



Customs and Excise Management Act 1979

1979 CHAPTER 2

PART XI

DETENTION OF PERSONS, FORFEITURE AND LEGAL PROCEEDINGS

Forfeiture

139 Provisions as to detention, seizure and condemnation of goods, etc.

(1) Any thing liable to forfeiture under the customs and excise Acts may be seized or detained by any officer or constable or any member of Her Majesty's armed forces or coastguard.

[^{F1}(1A) A person mentioned in subsection (1) who reasonably suspects that any thing may be liable to forfeiture under the customs and excise Acts may detain that thing.

(1B) References in this section and Schedule 2A to a thing detained as liable to forfeiture under the customs and excise Acts include a thing detained under subsection (1A).]

(2) Where any thing is seized or detained as liable to forfeiture under the customs and excise Acts by a person other than an officer, that person shall, subject to subsection (3) below, [^{F2}deliver that thing to an officer].

(3) Where the person seizing or detaining any thing as liable to forfeiture under the customs and excise Acts is a constable and that thing is or may be required for use in connection with any proceedings to be brought otherwise than under those Acts it may, subject to subsection (4) below, be retained in the custody of the police until either those proceedings are completed or it is decided that no such proceedings shall be brought.

(4) The following provisions apply in relation to things retained in the custody of the police by virtue of subsection (3) above, that is to say—

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- (a) notice in writing of the seizure or detention and of the intention to retain the thing in question in the custody of the police, together with full particulars as to that thing, shall be given to ^{F3}[an officer] ;
 - (b) any officer shall be permitted to examine that thing and take account thereof at any time while it remains in the custody of the police;
 - (c) nothing in ^{F4}[section 31 of the Police (Northern Ireland) Act 1998] shall apply in relation to that thing.
- (5) Subject to subsections (3) and (4) above and to ^{F5}[Schedules 2A and 3] to this Act, any thing seized or detained under the customs and excise Acts shall, pending the determination as to its forfeiture or disposal, be dealt with, and, if condemned or deemed to have been condemned or forfeited, shall be disposed of in such manner as the Commissioners may direct.
- ^{F6}(5A) Schedule 2A contains supplementary provisions relating to the detention of things as liable to forfeiture under the customs and excise Acts.]
- (6) Schedule 3 to this Act shall have effect for the purpose of forfeitures, and of proceedings for the condemnation of any thing as being forfeited, under the customs and excise Acts.
- (7) If any person, not being an officer, by whom any thing is seized or detained or who has custody thereof after its seizure or detention, fails to comply with any requirement of this section or with any direction of the Commissioners given thereunder, he shall be liable on summary conviction to a penalty of ^{F7}[level 2 on the standard scale].
- (8) Subsections (2) to (7) above shall apply in relation to any dutiable goods seized or detained by any person other than an officer notwithstanding that they were not so seized as liable to forfeiture under the customs and excise Acts.

Textual Amendments

- F1** S. 139(1A)(1B) inserted (with effect in accordance with s. 226(8) of the amending Act) by [Finance Act 2013 \(c. 29\), s. 226\(2\)](#)
- F2** Words in s. 139(2) substituted (with effect in accordance with s. 226(8) of the amending Act) by [Finance Act 2013 \(c. 29\), s. 226\(3\)](#)
- F3** Words in s. 139(4) substituted (with effect in accordance with s. 226(8) of the amending Act) by [Finance Act 2013 \(c. 29\), s. 226\(4\)](#)
- F4** Words in s. 139(4)(c) substituted (1.4.1999) by [1998 c. 32, s. 74\(1\), Sch. 4 para. 14](#); [S.R. 1999/176, art. 3](#)
- F5** Words in s. 139(5) substituted (with effect in accordance with s. 226(8) of the amending Act) by [Finance Act 2013 \(c. 29\), s. 226\(5\)](#)
- F6** S. 139(5A) inserted (with effect in accordance with s. 226(8) of the amending Act) by [Finance Act 2013 \(c. 29\), s. 226\(6\)](#)
- F7** Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\), s. 289G](#) and (N.I.) by [S.I. 1984/703, \(N.I. 3\) art. 5](#)

Modifications etc. (not altering text)

- C1** S. 139 extended by [S.I. 1987/1521, reg. 3\(2\)](#); [1987/2105, reg. 5\(1\)](#); [1988/1476, art. 5\(1\)](#)
- C2** S. 139 extended (E.W.S.) by [Scotch Whisky Act 1988 \(c. 22, SIF 109:1\), s. 1\(4\)](#)
- C3** S. 139 amended by [S.I. 1988/1852 \(N.I. 19\), art. 4\(2\)](#)
- C4** S. 139 extended (01.01.1992) by [S.I. 1991/2724, reg. 10\(1\)](#)
S. 139 extended (01.01.1992) by [S.I. 1991/2725, reg. 6\(1\)](#)

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- C5** S. 139 extended (01.01.1992) by S.I. 1991/2727, **reg. 7(1)**
- C6** S. 139 applied (23.6.1993) by S.I. 1993/1353, **reg. 4(1)**
S. 139 applied (1.7.1995) (with modifications) by S.I. 1995/1447, **reg. 4(1)**
S. 139 applied (1.7.1999) (with modifications) by S.I. 1999/1618, **regs. 5(1), 6**
S. 139 applied (1.7.1999) by S.I. 1999/1618, **reg. 6(4)(a)**
S. 139 applied in part (1.7.1999) by S.I. 1999/1618, **reg. 6(5)**
- C7** S. 139 applied (1.7.2004) by The Goods Infringing Intellectual Property Rights (Customs) Regulations 2004 (S.I. 2004/1473), **regs. 1, 8(5)(a)** (with **reg. 2(3)**)
- C8** S. 139 applied (1.7.2004) by The Goods Infringing Intellectual Property Rights (Customs) Regulations 2004 (S.I. 2004/1473), **regs. 1, 7(1)** (with **reg. 2(3)**)
- C9** S. 139 applied (10.1.2012) by The Postal Packets (Revenue and Customs) Regulations 2011 (S.I. 2011/3036), **regs. 1, 20(2)** (with **regs. 8, 25**)
- C10** S. 139(1)(2)(3)(4) applied (with modifications) by 1995 c. 32, s. 12B(3) (as inserted (with effect in accordance with s. 40(7) of the amending Act) by London Olympic Games and Paralympic Games Act 2006 (c. 12), s. 40(2), **Sch. 3 para. 14** (with s. 40(5)); S.I. 2007/1064, art. 2(c))
- C11** S. 139(7)(8) applied (with modifications) by 1995 c. 32, s. 12B(3) (as inserted (with effect in accordance with s. 40(7) of the amending Act) by London Olympic Games and Paralympic Games Act 2006 (c. 12), s. 40(2), **Sch. 3 para. 14** (with s. 40(5)); S.I. 2007/1064, art. 2(c))

140 Forfeiture of spirits.

Where, by any provision of, or of any instrument made under, the Customs and Excise Acts 1979, any spirits become liable to forfeiture by reason of some offence committed by a revenue trader, then—

- (a) where that provision specifies the quantity of those spirits but does not specify the spirits so liable, the Commissioners may seize the equivalent of that quantity^{F8} from any spirits in the stock of that trader; and
- (b) where that provision specifies the spirits so liable the Commissioners may, if they think fit, seize instead of the spirits so specified an equivalent quantity^{F8} of any other spirits in the stock of that trader.

Textual Amendments

- F8** Words repealed by S.I. 1979/241, **arts. 39, 41**

141 Forfeiture of ships, etc. used in connection with goods liable to forfeiture.

- (1) Without prejudice to any other provision of the Customs and Excise Acts 1979, where any thing has become liable to forfeiture under the customs and excise Acts—
 - (a) any ship, aircraft, vehicle, animal, container (including any article of passengers' baggage) or other thing whatsoever which has been used for the carriage, handling, deposit or concealment of the thing so liable to forfeiture, either at a time when it was so liable or for the purposes of the commission of the offence for which it later became so liable; and
 - (b) any other thing mixed, packed or found with the thing so liable, shall also be liable to forfeiture.
- (2) Where any ship, aircraft, vehicle or animal has become liable to forfeiture under the customs and excise Acts, whether by virtue of subsection (1) above or otherwise, all tackle, apparel or furniture thereof shall also be liable to forfeiture.

Status: Point in time view as at 16/11/2017.

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- (3) Where any of the following, that is to say—
- (a) any ship not exceeding 100 tons register;
 - (b) any aircraft; or
 - (c) any hovercraft,

becomes liable to forfeiture under this section by reason of having been used in the importation, exportation or carriage of goods contrary to or for the purpose of contravening any prohibition or restriction for the time being in force with respect to those goods, or without payment having been made of, or security given for, any duty payable thereon, the owner and the master or commander shall each be liable on summary conviction to a penalty equal to the value of the ship, aircraft or hovercraft or [F9][F10]level 5 on the standard scale][F10]£20,000], whichever is the less.

Textual Amendments

- F9** 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
- F10** S. 141(3): 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. 5 para. 1** (with reg. 5(1))

Modifications etc. (not altering text)

- C12** S. 141 amended by [S.I. 1988/1852 \(N.I. 19\)](#), **art. 4(2)**
- C13** S. 141 extended (E.W.S.) by [Scotch Whisky Act 1988 \(c. 22, SIF 109:1\)](#), **s. 1(4)**
- C14** S. 141(3) amended by [S.I. 1990/2167](#), art. 4, **Sch. para. 21**

142 Special provision as to forfeiture of larger ships.

- (1) Notwithstanding any other provision of the Customs and Excise Acts 1979, a ship of 250 or more tons register shall not be liable to forfeiture under or by virtue of any provision of the Customs and Excise Acts 1979, except under section 88 above, unless the offence in respect of or in connection with which the forfeiture is claimed—
- (a) was substantially the object of the voyage during which the offence was committed; or
 - (b) was committed while the ship was under chase by a vessel in the service of Her Majesty after failing to bring to when properly summoned to do so by that vessel.
- (2) For the purposes of this section, a ship shall be deemed to have been properly summoned to bring to—
- (a) if the vessel making the summons did so by means of an international signal code or other recognised means and while flying her proper ensign; and
 - (b) in the case of a ship which is not a British ship, if at the time when the summons was made the ship was [F11]in United Kingdom waters].
- (3) For the purposes of this section, all hovercraft (of whatever size) shall be treated as ships of less than 250 tons register.
- (4) The exemption from forfeiture of any ship under this section shall not affect any liability to forfeiture of goods carried therein.

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Textual Amendments

F11 Words substituted by [Territorial Sea Act 1987 \(c. 49, SIF 29:1\)](#), [s. 3 para. 4\(3\)\(d\)](#)

143 Penalty in lieu of forfeiture of larger ship where responsible officer implicated in offence.

- [^{F12}(1) This section applies where—
- (a) any ship of 250 or more tons register would, but for section 142, be liable to forfeiture for, or in connection with, any offence under the customs and excise Acts, and
 - (b) in the opinion of the Commissioners, a responsible officer of the ship is implicated either by the officer's own act, or by neglect, in that offence.]
- (2) For the purposes of this section, all hovercraft (of whatever size) shall be treated as ships of less than 250 tons register.
- (3) [^{F13}The Commissioners] may take proceedings in accordance with Schedule 3 to this Act, in like manner as they might but for section 142 above have taken proceedings for the condemnation of the ship if notice of claim had been given in respect thereof, for the condemnation of the ship in such sum not exceeding [^{F14}£10,000] as the court may see fit.
- (4) [^{F15}The] Commissioners may require such sum as they see fit, not exceeding [^{F16}£10,000], to be deposited with them to await ^{F17}... the decision of the court, and may detain the ship until that sum has been so deposited.
- (5) No claim shall lie against the Commissioners for damages in respect of the payment of any deposit or the detention of any ship under this section.
- (6) For the purposes of this section—
- (a) “responsible officer”, in relation to any ship, means [^{F18}a person who is, or is acting as,] the master, a mate [^{F19}, an engineer or the bosun] of the ship and, in the case of a ship carrying a passenger certificate, the purser or chief steward ^{F20} ...;
 - (b) without prejudice to any other grounds upon which a responsible officer of any ship may be held to be implicated by neglect, he may be so held if goods not owned to by any member of the crew are discovered in a place under that officer's supervision in which they could not reasonably have been put if he had exercised proper care at the time of the loading of the ship or subsequently.
- [^{F21}(7) If the Treasury consider that there has been a change in the value of money since the Finance Act 2013 was passed or, as the case may be, since the last occasion when the power conferred by this subsection was exercised, they may by order substitute for the sum for the time being specified in subsections (3) and (4) such other sum as appears to them to be justified by the change.
- (8) An order under subsection (7) may not vary the penalty for any conduct occurring before the coming into force of the order.
- (9) An order under subsection (7) must be made by statutory instrument.
- (10) A statutory instrument containing an order under subsection (7) is subject to annulment in pursuance of a resolution of either House of Parliament.]

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Textual Amendments

- F12** S. 143(1) substituted (17.7.2013) by [Finance Act 2013 \(c. 29\), s. 227\(2\)](#)
- F13** Words in s. 143(3) substituted (17.7.2013) by [Finance Act 2013 \(c. 29\), s. 227\(3\)\(a\)](#)
- F14** Word in s. 143(3) substituted (17.7.2013) by [Finance Act 2013 \(c. 29\), s. 227\(3\)\(b\)](#)
- F15** Word in s. 143(4) substituted (17.7.2013) by [Finance Act 2013 \(c. 29\), s. 227\(4\)\(a\)](#)
- F16** Word in s. 143(4) substituted (17.7.2013) by [Finance Act 2013 \(c. 29\), s. 227\(4\)\(b\)](#)
- F17** Words in s. 143(4) omitted (17.7.2013) by virtue of [Finance Act 2013 \(c. 29\), s. 227\(4\)\(c\)](#)
- F18** Words in s. 143(6)(a) inserted (17.7.2013) by [Finance Act 2013 \(c. 29\), s. 227\(5\)\(a\)](#)
- F19** Words in s. 143(6)(a) substituted (17.7.2013) by [Finance Act 2013 \(c. 29\), s. 227\(5\)\(b\)](#)
- F20** Words in s. 143(6)(a) omitted (17.7.2013) by virtue of [Finance Act 2013 \(c. 29\), s. 227\(5\)\(b\)](#)
- F21** S. 143(7)-(10) inserted (17.7.2013) by [Finance Act 2013 \(c. 29\), s. 227\(6\)](#)

144 Protection of officers, etc. in relation to seizure and detention of goods, etc.

- (1) Where, in any proceedings for the condemnation of any thing seized as liable to forfeiture under the customs and excise Acts, judgment is given for the claimant, the court may, if it sees fit, certify that there were reasonable grounds for the seizure.
- (2) Where any proceedings, whether civil or criminal, are brought against the Commissioners, a law officer of the Crown or any person authorised by or under the Customs and Excise Acts 1979 to seize or detain any thing liable to forfeiture under the customs and excise Acts on account of the seizure or detention of any thing, and judgment is given for the plaintiff or prosecutor, then if either—
 - (a) a certificate relating to the seizure has been granted under subsection (1) above; or
 - (b) the court is satisfied that there were reasonable grounds for seizing or detaining that thing under the customs and excise Acts,
 the plaintiff or prosecutor shall not be entitled to recover any damages or costs and the defendant shall not be liable to any punishment.
- (3) Nothing in subsection (2) above shall effect any right of any person to the return of the thing seized or detained or to compensation in respect of any damage to the thing or in respect of the destruction thereof.
- (4) Any certificate under subsection (1) above may be proved by the production of either the original certificate or a certified copy thereof purporting to be signed by an officer of the court by which it was granted.

Modifications etc. (not altering text)

- C15** S. 144 extended by [S.I. 1987/1521, reg. 3\(2\)\(a\)](#)
- C16** Ss. 144-148, 150-155 applied (01.01.1992) by [S.I. 1991/2724, reg. 10\(2\)](#)
 Ss. 144-148, 150-155 applied (01.01.1992) by [S.I. 1991/2725, reg. 6\(2\)](#)
- C17** Ss. 144-148, 150-155 applied (01.01.1992) by [S.I. 1991/2727, reg. 7\(2\)](#)
- C18** Ss. 144-148, 150-155 applied (23.6.1993) by [S.I. 1993/1353, reg. 4\(2\)](#).
 S. 144 applied (1.7.1995) (with modifications) by [S.I. 1995/1447, reg. 4\(1\)\(a\)](#)
 S. 144 applied (1.7.1999) (with modifications) by [S.I. 1999/1618, regs. 5\(1\)\(a\), 6](#)
 S. 144 applied (1.7.1999) by [S.I. 1999/1618, reg. 6\(4\)](#)
- C19** S. 144 applied (1.7.2004) by [The Goods Infringing Intellectual Property Rights \(Customs\) Regulations 2004 \(S.I. 2004/1473\), regs. 1, 7\(1\)\(a\)](#) (with reg. 2(3))

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- C20** S. 144 applied (1.7.2004) by [The Goods Infringing Intellectual Property Rights \(Customs\) Regulations 2004 \(S.I. 2004/1473\)](#), regs. 1, **8(5)(b)** (with reg. 2(3))
- C21** S. 144 applied (with modifications) by 1995 c. 32, s. 12B(4) (as inserted (with effect in accordance with s. 40(7) of the amending Act) by [London Olympic Games and Paralympic Games Act 2006 \(c. 12\)](#), s. 40(2), **Sch. 3 para. 14** (with s. 40(5)); S.I. 2007/1064, art. 2(c))

Status:

Point in time view as at 16/11/2017.

Changes to legislation:

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