

Section 118C (entry and search of premises and persons) of the Customs and Excise Management Act 1979

4. An offence under section 50 (fraudulent evasion) of the Finance Act 2017 is to be treated as a “fraud offence” as defined in section 118C(5) of CEMA 1979**(b)**.

Forfeiture

5.—(1) Chargeable soft drinks are to be treated as if they were things liable to forfeiture under the customs and excise Acts where in respect of the drinks—

- (a) a person is in contravention of section 35 (liability to pay the levy);
- (b) a person has committed, or may be committing, an offence under section 50 (fraudulent evasion); or
- (c) a person has, contrary to regulations**(c)** made under section 52 (payment, collection and recovery)—
 - (i) failed to make a return; or
 - (ii) made a return which is incomplete or inaccurate.

(2) References to sections in paragraph (1) are to those sections of the Finance Act 2017.

Name
Name

Two of the Commissioners for Her Majesty’s Revenue and Customs

Date

SCHEDULE

Regulation 2(1)

The table referred to in regulation 2(1)—

<i>Provision of the Customs and Excise Management Act 1979</i>	<i>Description</i>
Section 27	Officers’ powers of boarding
Section 28	Officers’ powers of access, etc
Sections 112 and 112A ⁽¹⁾	Power of entry upon premises, etc of revenue traders and supplementary powers
Section 118BB ⁽²⁾	Inspection powers: goods-based duties
Section 118BD ⁽³⁾	Inspection powers: supplementary provision
Section 118C	Entry and search of premises and persons
Section 139 and sections 144 to 156.	Forfeiture and legal proceedings

- (a) Paragraph (a)(i) in section 1 of CEMA 1979 is amended by section 11(2) of the Finance Act 1991 (c. 31) and Part 1 of Schedule 23 to the Finance Act 1993 (c. 34).
- (b) Section 118C was inserted by Schedule 5 to the Finance Act 1991. It is amended by paragraph 18(3) of Schedule 4 to the Criminal Procedure (Consequential Provisions) (Scotland) Act 1995 (c. 40); paragraphs 3 and 5 of Part 2 of Schedule 22 and Part 5(1) of Schedule 27 to the Finance Act 2007 (c. 11) and paragraphs 9 and 13 of Part 3 of Schedule 13 to the Finance (No. 3) Act 2010 (c. 33).
- (c) The Soft Drinks Industry Levy Regulations 2017 include regulations made under section 52.

<i>Provision of the Customs and Excise Management Act 1979</i>	<i>Description</i>
Sections 158 to 160 ⁽⁴⁾	General and miscellaneous powers
Section 163 ⁽⁵⁾	Power to search vehicles or vessels
Schedule 2A ⁽⁶⁾	Supplementary provisions relating to the detention of things liable to forfeiture
Schedule 3 ⁽⁷⁾	Provisions relating to forfeiture

⁽¹⁾ Section 112A was inserted by paragraphs 9 and 11 of Part 3 of Schedule 13 to the Finance (No. 3) Act 2010 (c. 33).

^{(2) (3)} Sections 118BB and 118BD were inserted by paragraphs 9 and 12 of Part 3 of Schedule 13 to the Finance (No. 3) Act 2010.

⁽⁴⁾ Section 158 is amended by sections 37, 38 and 46 of the Criminal Justice Act 1982. Section 159 is amended by Schedule 1 to the Isle of Man Act 1979 (c. 58), Part 2 of Schedule 4 to the Finance Act 1984 (c. 43), section 117 of the Finance Act 2008 (c. 9) and section 12 of the Finance Act 1988 (c. 39). Sections 158 and 159 are also amended by section 114(1) of the Criminal Evidence Act 1984 (c. 60) and S.I. 2015/664 (in relation to England and Wales). Section 160 is amended by Schedule 2 to the Finance Act 1991.

⁽⁵⁾ Section 163 is amended by sections 37, 38 and 46 of the Criminal Justice Act 1982.

⁽⁶⁾ Schedule 2A was inserted by section 226 of the Finance Act 2013 and is amended by section 175 of the Finance Act 2016 (c. 24).

⁽⁷⁾ Schedule 3 is amended by Schedule 1 to the Isle of Man Act 1979, Schedule 4 to the Constitutional Reform Act 2005 (c. 4), section 175 of the Finance Act 2016 and S.I. 1999/1820.

EXPLANATORY NOTE

(This note is not part of the Regulations)

The Regulations concern enforcement in relation to the soft drinks industry levy. That levy was introduced by Part 2 of the Finance Act 2017 (c. 10).

Regulation 2 applies the provisions of the Customs and Excise Management Act 1979 (c. 2) (“CEMA 1979”) listed in the table in the Schedule for the purposes of enforcement of that levy.

By regulation 3, for the purposes of enforcement, Part 2 of the Finance Act 2017 is to be treated as an enactment relating to customs or excise. Terms used in CEMA 1979 are to be treated as applicable to the soft drinks industry levy.

By regulation 4, for the purposes of enforcement, an offence under section 50 (fraudulent evasion) of the Finance Act 2017 is to be treated as a “fraud offence” as defined in section 118C(5) of CEMA 1979, which section relates to entry and search of premises and persons.

By regulation 5, chargeable soft drinks are to be treated as if they were things liable to forfeiture under the customs and excise Acts (defined in section 1 of CEMA 1979) in the cases described in the regulation.

A Tax Information and Impact Note has not been prepared for this Instrument as it contains no substantive changes to tax policy.