



Finance Act 2013

2013 CHAPTER 29

PART 6

OTHER PROVISIONS

Powers

224 Powers under Proceeds of Crime Act 2002

Schedule 48 makes provision for, and in connection with, conferring powers under Chapter 3 of Part 5 and Chapters 2 and 3 of Part 8 of the Proceeds of Crime Act 2002 on officers of Revenue and Customs.

225 Definition of “goods” for certain customs purposes

In section 1(1) of CEMA 1979 (interpretation), in the definition of “goods”, for “baggage” substitute “containers”.

226 Power to detain goods

(1) Section 139 of CEMA 1979 (provisions as to detention, seizure and condemnation of goods etc) is amended as follows.

(2) After subsection (1) insert—

“(1A) A person mentioned in subsection (1) who reasonably suspects that any thing may be liable to forfeiture under the customs and excise Acts may detain that thing.

(1B) References in this section and Schedule 2A to a thing detained as liable to forfeiture under the customs and excise Acts include a thing detained under subsection (1A).”

(3) In subsection (2), for the words from “either” to the end substitute “deliver that thing to an officer”.

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- (4) In subsection (4), for “the Commissioners at the nearest office of customs and excise” substitute “ an officer ”.
- (5) In subsection (5), for “Schedule 3” substitute “ Schedules 2A and 3 ”.
- (6) After that subsection insert—
 - “(5A) Schedule 2A contains supplementary provisions relating to the detention of things as liable to forfeiture under the customs and excise Acts.”
- (7) After Schedule 2 to that Act (composite goods: supplementary provisions as to excise duties and drawbacks) insert—

“SCHEDULE 2A

Section 139(5A)

SUPPLEMENTARY PROVISIONS RELATING TO THE
DETENTION OF THINGS AS LIABLE TO FORFEITURE

Interpretation

- 1 In this Schedule, references (however expressed) to a thing being detained are references to a thing being detained as liable to forfeiture under the customs and excise Acts.

Period of detention

- 2 (1) This paragraph applies where a thing is detained.
- (2) The thing may be detained for 30 days beginning with the day on which the thing is first detained.
- (3) The thing is deemed to be seized as liable to forfeiture under the customs and excise Acts if its detention ceases to be authorised under this paragraph.

Notice of detention

- 3 (1) The Commissioners must take reasonable steps to give written notice of the detention of any thing, and of the grounds for the detention, to any person who to their knowledge was, at the time of the detention, the owner or one of the owners of the thing.
- (2) But notice need not be given under sub-paragraph (1) if the detention occurred in the presence of—
 - (a) the person whose offence or suspected offence occasioned the detention,
 - (b) the owner or any of the owners of the thing detained or any servant or agent of such an owner, or
 - (c) in the case of any thing detained on a ship or aircraft, the master or commander.

Unauthorised removal or disposal: penalties etc

- 4 (1) This paragraph applies where a thing is detained and, with the agreement of a person within sub-paragraph (2) (“the responsible person”), the thing remains

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at the place where it is first detained (rather than being removed and detained elsewhere).

- (2) A person is within this sub-paragraph if the person is—
 - (a) the owner or any of the owners of the thing at the time it was detained or any servant or agent of such an owner, or
 - (b) a person whom the person who detains the thing reasonably believes to be a person within paragraph (a).
- (3) If the responsible person fails to prevent the unauthorised removal or disposal of the thing from the place where it is detained, that failure attracts a penalty under section 9 of the Finance Act 1994 (civil penalties).
- (4) The removal or disposal of the thing is unauthorised unless it is done with the permission of a proper officer of Revenue and Customs.
- (5) Where any duty of excise is payable in respect of the thing—
 - (a) the penalty is to be calculated by reference to the amount of that duty (whether it has been paid or not), and
 - (b) section 9 of the Finance Act 1994 has effect as if in subsection (2)(a) the words “5 per cent of” were omitted.
- (6) If no duty of excise is payable in respect of the thing, that section has effect as if the penalty provided for by subsection (2)(b) of that section were whichever is the greater of—
 - (a) the value of the thing at the time it was first detained, or
 - (b) £250.

- 5 (1) This paragraph applies where—
 - (a) a thing is detained at a revenue trader's premises,
 - (b) the thing is liable to forfeiture under the customs and excise Acts, and
 - (c) without the permission of a proper officer of Revenue and Customs, the thing is removed from the trader's premises, or otherwise disposed of, by any person.
- (2) The Commissioners may seize, as liable to forfeiture under the customs and excise Acts, goods of equivalent value to the thing, from the revenue trader's stock.
- (3) For the purposes of this paragraph, a revenue trader's premises include any premises used to hold or store anything for the purposes of the revenue trader's trade, regardless of who owns or occupies the premises.”

- (8) The amendments made by this section have effect in relation to things detained on or after the day on which this Act is passed.

227 Penalty instead of forfeiture of larger ships

- (1) Section 143 of CEMA 1979 (penalty in lieu of forfeiture of larger ship where responsible officer is implicated in offence) is amended as follows.
- (2) For subsection (1) (Commissioners' power to impose fine up to £50) substitute—
 - “(1) This section applies where—

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- (a) any ship of 250 or more tons register would, but for section 142, be liable to forfeiture for, or in connection with, any offence under the customs and excise Acts, and
 - (b) in the opinion of the Commissioners, a responsible officer of the ship is implicated either by the officer's own act, or by neglect, in that offence."
- (3) In subsection (3) (Commissioners' power to bring condemnation proceedings)—
 - (a) for the words from the beginning to the first "they" substitute " The Commissioners ", and
 - (b) for "£500" substitute " £10,000 ".
- (4) In subsection (4) (power to detain ship pending payment of deposit against fine or condemnation proceedings)—
 - (a) for the words from the beginning to "section, the" substitute " The ",
 - (b) for "£50 or, as the case may be, £500" substitute " £10,000 ", and
 - (c) omit "their final decision or, as the case may be,".
- (5) In paragraph (a) of subsection (6) (definition of "responsible officer")—
 - (a) after "means" insert " a person who is, or is acting as, ",
 - (b) for "or an engineer" substitute " , an engineer or the bosun ", and
 - (c) omit the words from "and, in the case of a ship manned" to the end.
- (6) After that subsection insert—
 - "(7) If the Treasury consider that there has been a change in the value of money since the Finance Act 2013 was passed or, as the case may be, since the last occasion when the power conferred by this subsection was exercised, they may by order substitute for the sum for the time being specified in subsections (3) and (4) such other sum as appears to them to be justified by the change.
 - (8) An order under subsection (7) may not vary the penalty for any conduct occurring before the coming into force of the order.
 - (9) An order under subsection (7) must be made by statutory instrument.
 - (10) A statutory instrument containing an order under subsection (7) is subject to annulment in pursuance of a resolution of either House of Parliament."

228 Data-gathering from merchant acquirers etc

- (1) In Part 2 of Schedule 23 to FA 2011 (data-gathering powers: relevant data-holders), after paragraph 13 insert—

"Merchant acquirers etc

- 13A (1) A person who has a contractual obligation to make payments to retailers in settlement of payment card transactions is a relevant data-holder.
- (2) In this paragraph—
 - "payment card" includes a credit card, a charge card and a debit card;
 - "payment card transaction" means any transaction in which a payment card is accepted as payment;

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“retailer” means a person who accepts a payment card as payment for any transaction.

- (3) In this paragraph any reference to a payment card being accepted as payment includes a reference to any account number or other indicators associated with a payment card being accepted as payment.”
- (2) This section applies in relation to relevant data with a bearing on any period (whether before, on or after the day on which this Act is passed).

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