

SCHEDULES

SCHEDULE 5

Section 14.

DECISIONS SUBJECT TO REVIEW AND APPEAL

The Community Customs Code etc.

- 1 The following decisions, so far as they are made for the purposes of the Community Customs Code and are decisions the authority for which is not contained in provisions outside that Code and any directly applicable Community legislation made for the purpose of implementing that Code, that is to say—
- (a) any decision in relation to any goods as to whether or not the entry, unloading or transhipment of the goods, or their release by or to any person or for any purpose, is to be allowed or otherwise permitted;
 - (b) any decision as to whether or not permission for the examination of, or the taking of samples from, any goods presented to the Commissioners is to be granted;
 - (c) any decision as to the route to be used for the movement of any goods;
 - (d) any other decision as to whether or not the requirements of any procedure for goods which are to be or have been presented to the Commissioners, or any other formalities in relation to any such goods, have been satisfied or complied with or are to be waived, or as to the measures to be taken, including any requirements to be imposed, in consequence of the inability or other failure of any person to comply with the required procedure;
 - (e) any decision in relation to any place or area as to whether or not it is to be, or to continue to be, designated or approved for any purpose;
 - (f) any decision, in any particular case, as to whether or not the carrying out of any processing or other operations or the use of any procedure is to be, or to continue to be, authorised or approved;
 - (g) any decision in relation to—
 - (i) the establishment or operation of any warehouse or other facility, or
 - (ii) the construction of any building,as to whether or not its establishment, operation or construction or the person by whom it is to be established, operated or constructed, is to be, or to continue to be, authorised or approved for any purpose;
 - (h) any decision consisting in the imposition of a requirement to supply information or assistance, or to furnish any document or other evidence, to the Commissioners or any officer or of a requirement to be present or represented when anything is done in relation to any goods;
 - (i) any decision to take or retain samples of any goods or as to the examination or analysis to which any goods or samples are to be subjected;
 - (j) any decision as to whether or not any person is to bear any of the expenses of the supply of any information by or on behalf of the Commissioners or as to the amount of any such expenses to be borne by any person;

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- (k) any decision as to whether or not any amount due in respect of any customs duty or any agricultural levy of the European Community is to bear interest or as to the rate at which or period for which any such amount is to bear interest;
- (l) any decision, in relation to a decision mentioned in any of the preceding sub-paragraphs, as to the conditions subject to which the decision so mentioned is made or, as the case may be, the matters to which that decision relates have effect;
- (m) any decision as to whether or not any person is to be required to give any security for the fulfilment, in whole or in part, of—
 - (i) any obligation to pay any customs duty or any agricultural levy of the European Community; or
 - (ii) any obligation to comply with a condition of any permission, designation, approval, authorisation or requirement mentioned in any of the preceding sub-paragraphs or with any provision for the purposes of which any decision falling within any of those sub-paragraphs is made,
 or as to the form or amount of, or the conditions of, any such security;
- (n) any decision as to the time at which or the period within which any obligation to pay any customs duty or agricultural levy of the European Community or to do any other thing required by virtue of the Community Customs Code is to be complied with;
- (o) any decision as to whether or not a decision falling within this paragraph is to be varied or revoked, including a decision as to whether or not the time at which any such decision is to take effect is to be deferred.

The Management Act

- 2 (1) The following decisions under or for the purposes of the Management Act, that is to say—
 - (a) any decision for the purposes of section 20, 22 or 25 as to whether or not an approval of a place as an approved wharf, as an examination station or as a transit shed is to be given or withdrawn or as to the conditions subject to which any such approval is given;
 - (b) any decision as to whether or not any permission for any of the purposes of section 21 (control of movement of aircraft) is to be given or withdrawn or as to the conditions subject to which any such permission is given;
 - (c) any decision as to whether or not approval of a pipe-line for the purposes of section 24 (control of movement of goods by pipe-line) is to be given or withdrawn or as to the conditions subject to which any such approval is given;
 - (d) any decision as to whether or not expenses incurred by the Commissioners are to be borne by any person by virtue of section 29(3) (expenses of detention etc. of ships, aircraft and vehicles) or as to the amount of the expenses to be so borne;
 - (e) any decision consisting in the giving of a direction under section 30(1) (control of uncleared goods);
 - (f) any decision by virtue of subsection (2A) of section 31 (control of movement of goods) as to whether or not the requirements of any regulations under subsection (1) of that section are to be relaxed, as to whether or not

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- substituted requirements are to be imposed or as to the terms of any such substituted requirements;
- (g) any decision consisting in the imposition of a requirement by virtue of subsection (3) of section 33 (requirements as to record keeping) on a person in control of an aerodrome who is not licensed under any enactment relating to air navigation or as to what is or is not to be approved (whether or not in relation to such a requirement) for the purposes of paragraph (a) of that subsection;
 - (h) any decision as to whether or not permission is to be given to any person for the purposes of section 39 (entry of surplus stores);
 - (i) any decision for the purposes of section 40 that any goods are to be deposited in a Queen's warehouse;
 - (j) any decision for the purposes of section 47 as to whether or not goods are allowed to be removed for transit or transhipment or as to the conditions subject to which they are removed;
 - (k) any decision as to the conditions subject to which any permission is given for the purposes of section 48 (temporary importation);
 - (l) any decision for the purposes of section 63 (entry outwards) as to whether or not entry outwards is to be made of any ship or goods or as to the conditions subject to which any such entry outwards is to be made;
 - (m) any decision consisting in the imposition of a requirement under section 77, 79 or 80 to produce or furnish any document or other evidence or information;
 - (n) any decision for the purposes of section 92 (approval of warehouses)—
 - (i) as to whether or not any approval is to be given to any place as a warehouse or any consent is to be given to any alteration in or addition to any warehouse;
 - (ii) as to the conditions subject to which any approval or consent is given for the purposes of that section; or
 - (iii) for the withdrawal of any such approval or consent;
 - (o) any decision as to whether or not any amount is payable to the Commissioners in pursuance of section 99 (provision as to deposit in Queen's warehouse) or as to the amount to be so paid by any person;
 - (p) any decision for the purposes of section 100G (registered excise dealers and shippers) as to whether or not, and in which respects, any person is to be, or to continue to be, approved and registered or as to the conditions subject to which any person is approved and registered;
 - (q) any decision as to the conditions subject to which any drawback is allowed or payable under section 132 or 134;
 - (r) any decision under section 152(b) as to whether or not anything forfeited or seized under the customs and excise Acts is to be restored to any person or as to the conditions subject to which any such thing is so restored;
 - (s) any decision under section 157 as to whether or not any person is to be required to give any security for the observance of any condition, as to the form or amount of, or the conditions of, any such security or as to the cancellation of any bond;
 - (t) any decision consisting in the giving or imposition of a direction or requirement for the purposes of section 158 (power to require the provision of facilities) or any decision as to whether or not an approval is to be given for the purposes of any such direction.

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- (2) Any decision which is made under or for the purposes of any regulations under any of sections 3, 31 or 93 of the Management Act (application to pipe-lines, control of movement of goods and warehousing regulations) and is—
- (a) a decision in relation to any goods as to whether or not they may be moved, deposited, kept, secured, treated in any manner, removed or made available to any person or as to the conditions subject to which they are moved, deposited, kept, secured, treated in any manner, removed or made available to any person;
 - (b) a decision as to whether or not any person or place is to be, or to continue to be, authorised or approved in any respect for any purpose or as to the conditions subject to which any person or place is so authorised or approved; or
 - (c) a decision as to whether or not any person is to be required to give any security for the fulfilment of any obligation or as to the form or amount of, or the conditions of, any such security.
- (3) Any decision which is made under or for the purposes of any regulations under section 35(4), 42 or 66 of the Management Act (report inwards, procedure in relation to goods on arrival etc. or in relation to goods for exportation) and is—
- (a) a decision as to whether or not any permission is to be given for the purpose of dispensing with any of the requirements of any such regulations;
 - (b) a decision consisting in the imposition or variation of any requirement in exercise of any power conferred by any such regulations; or
 - (c) a decision as to whether or not any approval, authority or permission is to be given or granted for the purpose of determining the manner in which any requirement imposed by or under any such regulations is to be performed.
- (4) Any decision which is made under or for the purposes of any regulations under section 127A of the Management Act (deferment of duty) and is—
- (a) a decision as to whether or not any person or place is to be, or to continue to be, approved for any purpose connected with the deferment of duty or as to the conditions subject to which any person or place is so approved;
 - (b) a decision as to the amount of duty that may be deferred in any case; or
 - (c) a decision as to whether or not any person is to be required to give any security for the fulfilment of any obligation or as to the form or amount of, or the conditions of, any such security.

The Alcoholic Liquor Duties Act 1979

- 3 (1) The following decisions under or for the purposes of the Alcoholic Liquor Duties Act 1979, that is to say—
- (a) any decision for the purposes of section 6 (power to exempt angostura bitters) as to whether or not to give a direction that any bitters are to be treated as not being spirits or as to the conditions subject to which any such direction is given;
 - (b) any decision for the purposes of section 7 (exemption of spirits used for medical purposes) as to whether or not to recognise any article as used for medical purposes;
 - (c) any decision for the purposes of section 8 (remission of duty on spirits used for medical purposes etc.)—

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- (i) as to the use to which any article is or is to be put or as to the purposes for which it is or is to be used; or
 - (ii) as to the conditions subject to which the receipt and delivery of any spirits is permitted as mentioned in that section;
- (d) any decision for the purposes of section 9 or 10 (remission of duty on spirits for methylation or for use in art or manufacture) as to whether or not permission or authorisation for any person to receive, or for the delivery of, any spirits without payment of duty is to be granted or withdrawn or as to the conditions subject to which any such permission or authorisation is granted;
- (e) any decision as to whether or not any goods are to be directed under section 11 (goods not for human consumption) to be treated as not containing spirits or as to the conditions subject to which any goods are directed to be so treated;
- (f) any decision for the purposes of section 12 (licences to manufacture spirits) as to whether or not a licence under that section is to be granted or as to the suspension or revocation of such a licence or as to the conditions subject to which such a licence is granted;
- (g) any decision for the purposes of section 15 (distillers' warehouses)—
 - (i) as to whether or not any approval is to be given to any place as a warehouse or any consent is to be given to any alteration in or addition to any warehouse;
 - (ii) as to the conditions subject to which any approval or consent is given for the purposes of that section; or
 - (iii) for the withdrawal of any such approval or consent;
- (h) any decision for the purposes of section 18 (licences for rectifiers and compounders)—
 - (i) as to whether or not any person is to be granted a licence as a rectifier or compounder or permission to compound spirits without a licence;
 - (ii) as to the conditions subject to which any such licence or permission is granted; or
 - (iii) as to the revocation or withdrawal of any such licence or permission;
- (i) any decision for the purposes of section 32 (transfer of spirits in a distiller's warehouse) as to whether or not any person is to be required to give any security for the payment of any duty or as to the form or amount of, or the conditions of, any such security;
- (j) any decision as to whether or not drawback is to be allowed in any case under section 42 (drawback on exportation etc.) or as to the conditions subject to which drawback is so allowed;
- (k) any decision as to whether or not any duty is to be remitted or repaid under section 44 (remission or repayment of duty on beer used for the purposes of research or experiment) or as to the conditions subject to which any duty is so remitted or repaid;
- (l) any decision for the purposes of section 49A as to whether or not any drawback is to be set against an amount chargeable in respect of excise duty on beer or as to the conditions subject to which any drawback is set against any such amount;
- (m) any decision as to whether or not any permission for the purposes of section 57 or 58 (mixing of made-wine or wine with spirits) is to be given or withdrawn or as to the conditions subject to which any such permission is given;

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- (n) any decision as to whether or not any permission for the purposes of subsection (1) or (2) of section 69 (restrictions applying to wholesalers and retailers of spirits) is to be given or withdrawn or as to the conditions subject to which any such permission is given;
 - (o) any decision as to whether or not an authorisation or licence for the purposes of section 75 (methylated spirits and denatured alcohol) is to be granted to any person or as to the revocation or suspension of any such authorisation or licence.
- (2) Any decision which is made under or for the purposes of any regulations under section 13 or 77 of the Alcoholic Liquor Duties Act 1979 (regulation of the manufacture of spirits, methylated spirits and denatured alcohol) and is a decision as to whether or not any premises, plant or process is to be, or to continue to be, approved for any purpose or as to the conditions subject to which any premises, plant or process is so approved.
- (3) Any decision which is made under or for the purposes of section 55, or any regulations under section 56, of the Alcoholic Liquor Duties Act 1979 (regulation of the making of wine and made-wine) and is a decision as to whether or not a licence under that section is to be granted or cancelled.

The Hydrocarbon Oil Duties Act 1979

- 4 (1) The following decisions under or for the purposes of the Hydrocarbon Oil Duties Act 1979—
- (a) any decision under section 9 (delivery of oil for home use etc.) as to whether or not permission is to be given for the delivery of anything without payment of duty or as to the conditions subject to which any such permission is given;
 - (b) any decision as to whether or not a consent is to be given for the purposes of section 10(1) (consent to certain uses of oil delivered for home use) or as to the conditions subject to which any such consent is given;
 - (c) any decision as to whether or not a consent is to be given for the purposes of section 14(2) (consent to certain uses of rebated oil) or as to the conditions subject to which any such consent is given;
 - (d) any decision consisting in a determination for the purposes of section 17(3) (determination of use of oil etc. for different purposes);
 - (e) any decision as to the conditions subject to which any payment is to be made to any person in accordance with section 20(3) (payments in respect of contaminated or mixed substances).
- (2) Any decision which is made under or for the purposes of any regulations made or having effect as if made under section 21 or 24 of the Hydrocarbon Oil Duties Act 1979 and is—
- (a) a decision as to whether or not any person is to be required to give any security for any duty which is or may become due, or as to the form or amount of, or the conditions of, any such security; or
 - (b) a decision as to whether or not any person is to be, or to continue to be, approved for the purposes of section 9(1) or (4), 14(1) or 19A(1) of that Act or as to the conditions subject to which any person is so approved.

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The Tobacco Products Duty Act 1979

- 5 Any decision which is made under or for the purposes of any regulations made under section 2 or 7 of the Tobacco Products Duty Act 1979 and is—
- (a) a decision as to whether or not any duty is remitted or repaid or as to the conditions subject to which it is remitted or repaid; or
 - (b) a decision as to whether or not any premises are to be, or to continue to be, registered for any purpose or as to the conditions subject to which any premises are so registered.

The Betting and Gaming Duties Act 1981

- 6 (1) The following decisions under or for the purposes of the Betting and Gaming Duties Act 1981, that is to say—
- (a) any decision as to whether or not a permit under paragraph 5 of Schedule 1 (permit for carrying on pool betting business) is to be granted to any person or as to the revocation of such a permit;
 - (b) any decision under paragraph 10(2) of Schedule 3 (registration of bingo promoters) as to the conditions subject to which any person is to be, or to continue to be, registered as a bingo-promoter.
- (2) Any decision which is made under or for the purposes of—
- (a) any regulations under paragraph 2 of Schedule 1 to the Betting and Gaming Duties Act 1981 (regulations in relation to general betting duty), or
 - (b) paragraph 10(2) of Schedule 3 to that Act,
- and is a decision as to whether or not any person is to be required to give any security for any duty which is or may become due, or as to the form or amount of, or the conditions of, any such security.

The Finance Act 1993

- 7 Any decision as to whether or not any person is to be or to continue to be registered under section 29 of the Finance Act 1993 (registration for the purposes of lottery duty) and any decision which is made under or for the purposes of any regulations under that section and is a decision as to whether or not any person is to be required to give any security for the payment of any lottery duty that may become due, or as to the form or amount of, or the conditions of, any such security.

Chapter III of Part I of this Act

- 8 (1) Any decision made under or for the purposes of any regulations under section 21 of this Act or for the purposes of subsection (2) of that section which is—
- (a) a decision consisting in the imposition or variation of any requirement as to the records which are to be kept by any person;
 - (b) a decision as to the manner in which any record or information is to be preserved or is to be made available to the Commissioners; or
 - (c) a decision as to the period for which any record or information is to be preserved.
- (2) Any decision for the purposes of section 23 of this Act which is—
- (a) a decision consisting in the imposition or variation of any requirement as to the information or documents which are to be furnished or produced by

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any person, including any decision as to the time or place at which, period within which or form in which anything is to be furnished or produced in pursuance of that section; or

- (b) a decision as to the removal of any document produced under that section or as to the period for which such a document may be removed.

Chapter IV of Part I of this Act

9 The following decisions under or for the purposes of Chapter IV of Part I of this Act, that is to say—

- (a) any decision under regulations made by virtue of section 33 to register, or not to register, any person as an aircraft operator in the register kept under that section or to remove a person so registered from the register;
- (b) any decision under such regulations to show, or not to show, the name of any person as a fiscal representative in that register or to remove a name from the register;
- (c) any decision under section 36 to require a person to provide security, including any decision as to the form or amount of the security; and
- (d) any decision to give a person a notice under section 37.

Interpretation of Schedule

10 (1) In this Schedule references to any decision as to the conditions subject to which any other decision (whether or not specified in this Schedule) is made include references to—

- (a) any decision as to whether the other decision should be made subject to or to the imposition of any conditions, limitations, restrictions, prohibitions or other requirements, either from the time when the other decision takes effect or in exercise of any power to impose them subsequently;
- (b) any decision as to the terms of any conditions, limitations, restrictions, prohibitions or other requirements imposed or applied in relation to that other decision;
- (c) any decision as to the period for which any licence, approval, permission or other authorisation to which the other decision relates is to have effect or as to any variation of that period; and
- (d) any decision as to whether any conditions, limitations, restrictions, prohibitions or other requirements so imposed or applied are to be revoked, suspended or cancelled or as to whether or in what respect their terms are at any time to be varied;

but those references do not include references to any decision as to the enforcement of any condition, restriction or prohibition in criminal proceedings, by the seizure or forfeiture of goods or, for purposes connected with any duty of excise, by any other means.

- (2) References in this Schedule to decisions as to the exercise of any power to require security for the fulfilment of any obligation, the observance of any conditions or the payment of any duty shall be without prejudice to any reference to decisions as to the exercise of any general power in the case in question to impose conditions in connection with the making of any other decision and shall include references to the exercise of any power to require further security for the fulfilment of that obligation, the observance of those conditions or, as the case may be, the payment of that duty.