

GUERNSEY STATUTORY INSTRUMENT2020 No. 116**The Customs and Excise (Brexit) (Amendment)
(Bailiwick of Guernsey) Regulations, 2020**

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| <i>Made</i> | <i>8th December, 2020</i> |
| <i>Coming into operation</i> | <i>See regulation 4</i> |
| <i>Laid before the States</i> | <i>, 2020</i> |

THE POLICY & RESOURCES COMMITTEE, in exercise of the powers conferred on it by sections 5(1) and 11 of the European Union (Brexit) (Bailiwick of Guernsey) Law, 2018^a, and upon receipt of the certificate required under section 5(3) of that Law, hereby makes the following Regulations:-

Amendment to General Provisions Law.

1. (1) The Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972^b ("the Law") is amended as follows.

^a Order in Council No. I of 2019; amended by G.S.I. No. 6 of 2020.

^b Ordres en Conseil Vol. XXIII, p. 573; amended by Ordres en Conseil Vol. XXIV, p. 87; Vol. XXXI, p. 278; Vol. XXXIII, p. 217; Order in Council No. X of 2004; No. II of 2010; No. XIV of 2007; No. XV of 2012; No. VI of 2019; Ordinance No. XXXIII of 2003; No. XXIX of 2004; Nos. XXXV and XLVIII of 2007; No. VII of 2008; No. XLIII of 2013; No. IX of 2016; No. XXIX of 2020; G.S.I. No. 56 of 2008; G.S.I. No. 76 of 2009; G.S.I. No. 97 of 2010; G.S.I. No. 42 of 2011; G.S.I. No. 54 of 2012; G.S.I. No. 53 of 2013; G.S.I. No.

(2) In section 1(1) –

- (a) in the definition of "container", after "and any" insert "baggage",
- (b) after the definition of ""customs Laws" and "excise Laws"", insert –

""customs obligation" means any obligation or requirement imposed under –

- (a) Part III, IV, V or VII, or
- (b) Part 1 of the Customs and Cross-Border Trade (General and Enabling Provisions) (Bailiwick of Guernsey) Law, 2018,

"customs procedure": see section 15(1),"

- (c) after the definition of "customs warehouse" insert –

""document" has the same meaning as in the Electronic Transactions (Guernsey) Law, 2000," and

- (d) repeal the definition of "special customs procedure".

61 of 2014; G.S.I. No. 70 of 2015; G.S.I. No. 46 of 2016; G.S.I. No. 81 of 2017; and No. 56 of 2018; and No. 103 of 2019.

(3) Immediately after section 1, insert –

"Application to pipe-lines.

1A. (1) In the customs Laws and excise Laws, "shipping" and "loading" and cognate expressions, where used in relation to importation or exportation, include, in relation to importation or exportation by means of a pipe-line, the conveyance of goods by means of the pipe-line and the charging and discharging of goods into and from the pipe-line, but subject to any necessary modifications.

(2) In the customs Laws and excise Laws, "importer" and "exporter", in relation to goods imported or exported by means of a pipe-line, include the owner of the pipe-line.

Time of importation, exportation, etc.

1B. (1) The provisions of this section shall have effect for the purposes of the customs Laws and excise Laws.

(2) Goods imported by means of a pipe-line shall be treated as imported at the time when they are discharged from that pipe-line for importation or otherwise when they enter the Island.

(3) Goods exported by means of a pipe-line shall be treated as exported at the time when they are charged into that pipe-line for exportation.

Control of movement of goods by pipe-line.

1C. (1) Goods shall not be imported or exported by means of a pipe-line that is not for the time being approved by the Chief Officer of

Customs and Excise for the purposes of this section.

- (2) Uncleared goods, that is to say -
 - (a) imported goods, whether or not chargeable with duty, which have not been cleared out of charge are subject to the control of the Chief Revenue Officer, and in particular goods which are, or are to be, moved under section 11, or
 - (b) dutiable goods moved from warehouse without payment of duty,

shall not be moved by means of a pipe-line that is not for the time being approved by the Chief Officer of Customs and Excise for the purposes of this section.

(3) The Chief Officer of Customs and Excise may give his or her approval under this section for such period and subject to such conditions as he or she thinks fit, and may at any time for reasonable cause -

- (a) vary the terms of his or her approval, and
 - (b) (if he or she has given to the owner of the pipe-line not less than 3 months' written notice of the intention so to do) revoke his or her approval.
- (4) A person who -

- (a) contravenes subsection (1) or (2), or contravenes or fails to comply with a condition imposed by the Chief Officer of Customs and Excise under subsection (3), or
- (b) except with the authority of the Chief Officer or for just and sufficient cause, obtains access to goods which are in, or in course of conveyance by, a pipe-line approved under this section,

shall be guilty of an offence under this section and may be detained and any goods in respect of which the offence was committed shall be liable to forfeiture.

(5) A person guilty of an offence under this section shall be liable on summary conviction, to a penalty not exceeding level 5 on the uniform scale, or to imprisonment for a term not exceeding 2 years, or to both.

Further provision in relation to pipe-lines.

1D. Without prejudice to any other power in this Law or any other enactment, the Committee may by regulation make such provision as it thinks fit in relation to pipe-lines for the purposes of the customs Laws and excise Laws."

(4) Immediately after section 13, insert –

"Customs agents acting in relation to import duty.

13A. (1) Notwithstanding section 74(1), a person ("P") may appoint any other person (a "customs agent") to act on P's behalf for the

purposes of making a customs declaration in respect of import duty, and –

- (a) the customs agent may make customs declarations in the name of P (and in that case the customs agent acts as a "direct agent"), or
- (b) the customs agent may make customs declarations in the customs agent's own name (and in that case the customs agent acts as an "indirect agent").

(2) A customs agent appointed for the purpose of this section must be established in the Island.

(3) A customs agent is established in the Island if –

- (a) in the case of an individual, the individual is resident in the Island,
- (b) in any other case, the person has a registered office in the Island or has a permanent place from which the person carries out activities for which the person is appointed to perform.

(4) The Chief Revenue Officer may request written authority from P, in such form as the Chief Revenue Officer may direct, in order to confirm the appointment.

(5) The Committee may by regulations make further provision about customs agents for the purposes of import duty.

(6) Regulations under this section may (without limitation) make –

(a) provision requiring persons to be eligible for appointment as customs agents only if the Chief Revenue Officer has approved the appointment, and

(b) provision specifying the criteria for approving the appointment (including provision for the criteria to be specified in a notice given by the Chief Revenue Officer)."

(5) In section 14, immediately after subsection (6), insert –

"(6A) If, at any time after a ship or aircraft carrying goods arrives in the Island from a port or place outside the Island, and before a declaration has been made under this section –

(a) bulk is broken, or

(b) any alteration is made in the stowage of any goods carried so as to facilitate the unloading of any part thereof, or

- (c) any part of the goods is staved, destroyed or thrown overboard, or any container is opened,

and the matter is not explained to the satisfaction of the Chief Revenue Officer, the master of the ship or commander of the aircraft (as the case may be) shall be liable on conviction to a fine not exceeding level 3 on the uniform scale."

- (6) In section 14(7), for "this section" substitute "subsections (1) to (6)".

- (7) Renumber section 14B as section 14D, and after section 14A, insert –

"Passenger information reports.

14B. (1) A report shall be made to the Chief Revenue Officer of every ship and aircraft arriving in the Island from a port or place outside the Island in respect of the passengers on that ship or aircraft.

- (2) The Committee shall prescribe by regulations –
 - (a) who must make the reports,
 - (b) the procedure for making the reports,
 - (c) the information the reports must contain,
 - (d) the time at, or by, which the reports must be made, and

- (e) such related and ancillary matters as the Committee thinks it appropriate to prescribe.

(3) Information to be contained in the reports to be prescribed by regulations under this section may include (but is not limited to)-

- (a) the total number of passengers carried, and
- (b) each passenger's name, date and place of birth, nationality, port of embarkation and port of disembarkation.

(4) For the avoidance of doubt, regulations under this section may make provision that differs depending on how many passengers the aircraft or ship is carrying, including (but not limited to) different provision in respect of ships carrying 12 passengers and fewer, and ships carrying more than 12 passengers.

(5) Regulations under this section may provide that a person who, without reasonable excuse, fails to comply with a requirement imposed on the person by the regulations is guilty of an offence, and liable on conviction to a fine not exceeding level 5 on the uniform scale.

Presentation of goods to Chief Revenue Officer.

14C. (1) Any goods arriving in the Island must be presented to the Chief Revenue Officer on importation of the goods, in accordance with regulations made by the Committee under this subsection, and on being so

presented will be under the control of the Chief Revenue Officer until released, in accordance with the customs Laws and the excise Laws.

(2) For the purposes of this Part, goods are presented to the Chief Revenue Officer on import if —

- (a) the goods are lawfully imported into the Island, and
- (b) notification of their importation into the Island is given to the Chief Revenue Officer in accordance with regulations made under subsection (1).

(3) The time at which goods are presented to the Chief Revenue Officer on import is the later of —

- (a) the time at which the notification of importation in accordance with the regulations made under subsection (1) ("**notification**") is received by the Chief Revenue Officer, and
- (b) the time at which the goods are imported into the Island.

(4) Regulations under this section may make provision -

- (a) requiring a notification to be accompanied by documents of such description as may be

specified in the regulations or in a notice given by the Committee or the Chief Officer of Customs and Excise,

- (b) authorising a notice given by the Committee or the Chief Officer of Customs and Excise to make provision about the form and contents of a notification,
- (c) authorising a notice given by the Committee or the Chief Officer of Customs and Excise to require notification to be made in accordance with provision made by the notice,
- (d) requiring or authorising, in specified cases, notification of an importation of goods to be given before the importation,
- (e) deeming a notification to have been given in specified cases,
- (f) requiring a notification to disclose the location of the goods,
- (g) for cases in which goods are not required to be presented on import, and
- (h) in respect of the person who is required to present goods on import.

(5) If goods imported into the Island are not presented to the Chief Revenue Officer as required under this section, the goods shall become liable to forfeiture at the time of importation and a liability to import duty in respect of the goods is incurred at the time at which the goods become liable to forfeiture."

(8) For section 15, substitute –

"Entry of goods on importation.

15. (1) Subject to subsection (2), the proprietor or consignee of goods which are to be unloaded or which have been unloaded from a ship or aircraft arriving in the Island from a port or place outside the Island shall enter the goods by making an entry (to be referred to as a "**customs declaration**") for a customs procedure in accordance with regulations made by the Committee under this subsection, and in this Part a "**customs procedure**" means a free circulation procedure or a special customs procedure, as those terms are defined in the regulations.

(2) Goods which are to be unloaded or which have been unloaded from a ship or aircraft arriving in the Island from a port or place outside the Island may be re-exported to a port or place outside the Island in accordance with directions issued by the Chief Revenue Officer; and, for the avoidance of doubt, the obligation on the proprietor or consignee under subsection (1) does not apply in respect of such goods, and this section shall be construed accordingly.

(3) Regulations under subsection (1) may (without limitation) make provision in respect of –

- (a) conditions to be met by persons making a customs declaration (including, but not limited to, the issue of financial guarantees),
- (b) the application of relief from payment of, and the imposition of reduced rates (including zero rate) of, import duty in respect of specified goods entered for a customs procedure, including the imposition of different rates of duty (including zero rate) dependent on the use to which the relevant goods will be put,
- (c) other provisions and requirements relating to customs procedures and declaring goods for re-export, and
- (d) the discharge of customs procedures.

(4) Subject to subsection (5), regulations made under subsection (1) shall specify –

- (a) the time-limit for making a customs declaration,
- (b) the form of a customs declaration,
- (c) the manner in which a customs declaration may be made,

- (d) the information to be included in a customs declaration, and
- (e) in the case of goods declared to each customs procedure, when liability to import duty is incurred.

(5) Regulations under subsection (1) may make such provision in relation to the making of customs declarations as the Committee thinks fit, and may (by way of example and without limitation) provide for –

- (a) customs declarations to be made within different time-limits in specified circumstances (including in respect of specified goods or categories of goods),
- (b) customs declarations to be made before the arrival of the ship or aircraft in the Island (to be referred to as "advance customs declarations") in specified circumstances,
- (c) the form of customs declarations to differ in specified circumstances (including, for the avoidance of doubt, providing for declarations to be made verbally, or by conduct, in specified circumstances),

- (d) the information required to be provided in a customs declaration to differ in specified circumstances,
- (e) persons other than, or in addition to, the proprietor or consignee of the goods in question to make a customs declaration in respect of them in specified circumstances,
- (f) the amendment of a made customs declaration in specified circumstances,
- (g) the withdrawal of a made customs declaration in specified circumstances,
- (h) customs declarations not to be required in respect of specified goods or categories of goods, and
- (i) customs declarations made in written form to be required to be signed by the proprietor or consignee of the goods, to bear the date of delivery, and to be delivered to the Chief Revenue Officer before the proprietor or consignee may take possession of the goods.

(6) The Chief Revenue Officer may at any time within three years after the importation of the goods require any person concerned with their importation to furnish, in such form as the Chief Revenue Officer may

require, any information relating to the goods, and to produce books or documents of whatever nature relating to the goods.

(7) If the proprietor or consignee fails to comply with any of the provisions of this section, or regulations made under this section –

- (a) he or she shall be liable on conviction to a fine not exceeding level 4 on the uniform scale,
- (b) the load shall be liable to forfeiture, and
- (c) a liability to import duty in respect of the goods in that load is incurred at the time at which the load becomes liable to forfeiture."

(9) After section 22(f), insert –

- "(fa) this Law or any other enactment so provides, or".

(10) In section 24 –

- (a) in subsection (1) –
 - (i) delete "to which this section applies",
 - (ii) for paragraph (a) substitute –

"(a) shall make an entry outwards of the goods ("a **customs export declaration**") to an export procedure in accordance with regulations made by the Committee under this subsection,"

(iii) for ", and" at the end of paragraph (b) substitute ":",
and

(iv) delete paragraph (c),

(b) after subsection (1), insert –

"(1A) Subject to subsections (1B) and (1C), regulations made under subsection (1) shall specify –

(a) the time-limit for making a customs export declaration,

(b) the form of a customs export declaration,

(c) the manner in which a customs export declaration may be made, and

(d) the information to be included in a customs export declaration.

(1B) Regulations under subsection (1) may make such provision in relation to the making of customs export declarations as the Committee thinks fit, and may (without limitation) provide for –

- (a) customs export declarations to be made within different time-limits in specified circumstances (including in respect of specified goods or categories of goods),
- (b) the form of customs export declarations to differ in specified circumstances (including, for the avoidance of doubt, providing for declarations to be made verbally, or by conduct, in specified circumstances),
- (c) the information required to be provided in a customs export declaration to differ in specified circumstances,
- (d) specified persons other than, or in addition to, the exporter of the goods in question to make a customs export declaration in respect of them in specified circumstances,
- (f) the amendment of a made customs export declaration in specified circumstances,
- (g) the withdrawal of a made customs export declaration in specified circumstances,

- (h) customs export declarations not to be required in respect of specified goods or categories of goods, and
- (i) customs export declarations in written form to be signed by the exporter of the goods.

(1C) Regulations under subsection (1) may provide for the exporter, when making entry of goods under this section, to declare them to a procedure specified in the regulations, including (but not limited to) procedures making provision in respect of goods to be shipped as stores, the standard exportation of goods, or the outward processing of goods; and such regulations may (without limitation) make provision in respect of –

- (a) conditions to be met by persons declaring goods for such procedures,
 - (b) other provisions and requirements relating to such procedures, and
 - (c) the discharge of such procedures.",
- (c) in subsection (2), after "Goods" insert "in respect of which a customs export declaration in written form is required under regulations made under subsection (1)", and for "written declaration" substitute "customs export declaration", and
- (d) repeal subsection (5).

(11) After section 24, insert –

"Digital signatures etc.

24A. For the avoidance of doubt, and without prejudice to the provisions of the Electronic Transactions (Guernsey) Law, 2000, in any case where a document is to be signed and delivered to the Chief Revenue Officer under any provision of, or made under, this Law, the Chief Revenue Officer may, at his or her discretion, treat the entry of a password or any other form of digital identification as a signature for the purposes of that provision."

(12) In section 25(1), for "paragraphs (a) to (d) of subsection (5) of section twenty-four of this Law" substitute "subsection (1A)", and after subsection (1) insert –

"(1A) The goods referred to in subsection (1) are –

- (a) goods from an approved warehouse or a customs warehouse,
- (b) transit goods,
- (c) any other goods chargeable with any duty which has not been paid,
- (d) drawback goods,
- (e) goods with respect to the exportation of which any restriction is for the time being in force under or by

virtue of any enactment, and

- (f) any goods required by or under any other provision of this or any other Law to be entered before exportation or before shipment for exportation or as stores."

(13) After section 28, insert –

"Presentation of goods to Chief Revenue Officer on export.

28A. (1) Any goods being exported from the Island must be presented to the Chief Revenue Officer prior to loading, and on being so presented will be under the control of the Chief Revenue Officer until released, in accordance with the customs Laws and the excise Laws.

(2) For the purposes of this section, goods are presented to the Chief Revenue Officer for the purposes of subsection (1) if notification of their export from the Island is given to the Chief Revenue Officer in accordance with regulations made by the Committee.

(3) Regulations under this section may make provision -

- (a) requiring a notification to be accompanied by documents of such a description as may be specified in the regulations, or a notice issued by the Committee or the Chief Officer of Customs and Excise,

- (b) in respect of the form and contents of a notification,
- (c) authorising a notification to be made in accordance with provision made by a notice issued by the Committee or the Chief Officer of Customs and Excise,
- (d) requiring notification of an export of goods to be given before the export, or, in specified cases, at a later time,
- (e) deeming a notification to have been given in specified cases,
- (f) requiring a notification to disclose the location of the goods,
- (g) for cases in which goods are not required to be presented on export, and
- (h) in respect of the person who must present goods on export."

(14) After section 32, insert –

"General information powers in relation to persons entering or leaving the Island.

32A. (1) The Chief Revenue Officer may require any person

entering or leaving the Island—

- (a) to produce the person's passport or travel documents for examination, or
- (b) to answer any questions put by the proper officer about the person's journey.

(2) In subsection (1) "passport" includes a document that can be used (in some or all circumstances) instead of a passport.

(3) Subsections (1) and (2) apply in relation to a transit air passenger arriving at the passenger's final destination in the Island as they apply in relation to a person entering the Island.

(4) For the purposes of subsection (3) a transit air passenger is a person –

- (a) who has arrived by air in the Island, and
- (b) whose journey is continued or resumed by air to a destination in the Island which is not the place where the person is regarded for the purposes of this section as entering the Island,

and the passenger's final destination is the destination of the continued or resumed journey.

(5) A person who, without reasonable excuse, fails to comply with a requirement imposed on him by the Chief Revenue Officer under subsection (1) is guilty of an offence, and liable on conviction to a fine not exceeding level 3 on the uniform scale."

(15) In section 54B, after "generally" insert "(including, but not limited to, for the purpose of any international agreement on customs co-operation and mutual administrative assistance to which the United Kingdom is a party)", and in section 54D(2), after "section" insert "and section 54B".

(16) In section 55(1), for "three years" substitute "ten years".

(17) After section 61, insert –

"Review and appeal of decisions.

61A. The provisions of the Fifth Schedule (Review and appeal of decisions) shall have effect."

(18) In section 68(1), for the words "require any container to be opened or unpacked", substitute "open or unpack any container or require any container to be opened or unpacked and search it or anything in it".

(19) After section 69A, insert –

"Power to require furnishing of information: computers.

69B. (1) An authorised person may, at any reasonable time, obtain access to, and inspect and check the operation of, any computer and any associated apparatus or material which is or has been used in connection with a relevant document.

(2) In subsection (1), "**relevant document**" means a document that a person has been, or may be, required pursuant to the customs Laws and the excise Laws –

- (a) to produce or cause to be produced, or
- (b) to permit the Chief Revenue Officer to inspect, to make or take copies of or extracts from or to remove.

(3) An authorised person may require –

- (a) the person by whom or on whose behalf the computer is or has been so used, or
- (b) any person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material,

to provide the authorised person with such reasonable assistance as may be required for the purposes of subsection (1).

(4) Any person who –

- (a) obstructs the exercise of a power conferred by this section, or

- (b) fails to comply within a reasonable time with a requirement under subsection (3),

is guilty of an offence and liable on conviction to a fine not exceeding level 3 on the uniform scale.

(5) In this section, "**authorised person**" means a person who is, or a member of a class of persons who are, authorised by the Chief Officer of Customs and Excise to exercise the powers under subsection (1).

Examination of goods and samples: supplementary.

69C. (1) This section applies if, for the purpose of verifying any declaration made to an officer or any document required to accompany it –

- (a) goods are examined under section 68, or
- (b) a sample of any goods is taken under section 69.

(2) The declarant is entitled to be present or represented when the goods are examined or the sample is taken.

(3) The Chief Revenue Officer may require the declarant to be present or represented when the goods are examined or the sample is taken, and a person who, without reasonable excuse, contravenes or fails to comply with a direction under this subsection is liable on summary conviction to a fine not exceeding level 3 on the uniform scale.

(4) Subject to subsection (5), once any goods have been examined or a sample from them has been taken ("**the examined or sampled**

goods"), the Chief Revenue Officer is entitled to regard the examined or sampled goods as representative of all the goods ("the declared goods") in respect of which the declaration is made.

(5) If the declarant proves to the satisfaction of the Chief Revenue Officer that the examined or sampled goods do not represent all the declared goods, the declarant may require the Chief Revenue Officer to re-examine any of the declared goods or take a further sample from them.

(6) If the declared goods are no longer under the control of the Chief Revenue Officer, the Chief Revenue Officer may refuse the request if not satisfied that the declared goods have remained in the same condition as they were in when they ceased to be under the control of the Chief Revenue Officer.

(7) In this section "the declarant", in relation to a declaration in respect of any goods, means –

- (a) the person who has made the declaration, or
- (b) the person on whose behalf it was made,

as the case may be."

(20) Immediately after section 78, insert –

"Records to be kept.

78A. (1) A person who is subject to a customs obligation, or who carries out an act in pursuance of a customs obligation, must keep and preserve

such records, in such form, and for such period, as specified in a notice published by the Chief Officer of Customs and Excise.

(2) The Chief Officer of Customs and Excise must publish a notice specifying –

- (a) the records to be kept and preserved under subsection (1),
- (b) the form in which they are to be kept, and
- (c) the period for which they must be kept and preserved.

(3) A notice published under subsection (2) may make different provisions for different cases.

(4) A person who fails to comply with subsection (1) shall be liable to such financial penalty as may be imposed by the Committee under the Customs and Excise (Discretionary Financial Penalties) (Bailiwick of Guernsey) Ordinance, 2019."

(21) Immediately after the Fourth Schedule, insert the schedule to these Regulations as the Fifth Schedule.

Modifications subject to which General Provisions Law shall have effect.

2. (1) For the period up to and including 30th June, 2021, the Law (as amended by regulation 1) shall apply as if modified as follows.

(2) In section 15(1), immediately before "subsection (2)" insert "subsection (1A) and".

(3) After section 15(1), insert –

"(1A) In circumstances where regulations have not been made under subsection (1), the Chief Revenue Officer may take any action or do any thing as may be necessary to give effect, in the Island, to the requirements set out in Schedule 2 to the Taxation (Cross-border Trade) Act 2018."

Extent.

3. These Regulations have effect throughout the Bailiwick.

Citation and commencement.

4. These Regulations may be cited as the Customs and Excise (Brexit) (Amendment) (Bailiwick of Guernsey) Regulations, 2020, and shall come into force immediately upon the commencement of those provisions of the Customs and Cross-Border Trade (General and Enabling Provisions) (Bailiwick of Guernsey) Law, 2018^c not already in force by virtue of regulation 1(2) of the Customs and Cross-Border Trade (General and Enabling Provisions) (Bailiwick of Guernsey) Law, 2018 (Commencement) Regulations, 2019^d.

^c Order in Council No. VI of 2019.

^d G.S.I. No. 41 of 2019.

Dated this 8th day of December, 2020

A handwritten signature in black ink, appearing to read 'P. T. R. Ferbrache', with a stylized, cursive flourish at the end.

P. T. R. FERBRACHE

President of the Policy & Resources Committee

For and on behalf of the Committee

SCHEDULE

Regulation 1(19)

"FIFTH SCHEDULE

Section 61A.

REVIEW AND APPEAL OF DECISIONS

Decisions to which this Schedule applies.

1. (1) This Schedule applies to the decisions set out in subparagraphs (2) and (3).

(2) The decisions set out in this subparagraph are decisions of the Chief Revenue Officer under –

- (a) Part II (except sections 7 to 9),
- (b) Part III,
- (c) Part IV, and
- (d) Part VII,

as to whether to -

- (i) give permission,
- (ii) impose a requirement,
- (iii) impose or apply a condition, limitation, restriction or prohibition, or
- (iv) make a direction,

in respect of matters set out in those provisions, including decisions of the Chief Revenue Officer under regulations, Orders and directions made under those provisions, but for the avoidance of doubt do not include decisions to put questions or to demand the production of documents or information.

(3) The decisions set out in this subparagraph are decisions of the Committee under section 44(1) as to whether to allow the delivery of goods.

Requirement for review of relevant decision.

2. (1) Any person who is –
 - (a) a person whose liability to pay any relevant duty or penalty is determined by, results from, or is or will be affected by, any decision to which this Schedule applies,
 - (b) a person in relation to whom, or on whose application, such a decision has been made, or
 - (c) a person on or to whom the permission, requirement, direction, condition, limitation, restriction or prohibition to which such a decision relates is to be imposed or applied,

may by notice in writing to the Committee require it to review that decision.

(2) The Committee shall not be required under this Schedule to review any decision unless the notice requiring the review is given before the end of the period of 21 days beginning with the day on which written notification of the decision was first given to the person requiring the review.

(3) For the purposes of subparagraph (2) it shall be the duty of the Committee to give written notification of any decision to which this Schedule applies to any person who –

- (a) requests such a notification,
- (b) has not previously been given written notification of that decision, and
- (c) if given such a notification, will be entitled to require a review of the decision under this Schedule.

(4) A person shall be entitled to give a notice under this Schedule requiring a decision to be reviewed for a second or subsequent time only if –

- (a) the grounds on which the person requires the further review are that the Committee did not, on any previous review, have the opportunity to consider certain facts or other matters, and
- (b) the person does not, on the further review, require the Committee to consider any facts or matters which were considered on a previous review except in so far as they are relevant to any issue to which the facts or matters not previously considered relate.

Nature of review of relevant decisions.

3. (1) This paragraph applies if the Committee is required to undertake a review under this Schedule.

(2) The nature and extent of the review are to be such as appear appropriate to the Committee in the circumstances.

(3) For the purposes of subparagraph (2) the Committee must, in particular, have regard to steps taken before the beginning of the review –

- (a) by the Chief Revenue Officer in making the decision, and
- (b) by any person who is seeking to resolve disagreement about the decision.

(4) The review must take account of any representations made at a stage which gives the Committee a reasonable opportunity to consider them.

(5) The Committee may decide on conclusion of the review that the decision is to be –

- (a) upheld,
- (b) varied, or
- (c) cancelled.

(6) The Committee must give notice of the conclusions of the review and its reasoning within –

- (a) the period of 21 days beginning with the date on which the person gave notice requiring review in accordance with paragraph 2, or
- (b) such other period as the Committee and the person may agree.

(7) Where the Committee is required to undertake a review but does not give notice of the conclusions within the time period specified in subparagraph (6), the review is to be treated as having concluded that the decision is upheld.

(8) If subparagraph (7) applies, the Committee must notify the person of the conclusion which the review is treated as having reached.

Appeals against Committee review decisions.

4. (1) A person aggrieved by a decision of the Committee under paragraph 3 may appeal to the Court against the decision.

(2) The grounds of an appeal under this section are that –

- (a) the Committee's decision was ultra vires or there was some other error of law,
- (b) the Committee's decision was unreasonable,
- (c) the Committee's decision was made in bad faith,
- (d) there was a lack of proportionality, or
- (e) there was a material error as to the facts or as to the procedure.

(3) An appeal under this paragraph shall be instituted -

- (a) within a period of two months immediately following the date of the notice of the Committee's decision, and
- (b) by summons served on the Committee stating the grounds and material facts on which the appellant relies.

(4) The Committee may, where an appeal under this paragraph has been instituted, apply to the Court, by summons served on the appellant, for an order

that the appeal shall be dismissed for want of prosecution; and on hearing the application the Court may -

(a) dismiss the appeal or dismiss the application (in either case on such terms and conditions as the Court may direct), or

(b) make such other order as the Court considers just.

(5) On an appeal under this paragraph the appellant shall have the burden of proof and the final right of reply.

(6) On an appeal under this paragraph the Court may -

(a) set the Committee's decision aside and, if the Court considers it appropriate to do so, remit the matter to the Committee with such directions as the Court thinks fit, or

(b) confirm the Committee's decision, in whole or in part.

(7) On an appeal under this paragraph against a decision of the Committee, the Court may, on the application of the appellant or the Committee or of its own volition, and on such terms as the Court thinks just, suspend or modify the operation of the Committee's decision pending the determination of the appeal.

(8) In this paragraph "the Court" means the Magistrate's Court."

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make several amendments to the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972 as amended by the Customs and Cross-Border Trade (General and Enabling Provisions) (Bailiwick of Guernsey) Law, 2018, including in relation to the review of, and appeals against, decisions of Customs officers, powers to examine goods and computer records and to question passengers entering and leaving the Bailiwick, and duties on carriers to provide passenger information. They also make amendments in relation to the making of customs declarations and the entering of goods for customs procedures; international co-operation on customs matters; customs agents; and pipe-lines.

These Regulations come into force on "exit day" within the meaning of the European Union (Brexit) (Bailiwick of Guernsey) Law, 2018.

