



# Customs and Excise Management Act 1979

## 1979 CHAPTER 2

### PART XI

#### DETENTION OF PERSONS, FORFEITURE AND LEGAL PROCEEDINGS

##### *General provisions as to legal proceedings*

#### **145 Institution of proceedings.**

- (1) Subject to the following provisions of this section, no proceedings for an offence under the customs and excise Acts or for condemnation under Schedule 3 to this Act shall be instituted [<sup>F1</sup>except—
  - (a) by or with the consent of [<sup>F2</sup>the Director of Public Prosecutions], or
  - (b) by order of, or with the consent of, the Commissioners for Her Majesty's Revenue and Customs.]
- (2) Subject to the following provisions of this section, any proceedings under the customs and excise Acts instituted [<sup>F3</sup>by order of the Commissioners] in a magistrates' court, and any such proceedings instituted [<sup>F3</sup>by order of the Commissioners] in a court of summary jurisdiction in Northern Ireland, shall be commenced in the name of an officer [<sup>F4</sup>of Revenue and Customs] .
- (3) Subsections (1) and (2) above shall not apply to proceedings on indictment in Scotland.
- (4) [<sup>F5</sup>In the case of the death, removal, discharge or absence of the officer in whose name any proceedings were commenced under subsection (2) above, those proceedings may be continued by any officer authorised in that behalf by the Commissioners.]
- (5) Nothing in the foregoing provisions of this section shall prevent the institution of proceedings for an offence under the customs and excise Acts by order and in the name of a law officer of the Crown in any case in which he thinks it proper that proceedings should be so instituted.

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- (6) Notwithstanding anything in the foregoing provisions of this section, where any person has been detained for any offence for which he is liable to be detained under the customs and excise Acts, any court before which he is brought may proceed to deal with the case although the proceedings have not been instituted [F6 in accordance with this section. ] .

#### Textual Amendments

- F1** Words in s. 145(1) substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\), s. 53\(1\), Sch. 4 para. 23\(a\)](#); S.I. 2005/1126, art. 2(2)(h)
- F2** Words in s. 145(1)(a) substituted (27.3.2014) by [The Public Bodies \(Merger of the Director of Public Prosecutions and the Director of Revenue and Customs Prosecutions\) Order 2014 \(S.I. 2014/834\), art. 1\(1\), Sch. 2 para. 2\(a\)](#)
- F3** Words in s. 145(2) inserted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\), s. 53\(1\), Sch. 4 para. 23\(b\)\(i\)](#); S.I. 2005/1126, art. 2(2)(h)
- F4** Words in s. 145(2) inserted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\), s. 53\(1\), Sch. 4 para. 23\(b\)\(ii\)](#); S.I. 2005/1126, art. 2(2)(h)
- F5** S. 145(4) repealed (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\), s. 53\(1\), Sch. 4 para. 23\(c\), Sch. 5](#); S.I. 2005/1126, art. 2(2)(h)(i)
- F6** Words in s. 145(6) substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\), s. 53\(1\), Sch. 4 para. 23\(d\)](#); S.I. 2005/1126, art. 2(2)(h)

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

- C1** Ss. 145, 146 extended by [Car Tax Act 1983 \(c. 53, SIF 40:2\), s. 1\(4\), Sch. 1 para. 8\(8\), Value Added Tax Act 1983 \(c. 55, SIF 40:2\), s. 39\(9\)](#), S.I. 1987/1521, reg. 3(2)(b); 1987/2105, reg. 5(2) and 1988/1476, art. 5(2)
- C2** Ss. 145-148 applied (31.3.2002) by S.I. 2002/868, [reg. 4\(4\)](#)
- C3** S. 145(1)-(4) excluded (31.3.2002) by S.I. 2002/868, [reg. 4\(5\)](#)
- C4** 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\(2\)](#)
- C5** Ss. 144-148, 150-155 applied (01.01.1992) by S.I. 1991/2727, [reg. 7\(2\)](#)
- C6** Ss. 145-152 extended (27.9.1993) by [1993 c. 36, ss. 71\(7\), 78\(1\)](#).
- C7** Ss. 144-148, 150-155 applied (23.6.1993) by S.I. 1993/1353, [reg. 4\(2\)](#).
- C8** Ss. 145-155 applied (3.5.1994) by [1994 c. 9, s. 64, Sch. 7 Pt. IV para. 11](#)  
 Ss. 145-155 applied (with modifications) (1.9.1994) by [1994 c. 23, ss. 72\(12\), 101\(1\), Sch. 13 para. 13](#) (with [Sch. 13 para. 9](#))  
 Ss. 145-155 applied (29.4.1996) by [1996 c. 8, s. 60, Sch. 5 Pt. III para. 17](#)
- C9** S. 145 excluded (1.9.1994) by [1994 c. 22, ss. 47\(7\)\(a\), 66\(1\)](#) (with s. 57(4))  
 S. 145 applied (1.7.1995) (with modifications) by S.I. 1995/1447, [reg. 4\(1\)\(b\)](#)
- C10** Ss. 145-148 applied (1.3.1995) by S.I. 1995/271, [reg. 12\(2\)\(3\)](#)  
 Ss. 145-148 applied (15.11.1996) by S.I. 1996/2721, [reg. 12\(2\)](#)  
 Ss. 145-148 applied (with modifications) (15.7.1998) by S.I. 1998/1531, [reg. 4\(4\)\(5\)](#)  
 S. 145 applied (1.7.1999) by S.I. 1999/1618, [regs. 5\(1\)\(b\), 6](#)  
 Ss. 145-148 applied (1.5.1999) by S.I. 1999/1261, [reg. 4\(4\)](#)  
 Ss. 145-148 applied (14.10.1999) by S.I. 1999/2821, [reg. 4\(4\)](#)  
 Ss. 145-148 applied (14.10.1999) by S.I. 1999/2822, [reg. 4\(4\)](#)  
 Ss. 145-148 applied (25.5.2000) by S.I. 2000/1408, [reg. 3\(4\)](#)  
 Ss. 145-155 applied (28.7.2000) by [2000 c. 17, s. 30\(1\), Sch. 6 Pt. VIII para. 96](#)  
 Ss. 145-148 applied (28.9.2000) by S.I. 2000/2620, [reg. 12\(2\)](#)  
 Ss. 145-155 applied (11.5.2001) by [2001 c. 9, s. 26\(5\)](#)  
 Ss. 145-155 applied (11.5.2001) by [2001 c. 9, s. 28, Sch. 6 para. 5](#)

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- C11** Ss. 145-148 applied (6.2.2004) by The Democratic Republic of Congo (Financing and Financial Assistance and Technical Advice, Assistance and Training) (Penalties and Licences) Regulations 2004 (S.I. 2004/221), regs. 1(1), **4(4)** (with reg. 4(5))
- C12** Ss. 145-148 applied (19.2.2004) by The Sudan (Technical Assistance and Financing and Financial Assistance) (Penalties and Licences) Regulations 2004 (S.I. 2004/373), regs. 1(1), **4(4)** (with reg. 4(5))
- C13** Ss. 145-148 applied (26.2.2004) by The Liberia (Technical Assistance and Financing and Financial Assistance) (Penalties and Licences) Regulations 2004 (S.I. 2004/432), regs. 1(1), **4(4)** (with reg. 4(5))
- C14** Ss. 145-148 applied (3.3.2004) by The Trade in Controlled Goods (Embargoed Destinations) Order 2004 (S.I. 2004/318), arts. 1, **11(2)** (with art. 11(3))
- C15** Ss. 145-148 applied (1.5.2004) by Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) Order 2003 (S.I. 2003/2764), arts. 1, **21(4)**
- C16** Ss. 145-148 applied (1.5.2004) by The Trade in Goods (Control) Order 2003 (S.I. 2003/2765), arts. 1(1), **12(2)**
- C17** Ss. 145-148 applied (17.5.2004) by The Burma (Sale, Supply, Export, Technical Assistance, Financing and Financial Assistance and Shipment of Equipment) (Penalties and Licences) Regulations 2004 (S.I. 2004/1315), regs. 1(1), **4(4)**
- C18** S. 145 applied (1.7.2004) by The Goods Infringing Intellectual Property Rights (Customs) Regulations 2004 (S.I. 2004/1473), regs. 1, **7(1)(b)** (with reg. 2(3))
- C19** Ss. 145-148 applied (9.2.2005) by The Export Control (Iraq and Ivory Coast) Order 2005 (S.I. 2005/232), arts. 1(1), **5(4)**
- C20** Ss. 145-148 applied (27.6.2005) by The Export Control (Democratic Republic of Congo) Order 2005 (S.I. 2005/1677), arts. 1(1), **7(3)**
- C21** Ss. 145-148 applied (26.11.2005) by The Export Control (Uzbekistan) Order 2005 (S.I. 2005/3257), arts. 1(1), **6(3)**
- C22** Ss. 145-148 applied (27.7.2006) by The Export Control (Liberia) Order 2006 (S.I. 2006/2065), arts. 1(1), **7(3)**
- C23** Ss. 145-148 applied (30.7.2006) by The Technical Assistance Control Regulations 2006 (S.I. 2006/1719), regs. 1(1), **6(3)**
- C24** Ss. 145-148 applied (11.10.2006) by The Burma (Sale, Supply, Export, Technical Assistance, Financing and Financial Assistance) (Penalties and Licences) Regulations 2006 (S.I. 2006/2682), art. 1(1), **reg. 6(3)**
- C25** Ss. 145-148 applied (11.10.2006) by The Lebanon (Technical Assistance, Financing and Financial Assistance) (Penalties and Licences) Regulations 2006 (S.I. 2006/2681), regs. 1(1), **5(3)**
- C26** S. 145 applied (27.4.2007) by The Export Control (North Korea) Order 2007 (S.I. 2007/1334), arts. 1(1), **7(4)**
- C27** S. 145 applied (26.5.2007) by The Export Control (Iran) Order 2007 (S.I. 2007/1526), arts. 1(1), **6(4)**
- C28** S. 145 applied (23.4.2008) by The Export Control (Burma) Order 2008 (S.I. 2008/1098), arts. 1(1), **11(4)**
- C29** S. 145 applied (with modifications) (6.4.2009) by The Export Control Order 2008 (S.I. 2008/3231), arts. 1, **41(4)(5)**
- C30** Ss. 145-148 applied by 1983 c. 18, s. 1D(3) (as inserted (30.11.2009) by Criminal Justice and Immigration Act 2008 (c. 4), s. 153(7), **Sch. 17 para. 3**; S.I. 2009/3074, art. 2(q))
- C31** S. 145 applied by SI 2009/1749, art. 13(3)(4) (as substituted (11.12.2009) by The North Korea (United Nations Sanctions) (Amendment) Order 2009 (S.I. 2009/3213), arts. 1(1), **11**)
- C32** S. 145 applied (20.2.2010) by The Export Control (Guinea) Order 2010 (S.I. 2010/364), arts. 1(1), **7(4)**
- C33** S. 145 applied by S.I. 2009/886, art. 11(3)(4) (as substituted (17.12.2010) by The Iran (United Nations Sanctions) (Amendment) Order 2010 (S.I. 2010/2978), arts. 1(1), **15**)
- C34** S. 145 applied (17.2.2011) by The Export Control (Somalia) Order 2011 (S.I. 2011/146), arts. 1(1), **5(4)**
- C35** S. 145 applied (17.2.2011) by The Export Control (Liberia) Order 2011 (S.I. 2011/145), arts. 1(1), **6(4)**
- C36** S. 145 applied (18.3.2011) by The Export Control (Libya) Order 2011 (S.I. 2011/825), arts. 1(1), **7(4)**
- C37** S. 145 applied (25.5.2011) by The Export Control (Syria and Miscellaneous Amendments) Order 2011 (S.I. 2011/1304), arts. 1(1), **7(4)**

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- C38** S. 145 applied (13.6.2011) by The Export Control (Iran) Order 2011 (S.I. 2011/1297), arts. 1, **14(4)** (with art. 4)
- C39** S. 145 applied (13.6.2011) by The Export Control (Eritrea and Miscellaneous Amendments) Order 2011 (S.I. 2011/1296), arts. 1(1), **6(4)**
- C40** S. 145 applied (5.9.2011) by The Export Control (Belarus) and (Syria Amendment) Order 2011 (S.I. 2011/2010), arts. 1(1), **7(4)**
- C41** S. 145 applied (30.11.2011) by The Export Control (Al-Qaida and Taliban Sanctions) Regulations 2011 (S.I. 2011/2649), regs. 1(1), **8(3)**
- C42** S. 145 applied (30.12.2011) by The Export Control (Sudan and South Sudan Sanctions) and (Miscellaneous Amendments) Regulations 2011 (S.I. 2011/2925), regs. 1(1), **7(3)**
- C43** S. 145 applied (5.4.2012) by The Export Control (Syria Sanctions) and (Miscellaneous Amendments) Order 2012 (S.I. 2012/810), arts. 1(1), **15(4)**
- C44** S. 145 applied (1.6.2012) by The Export Control (Iran Sanctions) Order 2012 (S.I. 2012/1243), arts. 1(1), **19(4)**
- C45** S. 145 applied (28.8.2013) by The Export Control (Burma Sanctions) Order 2013 (S.I. 2013/1964), arts. 1(1), **9(4)**
- C46** S. 145 applied (6.9.2013) by The Export Control (Syria Sanctions) Order 2013 (S.I. 2013/2012), arts. 1(1), **18(4)**
- C47** S. 145 applied (7.1.2014) by The Export Control (North Korea and Ivory Coast Sanctions and Syria Amendment) Order 2013 (S.I. 2013/3182), arts. 1(1), **13(4)**
- C48** S. 145 excluded (1.4.2014) by HGV Road User Levy Act 2013 (c. 7), s. 21(1), **Sch. 2 para. 1(7)**; S.I. 2014/797, art. 2
- C49** S. 145 excluded (1.4.2014) by HGV Road User Levy Act 2013 (c. 7), s. 21(1), **Sch. 2 para. 2(6)**; S.I. 2014/797, art. 2
- C50** S. 145 applied (26.9.2014) by The Export Control (Russia, Crimea and Sevastopol Sanctions) Order 2014 (S.I. 2014/2357), arts. 1(1), **12(4)**
- C51** S. 145 applied (31.12.2014) by The Export Control (Sudan, South Sudan and Central African Republic Sanctions) Regulations 2014 (S.I. 2014/3258), regs. 1(1), **10(3)**
- C52** S. 145 applied (11.8.2015) by The Export Control (Democratic Republic of Congo Sanctions and Miscellaneous Amendments and Revocations) Order 2015 (S.I. 2015/1546), arts. 1(1), **8(4)**
- C53** S. 145 applied (27.8.2015) by The Export Control (Yemen Sanctions) Regulations 2015 (S.I. 2015/1586), regs. 1(1), **6(3)**
- C54** S. 145 applied (6.5.2016) by The Export Control (Iran Sanctions) Order 2016 (S.I. 2016/503), arts. 1(1), **16(4)**
- C55** S. 145 applied (12.8.2016) by The Export Control (Libya Sanctions) Order 2016 (S.I. 2016/787), arts. 1, **10(4)**
- C56** S. 145 applied (22.2.2017) by The Export Control (North Korea Sanctions and Iran, Ivory Coast and Syria Amendment) Order 2017 (S.I. 2017/83), arts. 1, **16(4)**
- C57** S. 145 applied (26.2.2018) by The Export Control (Venezuela Sanctions) Order 2018 (S.I. 2018/108), arts. 1(1), **9(4)**
- C58** S. 145 applied (with modifications) (14.3.2018) by The Export Control (North Korea Sanctions) Order 2018 (S.I. 2018/200), arts. 1, **24(8)-(10)**
- C59** Ss. 144-156 applied (with modifications) (6.4.2018) by The Soft Drinks Industry Levy (Enforcement) Regulations 2018 (S.I. 2018/264), regs. 1(1), 2, **Sch.** (with regs. 3-5)
- C60** S. 145 applied (with modifications) (13.8.2018) by The Export Control (Burma Sanctions) Order 2018 (S.I. 2018/871), arts. 1, **10(8)-(10)**
- C61** Ss. 145-146A applied (with modifications) (14.8.2018) by The Export Control (Burma Sanctions) (No. 2) Order 2018 (S.I. 2018/894), arts. 1, **10(8)-(10)** (as amended (1.10.2019) by The Export Control (Sanctions) (Amendment) Order 2019 (S.I. 2019/1236), arts. 1(2), 7)
- C62** S. 145 applied (with modifications) (31.12.2020) by The Somalia (Sanctions) (EU Exit) Regulations 2020 (S.I. 2020/642), regs. 1(2), **68(5)(6)**; S.I. 2020/1514, reg. 12(2)
- C63** S. 145 applied (with modifications) (31.12.2020) by The Afghanistan (Sanctions) (EU Exit) Regulations 2020 (S.I. 2020/948), regs. 1(2), **43(5)(6)**; S.I. 2020/1514, reg. 16(2)

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- C64** S. 145 applied (with modifications) (31.12.2020) by The Zimbabwe (Sanctions) (EU Exit) Regulations 2019 (S.I. 2019/604), regs. 1(2), **54(5)(6)**; S.I. 2019/627, reg. 13(2)2020 c. 1, Sch. 5 para. 1(1)
- C65** S. 145 applied (with modifications) (31.12.2020) by The Republic of Belarus (Sanctions) (EU Exit) Regulations 2019 (S.I. 2019/600), regs. 1(2), **53(5)(6)**; S.I. 2019/627, reg. 12(2)2020 c. 1, Sch. 5 para. 1(1)
- C66** S. 145 applied (with modifications) (31.12.2020) by The Iran (Sanctions) (Human Rights) (EU Exit) Regulations 2019 (S.I. 2019/134), regs. 1(2), **56(5)(6)**; S.I. 2019/627, reg. 2(2)2020 c. 1, Sch. 5 para. 1(1)
- C67** S. 145 applied (with modifications) (31.12.2020) by The South Sudan (Sanctions) (EU Exit) Regulations 2019 (S.I. 2019/438), regs. 1(2), **54(5)(6)**; S.I. 2019/627, reg. 6(2)2020 c. 1, Sch. 5 para. 1(1)
- C68** S. 145 applied (with modifications) (31.12.2020) by The Syria (United Nations Sanctions) (Cultural Property) (EU Exit) Regulations 2020 (S.I. 2020/1233), regs. 1(2), **24(5)(6)**; S.I. 2020/1514, reg. 19
- C69** S. 145 applied (with modifications) (31.12.2020) by The Democratic People's Republic of Korea (Sanctions) (EU Exit) Regulations 2019 (S.I. 2019/411), regs. 1(2), **115(5)(6)**; S.I. 2019/627, reg. 7(2)2020 c. 1, Sch. 5 para. 1(1)
- C70** S. 145 applied (with modifications) (31.12.2020) by The Central African Republic (Sanctions) (EU Exit) Regulations 2020 (S.I. 2020/616), regs. 1(2), **54(5)(6)**; S.I. 2020/1514, reg. 10(2)
- C71** S. 145 applied (with modifications) (31.12.2020) by The ISIL (Da'esh) and Al-Qaida (United Nations Sanctions) (EU Exit) Regulations 2019 (S.I. 2019/466), regs. 1(2), **44(5)(6)**; S.I. 2019/627, reg. 9(2)2020 c. 1, Sch. 5 para. 1(1)
- C72** S. 145 applied (with modifications) (31.12.2020) by The Yemen (Sanctions) (EU Exit) (No. 2) Regulations 2020 (S.I. 2020/1278), regs. 1(2), **54(5)(6)**; S.I. 2020/1514, reg. 20(2)
- C73** S. 145 applied (with modifications) (31.12.2020) by The Lebanon (Sanctions) (EU Exit) Regulations 2020 (S.I. 2020/612), regs. 1(2), **29(5)(6)**; S.I. 2020/1514, reg. 9
- C74** S. 145 applied (with modifications) (31.12.2020) by The Sudan (Sanctions) (EU Exit) Regulations 2020 (S.I. 2020/753), regs. 1(2), **55(5)(6)**; S.I. 2020/1514, reg. 15(2)
- C75** S. 145 applied (with modifications) (31.12.2020) by The Counter-Terrorism (International Sanctions) (EU Exit) Regulations 2019 (S.I. 2019/573), regs. 1(2), **47(5)(6)**; S.I. 2019/627, reg. 11(2)2020 c. 1, Sch. 5 para. 1(1)
- C76** S. 145 applied (with modifications) (31.12.2020) by The Iraq (Sanctions) (EU Exit) Regulations 2020 (S.I. 2020/707), regs. 1(2), **55(5)(6)**; S.I. 2020/1514, reg. 14(2)
- C77** S. 145 applied (with modifications) (31.12.2020) by The Iran (Sanctions) (Nuclear) (EU Exit) Regulations 2019 (S.I. 2019/461), regs. 1(2), **61(5)(6)**; S.I. 2019/627, reg. 8(2)2020 c. 1, Sch. 5 para. 1(1)
- C78** S. 145 applied (with modifications) (31.12.2020) by The Venezuela (Sanctions) (EU Exit) Regulations 2019 (S.I. 2019/135), regs. 1(2), **56(5)(6)**; S.I. 2019/627, reg. 3(2)2020 c. 1, Sch. 5 para. 1(1)
- C79** S. 145 applied (with modifications) (31.12.2020) by The Libya (Sanctions) (EU Exit) Regulations 2020 (S.I. 2020/1665), regs. 1(3), **71(5)(6)**
- C80** S. 145 applied (with modifications) (31.12.2020) by The Burma (Sanctions) (EU Exit) Regulations 2019 (revoked) 2019 (S.I. 2019/136), regs. 1(2), **56(5)(6)**; S.I. 2019/627, reg. 4(2)2020 c. 1, Sch. 5 para. 1(1)
- C81** S. 145 applied (with modifications) (31.12.2020) by The Democratic Republic of the Congo (Sanctions) (EU Exit) Regulations 2019 (S.I. 2019/433), regs. 1(2), **54(5)(6)**; S.I. 2019/627, reg. 5(2)2020 c. 1, Sch. 5 para. 1(1)
- C82** S. 145 applied (with modifications) (31.12.2020) by The Syria (Sanctions) (EU Exit) Regulations 2019 (S.I. 2019/792), regs. 1(3), **84(5)(6)**; 2020 c. 1, Sch. 5 para. 1(1)
- C83** S. 145 applied (with modifications) (31.12.2020) by The Russia (Sanctions) (EU Exit) Regulations 2019 (S.I. 2019/855), regs. 1(2), **85(5)(6)**; 2020 c. 1, Sch. 5 para. 1(1)
- C84** Ss. 145-147 applied (with modifications) (29.4.2021 at 5.00 pm) by The Myanmar (Sanctions) Regulations 2021 (S.I. 2021/496), regs. 1(3), **65(5)(6)**
- C85** Ss. 145-155 applied (with effect in accordance with s. 85(1)(b) of the amending Act) by Finance Act 2021 (c. 26), **ss. 81, 85(1)(a)**; S.I. 2021/1409, regs. 3, 4

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- C86** S. 145(1)-(4) excluded (1.3.1995) by S.I. 1995/271, **reg. 12(3)**  
S. 145(1)-(4) excluded (15.11.1996) by S.I. 1996/2721, **reg. 12(3)**  
S. 145(1)-(4) excluded (1.5.1999) by S.I. 1999/1261, **reg. 4(5)**  
S. 145(1)-(4) excluded (14.10.1999) by S.I. 1999/2821, **reg. 4(5)**  
S. 145(1)-(5) excluded (14.10.1999) by S.I. 1999/2822, **reg. 4(5)**
- C87** S. 145(1)-(4) restricted (17.5.2004) by The Burma (Sale, Supply, Export, Technical Assistance, Financing and Financial Assistance and Shipment of Equipment) (Penalties and Licences) Regulations 2004 (S.I. 2004/1315), regs. 1(1), **4(5)**

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