

Explanatory Note

Clause 77: Detention and seizure under CEMA 1979: Exceptions to notice requirement etc.

Summary

1. This measure makes amendments to Schedules 2A and 3 of the Customs and Excise Management Act 1979 ('CEMA').
2. It augments current legislation relating to the detention or seizure of goods liable to forfeiture. The legislation will amend paragraph 3(2) of Schedule 2A and paragraph 1(2) of Schedule 3 to provide exemptions from the duty to serve a notice on the person who has, or appears to have, possession or control over any thing being detained or seized or on the driver of any type of vehicle on or from which the goods are detained or seized.
3. As a consequence of changes made to paragraph 3(2) of Schedule 2A it is necessary to make consequential amendments to paragraph 4(2) of that Schedule. The measure also makes certain other minor drafting amendments to ensure consistency.

Details of the clause

4. Subsection 1 introduces the amendments to CEMA.

Schedule 2A

5. Subsection 2 specifies the parts of Schedule 2A to which the subsequent amendments apply.
6. Subsection 3(a) inserts new sub-paragraph (ba) to include a person who has or appears to have possession or control of the thing being detained.
7. Subsection 3(b) inserts the words "or from" after the word "on" in sub-paragraph 3(2)(c)
8. Subsection 3(c) inserts new sub-paragraph (d) to sub-paragraph 3(2) to include the driver of the vehicle in the case where any thing is detained on or from any type of vehicle.
9. Subsection 4 substitutes sub-paragraphs (a) and (b) of sub-paragraph 4(2) with new sub-paragraphs (a) to (f) listing those persons within the meaning of sub-paragraph 4(2). This is to ensure consistency with paragraph 3(2).

Schedule 3

10. Subsection 5(a) inserts new sub-paragraph (ba) after sub-paragraph 1(2)(b) to include a person who has or appears to have possession or control of the thing being seized.
11. Subsection 5(b) replaces the word "in" for "on or from" in sub-paragraph 1(2)(c).

12. Subsection 5(c) inserts new sub-paragraph (d) after sub-paragraph 1(2)(c) to include the driver of the vehicle in the case where any thing is seized on or from any type of vehicle.

Background note

13. The measure has been introduced in order to provide operational assistance to HMRC and Border Force officers who are placed in some difficulty where it is unclear who the owner of the goods is. The measure permits officers to treat the driver, or a person in a comparable situation, as if he or she were a representative of the owner.
14. HMRC has a duty to take robust action to deal with those who smuggle illicit goods of any description into the UK or seek to bring in goods on which duty has not been paid. The detention and seizure of goods is, in particular, a valuable tool in the fight against duty evasion.
15. If you have any questions about this change, or comments on the legislation, please contact Marilyn Seago on 03000 593391 (email: marilyn.seago@hmrc.gsi.gov.uk)