



Finance Act 2016

2016 CHAPTER 24

PART 11

ADMINISTRATION, ENFORCEMENT AND SUPPLEMENTARY POWERS

Enforcement powers

173 Gift aid: power to impose penalties on charities and intermediaries

(1) At the end of section 428 of ITA 2007 insert—

“(5) The regulations may also make provision—

- (a) for the imposition of a penalty of a specified amount (which must not exceed £3000) for a failure to comply with a specified requirement imposed by the regulations,
- (b) for the assessment and recovery of the penalty (which may include provision about the reduction of the penalty in specified circumstances), and
- (c) conferring a right of appeal against a decision that a penalty is payable.”

(2) The amendment made by this section comes into force on such day as the Treasury may by regulations made by statutory instrument appoint.

Commencement Information

- II** [S. 173\(1\)](#) in force at 14.11.2016 for the purposes of the amendment made by that provision by [S.I. 2016/1010, reg. 3](#)

174 Proceedings under customs and excise Acts: prosecuting authority

(1) Part 11 of CEMA 1979 (arrest of persons, forfeiture and legal proceedings) is amended as set out in subsections (2) and (3).

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- (2) In section 146A(7) (definition of prosecuting authority)—
 - (a) in the opening words, for “prosecution” substitute “prosecuting”;
 - (b) in paragraph (b), omit “the Commissioners or”;
 - (c) in paragraph (c), for “the Commissioners” substitute “the Director of Public Prosecutions for Northern Ireland”.
- (3) In section 150(1) (joint and several liability), for the words from “the Director” to “Ireland)” substitute “prosecuting authority (within the meaning of section 146A)”.
- (4) In consequence of subsection (3), in Schedule 4 to the Commissioners for Revenue and Customs Act 2005, omit paragraph 25.
- (5) The amendments made by this section apply in relation to proceedings commenced on or after the day on which this Act is passed.

175 Detention and seizure under CEMA 1979: notice requirements etc

- (1) CEMA 1979 is amended as follows.
- (2) Schedule 2A (detention of things as liable to forfeiture) is amended as set out in subsections (3) and (4).
- (3) In paragraph 3(2) (exceptions to requirement of notice of detention)—
 - (a) omit the “or” at the end of paragraph (b), and after that paragraph insert—
 - “(ba) a person who has (or appears to have) possession or control of the thing being detained,”;
 - (b) in paragraph (c), after “on” insert “or from”;
 - (c) at the end insert “, or
 - (d) in the case of any thing detained on or from a vehicle, the driver of the vehicle.”
- (4) In paragraph 4(2) (unauthorised removal or disposal of things detained: definition of “responsible person”), for paragraphs (a) and (b) substitute—
 - “(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 a vehicle, the driver of the vehicle, or
 - (f) a person whom the person who detains the thing reasonably believes to be a person within any of paragraphs (a) to (e).”
- (5) In Schedule 3 (seizure and forfeiture), in paragraph 1(2) (exceptions to requirement of notice of seizure)—
 - (a) after paragraph (b) insert—
 - “(ba) a person who has (or appears to have) possession or control of the thing being seized; or”;

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- (b) in paragraph (c), for “in” substitute “ on or from ”;
 - (c) at the end insert “; or
 - (d) in the case of any thing seized on or from a vehicle, the driver of the vehicle.”
- (6) The amendments made by this section have effect in relation to things detained or seized on or after the day on which this Act is passed.

176 Data-gathering powers: providers of payment or intermediary services

- (1) In Part 2 of Schedule 23 to FA 2011 (data-gathering powers: relevant data-holders), after paragraph 13A insert—

“Providers of electronic stored-value payment services

- 13B (1) A person who provides electronic stored-value payment services is a relevant data-holder.
- (2) In this paragraph “electronic stored-value payment services” means services by means of which monetary value is stored electronically for the purpose of payments being made in respect of transactions to which the provider of those services is not a party.

Business intermediaries

- 13C (1) A person who—
- (a) provides services to enable or facilitate transactions between suppliers and their customers or clients (other than services provided solely to enable payments to be made), and
 - (b) receives information about such transactions in the course of doing so,
- is a relevant data-holder.
- (2) In this paragraph “suppliers” means persons supplying goods or services in the course of business.
- (3) For the purposes of this paragraph, information about transactions includes information that is capable of indicating the likely quantity or value of transactions.”
- (2) This section applies in relation to relevant data with a bearing on any period (whether before, on or after the day on which this Act is passed).

177 Data-gathering powers: daily penalties for extended default

- (1) Part 4 of Schedule 23 to FA 2011 (data-gathering powers: penalties) is amended as follows.
- (2) In paragraph 38 (increased daily default penalty)—
- (a) in sub-paragraphs (1)(c) and (2), for “imposed” substitute “ assessable ”;
 - (b) for sub-paragraphs (3) and (4) substitute—

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- “(3) If the tribunal decides that an increased daily penalty should be assessable—
 - (a) the tribunal must determine the day from which the increased daily penalty is to apply and the maximum amount of that penalty (“the new maximum amount”);
 - (b) from that day, paragraph 31 has effect in the data-holder's case as if “the new maximum amount” were substituted for “£60”.
 - (4) The new maximum amount may not be more than £1,000.”;
 - (c) in sub-paragraph (5), for “the amount” substitute “ the new maximum amount ”.
- (3) In paragraph 39—
- (a) in sub-paragraph (1), for “a data-holder becomes liable to a penalty” substitute “ the tribunal makes a determination ”;
 - (b) in sub-paragraph (2), for “the day from which the increased penalty is to apply” substitute “ new maximum amount and the day from which it applies ”;
 - (c) omit sub-paragraph (3).
- (4) In paragraph 40 (enforcement of penalties), in sub-paragraph (2)(a) omit “or 39”.
- (5) At the end of paragraph 36 (right to appeal against penalty), the existing text of which becomes sub-paragraph (1), insert—
- “(2) But sub-paragraph (1)(b) does not give a right of appeal against the amount of an increased daily penalty payable by virtue of paragraph 38.”

Changes to legislation:

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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):

- Sch. 19 para. 12(5)(b) inserted by [2017 c. 32 Sch. 14 para. 49\(2\)\(c\)](#)
- Sch. 19 para. 12(5)(a) word inserted by [2017 c. 32 Sch. 14 para. 49\(2\)\(b\)](#)
- Sch. 19 para. 51(8)(b) words inserted by [2017 c. 32 Sch. 14 para. 48\(2\)](#)
- Sch. 19 para. 53(1) words inserted by [2017 c. 32 Sch. 14 para. 48\(4\)\(a\)](#)
- Sch. 19 para. 53(1) words inserted by [2017 c. 32 Sch. 14 para. 48\(4\)\(b\)](#)
- Sch. 19 para. 12(5)(a) words renumbered as Sch. 19 para. 12(5)(a) by [2017 c. 32 Sch. 14 para. 49\(2\)\(a\)](#)
- Sch. 19 para. 58(1) words substituted by [2017 c. 32 Sch. 14 para. 48\(5\)](#)
- Sch. 20 para. 1(4)(e) inserted by [2021 c. 26 Sch. 27 para. 47\(2\)](#)
- Sch. 20 para. 3(3)(d) and word inserted by [2021 c. 26 Sch. 27 para. 47\(3\)\(b\)](#)
- Sch. 20 para. 5(5) inserted by [2021 c. 26 Sch. 27 para. 47\(5\)](#)
- Sch. 22 para. 2(4B) inserted by [2021 c. 26 Sch. 27 para. 48\(2\)\(c\)](#)
- Sch. 22 para. 3(4A) inserted by [2021 c. 26 Sch. 27 para. 48\(3\)](#)