

Changes to legislation: Customs and Excise Management Act 1979, SCHEDULE 2A is up to date with all changes known to be in force on or before 26 April 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) View outstanding changes

SCHEDULES

[^{F1}SCHEDULE 2A

Section 139(5A)

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

Textual Amendments

- F1** Sch. 2A inserted (with effect in accordance with s. 226(8) of the amending Act) by [Finance Act 2013 \(c. 29\), s. 226\(7\)](#)

Modifications etc. (not altering text)

- C1** Sch. 2A applied (with modifications) (6.4.2018) by [The Soft Drinks Industry Levy \(Enforcement\) Regulations 2018 \(S.I. 2018/264\), regs. 1\(1\), 2, Sch.](#) (with regs. 3-5)

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, ^{F2}...
- [a person who has (or appears to have) possession or control of the thing ^{F3}(ba) being detained.]

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- (c) in the case of any thing detained on [^{F4}or from] a ship or aircraft, the master or commander^{F5}, or
- (d) in the case of any thing detained on or from [^{F6}any other vehicle, the vehicle operator].]

Textual Amendments

- F2** Word in Sch. 2A para. 3(2)(b) omitted (with effect in accordance with s. 175(6) of the amending Act) by virtue of [Finance Act 2016 \(c. 24\), s. 175\(3\)\(a\)](#)
- F3** Sch. 2A para. 3(2)(ba) inserted (with effect in accordance with s. 175(6) of the amending Act) by [Finance Act 2016 \(c. 24\), s. 175\(3\)\(a\)](#)
- F4** Words in Sch. 2A para. 3(2)(c) inserted (with effect in accordance with s. 175(6) of the amending Act) by [Finance Act 2016 \(c. 24\), s. 175\(3\)\(b\)](#)
- F5** Sch. 2A para. 3(2)(d) and word inserted (with effect in accordance with s. 175(6) of the amending Act) by [Finance Act 2016 \(c. 24\), s. 175\(3\)\(c\)](#)
- F6** Words in [Sch. 2A para. 3\(2\)\(d\)](#) substituted (13.9.2018 for specified purposes, 31.12.2020 in so far as not already in force) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\), s. 57\(1\)\(a\), Sch. 7 para. 117\(2\)](#) (with savings and transitional provisions in [S.I. 2020/1449, reg. 3](#) and [2020 c. 26, Sch. 2 para. 7\(7\)-\(9\)](#)); [S.I. 2020/1642, reg. 4\(a\)](#)

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 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—
 - ^{F7}(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,
 - (c) a person who has (or appears to have) possession or control of the thing being detained,
 - (d) in the case of any thing detained on a ship or aircraft, the master or commander,
 - (e) in the case of any thing detained on [^{F8}any other vehicle, the vehicle operator], or
 - (f) a person whom the person who detains the thing reasonably believes to be a person within any of paragraphs (a) to (e).]
- (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.

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- (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.

Textual Amendments

- F7** Sch. 2A para. 4(2)(a)-(f) substituted for Sch. 2A para. 4(2)(a)(b) (with effect in accordance with s. 175(6) of the amending Act) by [Finance Act 2016 \(c. 24\), s. 175\(4\)](#)
- F8** Words in [Sch. 2A para. 4\(2\)\(e\)](#) substituted (13.9.2018 for specified purposes, 31.12.2020 in so far as not already in force) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\), s. 57\(1\)\(a\)](#), [Sch. 7 para. 117\(3\)](#) (with savings and transitional provisions in [S.I. 2020/1449, reg. 3](#) and [2020 c. 26, Sch. 2 para. 7\(7\)-\(9\)](#)); [S.I. 2020/1642, reg. 4\(a\)](#)

- 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.]

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

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

- s. 95(1A)(1B) inserted by [2023 c. 30 s. 110\(2\)](#)
- s. 119(7) inserted by [S.I. 2022/109 reg. 2\(3\)\(f\)](#) (This amendment not applied to [legislation.gov.uk](#). The affecting statutory instrument has no legal effect. It was made under a procedure which meant that it ceased to have effect 28 days after signing unless it was debated and approved in Parliament within that time. It was not debated and approved within 28 days, so it has expired with no effect.)
- s. 160(2A) inserted by [2023 c. 30 Sch. 13 para. 26\(3\)](#)