



# Customs and Excise Management Act 1979

## 1979 CHAPTER 2

### PART X

#### DUTIES AND DRAWBACKS—GENERAL PROVISIONS

##### *General provisions relating to imported goods*

#### **119 Delivery of imported goods on giving of security for duty.**

- (1) Where it is impracticable immediately to ascertain whether any or what duty is payable in respect of any imported goods which are entered for home use [<sup>F1</sup>or for free circulation], whether on importation or from warehouse [<sup>F2</sup>or free zone], the Commissioners may, if they think fit and notwithstanding any other provision of the Customs and Excise Act 1979, allow those goods to be delivered upon the importer giving security by deposit of money or otherwise to their satisfaction for payment of any amount unpaid which may be payable by way of duty.
- [<sup>F3</sup>(2) The Commissioners may for the purposes of subsection (1) above treat goods as entered for home use notwithstanding that the entry does not contain all the particulars required for perfect entry if it contains as many of those particulars as are then known to the importer, and in that event the importer shall supply the remaining particulars as soon as may be to the Commissioners.]
- (3) Where goods are allowed to be delivered under this section, the Commissioners shall, when they have determined the amount of duty which in their opinion is payable, give to the importer a notice specifying that amount.
- (4) On the giving of a notice under subsection (3) above the amount specified in the notice or, where any amount has been deposited under subsection (1) above, any difference between those amounts shall forthwith be paid or repaid as the case may require.

*Status: Point in time view as at 01/01/1993.*

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- (5) Subject to subsection (6) below, if the importer disputes the correctness of the amount specified in a notice given to him under subsection (3) above he may at any time within 3 months of the date of the notice make such a requirement for reference to arbitration or such an application to the court as is provided for by section 127 below, and that section shall have effect accordingly.
- (6) No requirement or application shall be made by virtue of subsection (5) above until any sum falling to be paid by the importer under subsection (4) above has been paid, and where any sum so falls to be paid no interest shall be paid under section 127(2) below in respect of any period before that sum is paid.

#### Textual Amendments

- F1** Words inserted by [Finance Act 1981 \(c. 35, SIF 40:1\)](#), s. 10(1), **Sch. 6 para. 8**
- F2** Words inserted by [Finance Act 1984 \(c. 43, SIF 40:1\)](#), s. 8, **Sch. 4 Pt. II para. 4**
- F3** [S. 119\(2\)](#) repealed (*prosp.*) by [Finance Act 1981 \(c. 35, SIF 40:1\)](#), s. 139(6), **Sch. 19 Pt. I**

## 120 Regulations for determining origin of goods.

- (1) The Secretary of State may by regulations make provision for determining, for the purposes of any duty of customs or excise, the origin of any goods in cases where it does not fall to be determined under a Community regulation or any Act or other instrument having the force of law.
- (2) Regulations under this section may—
- (a) make provision as to the evidence which is to be required or is to be sufficient for the purpose of showing that goods are of a particular origin; and
  - (b) make different provision for different purposes and in relation to goods of different descriptions.
- (3) Subject to the provisions of any regulations under this section, where in connection with a duty of customs or excise chargeable on any goods any question arises as to the origin of the goods, the Commissioners may require the importer of the goods to furnish to them, in such form as they may prescribe, proof of any statement made to them as to any fact necessary to determine that question; and if such proof is not furnished to their satisfaction, the question may be determined without regard to that statement.

## 121 Power to impose restrictions where duty depends on certain matters other than use.

Where any question as to the duties of customs or excise chargeable on any imported goods depends on any matter (other than the use to be made of the goods) 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).

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## **122 Regulations where customs duty depends on use.**

- (1) The Commissioners may, in accordance with subsection (2) below, make regulations applying in cases where any question as to the duties of customs chargeable on any goods depends on the use to be made of them.
- (2) In cases in which a Community instrument makes provision for the purpose of securing that the relevant use is made of the goods, regulations under this section may make provision for any matter which under the instrument is required or authorised to be dealt with by the authorities of member States or which otherwise arises out of the instrument; and in other cases regulations under this section may make such provision for that purpose as appears to the Commissioners to be necessary or expedient.

## **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 and for that purpose complied with the provisions of section 53 above as to entry in like manner as if they had been dutiable or restricted goods for the purposes of Part V of this Act; or
    - (ii) destroyed the goods unused,the importer shall be entitled to obtain from the Commissioners repayment of any [<sup>F4</sup>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.

### **Textual Amendments**

**F4** 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 on 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 or security 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 or security.

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## 125 Valuation of goods for purpose of ad valorem duties.

- (1) For the purposes of any duty for the time being chargeable on any imported goods by reference to their value (whether a Community customs duty or not), the value of the goods shall, subject to subsection (2) below, be taken according to the rules applicable in the case of Community customs duties, and duty shall be paid on that value.
- (2) In relation to an importation in the course of trade within the Communities the value of any imported goods for the purposes mentioned in subsection (1) above shall be determined on the basis of a delivery to the buyer at the port or place of importation into the United Kingdom.
- (3) The Commissioners may make regulations for the purpose of giving effect to the foregoing provisions of this section, and in particular for requiring any importer or other person concerned with the importation of goods—
  - (a) to furnish to the Commissioners in such form as they may require, such information as is in their opinion necessary for a proper valuation of the goods; and
  - (b) to produce any books of account or other documents of whatever nature relating to the purchase, importation or sale of the goods by that person.
- (4) If any person contravenes or fails to comply with any regulation made under subsection (3) above he shall be liable on summary conviction to a penalty of [<sup>F5</sup>level 3 on the standard scale].

### Textual Amendments

- F5** 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

### Modifications etc. (not altering text)

- C1** [S. 125\(1\)](#) excluded (20.10.1995) by [S.I. 1995/2518](#), **reg. 118(c)(ii)**
- C2** [S. 125\(2\)](#) excluded (20.10.1995) by [S.I. 1995/2518](#), **reg. 118(c)(ii)**
- C3** [S. 125\(3\)](#) amended by [Value Added Tax Act 1983 \(c. 55, SIF 40:2\)](#), **s. 24(2)**  
[S. 125\(3\)](#) modified (20.10.1995) by [S.I. 1995/2518](#), **reg. 121** (and (1.4.2000) by [reg. 121\(3\)](#) of that [S.I.](#) as substituted by [S.I. 2000/634](#), **reg. 6**)

## 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.

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- (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)**

C4 S. 126 excluded (20.10.1995) by S.I. 1995/2518, reg. 118(c)(iii)

**127 Determination of disputes as to duties on imported goods.**

- (1) If, before the delivery of any imported goods out of charge, any dispute arises as to whether any or what duty is payable on those goods, the importer shall pay the amount demanded by the proper officer but may, not later than 3 months after the date of the payment—
  - (a) if the dispute is in relation to the value of the goods, require the question to be referred to the arbitration of a referee appointed by the Lord Chancellor (not being an official of any government department), whose decision shall be final and conclusive; or
  - (b) in any other case, apply to the High Court or, in Scotland, to the Court of Session for a declaration as to the amount of duty, if any, properly payable on the goods.
- (2) If on any such reference or application the referee or court determines that a lesser or no amount was properly payable in respect of duty on the goods, the amount overpaid shall be repaid by the Commissioners, together with interest thereon from the date of the overpayment at such rate as the referee or court may determine; and any sum so repaid shall be accepted by the importer in satisfaction of all claims in respect of the importation of the goods in question and the duty payable thereon and of all damages and expenses incidental to the dispute other than the costs of the proceedings.
- (3) The procedure on any reference to a referee under this section shall be such as may be determined by the referee.

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

- C5 S. 127 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))
- C6 S. 127 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))
- C7 S. 127 amended (1.1.1993) by S.I. 1992/3152, reg. 11(a).

**Status:**

Point in time view as at 01/01/1993.

**Changes to legislation:**

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