



# Customs and Excise Management Act 1979

## 1979 CHAPTER 2

### PART XII

#### GENERAL AND MISCELLANEOUS

##### *General offences*

#### **167 Untrue declarations, etc.**

- (1) If any person either knowingly or recklessly—
  - (a) makes or signs, or causes to be made or signed, or delivers or causes to be delivered to the Commissioners or an officer, any declaration, notice, certificate or other document whatsoever; or
  - (b) makes any statement in answer to any question put to him by an officer which he is required by or under any enactment to answer,  
being a document or statement produced or made for any purpose of any assigned matter, which is untrue in any material particular, he shall be guilty of an offence under this subsection and may be detained; and any goods in relation to which the document or statement was made shall be liable to forfeiture.
- (2) Without prejudice to subsection (4) below, a person who commits an offence under subsection (1) above shall be liable—
  - (a) on summary conviction, to a penalty of the prescribed sum, 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 2 years, or to both.
- (3) If any person—
  - (a) makes or signs, or causes to be made or signed, or delivers or causes to be delivered to the Commissioners or an officer, any declaration, notice, certificate or other document whatsoever; or

*Status: Point in time view as at 01/10/2006.*

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- (b) makes any statement in answer to any question put to him by an officer which he is required by or under any enactment to answer.
- being a document or statement produced or made for any purpose of any assigned matter, which is untrue in any material particular, then, without prejudice to subsection (4) below, he shall be liable on summary conviction to a penalty of [<sup>F1</sup>level 4 on the standard scale].
- (4) Where by reason of any such document or statement as is mentioned in subsection (1) or (3) above the full amount of any duty payable is not paid or any overpayment is made in respect of any drawback, allowance, rebate or repayment of duty, the amount of the duty unpaid or of the overpayment shall be recoverable as a debt due to the Crown or may be summarily recovered as a civil debt.
- [<sup>F2</sup>(5) An amount of excise duty, or the amount of an overpayment in respect of any drawback, allowance, rebate or repayment of any excise duty, shall not be recoverable as mentioned in subsection (4) above unless the Commissioners have assessed the amount of the duty or of the overpayment as being excise duty due from the person mentioned in subsection (1) or (3) above and notified him or his representative accordingly.]

#### Textual Amendments

- F1** 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
- F2** [S. 167\(5\)](#) inserted (1.6.1997) by [1997 c. 16, s. 50\(2\)](#), **Sch. 6 para. 5**; [S.I. 1997/1305, art. 2](#)

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

- C1** [S. 167](#) excluded (E.W.S.) by [Film Levy Finance Act 1981 \(c. 16, SIF 45A\)](#), **s. 7(5)**
- C2** [S. 167](#) amended by [Finance Act 1985 \(c. 54, SIF 40:1\)](#), **s. 10(6)(c)**
- C3** [S. 167](#) restricted (1.6.1997) by [1994 c. 9, ss. 12A, 12B](#) (as inserted by [1997 c. 16, s. 50\(2\)](#), **Sch. 6 para. 1(1)**); [S.I. 1997/1305, art. 2](#)
- C4** [S. 167](#) excluded (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), **Sch. 2 para. 6**; [S.I. 2005/1126, art. 2\(2\)\(d\)](#)
- C5** [s. 167\(2\)\(a\)](#) modified (1.12.1992) by [S.I. 1992/2790, reg. 12](#).

## 168 Counterfeiting documents, etc.

- (1) If any person—
- (a) counterfeits or falsifies any document which is required by or under any enactment relating to an assigned matter or which is used in the transaction of any business relating to an assigned matter; or
  - (b) knowingly accepts, receives or uses any such document so counterfeited or falsified; or
  - (c) alters any such document after it is officially issued; or
  - (d) counterfeits any seal, signature, initials or other mark of, or used by, any officer for the verification of such a document or for the security of goods or for any other purpose relating to an assigned matter,
- he shall be guilty of an offence under this section and may be detained.
- (2) A person guilty of an offence under this section shall be liable—

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- (a) on summary conviction, to a penalty of the prescribed sum, 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 2 years, or to both.

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

- C6 S. 168 amended by Finance Act 1985 (c. 54, SIF 40:1), s. 10(6)(d)
- C7 S. 168 excluded (18.4.2005) by Commissioners for Revenue and Customs Act 2005 (c. 11), s. 53(1), Sch. 2 para. 6; S.I. 2005/1126, art. 2(2)(d)
- C8 S. 168(2)(a) modified (1.12.1992) by S.I. 1992/2790, reg.12.

**F<sup>3</sup>169 False scales, etc.**

**Textual Amendments**

- F3 S. 169 repealed (18.4.2005) by Commissioners for Revenue and Customs Act 2005 (c. 11), ss. 52(1)(a) (viii), 53(1), Sch. 5; S.I. 2005/1126, art. 2(2)(i)

**170 Penalty for fraudulent evasion of duty, etc.**

- (1) Without prejudice to any other provision of the Customs and Excise Acts 1979, if any person—
  - (a) knowingly acquires possession of any of the following goods, that is to say—
    - (i) goods which have been unlawfully removed from a warehouse or Queen’s warehouse;
    - (ii) goods which are chargeable with a duty which has not been paid;
    - (iii) goods with respect to the importation or exportation of which any prohibition or restriction is for the time being in force under or by virtue of any enactment; or
  - (b) is in any way knowingly concerned in carrying, removing, depositing, harbouring, keeping or concealing or in any manner dealing with any such goods,  
and does so with intent to defraud Her Majesty of any duty payable on the goods or to evade any such prohibition or restriction with respect to the goods he shall be guilty of an offence under this section and may be detained.
- (2) Without prejudice to any other provision of the Customs and Excise Acts 1979, if any person is, in relation to any goods, in any way knowingly concerned in any fraudulent evasion or attempt at evasion—
  - (a) of any duty chargeable on the goods;
  - (b) of any prohibition or restriction for the time being in force with respect to the goods under or by virtue of any enactment; or
  - (c) of any provision of the Customs and Excise Acts 1979 applicable to the goods, he shall be guilty of an offence under this section and may be detained.

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- (3) Subject to subsection <sup>F4</sup>(4), (4A) or (4B)]below, a person guilty of an offence under this section shall be liable—
- (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>F5</sup>7 years], or to both.
- (4) In the case of an offence under this section in connection with prohibition or restriction on importation or exportation having effect by virtue of section 3 of the <sup>M1</sup>Misuse of Drugs Act 1971, subsection (3) above shall have effect subject to the modifications specified in Schedule 1 to this Act.
- <sup>F6</sup>(4A) 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 or exportation 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 or exportation of any weapon or ammunition that is of a kind mentioned in <sup>F7</sup>Article 6(1)(a), (ab), (ac), (ad), (ae) or (c) or (1A)(a)]<sup>F7</sup>Article 45(1)(a), <sup>F8</sup>(aa)] (b), (c), (d), (e) or (g) or (2)(a)] of the Firearms (Northern Ireland) Order <sup>F9</sup>1981]<sup>F9</sup>2004], or
  - (c) any such offence committed in connection with the prohibitions contained in sections 20 and 21 of the Forgery and Counterfeiting Act 1981,
- subsection (3)(b) above shall have effect as if for the words “7 years” there were substituted the words “ 10 years ”.]
- <sup>F10</sup>(4B) In the case of an offence under subsection (1) or (2) above in connection with the prohibition contained in regulation 2 of the Import of Seal Skins Regulations 1996, subsection (3) 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”.]
- (5) In any case where a person would, apart from this subsection, be guilty of—
- (a) an offence under this section in connection with 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.
- <sup>F11</sup>(6) Where any person is guilty of an offence under this section, the goods in respect of which the offence was committed shall be liable to forfeiture.]

#### Textual Amendments

**F4** S. 170(3): words substituted (15.11.1996) by S.I. 1996/2686, reg. 4(2)(a)

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- F5** Words substituted by Finance Act 1988 (c. 39, SIF 40:1), s. 12(1)(a)(6)
- F6** S. 170(4A) substituted (22.1.2004) by Criminal Justice Act 2003 (c. 44), ss. 293(4), 336(3), (4) (with s. 293(5)); S.I. 2004/81, art. 3(1)(2)(b)
- F7** Words in s. 170(4A)(b) substituted (N.I.) (1.2.2005) by The Firearms (Northern Ireland) Order 2004 (S.I. 2004/702), art. 1(3), Sch. 7 para. 5 (with art. 81); S.R. 2005/4, art. 3 (with arts. 4-7)
- F8** Word in s. 170(4A)(b) inserted (N.I.) (20.9.2005) by The Firearms (Amendment) (Northern Ireland) Order 2005 (S.I. 2005/1966), arts. 1(2), 3(4)(c)
- F9** Word in s. 170(4A)(b) substituted (N.I.) (1.2.2005) by The Firearms (Northern Ireland) Order 2004 (S.I. 2004/702), art. 1(3), Sch. 7 para. 5 (with art. 81); S.R. 2005/4, art. 3 (with arts. 4-7)
- F10** S. 170(4B) inserted (15.11.1996) by S.I. 1996/2686, art. 4(2)(b)
- F11** S. 170(6) inserted (9.12.1992) by Finance (No. 2) Act 1992 (c. 48), s. 3(1), Sch. 2 para. 7; S.I. 1992/3104, art. 2(1).

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

- C9** S. 170(3)(b) modified (1.5.2004) by Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) Order 2003 (S.I. 2003/2764), arts. 1, 21(6)
- C10** S. 170(3)(b) modified (1.10.2006) by The Export of Radioactive Sources (Control) Order 2006 (S.I. 2006/1846), arts. 1, 12(4)

#### Marginal Citations

- M1** 1971 c. 38.

### [<sup>F12</sup>170A Offence of handling goods subject to unpaid excise duty.

- (1) Subject to subsection (2) below, if—
- (a) after the excise duty point for any goods which are chargeable with a duty of excise, a person acquires possession of those goods or is concerned in carrying, removing, depositing, keeping or otherwise dealing with those goods; and
  - (b) at the time when he acquires possession of those goods or is so concerned, [<sup>F13</sup>a payment of duty on the goods is outstanding and]has not been deferred, [<sup>F14</sup>the conduct of that person falling within paragraph (a) above shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties) which shall be calculated by reference to the amount of the unpaid duty.]

[ Section 10 of the Finance Act 1994 (exception to civil penalty in cases of reasonable <sup>F15</sup>(2) excuse) shall not apply in relation to conduct attracting a penalty by virtue of subsection (1) above; but such conduct shall not give rise to any liability to a penalty under section 9 of that Act if the person whose conduct it is satisfies the Commissioners or, on appeal, a VAT and duties tribunal, that he—]

- (a) acted in accordance with the directions of, or with the consent of, the proper officer; or
- (b) was not himself the person, or one of the persons, liable to pay the unpaid duty and at the time when he acted either—
  - (i) had no grounds for suspecting that the goods were chargeable with a duty of excise that had not yet been paid; or
  - (ii) believed on reasonable grounds that the duty had been paid or its payment deferred or that the liability to pay the duty had not yet taken effect.]

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#### Textual Amendments

- F12** S. 170A wholly in force (1.6.1993) by 1992 c. 48, s. 3(1), **Sch. 2 para. 8**; S.I. 1993/1341, art. 2, **Sch.**
- F13** Words in s. 170A(1)(b) substituted (1.1.1995) by 1994 c. 9, s. 9(9), **Sch. 4 Pt. I para. 13(1)(a)** (with s. 19(3)); S.I. 1994/2679, **art. 3** (with art. 4(3))
- F14** Words in s. 170A(1) substituted (1.1.1995) by 1994 c. 9, s. 9(9), **Sch. 4 Pt. I para. 13(1)(b)** (with s. 19(3)); S.I. 1994/2679, **art. 3** (with art. 4(3))
- F15** Words in s. 170A(2) substituted (1.1.1995) by 1994 c. 9, s. 9(9), **Sch. 4 Pt. I para. 13(2)** (with s. 19(3)); S.I. 1994/2679, **art. 3** (with art. 4(3))

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

- C11** S. 170A applied (with modifications) (24.11.2003) by [The Channel Tunnel \(Alcoholic Liquor and Tobacco Products\) Order 2003 \(S.I. 2003/2758\)](#), arts. 1, 3, **Sch.**
- C12** S. 170A applied (with modifications) (17.3.2000) by S.I. 2000/426, art. 4, **Sch. 2**

### <sup>F16</sup>170B Offence of taking preparatory steps for evasion of excise duty.

- (1) If any person is knowingly concerned in the taking of any steps with a view to the fraudulent evasion, whether by himself or another, of any duty of excise on any goods, he shall be liable—
- (a) on summary conviction, to a penalty of the prescribed sum or of three times the amount of the duty, whichever is the greater, or to imprisonment for a term not exceeding six months or to both; and
  - (b) on conviction on indictment, to a penalty of any amount or to imprisonment for a term not exceeding seven years or to both.
- (2) Where any person is guilty of an offence under this section, the goods in respect of which the offence was committed shall be liable to forfeiture.

#### Textual Amendments

- F16** S. 170B wholly in force (1.6.1993) by 1992 c. 48, s. 3(1), **Sch. 2 para. 8**; S.I. 1993/1341, art. 2, **Sch.**

### 171 General provisions as to offences and penalties.

- (1) Where—
- (a) by any provision of any enactment relating to an assigned matter a punishment is prescribed for any offence thereunder or for any contravention of or failure to comply with any regulation, direction, condition or requirement made, given or imposed thereunder; and
  - (b) any person is convicted in the same proceedings of more than one such offence, contravention or failure,
- that person shall be liable to that punishment for each such offence, contravention or failure of which he is so convicted.
- (2) In this Act the “prescribed sum”, in relation to the penalty provided for an offence, means—
- (a) if the offence was committed in England [<sup>F17</sup>or Wales], the prescribed sum within the meaning of [<sup>F18</sup>section 32 of the Magistrates’ Courts Act 1980 (£1,000 or other sum substituted by order under section 143(1) of that Act)];

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- (b) if the offence was committed in Scotland, the prescribed sum within the meaning of [<sup>F19</sup>subsection (8) of section 225 of the Criminal Procedure (Scotland) Act 1995 (£5,000 or other sum substituted by order under subsection (4) of that section)];
- [<sup>F20</sup>(c) if the offence was committed in Northern Ireland, the prescribed sum within the meaning of Article 4 of the Fines and Penalties (Northern Ireland) Order 1984 (£1,000 or other sum substituted by order under Article 17 of that Order);]

and in subsection (1)(a) above, the reference to a provision by which a punishment is prescribed includes a reference to a provision which makes a person liable to a penalty of the prescribed sum within the meaning of this subsection.

[<sup>F21</sup>(2A) . . . . .]

- (3) Where a penalty for an offence under any enactment relating to an assigned matter is required to be fixed by reference to the value of any goods, that value shall be taken as the price which those goods might reasonably be expected to have fetched, after payment of any duty or tax chargeable thereon, if they had been sold in the open market at or about the date of the commission of the offence for which the penalty is imposed.
- (4) Where an offence under any enactment relating to an assigned matter which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

In this subsection “director”, in relation to any body corporate established by or under any enactment for the purpose of carrying on under national ownership any industry or part of an industry or undertaking, being a body corporate whose affairs are managed by the members thereof, means a member of that body corporate.

[<sup>F22</sup>(4A) Subsection (4) shall not apply to an offence which relates to a matter listed in Schedule 1 to the Commissioners for Revenue and Customs Act 2005 (former Inland Revenue matters).]

- (5) Where in any proceedings for an offence under the customs and excise Acts any question arises as to the duty or the rate thereof chargeable on any imported goods, and it is not possible to ascertain the relevant time specified in section 43 above [<sup>F23</sup>or the relevant excise duty point], that duty or rate shall be determined as if the goods had been imported without entry at the time when the proceedings were commenced [<sup>F23</sup>or, as the case may be, as if the time when the proceedings were commenced was the relevant excise duty point.]

#### Textual Amendments

- F17** Words substituted by [S.I. 1984/703](#), (N.I. 3) Sch. 6 para. 7(a)
- F18** Words substituted by [Magistrates' Courts Act 1980 \(c. 43, SIF 82\)](#), s. 154, [Sch. 7 para. 178](#)
- F19** Words in s. 171(2)(b) substituted (1.4.1996) by [1995 c. 40, ss. 5, 7\(2\)](#), [Sch. 4 para. 18\(5\)](#)
- F20** S. 171(2)(c) inserted by [S.I. 1984/703](#), (N.I. 3) Sch. 6 para. 7(b)
- F21** S. 171(2A) repealed (5.11.1993) by [1993 c. 50, s. 1\(1\)](#), [Sch 1, Pt. XIV Gp. 2.](#)
- F22** [S. 171\(4A\)](#) inserted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 28](#); [S.I. 2005/1126](#), art. 2(2)(h)



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**F23** Words in s. 171(5) inserted (9.12.1992) by Finance (No. 2) Act 1992 (c. 48), s. 3(1), **Sch. 2 para. 9(a)(b)**; S.I. 1992/3104, **art. 2(1)**.



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