



Landmines Act 1998

1998 CHAPTER 33

Criminal proceedings

20 Consents to prosecutions.

Proceedings for a section 2 offence shall not be instituted—

- (a) in England and Wales, except by or with the consent of the Attorney General;
- (b) in Northern Ireland, except by or with the consent of the Attorney General for Northern Ireland.

21 [F¹Revenue and Customs prosecutions.]

(1) Subject to section 20, proceedings for a section 2 offence may be instituted [F²by [F³the Director of Public Prosecutions] or by order of the Commissioners for Her Majesty's Revenue and Customs] if it appears [F⁴to the Director or to the Commissioners] that the offence has involved either—

- (a) the movement of a prohibited object into or out of any country or territory; or
- (b) any proposal or attempt to move a prohibited object into or out of any country or territory.

(2) Any proceedings for an offence which are instituted [F⁵by order of the Commissioners] under subsection (1) shall be commenced in the name of an officer [F⁶of Revenue and Customs].

F⁷(3)

(4) Where the Commissioners F⁸... investigate, or propose to investigate, any matter with a view to determining—

- (a) whether there are grounds for believing that a section 2 offence has been committed, or
- (b) whether a person should be prosecuted for such an offence,

that matter shall be treated as an assigned matter within the meaning of the M¹Customs and Excise Management Act 1979.

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- (5) Nothing in this section shall be taken—
- (a) to prevent any person (including any officer) who has power to arrest, detain or prosecute any person for a section 2 offence from doing so; or
 - (b) to prevent a court from proceeding to deal with a person brought before it following his arrest by an officer for a section 2 offence, even though the proceedings have not been instituted [^{F9}in accordance with this section].

^{F10}(6)

- (7) This section does not apply to proceedings in Scotland.

Textual Amendments

- F1** S. 21 heading substituted (18.4.2005) by Commissioners for Revenue and Customs Act 2005 (c. 11), s. 53(1), **Sch. 4 para. 66(g)**; S.I. 2005/1126, art. 2(2)(h)
- F2** Words in s. 21(1) substituted (18.4.2005) by Commissioners for Revenue and Customs Act 2005 (c. 11), s. 53(1), **Sch. 4 para. 66(a)(i)**; S.I. 2005/1126, art. 2(2)(h)
- F3** Words in s. 21(1) substituted (27.3.2014) by The Public Bodies (Merger of the Director of Public Prosecutions and the Director of Revenue and Customs Prosecutions) Order 2014 (S.I. 2014/834), art. 1(1), **Sch. 2 para. 13**
- F4** Words in s. 21(1) substituted (18.4.2005) by Commissioners for Revenue and Customs Act 2005 (c. 11), s. 53(1), **Sch. 4 para. 66(a)(ii)**; S.I. 2005/1126, art. 2(2)(h)
- F5** Words in s. 21(2) inserted (18.4.2005) by Commissioners for Revenue and Customs Act 2005 (c. 11), s. 53(1), **Sch. 4 para. 66(b)(i)**; S.I. 2005/1126, art. 2(2)(h)
- F6** Words in s. 21(2) inserted (18.4.2005) by Commissioners for Revenue and Customs Act 2005 (c. 11), s. 53(1), **Sch. 4 para. 66(b)(ii)**; S.I. 2005/1126, art. 2(2)(h)
- F7** S. 21(3) repealed (18.4.2005) by Commissioners for Revenue and Customs Act 2005 (c. 11), s. 53(1), **Sch. 4 para. 66(c)**, **Sch. 5**; S.I. 2005/1126, art. 2(2)(h)(i)
- F8** Words in s. 21(4) omitted (18.4.2005) by virtue of Commissioners for Revenue and Customs Act 2005 (c. 11), s. 53(1), **Sch. 4 para. 66(d)**; S.I. 2005/1126, art. 2(2)(h)
- F9** Words in s. 21(5)(b) substituted (18.4.2005) by virtue of Commissioners for Revenue and Customs Act 2005 (c. 11), s. 53(1), **Sch. 4 para. 66(e)**; S.I. 2005/1126, art. 2(2)(h)
- F10** S. 21(6) repealed (18.4.2005) by Commissioners for Revenue and Customs Act 2005 (c. 11), s. 53(1), **Sch. 4 para. 66(f)**, **Sch. 5**; S.I. 2005/1126, art. 2(2)(h)(i)

Marginal Citations

- M1** 1979 c. 2.

22 Forfeiture in case of conviction.

- (1) The court by or before which a person is convicted of an offence under this Act may order that anything shown to the court's satisfaction to relate to the offence shall be forfeited and either destroyed or otherwise dealt with in such manner as the court may order.
- (2) In particular, the court may order that the thing is to be dealt with as the Secretary of State may see fit; and, in such a case, the powers of the Secretary of State shall include power to direct the destruction of that thing or to secure its disposal in any other way that appears to him to be appropriate.
- (3) Where—
 - (a) the court proposes to order anything to be forfeited under this section, and

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(b) a person claiming to have an interest in it applies to be heard by the court, the court must not order it to be forfeited unless that person has been given an opportunity to show cause why the order should not be made.

23 Offences by bodies corporate etc.

- (1) Where an offence under this Act is committed by a body corporate and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of—
 - (a) a director, manager, secretary or other similar officer of the body corporate, or
 - (b) any person who was 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.
- (2) In subsection (1) “director”, in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate.
- (3) Where an offence under this Act is committed by a Scottish partnership and is proved to have been committed with the consent or connivance of a partner, he (as well as the partnership) shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

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