



# Customs and Excise Management Act 1979

## 1979 CHAPTER 2

### PART IV

#### CONTROL OF IMPORTATION

##### *Forfeiture, offences, etc. in connection with importation*

#### **49 Forfeiture of goods improperly imported.**

(1) Where—

- (a) except as provided by or under the Customs and Excise Acts 1979, any imported goods, being goods chargeable on their importation with customs or excise duty, are, without payment of that duty—
  - (i) unshipped in any port,
  - (ii) unloaded from any aircraft in the United Kingdom,
  - (iii) unloaded from any vehicle in, or otherwise brought across the boundary into, Northern Ireland, or
  - (iv) removed from their place of importation or from any approved wharf, examination station or transit shed; or
- (b) any goods are imported, landed or unloaded contrary to any prohibition or restriction for the time being in force with respect thereto under or by virtue of any enactment; or
- (c) any goods, being goods chargeable with any duty or goods the importation of which is for the time being prohibited or restricted by or under any enactment, are found, whether before or after the unloading thereof, to have been concealed in any manner on board any ship or aircraft or, while in Northern Ireland, in any vehicle; or
- (d) any goods are imported concealed in a container holding goods of a different description; or

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- (e) any imported goods are found, whether before or after delivery, not to correspond with the entry made thereof; or
  - (f) any imported goods are concealed or packed in any manner appearing to be intended to deceive an officer, those goods shall, subject to subsection (2) below, be liable to forfeiture.
- (2) Where any goods, the importation of which is for the time being prohibited or restricted by or under any enactment, are on their importation either—
- (a) reported as intended for exportation in the same ship, aircraft or vehicle; or
  - (b) entered for transit or transshipment; or
  - (c) entered to be warehoused for exportation or for use as stores,
- the Commissioners may, if they see fit, permit the goods to be dealt with accordingly.

**Modifications etc. (not altering text)**

- C1** S. 49 modified by [S.I. 1986/260](#), [regs. 5\(e\)](#), 18
- C2** S. 49(1) amended by [S.I. 1990/2167](#), [art. 4](#), [Sch. para. 7](#)
- C3** S. 49(1)(a) modified by [S.I. 1983/947](#), [regs. 12](#), [13](#) (which S.I. is revoked 1.1.1993 by [S.I. 1992/3152](#), [reg. 1\(2\)](#))
- C4** S. 49(1)(a) amended by [S.I. 1985/1032](#), [reg. 11\(a\)](#) (which S.I. is revoked 1.1.1993 by [S.I. 1992/3152](#), [reg. 1\(2\)](#))  
 S. 49(1)(a) amended (1.11.1996) by [S.I. 1992/3152](#), [reg. 11\(a\)](#) (as amended (1.11.1996) by [S.I. 1996/2537](#), [reg. 15\(b\)](#)).

**50 Penalty for improper importation of goods.**

- (1) Subsection (2) below applies to goods of the following descriptions, that is to say—
- (a) goods chargeable with a duty which has not been paid; and
  - (b) goods the importation, landing or unloading of which is for the time being prohibited or restricted by or under any enactment.
- (2) If any person with intent to defraud Her Majesty of any such duty or to evade any such prohibition or restriction as is mentioned in subsection (1) above—
- (a) unships or lands in any port or unloads from any aircraft in the United Kingdom or from any vehicle in Northern Ireland any goods to which this subsection applies, or assists or is otherwise concerned in such unshipping, landing or unloading; or
  - (b) removes from their place of importation or from any approved wharf, examination station, transit shed or customs and excise station any goods to which this subsection applies or assists or is otherwise concerned in such removal,
- he shall be guilty of an offence under this subsection and may be detained.
- (3) If any person imports or is concerned in importing any goods contrary to any prohibition or restriction for the time being in force under or by virtue of any enactment with respect to those goods, whether or not the goods are unloaded, and does so with intent to evade the prohibition or restriction, he shall be guilty of an offence under this subsection and may be detained.
- (4) Subject to subsection <sup>[F1(5), (5A) or (5B)]</sup>below, a person guilty of an offence under subsection (2) or (3) above shall be liable—

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- (a) on summary conviction, to a penalty of the prescribed sum or of three times the value of the goods, whichever is the greater, or to imprisonment for a term not exceeding 6 months, or to both; or
  - (b) on conviction on indictment, to a penalty of any amount, or to imprisonment for a term not exceeding [<sup>F2</sup>7 years], or to both.
- (5) In the case of an offence under subsection (2) or (3) above in connection with a prohibition or restriction on importation having effect by virtue of section 3 of the <sup>M1</sup>Misuse of Drugs Act 1971, subsection (4) above shall have effect subject to the modifications specified in Schedule 1 to this Act.

[<sup>F3</sup>(5A) In the case of—

- (a) an offence under subsection (2) or (3) above committed in Great Britain in connection with a prohibition or restriction on the importation of any weapon or ammunition that is of a kind mentioned in section 5(1)(a), (ab), (aba), (ac), (ad), (ae), (af) or (c) or (1A)(a) of the Firearms Act 1968,
- (b) any such offence committed in Northern Ireland in connection with a prohibition or restriction on the importation of any weapon or ammunition that is of a kind mentioned in [<sup>F4</sup>Article 6(1)(a), (ab), (ac), (ad), (ae) or (c) or (1A)(a)] [<sup>F4</sup>Article 45(1)(a), [<sup>F5</sup>(aa) ] (b), (c), (d), (e) or (g) or (2)(a)] of the Firearms (Northern Ireland) Order [<sup>F6</sup>1981] [<sup>F6</sup>2004], or
- (c) any such offence committed in connection with the prohibition contained in section 20 of the Forgery and Counterfeiting Act 1981,

subsection (4)(b) above shall have effect as if for the words “7 years” there were substituted the words “10 years ”.]

[<sup>F7</sup>(5B) In the case of an offence under subsection (2) or (3) above in connection with the prohibition contained in regulation 2 of the Import of Seal Skins Regulations 1996, subsection (4) above shall have effect as if—

- (a) for paragraph (a) there were substituted the following—
  - “(a) on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding three months, or to both”; and
- (b) in paragraph (b) for the words “7 years” there were substituted the words “2 years ”]

(6) If any person—

- (a) imports or causes to be imported any goods concealed in a container holding goods of a different description; or
- (b) directly or indirectly imports or causes to be imported or entered any goods found, whether before or after delivery, not to correspond with the entry made thereof,

he shall be liable on summary conviction to a penalty of three times the value of the goods or [<sup>F8</sup>level 3 on the standard scale], whichever is the greater.

(7) In any case where a person would, apart from this subsection, be guilty of—

- (a) an offence under this section in connection with the importation of goods contrary to a prohibition or restriction; and
- (b) a corresponding offence under the enactment or other instrument imposing the prohibition or restriction, being an offence for which a fine or other penalty is expressly provided by that enactment or other instrument,

he shall not be guilty of the offence mentioned in paragraph (a) of this subsection.

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#### Textual Amendments

- F1** Words in s. 50(4) substituted (15.11.1996) by S.I. 1996/2686, **art. 4(a)**
- F2** Words substituted by **Finance Act 1988 (c. 33, SIF 40:1), s. 12(1)(a)(6)**
- F3** S. 50(5A) substituted (22.1.2004) by **Criminal Justice Act 2003 (c. 44), ss. 293(2), 336(3), (4) (with s. 293(5)); S.I. 2004/81, art. 3(1)(2)(b)**
- F4** Words in s. 50(5A)(b) substituted (N.I.) (1.2.2005) by **The Firearms (Northern Ireland) Order 2004 (S.I. 2004/702), art. 1(3), Sch. 7 para. 3 (with art. 81); S.R. 2005/4, art. 3 (with arts. 4-7)**
- F5** Word in s. 50(5A)(b) inserted (N.I.) (20.9.2005) by **The Firearms (Amendment) (Northern Ireland) Order 2005 (S.I. 2005/1966), arts. 1(2), 3(4)(a)**
- F6** Word in s. 50(5A)(b) substituted (N.I.) (1.2.2005) by **The Firearms (Northern Ireland) Order 2004 (S.I. 2004/702), art. 1(3), Sch. 7 para. 3 (with art. 81); S.R. 2005/4, art. 3 (with arts. 4-7)**
- F7** S. 50(5B) inserted (15.11.1996) by S.I. 1996/2686, **reg. 4(1)(b)**
- F8** Words substituted by virtue of (E.W.) **Criminal Justice Act 1982 (c.48, SIF 39:1), ss. 38, 46 and (S.) Criminal Procedure (Scotland) Act 1975 (c.21, SIF 39:1), ss. 289F, 289G and (N.I.) by S.I. 1984/703, (N.I. 3) arts. 5, 6**

#### Modifications etc. (not altering text)

- C5** S. 50 applied (31.3.2002) by S.I. 2002/528, **reg. 5(4)**
- C6** S. 50(2) amended by S.I. 1990/2167, **art. 4, Sch. para. 8**

#### Marginal Citations

- M1** 1971 c. 38.

## 51 Special provisions as to proof in Northern Ireland.

- (1) If goods of any class or description chargeable with duty on their importation from the Republic of Ireland are found in the possession or control of any person <sup>F9</sup> in Northern Ireland, any officer or any person having by law in Northern Ireland the powers of an officer may require that person to furnish proof that the goods have not been imported from the Republic of Ireland or that the duty chargeable on their importation has been paid.
- (2) If proof of any matter is required to be furnished in relation to any goods under subsection (1) above but is not furnished to the satisfaction of the Commissioners, the goods shall, for the purposes of proceedings under the customs and excise Acts, be deemed to have been unlawfully imported from the Republic of Ireland without payment of duty, unless the contrary is proved.

#### Textual Amendments

- F9** Words repealed by **Finance Act 1983 (c. 28, SIF 40:1), s. 7(5), Sch. 10 Pt. I**

#### Modifications etc. (not altering text)

- C7** S. 51 amended by S.I. 1985/1032, **reg. 11(a)** (which S.I. is revoked 1.1.1993 by S.I. 1992/3152, **reg. 1(2)**)
- C8** S. 51 modified by S.I. 1983/947, **regs. 12, 13** (which S.I. is revoked 1.1.1993 by S.I. 1992/3152, **reg. 1(2)**)
- C9** S. 51 amended (1.1.1993) by S.I. 1992/3152, **reg. 11(a)**.

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