or might have been improperly obtained or allowed, whichever is the greater.]
- (3) Any goods in respect of which an offence under subsection (1) [^{F36}or (1A)] above is committed shall be liable to forfeiture; but in the case of a claim for drawback, the Commissioners may, if they see fit, instead of seizing the goods either refuse to allow any drawback thereon or allow only such drawback as they consider proper.
- (4) Without prejudice to the foregoing provisions of this section, if, in the case of any goods upon which a claim for drawback, allowance, remission or repayment of duty has been made, it is found that those goods do not correspond with any [^{F37}any declaration] made thereof in connection with that claim, the goods shall be liable to forfeiture and any person by whom any such [^{F37}any declaration] or claim was made

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shall be liable on summary conviction to a penalty of three times the amount claimed or [F38]level 3 on the standard scale], whichever is the greater.

(5) Subsection (4) above applies in the case of any goods upon which a claim for drawback, allowance, remission or repayment of duty has been made where it is found that the goods, if sold for home use, would realise less than the amount claimed as it applies where the finding specified in that subsection is made except that it does not apply by virtue of this subsection to any claim under—

- (a) section 123 or 134(2) above; or
- (b) section 46, 61 or 64 of the ^{M1}Alcoholic Liquor Duties Act 1979 (remission or repayment of duty on certain spoilt liquors).

^{F39}(6)

Textual Amendments

- F34** S. 136(1)(1A)(2) substituted for s. 136(1)(2) by Finance Act 1988 (c. 39, SIF 40:1), s. 12(3)(6)
- F35** S. 136(2)(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(16) (with reg. 5(1))
- F36** Words inserted by Finance Act 1988 (c. 39, SIF 40:1), s. 12(3)(6)
- F37** Words in s. 136(4) substituted (13.9.2018 for specified purposes, 31.12.2020 in so far as not already in force) by Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(1)(a), Sch. 7 para. 103(2) (with savings and transitional provisions in S.I. 2020/1449, reg. 3 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(a)
- F38** 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
- F39** S. 136(6) omitted (13.9.2018 for specified purposes, 31.12.2020 in so far as not already in force) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(1)(a), Sch. 7 para. 103(3) (with savings and transitional provisions in S.I. 2020/1449, reg. 3 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(a)

Marginal Citations

- M1** 1979 c. 4

137 Recovery of [F40]excise] duties and calculation of [F40]excise] duties, drawbacks, etc.

- (1) Without prejudice to any other provision of the Customs and Excise Acts 1979, any amount due by way of ^{F41}... excise duty may be recovered as a debt due to the Crown.
- (2) [F42]Any excise duty or] drawback, allowance or rebate [F43]in relation to excise duty] the rate of which is expressed by reference to a specified quantity or weight of any goods shall, subject to subsection (3) below, be chargeable or allowable on any fraction of that quantity or weight of the goods, and the amount payable or allowable on any such fraction shall be calculated proportionately.
- (3) The Commissioners may for the purposes of subsection (2) above determine the fractions to be taken into account in the case of any weight or quantity.

^{F44}(4)

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Textual Amendments

- F40** Word in s. 137 heading inserted (13.9.2018 for specified purposes, 31.12.2020 in so far as not already in force) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(1)(a), [Sch. 7 para. 104\(4\)](#) (with savings and transitional provisions in S.I. 2020/1449, reg. 3 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(a)
- F41** Words in s. 137(1) omitted (13.9.2018 for specified purposes, 31.12.2020 in so far as not already in force) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(1)(a), [Sch. 7 para. 104\(2\)](#) (with savings and transitional provisions in S.I. 2020/1449, reg. 3 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(a)
- F42** Words in s. 137(2) substituted (13.9.2018 for specified purposes, 31.12.2020 in so far as not already in force) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(1)(a), [Sch. 7 para. 104\(3\)\(a\)](#) (with savings and transitional provisions in S.I. 2020/1449, reg. 3 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(a)
- F43** Words in s. 137(2) inserted (13.9.2018 for specified purposes, 31.12.2020 in so far as not already in force) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(1)(a), [Sch. 7 para. 104\(3\)\(b\)](#) (with savings and transitional provisions in S.I. 2020/1449, reg. 3 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(a)
- F44** S. 137(4) omitted (21.7.2008) by virtue of [Finance Act 2008 \(c. 9\)](#), s. 162

Modifications etc. (not altering text)

- C6** S. 137(1) modified (19.3.1997) by [1997 c. 16](#), [ss. 12\(6\)\(c\)](#), 15

[^{F45}137A Recovery of overpaid excise duty.

- (1) Where a person pays to the Commissioners an amount by way of excise duty which is not due to them, the Commissioners are liable to repay that amount.
 - (2) The Commissioners shall not be required to make any such repayment unless a claim is made to them in such form, and supported by such documentary evidence, as may be prescribed by them by regulations; and regulations under this subsection may make different provision for different cases.
 - (3) It is a defence to a claim for repayment that the repayment would unjustly enrich the claimant.
- [The Commissioners shall not be liable, on a claim made under this section, to repay
- ^{F46}(4) any amount paid to them more than [^{F47}4 years] before the making of the claim.]
- (5) Except as provided by this section the Commissioners are not liable to repay an amount paid to them by way of excise duty by reason of the fact that it was not due to them.
- [This section does not apply in a case where the Commissioners are—
- ^{F48}(6) (a) entitled to pay an amount under Part 1 of Schedule 3 to the Finance Act 2001,
or
- (b) required to repay an amount under Part 3 of that Schedule.]]

Textual Amendments

- F45** S. 137A inserted (1.12.1995) by [1995 c. 4](#), [s. 20\(1\)\(5\)](#); S.I. 1995/2892, [art. 2](#)
- F46** S. 137A(4) substituted (19.3.1997) by [1997 c. 16](#), s. 50(1), [Sch. 5 para. 5\(1\)](#)

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F47 Words in s. 137A(4) substituted (1.4.2011) by Finance (No. 3) Act 2010 (c. 33), s. 29(2), **Sch. 13 para. 7**; S.I. 2011/777, art. 2 (with art. 7)

F48 S. 137(6) inserted (1.11.2001) by 2001 c. 9, s. 15, **Sch. 3 para. 15**; S.I. 2001/3300, art. 2

Modifications etc. (not altering text)

C7 S. 137A modified (19.3.1997) by 1997 c. 16, **ss. 12(6)**, 15

power to modify conferred (19.3.1997) by 1997 c. 16, s. 50(1), **Sch. 5 Pt. I para. 3**

C8 S. 137A(1) modified (1.4.2010) by The Excise Goods (Holding, Movement and Duty Point) Regulations 2010 (S.I. 2010/593), regs. 2, **82(4)**, 85(5)

C9 S. 137A(1) modified (28.9.2001) by S.I. 2001/3022, **reg. 6**

C10 S. 137(3) amended (19.3.1997) by 1997 c. 16, s. 50(1), **Sch. 5 Pt. I para. 1(a)**

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