

SCHEDULES

SCHEDULE 2

Section 12

LEGAL PROCEEDINGS

Proceedings in England and Wales or Northern Ireland

- 1 (1) Proceedings in England and Wales or Northern Ireland for an offence under section 11 may be instituted only—
 - (a) by the Secretary of State, or
 - (b) by a constable with the approval of the Secretary of State.
- (2) Proceedings in England and Wales or Northern Ireland for an offence under section 11 may be started at any time within 6 months from the date on which evidence sufficient, in the opinion of the person instituting the proceedings, to justify the proceedings came to the person's knowledge.
- (3) No proceedings may be started by virtue of sub-paragraph (2) more than three years after the commission of the offence.
- (4) A certificate—
 - (a) stating that the Secretary of State's approval is given for the institution by a constable of the proceedings specified in the certificate, and
 - (b) signed by or on behalf of the Secretary of State,is conclusive evidence of that approval.
- (5) A certificate—
 - (a) stating the date on which the evidence referred to in sub-paragraph (2) came to the knowledge of the person instituting the proceedings, and
 - (b) signed by or on behalf of that person,is conclusive evidence of that date.
- (6) A certificate—
 - (a) including a statement under paragraph (a) of sub-paragraph (4) or (5), and
 - (b) purporting to be signed as mentioned in paragraph (b) of the sub-paragraph concerned,is to be deemed to be so signed unless the contrary is proved.
- (7) Sections 145 and 146A of the Customs and Excise Management Act 1979 (procedural restrictions and time limits on starting proceedings for offences under the customs and excise Acts) do not apply to proceedings in England and Wales or Northern Ireland for an offence under section 11.

Proceedings in Scotland

- 2 (1) Proceedings in Scotland for an offence under section 11 may not be started more than 3 years after the commission of the offence.

Status: This is the original version (as it was originally enacted).

- (2) Subject to that (and despite anything in section 136 of the Criminal Procedure (Scotland) Act 1995 (limitation of time for proceedings in statutory offences)), any such proceedings may be started—
- (a) in the case of proceedings instituted by the procurator fiscal as a result of information supplied by the Secretary of State, at any time within 6 months from the date on which the information came to the knowledge of the Secretary of State;
 - (b) in any other case, at any time within 6 months from the date on which evidence sufficient, in the opinion of the person instituting the proceedings, to justify the proceedings came to the person's knowledge.
- Subsection (3) of that section applies for the purposes of this sub-paragraph as it applies for the purposes of that section.
- (3) A certificate—
- (a) stating the date on which the information referred to in sub-paragraph (2)(a) came to the knowledge of the Secretary of State, and
 - (b) signed by or on behalf of the Secretary of State,
- is conclusive evidence of that date.
- (4) A certificate—
- (a) stating the date on which the evidence referred to in sub-paragraph (2)(b) came to the knowledge of the person instituting the proceedings, and
 - (b) signed by or on behalf of that person,
- is conclusive evidence of that date.
- (5) A certificate—
- (a) including a statement under paragraph (a) of sub-paragraph (3) or (4), and
 - (b) purporting to be signed as mentioned in paragraph (b) of the sub-paragraph concerned,
- is to be deemed to be so signed unless the contrary is proved.
- (6) Sections 145 and 146A of the Customs and Excise Management Act 1979 (procedural restrictions and time limits on starting proceedings for offences under the customs and excise Acts) do not apply to proceedings in Scotland for an offence under section 11.

Authorised persons

- 3 A person authorised by the Secretary of State for the purposes of this paragraph may on behalf of the Secretary of State conduct and appear in any proceedings by or against the Secretary of State under this Act—
- (a) in England and Wales, in a magistrates' court or the county court;
 - (b) in Scotland, in any court other than the Court of Session;
 - (c) in Northern Ireland, in a court of summary jurisdiction or before a county court.

Time limit for recovery of underpayments and overpayments

- 4 No proceedings may be brought—

Status: This is the original version (as it was originally enacted).

- (a) by the Secretary of State for the recovery of any underpayment of HGV road user levy, or
 - (b) by any person for the recovery of any overpayment of levy,
- after the end of the period of 12 months beginning with the end of the period in respect of which the levy was paid.

Records

- 5 (1) A statement to which this paragraph applies is admissible in any proceedings as evidence (or, in Scotland, sufficient evidence) of any fact stated in it with respect to prescribed matters to the same extent as oral evidence of that fact is admissible in the proceedings.
- (2) This paragraph applies to a statement contained in a document purporting to be—
- (a) a part of the records maintained by the Secretary of State in connection with any functions exercisable by him or her under or by virtue of this Act,
 - (b) a copy of a document forming part of those records, or
 - (c) a note of any information contained in those records,
- and to be authenticated by a person authorised to do so by the Secretary of State.
- (3) In this paragraph—
- “document” means anything in which information of any description is recorded;
 - “copy”, in relation to a document, means anything on to which information recorded in the document has been copied, by whatever means and whether directly or indirectly;
 - “statement” means any representation of fact, however made.

Single witness sufficient in certain Scottish proceedings

- 6 In proceedings in Scotland for an offence under section 11 the accused may be convicted on the evidence of one witness.

Transitory provision

- 7 Until the coming into force of section 16(1) of the Crime and Courts Act 2013, paragraph 3(a) has effect as if “or before a district judge of a county court” were substituted for “or the county court”.