



# Finance Act 1989

## 1989 CHAPTER 26

### PART I

#### CUSTOMS AND EXCISE, VALUE ADDED TAX AND CAR TAX

### CHAPTER III

#### MISCELLANEOUS

#### **28 Reliefs from duties and taxes for persons enjoying certain immunities and privileges**

- (1) After section 13 of the Customs and Excise Duties (General Reliefs) Act 1979 there shall be inserted the following sections—

#### **“13A Reliefs from duties and taxes for persons enjoying certain immunities and privileges**

- (1) The Commissioners may by order make provision for conferring in respect of any persons to whom this section applies reliefs, by way of remission or repayment, from payment by them or others of duties of customs or excise, value added tax or car tax.
- (2) An order under this section may make any relief for which it provides subject to such conditions binding the person in respect of whom the relief is conferred and, if different, the person liable apart from the relief for payment of the tax or duty (including conditions which are to be complied with after the time when, apart from the relief, the duty or tax would become payable) as may be imposed by or under the order.
- (3) An order under this section may include any of the provisions mentioned in subsection (4) below for cases where—

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- (a) relief from payment of any duty of customs or excise, value added tax or car tax chargeable on any goods, or on the supply of any goods or services or the importation of any goods has been conferred (whether by virtue of an order under this section or otherwise) in respect of any person to whom this section applies, and
  - (b) any condition required to be complied with in connection with the relief is not complied with.
- (4) The provisions referred to in subsection (3) above are—
- (a) provision for payment to the Commissioners of the tax or duty by—
    - (i) the person liable, apart from the relief, for its payment, or
    - (ii) any person bound by the condition, or
    - (iii) any person who is or has been in possession of the goods or has received the benefit of the services,
 or for two or more of those persons to be jointly and severally liable for such payment, and
  - (b) in the case of goods, provision for forfeiture of the goods.
- (5) An order under this section—
- (a) may contain such incidental and supplementary provisions as the Commissioners think necessary or expedient, and
  - (b) may make different provision for different cases.
- (6) In this section and section 13C of this Act—
- “duty of customs” includes any agricultural levy within the meaning of section 6 of the European Communities Act 1972 chargeable on goods imported into the United Kingdom, and
- “duty of excise” means any duty of excise chargeable on goods and includes any addition to excise duty by virtue of section 1 of the Excise Duties (Surcharges or Rebates) Act 1979.
- (7) For the purposes of this section and section 13C of this Act, where in respect of any person to whom this section applies relief is conferred (whether by virtue of an order under this section or otherwise) in relation to the use of goods by any persons or for any purposes, the relief is to be treated as conferred subject to a condition binding on him that the goods will be used only by those persons or for those purposes.
- (8) Nothing in any order under this section shall be construed as authorising a person to import any thing in contravention of any prohibition or restriction for the time being in force with respect to it under or by virtue of any enactment.

### **13B Persons to whom section 13A applies**

- (1) The persons to whom section 13A of this Act applies are—
- (a) any person who, for the purposes of any provision of the Visiting Forces Act 1952 or the International Headquarters and Defence Organisations Act 1964 is—
    - (i) a member of a visiting force or of a civilian component of such a force or a dependant of such a member, or
    - (ii) a headquarters, a member of a headquarters or a dependant of such a member,

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- (b) any person enjoying any privileges or immunities under or by virtue of—
    - (i) the Diplomatic Privileges Act 1964,
    - (ii) the Commonwealth Secretariat Act 1966,
    - (iii) the Consular Relations Act 1968,
    - (iv) the International Organisations Act 1968, or
    - (v) the Overseas Development and Co-operation Act 1980,
  - (c) any person enjoying, under or by virtue of section 2 of the European Communities Act 1972, any privileges or immunities similar to those enjoyed under or by virtue of the enactments referred to in paragraph (b) above.
- (2) The Secretary of State may by order amend subsection (1) above to include any persons enjoying any privileges or immunities similar to those enjoyed under or by virtue of the enactments referred to in paragraph (b) of that subsection.
- (3) No order shall be made under this section unless a draft of the order has been laid before and approved by resolution of each House of Parliament.

### **13C Offence where relieved goods used, etc., in breach of condition**

- (1) Subsection (2) below applies where—
- (a) any relief from payment of any duty of customs or excise, value added tax or car tax chargeable on, or on the supply or importation of, any goods has been conferred (whether by virtue of an order under section 13A of this Act or otherwise) in respect of any person to whom that section applies subject to any condition as to the persons by whom or the purposes for which the goods may be used, and
  - (b) if the tax or duty has subsequently become payable, it has not been paid.
- (2) If any person—
- (a) acquires the goods for his own use, where he is not permitted by the condition to use them, or for use for a purpose that is not permitted by the condition or uses them for such a purpose, or
  - (b) acquires the goods for use, or causes or permits them to be used, by a person not permitted by the condition to use them or by a person for a purpose that is not permitted by the condition or disposes of them to a person not permitted by the condition to use them,
- with intent to evade payment of any tax or duty that has become payable or that, by reason of the disposal, acquisition or use, becomes or will become payable, he is guilty of an offence.
- (3) For the purposes of this section—
- (a) in the case of a condition as to the persons by whom goods may be used, a person is not permitted by the condition to use them unless he is a person referred to in the condition as permitted to use them, and
  - (b) in relation to a condition as to the purposes for which goods may be used, a purpose is not permitted by the condition unless it is a purpose referred to in the condition as a permitted purpose,

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and in this section “dispose” includes “lend” and “let on hire”, and “acquire” shall be interpreted accordingly.

- (4) A person guilty of an offence under this section may be detained and shall be liable—
- (a) on summary conviction, to a penalty of the statutory maximum or of three times the value of the goods (whichever is the greater), or to imprisonment for a term not exceeding six months, or to both, or
  - (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) Section 13C of the Customs and Excise Duties (General Reliefs) Act 1979 inserted by subsection (1) above shall have effect where relief is conferred on or after the day on which this Act is passed.
- (3) In section 17 of the Customs and Excise Duties (General Reliefs) Act 1979, in subsection (3), for “or 13” there shall be substituted “13 or 13A” and, in subsection (4), for “or 13(1)” there shall be substituted “13(1) or 13A”.