



Customs and Excise Management Act 1979

1979 CHAPTER 2

PART XI

DETENTION OF PERSONS, FORFEITURE AND LEGAL PROCEEDINGS

Modifications etc. (not altering text)

C1 Pt. XI amended by [Customs and Excise Duties \(General Reliefs\) Act 1979 \(c. 3\), s. 15\(4\)](#)

Detention of persons

138 Provisions as to detention of persons.

- (1) Any person who has committed, or whom there are reasonable grounds to suspect of having committed, any offence for which he is liable to be detained under the customs and excise Acts may be detained by any officer ^{F1}or any member of Her Majesty's armed forces or coastguard at any time within [^{F2}20 years] from the date of the commission of the offence.
- (2) Where it was not practicable to detain any person so liable at the time of the commission of the offence, or where any such person having been then or subsequently detained for that offence has escaped, he may be detained by any officer ^{F1}or any member of Her Majesty's armed forces or coastguard at any time and may be proceeded against in like manner as if the offence had been committed at the date when he was finally detained.
- (3) Where any person who is a member of the crew of any ship in Her Majesty's employment or service is detained by an officer for an offence under the customs and excise Acts, the commanding officer of the ship shall, if so required by the detaining officer, keep that person secured on board that ship until he can be brought before a court and shall then deliver him up to the proper officer.

Status: Point in time view as at 01/02/1991.

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- [^{F3}(4) Where any person has been arrested by a person who is not an officer—
- (a) by virtue of this section; or
 - (b) by virtue of section 24 of the Police and Criminal Evidence Act 1984 in its application to offences under the customs and excise Acts, [^{F4}or
 - (c) by virtue of Article 26 of the Police and Criminal Evidence (Northern Ireland) Order 1989 in its application to such offences,]
- the person arresting him shall give notice of the arrest to an officer at the nearest convenient office of customs and excise.]

Textual Amendments

- F1** Words repealed by [Police and Criminal Evidence Act 1984 \(c. 60, SIF 95\)](#), s. 119, [Sch. 7 Pt. I](#) and by [S.I. 1989/1341 \(N.I. 12\)](#), art. 90(2)(3), [Sch. 7 Pt. I](#)
- F2** Words substituted by [Finance Act 1988 \(c. 39, SIF 40:1\)](#), s. [11\(1\)\(3\)](#)
- F3** S. 138(4) substituted by [Police and Criminal Evidence Act 1984 \(c. 60, SIF 95\)](#), s. 119(1), [Sch. 6 para. 37](#)
- F4** Words added by [S.I. 1989/1341 \(N.I. 12\)](#), art. 90(1), [Sch. 6 para. 9](#)

Modifications etc. (not altering text)

- C2** S. 138 amended (2.8.1993) by [S.I. 1993/1813](#), art. 6, [Sch. 3 para. 2\(1\)\(a\)\(2\)\(c\)](#); s. 138 amended by the said [S.I. 1993/1813](#), art. 6, [Sch. 3 para. 2](#) as incorporated (with modifications) (1.12.1997) by [S.I. 1994/1405](#), art. 6, [Sch. 3 para. 3](#)
- S. 138 applied (1.3.1995) by [S.I. 1995/271](#), [reg. 12\(1\)](#)
- S. 138 applied (15.11.1996) by [S.I. 1996/2721](#), [reg. 12\(1\)](#)
- S. 138 applied (with modifications) (15.7.1998) by [S.I. 1998/1531](#), [reg. 4\(3\)](#)
- S. 138 applied (1.5.1999) by [S.I. 1999/1261](#), [reg. 4\(3\)](#)
- S. 138 applied (14.10.1999) by [S.I. 1999/2821](#), [reg. 4\(3\)](#)
- S. 138 applied (14.10.1999) by [S.I. 1999/2822](#), [reg. 4\(3\)](#)
- S. 138 applied (25.5.2000) by [S.I. 2000/1408](#), [reg. 3\(3\)](#)
- S. 138 applied (28.9.2000) by [S.I. 2000/2620](#), [reg. 12\(1\)](#)
- S. 138 applied (31.3.2002) by [S.I. 2002/868](#), [reg. 4\(3\)](#)

Forfeiture

139 Provisions as to detention, seizure and condemnation of goods, etc.

- (1) Any thing liable to forfeiture under the customs and excise Acts may be seized or detained by any officer or constable or any member of Her Majesty's armed forces or coastguard.
- (2) Where any thing is seized or detained as liable to forfeiture under the customs and excise Acts by a person other than an officer, that person shall, subject to subsection (3) below, either—
 - (a) deliver that thing to the nearest convenient office of customs and excise; or
 - (b) if such delivery is not practicable, give to the Commissioners at the nearest convenient office of customs and excise notice in writing of the seizure or detention with full particulars of the thing seized or detained.
- (3) Where the person seizing or detaining any thing as liable to forfeiture under the customs and excise Acts is a constable and that thing is or may be required for use

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in connection with any proceedings to be brought otherwise than under those Acts it may, subject to subsection (4) below, be retained in the custody of the police until either those proceedings are completed or it is decided that no such proceedings shall be brought.

- (4) The following provisions apply in relation to things retained in the custody of the police by virtue of subsection (3) above, that is to say—
- (a) notice in writing of the seizure or detention and of the intention to retain the thing in question in the custody of the police, together with full particulars as to that thing, shall be given to the Commissioners at the nearest convenient office of customs and excise;
 - (b) any officer shall be permitted to examine that thing and take account thereof at any time while it remains in the custody of the police;
 - (c) nothing in the ^{M1}Police (Property) Act 1897 shall apply in relation to that thing.
- (5) Subject to subsections (3) and (4) above and to Schedule 3 to this Act, any thing seized or detained under the customs and excise Acts shall, pending the determination as to its forfeiture or disposal, be dealt with, and, if condemned or deemed to have been condemned or forfeited, shall be disposed of in such manner as the Commissioners may direct.
- (6) Schedule 3 to this Act shall have effect for the purpose of forfeitures, and of proceedings for the condemnation of any thing as being forfeited, under the customs and excise Acts.
- (7) If any person, not being an officer, by whom any thing is seized or detained or who has custody thereof after its seizure or detention, fails to comply with any requirement of this section or with any direction of the Commissioners given thereunder, he shall be liable on summary conviction to a penalty of [^{F5}level 2 on the standard scale].
- (8) Subsections (2) to (7) above shall apply in relation to any dutiable goods seized or detained by any person other than an officer notwithstanding that they were not so seized as liable to forfeiture under the customs and excise Acts.

Textual Amendments

- F5** Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [s. 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), [s. 289G](#) and (N.I.) by [S.I. 1984/703](#), (N.I. 3) art. 5

Modifications etc. (not altering text)

- C3** [S. 139](#) extended by [S.I. 1987/1521](#), [reg. 3\(2\)](#); [1987/2105](#), reg. 5(1); [1988/1476](#), art. 5(1)
- C4** [S. 139](#) extended (E.W.S.) by [Scotch Whisky Act 1988 \(c. 22, SIF 109:1\)](#), [s. 1\(4\)](#)
- C5** [S. 139](#) amended by [S.I. 1988/1852 \(N.I. 19\)](#), [art. 4\(2\)](#)
- C6** [S. 139](#) extended (01.01.1992) by [S.I. 1991/2724](#), [reg. 10\(1\)](#)
[S. 139](#) extended (01.01.1992) by [S.I. 1991/2725](#), [reg. 6\(1\)](#)
- C7** [S. 139](#) extended (01.01.1992) by [S.I. 1991/2727](#), [reg. 7\(1\)](#)
- C8** [S. 139](#) applied (23.6.1993) by [S.I. 1993/1353](#), [reg. 4\(1\)](#)
[S. 139](#) applied (1.7.1995) (with modifications) by [S.I. 1995/1447](#), [reg. 4\(1\)](#)

Marginal Citations

- M1** [1897 c. 30](#).

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140 Forfeiture of spirits.

Where, by any provision of, or of any instrument made under, the Customs and Excise Acts 1979, any spirits become liable to forfeiture by reason of some offence committed by a revenue trader, then—

- (a) where that provision specifies the quantity of those spirits but does not specify the spirits so liable, the Commissioners may seize the equivalent of that quantity^{F6} from any spirits in the stock of that trader; and
- (b) where that provision specifies the spirits so liable the Commissioners may, if they think fit, seize instead of the spirits so specified an equivalent quantity^{F6} of any other spirits in the stock of that trader.

Textual Amendments

F6 Words repealed by [S.I. 1979/241](#), [arts. 39, 41](#)

141 Forfeiture of ships, etc. used in connection with goods liable to forfeiture.

- (1) Without prejudice to any other provision of the Customs and Excise Acts 1979, where any thing has become liable to forfeiture under the customs and excise Acts—
 - (a) any ship, aircraft, vehicle, animal, container (including any article of passengers' baggage) or other thing whatsoever which has been used for the carriage, handling, deposit or concealment of the thing so liable to forfeiture, either at a time when it was so liable or for the purposes of the commission of the offence for which it later became so liable; and
 - (b) any other thing mixed, packed or found with the thing so liable, shall also be liable to forfeiture.
- (2) Where any ship, aircraft, vehicle or animal has become liable to forfeiture under the customs and excise Acts, whether by virtue of subsection (1) above or otherwise, all tackle, apparel or furniture thereof shall also be liable to forfeiture.
- (3) Where any of the following, that is to say—
 - (a) any ship not exceeding 100 tons register;
 - (b) any aircraft; or
 - (c) any hovercraft,

becomes liable to forfeiture under this section by reason of having been used in the importation, exportation or carriage of goods contrary to or for the purpose of contravening any prohibition or restriction for the time being in force with respect to those goods, or without payment having been made of, or security given for, any duty payable thereon, the owner and the master or commander shall each be liable on summary conviction to a penalty equal to the value of the ship, aircraft or hovercraft or [^{F7}level 5 on the standard scale], whichever is the less.

Textual Amendments

F7 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

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Modifications etc. (not altering text)

- C9** S. 141 amended by S.I. 1988/1852 (N.I. 19), **art. 4(2)**
C10 S. 141 extended (E.W.S.) by Scotch Whisky Act 1988 (c. 22, SIF 109:1), **s. 1(4)**
C11 S. 141(3) amended by S.I. 1990/2167, art. 4, **Sch. para. 21**

142 Special provision as to forfeiture of larger ships.

- (1) Notwithstanding any other provision of the Customs and Excise Acts 1979, a ship of 250 or more tons register shall not be liable to forfeiture under or by virtue of any provision of the Customs and Excise Acts 1979, except under section 88 above, unless the offence in respect of or in connection with which the forfeiture is claimed—
- (a) was substantially the object of the voyage during which the offence was committed; or
 - (b) was committed while the ship was under chase by a vessel in the service of Her Majesty after failing to bring to when properly summoned to do so by that vessel.
- (2) For the purposes of this section, a ship shall be deemed to have been properly summoned to bring to—
- (a) if the vessel making the summons did so by means of an international signal code or other recognised means and while flying her proper ensign; and
 - (b) in the case of a ship which is not a British ship, if at the time when the summons was made the ship was [^{F8}in United Kingdom waters].
- (3) For the purposes of this section, all hovercraft (of whatever size) shall be treated as ships of less than 250 tons register.
- (4) The exemption from forfeiture of any ship under this section shall not affect any liability to forfeiture of goods carried therein.

Textual Amendments

- F8** Words substituted by **Territorial Sea Act 1987 (c. 49, SIF 29:1), s. 3 para. 4(3)(d)**

143 Penalty in lieu of forfeiture of larger ship where responsible officer implicated in offence.

- (1) Where any ship of 250 or more tons register would, but for section 142 above, be liable to forfeiture for or in connection with any offence under the customs and excise Acts and, in the opinion of the Commissioners, a responsible officer of the ship is implicated either by his own act or by neglect in that offence, the Commissioners may fine that ship such sum not exceeding £50 as they see fit.
- (2) For the purposes of this section, all hovercraft (of whatever size) shall be treated as ships of less than 250 tons register.
- (3) Where any ship is liable to a fine under subsection (1) above but the Commissioners consider that fine an inadequate penalty for the offence, they may take proceedings in accordance with Schedule 3 to this Act, in like manner as they might but for section 142 above have taken proceedings for the condemnation of the ship if notice of claim had been given in respect thereof, for the condemnation of the ship in such sum not exceeding £500 as the court may see fit.

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- (4) Where any fine is to be imposed or any proceedings are to be taken under this section, the Commissioners may require such sum as they see fit, not exceeding £50 or, as the case may be, £500, to be deposited with them to await their final decision or, as the case may be, the decision of the court, and may detain the ship until that sum has been so deposited.
- (5) No claim shall lie against the Commissioners for damages in respect of the payment of any deposit or the detention of any ship under this section.
- (6) For the purposes of this section—
 - (a) “responsible officer”, in relation to any ship, means the master, a mate or an engineer of the ship and, in the case of a ship carrying a passenger certificate, the purser or chief steward and, in the case of a ship manned wholly or partly by Asiatic seamen, the serang or other leading Asiatic officer of the ship;
 - (b) without prejudice to any other grounds upon which a responsible officer of any ship may be held to be implicated by neglect, he may be so held if goods not owned to by any member of the crew are discovered in a place under that officer’s supervision in which they could not reasonably have been put if he had exercised proper care at the time of the loading of the ship or subsequently.

144 Protection of officers, etc. in relation to seizure and detention of goods, etc.

- (1) Where, in any proceedings for the condemnation of any thing seized as liable to forfeiture under the customs and excise Acts, judgment is given for the claimant, the court may, if it sees fit, certify that there were reasonable grounds for the seizure.
- (2) Where any proceedings, whether civil or criminal, are brought against the Commissioners, a law officer of the Crown or any person authorised by or under the Customs and Excise Acts 1979 to seize or detain any thing liable to forfeiture under the customs and excise Acts on account of the seizure or detention of any thing, and judgment is given for the plaintiff or prosecutor, then if either—
 - (a) a certificate relating to the seizure has been granted under subsection (1) above; or
 - (b) the court is satisfied that there were reasonable grounds for seizing or detaining that thing under the customs and excise Acts,
 the plaintiff or prosecutor shall not be entitled to recover any damages or costs and the defendant shall not be liable to any punishment.
- (3) Nothing in subsection (2) above shall effect any right of any person to the return of the thing seized or detained or to compensation in respect of any damage to the thing or in respect of the destruction thereof.
- (4) Any certificate under subsection (1) above may be proved by the production of either the original certificate or a certified copy thereof purporting to be signed by an officer of the court by which it was granted.

Modifications etc. (not altering text)

- C12** S. 144 extended by S.I. 1987/1521, **reg. 3(2)(a)**
- C13** Ss. 144-148, 150-155 applied (01.01.1992) by S.I. 1991/2724, **reg. 10(2)**
 Ss. 144-148, 150-155 applied (01.01.1992) by S.I. 1991/2725, **reg. 6(2)**
- C14** Ss. 144-148, 150-155 applied (01.01.1992) by S.I. 1991/2727, **reg. 7(2)**

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- C15** Ss. 144-148, 150-155 applied (23.6.1993) by S.I. 1993/1353, **reg. 4(2)**.
S. 144 applied (1.7.1995) (with modifications) by S.I. 1995/1447, **reg. 4(1)(a)**
S. 144 applied (1.7.1999) (with modifications) by S.I. 1999/1618, **regs. 5(1)(a), 6**
S. 144 applied (1.7.1999) by S.I. 1999/1618, **reg. 6(4)**

General provisions as to legal proceedings

145 Institution of proceedings.

- (1) Subject to the following provisions of this section, no proceedings for an offence under the customs and excise Acts or for condemnation under Schedule 3 to this Act shall be instituted except by order of the Commissioners.
- (2) Subject to the following provisions of this section, any proceedings under the customs and excise Acts instituted in a magistrates' court, and any such proceedings instituted in a court of summary jurisdiction in Northern Ireland, shall be commenced in the name of an officer.
- (3) Subsections (1) and (2) above shall not apply to proceedings on indictment in Scotland.
- (4) In the case of the death, removal, discharge or absence of the officer in whose name any proceedings were commenced under subsection (2) above, those proceedings may be continued by any officer authorised in that behalf by the Commissioners.
- (5) Nothing in the foregoing provisions of this section shall prevent the institution of proceedings for an offence under the customs and excise Acts by order and in the name of a law officer of the Crown in any case in which he thinks it proper that proceedings should be so instituted.
- (6) Notwithstanding anything in the foregoing provisions of this section, where any person has been detained for any offence for which he is liable to be detained under the customs and excise Acts, any court before which he is brought may proceed to deal with the case although the proceedings have not been instituted by order of the Commissioners or have not been commenced in the name of an officer.

Modifications etc. (not altering text)

- C16** Ss. 145, 146 extended by **Car Tax Act 1983 (c. 53, SIF 40:2), s. 1(4), Sch. 1 para. 8(8), Value Added Tax Act 1983 (c. 55, SIF 40:2), s. 39(9), S.I. 1987/1521, reg. 3(2)(b); 1987/2105, reg. 5(2) and 1988/1476, art. 5(2)**
- C17** Ss. 145-148 applied (31.3.2002) by S.I. 2002/868, **reg. 4(4)**
- C18** S. 145(1)-(4) excluded (31.3.2002) by S.I. 2002/868, **reg. 4(5)**
- C19** Ss. 144-148, 150-155 applied (01.01.1992) by S.I. 1991/2724, **reg. 10(2)**
Ss. 144-148, 150-155 applied (01.01.1992) by S.I. 1991/2725, **reg. 6(2)**
- C20** Ss. 144-148, 150-155 applied (01.01.1992) by S.I. 1991/2727, **reg. 7(2)**
- C21** Ss. 145-152 extended (27.9.1993) by **1993 c. 36, ss. 71(7), 78(1)**.
- C22** Ss. 144-148, 150-155 applied (23.6.1993) by S.I. 1993/1353, **reg. 4(2)**.
- C23** Ss. 145-155 applied (3.5.1994) by **1994 c. 9, s. 64, Sch. 7 Pt. IV para. 11**
Ss. 145-155 applied (with modifications) (1.9.1994) by **1994 c. 23, ss. 72(12), 101(1), Sch. 13 para. 13 (with Sch. 13 para. 9)**
Ss. 145-155 applied (29.4.1996) by **1996 c. 8, s. 60, Sch. 5 Pt. III para. 17**
- C24** S. 145 excluded (1.9.1994) by **1994 c. 22, ss. 47(7)(a), 66(1) (with s. 57(4))**
S. 145 applied (1.7.1995) (with modifications) by S.I. 1995/1447, **reg. 4(1)(b)**

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- C25** Ss. 145-148 applied (1.3.1995) by S.I. 1995/271, **reg. 12(2)(3)**
 Ss. 145-148 applied (15.11.1996) by S.I. 1996/2721, **reg. 12(2)**
 Ss. 145-148 applied (with modifications) (15.7.1998) by S.I. 1998/1531, **reg. 4(4)(5)**
 S. 145 applied (1.7.1999) by S.I. 1999/1618, **regs. 5(1)(b), 6**
 Ss. 145-148 applied (1.5.1999) by S.I. 1999/1261, **reg. 4(4)**
 Ss. 145-148 applied (14.10.1999) by S.I. 1999/2821, **reg. 4(4)**
 Ss. 145-148 applied (14.10.1999) by S.I. 1999/2822, **reg. 4(4)**
 Ss. 145-148 applied (25.5.2000) by S.I. 2000/1408, **reg. 3(4)**
 Ss. 145-155 applied (28.7.2000) by 2000 c. 17, s. 30(1), **Sch. 6 Pt. VIII para. 96**
 Ss. 145-148 applied (28.9.2000) by S.I. 2000/2620, **reg. 12(2)**
 Ss. 145-155 applied (11.5.2001) by 2001 c. 9, s. 26(5)
 Ss. 145-155 applied (11.5.2001) by 2001 c. 9, s. 28, **Sch. 6 para. 5**
- C26** S. 145(1)-(4) excluded (1.3.1995) by S.I. 1995/271, **reg. 12(3)**
 S. 145(1)-(4) excluded (15.11.1996) by S.I. 1996/2721, **reg. 12(3)**
 S. 145(1)-(4) excluded (1.5.1999) by S.I. 1999/1261, **reg. 4(5)**
 S. 145(1)-(4) excluded (14.10.1999) by S.I. 1999/2821, **reg. 4(5)**
 S. 145(1)-(5) excluded (14.10.1999) by S.I. 1999/2822, **reg. 4(5)**

146 Service of process.

- (1) Any summons or other process issued anywhere in the United Kingdom for the purpose of any proceedings under the customs and excise Acts may be served on the person to whom it is addressed in any part of the United Kingdom without any further endorsement, and shall be deemed to have been duly served—
- (a) if delivered to him personally; or
 - (b) if left at his last known place of abode or business or, in the case of a body corporate, at their registered or principal office; or
 - (c) if left on board any vessel or aircraft to which he may belong or have lately belonged.
- (2) Any summons, notice, order or other document issued for the purposes of any proceedings under the customs and excise Acts, or of any appeal from the decision of the court in any such proceedings, may be served by an officer.

In this subsection “appeal” includes an appeal by way of case stated.

- (3) This section shall not apply in relation to proceedings instituted in the High Court or Court of Session.

Modifications etc. (not altering text)

- C27** Ss. 145, 146 extended by Car Tax Act 1983 (c. 53, SIF 40:2), s. 1(4), Sch. 1 para. 8(8), Value Added Tax Act 1983 (c. 55, SIF 40:2), s. 39(9), S.I. 1987/1521, reg. 3(2)(b); 1987/2105, reg. 5(2) and 1988/1476, art. 5(2)
- C28** Ss. 145-148 applied (31.3.2002) by S.I. 2002/868, re. 4(4)
- C29** Ss. 144-148, 150-155 applied (01.01.1992) by S.I. 1991/2724, **reg. 10(2)**
 Ss. 144-148, 150-155 applied (01.01.1992) by S.I. 1991/2725, **reg. 6(2)**
- C30** Ss. 144-148, 150-155 applied (01.01.1992) by S.I. 1991/2727, **reg. 7(2)**
- C31** Ss. 145-152 extended (27.9.1993) by 1993 c. 36, **ss. 71(7), 78.**
- C32** Ss. 144-148, 150-155 applied (23.6.1993) by S.I. 1993/1353, **reg. 4(2)**
- C33** Ss. 145-155 applied (3.5.1994) by 1994 c. 9, s. 64, **Sch. 7 Pt. IV para. 11**

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- Ss. 145-155 applied (with modifications) (1.9.1994) by 1994 c. 23, ss. 72(12), 101(1), **Sch. 13 para. 13** (with **Sch. 13 para. 9**)
- Ss. 145-155 applied (29.4.1996) by 1996 c. 8, s. 60, **Sch. 5 Pt. III para. 17**
- C34** Ss. 145-148 applied (1.3.1995) by S.I. 1995/271, **reg. 12(2)(3)**
- Ss. 145-148 applied (15.11.1996) by S.I. 1996/2721, **reg. 12 (2)**
- Ss. 145-148 applied (with modifications) (15.7.1998) by S.I. 1998/1531, **reg. 4(4)**
- Ss. 145-148 applied (1.5.1999) by S.I. 1999/1261, **reg. 4(4)**
- Ss. 145-148 applied (14.10.1999) by S.I. 1999/2821, **reg. 4(4)**
- Ss. 145-148 applied (14.10.1999) by S.I. 1999/2822, **reg. 4(4)**
- S. 146 applied (1.7.1999) by S.I. 1999/1618, **regs. 5(1)(b), 6**
- Ss. 145-148 applied (25.5.2000) by S.I. 2000/1408, **reg. 3(4)**
- Ss. 145-155 applied (28.7.2000) by 2000 c. 17, s. 30(1), **Sch. 6 Pt. VIII para. 96**
- Ss. 145-148 applied (28.9.2000) by S.I. 2000/2620, **reg. 12(2)**
- Ss. 145-155 applied (11.5.2001) by 2001 c. 9, s. 26(5)
- Ss. 145-155 applied (11.5.2001) by 2001 c. 9, s. 28, **Sch. 6 para. 5**
- C35** S. 146 applied (1.7.1995) (with modifications) by S.I. 1995/1447, **reg. 4(1)(b)**
- C36** S. 146(1)(c) amended by S.I. 1990/2167, art. 4, **Sch. para. 22**

[^{F9}146A Time limits for proceedings.

- (1) Except as otherwise provided in the customs and excise Acts, and notwithstanding anything in any other enactment, the following provisions shall apply in relation to proceedings for an offence under those Acts.
- (2) Proceedings for an indictable offence shall not be commenced after the end of the period of 20 years beginning with the day on which the offence was committed.
- (3) Proceedings for a summary offence shall not be commenced after the end of the period of 3 years beginning with that day but, subject to that, may be commenced at any time within 6 months from the date on which sufficient evidence to warrant the proceedings came to the knowledge of the prosecuting authority.
- (4) For the purposes of subsection (3) above, a certificate of the prosecuting authority as to the date on which such evidence as is there mentioned came to that authority's knowledge shall be conclusive evidence of that fact.
- (5) In the application of this section to Scotland—
 - (a) in subsection (2), “proceedings for an indictable offence” means proceedings on indictment;
 - (b) in subsection (3), “proceedings for a summary offence” means summary proceedings.
- (6) In the application of this section to Northern Ireland—
 - (a) “indictable offence” means an offence which, if committed by an adult, is punishable on conviction on indictment (whether only on conviction on indictment, or either on conviction on indictment or on summary conviction);
 - (b) “summary offence” means an offence which, if committed by an adult, is punishable only on summary conviction.
- (7) In this section, “prosecution authority” means the Commissioners and includes, in Scotland, the procurator fiscal.]

Status: Point in time view as at 01/02/1991.

Changes to legislation: Customs and Excise Management Act 1979, Part XI is up to date with all changes known to be in force on or before 03 March 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Textual Amendments

F9 S. 146A inserted by [Finance Act 1989 \(c. 26, SIF 40:1\)](#), [s. 16\(1\)\(4\)](#)

Modifications etc. (not altering text)

- C37** Ss. 145-148 applied (31.3.2002) by [S.I. 2002/868](#), [reg. 4\(4\)](#)
- C38** Ss. 144-148, 150-155 applied (01.01.1992) by [S.I. 1991/2724](#), [reg. 10\(2\)](#)
Ss. 144-148, 150-155 applied (01.01.1992) by [S.I. 1991/2725](#), [reg. 6\(2\)](#)
- C39** Ss. 144-148, 150-155 applied (01.01.1992) by [S.I. 1991/2727](#), [reg. 7\(2\)](#)
- C40** Ss. 145-152 extended (27.9.1993) by [1993 c. 36](#), [ss. 71\(7\)](#), 78.
- C41** Ss. 144-148, 150-155 applied (23.6.1993) by [S.I. 1993/1353](#), [reg. 4\(2\)](#)
- C42** Ss. 145-155 applied (3.5.1994) by [1994 c. 9](#), s. 64, [Sch. 7 Pt. IV para. 11](#)
Ss. 145-155 applied (with modifications) (1.9.1994) by [1994 c. 23](#), [ss. 72\(12\)](#), 101(1), [Sch. 13 para. 13](#)
Ss. 145-155 applied (29.4.1996) by [1996 c. 8](#), s. 60, [Sch. 5 Pt. III para. 17](#)
- C43** S. 146A excluded (1.9.1994) by [1994 c. 22](#), [ss. 47\(7\)](#), 66(1) (with s. 57(4))
- C44** Ss. 145-148 applied (1.3.1995) by [S.I. 1995/271](#), [reg. 12\(2\)\(3\)](#)
Ss. 145-148 applied (15.11.1996) by [S.I. 1996/2721](#), [reg. 12\(2\)](#)
Ss. 145-148 applied (with modifications) (15.7.1998) by [S.I. 1998/1531](#), [reg. 4\(4\)](#)
Ss. 145-148 applied (1.5.1999) by [S.I. 1999/1261](#), [reg. 4\(4\)](#)
Ss. 145-148 applied (14.10.1999) by [S.I. 1999/2821](#), [reg. 4\(4\)](#)
Ss. 145-148 applied (25.5.2000) by [S.I. 2000/1408](#), [reg. 3\(4\)](#)
Ss. 145-155 applied (28.7.2000) by [2000 c. 17](#), s. 30(1), [Sch. 6 Pt. VIII para. 96](#)
Ss. 145-148 applied (28.9.2000) by [S.I. 2000/2620](#), [reg. 12\(2\)](#)
Ss. 145-148 applied (14.10.1999) by [S.I. 1999/2822](#), [reg. 4\(4\)](#)
Ss. 145-155 applied (11.5.2001) by [2001 c. 9](#), [s. 26\(5\)](#)
Ss. 145-155 applied (11.5.2001) by [2001 c. 9](#), s. 28, [Sch. 6 para. 5](#)

147 Proceedings for offences.

(1)

^{F10}(2) Where, in England or Wales, a magistrates' court has begun to inquire into an information charging a person with an offence under the customs and excise Acts as examining justices the court shall not proceed under [^{F11}section 25(3) of the ^{M2}Magistrates' Courts Act 1980] to try the information summarily without the consent of—

- (a) the Attorney General, in a case where the proceedings were instituted by his order and in his name; or
- (b) the Commissioners, in any other case.

(3) In the case of proceedings in England or Wales, without prejudice to any right to require the statement of a case for the opinion of the High Court, the prosecutor may appeal to the Crown Court against any decision of a magistrates' court in proceedings for an offence under the customs and excise Acts.

(4) In the case of proceedings in Northern Ireland, without prejudice to any right to require the statement of a case for the opinion of the High Court, the prosecutor may appeal to the county court against any decision of a court of summary jurisdiction in proceedings for an offence under the customs and excise Acts.

(5^{F12})

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Textual Amendments

- F10** S. 147(1) repealed by [Finance Act 1989 \(c. 26, SIF 40:1\)](#), ss. 16(2)(4), 187(1), [Sch. 17 Pt. I](#)
F11 Words substituted by [Magistrates' Courts Act 1980 \(c. 43, SIF 82\)](#), s. 154, [Sch. 7 para. 176](#)
F12 S. 147(5) repealed by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), s. 77, [Sch. 14 para. 42](#)

Modifications etc. (not altering text)

- C45** Ss. 147, 148 extended by [Car Tax Act 1983 \(c. 53, SIF 40:2\)](#), s. 1(4), [Sch. 1 para. 8\(8\)](#), [Value Added Tax Act 1983 \(c. 55, SIF 40:2\)](#), [s. 39\(9\)](#), S.I. 1987/2105, reg. 5(2) and 1988/1476, art. 5(2)
C46 Ss. 144-148, 150-155 applied (01.01.1992) by S.I. 1991/2724, [reg. 10\(2\)](#)
Ss. 144-148, 150-155 applied (01.01.1992) by S.I. 1991/2725, [reg. 6\(2\)](#)
C47 Ss. 144-148, 150-155 applied (01.01.1992) by S.I. 1991/2727, [reg. 7\(2\)](#)
C48 Ss. 145-152, extended (27.9.1993) by 1993 c. 36, [ss. 71\(7\)](#), 78.
C49 Ss. 144-148, 150-155 applied (23.6.1993) by S.I. 1993/1353, [reg. 4\(2\)](#)
C50 Ss. 145-155 applied (3.5.1994) by 1994 c. 9, s. 64, [Sch. 7 Pt. IV para. 11](#)
Ss.145-155 applied (with modifications) (1.9.1994) by 1994 c. 23, ss. 72(12), 101(1), [Sch. 13 para. 13](#) (with s. 57(4))
Ss. 145-155 applied (29.4.1996) by 1996 c. 8, s. 60, [Sch. 5 Pt. III para. 17](#)
C51 Ss. 145-148 applied (1.3.1995) by S.I. 1995/271, [reg. 12\(2\)\(3\)](#)
Ss. 145-148 applied (15.11.1996) by S.I. 1996/2721, [reg. 12\(2\)](#)
Ss. 145-148 applied (1.5.1999) by S.I. 1999/1261, [reg. 4\(4\)](#)
Ss. 145-148 applied (14.10.1999) by S.I. 1999/2821, [reg. 4\(4\)](#)
Ss. 145-148 applied (14.10.1999) by S.I. 1999/2822, [reg. 4\(4\)](#)
Ss. 145-148 applied (with modifications) (15.7.1998) by S.I. 1998/1531, [reg. 4\(4\)\(5\)](#)
Ss. 145-148 applied (25.5.2000) by S.I. 2000/1408, [reg. 3\(4\)](#)
Ss. 145-155 applied (28.7.2000) by 2000 c. 17, s. 30(1), [Sch. 6 Pt. VIII para. 96](#)
Ss. 145-148 applied (28.9.2000) by S.I. 2000/2620, [reg. 12\(2\)](#)
Ss. 145-155 applied (11.5.2001) by 2001 c. 9, [s. 26\(5\)](#)
Ss. 145-155 applied (11.5.2001) by 2001 c. 9, s. 28, [Sch. 6 para. 5](#)
Ss. 145-148 applied (31.3.2002) by S.I. 2002/868, [reg. 4\(4\)](#)

Marginal Citations

- M2** [1980 c. 43](#).

148 Place of trial for offences.

- (1) Proceedings for an offence under the customs and excise Acts may be commenced—
- (a) in any court having jurisdiction in the place where the person charged with the offence resides or is found; or
 - (b) if any thing was detained or seized in connection with the offence, in any court having jurisdiction in the place where that thing was so detained or seized or was found or condemned as forfeited; or
 - (c) in any court having jurisdiction anywhere in that part of the United Kingdom, namely—
 - (i) England and Wales,
 - (ii) Scotland, or
 - (iii) Northern Ireland,in which the place where the offence was committed is situated.

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- (2) Where any such offence was committed at some place outside the area of any commission of the peace, the place of the commission of the offence shall, for the purpose of the jurisdiction of any court, be deemed to be any place in the United Kingdom where the offender is found or to which he is first brought after the commission of the offence.
- (3) The jurisdiction under subsection (2) above shall be in addition to and not in derogation of any jurisdiction or power of any court under any other enactment.

Modifications etc. (not altering text)

- C52** Ss. 147, 148 extended by **Car Tax Act 1983 (c. 53, SIF 40:2), s. 1(4), Sch. 1 para. 8(8), Value Added Tax Act 1983 (c. 55, SIF 40:2), s. 39(9), S.I. 1987/2105, reg. 5(2) and 1988/1476, art. 5(2)**
- C53** Ss. 144-148, 150-155 applied (01.01.1992) by **S.I. 1991/2724, reg. 10(2)**
 Ss. 144-148, 150-155 applied (01.01.1992) by **S.I. 1991/2725, reg. 6(2)**
- C54** Ss. 144-148, 150-155 applied (01.01.1992) by **S.I. 1991/2727, reg. 7(2)**
- C55** Ss. 145-52 extended (27.9.1993) by **1993 c. 36, ss. 71(7), 78.**
- C56** Ss. 144-148, 150-155 applied (23.6.1993) by **S.I. 1993/1353, reg. 4(2)**
- C57** Ss. 145-155 applied (3.5.1994) by **1994 c. 9, s. 64, Sch. 7 Pt. IV para. 11**
 Ss. 145-155 applied (with modifications) (1.9.1994) by **1994 c. 23, ss. 72(12), 101(1), Sch. 13 para. 13**
 Ss. 145-155 applied (29.4.1996) by **1996 c. 8, s. 60, Sch. 5 Pt. III para. 17**
- C58** Ss. 145-148 applied (1.3.1995) by **S.I. 1995/271, reg. 12(2)(3)**
 Ss 145-148 applied (15.11.1996) by **S.I. 1996/2721, reg. 12(2)**
 Ss. 145-148 applied (with modifications) (15.7.1998) by **S.I. 1998/1531, reg. 4(4)**
 Ss. 145-148 applied (1.5.1999) by **S.I. 1999/1261, reg. 4(4)**
 Ss. 145-148 applied (14.10.1999) by **S.I. 1999/2821, reg. 4(4)**
 Ss. 145-148 applied (14.10.1999) by **S.I. 1999/2822, reg. 4(4)**
 Ss. 145-148 applied (25.5.2000) by **S.I. 2000/1408, reg. 3(4)**
 Ss. 145-155 applied (28.7.2000) by **2000 c. 17, s. 30(1), Sch. 6 Pt. VIII para. 96**
 Ss. 145-148 applied (28.9.2000) by **S.I. 2000/2620, reg. 12(2)**
 Ss. 145-155 applied (11.5.2001) by **2001 c. 9, s. 26(5)**
 Ss. 145-155 applied (11.5.2001) by **2001 c. 9, s. 28, Sch. 6 para. 5**
 Ss. 145-148 applied (31.3.2002) by **S.I. 2002/868, reg. 4(4)**

149 Non-payment of penalties, etc.: maximum terms of imprisonment.

- (1) Where, in any proceedings for an offence under the customs and excise Acts, a magistrates' court in England or Wales or a court of summary jurisdiction in Scotland, in addition to ordering the person convicted to pay a penalty for the offence—
- (a) orders him to be imprisoned for a term in respect of the same offence; and
 - (b) further (whether at the same time or subsequently) orders him to be imprisoned for a term in respect of non-payment of that penalty or default of a sufficient distress to satisfy the amount of that penalty.

the aggregate of the terms for which he is so ordered to be imprisoned shall not exceed 15 months.

(2)

- ^{F13}(3) Where, under any enactment for the time being in force in Northern Ireland, a court of summary jurisdiction has power to order a person to be imprisoned in respect of the non-payment of a penalty, or of the default of a sufficient distress to satisfy

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the amount of that penalty, for a term in addition and succession to a term of imprisonment imposed for the same offence as the penalty, then in relation to a sentence for an offence under the customs and excise Acts the aggregate of those terms of imprisonment may, notwithstanding anything in any such enactment, be any period not exceeding 15 months.

Textual Amendments

F13 S. 149(2) repealed by [Criminal Justice \(Scotland\) Act 1980 \(c. 62, SIF 39:1\)](#), s. 83(3), **Sch. 8**

Modifications etc. (not altering text)

C59 S. 149 extended by [Car Tax Act 1983 \(c. 53, SIF 40:2\)](#), s. 1(4), **Sch. 1 para. 8(8)** and [Value Added Tax Act 1983 \(c. 55, SIF 40:2\)](#), s. 39(9)

C60 Ss. 145-152 extended (27.9.1993) by [1993 c. 36, ss. 71\(7\)](#), 78

C61 Ss. 145-155 applied (3.5.1994) by [1994 c. 9, s. 64, Sch. 7 Pt. IV para. 11](#)

Ss. 145-155 applied (with modifications) (1.9.1994) by [1994 c. 23, ss. 72\(12\), 101\(1\), Sch. 13 para. 13](#) (with [Sch. 13 para. 9](#))

Ss. 145-155 applied (29.4.1996) by [1996 c. 8, s. 60, Sch. 5 Pt. III para. 17](#)

Ss. 145-155 applied (28.7.2000) by [2000 c. 17, s. 30\(1\), Sch. 6 Pt. VIII para. 96](#)

Ss. 145-155 applied (11.5.2001) by [2001 c. 9, s. 26\(5\)](#)

Ss. 145-155 applied (11.5.2001) by [2001 c. 9, s. 28, Sch. 6 para. 5](#)

C62 S. 149(1) excluded (25.8.2000) by [2000 c. 6, ss. 140\(3\)](#), 168(1)

150 Incidental provisions as to legal proceedings.

- (1) Where liability for any offence under the customs and excise Acts is incurred by two or more persons jointly, those persons shall each be liable for the full amount of any pecuniary penalty and may be proceeded against jointly or severally as the Commissioners may see fit.
- (2) In any proceedings for an offence under the customs and excise Acts instituted in England, Wales or Northern Ireland, any court by whom the matter is considered may mitigate any pecuniary penalty as they see fit.
- (3) In any proceedings for an offence or for the condemnation of any thing as being forfeited under the customs and excise Acts, the fact that security has been given by bond or otherwise for the payment of any duty or for compliance with any condition in respect of the non-payment of which or non-compliance with which the proceedings are instituted shall not be a defence.

Modifications etc. (not altering text)

C63 Ss. 150, 151 extended by [Car Tax Act 1983 \(c. 53, SIF 40:2\)](#), s. 1(4), **Sch. 1 para. 8(8)**, [Value Added Tax Act 1983 \(c. 55, SIF 40:2\)](#), s. 39(9), [S.I. 1987/2105](#), reg. 5(2) and [1988/1476](#), art. 5(2)

C64 Ss. 144-148, 150-155 applied (01.01.1992) by [S.I. 1991/2724](#), **reg. 10(2)**

Ss. 144-148, 150-155 applied (01.01.1992) by [S.I. 1991/2725](#), **reg. 6(2)**

C65 Ss. 144-148, 150-155 applied (01.01.1992) by [S.I. 1991/2727](#), **reg. 7(2)**

C66 Ss. 145-152 extended (27.9.1993) by [1993 c. 36, ss. 71\(7\)](#), 78.

C67 Ss. 144-148, 150-155 applied (23.6.1993) by [S.I. 1993/1353](#), **reg. 4(2)**.

C68 Ss. 145-155 applied (3.5.1994) by [1994 c. 9, s. 64, Sch. 7 Pt. IV para. 11](#)

Ss. 145-155 applied (with modifications) (1.9.1994) by [1994 c. 23, ss. 72\(12\), 101\(1\), Sch. 13 para. 13](#) (with [Sch. 13 para. 9](#))

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Ss. 145-155 applied (29.4.1996) by 1996 c. 8, s. 60, **Sch. 5 Pt. III para. 17**
 Ss. 150-155 applied (1.3.1995) by S.I. 1995/271, **reg. 12(2)**
 Ss. 150-155 applied (15.11.1996) by S.I. 1996/2721, **reg. 12(2)**
 Ss. 150-155 applied (1.5.1999) by S.I. 1999/1261, **reg. 4(4)**
 Ss. 150-155 applied (14.10.1999) by S.I. 1999/2821, **reg. 4(4)**
 Ss. 150-155 applied (14.10.1999) by S.I. 1999/2822, **reg. 4(4)**
 Ss. 150-155 applied (with modifications) (15.7.1998) by S.I. 1998/1531, **reg. 4(4)**
 Ss. 150-155 applied (25.5.2000) by S.I. 2000/1408, **reg. 3(4)**
 Ss. 145-155 applied (28.7.2000) by 2000 c. 17, s. 30(1), **Sch. 6 Pt. VIII para. 96**
 Ss. 150-155 applied (28.9.2000) by S.I. 2000/2620, **reg. 12(2)**
 Ss. 145-155 applied (11.5.2001) by 2001 c. 9, s. 26(5)
 Ss. 145-155 applied (11.5.2001) by 2001 c. 9, s. 28, **Sch. 6 para. 5**
 ss. 150-155 applied (31.3.2003) by S.I. 2002/868, **reg. 4(4)**

151 Application of penalties.

The balance of any sum paid or recovered on account of any penalty imposed under the customs and excise Acts, after paying any such compensation or costs as are mentioned in [F14 section 139 of the M3 Magistrates' Courts Act 1980] to persons other than the Commissioners shall, notwithstanding any local or other special right or privilege of whatever origin, be accounted for and paid to the Commissioners or as they direct.

Textual Amendments

F14 Words substituted by Magistrates' Courts Act 1980 (c. 43, SIF 82), s. 154, **Sch. 7 para. 177**

Modifications etc. (not altering text)

C69 Ss. 150, 151 extended by Car Tax Act 1983 (c. 53, SIF 40:2), s. 1(4), Sch. 1 para. 8(8), Value Added Tax Act 1983 (c. 55, SIF 40:2), s. 39(9), S.I. 1987/2105, reg. 5(2) and 1988/1476, art. 5(2)

C70 Ss. 144-148, 150-155 applied (01.01.1992) by S.I. 1991/2724, **reg. 10(2)**
 Ss. 144-148, 150-155 applied (01.01.1992) by S.I. 1991/2725, **reg. 6(2)**

C71 Ss. 144-148, 150-155 applied (01.01.1992) by S.I. 1991/2727, **reg. 7(2)**

C72 Ss. 145-152 extended (27.9.1993) by 1993 c. 36, **ss. 71(7), 78.**

C73 Ss. 144-148, 150-155 applied (23.6.1993) by S.I. 1993/1353, **reg. 4(2)**
 S. 151 excluded (1.9.1994) by 1994 c. 22, **ss. 56(2), 66(1)** (with s. 57(4))
 Ss. 145-155 applied (3.5.1994) by 1994 c. 9, s. 64, **Sch. 7 Pt. IV para. 11**
 Ss. 145-155 applied (with modifications) (1.9.1994) by 1994 c. 23, **ss. 72(12), 101(1), Sch. 13 para. 13** (with Sch. 13 para. 9)
 Ss. 145-155 applied (29.4.1996) by 1996 c. 8, s. 60, **Sch. 5 Pt. III para. 17**
 Ss. 150-155 applied (1.3.1995) by S.I. 1995/271, **reg. 12(2)**
 Ss. 150-155 applied (15.11.1996) by S.I. 1996/2721, **reg. 12(2)**
 Ss. 150-155 applied (1.5.1999) by S.I. 1999/1261, **reg. 4(4)**
 Ss. 150-155 applied (14.10.1999) by S.I. 1999/2821, **reg. 4(4)**
 Ss. 150-155 applied (14.10.1999) by S.I. 1999/2822, **reg. 4(4)**
 Ss. 150-155 applied (with modifications) (15.7.1998) by S.I. 1998/1531, **reg. 4(4)**
 Ss. 150-155 applied (25.5.2000) by S.I. 2000/1408, **reg. 3(4)**
 Ss. 145-155 applied (28.7.2000) by 2000 c. 17, s. 30(1), **Sch. 6 Pt. VIII para. 96**
 Ss. 150-155 applied (28.9.2000) by S.I. 2000/2620, **reg. 12(2)**
 Ss. 145-155 applied (11.5.2001) by 2001 c. 9, s. 26(5)
 Ss. 145-155 applied (11.5.2001) by 2001 c. 9, s. 28, **Sch. 6 para. 5**
 Ss. 150-155 applied (31.3.2002) by S.I. 2002/868, **reg. 4(4)**

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Marginal Citations

M3 1980 c. 43.

152 Powers of Commissioners to mitigate penalties, etc.

The Commissioners may, as they see fit—

- (a) stay, sist or compound any proceedings for an offence or for the condemnation of any thing as being forfeited under the customs and excise Acts; or
- (b) restore, subject to such conditions (if any) as they think proper, any thing forfeited or seized under those Acts; or
- (c) after judgment, mitigate or remit any pecuniary penalty imposed under those Acts; or
- (d) order any person who has been imprisoned to be discharged before the expiration of his term of imprisonment, being a person imprisoned for any offence under those Acts or in respect of the non-payment of a penalty or other sum adjudged to be paid or awarded in relation to such an offence or in respect of the default of a sufficient distress to satisfy such a sum;

but paragraph (a) above shall not apply to proceedings on indictment in Scotland.

Modifications etc. (not altering text)

- C74** Ss. 152–155 extended by [Car Tax Act 1983 \(c. 53, SIF 40:2\)](#), s. 1(4), [Sch. 1 para. 8\(8\)](#), [Value Added Tax Act 1983 \(c. 55, SIF 40:2\)](#), s. 39(9), S.I. 1987/1521, reg. 3(2)(b); 1987/2105, reg. 5(2) and 1988/1476, art. 5(2)
- C75** Ss. 144–148, 150–155 applied (01.01.1992) by S.I. 1991/2724, [reg. 10\(2\)](#)
Ss. 144–148, 150–155 applied (01.01.1992) by S.I. 1991/2725, [reg. 6\(2\)](#)
- C76** Ss. 144–148, 150–155 applied (01.01.1992) by S.I. 1991/2727, [reg. 7\(2\)](#)
- C77** Ss. 145–152 extended (27.9.1993) by [1993 c. 36, ss. 71\(7\)](#), 78.
- C78** Ss. 144–148, 150–155 applied (23.6.1993) by S.I. 1993/1353, [reg. 4\(2\)](#)
Ss. 145–155 applied (3.5.1994) by [1994 c. 9, s. 64, Sch. 7 Pt. IV para. 11](#)
Ss. 145–155 applied (with modifications) (1.9.1994) by [1994 c. 23, ss. 72\(12\)](#), 101(1), [Sch. 13, para. 13](#) (with [Sch. 13 para. 9](#))
Ss. 145–155 applied (29.4.1996) by [1996 c. 8, s. 60, Sch. 5 Pt. III para. 17](#)
Ss. 150–155 applied (1.3.1995) by S.I. 1995/271, [reg. 12\(2\)](#)
Ss. 150–155 applied (15.11.1996) by S.I. 1996/2721, [reg. 12\(2\)](#)
Ss. 150–155 applied (1.5.1999) by S.I. 1999/1261, [reg. 4\(4\)](#)
Ss. 150–155 applied (14.10.1999) by S.I. 1999/2821, [reg. 4\(4\)](#)
Ss. 150–155 applied (14.10.1999) by S.I. 1999/2822, [reg. 4\(4\)](#)
Ss. 150–155 applied (with modifications) (15.7.1998) by S.I. 1998/1531, [reg. 4\(4\)](#)
Ss. 152–155 applied (1.7.1995) by S.I. 1995/1447, [reg. 4\(1\)\(b\)](#)
Ss. 152–155 applied (1.7.1999) by S.I. 1999/1618, [regs. 5\(1\)\(b\)](#), 6
Ss. 150–155 applied (25.5.2000) by S.I. 2000/1408, [reg. 3\(4\)](#)
Ss. 145–155 applied (28.7.2000) by [2000 c. 17, s. 30\(1\)](#), [Sch. 6 Pt. VIII para. 96](#)
Ss. 150–155 applied (28.9.2000) by S.I. 2000/2620, [reg. 12\(2\)](#)
Ss. 145–155 applied (11.5.2001) by [2001 c. 9, s. 26\(5\)](#)
Ss. 145–155 applied (11.5.2001) by [2001 c. 9, s. 28, Sch. 6 para. 5](#)
Ss. 150–155 applied (31.3.2002) by S.I. 2002/868, [reg. 4\(4\)](#)

Status: Point in time view as at 01/02/1991.

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153 Proof of certain documents.

- (1) Any document purporting to be signed either by one or more of the Commissioners, or by their order, or by any other person with their authority, shall, until the contrary is proved, be deemed to have been so signed and to be made and issued by the Commissioners, and may be proved by the production of a copy thereof purporting to be so signed.
- (2) Without prejudice to subsection (1) above, the ^{M4}Documentary Evidence Act 1868 shall apply in relation to—
- (a) any document issued by the Commissioners;
 - (b) any document issued before 1st April 1909, by the Commissioners of Customs or the Commissioners of Customs and the Commissioners of Inland Revenue jointly;
 - (c) any document issued before that date in relation to the revenue of excise by the Commissioners of Inland Revenue,
- as it applies in relation to the documents mentioned in that Act.
- (3) That Act shall, as applied by subsection (2) above, have effect as if the persons mentioned in paragraphs (a) to (c) of that subsection were included in the first column of the Schedule to that Act, and any of the Commissioners or any secretary or assistant secretary to the Commissioners were specified in the second column of that Schedule in connection with those persons.
- [^{F15}(4) A photograph of any document delivered to the Commissioners for any customs or excise purpose and certified by them to be such a photograph shall be admissible in any proceedings, whether civil or criminal, to the same extent as the document itself.]

Textual Amendments

F15 S. 153(4) inserted by [Finance Act 1981 \(c. 35, SIF 40:1\)](#), s. 11, **Sch. 8 Pt. I para. 9**

Modifications etc. (not altering text)

- C79** Ss. 152–155 extended by [Car Tax Act 1983 \(c. 53, SIF 40:2\)](#), s. 1(4), **Sch. 1 para. 8(8)**, [Value Added Tax Act 1983 \(c. 55, SIF 40:2\)](#), s. 39(9), S.I. 1987/1521, reg. 3(2)(b); 1987/2105, reg. 5(2) and 1988/1476, art. 5(2)
- C80** Ss. 144–148, 150–155 applied (01.01.1992) by S.I. 1991/2724, **reg. 10(2)**
 Ss. 144–148, 150–155 applied (01.01.1992) by S.I. 1991/2725, **reg. 6(2)**
- C81** Ss. 144–148, 150–155 applied (01.01.1992) by S.I. 1991/2727, **reg. 7(2)**
- C82** Ss. 144–148, 150–155 applied (23.6.1993) by S.I. 1993/1353, **reg. 4(2)**
 Ss. 145–155 applied (3.5.1994) by 1994 c. 9, s. 64, **Sch. 7 Pt. IV para. 11**
 Ss. 145–155 applied (with modifications) (1.9.1994) by 1994 c. 23, ss. 72(12), 101(1), **Sch. 13 para. 13** (with [Sch. 13 para. 9](#))
 Ss. 145–155 applied (29.4.1996) by 1996 c. 8, s. 60, **Sch. 5 Pt. III para. 17**
 Ss. 150–155 applied (1.3.1995) by S.I. 1995/271, **reg. 12(2)**
 Ss. 150–155 applied (15.11.1996) by S.I. 1996/2721, **reg. 12(2)**
 Ss. 150–155 applied (1.5.1999) by S.I. 1999/1261, **reg. 4(4)**
 Ss. 150–155 applied (14.10.1999) by S.I. 1999/2821, **reg. 4(4)**
 Ss. 150–155 applied (14.10.1999) by S.I. 1999/2822, **reg. 4(4)**
 Ss. 152–155 applied (1.7.1999) by S.I. 1999/1618, **regs. 5(1)(b)**, 6
 Ss. 150–155 applied (with modifications) (15.7.1998) by S.I. 1998/1531, **reg. 4(4)**
 Ss. 152–155 applied (1.7.1995) (with modifications) by S.I. 1995/1447, **reg. 4(1)(b)**
 Ss. 150–155 applied (25.5.2000) by S.I. 2000/1408, **reg. 3(4)**

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Ss. 145-155 applied (28.7.2000) by 2000 c. 17, s. 30(1), **Sch. 6 Pt. VIII para. 96**
Ss. 150-155 applied (28.9.2000) by S.I. 2000/2620, **reg. 12(2)**
Ss. 145-155 applied (11.5.2001) by 2001 c. 9, s. 26(5)
Ss. 145-155 applied (11.5.2001) by 2001 c. 9, s. 28, **Sch. 6 para. 5**
Ss. 150-155 applied (31.3.2002) by S.I. 2002/868, **reg. 4(4)**

Marginal Citations

M4 1868 c. 37.

154 Proof of certain other matters.

- (1) An averment in any process in proceedings under the customs and excise Acts—
- (a) that those proceedings were instituted by the order of the Commissioners; or
 - (b) that any person is or was a Commissioner, officer or constable, or a member of Her Majesty's armed forces or coastguard; or
 - (c) that any person is or was appointed or authorised by the Commissioners to discharge, or was engaged by the orders or with the concurrence of the Commissioners in the discharge of, any duty; or
 - (d) that the Commissioners have or have not been satisfied as to any matter as to which they are required by any provision of those Acts to be satisfied; or
 - (e) that any ship is a British ship; or
 - (f) that any goods thrown overboard, staved or destroyed were so dealt with in order to prevent or avoid the seizure of those goods,
- shall, until the contrary is proved, be sufficient evidence of the matter in question.
- (2) Where in any proceedings relating to customs or excise any question arises as to the place from which any goods have been brought or as to whether or not—
- (a) any duty has been paid or secured in respect of any goods; or
 - (b) any goods or other things whatsoever are of the description or nature alleged in the information, writ or other process; or
 - (c) any goods have been lawfully imported or lawfully unloaded from any ship or aircraft; or
 - (d) any goods have been lawfully loaded into any ship or aircraft or lawfully exported or were lawfully waterborne; or
 - (e) any goods were lawfully brought to any place for the purpose of being loaded into any ship or aircraft or exported; or
 - (f) any goods are or were subject to any prohibition of or restriction on their importation or exportation,

then, where those proceedings are brought by or against the Commissioners, a law officer of the Crown or an officer, or against any other person in respect of anything purporting to have been done in pursuance of any power or duty conferred or imposed on him by or under the customs and excise Acts, the burden of proof shall lie upon the other party to the proceedings.

Modifications etc. (not altering text)

- C83** Ss. 152–155 extended by **Car Tax Act 1983 (c. 53, SIF 40:2)**, s. 1(4), **Sch. 1 para. 8(8)**, **Value Added Tax Act 1983 (c. 55, SIF 40:2)**, s. 39(9), S.I. 1987/1521, reg. 3(2)(b); 1987/2105, reg. 5(2) and 1988/1476, art. 5(2)
- C84** Ss. 144-148, 150-155 applied (01.01.1992) by S.I. 1991/2724, **reg. 10(2)**

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- Ss. 144-148, 150-155 applied (01.01.1992) by S.I. 1991/2725, **reg. 6(2)**
- C85** Ss. 144-148, 150-155 applied (01.01.1992) by S.I. 1991/2727, **reg. 7(2)**
- C86** S. 154 extended (27.9.1993) by 1993 c. 36, **ss. 71(7)**, 78.
- C87** Ss. 144-148, 150-155 applied (23.6.1993) by S.I. 1993/1353, **reg. 4(2)**
- Ss. 145-155 applied (3.5.1994) by 1994 c. 9, s. 64, **Sch. 7 Pt. IV para. 11**
- Ss. 145-155 applied (with modifications) (1.9.1994) by 1994 c. 23, **ss. 72(12)**, 101(1), **Sch. 13 para. 13** (with **Sch. 13 para. 9**)
- Ss. 145-155 applied (29.4.1996) by 1996 c. 8, s. 60, **Sch. 5 Pt. III para. 17**
- Ss. 150-155 applied (1.3.1995) by S.I. 1995/271, **reg. 12(2)**
- Ss. 150-155 applied (15.11.1996) by S.I. 1996/2721, **reg. 12(2)**
- Ss. 150-155 applied (1.5.1999) by S.I. 1999/1261, **reg. 4(4)**
- Ss. 150-155 applied (14.10.1999) by S.I. 1999/2821, **reg. 4(4)**
- Ss. 150-155 applied (14.10.1999) by S.I. 1999/2822, **reg. 4(4)**
- Ss. 152-155 applied (1.7.1999) by S.I. 1999/1618, **regs. 5(1)(b)**, 6
- Ss. 150-155 applied (with modifications) (15.7.1998) by S.I. 1998/1531, **reg. 4(4)**
- Ss. 152-155 applied (1.7.1995) (with modifications) by S.I. 1995/1447, **reg. 4(1)(b)**
- Ss. 150-155 applied (25.5.2000) by S.I. 2000/1408, **reg. 3(4)**
- Ss. 145-155 applied (28.7.2000) by 2000 c. 17, s. 30(1), **Sch. 6 Pt. VIII para. 96**
- Ss. 150-155 applied (28.9.2000) by S.I. 2000/2620, **reg. 12(2)**
- Ss. 145-155 applied (11.5.2001) by 2001 c. 9, s. 26(5)
- Ss. 145-155 applied (11.5.2001) by 2001 c. 9, s. 28, **Sch. 6 para. 5**
- Ss. 150-155 applied (31.3.2002) by S.I. 2002/868, **reg. 4(4)**
- C88** S. 154(2) modified by **Car Tax Act 1983 (c. 53, SIF 40:2)**, s. 1(4), **Sch. 1 para. 8(9)** and **Value Added Tax Act 1983 (c. 55, SIF 40:2)**, s. 39(9)
- C89** S. 154(2) amended by S.I. 1990/2167, art. 4, **Sch. para. 23**
- S. 154(2) applied (17.3.2000) by S.I. 1992/3155, **art. 3A(6)** (as inserted (17.3.2000) by S.I. 2000/426, art. 3, **Sch. 1 para. 9**)

155 Persons who may conduct proceedings.

- (1) Any officer or any other person authorised in that behalf by the Commissioners may, although he is not a barrister, advocate or solicitor, conduct any proceedings before any magistrates' court in England or Wales or court of summary jurisdiction in Scotland or Northern Ireland or before any examining justices, being proceedings under any enactment relating to an assigned matter or proceedings arising out of the same circumstances as any proceedings commenced under any such enactment, whether or not the last mentioned proceedings are persisted in.
- (2) Any person who has been admitted as a solicitor and is employed by the Commissioners may act as a solicitor in any proceedings in England, Wales or Northern Ireland relating to any assigned matter notwithstanding that he does not hold a current practising certificate.

Modifications etc. (not altering text)

- C90** Ss. 152–155 extended by **Car Tax Act 1983 (c. 53, SIF 40:2)**, s. 1(4), **Sch. 1 para. 8(8)**, **Value Added Tax Act 1983 (c. 55, SIF 40:2)**, s. 39(9), S.I. 1987/1521, reg. 3(2)(b); 1987/2105, reg. 5(2) and 1988/1476, art. 5(2)
- C91** Ss. 144-148, 150-155 applied (01.01.1992) by S.I. 1991/2724, **reg. 10(2)**
- Ss. 144-148, 150-155 applied (01.01.1992) by S.I. 1991/2725, **reg. 6(2)**
- C92** Ss. 144-148, 150-155 applied (01.01.1992) by S.I. 1991/2727, **reg. 7(2)**
- C93** Ss. 144-148, 150-155 applied (23.6.1993) by S.I. 1993/1353, **reg. 4(2)**

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Ss. 145-155 applied (with modifications) (1.9.1994) by 1994 c. 23, ss. 72(12), 101(1), **Sch. 13 para. 13** (with **Sch. 13 para. 9**)
Ss. 145-155 applied (29.4.1996) by 1996 c. 8, s. 60, **Sch. 5 Pt. III para. 17**
Ss. 150-155 applied (1.3.1995) by S.I. 1995/271, **reg. 12(2)**
Ss. 150-155 applied (15.11.1996) by S.I. 1996/2721, **reg. 12(2)**
Ss. 150-155 applied (with modifications) (15.7.1998) by S.I. 1998/1531, **reg. 4(4)**
Ss. 152-155 applied (1.7.1995) by S.I. 1995/1447, **reg. 4(1)(b)**
Ss. 150-155 applied (1.5.1999) by S.I. 1999/1261, **reg. 4(4)**
Ss. 150-155 applied (14.10.1999) by S.I. 1999/2821, **reg. 4(4)**
Ss. 150-155 applied (14.10.1999) by S.I. 1999/2822, **reg. 4(4)**
Ss. 152-155 applied (1.7.1999) by S.I. 1999/1618, **regs. 5(1)(b), 6**
Ss. 150-155 applied (25.5.2000) by S.I. 2000/1408, **reg. 3(4)**
Ss. 145-155 applied (28.7.2000) by 2000 c. 17, s. 30(1), **Sch. 6 Pt. VIII para. 96**
Ss. 150-155 applied (28.9.2000) by S.I. 2000/2620, **reg. 12(2)**
Ss. 145-155 applied (11.5.2001) by 2001 c. 9, s. 26(5)
Ss. 145-155 applied (11.5.2001) by 2001 c. 9, s. 28, **Sch. 6 para. 5**
Ss. 145-155 applied (31.3.2002) by S.I. 2002/868, **reg. 4(4)**

Saving for outlying enactments of certain general provisions as to offences

156 Saving for outlying enactments of certain general provisions as to offences.

- (1) In subsections (2), (3) and (4) below (which reproduce certain enactments not required as general provisions for the purposes of the enactments re-enacted in the Customs and Excise Acts 1979) “the outlying provisions of the customs and excise Acts” means—
- (a) the ^{M5}Betting and Gaming Duties Act 1972, as for the time being amended; and
 - (b) all other provisions of the customs and excise Acts, as for the time being amended, which were passed before the commencement of this Act and are not re-enacted in the Customs and Excise Acts 1979.
- (2) It is hereby declared that any act or omission in respect of which a pecuniary penalty (however described) is imposed by any of the outlying provisions of the customs and excise Acts is an offence under that provision; and accordingly in this Part of this Act any reference to an offence under the customs and excise Acts includes a reference to such an act or omission.
- (3) Subject to any express provision made by the enactment in question, an offence under any of the outlying provisions of the customs and excise Acts—
- (a) where it is punishable with imprisonment for a term of 2 years, with or without a pecuniary penalty, shall be punishable either on summary conviction or on conviction on indictment;
 - (b) in any other case, shall be punishable on summary conviction.
- [^{F16F17}(4) The maximum term of imprisonment which may be imposed on summary conviction in the sheriff court of an offence under any of the outlying provisions of the customs and excise Acts shall be 6 months.
- (5) Where, in Scotland, an offence under any of the outlying provisions of the customs and excise Acts is triable only summarily by virtue of subsection (3)(b) above, the penalty for the offence shall be that to which a person was liable on summary conviction of

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the offence immediately before 29th July 1977 (the date of the passing of the Criminal Law Act ^{M6}1977) subject to any increase by virtue of section 289C(5) of the Criminal Procedure (Scotland) Act ^{M7}1975 or Part IV of the Criminal Justice Act 1982.]

Textual Amendments

- F16** S. 156(4)(5) substituted for s. 156(4) by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), s. 77, [Sch. 14 para. 43\(b\)](#)
- F17** Words repealed by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), ss. 77, 78, [Sch. 14 para. 43\(a\)](#), Sch. 16

Marginal Citations

- M5** 1972 c. 25.
- M6** 1977 c. 45(39:3).
- M7** 1975 c. 21(39:1).

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Changes to legislation:

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