



# Customs and Excise Management Act 1979

## 1979 CHAPTER 2

### PART XII

#### GENERAL AND MISCELLANEOUS

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

C1 Pt. XII amended by [Customs and Excise Duties \(General Reliefs\) Act 1979 \(c. 3\), s. 15\(4\)](#)

*General powers, etc.*

#### 157 Bonds and security.

(1) Without prejudice to any express requirement as to security contained in the customs and excise Acts, the Commissioners may, if they see fit, require any person to give security [<sup>F1</sup>(or further security) by bond, guarantee] or otherwise for the observance of any condition in connection with customs or excise.

[<sup>F2</sup>(1A) For the purposes of this section “condition in connection with excise” includes a condition in connection with excise duty charged, under the law of a member State other than the United Kingdom, on—

- (a) manufactured tobacco,
- (b) alcohol or alcoholic beverages, or
- (c) mineral oils.

The expressions used in paragraphs (a) to (c) above have the same meaning as in Council Directive [92/12/EEC](#).]

(2) Any bond [<sup>F3</sup>, guarantee or other security] taken for the purposes of any assigned matter—

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- (a) shall be taken [<sup>F4</sup>either on behalf of Her Majesty or on behalf of Her Majesty and the tax authorities of each member State other than the United Kingdom]; and
- (b) shall be valid notwithstanding that it is entered into by a person under full age; and
- (c) may be cancelled at any time by or by order of the Commissioners.

[<sup>F5</sup>In this subsection “assigned matter” includes any excise duty charged as mentioned in subsection (1A) above.]

#### Textual Amendments

- F1** Words in s. 157(1) substituted (28.7.2000) by 2000 c. 17, s. 27(1)(2)
- F2** S. 157(1A) inserted (28.7.2000) by 2000 c. 17, s. 27(1)(3)
- F3** Words in s. 157(2) inserted (28.7.2000) by 2000 c. 17, s. 27(1)(4)
- F4** Words in s. 157(2)(a) substituted (28.7.2000) by 2000 c. 17, s. 27(1)(5)
- F5** Words in s. 157(2) added (28.7.2000) by 2000 c. 17, s. 27(1)(6)

### 158 Power to require provision of facilities.

- (1) A person to whom this section applies, that is to say, a revenue trader and any person required by the Commissioners under the Customs and Excise Acts 1979 to give security in respect of any premises or place to be used for the examination of goods by an officer, shall—
  - (a) provide and maintain such appliances and afford such other facilities reasonably necessary to enable an officer to take any account or make any examination or search or to perform any other of his duties on the premises of that trader or at the bonded premises or place as the Commissioners may direct;
  - (b) keep any appliances so provided in a convenient place approved by the proper officer for that purpose; and
  - (c) allow the proper officer at any time to use anything so provided and give him any assistance necessary for the performance of his duties.
- (2) Any person who contravenes or fails to comply with any provision of subsection (1) above shall be liable on summary conviction to a penalty of [<sup>F6</sup>level 3 on the standard scale].
- (3) A person to whom this section applies shall provide and maintain any fitting required for the purpose of affixing any lock which the proper officer may require to affix to the premises of that person or any part thereof or to any vessel, utensil or other apparatus whatsoever kept thereon, and in default—
  - (a) the fitting may be provided or any work necessary for its maintenance may be carried out by the proper officer, and any expenses so incurred shall be paid on demand by that person; and
  - (b) if that person fails to pay those expenses on demand, he shall in addition be liable on summary conviction to a penalty of [<sup>F6</sup>level 3 on the standard scale].
- (4) If any person to whom this section applies or any servant of his—
  - (a) wilfully destroys or damages any such fitting as is mentioned in subsection (3) above or any lock or key provided for use therewith, or any label or seal placed on any such lock; or

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- (b) improperly obtains access to any place or article secured by any such lock; or
- (c) has any such fitting or any article intended to be secured by means thereof so constructed that that intention is defeated,

he shall be liable on summary conviction to a penalty of [<sup>F6</sup>level 5 on the standard scale] and may be detained.

#### Textual Amendments

**F6** 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

### 159 Power to examine and take account of goods.

- (1) Without prejudice to any other power conferred by the Customs and Excise Acts 1979, an officer may examine and take account of any goods—
  - (a) which are imported; or
  - (b) which are in a warehouse or Queen’s warehouse; or
  - [<sup>F7</sup>(bb) which are in a free zone; or]
  - (c) which have been loaded into any ship or aircraft at any place in the United Kingdom [<sup>F8</sup>or the Isle of Man]; or
  - (d) which are entered for exportation or for use as stores; or
  - (e) which are brought to any place in the United Kingdom for exportation or for shipment for exportation or as stores; or
  - (f) in the case of which any claim for drawback, allowance, rebate, remission or repayment of duty is made;and may for that purpose require any container to be opened or unpacked.
- (2) Any examination of goods by an officer under the Customs and Excise Acts 1979 shall be made at such place as the Commissioners appoint for the purpose.
- (3) In the case of such goods as the Commissioners may direct, and subject to such conditions as they see fit to impose, an officer may permit goods to be skipped on the quay or bulked, sorted, lotted, packed or repacked before account is taken thereof.
- (4) Any opening, unpacking, weighing, measuring, repacking, bulking, sorting, lotting, marking, numbering, loading, unloading, carrying or landing of goods or their containers for the purposes of, or incidental to, the examination by an officer, removal or warehousing thereof shall be done, and any facilities or assistance required for any such examination shall be provided, by or at the expense of the proprietor of the goods.
- (5) If any imported goods which an officer has power under the Customs and Excise Acts 1979 to examine are without the authority of the proper officer removed from customs and excise charge before they have been examined, those goods shall be liable to forfeiture.
- (6) If any goods falling within subsection (5) above are removed by a person 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, that person shall be guilty of an offence under this subsection and may be detained.

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- (7) A person guilty of an offence under subsection (6) 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>F9</sup>7 years], or to both.
- (8) Without prejudice to the foregoing provisions of this section, where by this section or by or under any other provision of the Customs and Excise Acts 1979 an account is authorised or required to be taken of any goods for any purpose by an officer, the Commissioners may, with the consent of the proprietor of the goods, accept as the account of those goods for that purpose an account taken by such other person as may be approved in that behalf by both the Commissioners and the proprietor of the goods.

#### Textual Amendments

- F7** S. 159(1)(bb) inserted by [Finance Act 1984 \(c. 43, SIF 40:1\)](#), s. 8, [Sch. 4 Pt. II para. 5](#)  
**F8** Words inserted by [Isle of Man Act 1979 \(c. 58\)](#), [Sch. 1 para. 22](#)  
**F9** Words substituted by [Finance Act 1988 \(c. 39, SIF 40:1\)](#), s. [12\(1\)\(a\)\(6\)](#)

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

- C2** S. 159(1) amended by [S.I. 1990/2167](#), art. 4, [Sch. para. 24](#)

## 160 Power to take samples.

- (1) An officer may at any time take samples of any goods—
- (a) which he is empowered by the Customs and Excise Acts 1979 to examine; or
  - (b) which are on premises where goods chargeable with any duty are manufactured, prepared or subjected to any process; or
  - (c) which, being dutiable goods, are held by any person as stock for his business or as materials for manufacture or processing.
- (2) Where an officer takes from any vessel, pipe or utensil on the premises of any of the following revenue traders, that is to say, a distiller, [<sup>F10</sup>registered brewer], producer of wine, producer of made-wine or maker of cider, a sample of any product of, or of any materials for, the manufacture of that trader—
- (a) the trader may, if he wishes, stir up and mix together the contents of that vessel, pipe or utensil before the sample is taken; and
  - (b) the sample taken by the officer shall be deemed to be representative of the whole contents of that vessel, pipe or utensil.
- (3) Any sample taken under this section shall be disposed of and accounted for in such manner as the Commissioners may direct.
- (4) Where any sample is taken under this section from any goods chargeable with a duty of customs or excise after that duty has been paid, other than—
- (a) a sample taken when goods are first entered on importation; or
  - (b) a sample taken from goods in respect of which a claim for drawback, allowance, rebate, remission or repayment of that duty is being made,

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and the sample so taken is to be retained, the officer taking it shall, if so required by the person in possession of the goods, pay for the sample on behalf of the Commissioners such sum as reasonably represents the wholesale value thereof.

#### Textual Amendments

**F10** Words in s. 160(2) substituted (1.6.1993) by Finance Act 1991 (c. 31), s. 7(4)(5), Sch. 2 para. 1(a); S.I. 1993/1152, art. 3, Sch. 1 Pt. 2

#### [<sup>F11</sup>161 Power to search premises: writ of assistance.

- (1) The powers conferred by this section are exercisable by an officer having a writ of assistance if there are reasonable grounds to suspect that anything liable to forfeiture under the customs and excise Acts—
  - (a) is kept or concealed in any building or place, and
  - (b) is likely to be removed, destroyed or lost before a search warrant can be obtained and executed.
- (2) The powers are—
  - (a) to enter the building or place at any time, whether by day or night, on any day, and search for, seize, and detain or remove any such thing, and
  - (b) so far as is necessary for the purpose of such entry, search, seizure, detention or removal, to break open any door, window or container and force and remove any other impediment or obstruction.
- (3) An officer shall not exercise the power of entry conferred by this section by night unless accompanied by a constable.
- (4) A writ of assistance shall continue in force during the reign in which it is issued and for six months thereafter.]

#### Textual Amendments

**F11** S. 161 and s. 161A substituted for s. 161 (28.7.2000) by 2000 c. 17, s. 25

#### <sup>F12</sup>161A Power to search premises: search warrant.

- (1) If a justice of the peace is satisfied by information upon oath given by an officer that there are reasonable grounds to suspect that anything liable to forfeiture under the customs and excise Acts is kept or concealed in any building or place, he may by warrant under his hand authorise any officer, and any person accompanying an officer, to enter and search the building or place named in the warrant.
- (2) An officer or other person so authorised has power—
  - (a) to enter the building or place at any time, whether by day or night, on any day, and search for, seize, and detain or remove any such thing, and
  - (b) so far as is necessary for the purpose of such entry, search, seizure, detention or removal, to break open any door, window or container and force and remove any other impediment or obstruction.

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- (3) Where there are reasonable grounds to suspect that any still, vessel, utensil, spirits or materials for the manufacture of spirits is or are unlawfully kept or deposited in any building or place, subsections (1) and (2) above apply in relation to any constable as they would apply in relation to an officer.
- (4) The powers conferred by a warrant under this section are exercisable until the end of the period of one month beginning with the day on which the warrant is issued.
- (5) A person other than a constable shall not exercise the power of entry conferred by this section by night unless accompanied by a constable.

#### Textual Amendments

**F12** S. 161 and s. 161A substituted for s. 161 (28.7.2000) by 2000 c. 17, s. 25

### 162 Power to enter land for or in connection with access to pipelines.

Where any thing conveyed by a pipe-line is chargeable with a duty of customs and excise which has not been paid, an officer may enter any land adjacent to the pipe-line in order to get to the pipe-line for the purpose of exercising in relation to that thing any power conferred by or under the Customs and Excise Acts 1979 or to get from the pipe-line after an exercise of any such power.

This section does not extend to Northern Ireland.

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

- C3** S. 162 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. 162 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)**)
- C5** S. 162 amended (1.1.1993) by S.I. 1992/3152, **reg. 11(a)**.

### 163 Power to search vehicles or vessels.

- (1) Without prejudice to any other power conferred by the Customs and Excise Acts 1979, where there are reasonable grounds to suspect that any vehicle or vessel is or may be carrying any goods which are—
  - (a) chargeable with any duty which has not been paid or secured; or
  - (b) in the course of being unlawfully removed from or to any place; or
  - (c) otherwise liable to forfeiture under the customs and excise Acts,
 any officer or constable or member of Her Majesty's armed forces or coastguard may stop and search that vehicle or vessel.
- (2) If when so required by any such officer, constable or member the person in charge of any such vehicle or vessel refuses to stop or to permit the vehicle or vessel to be searched, he shall be liable on summary conviction to a penalty of [<sup>F13</sup>level 3 on the standard scale].

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[<sup>F14</sup>(3) This section shall apply in relation to aircraft as it applies in relation to vehicles or vessels but the power to stop and search in subsection (1) above shall not be available in respect of aircraft which are airborne.]

#### Textual Amendments

**F13** 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** (as inserted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **s. 54**) and (N.I.) by [S.I. 1984/703](#), (N.I. 3) arts. 5, 6

**F14** S. 163(3) inserted (16.7.1992) by [Finance \(No. 2\) Act 1992 \(c. 48\)](#), **s. 10(4)**.

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

**C6** S. 163 amended by [S.I. 1988/1852 \(N.I. 19\)](#), **art. 4(2)**

**C7** S. 163 extended (E.W.S.) by [Scotch Whisky Act 1988 \(c. 22, SIF 109:1\)](#), **s. 1(4)**

### [<sup>F15</sup>163A Power to search articles.

- (1) Without prejudice to any other power conferred by the Customs and Excise Acts 1979, where there are reasonable grounds to suspect that a person in the United Kingdom (referred to in this section as “the suspect”) has with him, or at the place where he is, any goods to which this section applies, an officer may—
  - (a) require the suspect to permit a search of any article that he has with him or at that place, and
  - (b) if the suspect is not under arrest, detain him (and any such article) for so long as may be necessary to carry out the search.
- (2) The goods to which this section applies are dutiable alcoholic liquor, or tobacco products, which are—
  - (a) chargeable with any duty of excise, and
  - (b) liable to forfeiture under the customs and excise Acts.
- (3) Notwithstanding anything in subsection (4) of section 24 of the <sup>M1</sup>Criminal Law (Consolidation) (Scotland) Act 1995 (detention and questioning by customs officers), detention of the suspect under subsection (1) above shall not prevent his subsequent detention under subsection (1) of that section.]

#### Textual Amendments

**F15** [S. 163A](#) inserted (28.7.2000) by [2000 c. 17](#), **s. 26**

#### Marginal Citations

**M1** [1995 c. 39](#).

### 164 Power to search persons.

- (1) Where there are reasonable grounds to suspect that any person to whom this section applies [<sup>F16</sup>(referred to in this section as “the suspect”)] is carrying any article—
  - (a) which is chargeable with any duty which has not been paid or secured; or
  - (b) with respect to the importation or exportation of which any prohibition or restriction is for the time being in force under or by virtue of any enactment.



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[<sup>F17</sup>an officer may exercise the powers conferred by subsection (2) below and, if the suspect is not under arrest, may detain him for so long as may be necessary for the exercise of those powers and (where applicable) the exercise of the rights conferred by subsection (3) below].

[<sup>F18</sup>(2) The officer may require the suspect—

- (a) to permit such a search of any article which he has with him; and
- (b) subject to subsection (3) below, to submit to such searches of his person, whether rub-down, strip or intimate,

as the officer may consider necessary or expedient; but no such requirement may be imposed under paragraph (b) above without the officer informing the suspect of the effect of subsection (3) below.

(3) If the suspect is required to submit to a search of his person, he may require to be taken—

- (a) except in the case of a rub-down search, before a justice of the peace or a superior of the officer concerned; and
- (b) in the excepted case, before such a superior;

and the justice or superior shall consider the grounds for suspicion and direct accordingly whether the suspect is to submit to the search.

(3A) A rub-down or strip search shall not be carried out except by a person of the same sex as the suspect; and an intimate search shall not be carried out except by a suitably qualified person.]

(4) This section applies to the following persons, namely—

- (a) any person who is on board or has landed from any ship or aircraft;
- (b) any person entering or about to leave the United Kingdom;
- (c) any person within the dock area of a port;
- (d) any person at a customs and excise airport;
- (e) any person in, entering or leaving any approved wharf or transit shed which is not in a port;

[<sup>F19</sup>(ee) any person in, entering or leaving a free zone;]

- (f) in Northern Ireland, any person travelling from or to any place which is on or beyond the boundary.

[<sup>F20</sup>(5) In this section—

“intimate search” means any search which involves a physical examination (that is, an examination which is more than simply a visual examination) of a person’s body orifices;

“rub-down search” means any search which is neither an intimate search nor a strip search;

“strip search” means any search which is not an intimate search but which involves the removal of an article of clothing which—

- (a) is being worn (wholly or partly) on the trunk; and
- (b) is being so worn either next to the skin or next to an article of underwear;

“suitably qualified person” means a registered medical practitioner or a registered nurse.

(6) Notwithstanding anything in subsection (4) of section 48 of the Criminal Justice (Scotland) Act <sup>M2</sup>1987 (detention and questioning by customs officers), detention of



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the suspect under subsection (1) above shall not prevent his subsequent detention under subsection (1) of that section.]

#### Textual Amendments

- F16** Words inserted by Finance Act 1988 (c. 39, SIF 40:1), s. 10(1)(a)(b)  
**F17** Words substituted by Finance Act 1988 (c. 39, SIF 40:1), s. 10(1)(a)(b)  
**F18** S. 164(2)–(3A) substituted for s. 164(2)(3) by Finance Act 1988 (c. 39, SIF 40:1), s. 10(2)  
**F19** S. 164(4)(ee) inserted by Finance Act 1984 (c. 43, SIF 40:1), s. 8, Sch. 4 para. 6  
**F20** S. 164(5)(6) inserted by Finance Act 1988 (c. 39, SIF 40:1), s. 10(3)

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

- C8** S. 164 amended by S.I. 1990/2167, art. 4, Sch. para. 25  
**C9** S. 164 restricted (1.1.1993) by Finance (No. 2) Act 1992 (c. 48), s. 4(1)(3)(h)(6).

#### Marginal Citations

- M2** 1987 c. 41(39:1).

### 165 Power to pay rewards.

Subject to any directions of the Treasury as to amount, the Commissioners may at their discretion pay rewards in respect of any service which appears to them to merit reward rendered to them by any person in relation to any assigned matter.

### 166 Agents.

- (1) If any person requests an officer or a person appointed by the Commissioners to transact any business relating to an assigned matter with him on behalf of another person, the officer or person so appointed may refuse to transact that business with him unless written authority from that other person is produced in such form as the Commissioners may direct.
- (2) Subject to subsection (1) above, anything required by the Customs and Excise Acts 1979 to be done by the importer or exporter of any goods may, except where the Commissioners otherwise require, be done on his behalf by an agent.

#### *General offences*

### 167 Untrue declarations, etc.

- (1) If any person either knowingly or recklessly—
  - (a) makes or signs, or causes to be made or signed, or delivers or causes to be delivered to the Commissioners or an officer, any declaration, notice, certificate or other document whatsoever; or
  - (b) makes any statement in answer to any question put to him by an officer which he is required by or under any enactment to answer,being a document or statement produced or made for any purpose of any assigned matter, which is untrue in any material particular, he shall be guilty of an offence under this subsection and may be detained; and any goods in relation to which the document or statement was made shall be liable to forfeiture.

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- (2) Without prejudice to subsection (4) below, a person who commits an offence under subsection (1) above shall be liable—
- (a) on summary conviction, to a penalty of the prescribed sum, 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.
- (3) If any person—
- (a) makes or signs, or causes to be made or signed, or delivers or causes to be delivered to the Commissioners or an officer, any declaration, notice, certificate or other document whatsoever; or
  - (b) makes any statement in answer to any question put to him by an officer which he is required by or under any enactment to answer.
- being a document or statement produced or made for any purpose of any assigned matter, which is untrue in any material particular, then, without prejudice to subsection (4) below, he shall be liable on summary conviction to a penalty of [<sup>F21</sup>level 4 on the standard scale].
- (4) Where by reason of any such document or statement as is mentioned in subsection (1) or (3) above the full amount of any duty payable is not paid or any overpayment is made in respect of any drawback, allowance, rebate or repayment of duty, the amount of the duty unpaid or of the overpayment shall be recoverable as a debt due to the Crown or may be summarily recovered as a civil debt.
- [<sup>F22</sup>(5) An amount of excise duty, or the amount of an overpayment in respect of any drawback, allowance, rebate or repayment of any excise duty, shall not be recoverable as mentioned in subsection (4) above unless the Commissioners have assessed the amount of the duty or of the overpayment as being excise duty due from the person mentioned in subsection (1) or (3) above and notified him or his representative accordingly.]

#### Textual Amendments

**F21** 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

**F22** [S. 167\(5\)](#) inserted (1.6.1997) by [1997 c. 16, s. 50\(2\)](#), **Sch. 6 para. 5**; [S.I. 1997/1305, art. 2](#)

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

**C10** [S. 167](#) excluded (E.W.S.) by [Film Levy Finance Act 1981 \(c. 16, SIF 45A\)](#), **s. 7(5)**

**C11** [S. 167](#) amended by [Finance Act 1985 \(c. 54, SIF 40:1\)](#), **s. 10(6)(c)**

**C12** [S. 167](#) 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](#)

**C13** [s. 167\(2\)\(a\)](#) modified (1.12.1992) by [S.I. 1992/2790, reg. 12](#).

## 168 Counterfeiting documents, etc.

- (1) If any person—
- (a) counterfeits or falsifies any document which is required by or under any enactment relating to an assigned matter or which is used in the transaction of any business relating to an assigned matter; or

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- (b) knowingly accepts, receives or uses any such document so counterfeited or falsified; or
- (c) alters any such document after it is officially issued; or
- (d) counterfeits any seal, signature, initials or other mark of, or used by, any officer for the verification of such a document or for the security of goods or for any other purpose relating to an assigned matter,

he shall be guilty of an offence under this section and may be detained.

- (2) A person guilty of an offence under this section shall be liable—
  - (a) on summary conviction, to a penalty of the prescribed sum, 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.

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

**C14** S. 168 amended by [Finance Act 1985 \(c. 54, SIF 40:1\)](#), s. 10(6)(d)

**C15** S. 168(2)(a) modified (1.12.1992) by [S.I. 1992/2790](#), [reg.12](#).

**169 False scales, etc.**

- (1) If any person required by or under the customs and excise Acts to provide scales for any purpose of those Acts provides, uses or permits to be used any scales which are false or unjust he shall be guilty of an offence under this section.
- (2) Where any article is or is to be weighed, counted, gauged or measured for the purposes of the taking of an account or the making of an examination by an officer, then if—
  - (a) any such person as is mentioned in subsection (1) above; or
  - (b) any person by whom or on whose behalf the article is weighed, counted, gauged or measured,

does anything whereby the officer is or might be prevented from, or hindered or deceived in, taking a true and just account or making a due examination, he shall be guilty of an offence under this section.

This subsection applies whether the thing is done before, during or after the weighing, counting, gauging or measuring of the article in question.

- (3) Any person committing an offence under this section shall be liable on summary conviction to a penalty of [<sup>F23</sup>level 4 on the standard scale] and any false or unjust scales, and any article in connection with which the offence was committed, shall be liable to forfeiture.
- (4) In this section “scales” includes weights, measures and weighing or measuring machines or instruments.

**Textual Amendments**

**F23** 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

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## 170 Penalty for fraudulent evasion of duty, etc.

- (1) Without prejudice to any other provision of the Customs and Excise Acts 1979, if any person—
- (a) knowingly acquires possession of any of the following goods, that is to say—
    - (i) goods which have been unlawfully removed from a warehouse or Queen's warehouse;
    - (ii) goods which are chargeable with a duty which has not been paid;
    - (iii) goods with respect to the importation or exportation of which any prohibition or restriction is for the time being in force under or by virtue of any enactment; or
  - (b) is in any way knowingly concerned in carrying, removing, depositing, harbouring, keeping or concealing or in any manner dealing with any such goods,
- and does so with intent to defraud Her Majesty of any duty payable on the goods or to evade any such prohibition or restriction with respect to the goods he shall be guilty of an offence under this section and may be detained.
- (2) Without prejudice to any other provision of the Customs and Excise Acts 1979, if any person is, in relation to any goods, in any way knowingly concerned in any fraudulent evasion or attempt at evasion—
- (a) of any duty chargeable on the goods;
  - (b) of any prohibition or restriction for the time being in force with respect to the goods under or by virtue of any enactment; or
  - (c) of any provision of the Customs and Excise Acts 1979 applicable to the goods,
- he shall be guilty of an offence under this section and may be detained.
- (3) Subject to subsection [<sup>F24</sup>(4), (4A) or (4B)]below, a person guilty of an offence under this section 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>F25</sup>7 years], or to both.
- (4) In the case of an offence under this section in connection with prohibition or restriction on importation or exportation having effect by virtue of section 3 of the <sup>M3</sup>Misuse of Drugs Act 1971, subsection (3) above shall have effect subject to the modifications specified in Schedule 1 to this Act.

[<sup>F26</sup>(4A) In the case of—

- (a) an offence under subsection (2) or (3) above committed in Great Britain in connection with a prohibition or restriction on the importation or exportation of any weapon or ammunition that is of a kind mentioned in section 5(1)(a), (ab), (aba), (ac), (ad), (ae), (af) or (c) or (1A)(a) of the Firearms Act 1968,
- (b) any such offence committed in Northern Ireland in connection with a prohibition or restriction on the importation or exportation of any weapon or ammunition that is of a kind mentioned in Article 6(1)(a), (ab), (ac), (ad), (ae) or (c) or (1A)(a) of the Firearms (Northern Ireland) Order 1981, or
- (c) any such offence committed in connection with the prohibitions contained in sections 20 and 21 of the Forgery and Counterfeiting Act 1981,

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subsection (3)(b) above shall have effect as if for the words “7 years” there were substituted the words “10 years”.]

[<sup>F27</sup>(4B) In the case of an offence under subsection (1) or (2) above in connection with the prohibition contained in regulation 2 of the Import of Seal Skins Regulations 1996, subsection (3) above shall have effect as if—

- (a) for paragraph (a) there were substituted the following—
- (a) on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding three months, or to both; and
- (b) in paragraph (b) for the words “7 years” there were substituted the words “2 years”.]

(5) In any case where a person would, apart from this subsection, be guilty of—

- (a) an offence under this section in connection with a prohibition or restriction; and
- (b) a corresponding offence under the enactment or other instrument imposing the prohibition or restriction, being an offence for which a fine or other penalty is expressly provided by that enactment or other instrument,

he shall not be guilty of the offence mentioned in paragraph (a) of this subsection.

[<sup>F28</sup>(6) Where any person is guilty of an offence under this section, the goods in respect of which the offence was committed shall be liable to forfeiture.]

#### Textual Amendments

- F24** S. 170(3): words substituted (15.11.1996) by S.I. 1996/2686, **reg. 4(2)(a)**
- F25** Words substituted by Finance Act 1988 (c. 39, SIF 40:1), **s. 12(1)(a)(6)**
- F26** S. 170(4A) substituted (22.1.2004) by Criminal Justice Act 2003 (c. 44), **ss. 293(4), 336(3), (4)** (with s. 293(5)); S.I. 2004/81, **art. 3(1)(2)(b)**
- F27** S. 170(4B) inserted (15.11.1996) by S.I. 1996/2686, **art. 4(2)(b)**
- F28** S. 170(6) inserted (9.12.1992) by Finance (No. 2) Act 1992 (c. 48), s. 3(1), **Sch. 2 para. 7**; S.I. 1992/3104, **art. 2(1)**.

#### Marginal Citations

- M3** 1971 c. 38.

[<sup>F29</sup>**170A** Offence of handling goods subject to unpaid excise duty.

(1) Subject to subsection (2) below, if—

- (a) after the excise duty point for any goods which are chargeable with a duty of excise, a person acquires possession of those goods or is concerned in carrying, removing, depositing, keeping or otherwise dealing with those goods; and
- (b) at the time when he acquires possession of those goods or is so concerned, [<sup>F30</sup>a payment of duty on the goods is outstanding and] has not been deferred,

[<sup>F31</sup>the conduct of that person falling within paragraph (a) above shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties) which shall be calculated by reference to the amount of the unpaid duty.].

[ Section 10 of the Finance Act 1994 (exception to civil penalty in cases of reasonable <sup>F32</sup>(2) excuse) shall not apply in relation to conduct attracting a penalty by virtue of

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subsection (1) above; but such conduct shall not give rise to any liability to a penalty under section 9 of that Act if the person whose conduct it satisfies the Commissioners or, on appeal, a VAT and duties tribunal, that he—]

- (a) acted in accordance with the directions of, or with the consent of, the proper officer; or
- (b) was not himself the person, or one of the persons, liable to pay the unpaid duty and at the time when he acted either—
  - (i) had no grounds for suspecting that the goods were chargeable with a duty of excise that had not yet been paid; or
  - (ii) believed on reasonable grounds that the duty had been paid or its payment deferred or that the liability to pay the duty had not yet taken effect.]

#### Textual Amendments

- F29** S. 170A wholly in force (1.6.1993) by 1992 c. 48, s. 3(1), **Sch. 2 para. 8**; S.I. 1993/1341, art. 2, **Sch.**
- F30** Words in s. 170A(1)(b) substituted (1.1.1995) by 1994 c. 9, s. 9(9), **Sch. 4 Pt. I para. 13(1)(a)** (with s. 19(3)); S.I. 1994/2679, **art. 3** (with art. 4(3))
- F31** Words in s. 170A(1) substituted (1.1.1995) by 1994 c. 9, s. 9(9), **Sch. 4 Pt. I para. 13(1)(b)** (with s. 19(3)); S.I. 1994/2679, **art. 3** (with art. 4(3))
- F32** Words in s. 170A(2) substituted (1.1.1995) by 1994 c. 9, s. 9(9), **Sch. 4 Pt. I para. 13(2)** (with s. 19(3)); S.I. 1994/2679, **art. 3** (with art. 4(3))

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

- C16** S. 170A applied (with modifications) (24.11.2003) by [The Channel Tunnel \(Alcoholic Liquor and Tobacco Products\) Order 2003 \(S.I. 2003/2758\)](#), arts. 1, 3, **Sch.**
- C17** S. 170A applied (with modifications) (17.3.2000) by S.I. 2000/426, art. 4, **Sch. 2**

### <sup>F33</sup> 170B Offence of taking preparatory steps for evasion of excise duty.

- (1) If any person is knowingly concerned in the taking of any steps with a view to the fraudulent evasion, whether by himself or another, of any duty of excise on any goods, he shall be liable—
  - (a) on summary conviction, to a penalty of the prescribed sum or of three times the amount of the duty, whichever is the greater, or to imprisonment for a term not exceeding six months or to both; and
  - (b) on conviction on indictment, to a penalty of any amount or to imprisonment for a term not exceeding seven years or to both.
- (2) Where any person is guilty of an offence under this section, the goods in respect of which the offence was committed shall be liable to forfeiture.

#### Textual Amendments

- F33** S. 170B wholly in force (1.6.1993) by 1992 c. 48, s. 3(1), **Sch. 2 para. 8**; S.I. 1993/1341, art. 2, **Sch.**

### 171 General provisions as to offences and penalties.

- (1) Where—

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- (a) by any provision of any enactment relating to an assigned matter a punishment is prescribed for any offence thereunder or for any contravention of or failure to comply with any regulation, direction, condition or requirement made, given or imposed thereunder; and
- (b) any person is convicted in the same proceedings of more than one such offence, contravention or failure,

that person shall be liable to that punishment for each such offence, contravention or failure of which he is so convicted.

(2) In this Act the “prescribed sum”, in relation to the penalty provided for an offence, means—

- (a) if the offence was committed in England [<sup>F34</sup>or Wales], the prescribed sum within the meaning of [<sup>F35</sup>section 32 of the Magistrates’ Courts Act 1980 (£1,000 or other sum substituted by order under section 143(1) of that Act)];
- (b) if the offence was committed in Scotland, the prescribed sum within the meaning of [<sup>F36</sup>subsection (8) of section 225 of the Criminal Procedure (Scotland) Act 1995 (£5,000 or other sum substituted by order under subsection (4) of that section)];
- [<sup>F37</sup>(c) if the offence was committed in Northern Ireland, the prescribed sum within the meaning of Article 4 of the Fines and Penalties (Northern Ireland) Order 1984 (£1,000 or other sum substituted by order under Article 17 of that Order);]

and in subsection (1)(a) above, the reference to a provision by which a punishment is prescribed includes a reference to a provision which makes a person liable to a penalty of the prescribed sum within the meaning of this subsection.

<sup>F38</sup>(2A) .....

- (3) Where a penalty for an offence under any enactment relating to an assigned matter is required to be fixed by reference to the value of any goods, that value shall be taken as the price which those goods might reasonably be expected to have fetched, after payment of any duty or tax chargeable thereon, if they had been sold in the open market at or about the date of the commission of the offence for which the penalty is imposed.
- (4) Where an offence under any enactment relating to an assigned matter which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

In this subsection “director”, in relation to any body corporate established by or under any enactment for the purpose of carrying on under national ownership any industry or part of an industry or undertaking, being a body corporate whose affairs are managed by the members thereof, means a member of that body corporate.

- (5) Where in any proceedings for an offence under the customs and excise Acts any question arises as to the duty or the rate thereof chargeable on any imported goods, and it is not possible to ascertain the relevant time specified in section 43 above [<sup>F39</sup>or the relevant excise duty point], that duty or rate shall be determined as if the goods had been imported without entry at the time when the proceedings were commenced [<sup>F39</sup>or, as the case may be, as if the time when the proceedings were commenced was the relevant excise duty point.]



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**Textual Amendments**

- F34** Words substituted by [S.I. 1984/703](#), (N.I. 3) Sch. 6 para. 7(a)
- F35** Words substituted by [Magistrates' Courts Act 1980 \(c. 43, SIF 82\)](#), s. 154, [Sch. 7 para. 178](#)
- F36** Words in s. 171(2)(b) substituted (1.4.1996) by 1995 c. 40, ss. 5, 7(2), [Sch. 4 para. 18\(5\)](#)
- F37** [S. 171\(2\)\(c\)](#) inserted by [S.I. 1984/703](#), (N.I. 3) Sch. 6 para. 7(b)
- F38** [S. 171\(2A\)](#) repealed (5.11.1993) by 1993 c. 50, s. 1(1), [Sch 1](#), Pt. XIV Gp. 2.
- F39** Words in s. 171(5) inserted (9.12.1992) by [Finance \(No. 2\) Act 1992 \(c. 48\)](#), s. 3(1), [Sch. 2 para. 9\(a\)\(b\)](#); [S.I. 1992/3104](#), [art. 2\(1\)](#).

*Miscellaneous*

**172 Regulations.**

- (1) Any power to make regulations under this Act shall be exercisable by statutory instrument.
- (2) Subject to subsection (3) below, a statutory instrument containing regulations made under this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) A statutory instrument containing regulations made under section 120 above shall be subject to annulment in pursuance of a resolution of the House of Commons.

**173 Directions.**

Directions given under any provision of this Act may make different provision for different circumstances and may be varied or revoked by subsequent directions thereunder.

**174** .....<sup>F40</sup>

**Textual Amendments**

- F40** [S. 174](#) repealed by [Isle of Man Act 1979 \(c. 58\)](#), [Sch. 2](#)

**175 Scotland—special provisions.**

- (1) In the application of this Act to Scotland—
  - (a) any reference to costs shall be construed as a reference to expenses;
  - (b) any provision that any amount shall be recoverable summarily as a civil debt shall be construed as if the word “summarily” were omitted;
  - (c) any reference to a plaintiff shall be construed as a reference to a pursuer;
  - (d) any reference to a magistrates’ court shall be construed as a reference to the sheriff court.

(2)<sup>F41</sup>

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#### Textual Amendments

- F41** S. 175(2) repealed by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1980 \(c. 55, SIF 72:2\)](#), s. 28(2), [Sch. 3](#)

### 176 Game licences. S.R. & O. 1908/844.

- (1) Subject to the following provisions of this section, and save as expressly provided in section 102 above, the provisions of this Act relating to excise shall not apply in relation to the excise duties on licences to kill game and on licences to deal in game (which, by virtue of the Order in Council made under section 6 of the <sup>M4</sup>Finance Act 1908, are leviable by local authorities).
- (2) The Treasury may by order provide that, subject to such modifications, if any, as may be specified in the order, any provision of this Act so specified which confers or imposes powers, duties or liabilities with respect to excise duties and to the issue and cancellation of excise licences on which those duties are imposed and to other matters relating to excise duties and licences shall have effect in relation to a local authority and their officers with respect to the duties and licences referred to in subsection (1) above as they have effect in relation to the Commissioners and officers with respect to other excise duties and licences; and those provisions and, subject as aforesaid, any provisions relating to punishments and penalties in connection therewith shall have effect accordingly.
- (3) Any order under this section shall be made by statutory instrument and may amend the Order in Council made under section 6 of the Finance Act 1908.
- (4) Notwithstanding anything in section 145 above as applied under subsection (2) above, a local authority may authorise the bringing by any constable of proceedings, or any particular proceedings, for an offence under this or any other Act relating to the duties referred to in subsection (1) above.
- (5) A document purporting to be a copy of a resolution authorising the bringing of proceedings in accordance with subsection (4) above and to be signed by an officer of the local authority shall be evidence, until the contrary is shown, that the bringing of the proceedings was duly authorised.
- (6) This section extends to England and Wales only.

#### Marginal Citations

- M4** 1908 c. 16.

### 177 Consequential amendments, repeals and saving and transitional provisions.

- (1) The enactments specified in Schedule 4 to this Act shall be amended in accordance with the provisions of that Schedule.
- (2)
- <sup>F42</sup>(3) The enactments specified in Schedule 6 to this Act are hereby repealed to the extent specified in the third column of that Schedule.

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- (4) The saving and transitional provisions contained in Schedule 7 to this Act shall have effect.
- (5) The provisions of Schedules 4, 5 and 7 to this Act shall not be taken as prejudicing the operation of sections 15 to 17 of the <sup>M5</sup>Interpretation Act 1978 (which relate to the effect of repeals).

#### Textual Amendments

**F42** S. 177(2) repealed by Statute Law (Repeals) Act 1986 (c. 12), s. 1(1), **Sch. 1 Pt. III**

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

**C18** The text of s. 177(1)(3) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991

#### Marginal Citations

**M5** 1978 c. 30.

### 178 Citation and commencement.

- (1) This Act may be cited as the Customs and Excise Management Act 1979.
- (2) This Act, the <sup>M6</sup>Customs and Excise Duties (General Reliefs) Act 1979, the <sup>M7</sup>Alcoholic Liquor Duties Act 1979, the <sup>M8</sup>Hydrocarbon Oil Duties Act 1979 <sup>F43</sup> and the <sup>M9</sup>Tobacco Products Duty Act 1979 may be cited together as the Customs and Excise Acts 1979.
- (3) This Act shall come into operation on 1st April 1979.

#### Textual Amendments

**F43** Words in s. 178(2) repealed (1.1.1993) by Finance (No. 2) Act 1992 (c. 48), s. 82, **Sch. 18 Pt. II**.

#### Marginal Citations

**M6** 1979 c. 3.

**M7** 1979 c. 4.

**M8** 1979 c. 5.

**M9** 1979 c. 7.

**Status:**

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**Changes to legislation:**

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