SCHEDULES

SCHEDULE 2

Section 3.

PROTECTION OF REVENUES DERIVED FROM EXCISE DUTIES

Commencement Information

I1 Sch. 2 wholly in force; Sch. 2 not in force at Royal Assent see s. 3(2); Sch. 2 partly in force at 9.12.1992 by S.I. 1992/3104, art. 2, **Sch. 2** wholly in force at 1.6.1993 by S.I. 1993/1341, art. 2, **Sch.**

The Customs and Excise Management Act 1979 (c. 2)

1 In section 1(1) of the Customs and Excise Management Act 1979 (interpretation)—

(a) in the definition of "occupier", for "means the" there shall be substituted " includes any ";

(b) in the definition of "warehoused" and cognate expressions, after "that section" there shall be inserted " and any regulations made by virtue of section 93(2)(da)(i) or (ee) or (4) below ".

Commencement Information

I2 Sch. 2 para. 1 wholly in force at 9.12.1992 see s. 3(2) and S.I. 1992/3104, **art. 2(1)**.

2 (1) In section 93 of that Act (regulation of warehouses and warehoused goods), for subsection (1) there shall be substituted the following subsection—

"(1) The Commissioners may by regulations under this section (referred to in this Act as "warehousing regulations")—

(a) prohibit the deposit or keeping of goods in a warehouse except where the occupier of the warehouse has been approved by the Commissioners in accordance with the regulations and where such conditions as may be prescribed in relation to that occupier are satisfied;

(b) otherwise regulate the deposit, keeping, securing and treatment of goods in a warehouse;

(c) make provision with respect to goods which are required to be deposited in a warehouse;

(d) regulate the removal of goods from a warehouse and make provision with respect to goods which have lawfully been permitted to be removed from a warehouse without payment of duty; and

(e) make provision, in relation to goods which have been warehoused or are required to be deposited in a warehouse with respect to the

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keeping, preservation and production of records and the furnishing of information."

(2) In subsection (2) of that section (further provision that may be made by warehousing regulations)—

(a) after paragraph (d) there shall be inserted the following paragraphs—

"(da) providing for all or any prescribed purposes of the customs and excise Acts—

(i) for goods to be treated as warehoused where in a prescribed case they are in the custody or under the control of an approved occupier of a warehouse; and

(ii) for goods to be treated, at such times before the excise duty point for those goods as may be prescribed or as may be determined under the regulations, as goods which are required to be deposited in a warehouse;

(db) providing for the revocation of the approval under regulations of any occupier of a warehouse and applying, with modifications, any of the provisions of section 98 below in relation to such a revocation or to cases where such an approval is not renewed;"

(b) in paragraph (ee), for "to be warehoused" there shall be substituted " required to be deposited in a warehouse ";

(c) after paragraph (f) there shall be inserted the following paragraphs—

"(fa) requiring goods which are required to be deposited in a warehouse or which have lawfully been permitted to be removed from a warehouse without payment of duty to be accompanied by such documents in such form and containing such particulars as may be prescribed;

(fb) imposing or providing for the imposition under the regulations of requirements on persons concerned in any prescribed respect with the carriage of such goods to keep and preserve the documents that are required to accompany the goods;

(fc) imposing or providing for the imposition under the regulations of requirements on a person so concerned to produce or cause to be produced any documents which are required to accompany any goods by virtue of paragraph (fa) above to an officer when required to do so for the purpose of allowing the officer to inspect them, to copy or take extracts from them or to remove them at a reasonable time and for a reasonable period;"

(d) in paragraph (g), after "are" there shall be inserted " required ";

(e) in the definition of "relevant business activity" after the word "are", in the first place where it occurs, there shall be inserted " required ".

(3) In subsection (2A) of that section (compensation where removed documents are lost)—

(a) after the word "documents", in each place where it occurs, there shall be inserted " or records "; and

(b) for “(2)(j)" there shall be substituted “ (2)(fc) or (j) ”.

(4) In subsection (3) of that section (power to make different provision for different warehouses and goods), after the word “for", in the first place where it occurs, there shall be inserted “ different cases, including different provision for different occupiers or descriptions of occupier, for ”.

(5) After subsection (5) of that section there shall be inserted the following subsection—

“(5A) Warehousing regulations made by virtue of any of paragraphs (fa) to (fc) or (g) to (j) of subsection (2) above may also provide for the forfeiture of the goods in question in the event of any contravention of, or non-compliance with, any requirements imposed by or under the regulations with respect to any documents or records relating to prescribed goods.”

(6) In subsection (6) of that section (offence), for the words from “penalty", in the first place where it occurs, onwards there shall be substituted the words “ penalty of an amount not exceeding level 5 on the standard scale, together with a penalty of £20 for each day on which the failure continues ”.

(7) In subsection (7)(b) of that section—

(a) for “to be warehoused" there shall be substituted “ required to be deposited in a warehouse ”;

(b) for “or which are to be warehoused on drawback" there shall be substituted “ which are to be warehoused on drawback or which are otherwise to be treated by virtue of subsection (2)(da)(ii) above as goods which are required to be deposited in a warehouse ”.

Commencement Information

I3 Sch. 2 para. 2 wholly in force at 9.12.1992 see s. 3(2) and S.I. 1992/3104, **art. 2(1)**.

3 In section 100(2) of that Act (forfeiture in respect of contraventions relating to warehousing)—

(a) in paragraphs (a) and (b), after “for warehousing" there shall be inserted “ or are otherwise required to be deposited in a warehouse ”;

(b) for paragraph (d) there shall be substituted the following paragraph—

“(d) any goods are concealed at a time before they are warehoused when they have been entered for warehousing or are otherwise required to be deposited in a warehouse or when they are required to be in the custody or under the control of the occupier of a warehouse; or”.

Commencement Information

I4 Sch. 2 para. 3 wholly in force at 9.12.1992 see s. 3(2) and S.I. 1992/3104, **art. 2(1)**.

4 In section 100H(1) of that Act (provision that may be contained in REDS regulations), after paragraph (m) there shall be inserted the following paragraph—

“(ma) imposing requirements with respect to, or to the production of, the documents required to accompany goods which are the subject of a transaction involving a registered excise dealer and shipper on any person concerned in any prescribed respect with the carriage of those

goods, or providing for the imposition under the regulations of any such requirements;".

Commencement Information

I5 Sch. 2 para. 4 wholly in force at 9.12.1992 see s. 3(2) and S.I. 1992/3104, **art. 2(1)**.

5 In section 117 of that Act (execution of distress against revenue traders in respect of relevant excise duty)—

(a) the word "relevant", in the first place where it occurs in subsection (1) and where it occurs in subsections (2)(a) and (5), shall be omitted;

(b) for the words "a relevant" in subsections (1)(a) and (3) there shall be substituted " any "; and

(c) the definition of "relevant excise duty" in subsection (8) shall be omitted.

Commencement Information

I6 Sch. 2 para. 5 wholly in force at 9.12.1992 see s. 3(2) and S.I. 1992/3104, **art. 2(1)**.

6 In section 129 of that Act (power to remit or repay duty on denatured goods)—

(a) in paragraph (b) of subsection (1) for "warehoused" there shall be substituted " chargeable with a duty the requirement to pay which has not yet taken effect "; and

(b) after that subsection there shall be inserted the following subsection—

"(1A) The reference in subsection (1) above to goods which are chargeable with a duty the requirement to pay which has not yet taken effect shall be construed as a reference to any goods which are warehoused or, in the application of that section in relation to a duty of excise, to any goods at a time, before the excise duty point for those goods, when they are chargeable with such a duty."

Commencement Information

I7 Sch. 2 para. 6 wholly in force at 9.12.1992 see s. 3(2) and S.I. 1992/3104, **art. 2(1)**.

7 In section 170 of that Act (fraudulent evasion of duty), after subsection (5) there shall be inserted the following subsection—

"(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."

Commencement Information

I8 Sch. 2 para. 7 wholly in force at 9.12.1992 see s. 3(2) and S.I. 1992/3104, **art. 2(1)**.

8 After section 170 of that Act there shall be inserted the following sections—

"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, the duty on the goods has not been paid and its payment has not been deferred,

that person shall be liable, on summary conviction, to a penalty of an amount not exceeding level 5 on the standard scale.

(2) In proceedings for an offence under this section it shall be a defence to show that the person who acquired possession of the goods or was concerned in carrying, removing, depositing, keeping or otherwise dealing with them—

(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.

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."

Commencement Information

I9 Sch. 2 para. 8 wholly in force; Sch. 2 para. 8 not in force at Royal Assent see s. 3(2); Sch. 2 para. 8 partly in force at 9.12.1992 by S.I. 1992/3104, art. 2(1)(2), **Sch. 2 para. 8** wholly in force at 1.6.1993 by S.I. 1993/1341, art. 2, **Sch.**

9 In section 171(5) of that Act (which provides for the time at which duty is to be treated as payable where that cannot be ascertained for the purposes of any offence) —

(a) after "43 above" there shall be inserted " or the relevant excise duty point "; and

(b) at the end there shall be inserted " or, as the case may be, as if the time when the proceedings were commenced was the relevant excise duty point. "

Commencement Information

I10 Sch. 2 para. 9 wholly in force at 9.12.1992 see s. 3(2) and S.I. 1992/3104, **art. 2(1)**.

The Customs and Excise Duties (General Reliefs) Act 1979 (c. 3)

10 In section 13C of the Customs and Excise Duties (General Reliefs) Act 1979 (offence where relieved goods used in breach of condition), after subsection (4) there shall be inserted the following subsection—

"(5) 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."

Commencement Information

I11 Sch. 2 para. 10 wholly in force at 9.12.1992 see s. 3(2) and S.I. 1992/3104, **art. 2(1)**.

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