



Finance Act 2003

2003 CHAPTER 14

PART 3

TAXES AND DUTIES ON IMPORTATION AND EXPORTATION: PENALTIES

Evidence

38 Admissibility of certain statements and documents

- (1) Statements made or documents produced by or on behalf of a person are not inadmissible in—
- (a) any criminal proceedings against that person in respect of any offence in connection with or in relation to any relevant tax or duty, or
 - (b) any proceedings against that person for the recovery of any sum due from him in connection with or in relation to any relevant tax or duty,
- by reason only that any of the matters specified in subsection (2) has been drawn to his attention and that he was, or may have been, induced by that matter having been brought to his attention to make the statements or produce the documents.
- (2) The matters mentioned in subsection (1) are—
- (a) that the Commissioners have power, in relation to any relevant tax or duty, to demand by means of a written notice an amount by way of a civil penalty, instead of instituting criminal proceedings;
 - (b) that it is the Commissioners' practice, without being able to give an undertaking as to whether they will make such a demand in any case, to be influenced in determining whether to make such a demand by the fact (where it is the case) that a person has made a full confession of any dishonest conduct to which he has been a party and has given full facilities for an investigation;
 - (c) that the Commissioners or, on appeal, an appeal tribunal have power to reduce a penalty under section 25, as provided in subsection (1) of section 29; and
 - (d) that, in determining the extent of such a reduction in the case of any person, the Commissioners or tribunal will have regard to the extent of the co-operation which he has given to the Commissioners in their investigation.

Changes to legislation: Finance Act 2003, Section 38 is up to date with all changes known to be in force on or before 21 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

^{F1}(3)

Textual Amendments

- F1** S. 38(3) omitted (13.9.2018 for specified purposes, 31.12.2020 in so far as not already in force) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(1)(a), [Sch. 7 para. 152](#) (with savings and transitional provisions in [S.I. 2020/1449](#), [reg. 3](#) and 2020 c. 26, [Sch. 2 para. 7\(7\)-\(9\)](#)); [S.I. 2020/1642](#), [reg. 4\(a\)](#)

Modifications etc. (not altering text)

- C1** Pt. 3 modified (17.12.2020 for specified purposes, 31.12.2020 in so far as not already in force) by [2018 c. 22](#), [Sch. 7 para. 158\(7\)](#) (as inserted by [Taxation \(Post-transition Period\) Act 2020 \(c. 26\)](#), s. 11(1)(e), [Sch. 1 para. 10\(6\)](#) (with [Sch. 2 para. 7\(7\)-\(9\)](#)); [S.I. 2020/1642](#)[reg. 9](#))
- C2** Pt. 3 continued (31.12.2020) by [The Customs \(Transitional\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1449\)](#), [regs. 1\(2\)](#), [3\(1\)\(b\)](#); [S.I. 2020/1643](#), [reg. 2](#), [Sch.](#)
- C3** Ss. 29-41 applied (17.7.2014) by [Finance Act 2014 \(c. 26\)](#), [s. 102\(2\)](#)

Commencement Information

- I1** S. 38 in force at 27.11.2003 by [S.I. 2003/2985](#), [art. 2](#)

Changes to legislation:

Finance Act 2003, Section 38 is up to date with all changes known to be in force on or before 21 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

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Changes and effects yet to be applied to :

- specified provision(s) savings for amendments by 2018 anaw 1, s. 6, Sch. 6 by [S.I. 2019/110 reg. 5](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 57(3) inserted by [2011 c. 11 Sch. 22 para. 4](#)
- s. 87(3)(a)(ia) inserted by [S.I. 2003/2760 Sch. para. 3\(4\)\(a\)](#) (This amendment not applied to legislation.gov.uk. The affecting S.I. is revoked and superseded by [S.I. 2003/2816](#))
- Sch. 12 para. 3(2)(aa) inserted by [2007 asp 3 Sch. 5 para. 32](#) (This effect was superseded by the repeal of Sch. 12 para. 3 by Finance Act 2008 (c. 9), s. 129(4), Sch. 43 para. 16)
- Sch. 12 para. 1A inserted by [2007 c. 15 Sch. 13 para. 147\(2\)](#) (The amending provision was repealed before coming into force.)
- Sch. 12 para. 1A omitted by [2008 c. 9 Sch. 43 para. 9](#) (The amending provision was repealed before coming into force.)
- Sch. 17A para. 10(1)(f)(fa) substituted for Sch. 17A para. 10(1)(f) by [2024 c. 22 Sch. 9 para. 12\(b\)](#)