



# Borders, Citizenship and Immigration Act 2009

## 2009 CHAPTER 11

### PART 1

#### BORDER FUNCTIONS

##### *The Director of Border Revenue*

#### **6 The Director of Border Revenue**

- (1) The Secretary of State must designate an official in the department of the Secretary of State by whom general customs functions are exercisable as the Director of Border Revenue.
- (2) Before making a designation under this section, the Secretary of State must obtain the consent of the Treasury to the designation.

#### **7 Customs revenue functions of the Director**

- (1) The functions of the Commissioners for Her Majesty's Revenue and Customs that are exercisable in relation to customs revenue matters are exercisable by the Director of Border Revenue concurrently with the Commissioners.
- (2) For the purposes of this Part, each of the following is a “customs revenue matter”—
  - (a) agricultural levies (within the meaning given by section 6(8) of the European Communities Act 1972 (c. 68));
  - (b) anti-dumping duty (within the meaning of Council Regulation (EC) No. 384/96, as amended from time to time);
  - (c) countervailing duty (within the meaning of Council Regulation (EC) No. 2026/97, as amended from time to time);
  - (d) customs duties;
  - (e) duties of excise other than—

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- (i) amusement machine licence duty,
    - (ii) bingo duty,
    - (iii) gaming duty,
    - (iv) general betting duty,
    - (v) lottery duty,
    - (vi) pool betting duty, and
    - (vii) remote gaming duty;
  - (f) value added tax so far as relating to the export of goods from, or the import of goods into, the United Kingdom.
- (3) Subsection (1) does not apply to—
- (a) any function of making, by statutory instrument, any regulations, rules or an order;
  - (b) any function of issuing notices, directions or conditions that relate to value added tax and that apply generally to any person falling within their terms.
- (4) If a function is exercisable by the Commissioners—
- (a) in relation to a customs revenue matter, and
  - (b) in relation to any other matter,
- the function is exercisable by the Director in relation to the customs revenue matter only.
- (5) So far as is appropriate for the purposes of or in connection with this section, references to the Commissioners for Her Majesty's Revenue and Customs, or to Her Majesty's Revenue and Customs, in an enactment, instrument or document to which this section applies are to be construed as including a reference to the Director.
- (6) References in this section to functions of the Commissioners are to functions conferred by an enactment to which this section applies.
- (7) This section applies to—
- (a) an enactment passed or made before the end of the session in which this Act is passed, and
  - (b) an instrument or document issued before the passing of this Act.
- (8) This includes—
- (a) section 5(1)(b) and (2)(b) of the Commissioners for Revenue and Customs Act 2005 (c. 11) (Commissioners' initial functions),
  - (b) section 9 of that Act (ancillary powers),
  - (c) section 24(1), (2), (3)(e) and (4) to (7) of that Act (evidence),
  - (d) section 25(1), (1A), (5) and (6) of that Act (conduct of civil proceedings),
  - (e) section 25A(2) of that Act (certificates of debt),
  - (f) section 26 of that Act (rewards),
  - (g) section 31 of that Act (obstruction), and
  - (h) section 33 of that Act (power of arrest) other than in its application to an offence under section 30 of that Act (impersonation),
- but does not include any other enactment contained in that Act.
- (9) In this Part “customs revenue function” means—
- (a) a function that is exercisable—
    - (i) by the Director by virtue of this section, or

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- (ii) by customs revenue officials by virtue of section 11,
- (b) a function that is conferred on customs revenue officials or the Director by or by virtue of any of sections 22 to 24 (investigations and detention), or
- (c) a function under Community law that is exercisable by the Director or customs revenue officials in relation to a customs revenue matter.

## **8 Power of Treasury to modify Director's functions**

The Treasury may by order—

- (a) amend section 7(2) (matters that are customs revenue matters) so as to add, modify or remove a matter;
- (b) amend section 7(3) (functions to which that section does not apply) so as to add, modify or remove a function;
- (c) make provision for that section to apply in relation to a function conferred on the Commissioners for Her Majesty's Revenue and Customs by an enactment passed or made after the end of the session in which this Act is passed;
- (d) modify any enactment (including an enactment passed or made after the passing of this Act) in consequence of provision made under any of paragraphs (a) to (c).

## **9 Delegation of Director's functions**

- (1) The Director of Border Revenue may make arrangements to delegate a function of the Director.
- (2) The delegation of a function under this section—
  - (a) does not prevent the exercise of the function by the Director, and
  - (b) does not prevent the exercise of the function by a customs revenue official (see section 11).
- (3) Where the Director delegates a function under this section—
  - (a) the Director must monitor the exercise of the function by the person to whom it is delegated, and
  - (b) the person must comply with the directions of the Director in exercising that function.

## **10 Compliance with directions etc.**

- (1) This section applies to—
  - (a) the Director of Border Revenue in the exercise of the Director's customs revenue functions, and
  - (b) a person to whom such functions are delegated under section 9.
- (2) A person to whom this section applies must comply with any directions of a general nature given by the Treasury.
- (3) A person to whom this section applies must apply—
  - (a) any concession published by the Commissioners for Her Majesty's Revenue and Customs and available generally to any person falling within its terms, and
  - (b) any interpretation of the law issued by the Commissioners (whether or not published).

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- (4) A person to whom this section applies must also—
- (a) comply with any other guidance issued by the Commissioners (whether or not published), and
  - (b) take account of any other material published by the Commissioners.

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