

# Customs and Excise Enforcement Manual

## Chapter 3 Powers

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## 3.1 Customer Service Charter & Use of Powers

### 3.1.1 Proper Use of Enforcement Powers

One of the most critical Issues facing officers is ensuring proper use of their enforcement powers. These powers – ranging from the right to stop vehicles to seizure of goods – are set out in detail in this part of the Manual. The purpose of this instruction is not to hamper the officer in the exercise of his/her duties but to ensure that wide-ranging powers are used with caution and sensitivity for the protection of both the public and the officer and that the powers themselves are preserved by being used in a careful and professional manner. At the outset, two crucial points must be emphasised:

- I. The officers exercising these powers must be individually authorised by the Commissioner to do so. This also means that evidence of such authority (by way of Standard or Combination identity Card) must be carried and be available for presentation to the person(s) concerned. Furthermore, in certain circumstances, the law requires that officers must be in uniform – notably, in the stopping of vehicles. Apart from this legal requirement, common sense and sound practice would dictate the observance of these rules.
- II. The Standard of reasonableness must be applied in the exercise of enforcement powers. For instance, in order to use powers of entry to premises and inspection of documents, the officer must have reasonable grounds for the action taken. This test of reasonableness becomes more demanding where the action involves detention and seizure of goods and conveyances. For example, Section 140, Finance Act 2001, which deals with the power to detain excisable goods and vehicles, requires that the officer must “reasonably suspect” the commission of an offence before proceeding to detain. On the other hand, the test of reasonableness is less demanding (but no less important) when performing checks of a general control nature such as VRT challenges, oil sampling etc. In such circumstances, it is not normally necessary to have prior suspicion or special grounds for performing the checks.

There are obvious and close links between the area of powers and offences. The correct determination of the type of offence committed will determine the penalty and forfeiture provisions, which, in turn, will determine the powers of officers in any particular set of circumstances. Officers have powers of detention and seizure **only** where specific forfeiture provisions exist in relation to the offence concerned.

### 3.1.2 Revenue Customer Service Charter.

The **Customer Service Charter** sets out fundamental standards of treatment which tax payers can expect to receive in their dealings with Revenue. Although it is a voluntary code and is not enshrined in law, compliance with the Charter is mandatory in every respect. Taxpayers are entitled to rely on the terms of the Charter and to require officers to comply with these terms. Officers should, accordingly, have a thorough knowledge and awareness of the terms of the Customer Service Charter. When exercising powers they should ensure that at all times they act within the terms of Revenue's Customer Service Charter.

The rights to which the taxpayer is entitled under the Customer Service Charter are as follows:

<ul style="list-style-type: none"> <li>▪ Courtesy &amp; Consideration.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Consistency, Equity and Confidentiality.</li> </ul>
<ul style="list-style-type: none"> <li>▪ Presumption of Honesty.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Complaints, Review and Appeal.</li> </ul>
<ul style="list-style-type: none"> <li>▪ Information and Assistance.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Compliance costs to be kept to the minimum.</li> </ul>

Staff exercising enforcement powers should ensure that their actions amount to fair, sound and consistent administration. In particular, no attempt should be made to entrap a person given the adequate alternative enforcement powers are available to ensure compliance with all legal obligations and requirements.

## 3.2 Excisable Products – Enforcement Law

### 3.2.1 General

The legislation governing excisable products is consolidated in the Finance Act 2001. Excisable products, as defined in Section 97 of the Act, are subject to provisions of Sections 96 –117. These provisions govern excisable products brought into the State **from any place** (including OMS, third countries, overseas duty-free outlets or from duty-free zones) and also include re-imported home-produced products. In certain circumstances, it may be appropriate to proffer charges in connection with the evasion or attempted evasion of customs duty and VAT payable on excisable products.

Sections 118-132 of the Finance Act 2001 deal with offences, penalties and proceedings while sections 133-144 set out the powers of officers.

In addition, tobacco products are subject to the provisions relating to tax stamps as contained in the Finance Act, 2005 and these are also excise offences.

The following table sets out the legal provisions concerning offences, forfeiture and enforcement powers.

	No	Offence	Offence Section	Forfeiture Section	Enforcement Law Applicable
<b>IMPORTS</b>	1.	<p>Illegal Importation after release for consumption in OMS* i.e.</p> <ul style="list-style-type: none"> <li>■ Where the terms of Arts. – 5 –28 of S.I. 443/2001 are not met</li> <li>■ Where the goods do not qualify for private use having regard for Art. 25 of S.I. 443/2001.</li> </ul> <p>.....</p> <p>Illegal Importation from Third countries (incl. Non fiscal territories of the Community, duty-free zones &amp; duty –free outlets outside the EU).</p>	<ul style="list-style-type: none"> <li>■ S..119, F.A. 2001</li> </ul> <p>.....</p> <ul style="list-style-type: none"> <li>■ S..119, F.A. 2001.</li> <li>■ S. 186, CCA 1876 (evasion of CCT + VAT where applicable)</li> </ul>	<ul style="list-style-type: none"> <li>■ S.125(1) Finance Act 2001</li> </ul> <p>.....</p> <ul style="list-style-type: none"> <li>■ S.125(1) F.A. 2001.</li> <li>■ S.177 CCA 1876</li> </ul>	<p><b>Excise Law:</b> <b>Search (Note 1)</b> S. 136(5), F.A. 2001.</p> <p><b>Detention</b> S. 140(1), F.A. 2001.</p> <p><b>Seizure</b> S.141 (1), F.A. 2001.</p>
	2.	<p>Irregular movement into the State from OMS under duty suspension arrangements.</p> <p>.....</p> <p>Failure to produce A.A.D. etc. for imported goods.</p>	<ul style="list-style-type: none"> <li>■ S.121, F.A. 2001</li> </ul>	<ul style="list-style-type: none"> <li>■ S. 125(1), F.A. 2001.</li> </ul>	
<b>EXPORTS</b>	3	<p>Irregular Export after release for consumption in State by Tax Representative.</p> <p>.....</p> <p>Irregular Export after release for consumption in State by others (incl. State Vendors).</p>	<ul style="list-style-type: none"> <li>■ S. 121, F.A. 2001.</li> </ul>	<ul style="list-style-type: none"> <li>■ S. 125 (1) F.A. 2001</li> </ul>	<p><b>Excise Law:</b> <b>Search (Note 1)</b> S. 136(5), F.A. 2001.</p> <p><b>Detention</b> S.140(1), F.A. 2001.</p> <p><b>Seizure</b> S.141 (1), F.A. 2001.</p>
	4	<p>Irregular movement from the State to OMS under duty suspension arrangements.</p> <p>.....</p> <p>Failure to produce A.A.D. etc for goods being exported.</p>			
<b>WITHIN THE STATE</b>	5	<p>Irregular</p> <ul style="list-style-type: none"> <li>■ Production/processing</li> <li>■ Holding</li> <li>■ Removal from warehouse.</li> </ul> <p>.....</p> <p>Failure to produce A.A.D. etc. for goods moving within the State under the duty suspension arrangements.</p>	<ul style="list-style-type: none"> <li>■ S.121, F.A 2001.</li> </ul>	<ul style="list-style-type: none"> <li>■ S.125(1) F.A. 2001</li> </ul>	<p><b>Excise Law:</b> <b>Search (Note 1)</b> S.136 (5), F.A. 2001.</p> <p><b>Detention</b> S.140 (1), F.A. 2001.</p> <p><b>Seizure</b> S.141 (1), F.A. 2001.</p>

\*The provisions of S. 104(2)(a) of the Finance Act 2001 do not apply in the case of tobacco products released for consumption in the 10 new Member States with the exception of Cyprus and Malta with effect from 5<sup>th</sup> May, 2004 by virtue of S. 46 F.A. 2004 and S.I. 201 of 2004. See also the guidelines set out in section 4.2, page 15/16.

EXCISABLE PRODUCTS - OFFENCES					
	No.	OFFENCE	Offence Section	Forfeiture Section	Enforcement Law Applicable
<b>TOBACCO</b>	6	All offences associated with tobacco Tax Stamps (see Part 4.6 of this Manual).	S.78, Finance Act, 2005.	S.78 (7), Finance Act, 2005.	Excise Law:  Search (Note 1) S. 136(5), F.A. 2001.  Detention S.140(1), F.A., 2001.  Seizure (Note 2) S.141(1),F.A. 2001.

**Note 1:**

See part 2.8 for guidance on Search Warrants.

**Note 2:**

Section 140(2), Finance Act 2001, as amended by S.93(b) Finance Act 2005 extends the power of detention in relation to tobacco Tax stamp offences to a member of an Garda Síochána. Section 141(2), as amended by S 93(a) Finance Act, 2005 empowers a member of an Garda Síochána to seize such tobacco products which must then be delivered to an officer of the Revenue Commissioners.

### 3.2.2 Challenge procedure on arrival of Excisable Products.

Some guidance on the approach to follow when excisable products are encountered is given below:

#### 1. Personal acquisition subject to Duty Free Allowance restrictions:

- Normal instructions (including limits) apply.

#### 2. Personal Duty Paid acquisition from within E.U.

- Verify whether for own use
- Check if quantity is within guideline limits in Art. 25, S.I. 443/2001
- If in excess of guideline limits, examine intentions to justify the excess quantity (e.g.) for use at a wedding.

See appendix 7 for guidance when investigation whether an acquisition is of a commercial or personal nature

#### 3. Commercial Acquisition from within the E.U.

- Question carrier & call for evidence e.g. AAD, Transit documents
- Check bona fides of transaction, including Seal No., VAT No., Address of Consignee etc

#### 4. Commercial Acquisition from Third Country

- Question & call for evidence of purchase, payment, customs clearance etc.

### 3.3 Level of Authority for the exercise of Legal Powers

The remainder of this part of the Manual sets out the legal powers available to officers on enforcement duties. The list of legal provisions is not exhaustive and the summaries provided are for general guidance only – officers should be familiar with the full text of empowering legislation.

Officers must exercise the available legal powers only as directed by the Revenue Commissioners within the terms of the empowering legislation and subject to the following guidelines as regards what staff are authorised to do:

#### 3.3.1 General Authority

Staff have general authority to exercise the available powers for regular, day –to-day control and enforcement duties in all work activities, e.g.

- For normal activities in ports, warehouses, processing plants etc
- For regular inspection visits to controlled traders
- For regular enforcement operations
- For regular control operations
- For regular boarding, rummaging, passenger or baggage checks.

HEO's are responsible for routine, day-to-day operations and any non-routine operations **which are not of an intense or sensitive nature.**

#### 3.3.2 Specific Authority:

In circumstances not covered by the general authority, as outlined above, advance specific authority at Assistant Principal or Principal Officer level is required. The A.P. or P.O. who grants the specific authority (in accordance with the requirements set down at each legal provision in the following pages) must be satisfied that the circumstances warrant the use of the enforcement powers in question and must take account of the extent to which they must be used.

A summary of situations where specific authority is required is as follows: -

- Non-routine operations of an intense or sensitive nature (e.g. road blocks, disruption of commercial shipping) require **specific authority at A.P. level.**
- Other specific operations (e.g. the arrest of persons, disruption of scheduled passenger services) require **specific authority at P.O level.**

Full details of any specific authority required are given for each legal provision in the following pages.



### 3.4 Statutory Right of Entry

#### Notes:

- 1) See part 3.7.1 for powers of entry under Search Warrant
- 2) Statutory powers of entry/search do not extend to private dwellings. However, these powers can be exercised in the garden, yard or driveway of a dwelling.
- 3) It will be noted from many of the references below that the law confines the power of entry to “all reasonable time”. The interpretation of the term “reasonable” will depend on when a premises is normally open for business. For instance, demanding entry late at night might be unreasonable for many premises. On the other hand, it would be acceptable in the case of pubs or nightclubs if they are open for business and operating normally at the time. As a general rule, the most reasonable time should be chosen where alternatives are available.
- 4) **Power of detention:** By virtue of an amendment contained in S. 87, F.A. 2002, officers who have entered a premises under S. 136, F.A. 2001 may exercise the power to detain goods or vehicles under S. 140, F.A. 2001. This particular power is to be used only where there is insufficient information to obtain a search warrant in advance under section 136(5), for example in trawl-type operations. It is to be clearly understood that where an officer is in possession of sufficient information before a premises is entered, a search warrant is to be obtained.
- 5) Some of the provisions listed below overlap earlier enactments which are still extant. In general, officers should use the most recent/modern provision available.

Activity	Legal Provision	Summary Statement of Provision
<b>Bookmaking</b>	S. 136(1), F.A. 2001 (as amended by S 87, F.A. 2002)  Note: S. 26(1), Betting Act 1931 is still extant and also provides power of entry to a reg'd & open bookmaking premises.	An authorised officer may, at all reasonable times, enter a premises or other place (except a dwelling) in which bets liable to betting duty are reasonably believed to be accepted.  <input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's Absence).
<b>Excisable Products</b>  <input type="checkbox"/> <b>All Products.</b>	S. 136(1), F.A, 2001.	An authorised officer may, at all reasonable times, enter a premises or other places (except a dwelling) in which excisable products are being, or are reasonably believed to be, produced, processed, held, stored, kept, packaged or put up for sale or disposal.  <input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's Absence).

Activity	Legal Provision	Summary Statement of Provision
<b>Mineral Oils</b>	S. 136(2)(a), F.A. 2001.	<p>Provides for right of entry to, and inspection of, any premises other than a dwelling at all reasonable times for the purpose of:</p> <ul style="list-style-type: none"> <li>▪ Taking samples of any mineral oil in or on a vehicle present at such a premises</li> <li>▪ Examining a vehicle present.</li> </ul> <p>An officer is also empowered to bring onto such premises any vehicle being used in the course of duty.</p> <p><input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)</p>
<b>VRT</b>	S.136(1), F.A. 2001.	<p>An authorised officer may, at all reasonable times, enter a premises or other place (except a dwelling) in which the manufacture, distribution, storage, repair, modification, importation, dealing, delivery or disposal of vehicles is being, or is reasonably believed to be, carried on or where any records relating to the above activities are reasonably believed to be kept.</p> <p><input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)</p>
<b>Gaming Machines</b>	S.43 (10)(a), F.A. 1975 as amended by S.114, F.A. 1995	<p>Provides for entry at all reasonable times to any public place in which gaming machines are believed to be available for play.</p> <p><input type="checkbox"/> Non-routine operations of any intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)</p>
<b>Amusement Machines</b>	S. 125, F.A. 1992.	<p>Provides for entry at all reasonable times to any public place where amusement machines are believed to be available for play. In this context, a public place is defined as any place to which the public have access as of right or by permission or membership.</p> <p><input type="checkbox"/> Non-routine operations of any intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)</p>



Activity	Legal Provision	Summary Statement of Provision
<b>Customs Control.</b>	S. 196, Customs Consolidation Act, 1876.	<p>An officer of C &amp; E may patrol upon and pass freely along &amp; over any part of the coast, or any railway, or the shores or banks of any river, creek or inlet of same (not being a garden or pleasure ground) and no liability shall attach for such patrolling.</p> <p><input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)</p>
	S. 47 CCA 1876 as amended by Article 5, European Communities (Customs)(No 2) Regulations 1992.	<p>The proper officers of C &amp; E may board any ship arriving at any port in the State and remain on board until all goods are delivered therefrom, or until her departure, and have free access to every part thereof.</p> <p><input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)</p>
	S. 194, Customs Consolidation Act, 1876	<p>An officer of C &amp; E in charge of any vessel employed for the prevention of smuggling may haul such vessels, etc. ashore on any part of the coast, or on any bank or beach of a river or inlet (not being a garden or pleasure ground) and more below high-water mark for as long as s/he deems necessary.</p> <p><input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)</p>
<b>VIES</b>	S.18 (1)(a), Value-Added Tax Act, 1972	<p>An <b>authorised</b> officer may at all reasonable times enter any premises or place where s/he has reason to believe that business is carried on or anything is done in connection with business.</p> <p><input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)</p>
<b>INTRASTAT.</b>	Article 7(1) European Communities (Intrastat) Regs. 1993.	<p>An <b>authorised</b> officer may at all reasonable times enter any premises or place where s/he reasonably believes records relating to goods to which the Intrastat system applies are kept.</p> <p><input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)</p>

Activity	Legal Provision	Summary Statement of Provision
<b>All Duties &amp; Taxes (including Local Collection work).</b>	<b>S. 905</b> , Taxes Consolidation Act, 1997.	<p>An <b>authorised</b> officer may at all reasonable times enter any premises or place where there is reason to believe that:</p> <ul style="list-style-type: none"> <li>(a) any trade/profession/activity is carried out therein which is chargeable of tax (of any type)</li> <li>(b) any records or documents relating to a business are kept (or are obliged to be kept); and</li> <li>(c) any taxable property is or has been located</li> </ul> <p>And may</p> <ul style="list-style-type: none"> <li>• require production of the records;</li> <li>• search for records not produced;</li> <li>• examine property listed in any records;</li> <li>• examine, remove, retain, copy or take extracts;</li> <li>• require to be given assistance</li> </ul> <p><input type="checkbox"/> General authority for <b>routine</b> local collection visits <b>only</b>.</p> <p><input type="checkbox"/> Specific authority @ PO level required in all circumstances other than routine.</p>
	<b>S.904</b> , Taxes Consolidation Act, 1997	<p>An <b>authorised</b> officer may at all reasonable times enter any premises or place in connection with Relevant Contracts Tax (RCT);</p> <p>And may</p> <ul style="list-style-type: none"> <li>• require production of the records;</li> <li>• search for records not produced;</li> <li>• examine, remove, retain, copy or take extracts;</li> <li>• require to be given assistance.</li> </ul> <p><input type="checkbox"/> General authority for <b>routine</b> local collection visits <b>only</b>.</p> <p><input type="checkbox"/> Specific authority @ PO level required in all circumstances other than routine.</p>
	<b>S. 903</b> , Taxes Consolidation Act, 1997	<p>An <b>authorised</b> officer may at all reasonable times enter any premises or place in connection with PAYE enquiries and investigations.</p> <p>Powers of access to and examination of records etc. as listed above.</p> <p><input type="checkbox"/> Authority required also as given above.</p>

Activity	Legal Provision	Summary Statement of Provision
<b>All Duties &amp; Taxes (including Local Collection work).</b>	<b>S. 906</b> , Taxes Consolidation Act, 1997	An authorised officer may be accompanied by a member of the Garda Síochána, for the purposes of S. 903, S. 904 and S. 905, who may arrest without warrant any person who obstructs or interferes with an authorised officer in the exercise of his/her powers or duties.  <input type="checkbox"/> Specific authority @ PO level required

## 3.5 Inspection of Goods and Records

Activity	Legal Provision	Summary Statement of Provision
<b>Bookmaking</b>	*S. 136(3), F.A.2001.	<p>An <b>authorised</b> officer may, having entered a premises where betting is reasonably believed to be taking place, inspect and take copies/extracts of any books, accounts, documents or records. An officer may search for such records and may require production of records in legible form (including production of such information in a permanent legible form from a computer)</p> <p><input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)</p>
<b>Excisable Products.</b>  <input type="checkbox"/> <b>All Products.</b>	S. 136(3), F.A. 2001.	<p>An <b>authorised</b> officer may inspect and take copies/extracts of any books, accounts, documents or records, having entered a premises where such records are kept or where excisable products are produced, processed, stored etc. An officer may search for such records and may require production of records in legible form (including production of such information in a permanent legible form from a computer).</p> <p><input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)</p>
<input type="checkbox"/> <b>Mineral Oil</b>	S.136(3), F.A. 2001.	<p>An <b>authorised</b> officer may, having entered premises, inspect and take copies/extracts of any books, accounts, documents or records. An officer may search for such records and may require production of records in legible form (including production of such information in a permanent legible form from a computer).</p> <p><input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)</p>

\* This power arises as a consequence of the amendment of S.136(1)(bb) inserted by S.87 F.A. 2002.

Activity	Legal Provision	Summary Statement of Provision
<b>Customs Control.</b>	S. 147, Customs Consolidation Act 1876.	<p>An officer of Customs and Excise may on boarding any coasting ship examine all goods on board, all goods then unloading and demand production of all proper documentation for inspection.</p> <p><input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)</p>
	S. 171, Harbours Act 1946.	<p>An officer of Customs and Excise may require the harbour authority to produce for his inspection all books and documents relating to a vessel entering or departing from that harbour and the cargo on any such vessel as s/he may reasonably require and take copies of and extracts from such books and documents.</p> <p><input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)</p>
	S.4 Customs Act 1956	<p>An officer may request production of any documents relating to the ownership, disposal, or export authorisation of goods, on reasonable suspicion of attempted illegal exportation, from any person in whose possession or control, on or on the immediate vicinity of whose lands and premises, such goods have been found.</p> <p><input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)</p>
	S.5 Customs and Excise (Miscellaneous Provisions) Act 1988. [Note: this provision is not applicable to excise duties]	<p>An officer of Customs and Excise may, upon search warrant issued under this section, inspect books or documents found which may relate to transactions in contravention of customs law.</p> <p><input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)</p>
	S. 77 Customs Consolidation Act 1876.	<p>An officer of Customs and Excise may take account of goods landed at the quay or in a customs warehouse.</p> <p><input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)</p>



Activity	Legal Provision	Summary Statement of Provision
<b>Customs Control. (cont'd)</b>	S. 24, F.A. 1938  Article 78(2), Community Customs Code (Council Regulation 2913/92).	<p>An officer may, within 3 years of delivery to customs of an entry or specification or shipping bill, demand at any time all information in relation to the entered goods as is reasonably required. An officer may take copies and extracts from all books and documents relating to the entered goods which are in the possession or procurement of the person to whom the demand is issued.</p> <p>Provides for production to the customs authorities and inspection of commercial documents relating to import or export transactions at any time after the goods have been cleared.</p> <p><input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)</p>
	S.20 F.A. 1936  Article 14, Community Customs Code (Council regulation 2913/92)	<p>An officer of Customs and Excise may demand production of and inspect any book or document where there are reasonable grounds for suspecting fraud relating to a customs duty.</p> <p>Requires productions to the custom authorities of all requisite documents and information by any person directly or indirectly involved in customs operations for the purpose of trade in goods.</p> <p><input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)</p>
<b>Customs free Ports &amp; Airports</b>	Article 7, Free Ports (Customs and Excise) Regulations 1987.	<p>An officer may request production of a properly completed inventory of goods, in an approved form, from a person conveying goods into or out of the State from a free port, together with the goods conveyed.</p> <p><input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)</p>
	Article 8 Free Ports (Customs and Excise) Regulations 1987.	<p>An officer of Customs and Excise may at all reasonable times, require production of goods and records held by a licensed trader within the free port and may inspect and take extracts from such records, accounts and other books and documents.</p> <p><input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)</p>

Activity	Legal Provision	Summary Statement of Provision
<b>Aircraft.</b>	Article 23, Customs and Excise (Aircraft) Regulations 1964.	<p>Any officer of Customs and Excise may examine any documents relating to an aircraft and persons or goods carried therein and the pilot-in-command or person in charge of the aircraft shall produce such documents on demand and any officer shall have right of access at any time to any place for the purpose of such examination and boarding of aircraft.</p> <p><input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)</p>
<b>Export Goods.</b>	S. 102 Customs Consolidation Act 1876 as amended by S.3 Customs, Inland Revenue and Savings Bank Act, 1877 and by Art. 14 European Communities (Customs No. 2) Regulations 1992.	<p>An officer of Customs and Excise may open and examine warehoused or drawback goods, or all other goods being shipped for export at any port or place in the State, where third country, prohibited or restricted goods are believed to be involved.</p> <p><input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)</p>

Activity	Legal Provision	Summary Statement of Provision
<b>Land Frontier</b>	Article 14, Customs and Excise (Land Frontier) Regulations 1968 to 1988 as amended by Arts. 10 & 14 European Communities (Customs) (No. 2) Regulations 1992.	<p>An officer of Customs and Excise may examine goods and documents in a vehicle stopped within forty miles of the land frontier where third country, prohibited or restricted goods are believed to be involved.</p> <p><input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)</p>
	Article 16 C. & E. Land Frontier Regulations 1968 to 1988 as amended by Art.10 European Communities (Customs) (No. 2) Regulations 1992.	<p>An officer of Customs and Excise may examine any goods for export at a Customs Station where third country, prohibited or restricted goods are believed to be involved.</p> <p><input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)</p>
<b>Baggage (See also 3.14 – Excisable Products in baggage).</b>	S.29 F.A. 1971 as amended by S. 19 C & E (Misc. Provisions) Act 1988 and by Article 8 European Communities (Customs No. 2) Regulations 1992.	<p>An officer of Customs &amp; Excise may require a person entering or leaving the State to produce his baggage and anything included for examination, where there is reason to suspect the presence of prohibited or restricted goods, or the person is travelling to or from a third country.</p> <p><input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)</p>

Activity	Legal Provision	Summary Statement of Provision
<b>Controlled Drugs</b>	S.3, Customs and Excise (Miscellaneous Provisions) Act 1988.	<p>An officer may, on foot of a search warrant issued under this section, examine any substance, article or other item found in premises or on lands searched and may inspect any books, records or other document found thereon.</p> <p><input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)</p>
<b>VIES.</b>	S.18 (1)(a)(i), Value-Added Tax Act, 1972.	<p>An <b>authorised</b> officer may require the person carrying on the business, or any person on those premises or in that place who is employed by the person carrying on the business or who is associated with him/her in the carrying on of the business, to produce any books, records, accounts or other documents relating to the business.</p> <p><input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)</p>
<b>INTRASTAT.</b>	Article 7(1) European Communities (Intrastat) Regs. 1993	<p>An <b>authorised</b> officer may at all reasonable times require any person on those premises or in that place to produce to him/her the said records or such of them as s/he specifies.</p> <p><input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)</p>
<b>Duty/Tax Collection generally (incl. Local collection).</b>	See details at Part 3.4	

## 3.6 Sampling

Activity	Legal Provision	Summary Statement of Provision
<p><b>Excisable Products</b></p> <p><input type="checkbox"/> <b>All Products.</b></p>	<p>S.136(3)(b), F.A. 2001.</p> <p>S. 135(1)©, F.A. 2001.</p>	<p>An <b>authorised</b> officer, having entered a premises, may (without payment) take samples of excisable products or materials/ingredients used in their manufacture.</p> <p>An authorised officer may take samples, without payment, of any excisable products in, on, or in any manner attached to a vehicle.</p> <p><input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)</p>
<p><b>Customs Control.</b></p>	<p>S.70 Customs Consolidation Act 1876 also, Article 68, Community Customs Code (Council Regulation 2913/92)..</p>	<p>Provides that officers of Customs and Excise may, on entry of goods, or at any time thereafter, take samples of such goods, or for such other purposes as the Commissioners may deem necessary and such samples may be disposed of as the Commissioners may direct.</p> <p><input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)</p>
	<p>S. 6 Customs and Inland Revenue Act 1888 as clarified by S. 137, F.A. 2001.</p>	<p>Provides that an officer may at any time take samples of any goods chargeable with customs or excise duties, provided that, if such samples are taken after duty has been charged and paid, the officer shall pay for the samples at the wholesale price of the goods. <b>NOTE:</b></p> <p>S. 137 F.A. 2001 clarifies that S. 6 covers the taking of samples of excisable products where S. 135 (1) © or S. 136 (3) (b) do not apply.</p> <p><input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)</p>

Activity	Legal Provision	Summary Statement of Provision
<b>Export Goods.</b>	Article 11(5) European Communities (Customs) Regulations 1983.	<p>An appropriate officer may take samples for analysis or more detailed examination when examining goods for export under Article 11 of these Regulations.</p> <p><input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)</p>
<b>Counterfeit Goods.</b>	Article 9(3) Council Regulation (EC) No. 1383/2003	<p>Empowers an officer of Customs and Excise to take samples of goods entered for free circulation, detained for investigation as to whether such goods are counterfeit.</p> <p><input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)</p>
<input type="checkbox"/> <b>Mineral Oil.</b>	S. 135 (2)(a), Finance Act 2001.	<p>Provides for an officer or a Garda to take samples of mineral oil in any fuel tank or otherwise present in/on any vehicle, whether or not the vehicle is attended.</p> <p><input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)</p>
	Art. 13 of Air Pollution Act, 1987 (Environmental Specifications for Petrol & Diesel Fuels) Regulations 1999 (S.I. No. 407 of 1999).	<p>Provides for an officer of the Revenue Commissioner to take a sample of petrol or diesel fuel at any place in the State for the purposes of these Regulations.</p> <p><input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)</p>
	Art. 7 of the Air Pollution Act, 1987 (Sulphur Content of Heavy Fuel Oil & Gas Oil) Regulations 2001 (S.I. No. 13 of 2001)	<p>Provides for an officer of the Revenue Commissioner to take a sample of heavy oil or gas oil (including Marine Gas Oil) for the purposes of these Regulations.</p> <p><input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)</p>

## 3.7 Search of Premises

### 3.7.1 Search of Premises under Warrant.

Note: See Part 2.8 for guidelines on the procedures involved in obtaining Search Warrants.

Activity	Legal Provision	Summary Statement of Provision
<p><b>Search Warrants.</b></p> <p><b>Note:</b> Search Warrants are required in all activity areas or circumstances <b>except</b> the specific activities detailed in Part 3.7.2 below</p>	<p>S. 205, Customs Consolidation Act 1876 as amended by S. 19, F.A. 1936.</p>	<p>An officer of Customs and Excise may search any house or place under search warrant where there is reasonable suspicion of the presence of uncustomed or prohibited goods and may seize and remove such goods and any books or documents found therein which are reasonably believed to relate to transactions in contravention of Customs Law.</p> <p><input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)</p>
	<p>S. 3(2), Customs &amp; Excise (Misc. Provision) Act 1988.</p>	<p>An officer of Customs and Excise may, on reasonable grounds for suspecting that:</p> <ol style="list-style-type: none"> <li>a) a person is in possession of a controlled drug to which this section applies on any premises or land; or</li> <li>b) a document directly or indirectly relating to, connected with a transaction or dealing in a controlled drug which was, or an intended transaction or dealing in such a drug which would, if carried out, be an offence under the Customs Acts, is in possession of a person on any premises or land</li> </ol> <p>Obtain a search warrant to search such premises or land.</p> <p><input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)</p>
	<p>S.5(1), Customs &amp; Excise (Misc. Provisions) Act 1988.</p> <p>[NB: Applies to Customs duties only – in the case of excise duties, S. 136 F.A. 2001 is to be applied]</p>	<p>A search warrant may be issued to a named Officer of Customs &amp; Excise where are reasonable grounds for suspecting the presence of books or documents relating to a smuggling offence at any place.</p> <p><input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)</p>

Note: See Part 2.8 for guidelines on the procedures involved in obtaining Search Warrants.

Activity	Legal Provision	Summary Statement of Provision
Search Warrants. (Cont'd)	<sup>1</sup> Animal Remedies Act, 1993	<sup>1</sup> An officer of Customs & Excise may, having reasonable cause for suspecting that there is on any land, an animal remedy contravening the Act, or evidence or documentation relating to the commission of an offence under the Act, obtain a search warrant.
	<sup>2</sup> S. 136(5), F.A. 2001.  <sup>3</sup> S908c (Inserted by S. 124 F.A. 2007)	<p>An <b>authorised</b> officer of the Revenue Commissioners may, on reasonable grounds for suspecting that anything liable to forfeiture under the law relating to excise is being kept or concealed on or at any premises or place, obtain a search warrant.</p> <p><sup>2</sup>An authorised officer may obtain a search warrant where there are reasonable grounds for suspecting that</p> <ul style="list-style-type: none"> <li>(a) an offence (under the Acts) is being, has been or is about to be committed, and,</li> <li>(b) that material which is likely to be of value to the investigation of the offence, or</li> <li>(c) that evidence of or relating to the commission of the offence is to be found in any place</li> </ul> <p>(Note: warrant covers the search of any place, thing or person found there)</p>

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<sup>1</sup> The Animal Remedies Act, 1993, confers a wide range of enforcement powers on authorised agricultural officers, officers of Customs and Excise and Gardaí, to counteract the illegal use or possession of animal remedies. Sections 11, 12, 13, 16, and 26 provide powers of inspection, entry, search of person and place, detention of person for search, search under warrant, detention and seizure of goods and disposal of seized goods. The Act also sets out particular offences, including obstruction.

Due to the specialised nature of this activity it is anticipated that any enforcement action involving officers of Customs and Excise will be non-routine and confined to assistance on formal request from authorised agricultural officers. In any event specific authorisation at AP level is required for the use of these powers.

<sup>2</sup> See S.136(4A) inserted by S.90, F.A. 2003 in regard to concealed pipes, conveyances, utensils found on an entered premises.

<sup>3</sup> S 905 2A remains extant and should only be used where a warrant is required in a Civil investigation for tax assessment purposes. S 908c should be used where a search warrant is required in a criminal investigation.



## 3.7.2 Search of Premises under Statutory Right of Entry

**Notes:** (1) See also Part 3.4

(2) Statutory powers of entry/search do not extend to private dwellings.

Activity	Legal Provision	Summary Statement of Provision
<b>Bookmaker's premises</b>	*S. 136(3), F.A. 2001	<p>Provides for entry and search of any premises at all reasonable times where the acceptance of bets is reasonable believed to be carried on.</p> <p><input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)</p>
	S. 26 Betting Act 1931	<p>Provides for entry and search of any registered premises during business hours.</p> <p><input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)</p>
<b>VRT.</b>	S. 136(3), F.A. 2001.	<p>Provides for search and investigation by an <b>authorised</b> officer of any premises in which manufacture, distribution, storage etc. of vehicles is reasonably believed to be carried on, or where books relating thereto are reasonably believed to be kept.</p> <p><input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)</p>

<p><b>Excisable Products.</b></p> <p><input type="checkbox"/> <b>All products</b></p>	<p>S.136(3), F.A. 2001.</p>	<p>Provides for search and investigation by an <b>authorised</b> officer in respect of any premises in which excisable products are being, or reasonably believed to be. Processed, stored, put up for sale etc.</p> <p><input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)</p>
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\*This power arises as a consequence of the amendment of S. 136(1)(bb) inserted by S. 87 F.A. 2002

## 3.7.3 Search of Premises under Statutory Right of Entry

**Notes:** (1) See also Part 3.4

(2) Statutory powers of entry/search do not extend to private dwellings.

Activity	Legal Provision	Summary Statement of Provision
<b>Mineral Oil in the fuel tank of a vehicle.</b>	*S. 136(2), F.A. 2001	Allows an Officer (or a Garda) to search a premises for the purposes of examining and sampling mineral oil in the fuel tank of a vehicle or is otherwise capable of being used for combustion in its engine.  <input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)
<b>Gaming Machine Premises.</b>	S. 43 (10) F.A. 1975 as amended by S. 114, F.A 1995	Provides for search of any public place in which gaming machines are believed to be available for play.  <input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)
<b>Amusement Machine Premises</b>	S.125, F.A. 1992.	Provides for search of any public place where amusement machines are reasonably believed to be available for play.  <input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)
<b>Airport</b>	S. 10 Customs – Free Airport Acts 1947 and 1958	An Officer of Customs and Excise may board any aircraft, ship or boat, or enter any vehicle, house, shop, cellar, warehouse, room or other place within the limits of the airport and search for uncustomed goods or prohibited goods and in case of resistance break open doors, chests, trunks and packages.  <input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)
<b>VIES</b>	S.18 (1)(a)(ii) Value Added Tax Act, 1992.	An <b>authorised</b> officer may, if s/he has reason to believe that any of the books, records, accounts or other documents, which s/he has required to be produced, search in those premises or that place for those books, records, accounts or other documents.  <input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)
<b>INTRASTAT</b>	Art 7(1) European Communities (Intrastat) Regs. 1993.	An <b>authorised</b> officer may search on those premises or in that place for records to which the Intrastat system applies.  <input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)

### 3.8 Questioning.

**Note:** See guidelines at Parts 2.4 and 2.6 in relation to questioning and the importance of taking notes during questioning.

Activity	Legal Provision	Summary Statement of Provision
<b>Bookmaking</b>	*S. 136(3)(d) F.A. 2001	<p>This section empowers an <b>authorised</b> officer to question any person in relation to any records concerning dutiable bets and the person is obliged to give all information required which is in the person's possession/custody/procurement.</p> <p><input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)</p>
	S.26 (1) Betting Act 1931.	<p>An officer may ask any question of any person on a registered premises regarding bookmaking business carried on there.</p> <p><input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)</p>
	S. 26(2) Betting Act 1931	<p>An officer may question any person on a suspected bookmaking premises regarding the premises and business carried in therein and may demand of any person his/her name and address.</p> <p><input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)</p>
	S.25 (2) Betting Act 1931	<p>An officer or Garda may demand the name/address of any person who refused or fails to produce his/her licence.</p> <p><input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)</p>
<b>Excisable Products</b>  <input type="checkbox"/> <b>All products.</b>	S. 136(3), F.A. 2001	<p>An <b>authorised</b> officer who has entered a premises or other place and finds excisable products or materials/ingredients/other substances used in the manufacture of excisable products or documents/records/accounts relating the same may question any person therein in relation to these matters and that person shall give all information required by the officer which may be in his possession or procurement.</p> <p><input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)</p>

\*This power arises as a consequence of the amendment of S. 136(1)(bb) inserted by S.87 F.A. 2002.

Activity	Legal Provision	Summary Statement of Provision
<input type="checkbox"/> <b>Tobacco Products (Tax Stamps)</b>	S.138 F.A. 2001, as amended by S. 93(a) F.A. 2005.	<p>An <b>authorised</b> Officer of Revenue Commissioners or a Garda, who has reasonable cause to believe that a person is guilty of an offence in relation to tobacco tax stamps, may require that person to furnish his/her name, address, date of birth and all information reasonably required by the officer/Garda.</p> <p><input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)</p>
<input type="checkbox"/> <b>Mineral Oil.</b>	S. 135(2)(c) F.A. 2001	<p>This section empowers an <b>authorised</b> officer to question the owner or person in charge of any vehicle in relation to mineral oil which is either in the fuel tank of that vehicle or is otherwise capable of being used for combustion in its engine. The person is obliged to give all information required which is in the person's possession, custody or procurement</p> <p><input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)</p>
<b>VRT.</b>	S. 135(1)(d) F.A. 2001	<p>This section empowers an <b>authorised</b> officer to question any person in charge in relation to a vehicle and the person is obliged to give to the officer all information required which is in the possession, custody or procurement of the person.</p> <p><input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)</p>
	S. 20(3) F.A. 1936	<p>An <b>authorised</b> officer, having entered a premises, may question any person in relation to any vehicle and the person is obliged to give all information required which is in the possession, custody or procurement of the person (including giving his/her name &amp; address if requested).</p> <p><input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)</p>
<b>Imported Goods.</b>	S. 20(3) F.A. 1936	<p>Where an officer suspects that goods have been imported without payment of duty or without an import licence the officer may ask specific questions of any person [as set out in S.20(3)] in whose possession or control such goods have been found or in whose home or premises, or in the immediate vicinity of same such goods have been found.</p> <p><input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)</p>

Activity	Legal Provision	Summary Statement of Provision
<b>Land Frontier.</b>	Art. 14 C & E. (Land Frontier) Regs. 1968 to 1988 as amended by Arts. 10 and 14 European Communities (Customs) (No. 2) Regulations 1992.	An officer may question any person stopped within 40 miles of the Land Frontier about the vehicle, trailer, journey or goods carried where third country or prohibited or restricted goods are believed to be involved.  <input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)
<b>Baggage. (See also 3.14 – Excisable Products in baggage)</b>	S. 29 F.A. 1971 as amended by S.19 C & E (Misc. Prov) Act 1988 and by Art. 8 European Communities (Customs) (No.2) Regulations 1992.	An officer may question any person entering or leaving the State regarding his/her baggage where third country or prohibited or restricted goods are believed to be involved.  <input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)
<b>Customs Free Ports &amp; Airports</b>	Article 6 Free Ports (Customs and Excise) Regulations 1987.	An officer may request a vehicle to be stopped and may question a person entering or leaving a free port about that person's journey or any goods carried by him/her.  <input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)
<b>Customs Control</b>	S. 4 Customs Act 1956	An officer may question a person about any goods which s/he suspects are intended for export in contravention of Customs law and are found in the person's possession or control, on the person's premises, or in the immediate vicinity of such a premises.  <input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)
	S. 134 Customs Consolidation Act 1876	An officer may board any ship and question the master after clearance outwards, within the limits of any port or within one league of the coast, regarding the ship, cargo and voyage.  <input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)
	S. 53 Customs Consolidation Act 1876.	An officer of Customs and Excise may question the Master of every ship arriving from abroad about the ship, cargo, crew and voyage.  <input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)

Activity	Legal Provision	Summary Statement of Provision
<b>Controlled Drugs.</b>	S. 29, F.A. 1971 as amended by S. 19 C & E. (Misc. Provisions) Act 1988 and by Art. 8 European Communities (Customs)(No. 2) Regulations 1992.	<p>An officer may question a person entering or leaving the State regarding anything liable to duty, prohibition or restriction carried by that person.</p> <p><input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)</p>
<b>VIES.</b>	S. 18(1)(a)(v) Value-Added Tax, 1972.	<p>An <b>authorised</b> officer may require the person carrying on the business, or any person on those premises or in that place, who is employed by the person carrying on the business or who is associated with him/her in the carrying on of the business, to give the authorised officer all reasonable assistance, including providing information and explanations and furnishing documents in connection with the business, as required by the authorised officer.</p> <p><input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)</p>
<b>Duty/Tax Collection generally (incl. Local collection).</b>	See details at Part 3.4	

### 3.9 Removal and Detention of Documents

Activity	Legal Provision	Summary Statement of Provision
<b>Bookmaking</b>	*S. 136(3), F.A. 2001	<p>An authorised officer may remove and retain books and documents relating to dutiable bets as may be reasonable for further examination.</p> <p><input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)</p>
<b>Excisable Products.</b>  <input type="checkbox"/> <b>All Products</b>	S. 136(3), F.A. 2001.	<p>An authorised officer may remove and retain books and documents relating to excisable products (listed in S. 97(1), F.A. 2001) as may be reasonable for further examination.</p> <p><input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)</p>
<b>VRT.</b>	S. 136(3), F.A. 2001.	<p>Allows an authorised Officer to remove and retain for such periods as may be reasonable for further examination, books and documents in a premises in which the manufacture distribution, storage, repair, modification, importation, dealing, delivery, or disposal of vehicles is reasonably believed by the Officer to be carried on.</p> <p><input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)</p>

\* This power arises as a consequence of the amendment of S. 87(1)(bb) F.A. 2002.



Activity	Legal Provision	Summary Statement of Provision
<b>Customs Control</b>	S. 31 (a) F.A. 1929 as amended by S. 16 C & E (Miscellaneous Provisions) Act 1988.	<p>An officer may remove any documents where fraud in relation to customs or excise duty or prohibition or restriction is suspected in connection with the document and where the officer is statutorily empowered to demand the production of same.</p> <p><input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)</p>
	S. 19, F.A. 1936.	<p>Allows an Officer when executing a warrant issued under Section 205 Customs Consolidation Act 1876 to seize and remove any books or documents found on the premises being searched which s/he reasonably believes relates to transactions in contravention of the Customs Laws.</p> <p><input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)</p> <p><input type="checkbox"/> If scheduled passenger services are likely to be affected, specific authority @ PO Level is required.</p>
	S. 5, Customs & Excise (Misc. Prov.) Act, 1988.	<p>An officer may, when acting under a search warrant , seize and remove any books or documents which s/he reasonably believed to relate to transactions in contravention of Customs law.</p> <p><input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)</p>
<b>VIES.</b>	S. 18 (1)(a)(iii) Value Added Tax Act, 1972.	<p>An <b>authorised</b> officer may, in the case of any such books, records, accounts, or other documents produced to or found by him/her take copies of, or extracts from them and remove and retain them for such period as may be reasonable for their further examination or for the purposes of any proceedings in relation to tax.</p> <p><input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)</p>
<b>INTRASTAT.</b>	Article 7(1) European Communities (Intrastat)	<p>An <b>authorised</b> officer may search for, inspect and take copies of, or extracts from, records relating to goods to which the Intrastate system applies and may remove the said records from those premises or that place for further inspection.</p> <p><input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)</p>

## 3.10 Conveyances – Stop, Search & Detain

### 3.10.1 Stop

Activity	Legal Provision	Summary Statement of Provision
<b>Excisable Products.</b>	S. 134 (1) F.A. 2001 as amended by S. 59 F.A. 2005 and S. 88(c)F.A. 2005.	Empowers an officer in uniform to stop any *vehicle in which excisable products, any other products chargeable with excise duty or any ** prohibited goods are being transported or are reasonably believed to be transported. The person in charge of the vehicle must keep it stationary to allow examination and must move it to a more suitable location if the officer considers it necessary. <input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)
<b>VRT.</b>	S. 134 (2) F.A. 2001	An officer in uniform or a Garda may stop any vehicle for any purpose related to vehicle registration tax. The person in charge of the vehicle must keep it stationary to allow examination and must move it to a more suitable location if the officer considers it necessary. <input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)
<b>Customs Free Ports &amp; Airports.</b>	Art. 6 Free Ports (Customs & Excise) Regulations 1987.	Empowers an officer to request a driver to stop a vehicle in motion, entering or leaving a free port. <input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)
	S. 11 Customs Free Airport Act 1947 and 1958.	Empowers an officer to request a driver to stop a vehicle within 20 miles of a Custom Free Airport. <input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)
	Article 6, Free Ports (Customs and Excise) Regulations 1987.	An officer of Customs and Excise may request a person in charge of a motor vehicle (entering or leaving the State from a free port) to stop and allow the officer to examine the vehicle and take account of any goods therein. <input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)

\*Definition of vehicle amended to include any container, trailer, tanker or other thing (S.88(c) F.A. 2005).

\*\*As defined in S. 88(b) F.A.2005.

Activity	Legal Provision	Summary Statement of Provision
<b>Mineral Oil.</b>	S. 134 (1)(b) F.A. 2001	<p>Empowers an officer in uniform to stop any vehicle for the purpose of examining and taking samples of fuel (either in the vehicle or in anything attached to it and capable of being used for combustion in its engine). The person in charge of the vehicle must keep it stationary to allow examination and must move it to a more suitable location if the officer considers it necessary.</p> <p><input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)</p>
<b>Smuggled Goods.</b>	S. 203, Customs consolidation Act 1876	<p>Provides for stopping and examining a vehicle where any officer of Customs and Excise has reasonable suspicion or can show probable cause that smuggled goods are being carried.</p> <p><input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)</p>
<b>Land Frontier.</b>	Art. 14 Land Frontier Regulations 1968 to 1988, as amended by Arts. 10 & 14 European Communities (Customs) (No. 2) Regulations 1992.	<p>An officer of Customs and Excise may request the driver of any vehicle within 40 miles of the Land Frontier to stop, provided there is reasonable doubt that only community goods are being carried or prohibited or restricted goods are believed to be involved.</p> <p><input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)</p>
<b>Controlled Drugs.</b>	S. 2(ii) C & E. (Miscellaneous Provisions) Act 1988 as amended by S. 96 F.A. 2005.	<p>Provides for stopping any *vehicle, vessel or aircraft for search where an officer reasonably suspects the presence of controlled drugs.</p> <p><input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)</p> <p><input type="checkbox"/> If scheduled passenger services are likely to be affected, specific authority @ PO level is required.</p>

\*Definition of vehicle amended to include any container, trailer, tanker or other thing (S. 96 F.A. 2005)

## 3.10.2 Search

Activity	Legal Provision	Summary Statement of Provision
<b>Excisable Products</b>	S. 135(1), F.A. 2001 as amended by S. 88(c), F.A. 2005.	<p>Any person in charge of a *vehicle is obliged to allow an authorised officer (or accompanying officer) to carry out such searches as appear necessary to establish whether:</p> <ul style="list-style-type: none"> <li>(i) any excisable products being transported correspond in every material respect with the descriptions in the accompanying documentation; or</li> <li>(ii) anything being transported is liable to forfeiture under the law relating to excise.</li> </ul> <p><input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)</p>
<b>Aircraft</b>	Art. 23 Customs & Excise (Aircraft) Regulations 1964.	<p>Provides for boarding and searching an aircraft.</p> <p><input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)</p> <p><input type="checkbox"/> If scheduled passenger services are likely to be affected, specific authority @ PO level is required.</p>
<b>Smuggled Goods</b>	S. 203 Customs Consolidation Act 1876.	<p>Provides for the power to search vehicles, ships, boats or other conveyances where an officer has reasonable suspicion or probable cause to suspect the presence of smuggled goods.</p> <p><input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)</p>
<b>Shipping</b>	S. 182 Customs Consolidation Act 1876, as amended by S.2 Customs (Amendment Act) 1942.	<p>Provides for boarding rummage and search of any boat or ship within port limits for uncustomed or prohibited goods, whether for import or export.</p> <p><input type="checkbox"/> Non-routine operations of an intense or sensitive nature <b>and</b> instances where commercial shipping is likely to be delayed require specific authority @ AP level (or HEO in AP's absence)</p> <p><input type="checkbox"/> If scheduled passenger services are likely to be affected, specific authority @ PO level is required.</p>

\* Definition of vehicle amended include any container, trailer, tanker or other thing (s.88(c) F.A. 2005).

## 3.10.3 Detention

Activity	Legal Provision	Summary Statement of Provision
<b>Excisable Products</b>	S. 140(1), F.A. 2001 as amended by S. 88(c), F.A. 2005.	<p>Where an officer:</p> <ul style="list-style-type: none"> <li>• reasonably suspects that any excisable products or any other goods are liable to forfeiture.</li> </ul> <p>All of the products above or goods concerned together with the means of conveyance or any *vehicle involved may be detained by the officer until such examination, enquiries or investigations are made, as deemed necessary by the officer to establish the position. The products/conveyance must either be seized or released when a determination in the position is made or within one month (whichever is the earlier).</p> <p><input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)</p>
<b>VRT</b>	S. 140 (3), F.A. 2001.	<p>Where an officer or a Garda reasonably suspects that:</p> <ul style="list-style-type: none"> <li>(i) a vehicle has not been registered; or</li> <li>(ii) a vehicle has been converted and the necessary declaration has not been made; or</li> <li>(iii) any VRT has not been paid</li> </ul> <p>The vehicle concerned may be detained to allow for examinations, enquiries or investigations to be undertaken, as deemed necessary by the officer to establish the position. The vehicle must either be seized or released when a determination on the position is made or within one month (whichever is the earlier).</p> <p><input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)</p>
<b>Goods &amp; Conveyances</b>	<p>S. 7, C &amp; E. (Miscellaneous Provisions) Act 1988.</p> <p>(See appendix 4.)</p> <p><b>Note:</b> goods liable to excise duty only should be detained under S. 140 F.A. 2001 in preference to S. 7, C&amp;E (Misc Prov) Act 1988.</p>	<p>Provides for the detention of imported or exported goods liable to duty or subject to prohibition or restriction for a period of one month pending investigation. Also provides for the detention of all conveyances, i.e. ships, boats, carriages, aircraft, and things made use of in the importation or exportation or conveyance of such goods.</p> <p><input type="checkbox"/> Non-routine operations of an intense or sensitive nature <b>and</b> instances where commercial conveyances are involved require specific authority @ AP level (or HEO in AP's absence)</p> <p><input type="checkbox"/> If scheduled passenger services are likely to be affected, specific authority @ PO level is required.</p>

\* Definition of vehicle amended to include any container, trailer, tanker or other thing (S.88(c) F.A. 2005).

Activity	Legal Provision	Summary Statement of Provision
<b>Light Dues.</b>	S. 650(1) Merchant Shipping Act, 1894.	Provides for the right of an officer to distrain the goods, guns, tackle, or anything belonging to or on board a ship, where the owner or master has failed , on demand, to pay the light dues due. The goods, etc. may be detained until the light dues are paid. <input type="checkbox"/> Specific authority @ PO level required.
<b>Aircraft.</b>	Art. 18 Customs & Excise (Aircraft) regulations 1964.	Provides for the detention of an aircraft to prevent it departing from a Customs airport prior to clearance, or departing outside the State from anywhere other than a Customs Airport, in relation to importation and exportation of goods. Also forbids the owner and the pilot-in-command consenting to or conniving at the contravention of instructions to this effect. <input type="checkbox"/> Specific authority @ PO level required
	Art. 19 Customs & Excise (Aircraft) Regulations 1964	An officer may refuse clearance of and demand return of clearance issued to an aircraft before departure, where an aircraft is to be detained on foot of any provision under statute or instrument relating to the import or export of goods, or for the purpose of securing compliance with any such provision. <input type="checkbox"/> Specific authority @ PO level required.
<b>Shipping – Clearance outward (incl. Light Dues action)</b>	S. 118 Harbours Act 1946.	Provides of the power of an officer to refuse clearance outwards unless a certificate of payment, or notification of security in relation to harbour rates from the harbour authority is produced, except at Fishery Harbour Centres. <input type="checkbox"/> Specific authority @ PO level required.
	S. 651, Merchant Shipping Act, 1894.	Provides for the right of an officer to detain a ship, at any port where light dues are payable in respect of that ship, until the receipt for the payment of light dies is produced. <input type="checkbox"/> Specific authority @ PO Level required
	S. 692(3), Merchant Shipping Act, 1894.	Provides for the right of an officer to refuse clearance outward or to grant a transpire where a ship is detained under the afore-mentioned S. 651 <input type="checkbox"/> Specific authority @ PO Level required

Activity	Legal Provision	Summary Statement of Provision
<b>Controlled Drugs.</b>	S. 2, C & E (Miscellaneous Provisions) Act 1988 as amended By S. 96, F.A. 2005.	<p>Provides for detaining and searching a*vehicle, vessel or aircraft where the presence of controlled drugs is suspected.</p> <p>An officer may direct a *vehicle to be brought to a specified place, or may cause it to be brought, for the purposes of search.</p> <p>An officer may direct that nothing be removed from the *vehicle, vessel, or aircraft pending search and may require the owner or person in charge to remain in or with the *vehicle pending completion of search.</p> <p><input type="checkbox"/> Non-routine operations of an intense or sensitive nature <b>and</b> instances where commercial shipping is likely to be delayed require specific authority @ AP level (or HEO in AP's absence)</p> <p><input type="checkbox"/> If schedules passengers services are likely to be affected, specific authority @ PO level is required.</p>

\*Definition of vehicle amended to include any container, trailer, tanker or other thing (S.96 F.A. 2005).

### 3.11 Seizure & Detention of Goods and Conveyances

#### Notes

- This is a summary of the combined forfeiture, detention and seizure provisions which are most frequently used.
- This brief summary is for ease of reference only. Staff are advised to familiarise themselves with the law itself in order to establish the precise circumstance in which each provision is used.
- An officer has powers of detention and seizure **only** where specific forfeiture provisions exist in relation to the offence concerned.
- An officer must **reasonably suspect** the commission of an offence before exercising powers of detention or seizure (see also Part 3.1)
- In cases of doubt or difficulty as to what action an officer should take, s/he should always consult with a superior officer before proceeding.
- C-NET now encompasses the national seizure register of all items seized by Customs & Excise which must now be input to C-NET, in the first instance. C-NET will issue a unique national seizure number for each seizure.



Activity	Forfeiture	Detention	Seizure
MINERAL OIL  [1] MARKED MINERAL OIL FRAUD IN FUEL TANK			
<p>(a) Mineral Oil: Covers all mineral oil containing markers (State and prohibited)</p> <p>(b) Vehicle State and Prohibited oil in fuel tank. S. 102(6), F.A. 1999 provides for forfeiture of a vehicle</p> <ul style="list-style-type: none"> <li>➤ Where concealed tank or similar device is involved; or</li> <li>➤ Owner or person in charge does not have a permanent address in the State; or</li> <li>➤ Proof of payment of tax on the oil is not produced (in practice, this provision should not constitute the sole basis for enforcement action) or,</li> <li>➤ A second or subsequent offence is involved.</li> </ul>	<p>S. 102(5) F.A., 1999</p> <p>S. 102 (6) F.A., 1999, where provisions set out opposite are complied with.</p>	<p>S.140 (1), F.A. 2001</p> <p>S. 140(1), F.A. 2001</p>	<p>S. 141 F.A. 2001 (see notes 1 below)</p> <p>S. 141, F.A. 2001</p>

**In the case of prohibited oil found in a fuel tank, the provision of CCS, 1876 could also be used but the provisions shown above are the preferred options.**

**Note 1:** Apart from certain circumstances, seizure of the vehicle is limited to situations involving a second or subsequent offence. A “offence” in this context should normally be interpreted as meaning that the offender has a previous conviction for a similar transgression.

**Note 2:** The text of S. 102, F.A. 1999 is given at Appendix 11, S. 140 F.A. 2001 is at Appendix 4 while S. 141 is Appendix 10.

Activity	Forfeiture	Detention	Seizure
[2] MINERAL OIL FOUND IN BULK TANK			
(a) Mineral Oil: (i) unmarked/imported without payment of excise duty;  (ii) containing prohibited markers e.g. Red Oil or kerosene containing Coumarin from N.I.	(i) S. 125 F.A., 2001  or S. 102(5) FA 1999  (ii) S. 177, CCA 1876.	(i) S. 140 (1), F.A. 2001  (ii) S. 7, C & E (Misc. Prov) Act 1988.  (i) S. 140(1), F.A. 2001.	(ii) S. 141 F.A. 2001  (ii) S. 202 CCA 1876
(b) Vehicle (i) unmarked imported without payment of excise duty;  (ii) containing prohibited markers e.g. Red Oil or Kerosene containing Coumarin from N.I.	(i) S. 125 F.A. 201 or S. 102(6) F.A. 1999 where applicable  (ii) S. 202, CCA 1876.	(i) S. 140(1), F.A. 2001.  (ii) S. 7, C & E (Misc. Porv) Act 1988.	(ii) S. 141, F.A. 2001.  (ii) S. 202, CCA 1876.
OIL LAUNDIRES & LAUNDERED OIL	S. 102(7), F.A. 1999 (Oil, equipment vehicles etc)	S. 140(1), F.A. 2001	S. 141, F.A. 2001
BREACHES OF MINERAL OIL REGULATIONS (MOR) (S.I. 442/2001) <b>(E.G. TRANSPORTING OILS WIHTOUT MOVEMENT DOCUMENTS)</b>	Oil: S. 102(5), F.A> 1999. Conveyance: S. 125(3), F.A. 2001.	S. 140(1), F.A. 2001.	S. 141, F.A. 2001
EXCISABLE PRODUCTS	As per Part 3.2	As per Part 3.2	As per part 3.2
VRT (CERTAIN OFFENCES SEE PART 4.3)	S. 139(6), F.A.1992.	S. 140(3), F.A. 2001	S. 141, F.A. 2001

Activity	Forfeiture	Detention	Seizure
<b>Customs Control</b>	S. 177, Customs Consolidation Act 1876. <ul style="list-style-type: none"> <li>Imported goods <b>and</b> Intra-community acquisitions of New Means of Transport other than motor vehicles – see Note in Chapter 4.1 Page 6/7</li> </ul>	S. 7, C & E (Misc. Provisions) Act, 1988	S. 202, CCA 1876
	S. 48, Customs Consolidation Act 1876. <ul style="list-style-type: none"> <li>Unshipped goods &amp; Vessels</li> </ul>	S. 7, C & E. (Misc. Provisions) Act, 1988.	S. 202, CCA 1876.
	S. 202, Customs Consolidation Act 1876. <ul style="list-style-type: none"> <li>Conveyance - imports</li> </ul>	S. 7, C & E. (Misc. Provisions) Act, 1988.	S. 202, CCA 1876.
	S. 29, F.A. 1971 as amended. <ul style="list-style-type: none"> <li>Undeclared goods in imported Baggage</li> </ul>	S. 7, C. & E. (Misc. Provisions) Act, 1988.	S. 202, CCA 1876
	S. 179, Customs Consolidation Act 1876. <ul style="list-style-type: none"> <li>Vessel – If used to import uncustomed or prohibited goods.</li> </ul>	S. 7, C & E. (Misc. Provisions) Act, 1988.	S. 202, CCA 1876
	S. 45, F.A. 1976. <ul style="list-style-type: none"> <li>Aircraft/vessel.</li> </ul>	S. 7, C & E. (Misc. Provisions) Act, 1988.	S. 202, CCA 1876
	S. 5 Customs Act 1956 <ul style="list-style-type: none"> <li>Goods - exports</li> </ul>	S. 7, C & E. (Misc. Provisions) Act, 1988.	S. 202, CCA 1876
	-	-	S. 5, C & E. (Misc. Provisions) Act, 1988.  (Books/Documents re. Imports – with search warrant).

**Note:** Section 6 of the C. & E. (Misc. Provisions) Act, 1988 provides that goods found in, on or in any manner attached to any vehicle or other conveyance shall, for the purpose of S. 202 of the Customs Consolidation Act 1876 or S. 5(2) of the Customs Act 1956 or S. 7(2) of the C & E. (Misc. Provisions) Act 1988, be deemed to have been used in the conveyance of the said goods.

### 3.11.1 Notice of Claim against a Seizure

Under S. 207 of the Customs Consolidation Act 1876 in Customs cases and S. 143 of the Finance Act 2001 in Excise cases, a Notice of Claim contesting a seizure can be made within one month of the date of seizure or of Notice of seizure, whichever is applicable. All such communications should be acknowledged without comment and the notice of claim should be forwarded immediately to the **Anti-Fraud Unit Áras Ailigh, Bridgend, Co. Donegal**, whether or not the notice appears to have been made within the specified time limit.

## 3.12 Search of Person

Activity	Legal Provision	Summary Statement of Provision
<b>Customs Control.</b>	S. 12, Customs and Inland Revenue Act 1881.	<p>Provides of search of person on board any ship or boat, within the limits of a port or on landing from any ship or boat if an officer has good reason to suspect the presence of uncustomed or prohibited goods on the person.</p> <p><input type="checkbox"/> Non-routine operations of an intense or sensitive nature body searches require specific authority @ AP level (or HEO in AP's absence)</p>
	S. 1 Customs (Amendment) Act 1942.	<p>Provides for search of person where an Officer has reason to suspect the presence of goods on the person, the export or attempted export of which is prohibited and includes search of boxes, bags or other articles carried by the person.</p> <p><input type="checkbox"/> Non-routine operations of an intense or sensitive nature body searches require specific authority @ AP level (or HEO in AP's absence)</p>
<b>Land Frontier.</b>	Art. 15 Customs (Land Frontier) Regulations 1968 to 1988 as amended by Art. 10 European Communities (Customs) (No. 2) Regulations 1992.	<p>Provides for search of person as applied under the Customs Acts.</p> <p><input type="checkbox"/> Non-routine operations of an intense or sensitive nature body searches require specific authority @ AP level (or HEO in AP's absence)</p>
Controlled Drugs	S. 2, C & E . (Miscellaneous Provisions) Act 1988.	<p>Provides for search of a person at or in the vicinity of a port or airport or the Land Frontier, where the Officer reasonably suspects that person to be in possession of a controlled drug; and for detention of person as is reasonably necessary for search.</p> <p><input type="checkbox"/> Non-routine operations of an intense or sensitive nature body searches require specific authority @ AP level (or HEO in AP's absence)</p>

	S. 3, C & E (Miscellaneous Provisions) Act 1988.	Provides for search of persons found on a premises or land subject to search warrant for controlled drugs or documents relating thereto by the officer of Customs & Excise named in the Warrant.  <input type="checkbox"/> Non-routine operations of an intense or sensitive nature body searches require specific authority @ AP level (or HEO in AP's absence)
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## 3.13 Arrest of Person

Activity	Legal Provision	Summary Statement of Provision
<b>Bookmaking</b>	S. 25(3) Betting Act, 1931.	<p>A Garda may arrest any person who refuses or fails to produce to a Garda or Customs Officer his Bookmaking Licence or to give his name and address.</p> <p><input type="checkbox"/> Specific authority @ AP level required to request assistance from a Garda (an officer cannot direct a Garda in any way).</p>
<b>Evasion of excise duty.</b>	S. 139 (1), F.A. 2001	<p>An Officer or Garda may arrest without warrant a person who s/he reasonably suspects has committed or is committing an offence (under S. 119, F.A. 2001) in relation to evasion of excise duty.</p> <p><input type="checkbox"/> Specific authority @ PO level required.</p>
<b>Mineral Oil.</b>	S. 139(1), F.A. 2001.	<p>An officer or Garda may arrest without warrant a person who s/he reasonably suspects has committed or is committing an offence of oil laundering or dealing in laundered oil.</p> <p><input type="checkbox"/> Specific authority @ PO level required.</p>
<b>Illicit production of alcohol products.</b>	S. 139 (1), F.A. 2001, as amended by S. 60 F.A. 2005.	<p>An officer may arrest a person reasonably suspected of committing an offence (under S. 79(5), F.A. 2003 as amended by S. 62, F.A. 2005) in relation to; illicit production or processing of alcohol products; removing alcohol denaturants; dealing in illicit alcohol products, or keeping or delivering prohibited goods, including illicit production equipment, at any premises or land.</p> <p><input type="checkbox"/> Specific authority @ PO level required.</p>
<b>Obstruction.</b>	S. 12 Customs & Inland Revenue Act, 1881.	<p>An officer of Customs &amp; Excise may arrest a person obstructing him/her in the prevention of smuggling.</p> <p><input type="checkbox"/> Specific authority @ PO level required.</p>
<b>Controlled Drugs (obstruction).</b>	S. 2, C & E (Miscellaneous Provisions) Act, 1988.	<p>An officer of Customs &amp; Excise may arrest without warrant a person failing to comply with the requirements of Section 2(2) of this Act (Search of Person).</p> <p><input type="checkbox"/> Specific authority @ PO level required.</p>
<b>Tobacco Products (tax stamps).</b>	S. 139(2), F.A. 2001, as amended by S. 93, F.A. 2005.	<p>An <b>authorised</b> officer of the Revenue Commissioners, who has reasonable grounds to believe that a person is committing (or has committed) an offence in relation to unstamped tobacco products, may detain and, as soon as is practicable thereafter, present (or bring and present) the person to a Garda (who may subsequently arrest the person).</p> <p><input type="checkbox"/> Specific authority @ PO level required.</p>

Activity	Legal Provision	Summary Statement of Provision
<b>Customs Control</b>	S. 202 Customs Consolidation Act, 1876.	An Officer of Customs and Excise may, at any place upon land or water, arrest any person liable to be arrested for an offence under the Customs Acts, or under any other acts authorising such officers to arrest a person.  <input type="checkbox"/> Specific authority @ PO level required.
	S. 179 Customs Consolidation Act, 1876.	Provides for the arrest of any person found on board any ship or boat liable to forfeiture on foot of a customs offence, where there is reasonable suspicion that the person was involved in the offence.  <input type="checkbox"/> Specific authority @ PO level required
	S. 186 Customs Consolidation Act, 1876 as amended by Art. 5 European Communities (Customs) (No.2) Regulations 1992.	Provides for the arrest of any person:- a) illegally importing, delivering, removing, or knowingly harbouring, carrying, or dealing in prohibited or restricted goods; or b) fraudulently evading or attempting to evade customs charges on goods from third countries.  <b>Note:</b> The arrest provision for fraudulent evasion of excise duty is now S. 139 F.A. 2001 (see above), as amended.  <input type="checkbox"/> Specific authority @ PO level required.
	S. 199 Customs Consolidation Act, 1876	Provides for the arrest of any person liable to be arrested for an offence under Customs Acts within three years from the time such an offence was committed.  <input type="checkbox"/> Specific authority @ PO level required.
	S. 3 Customs Act, 1956	Provides for arrest of a person who illegally exports goods.- <input type="checkbox"/> Specific authority @ PO level required.
	S. 3 Customs & Excise (Miscellaneous Provisions) Act, 1988	An officer of Customs & Excise named in a search warrant for controlled drugs may arrest a person found on the premises for the purpose of searching him and may keep him under arrest pending completion of the search pursuant to the warrant.  <input type="checkbox"/> Specific authority @ PO level required.



## 3.14 Miscellaneous Powers

Activity	Legal Provision	Summary Statement of Provision
Investigating offences:- obtaining information from Financial Institutions	S. 908A, Taxes Consolidation Act 1997 (as amended by S. 132 F.A. 2002 and by S. 88, F.A. 2004).	<p>An officer specifically authorised under this section may, with the written consent of a Revenue Commissioner, seek an order from a judge authorising him/her to inspect &amp; take copies of any entries in the books, records or other documents held by a financial institution. This is authorised for the purpose of investigating an offence under the Acts in connection with the evasion or attempted evasion of any duty or tax.</p> <p><input type="checkbox"/> Specific authority @ Commissioner level required in each case. Applications are to be made using the approved template to the Assistant Secretary, Investigations &amp; Prosecutions Division via the Principal Customs Investigations.</p>
Customs Control	S. 69 Customs Consolidation Act, 1876.	<p>An officer of Customs and Excise may refuse to transact business with a third party unless written authority from the person on whose behalf the party is acting, is produced.</p> <p><input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)</p>
	S. 47 Customs Consolidation Act 1876 as amended by Art. 5 European Communities (Customs) (No.2) Regulations 1992.	<p>An officer of Customs and Excise may fasten down and lock hatchways and entrances to the hold of a ship and lock up or seal any third country goods on board.</p> <p><input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)</p>

Activity	Legal Provision	Summary Statement of Provision
<b>Export Declarations.</b>	Art. 5 European Communities (Customs) Regulations 1983.	<p>An appropriate officer may authorise lodgement of export declarations before presentation of goods and outside appointed hours for transacting Customs business.</p> <p><input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)</p>
	Art. 7 European Communities (Customs) Regulations 1983.	<p>An appropriate officer may authorise, on request by the declarant, the examination and sampling of goods subject to specific control prior to their being exported</p> <p><input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)</p>
	Art. 9 European Communities (Customs) Regulations 1983.	<p>An appropriate officer may authorise the declarant, at his request, to correct export declarations. The officer may allow or require correction by lodgement of a new declaration intended to replace the original.</p> <p><input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)</p>
<b>Export Examination &amp; Clearance.</b>	Art. 11 European Communities (Customs) Regulations 1983.	<p>An appropriate officer may examine all or part of the declared goods in such places and at such times as may be appointed by the Revenue Commissioners. An appropriate officer may authorise examination of such goods in places at times outside those appointed by the Revenue Commissioners. The officer may require the presence of the declarant at such examination, or his representative, in order to assist with the examination as necessary.</p> <p><input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)</p>
	Art. 14 European Communities (Customs) Regulations 1983.	<p>An appropriate officer may authorise the export of goods declared if s/he is satisfied that, where appropriate, export duties have been paid and secured.</p> <p><input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)</p>

Activity	Legal Provision	Summary Statement of Provision
<b>Export Declarations.</b>	Art. 8 European Communities (Customs)(No. 2) Regulations 1982.	<p>An appropriate officer of Customs &amp; Excise may authorise lodgement of an entry before presentation of goods.</p> <p><input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)</p>
	Art. 9 European Communities (Customs)(No. 2) Regulations 1982.	<p>An appropriate officer of Customs and Excise may set a time limit for communication of required particulars for entry and may make release of goods for free circulation conditional on security.</p> <p><input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)</p>
	Art. 11 European Communities (Customs)(No. 2) Regulations 1982.	<p>An appropriate officer may require corrections to entry to be made by lodging a new entry to replace the original entry and may authorise cancellation of same.</p> <p><input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)</p>
	Art. 13 European Communities (Customs) (No. 2) Regulations 1982.	<p>An appropriate officer of Customs and Excise may release goods for free circulation when import charges are paid or guaranteed.</p> <p><input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)</p>
	Art. 14 European Communities (Customs)(No. 2) Regulations 1982	<p>An appropriate officer may, before goods are released for free circulation, authorise the declarant to surrender the goods free of charge to the State, or destroy them under the supervision of that officer.</p> <p><input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)</p>

Activity	Legal Provision	Summary Statement of Provision
<b>Excisable Products in Baggage.</b>	Art. 19 European Communities (Customs)(No. 2) Regulations 1992.	<p>Nothing in these Regulations shall affect the power of an officer of Customs and Excise to require a person entering the State to stop and answer any questions relating to any baggage or goods carried by him/her or in his charge and to examine any such baggage or goods, where the officer has reason to believe the person has committed an offence under any provision implementing Council Directive No. 92/12/EEC (Excisable Products, Finance Act 1992).</p> <p><input type="checkbox"/> See parts 3.5 and 3.8 (as appropriate) for level of authority required.</p>
<b>Light Dues.</b>	S. 650(2), Merchant Shipping Act, 1894.	<p>An officer of Customs &amp; Excise, having detained goods, guns, tackle or anything belonging to or on board a ship may, if payment of the light dues has not been made within three days following detention, have the detained goods etc. valued by two independent people or sworn appraisers and may then sell the goods, etc and apply the proceeds in payment of the light dues together with all reasonable expenses incurred and may pay the surplus (if any) on demand to the owner or master of the ship.</p> <p><input type="checkbox"/> Specific authority @ PO level required.</p>
<b>Rail.</b>	Art. 12(6) Customs (Land Frontier) Reg. 1968 to 1988 as amended by Art. 10 European Communities (Customs) (No. 2) Regs. 1992.	<p>Provides for an officer of Customs and Excise boarding and searching a train, examining all goods thereon and remaining on board while the train is on that line.</p> <p><input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)</p>
<b>Warehousing.</b>	S. 12, Customs Consolidation Act, 1876 as amended by S. 18, Customs and Inland Revenue Act 1881.	<p>All powers, provisions, regulations and penalties under any act relating to customs and to excise may be enforced regarding warehousing, custody, delivery out of warehouse of goods liable to duty, and treatment of such goods in warehouse</p> <p><input type="checkbox"/> The level of authority required is shown elsewhere in this part, opposite the more specific powers being used.</p>

Activity	Legal Provision	Summary Statement of Provision
Inspecting goods & documents.	Art. 14(6)(a) European Communities (Customs) Regulations 1972 as amended by Art. 3 European Communities (Customs) (Amendment) Reg. 1980.	<p>An officer may require production of a declaration of value of goods entered within such time and in such form as directed by the Revenue Commissioners.</p> <p><input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)</p>
Prohibitions.	Art. 16 European Communities (Customs) (No. 2) Regs. 1992.	<p>Nothing in these regulations shall affect the power of an officer of Customs and Excise to examine and take samples of any goods for the purpose of a prohibition, or restriction on importation.</p> <p><input type="checkbox"/> See Parts 3.5 and 3.6 (as appropriate) for level of authority required.</p>
Residential property Tax.	S. 98 F.A. 1983	<p>An authorised officer of the Revenue Commissioners may inspect any property and report to the Commissioners the value thereof for the purposes of assessing residential property tax. The person having custody or possession of that property shall permit the officer so authorised to inspect it at such reasonable times as the Commissioner consider necessary.</p> <p><input type="checkbox"/> Non-routine operations of an intense or sensitive nature require specific authority @ AP level (or HEO in AP's absence)</p>
Prosecuting Cases.	S. 273 Customs Consolidation Act 1876.	<p>An officer of Customs and excise, acting under the direction of the Revenue Commissioners may conduct proceedings before Justices in relation to Excise or matters under the care and management of the Revenue Commissioners.</p> <p><input type="checkbox"/> Specific authority @ PO level required.</p>
	S. 27 Inland Revenue Regulation Act, 1890.	<p>An officer of Customs and Excise authorised by the Revenue Commissioners may conduct proceedings before Justices in relation to Excise or matters under the care and management of the Revenue Commissioners.</p> <p><input type="checkbox"/> Specific authority @ PO level required.</p>

Activity	Legal Provision	Summary Statement of Provision
Search for seizure of criminal cash	S. 38, Criminal Justice Act 1994 amended by S.20, Proceeds of Crime Act 2005	<p>An officer of Customs and Excise may search a person if the officer has reasonable grounds for suspecting ;</p> <ul style="list-style-type: none"> <li>• that the person is importing or exporting or intends to import or export cash derived from or intended for criminal activity (S38 (1) CJA 1994)</li> <li>• An officer of the Revenue Commissioners (includes an officer of Customs and Excise) may seize an amount of cash <ul style="list-style-type: none"> <li>○ Not less than €6,350</li> <li>○ Suspected offence derived from or intended for criminal activity</li> <li>○ Cash seized shall not be detained beyond 48 hours unless authorised by an order from Judge of the District Court</li> </ul> </li> </ul> <p>➤ [See Guidelines on Cash Seizure Proceeds of Criminal Cash Act 2005]</p> <p>➤ [Sections 38 – 45, CJA 1994 as amended by Proceeds of Crime Act 2005 are reproduced at Appendix X]</p>
<p>Question, search baggage' means of transport and seize for non-declaration cash not less than €10,000 carried by a person entering or leaving the Community.</p> <p>*Isle of Man is regarded as outside the Community for the purposes of cash control</p>	Council Regulation (EC) No 1889/2005 and S.I. No 281/2007	<p>An officer of the Revenue Commissioners may;</p> <ul style="list-style-type: none"> <li>▪ Question a person entering or leaving the State in connection with compliance of their Regulations (Article 5 (2)(a) S.I. 281/2007.</li> <li>▪ Search the person's baggage or means of transport Article 5(2)(b)</li> <li>▪ Search the person (Article 5 (3))</li> <li>▪ Seize undeclared cash worth not less that €10,000 (Article 5 (1))</li> </ul> <p>Offence for failure to declare or completion of an incorrect declaration Article 6, S.I. 281/2007.</p>