



# Finance Act 2007

## 2007 CHAPTER 11

### PART 6

#### INVESTIGATION, ADMINISTRATION ETC

##### *Investigation etc*

### 82 Criminal investigations: powers of Revenue and Customs

- (1) Section 114 of the Police and Criminal Evidence Act 1984 (c. 60) (application of Act to customs and excise) is amended as follows.
- (2) In paragraph (a) of subsection (2)—
  - (a) for “investigations conducted by officers of Customs and Excise of offences which relate to assigned matters, as defined in section 1 of the Customs and Excise Management Act 1979,” substitute “ investigations conducted by officers of Revenue and Customs ”, and
  - (b) for “persons detained by officers of Customs and Excise;” substitute “ persons detained by officers of Revenue and Customs; ”.
- (3) In the opening words of paragraph (b) of that subsection, for “investigations of offences conducted by officers of Customs and Excise” substitute “ investigations of offences conducted by officers of Revenue and Customs ”.
- (4) In sub-paragraph (i) of that paragraph, for “section” substitute “ sections ”.
- (5) In the section 14A deemed to be inserted by that sub-paragraph—
  - (a) for “and which relates to an assigned matter, as defined in section 1 of the Customs and Excise Management Act 1979,” substitute “ and which relates to a matter in relation to which Her Majesty's Revenue and Customs have functions, ” and
  - (b) in the heading, for “**Customs and Excise**” substitute “ **Revenue and Customs** ”.
- (6) After that section insert—

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**“14B Revenue and Customs: restriction on other powers to apply for production of documents**

- (1) An officer of Revenue and Customs may make an application for the delivery of, or access to, documents under a provision specified in subsection (3) only if the condition in subsection (2) is satisfied.
- (2) The condition is that the officer thinks that an application under Schedule 1 would not succeed because the material required does not consist of or include special procedure material.
- (3) The provisions are—
  - (a) section 20BA of, and Schedule 1AA to, the Taxes Management Act 1970 (serious tax fraud);
  - (b) paragraph 11 of Schedule 11 to the Value Added Tax Act 1994 (VAT);
  - (c) paragraph 4A of Schedule 7 to the Finance Act 1994 (insurance premium tax);
  - (d) paragraph 7 of Schedule 5 to the Finance Act 1996 (landfill tax);
  - (e) paragraph 131 of Schedule 6 to the Finance Act 2000 (climate change levy);
  - (f) paragraph 8 of Schedule 7 to the Finance Act 2001 (aggregates levy);
  - (g) Part 6 of Schedule 13 to the Finance Act 2003 (stamp duty land tax).”
- (7) In paragraph (c) of subsection (2)—
  - (a) for “customs detention” substitute “ Revenue and Customs detention ”, and
  - (b) for “an officer of Customs and Excise” substitute “ an officer of Revenue and Customs ”.
- (8) After that paragraph insert—
  - “(d) that where an officer of Revenue and Customs searches premises in reliance on a warrant under section 8 of, or paragraph 12 of Schedule 1 to, this Act (as applied by an order under this subsection) the officer shall have the power to search persons found on the premises—
    - (i) in such cases and circumstances as are specified in the order, and
    - (ii) subject to any conditions specified in the order; and
  - (e) that powers and functions conferred by a provision of this Act (as applied by an order under this subsection) may be exercised only by officers of Revenue and Customs acting with the authority (which may be general or specific) of the Commissioners for Her Majesty's Revenue and Customs.”
- (9) After that subsection insert—
  - “(2A) A certificate of the Commissioners that an officer of Revenue and Customs had authority under subsection (2)(e) to exercise a power or function conferred by a provision of this Act shall be conclusive evidence of that fact.”
- (10) For subsection (3) substitute—
  - “(3) An order under subsection (2)—

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- (a) may make provision that applies generally or only in specified cases or circumstances,
- (b) may make different provision for different cases or circumstances,
- (c) may, in modifying a provision, in particular impose conditions on the exercise of a function, and
- (d) shall not be taken to limit a power under section 164 of the Customs and Excise Management Act 1979.”

(11) The heading of section 114 accordingly becomes “ **Application of Act to Revenue and Customs** ”.

#### Commencement Information

**II** S. 82 in force at 8.11.2007 by [S.I. 2007/3166](#), [art. 2\(a\)](#)

### 83 Northern Ireland criminal investigations

- (1) Article 85 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12)) (application of Order to customs and excise) is amended as follows.
- (2) In sub-paragraph (a) of paragraph (1)—
  - (a) for “investigations conducted by officers of Customs and Excise of offences which relate to assigned matters, as defined in section 1 of the Customs and Excise Management Act 1979,” substitute “ investigations conducted by officers of Revenue and Customs ”, and
  - (b) for “persons detained by officers of Customs and Excise;” substitute “ persons detained by officers of Revenue and Customs; ”.
- (3) In the opening words of sub-paragraph (b) of that paragraph, for “investigations of offences conducted by officers of Customs and Excise” substitute “ investigations of offences conducted by officers of Revenue and Customs ”.
- (4) In paragraph (i) of that sub-paragraph, for “Article” substitute “ Articles ”.
- (5) In the Article 16A deemed to be inserted by that paragraph—
  - (a) for “and which relates to an assigned matter, as defined in section 1 of the Customs and Excise Management Act 1979,” substitute “ and which relates to a matter in relation to which Her Majesty's Revenue and Customs have functions, ” and
  - (b) in the heading, for “**Customs and Excise**” substitute “ **Revenue and Customs** ”.
- (6) After that Article insert—

#### “16B Revenue and Customs: restriction on other powers to apply for production of documents

- (1) An officer of Revenue and Customs may make an application for the delivery of, or access to, documents under a provision specified in paragraph (3) only if the condition in paragraph (2) is satisfied.

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- (2) The condition is that the officer thinks that an application under Schedule 1 would not succeed because the material required does not consist of or include special procedure material.
- (3) The provisions are—
- (a) section 20BA of, and Schedule 1AA to, the Taxes Management Act 1970 (serious tax fraud);
  - (b) paragraph 11 of Schedule 11 to the Value Added Tax Act 1994 (VAT);
  - (c) paragraph 4A of Schedule 7 to the Finance Act 1994 (insurance premium tax);
  - (d) paragraph 7 of Schedule 5 to the Finance Act 1996 (landfill tax);
  - (e) paragraph 131 of Schedule 6 to the Finance Act 2000 (climate change levy);
  - (f) paragraph 8 of Schedule 7 to the Finance Act 2001 (aggregates levy);
  - (g) Part 6 of Schedule 13 to the Finance Act 2003 (stamp duty land tax)."
- (7) After sub-paragraph (b) of paragraph (1) insert—
- “(c) that where an officer of Revenue and Customs searches premises in reliance on a warrant under Article 10 of, or paragraph 9 of Schedule 1 to, this Order (as applied by an order under this paragraph) the officer shall have the power to search persons found on the premises—
- (i) in such cases and circumstances as are specified in the order, and
  - (ii) subject to any conditions specified in the order; and
- (d) that powers and functions conferred by a provision of this Order (as applied by an order under this paragraph) may be exercised only by officers of Revenue and Customs acting with the authority (which may be general or specific) of the Commissioners for Her Majesty's Revenue and Customs.”
- (8) After that paragraph insert—
- “(1A) A certificate of the Commissioners that an officer of Revenue and Customs had authority under paragraph (1)(d) to exercise a power or function conferred by a provision of this Order shall be conclusive evidence of that fact.”
- (9) For paragraph (2) substitute—
- “(2) An order under paragraph (1)—
- (a) may, in modifying a provision, in particular impose conditions on the exercise of a function, and
  - (b) shall not be taken to limit a power under section 164 of the Customs and Excise Management Act 1979.”
- (10) The heading of Article 85 accordingly becomes “ **Application of Order to Revenue and Customs** ”.

**Commencement Information**

**I2** S. 83 in force at 8.11.2007 by [S.I. 2007/3166](#), [art. 2\(b\)](#)

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## 84 Sections 82 and 83: supplementary

- (1) In Schedule 2 to CRCA 2005 (restrictions on the exercise of functions), omit—
  - (a) paragraph 7 (Police and Criminal Evidence Act 1984 (c. 60)), and
  - (b) paragraph 9 (Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12))).
- (2) Nothing in section 6 or 7 of CRCA 2005 (initial functions) restricts the functions in connection with which officers of Revenue and Customs may exercise a power under—
  - (a) the Police and Criminal Evidence Act 1984 by virtue of section 114 of that Act (as amended by section 82 above), or
  - (b) the Police and Criminal Evidence (Northern Ireland) Order 1989 by virtue of Article 85 of that Order (as amended by section 83 above).
- (3) But neither an order under section 114 of the Police and Criminal Evidence Act 1984 nor an order under Article 85 of the Police and Criminal Evidence (Northern Ireland) Order 1989 has effect in relation to a matter specified in section 54(4)(b) or (f) of, or in paragraphs 3, 7, 10, [F1 14,] 15, 19 or 24 to 29 of Schedule 1 to, CRCA 2005 (former Inland Revenue matters).
- (4) Schedule 22 contains amendments and repeals consequential on extension of police powers to Revenue and Customs.
- (5) Sections 82 and 83 and this section come into force in accordance with provision made by the Treasury by order.
- (6) The power to make an order under subsection (5) is exercisable by statutory instrument.

### Textual Amendments

- F1** Word in s. 84(3) substituted (6.4.2009) by [Employment Act 2008 \(c. 24\)](#), **ss. 12(1), 22(1)(c)**; [S.I. 2009/603](#), **art. 2** (with [art. 3](#), [Sch.](#))

### Commencement Information

- I3** S. 84(1)-(3) (5) (6) in force at 8.11.2007 by [S.I. 2007/3166](#), **art. 2(c)**  
**I4** S. 84(4) in force at 1.12.2007 by [S.I. 2007/3166](#), **art. 3(a)**

## 85 Criminal investigations: Scotland

Schedule 23 contains provision for Scotland about the investigation of offences by Her Majesty's Revenue and Customs.

## 86 Search warrants

In section 8 of the Police and Criminal Evidence Act 1984, after subsection (6) insert—

“(7) Section 4 of the Summary Jurisdiction (Process) Act 1881 (execution of process of English courts in Scotland) shall apply to a warrant issued on the application of an officer of Revenue and Customs under this section by virtue of section 114 below.”

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## 87 Cross-border exercise of powers

- (1) This section relates to the Criminal Justice and Public Order Act 1994 (c. 33).
- (2) Sections 136 to 139 (execution of warrants and powers of arrest and search) shall apply to an officer of Revenue and Customs as they apply to a constable; and for that purpose—
- (a) a reference to a constable (including a reference to a constable of a police force in England and Wales, a constable of a police force in Scotland or a constable of a police force in Northern Ireland) shall be treated as a reference to an officer of Revenue and Customs, and
  - (b) a reference to a police station, or a designated police station, includes a reference to an office of Revenue and Customs or (in England and Wales and Northern Ireland) a designated office of Revenue and Customs.
- [<sup>F2</sup>(3) In the application of section 138 to an officer of Revenue and Customs—
- (a) subsection (1B) shall be treated as if it provided as follows—
 

“(1B) Where a person is arrested under subsection (2) of the principal section but not charged in connection with an offence, subsections (2) to (9) of section 25A of the Criminal Law (Consolidation) (Scotland) Act 1995 (right of suspects to have access to a solicitor) apply with the following modifications—

    - (a) omit the references to “other premises or place” in subsections (2) and (6);
    - (b) the right under subsection (2) arises when the person is arrested;
    - (c) the reference in subsection (2)(b) to the office of Revenue and Customs where the person is being detained is to be read as a reference to the police station to which the person is to be taken; and
    - (d) subsection (6) is to be read as requiring that the person be informed of the rights under section 25A(2) and (3) on being arrested.”;
  - (b) in subsection (2), the references to the 1995 Act and to section 14(1) of that Act are to be treated as references to the Criminal Law (Consolidation) (Scotland) Act 1995 (“the Consolidation Act”) and to section 24(1) of that Act;
  - (c) subsection (2A) is to be treated as if it provided as follows—
 

“(2A) Those provisions are—

    - (a) section 24(2) to (8A) (detention and questioning at office of Revenue and Customs);
    - (b) sections 24A and 24B (extension of period of detention under section 24);
    - (c) section 25 (right to have someone informed when detained);
    - (d) section 25A(2) to (9) (right of access to solicitor).”;
  - (d) in subsection (6) the reference to the 1995 Act is to be treated as a reference to the Consolidation Act;
  - (e) in subsection (7)—
    - (i) the reference to section 14 is to be treated as a reference to section 24 of the Consolidation Act; and

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- (ii) the reference to subsections (6) and (9) of section 14 is to be treated as a reference to subsections (5) and (8) of section 24;
- (f) in subsection (8)—
  - (i) the reference to section 15 is to be treated as a reference to section 25 of the Consolidation Act;
  - (ii) paragraph (a) is to be treated as if it provided as follows—
    - “(a) in subsection (1)—
      - (i) the words “other premises or place” (in both places) are to be treated as if they referred to a police station;
      - (ii) the reference in paragraph (a) to other premises is to be treated as a reference to a police station;”;
    - (iii) paragraph (b) does not apply;
    - (iv) the references in paragraph (c)(i) and (iii) to the right under subsection (1)(b) are to be treated as references to the right under section 25(1) to have someone informed when detained;
    - (v) the reference in paragraph (c)(ii) to subsection (1)(b) is to be treated as a reference to section 25(1);
    - (vi) the reference in paragraph (c)(iii) to subsection (2) is to be treated as a reference to the words in section 25(1) beginning “and the person shall be informed”;
    - (vii) the reference to subsection (4) is to be treated as a reference to section 25(2); and
  - (g) in subsection (9)—
    - (i) the reference to section 15A is to be treated as a reference to section 25A;
    - (ii) paragraph (a) is to be treated as if it provided as follows—
      - “(a) the words “other premises or place” in subsections (2) and (6) are to be treated as referring to a police station;”;
    - (iii) in paragraph (b)(iii) the reference to section 15A(2) and (3) is to be treated as a reference to section 25A(2) and (3).]
- (4) An officer of Revenue and Customs may exercise a power under sections 136 to 139 only in the exercise of a function relating to tax (including duties and tax credits).
- (5) In subsection (2)—
  - “office of Revenue and Customs” means premises wholly or partly occupied by Her Majesty’s Revenue and Customs, and
  - “designated office of Revenue and Customs” has the meaning given by an order under section 114 of the Police and Criminal Evidence Act 1984 (c. 60) (power to extend provisions to HMRC) or, in Northern Ireland, by an order under Article 85 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12)) (power to extend Order to HMRC).
- (6) In section 136, after subsection (8) insert—
  - “(9) Powers under this section and sections 137 to 139 may be exercised by an officer of Revenue and Customs in accordance with section 87 of the Finance Act 2007.”

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#### **Textual Amendments**

- F2** S. 87(3) substituted (15.7.2011) by [The Criminal Procedure \(Legal Assistance, Detention and Appeals\) \(Scotland\) Act 2010 \(Consequential Provisions\) Order 2011 \(S.I. 2011/1739\)](#), arts. 1(2), **7(1)** (with art. 7(2))



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