



Borders, Citizenship and Immigration Act 2009

2009 CHAPTER 11

PART 1

BORDER FUNCTIONS

General customs functions of the Secretary of State

1 General customs functions of the Secretary of State

- (1) The functions of the Commissioners for Her Majesty's Revenue and Customs that are exercisable in relation to general customs matters are exercisable by the Secretary of State concurrently with the Commissioners.
- (2) For the purposes of this Part, a “general customs matter” is a matter in relation to which the Commissioners, or officers of Revenue and Customs, have functions, other than—
 - (a) a matter listed in Schedule 1 to the Commissioners for Revenue and Customs Act 2005 (c. 11),
 - (b) any tax, duty or levy not mentioned in that Schedule,
 - (c) a matter in respect of which functions were transferred to the Commissioners from the Paymaster General under the Transfer of Functions (Office of Her Majesty's Paymaster General) Order 2006 (S.I. 2006/607),
 - (d) the subject matter of [^{F1}Directive 2015/849/EU of the European Parliament and of the Council of 20th May 2015 on the prevention of the use of the financial system for the purpose of money laundering or terrorist financing] (as amended from time to time), and
 - (e) the subject matter of [^{F2}Regulation (EU) 2015/847 of the European Parliament and of the Council of 20th May 2015 on information accompanying transfers of funds] (as amended from time to time).
- (3) If a function is exercisable by the Commissioners—
 - (a) in relation to a general customs matter, and

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- (b) in relation to any other matter,
the function is exercisable by the Secretary of State in relation to the general customs matter only.
- (4) So far as is appropriate for the purposes of or in connection with this section, references to the Commissioners for Her Majesty's Revenue and Customs, or to Her Majesty's Revenue and Customs, in an enactment, instrument or document to which this section applies are to be construed as including a reference to the Secretary of State.
- (5) References in this section (other than in subsection (8))—
- (a) to functions of the Commissioners are to functions conferred by an enactment to which this section applies;
 - (b) to functions of officers of Revenue and Customs are to functions conferred by an enactment to which section 3 (designation of general customs officials) applies.
- (6) This section applies to—
- (a) an enactment passed or made before the end of the session in which this Act is passed,
 - [^{F3}(aa) sections 98 and 99 of the Energy Act 2013 (HMRC functions in relation to Office for Nuclear Regulation etc.),] and
 - (b) an instrument or document issued before the passing of this Act.
- (7) This includes—
- (a) section 5(2)(b) of the Commissioners for Revenue and Customs Act 2005 (c. 11) (Commissioners' initial functions),
 - (b) section 9 of that Act (ancillary powers),
 - (c) section 25A(2) of that Act (certificates of debt),
 - (d) section 31 of that Act (obstruction), and
 - (e) section 33 of that Act (power of arrest) other than in its application to an offence under section 30 of that Act (impersonation),
- but does not include any other enactment contained in that Act.
- (8) In this Part “general customs function” means—
- (a) a function that is exercisable—
 - (i) by the Secretary of State by virtue of this section, or
 - (ii) by general customs officials by virtue of section 3,
 - (b) a function that is conferred on general customs officials or the Secretary of State by or by virtue of any of sections 22 to 24 (investigations and detention), or
 - (c) a function under [^{F4}[^{F5}assimilated] law] that is exercisable by the Secretary of State or general customs officials in relation to a matter—
 - (i) in relation to which functions under [^{F4}[^{F5}assimilated] law] are exercisable by the Commissioners or officers of Revenue and Customs, and
 - (ii) that is not listed in paragraphs (a) to (e) of subsection (2).

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Textual Amendments

- F1** Words in s. 1(2)(d) substituted (26.6.2017) by [The Money Laundering, Terrorist Financing and Transfer of Funds \(Information on the Payer\) Regulations 2017](#) (S.I. 2017/692), reg. 1(2), **Sch. 7 para. 8(a)** (with regs. 8, 15)
- F2** Words in s. 1(2)(e) substituted (26.6.2017) by [The Money Laundering, Terrorist Financing and Transfer of Funds \(Information on the Payer\) Regulations 2017](#) (S.I. 2017/692), reg. 1(2), **Sch. 7 para. 8(b)** (with regs. 8, 15)
- F3** S. 1(6)(aa) inserted (1.4.2014) by [Energy Act 2013](#) (c. 32), s. 156(1), **Sch. 12 para. 101(2)**; S.I. 2014/251, art. 4
- F4** Words in s. 1(8)(c) substituted (31.12.2020) by [The Immigration, Nationality and Asylum \(EU Exit\) Regulations 2019](#) (S.I. 2019/745), regs. 1(2), **19(2)**; 2020 c. 1, Sch. 5 para. 1(1)
- F5** Word in s. 1(8)(c) substituted (1.1.2024) by [The Retained EU Law \(Revocation and Reform\) Act 2023 \(Consequential Amendment\) Regulations 2023](#) (S.I. 2023/1424), reg. 1(2), **Sch. para. 69(2)(a)**

2 Power of Secretary of State to modify functions

- (1) The Secretary of State may by order—
- (a) amend section 1(2) (matters that are general customs matters) so as to add, modify or remove a matter;
 - (b) amend that section so as to exclude its application in relation to a function of the Commissioners for Her Majesty's Revenue and Customs or to modify or remove a reference to a function previously so excluded;
 - (c) make provision for that section to apply in relation to a function conferred on the Commissioners by an enactment passed or made after the end of the session in which this Act is passed;
 - (d) modify any enactment (including an enactment passed or made after the passing of this Act) in consequence of provision made under any of paragraphs (a) to (c);
 - (e) make provision for a function of the Secretary of State or general customs officials to be treated, or not to be treated, as a general customs function.
- (2) The power under subsection (1)(a) may not be exercised to add any of the following to section 1(2)—
- (a) a matter listed in Schedule 1 to the Commissioners for Revenue and Customs Act 2005 (c. 11),
 - (b) value added tax,
 - (c) a customs revenue matter (as to which, see section 7), or
 - (d) a matter listed at section 7(2)(e).
- (3) The Secretary of State must consult the Treasury before exercising the power under this section.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 54A(3A)(3B) inserted by [2023 c. 37 s. 14](#)