

SCHEDULE II

Article 15

EVIDENCE AND INFORMATION

1.—(1) Without prejudice to any other provision of this Order, or any provision of any other law, the Secretary of State (or any person authorised by him for that purpose either generally or in a particular case) or the Commissioners of Customs and Excise may request any person in or resident in the United Kingdom to furnish to him or them (or to that authorised person) any information in his possession or control, or to produce to him or them (or to that authorised person) any document in his possession or control, which he or they (or that authorised person) may require for the purpose of securing compliance with or detecting evasion of this Order; and any person to whom such a request is made shall comply with it within such time and in such manner as may be specified in the request.

(2) Nothing in the foregoing sub-paragraph shall be taken to require any person who has acted as counsel or solicitor for any person to disclose any privileged communication made to him in that capacity.

(3) Where a person is convicted of failing to furnish information or produce a document when requested so to do under this paragraph, the court may make an order requiring him, within such period as may be specified in the order, to furnish the information or produce the document.

(4) The power conferred by this paragraph to request any person to produce documents shall include power to take copies of or extracts from any document so produced and to request that person, or, where that person is a body corporate, any other person who is a present or past officer of, or is employed by, the body corporate, to provide an explanation of any of them.

2.—(1) If any justice of the peace is satisfied by information on oath given by any constable or person authorised by the Secretary of State or the Commissioners of Customs and Excise to act for the purposes of this paragraph either generally or in a particular case:

- (a) that there is reasonable ground for suspecting that an offence against this Order or, with respect to any of the matters regulated by this Order, an offence against any enactment relating to customs has been or is being committed and that evidence of the commission of the offence is to be found on any premises specified in the information, or in any vehicle, vessel or aircraft so specified; or
- (b) that any documents which ought to have been produced under paragraph 1 of this Schedule and have not been produced are to be found on any such premises or in any such vehicle, vessel or aircraft,

he may grant a search warrant authorising any constable or any officer of Customs and Excise, together with any other persons named in the warrant and any other constables, to enter the premises specified in the information or, as the case may be, any premises upon which the vehicle, vessel or aircraft so specified may be, at any time within one month from the date of the warrant and to search the premises, or, as the case may be, the vehicle, vessel or aircraft.

(2) A person authorised by any such warrant as aforesaid to search any premises or any vehicle, vessel or aircraft may search every person who is found in, or whom he has reasonable ground to believe to have recently left or to be about to enter, those premises or that vehicle, vessel or aircraft and may seize any document or article found on the premises or in the vehicle, vessel or aircraft or on such person which he has reasonable ground to believe to be evidence of the commission of any such offence as aforesaid or any documents which he has reasonable ground to believe ought to have been produced under paragraph 1 of this Schedule or to take in relation to any such article or document any other steps which may appear necessary for preserving it and preventing interference with it:

Provided that no person shall, in pursuance of any warrant issued under this paragraph, be searched except by a person of the same sex.

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(3) Where, by virtue of this paragraph, a person is empowered to enter any premises, vehicle, vessel or aircraft he may use such force as is reasonably necessary for that purpose.

(4) Any documents or articles of which possession is taken under this paragraph may be retained for a period of three months or, if within that period there are commenced any proceedings for such an offence as aforesaid to which they are relevant, until the conclusion of those proceedings.

(5) In the application of this paragraph to Scotland any reference to a justice of the peace includes a reference to the sheriff; and any reference to information on oath is a reference to evidence on oath.

3. A person authorised by the Secretary of State to exercise any power for the purposes of this Schedule shall, if requested to do so, produce evidence of his authority before exercising that power.

4. No information furnished or document produced (including any copy or extract made of any document produced) by any person in pursuance of a request made under this Schedule and no document seized under paragraph 2(2) of this Schedule shall be disclosed except:

(a) with the consent of the person by whom the information was furnished or the document was produced or the person from whom the document was seized:

Provided that a person who has obtained information or is in possession of a document only in his capacity as servant or agent of another person may not give consent for the purposes of this sub-paragraph but such consent may instead be given by any person who is entitled to that information or to the possession of that document in his own right; or

(b) to any person who would have been empowered under this Schedule to request that it be furnished or produced or to any person holding or acting in any office under or in the service of the Crown; or

(c) on the authority of the Secretary of State, to any organ of the United Nations or to the Government of any other country for the purpose of assisting the United Nations or that Government in securing compliance with or detecting evasion of measures in relation to this Order decided upon by the Security Council of the United Nations; or

(d) with a view to the institution of, or otherwise for the purposes of, any proceedings for an offence against this Order or, with respect to any of the matters regulated by this Order, for an offence against any enactment relating to customs.

5.—(1) Any person who—

(a) without reasonable excuse, refuses or fails within the time and in the manner specified (or, if no time has been specified, within a reasonable time) to comply with any request made under this Schedule by any person who is empowered to make it; or

(b) wilfully furnishes false information or a false explanation to any person exercising his powers under this Schedule; or

(c) otherwise wilfully obstructs any person in the exercise of his powers under this Schedule; or

(d) with intent to evade the provisions of this Schedule, destroys, mutilates, defaces, secretes or removes any document,

shall be guilty of an offence against this Order.