



# Finance Act 1997

## 1997 CHAPTER 16

### PART IV

#### PAYMENTS AND OVERPAYMENTS IN RESPECT OF INDIRECT TAXES

##### *Enforcement of payment*

#### **51 Enforcement by distress.**

- (1) The Commissioners may by regulations [<sup>F1</sup>not having effect in England and Wales or Scotland] make provision—
  - (a) for authorising distress to be levied on the goods and chattels of any person refusing or neglecting to pay—
    - (i) any amount of relevant tax due from him, or
    - (ii) any amount recoverable as if it were relevant tax due from him;
  - (b) for the disposal of any goods or chattels on which distress is levied in pursuance of the regulations; and
  - (c) for the imposition and recovery of costs, charges, expenses and fees in connection with anything done under the regulations.
- (2) The provision that may be contained in regulations under this section shall include, in particular—
  - (a) provision for the levying of distress, by any person authorised to do so under the regulations, on goods or chattels located at any place whatever (including on a public highway); and
  - (b) provision authorising distress to be levied at any such time of the day or night, and on any such day of the week, as may be specified or described in the regulations.
- (3) Regulations under this section may—
  - (a) make different provision for different cases, and
  - (b) contain any such incidental, supplemental, consequential or transitional provision as the Commissioners think fit;

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and the transitional provision that may be contained in regulations under this section shall include transitional provision in connection with the coming into force of the repeal by this Act of any other power by regulations to make provision for or in connection with the levying of distress.

- (4) The power to make regulations under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons.
- (5) The following are relevant taxes for the purposes of this section, that is to say—
  - (a) any duty of customs or excise, other than vehicle excise duty;
  - (b) value added tax;
  - (c) insurance premium tax;
  - (d) landfill tax;
  - [<sup>F2</sup>(da) aggregates levy;]
  - (e) any agricultural levy of the [<sup>F3</sup>European Union] .
  - [<sup>F4</sup>(f) climate change levy.]
- (6) In this section “the Commissioners” means the Commissioners of Customs and Excise.
- <sup>F5</sup>(7) .....

**Textual Amendments**

**F1** Words in s. 51(1) inserted (6.4.2014) by Tribunals, Courts and Enforcement Act 2007 (c. 15), s. 148, **Sch. 13 para. 126(3)** (with s. 89); S.I. 2014/768, art. 2(1)(b)

**F2** S. 51(5)(da) inserted (11.5.2001) by 2001 c. 9, s. 27, **Sch. 5 para. 14**

**F3** Words in Act substituted (22.4.2011) by The Treaty of Lisbon (Changes in Terminology) Order 2011 (S.I. 2011/1043), arts. 2, 3, 4 (with art. 3(2)(3), 4(2), 6(4)(5))

**F4** S. 51(5)(f) inserted (28.7.2000) by 2000 c. 17, s. 30(2), **Sch. 7 para. 7(2)**

**F5** S. 51(7) repealed (6.4.2014) by Tribunals, Courts and Enforcement Act 2007 (c. 15), s. 148, Sch. 13 para. 126(4), **Sch. 23 Pt. 3** (with s. 89); S.I. 2014/768, art. 2(1)(b)

**<sup>F6</sup>52 Enforcement by diligence.**

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**Textual Amendments**

**F6** S. 52 omitted (23.11.2009) by virtue of Finance Act 2008 (c. 9), s. 129(4), **Sch. 43 para. 15**; S.I. 2009/3024, art. 3 (with art. 4)

**53 Amendments consequential on sections 51 and 52.**

- (1) In section 117 of the <sup>M1</sup>Customs and Excise Management Act 1979 (execution and distress against revenue traders), after subsection (4) there shall be inserted the following subsection—

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- “(4A) This section does not apply for the purposes of levying distress in accordance with regulations under section 51 of the Finance Act 1997 or for the purposes of any execution under section 52 of that Act by diligence.”
- (2) In section 11(1)(a) of the <sup>M2</sup>Finance Act 1994 (walking possession agreements in connection with enforcement of excise duty)—
- (a) for the words from “by virtue of” to “1981” there shall be substituted “in accordance with regulations under section 51 of the Finance Act 1997 (enforcement by distress)”; and
  - (b) after “default’” there shall be inserted “ who has refused or neglected to pay any amount of relevant duty or any amount recoverable as if it were an amount of relevant duty due from him ”.
- (3) In section 13(6) of the <sup>M3</sup>Finance Act 1994 (assessment for penalties), for the words “duty of excise”, in each place where they occur, there shall be substituted “ relevant duty ”.
- (4) In section 18(8) of the <sup>M4</sup>Finance Act 1994 (saving relating to section 18(1), (2) and (4)), for “, (2) and (4)” there shall be substituted “ and (2) ”.
- (5) In paragraph 19(1)(a) of Schedule 7 to the <sup>M5</sup>Finance Act 1994 (walking possession agreements in connection with enforcement of insurance premium tax), for “paragraph 7(7) above” there shall be substituted “ section 51 of the Finance Act 1997 (enforcement by distress) ”.
- (6) In section 48 of the <sup>M6</sup>Value Added Tax Act 1994 (VAT representatives), after subsection (7) there shall be inserted the following subsection—
- “(7A) A sum required by way of security under subsection (7) above shall be deemed for the purposes of—
- (a) section 51 of the Finance Act 1997 (enforcement by distress) and any regulations under that section, and
  - (b) section 52 of that Act (enforcement by diligence),
- to be recoverable as if it were VAT due from the person who is required to provide it.”
- (7) In section 68(1)(a) of the Value Added Tax Act 1994 (walking possession agreements), for “paragraph 5(4) of Schedule 11” there shall be substituted “ section 51 of the Finance Act 1997 (enforcement by distress) ”.
- (8) In paragraph 24(1)(a) of Schedule 5 to the <sup>M7</sup>Finance Act 1996 (walking possession agreements in connection with the enforcement of landfill tax), for “paragraph 13(1) above” there shall be substituted “ section 51 of the Finance Act 1997 (enforcement by distress) ”.
- (9) This section shall come into force on such day as the Commissioners of Customs and Excise may by order made by statutory instrument appoint, and different days may be appointed under this subsection for different purposes.

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**Subordinate Legislation Made**

**P1** [S. 53\(9\)](#) power fully exercised (9.6.1997): 1.7.1997 appointed by [S.I. 1997/1432](#), [art. 2](#)

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**Marginal Citations**

- M1** 1979 c. 2.
- M2** 1994 c. 9.
- M3** 1994 c. 9.
- M4** 1994 c. 9.
- M5** 1994 c. 9.
- M6** 1994 c. 23.
- M7** 1996 c. 8.

**Changes to legislation:**

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