



Customs and Excise Management Act 1979

1979 CHAPTER 2

PART XII

GENERAL AND MISCELLANEOUS

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 by bond or otherwise for the observance of any condition in connection with customs or excise.
- (2) Any bond taken for the purposes of any assigned matter—
 - (a) shall be taken on behalf of Her Majesty ; 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.

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;

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- (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 £100.
- (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 £100.
- (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
 - (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 £500 and may be detained.

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
 - (c) which have been loaded into any ship or aircraft at any place in the United Kingdom ; 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.
- (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 2 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.

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, brewer for sale, 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

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(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, 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.

161 Power to search premises

- (1) Without prejudice to any other power conferred by the Customs and Excise Acts 1979 but subject to subsection (2) below, where there are reasonable grounds to suspect that any thing liable to forfeiture under the customs and excise Acts is kept or concealed in any building or place, any officer having a writ of assistance may—
 - (a) enter that 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 reasonably necessary for the purpose of such entry, search, seizure, detention or removal, break open any door, window or container and force and remove any other impediment or obstruction.
- (2) No officer shall exercise the power of entry conferred on him by subsection (1) above by night unless he is accompanied by a constable.
- (3) Without prejudice to subsection (1) above or to any other power conferred by the Customs and Excise Acts 1979, if a justice of the peace is satisfied by information upon oath given by an officer that there are reasonable grounds to suspect that any thing 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 given on any day authorise that officer or any other person named in the warrant to enter and search any building or place so named.
- (4) An officer or person named in a warrant under subsection (3) above shall thereupon have the like powers in relation to the building or place named in the warrant, subject to the like conditions as to entry by night, as if he were an officer having a writ of assistance and acting upon reasonable grounds of suspicion.
- (5) 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 (3) and (4) above shall apply in relation to any constable as they would apply in relation to an officer.
- (6) A writ of assistance shall continue in force during the reign in which it is issued and for 6 months thereafter.

162 Power to enter land for or in connection with access to pipe-lines

Where any thing conveyed by a pipe-line is chargeable with a duty of customs or 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.

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 £100.

164 Power to search persons

- (1) Where there are reasonable grounds to suspect that any person to whom this section applies 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,any officer or any person acting under the directions of an officer may, subject to subsections (2) and (3) below, search him and any article he has with him.
- (2) A person who is to be searched in pursuance of this section may require to be taken before a justice of the peace or a superior of the officer or other person concerned, and the justice or superior shall consider the grounds for suspicion and direct accordingly whether or not the search is to take place.
- (3) No woman or girl shall be searched in pursuance of this section except by a woman.
- (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;
 - (f) in Northern Ireland, any person travelling from or to any place which is on or beyond the boundary.

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

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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.
- (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 £300.
- (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.

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

- (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.

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 £200 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.

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

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- (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 (4) 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 2 years, or to both.
- (4) In the case of an offence under this section in connection with a prohibition or restriction on importation or exportation having effect by virtue of section 3 of the Misuse of Drugs Act 1971, subsection (3) above shall have effect subject to the modifications specified in Schedule 1 to this Act.
- (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.

171 General provisions as to offences and penalties

- (1) Where—
- (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—

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- (a) if the offence was committed in England, Wales or Northern Ireland, the prescribed sum within the meaning of section 28 of the Criminal Law Act 1977 (£1,000 or other sum substituted by order under section 61(1) of that Act);
 - (b) if the offence was committed in Scotland, the prescribed sum within the meaning of section 289B of the Criminal Procedure (Scotland) Act 1975 (£1,000 or other sum substituted by order under section 289D(1) of that Act);
- 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.
- (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
- 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, that duty or rate shall be determined as if the goods had been imported without entry at the time when the proceedings were commenced.

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.

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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 Removal from or to Isle of Man not to be importation or exportation

- (1) For the purposes of the customs and excise Acts, subject to section 6(2) and (3) of the Customs and Excise Duties (General Reliefs) Act 1979 and subsection (2) below, goods removed into the United Kingdom from the Isle of Man shall be deemed not to be imported into the United Kingdom.
- (2) Subsection (1) above shall not apply to the removal of—
 - (a) any explosives within the meaning of the Explosives Act 1875 on the unloading or landing of which any restriction is for the time being in force under or by virtue of that Act; or
 - (b) copies of copyright works to which section 22 of the Copyright Act 1956 applies.
- (3) For the purposes of the customs and excise Acts, subject to subsection (4) below, goods removed from the United Kingdom to the Isle of Man shall be deemed not to be exported from the United Kingdom.
- (4) Any enactment relating to the allowance of drawback of any excise duty on the exportation from the United Kingdom of any goods shall have effect, subject to such conditions and modifications as the Commissioners may by regulations prescribe, as if the removal of such goods to the Isle of Man were the exportation of the goods.

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) No Commissioner or officer and no person appointed by the Commissioners to discharge any duty relating to customs or excise shall be compelled to serve on any jury in Scotland whatsoever.

176 Game licences

- (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 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.

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) The enactments specified in Schedule 5 to this Act (which relate to purchase tax and whose repeal by virtue of section 54(8) of and Part II of Schedule 28 to the Finance Act 1972 has not yet taken effect) shall be amended in accordance with the provisions of that Schedule ; and accordingly the following entry shall be inserted at the end of Part II of the said Schedule 28—

“1979 c. 2	The Customs and Excise Management Act 1979.	Schedule 5”.
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- (3) The enactments specified in Schedule 6 to this Act are hereby repealed to the extent specified in the third column of that Schedule.
- (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 Interpretation Act 1978 (which relate to the effect of repeals).

178 Citation and commencement

- (1) This Act may be cited as the Customs and Excise Management Act 1979.
- (2) This Act, the Customs and Excise Duties (General Reliefs) Act 1979, the Alcoholic Liquor Duties Act 1979, the Hydrocarbon Oil Duties Act 1979, the Matches and

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Mechanical Lighters Duties Act 1979 and the 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.