

The Customs & Excise Act - 1952 (Abstract)

'An Act to consolidate, with amendments, certain enactments relating to HM Customs and Excise and to extend certain provisions of those enactments to any other matter in relation to which the Commissioners of Customs and Excise are for the time being required in pursuance of any enactment to perform any duties.'

The sections of the Customs and Excise 1952 Act most used by the Waterguard were:

Section 10	Obstruction of officers, etc.
Section 44	Forfeiture of goods improperly imported.
Section 45	Penalty for improper importation of goods, etc.
Section 66	Person entering or leaving United Kingdom to answer questions as to baggage, etc.
Section 67	Power to require evidence in support of information.
Section 70	Penalty for breaking seals, etc.
Section 71	Penalty for signalling to smugglers.
Section 75	Forfeiture of ships, etc. constructed etc. for concealing goods.
Section 274	Provision as to the detention of persons.
Section 275	Provisions as to detention, seizure and condemnation of goods, etc.
Section 277	Forfeiture of ships, etc. used in connection with goods liable to forfeiture.
Section 279	Penalty in lieu of forfeiture of larger ships where responsible officer is implicated in the offence
Section 288	Power of Commissioners to mitigate penalties, etc.
Section 296	Power to search premises.
Section 297	Power to search vehicles and vessels.
Section 298	Power to search persons.
Section 301	Untrue declarations, etc.
Section 304	Penalty for fraudulent evasion of duty, etc.

Section 10 - Obstruction of officers, etc.

(1) Any person who:-

- (a) obstructs, hinders, molests or assaults any person duly officers, etc. Engaged in the performance of any duty or the exercise of any power imposed or conferred on him by or under any enactment relating to an assigned matter, or any person acting in his aid; or
- (b) does anything which impedes or is calculated to impede the carrying out of any search for any thing liable to forfeiture under any such enactment or the detention, seizure or removal of any such thing; or
- (c) rescues, damages or destroys any thing so liable to forfeiture or does anything calculated to prevent the procuring or giving of evidence as to whether or not any thing is so liable to forfeiture; or
- (d) prevents the detention of any person by a person duly engaged or acting as aforesaid or rescues any person so detained, or who attempts to do any of the aforementioned things, shall be liable on summary conviction to a penalty of one hundred pounds or to imprisonment for a term not exceeding three months or to both, or on conviction on indictment to a penalty of five hundred pounds or to imprisonment for a term not exceeding two years or to both.

- (2) Any person committing an offence under this section and any person aiding or abetting the commission of such an offence may be detained.

Section 44 - Forfeiture of goods improperly imported.

Where

- (a) except as provided by or under this Act any imported goods, being goods chargeable with a duty of customs, are without payment of that duty unshipped in any port, unloaded from any aircraft in the United Kingdom, unloaded from any vehicle in, or otherwise brought across the boundary into, Northern Ireland, or removed from their place of importation or from any approved wharf, examination station or transit shed: or
- (b) any goods are imported, landed or unloaded contrary to any prohibition or restriction for the time being in force with respect thereto under or by virtue of any enactment; or
- (c) any goods, being goods chargeable with any duty or goods the importation of which is for the time being prohibited or restricted by or under any enactment, are found, whether before or after the unloading thereof, to have been concealed in any manner on board any ship PART II or aircraft or, while in Northern Ireland, in any vehicle or
- (d) any goods are imported concealed in a container holding goods of a different description: or
- (e) any imported goods are found, whether before or after delivery, not to correspond with the entry made thereof: or
- (f) any imported goods are concealed or packed in any manner appearing to be intended to deceive an officer,

those goods shall be liable to forfeiture.

Provided that where any goods the importation of which is for the time being prohibited or restricted by or under any enactment are on their importation either

- (i) reported as intended for exportation in the same ship, aircraft or vehicle : or
- (ii) entered for transit or transshipment; or
- (iii) entered to be warehoused for exportation or for use as stores,

the Commissioners may, if they see fit, permit the goods to be dealt with accordingly.

Section 45 - Penalty for improper importation of goods, etc.

- (1) If any person unships or lands in any port or unloads from any aircraft in the United Kingdom or from any vehicle in Northern Ireland or removes from their place of importation or from any approved wharf, examination station, transit shed or customs station

- (a) any goods chargeable with a duty which has not been paid; or

- (b) any goods imported, landed or unloaded contrary to any prohibition or restriction for the time being in force under or by virtue of any enactment with respect to those goods,

or assists or is otherwise concerned in such unshipping, landing, unloading or removal, or if any person imports or is concerned in importing any goods contrary to any such prohibition or restriction as aforesaid, whether or not the goods are unloaded, then, if he does so with intent to defraud Her Majesty of any such duty or to evade any such prohibition or restriction, he shall be liable to a penalty of three times the value of the goods or one hundred pounds, whichever is the greater, or to imprisonment for a term not exceeding two years. or to both, and may be detained.

- (2) If any person

- (a) imports or causes to be imported any goods concealed in a container holding goods of a different description; or

- (b) directly or indirectly imports or causes to be imported or entered any goods found, whether before or after delivery, not to correspond with the entry made thereof, he shall be liable to a penalty of three times the value of the goods or one hundred pounds, whichever is the greater.

- (3) The penalties imposed by this section shall not apply in the case of an offence in connection with the importation of goods contrary to a prohibition or restriction where a penalty is expressly prescribed' for that offence by the enactment or other instrument imposing the prohibition or restriction.

Section 66 - Person entering or leaving United Kingdom to answer questions as to baggage, etc.

- (1) Any person entering or leaving the United Kingdom shall answer such questions as the proper officer may put to him with respect to his baggage and any article contained therein or carried with him and shall produce that baggage and any such article for examination.
- (2) Any baggage or article such as is mentioned in the foregoing subsection shall be examined and cleared at such place and in such manner as the Commissioners may direct and any article chargeable with any duty which is found concealed or which is not declared, and any article which is being taken into or out of the United Kingdom contrary to any prohibition or restriction for the time being in force with respect thereto under or by virtue of any enactment, shall be liable to forfeiture.
- (3) Any person failing to produce any baggage or article as required by subsection (1) of this section shall be liable to a penalty of three times the value thereof or one hundred pounds, whichever is the greater.

Section 67 - Power to require evidence in support of information.

The Commissioners may, if they consider it necessary, require evidence to be produced to their satisfaction in support of any information required by or under this Part of this Act to be provided in respect of goods imported or exported.

Section 70 - Penalty for breaking seals, etc.

Where, in pursuance of any power conferred by this Act, an officer has placed any lock, mark or seal upon any goods in any ship, aircraft or vehicle, or upon any place or container in which such goods are kept, then if, without the authority of the proper officer, at any time while the ship is within the limits of any port or on passage between ports or while the aircraft or vehicle is in the United Kingdom, that lock, mark or seal is wilfully opened, altered or broken, or if, before that lock, mark or seal is lawfully removed, any of the goods are secretly conveyed away, the master of the ship or commander of the aircraft or the person in charge of the vehicle shall be liable to a penalty of one hundred pounds.

Section 71 - Penalty for signalling to smugglers.

- (1) Any person who by any means makes any signal or transmits any message from any part of the United Kingdom or from any ship or aircraft for the information of a person in any ship or aircraft or across the boundary, being a signal or message connected with the smuggling or intended smuggling of goods into or out of the United Kingdom, whether or not the person for whom the signal or message is intended is in a position to receive it or is actually engaged at the time in smuggling goods, shall be liable to a penalty of one hundred pounds, or to imprisonment for a term not exceeding one year, or to both, and may be detained; and any equipment or apparatus used for sending the signal or message shall be liable to forfeiture.
- (2) If, in any proceedings under the foregoing subsection, any question arises as to whether any signal or message was such a signal or message as aforesaid, the burden of proof shall lie upon the defendant or claimant.
- (3) If any officer or constable or any member of Her Majesty's armed forces or coastguard has reasonable grounds for suspecting that any such signal or message as aforesaid is being or is about to be made or transmitted from any ship, aircraft, vehicle, house or place, he may board or enter that ship, aircraft, vehicle, house or place and take such steps as are reasonably necessary to stop or prevent the sending of the signal or message.

Section 75 - Forfeiture of ships, etc. constructed etc. for concealing goods.

Where

- (a) a ship is or has been within the limits of any port or within three or, being a British ship, twelve nautical miles of the coast of the United Kingdom; or
- (b) an aircraft is or has been at any place, whether on -land or on water, in the United Kingdom; or
- (c) a vehicle is or has been within the limits of any port or at any aerodrome or, while in Northern Ireland, within the prescribed area,

while constructed, adapted, altered or fitted in any manner for the purpose of concealing goods, that ship, aircraft or vehicle shall be liable to forfeiture

Section 274 - Provision as to the detention of persons.

- (1) Any person who has committed, or whom there are reasonable grounds to suspect of having committed, any offence to for which he is liable to be detained under the

customs or excise of Acts may be detained by any officer or constable or any member of Her Majesty's armed forces or coastguard at any time within three years from the date of the commission of the offence.

- (2) Where it was not practicable to detain any such person as aforesaid at the time of the commission of the offence, or where any such person having been then or subsequently detained for that offence has escaped, he may be detained by any officer or constable or any such member as aforesaid at any time and may be proceeded against in like manner as if the offence had been committed at the date when he was finally detained.
- (3) Where any person who is a member of the crew of any ship in Her Majesty's employment or service is detained by an officer for an offence under the said Acts, the commanding officer of the ship shall, if so required by the detaining officer, keep that person secured on board that ship until he can be brought before a court and shall then deliver him up to the proper officer.
- (4) Where any person has been detained by virtue of this section otherwise than by an officer, the person detaining him shall give notice of the detention to an officer at the nearest convenient office of customs and excise.

Section 275 - Provisions as to detention, seizure and condemnation of goods, etc.

- (1) Any thing liable to forfeiture under the customs or excise Acts may be seized or detained by any officer or constable or any member of Her Majesty's armed forces or coastguard.
- (2) Where any thing is seized or detained as liable to forfeiture of under the said Acts by a person other than an officer, that person shall, subject to the provisions of the next following subsection, either
 - (a) deliver that thing to the nearest convenient office of customs and excise or
 - (b) if such delivery is not practicable, give to the Commissioners at the nearest convenient office of customs and excise notice in writing of the seizure or detention with full particulars of the thing seized or detained.
- (3) Where the person seizing or detaining any thing as liable to forfeiture under the said Acts is a constable and that thing is or may be required for use in connection with any proceedings to be brought otherwise than under those Acts, it may be retained in the custody of the police until either those proceedings are completed or it is decided that no such proceedings shall be brought provided that
 - (a) notice in writing of the seizure or detention and of the intention to retain the thing in question in the custody of the police, together with full particulars as to that thing, shall be given to the Commissioners at the nearest convenient office of customs and excise;
 - (b) any officer shall be permitted to examine that thing and take account thereof at any time while it remains in the custody of the police;
 - (c) nothing in the Police (Property) Act, 1897, shall apply in relation to that thing.
- (4) Subject to the last foregoing subsection and to the provisions of the Seventh Schedule to this Act, any thing seized or detained under the customs or excise Acts

shall, pending the determination as to its forfeiture or disposal, be dealt with, and, if condemned or deemed to have been condemned as forfeited, shall be disposed of, in such manner as the Commissioners may direct.

- (5) The provisions of the said Seventh Schedule shall have effect for the purpose of forfeitures and of proceedings for the condemnation of any thing as being forfeited under the customs or excise Acts.
- (6) If any person, not being an officer, by whom any thing is seized or detained or who has custody thereof after its seizure or detention, fails to comply with any requirement of this section or with any direction of the Commissioners given thereunder, he shall be liable to a penalty of twenty pounds.
- (7) Subsections (2) to (6) of this section shall apply in relation to any dutiable goods seized or detained by any person other than an officer notwithstanding that they were not so seized as liable to forfeiture under the customs or excise Acts.

Section 277 - Forfeiture of ships, etc. used in connection with goods liable to forfeiture.

- (1) Without prejudice to any other provisions of this Act, where any thing has become liable to forfeiture under the customs or excise Acts
 - (a) a ship, aircraft, vehicle, animal, container (including any article of passengers' baggage) or other thing whatsoever which has been used for the carriage, handling, deposit or concealment of the thing so liable for to forfeiture, either at a time when it was so liable or for the purposes of the commission of the offence for which it later became so liable; and
 - (b) any other thing mixed, packed or found with the thing so liable, shall also be liable to forfeiture.
- (2) Where any ship, aircraft, vehicle or animal has become liable to forfeiture under the said Acts, whether by virtue of the foregoing subsection or otherwise, all tackle, apparel or furniture thereof shall also be liable to forfeiture.
- (3) Where any ship not exceeding one hundred tons register or any aircraft becomes liable to forfeiture under this section by reason of having been used in the importation, exportation or carriage of goods contrary to or for the purpose of contravening any prohibition or restriction for the time being in force with respect to those goods, or without payment having been made of, or security given for, any duty payable thereon, the owner and the master or commander shall each be liable to a penalty equal to the value of the ship or aircraft or five hundred pounds, whichever is the less.

Section 279 - Penalty in lieu of forfeiture of larger ships where responsible officer implicated in offence

- (1) Where any ship of two hundred and fifty or more tons register would, but for the last foregoing section, be liable to forfeiture for or in connection with any offence under the customs or excise Acts and, in the opinion of the Commissioners, a responsible officer of the ship is implicated either by his own act or by neglect in that offence, the Commissioners may fine that ship such sum not exceeding fifty pounds as they see fit.

- (2) Where any ship is liable to a fine under the foregoing subsection but the Commissioners consider that fine an inadequate penalty for the offence, they may take proceedings in accordance with the Seventh Schedule to this Act, in like manner as they might but for the last foregoing section have taken proceedings for the condemnation of the ship if notice of claim had been given in respect thereof, for the condemnation of the ship in such sum not exceeding five hundred pounds as the court may see fit.
- (3) Where any fine is to be imposed or any proceedings are to be taken under this section, the Commissioners may require such sum as they see fit, not exceeding fifty or, as the case may be, five hundred pounds, to be deposited with them to await their final decision or, as the case may be, the decision of the court. and may detain the ship until that sum has been so deposited.
- (4) No claim shall lie against the Commissioners for damages in respect of the payment of any deposit or the detention of any ship under this section.
- (5) For the purposes of this section
 - (a) the expression "responsible officer" means the master, a mate or an engineer of any ship and, in the case of a ship carrying a passenger certificate, the purser or chief steward and, in the case of a ship manned wholly or partly by Asiatic seamen, the serang or other leading Asiatic officer of the ship;
 - (b) without prejudice to any other grounds upon which a responsible officer may be held to be implicated by neglect, he may be so held if goods not owned to by any member of the crew are discovered in a place under that officer's supervision in which they could not reasonably have been put if he had exercised proper care at the time of the loading of the ship or subsequently.

Section 288 - Power of Commissioners to mitigate penalties, etc.

The Commissioners may, as they see fit

- (a) stay, sist or compound any proceedings for an offence or for the condemnation of any thing as being forfeited under the customs or excise Acts; or
- (b) restore, subject to such conditions, if any, as they think proper, any thing forfeited or seized under the said Acts; or
- (c) after judgement, mitigate or remit any pecuniary penalty imposed under the said Acts; or
- (d) order any person who has been imprisoned to be discharged before the expiration of his term of imprisonment, being a person imprisoned for any offence

under the said Acts or in respect of the non-payment of a sum adjudged to be paid or awarded in relation to such an offence or in respect of the default of a sufficient distress to satisfy such a sum:

Provided that paragraph (a) of this section shall not apply to proceedings on indictment in Scotland.

Section 296 - Power to search premises.

- (1) Without prejudice to any other power conferred by this Act, where there are reasonable grounds to suspect that any thing liable to forfeiture under the customs or excise Acts is kept or concealed in any building or place, any officer having a writ of assistance may enter that building or place at any time, whether by day or night, on any day, and search for, seize, and detain or remove any such thing and may, so far as is reasonably necessary for the purpose of such entry, search, seizure, detention or removal, break open any door, window or container and force and remove any other impediment or obstruction:

Provided that entry shall not be made by night except in the company of a constable.

- (2) Without prejudice to the foregoing subsection or to any other power conferred by this Act, if a justice of the peace is satisfied by information upon oath given by an officer that there are reasonable grounds to suspect as aforesaid, he may by warrant under his hand given on any day authorise that officer or any other person named in the warrant to enter and search any building or place so named, and that officer or person shall thereupon have the like powers in relation to that building or place, subject to the like conditions as to entry by night, as if he were an officer having a writ of assistance and acting upon reasonable grounds of suspicion.
- (3) Where there are reasonable grounds to suspect that any still, vessel, utensil, spirits or materials for the manufacture of spirits is or are unlawfully kept or deposited in any building or place, the last foregoing subsection shall apply in relation to any constable as it would apply in relation to the officer.
- (4) A writ of assistance shall continue in force during the reign in which it was issued and for six months thereafter.

Section 297 - Power to search vehicles and vessels.

- (1) Without prejudice to any other power conferred by this Act, where there are reasonable grounds to suspect that any vehicle or vessel is or may be carrying any goods which are
 - (a) chargeable with any duty which has not been paid or secured; or
 - (b) in the course of being unlawfully removed from or to any place; or
 - (c) otherwise liable to forfeiture under the customs or excise Acts, any officer or constable or member of Her Majesty's armed forces or coastguard may stop and search that vehicle or vessel.
- (2) If when so required by any such officer, constable or member as aforesaid the person in charge of any such vehicle or vessel refuses to stop or to permit the vehicle or vessel to be searched, he shall be liable to a penalty of one hundred pounds.

Section 298 - Power to search persons.

- (1) Where there are reasonable grounds to suspect that, any person to whom this section applies is carrying any article
 - (a) which is chargeable with any duty which has not been paid or secured; or

- (b) with respect to the importation or exportation of which any prohibition or restriction is for the time being in force under or by virtue of any enactment, any officer or any person acting under the directions of an officer may search him and any article he has with him:

Provided that

- (i) the person to be searched may require to be taken before a justice of the peace or a superior of the officer or other person concerned, who shall consider the grounds for suspicion and direct accordingly whether or not the search is to take place;
 - (ii) no woman or girl shall be searched in pursuance of this section except by a woman.
- (2) This section applies to the following persons, namely
- (a) any person who is on board or has landed from any ship or aircraft;
 - (b) any person entering or about to leave the United Kingdom;
 - (c) any person within the dock area of a port;
 - (d) any person at a customs airport;
 - (e) in Northern Ireland, any person travelling from or to any place which is on or beyond the boundary

Section 301 - Untrue declarations, etc.

- (1) If any person -
- (a) makes or signs, or causes to be made or signed, or delivers or causes to be delivered to the Commissioners or an officer, any declaration, notice, certificate or other document whatsoever; or
 - (b) makes any statement in answer to any question put to him by an officer which he is required by or under any enactment to answer,
- being a document or statement produced or made for any purpose of any assigned matter which is untrue in any material particular, he shall be guilty of an offence under this section.
- (2) Where by reason of any such document or statement as aforesaid the full amount of any duty payable is not paid or any overpayment is made in respect of any drawback, allowance, rebate or repayment of duty, the amount of the duty unpaid or of the overpayment shall be recoverable as a debt due to the Crown or may be summarily recovered as a civil debt.
- (3) Without prejudice to the last foregoing subsection, where any person who commits an offence under this section does so either knowingly or recklessly, he shall be liable to a penalty of five hundred pounds or to imprisonment for a term not exceeding two years or to both and may be detained; and any goods in relation to which the document or statement was made shall be liable to forfeiture.

- (4) Without prejudice to subsection (2) of this section. where any person commits an offence under this section in such circumstances that he is not liable under the last foregoing subsection. he shall be liable to a penalty of three hundred pounds.

Section 304 - Penalty for fraudulent evasion of duty, etc.

Without prejudice to any other provision of this Act, if any person:-

- (a) Knowingly and with intent to defraud Her Majesty of any duty payable thereon, or to evade any prohibition or restriction for the time being in force under or by virtue of any enactment with respect thereto, acquires possession of, or is in any way concerned in carrying, removing, depositing, harbouring, keeping or concealing or in any manner dealing with any goods which have been unlawfully removed from a warehouse or Queen's Warehouse, or which are chargeable with a duty which has not been paid, or with respect to the importation or exportation of which any prohibition or restriction is for the time being in force as aforesaid; or
- (b) is, in relation to any goods, in any way knowingly concerned in any fraudulent evasion or attempt at evasion of any duty chargeable thereon or of any such prohibition or restriction as aforesaid or of any provision of this Act applicable to those goods,

he may be detained and, save where, in the case of an offence in connection with a prohibition or restriction, a penalty is expressly provided for that offence by the enactment or other instrument imposing the prohibition or restriction, shall be liable to a penalty of three times the value of the goods or one hundred pounds, whichever is the greater, or to imprisonment for a term not exceeding two years, or to both.'