

GREFFE
ROYAL COURT

15 DEC 2020

rk
GUERNSEY

GUERNSEY STATUTORY INSTRUMENT

2020 No. 137

The Customs and Excise (Import) (Customs Declarations) Regulations, 2020

Made

14 December, 2020

Coming into operation

See regulation 28

Laid before the States

, 2021

THE COMMITTEE FOR HOME AFFAIRS, in exercise of the powers conferred on it by 79 as read with section 15 and 20(1A) of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972^a, and all other powers enabling them in that behalf, hereby orders:-

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

IMPORT DUTY

Persons liable to import duty.

1. (1) If liability to import duty is incurred under the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972 ("the Customs Law") in respect of any goods, any person who is in possession or control of the goods when they enter the Island is liable to import duty in respect of those goods.

(2) In addition to any person liable to pay import duty under any provision of the Customs Law or any other enactment, each of the following persons is liable to pay such duty –

(a) a person who acts as a direct customs agent in the following circumstances –

(i) the customs agent acts, or has acted at a time after a request for written confirmation has been requested in accordance with section 13A(4) of the Customs Law, but that confirmation has not been duly presented to the Chief Revenue Officer, or

(ii) the agent otherwise purports to act on behalf of a person when the agent has no authority to do so,

(b) a person who acts as an indirect agent,

(c) a person liable to pay import duty as a result of breaching a requirement imposed by

regulations made under section 15 of the Customs Law at any time that a special customs procedure has effect,

- (d) a person involved in a breach of a relevant customs obligation as described under regulation 3.

Liability to import duty.

2. (1) If -

- (a) goods liable to import duty are declared for the free-circulation procedure, and
- (b) the Chief Revenue Officer accepts the declaration,

a liability to import duty is incurred at the time of the acceptance.

(2) If goods liable to import duty are declared for a special customs procedure, a liability to import duty is incurred as prescribed in the Customs and Excise (Special Procedures) Regulations, 2020 and the Customs (Temporary Admission Procedures) (Bailiwick of Guernsey) Regulations, 2020.

Breach of a relevant customs obligation.

3. (1) For the purposes of regulation 1(2)(d), a person is involved in a breach of a relevant customs obligation if -

- (a) the person provides false information in connection with a customs declaration in relation to import duty and the person knew, or ought to reasonably to have known, that the information was false,

- (b) the person ("A") acted (whether as an agent or otherwise) on behalf of another person who breached a relevant customs obligation and A knew, or ought to have reasonably known, of the breach by that other person,
- (c) the person participated in, or was otherwise involved in, a breach of a relevant customs obligation and knew, or ought to have reasonably known, of the breach, or
- (d) the person possessed or controlled the goods at the time when a breach of a relevant customs obligation occurred and the person knew, or ought to have reasonably known, of the breach.

(2) For the purposes of sub-paragraph (1)(a) a person ("P") provides false information in connection with a customs declaration in relation to import duty if –

- (a) P provides information to another person to enable that other person to make a customs declaration,
- (b) that other person makes a declaration, and
- (c) the information provided by P is false.

(3) For the purposes of paragraph (1) there is a breach of a relevant customs obligation if –

- (a) there is a breach of a requirement imposed on any person that results in a liability to import duty, or

- (b) circumstances otherwise arise that result in a liability to import duty,

and, in a case within sub-paragraph (b) of this paragraph, references to knowledge of the breach are to knowledge of those circumstances.

(4) If two or more persons are liable to import duty in any case, those persons are jointly and severally liable to import duty in that case.

DECLARATIONS

Preliminary

Eligibility of persons to make a customs declaration.

4. (1) Subject to paragraph (3), a person is not eligible to make a customs declaration in respect of imported goods unless the person is established in the Island.

(2) A person 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.

(3) The requirement in paragraph (1) does not apply to—

- (a) a person who declares goods for a special customs procedure, except a storage procedure, or

- (b) any other person as may be specified by the Chief Officer of Customs and Excise in a public notice.

Time limits: declarations.

5. (1) Subject to paragraphs (2) and (4), a customs declaration in respect of imported goods must be made within 3 days, beginning on the day of the importation of the goods.

(2) Subject to paragraph (4), a customs declaration may be made up to 7 days in advance of the goods being imported into the Island.

(3) Where a customs declaration was made in advance of the goods being imported into the Island, the declaration will be treated as withdrawn if the goods are not imported within 30 days of the declaration being made.

(4) The Chief Officer of Customs and Excise may by public notice —

- (a) vary the time periods under paragraph (1) or (2),
- (b) specify circumstances when a customs declaration may be accepted after importation, or
- (c) specify the proof required to be produced when requested by a customs officer from the person in possession or in control of the goods at the time of importation where a declaration has been made in advance of the importation of the goods.

Content of declaration.

6. (1) A customs declaration must —

- (a) specify the procedure for which the goods are being declared,
- (b) contain a signed statement by the person making the declaration, and
- (c) include such information as may be specified by the Chief Officer of Customs and Excise in a public notice.

(2) A public notice issued by the Chief Officer of Customs and Excise under sub-paragraph (1)(c) may, for example, specify the following —

- (a) a description of documents required to be submitted with a customs declaration (whether made in advance or otherwise),
- (b) documents to be submitted with a customs declaration that is made in advance,
- (c) the wording of the statement required under sub-paragraph (1)(b), and
- (d) circumstances where a single customs declaration can cover a number of different goods, including goods of different descriptions or where separate declarations maybe required in respect of goods of the same description.

Customs declaration not required in respect of certain goods.

7. (1) Subject to the conditions in paragraph (2), a customs declaration is not required in respect of goods brought by post into the Island, unless the Chief Revenue Officer has -

- (a) sent to the addressee of the packet in which they were brought into the Island, or
- (b) sent to any other person who is for the time being the importer of the goods for the purposes of the Customs Law,

a notice requiring an import declaration to be made in respect of them.

(2) The conditions are that –

- (a) all import restrictions and customs procedures (other than those in section 15(1) of the Customs Law) in respect of the goods have been complied with,
- (b) the goods are not liable to excise duty, and
- (c) the goods are not goods in respect of which the Chief Revenue Officer otherwise requires a customs declaration to be made.

(3) Notwithstanding this regulation, the provisions of section 5 of the Post Office (Postal Packets) Ordinance, 1973^b, (concerning completion of a

^b Recueil d'Ordonnances Tome XIX, p. 62; as amended by the Post Office (Bailiwick of Guernsey) Law, 2001 (No. XV of 2001, Ordres en Conseil Vol. XLI, p. 515); the Post Office (Postal Packets) (Amendment) Ordinance, 1975 (Recueil d'Ordonnances Tome XX, p. 217); the Post Office (Postal Packets) (Amendment) Ordinance, 1983 (Recueil d'Ordonnances Tome XXII, p. 427); the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003 (No. XXXIII of 2003, Recueil d'Ordonnances Tome XXIX, p. 406); the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016 (No. IX of 2016); the Post Office (Postal Packets) (Amendment) Regulations, 2010 (G.S.I. No. 56 of 2010).

customs declaration and affixing of a green label) still apply in respect of goods brought by post into the Island.

Customs declaration to be in electronic form.

8. Except as specifically provided for under these regulations, the general rule is that a customs declaration —

- (a) must be made in an electronic form specified in a public notice given by the Chief Officer of Customs and Excise, and
- (b) must be submitted or otherwise made available to the Chief Revenue Officer electronically in accordance with provision made by a public notice given by the Chief Officer of Customs and Excise.

Customs declarations made orally

Customs declarations made orally: general.

9. (1) Except where a customs declaration has already been made in another form, a person makes a customs declaration orally if —

- (a) the person —
 - (i) makes the declaration to a customs officer at a Customs office,
 - (ii) identifies the goods in respect of which the declaration is being made, and

(iii) where paragraph (2) applies, identifies the person on whose behalf the goods are imported, and

(b) the customs officer informs the person that he or she is satisfied that a declaration is being made.

(2) Except where a customs declaration has already been made in another form, a person may make a customs declaration orally on behalf of another person ("P") where —

(a) the person is an employee or officer of P,

(b) the goods in respect of which the customs declaration is made are imported by P, and

(c) the person has the authority of P to make the declaration.

Free-circulation procedure: non-commercial goods, personal gifts and goods in baggage.

10. A person may make a customs declaration for a free-circulation procedure orally in respect of the following goods —

(a) non-commercial goods,

(b) personal gifts, or

(c) goods contained within accompanied baggage if —

(i) the person is a qualifying traveller,

(ii) the value of the goods does not exceed £900, and

(iii) the weight of the goods does not exceed 1000kg.

Other goods that may be declared orally.

11. (1) A person may make a customs declaration for a free-circulation procedure or temporary admission procedure orally in respect of such goods as may be specified by the Chief Officer of Customs and Excise in a public notice.

(2) The Chief Officer of Customs and Excise may also specify in a public notice referred to in paragraph (1) —

- (a) the circumstances when a customs declaration for a free-circulation procedure or temporary admission procedure may be made orally,
- (b) supporting documentation required from the person making a customs declaration for a free-circulation procedure or temporary admission procedure orally.

Customs declarations made in paper form

Customs declarations made in paper form.

12. (1) A person who is a qualifying traveller may make a customs declaration in such paper form as may be specified by the Chief Officer of Customs and Excise in a public notice in respect of goods carried by the person at the time of import.

(2) Without prejudice to the paper form that may be specified for a declaration under paragraph (1), the Chief Officer of Customs and Excise may, in certain circumstances, specify a different paper form in a public notice.

(3) A person may make a customs declaration for a transit procedure or a temporary admission procedure by means of —

- (a) a carnet, or

(b) in cases of import by air, a manifest.

(4) The Chief Officer of Customs and Excise may also specify in a public notice referred to in paragraphs (1) or (2) —

(a) the circumstances when a customs declaration may be made in paper form in respect of those goods,

(b) the customs procedure for which those goods may be declared, and

(c) supporting documentation required from the person making a customs declaration for a free-circulation procedure in paper form.

(5) In paragraph (3) —

(a) "carnet" means a document as so described in —

(i) the ATA Convention^c,

(ii) the Istanbul Convention^d, or

(iii) the TIR Convention^e,

^c Customs Convention on the "A.T.A Carnet" for the Temporary Admission of Goods, (Brussels, 6 December 1961)

^d Convention on Temporary Admission (Istanbul, 26 June 1990)

^e Convention on International Transport of Goods Under Cover of TIR Carnets (TIR Convention) (Geneva,14 November 1975)

where the form of the carnet is that provided by the version of the relevant Convention which is current at the time the customs declaration is made,

- (b) "**manifest**" means a document as so referred to in Chapter VII of Annex I to the Convention on a Common Transit Procedure (Interlaken, 20 May 1987) and where the form of the manifest is that provided by the version of the Convention which is current at the time the declaration is made.

Customs declarations made by conduct

Customs declarations made by conduct: general.

13. (1) Except where a customs declaration has already been made in another form, a person may make a customs declaration by conduct on behalf of another person ("P") where —

- (a) the person is an employee or officer of P,
- (b) the goods in respect of which the customs declaration is made are imported by P, and
- (c) the person has the authority of P to make the declaration.

(2) A customs declaration is made by conduct where any of the following occurs —

- (a) where the person is a pedestrian —

- (i) the person enters a channel of a customs office whilst carrying or in possession of the goods, and
- (ii) the channel is either —
 - (A) signed as "Green" or "Nothing to declare", or
 - (B) the only channel which exists or is operating,
- (b) where the person is in a vehicle —
 - (i) the person drives the vehicle in a designated customs lane, or
 - (ii) the person is carried in a vehicle which is driven in a designated customs lane, and
 - (iii) the vehicle passes the area designated as the customs "red" point,
- (c) where the pleasure craft is declared, the pleasure craft is declared by conduct when it enters the limits of a customs port, or
- (d) where a private aircraft is declared, the aircraft is declared when it lands for the first time in the Island at a customs airport from any place outside the Island.

(3) For the purposes of sub-paragraph (2)(b), the Customs office must be the first office available to the person to make a customs declaration after

arrival in the Island and the lane must be designated as a lane to be used for the purpose of making a customs declaration by conduct.

Goods that may be declared by conduct.

14. (1) A person who is a qualifying traveller may make a customs declaration for a free-circulation procedure or a temporary admission procedure by conduct in respect of such goods as may be listed by the Chief Officer of Customs and Excise in a public notice.

(2) The Chief Officer of Customs and Excise may also specify in a public notice referred to in paragraph (1) —

- (a) the circumstances when a customs declaration for a free-circulation procedure or a temporary admission procedure may be made by conduct in respect of those goods,
- (b) the conduct required, under regulation 13(2), in respect of such goods, and
- (c) supporting documentation required from the person making a customs declaration for a free-circulation procedure or a temporary admission procedure by conduct.

Customs declarations: general provisions

Acceptance of customs declarations: general.

15. (1) Subject to regulations 16 and 17, as soon as practicable after receiving a customs declaration, the Chief Revenue Officer must determine —

- (a) whether or not the declaration has been made, and has been made available in accordance with the provisions of these regulations, and
 - (b) whether or not the declaration is complete.
- (2) If the Chief Revenue Officer is satisfied that —
- (a) a customs declaration has been made in respect of the goods, and has been made available in accordance with provisions of these regulations, and
 - (b) the declaration is complete,

the Chief Revenue Officer must notify the person making the declaration that he is so satisfied.

(3) A notification under paragraph (2) constitutes the acceptance of the declaration by the Chief Revenue Officer for the purposes of these regulations but does not prevent the subsequent exercise of a power to verify the declaration as provided under regulation 19.

When a customs declaration is complete.

16. For the purposes of these regulations, a customs declaration is regarded as complete only if —

- (a) all the information required to be included in the declaration is included (in the appropriate places in the declaration), and
- (b) all the documents required to accompany the declaration are provided,

whether or not there are any inaccuracies in the information contained in the declaration or documents.

Customs declarations made orally: acceptance.

17. (1) This applies in respect of goods where a customs declaration is made orally.

(2) Where the Chief Revenue Officer is satisfied that a customs declaration made orally has been made in accordance with these regulations and any requirements specified in a public notice he or she must accept the customs declaration and notify the person who made the declaration of its acceptance.

Customs declarations made by conduct: acceptance.

18. (1) This regulation applies in respect of goods where a customs declaration is made by conduct.

(2) Subject to paragraph (3), acceptance of a customs declaration made by conduct is to be treated as occurring on completion of the conduct.

(3) In the cases of declarations made by conduct in accordance with regulation 13(2)(a) and (2)(b), acceptance of the customs declaration is to be treated as occurring on exiting the channel or the lane, as the case may be.

(4) Where paragraphs (2) and (3) apply, the Chief Revenue Officer does not need to give the person making the declaration notification of acceptance.

Verification of declarations: general.

19. (1) The Chief Revenue Officer may verify a customs declaration at any time before or after accepting the declaration.

(2) Verification may include —

- (a) establishing the entitlement of a person to make a customs declaration,
- (b) establishing whether the requirements for making the declaration have been met,
- (c) establishing the accuracy of the declaration or accompanying documents where necessary,
- (d) action taken under any other relevant provisions of the Customs Law.

Verification of declaration: inaccuracy.

20. (1) This regulation applies if the Chief Revenue Officer considers at any time that there is an inaccuracy in a customs declaration (including as a result of an inaccuracy in a document accompanying it).

(2) The Chief Revenue Officer—

- (a) must notify the person making the declaration of the inaccuracy, and
- (b) must correct the declaration, or direct the person who has made the declaration or any other appropriate person to make the necessary corrections.

(3) Any liability to import duty in respect of any goods is determined on the basis of the information contained in the customs declaration as corrected (or required to be corrected) under this regulation.

(4) A notification is not required to be given under sub-paragraph (2)(a) if the Chief Revenue Officer considers that doing so might prejudice an

investigation that could result in legal proceedings (whether or not involving the person who would otherwise be notified).

Amendment or withdrawal of customs declarations.

21. (1) A person who has made a customs declaration is entitled to amend or withdraw it at any time before a relevant event occurs.

(2) For the purposes of this regulation "a relevant event occurs" on the first occurrence of any of the following —

- (a) when the Chief Revenue Officer indicates to the person that he or she intends to take steps to verify the declaration,
- (b) when the Chief Revenue Officer takes steps to verify the declaration, and
- (c) when the Chief Revenue Officer accepts the declaration.

When amendment or withdrawal can be done.

22. Once a relevant event occurs as described under regulation 21, the person making the declaration may amend or withdraw it only if —

- (a) a notification to amend or withdraw the declaration is given to the Chief Revenue Officer before the end of a period specified in a public notice given by the Chief Officer of Customs and Excise, and
- (b) the Chief Revenue Officer consents to the making of the amendment or the withdrawal.

Release and discharge of goods from customs procedures

Release and discharge: general.

23. (1) Where goods have been declared for a customs procedure, the goods remain subject to the control of the Chief Revenue Officer until the procedure has been discharged.

(2) The declaration of goods for a specific customs procedure does not prevent the goods from being declared for a different customs procedure:

Provided that goods may not be released to a different customs procedure at any time when another custom procedure has effect in relation to those goods except where otherwise specified in the Customs and Excise (Special Procedures) Regulations, 2020, and the Customs and Excise (Temporary Admission) Regulations, 2020.

Release and discharge: free-circulation procedure.

24. (1) Where goods are declared for a free-circulation procedure, the goods are released to that procedure when the Chief Revenue Officer is satisfied that—

- (a) no excise duty is chargeable under section 23A of the Customs Law, and
- (b) no customs duty is chargeable under section 4 of the Import Duties (Tariff and Related Provisions) (Bailiwick of Guernsey) Ordinance, 2019, or
- (c) where import duty or excise duty, or both, is chargeable that —
 - (i) the import duty or the excise duty, or both, is paid, or

- (ii) satisfactory payment arrangements, such as a guarantee or duty deferment account, are in place at the time the declaration is accepted.

(2) Goods are discharged from the free-circulation procedure when the Chief Revenue Officer notifies the person making the declaration that the goods have been discharged.

(3) Goods discharged from the free-circulation procedure will no longer be liable to duty and cease to be under the control of the Chief Revenue Officer except that the Chief Revenue Officer may carry out a post-clearance verification of the declaration for the free-circulation procedure.

(4) Where goods are declared by conduct for the free-circulation procedure, acceptance of the customs declaration under regulation 18 discharges the goods from the free-circulation procedure.

Release and discharge: special customs procedures.

25. (1) Where goods are declared for a special customs procedure, the goods are released to the procedure —

- (a) at the time the Chief Revenue Officer accepts the declaration, or,
- (b) if the procedure requires the person to make the declaration in order to be authorised for the procedure, the time from which authority to use the procedure in respect of the goods is given.

(2) Goods are discharged from a special customs procedure in accordance with the relevant provisions of the Customs and Excise (Special

Procedures) Regulations, 2020, and the Customs and Excise (Temporary Admission) Regulations, 2020.

Public notices

26. (1) Any reference in any provision of these Regulations to a public notice is to a notice published by the Chief Officer of Customs and Excise in such manner as he or she considers appropriate for the purposes of that provision, which may include publication on the States of Guernsey or other relevant website.

(2) Without prejudice to any power to issue a public notice set out in these Regulations, the Chief Officer of Customs and Excise may publish a public notice for any purpose connected with these Regulations where it appears necessary or expedient to him or her to do so.

Interpretation.

27. In these Regulations –

"non-commercial goods" means goods -

- (a) which are provided by one individual to another,
- (b) where no payment is made, directly or indirectly, for the goods by the recipient,
- (c) which are for the personal use of the recipient, and
- (d) which do not form part of a series of consignments of goods made between the individuals,

"**Customs agent**" has the meaning ascribed to it under section 13A of the Customs Law, and "**direct agent**" and "**indirect agent**" shall be construed in accordance with that section,

"**Customs Law**" means the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972,

"**free-circulation procedure**" means a procedure under which goods are released for free circulation in the Bailiwick under regulation 24,

"**public notice**" means a notice made and published by the Chief Officer of Customs and Excise,

"**special customs procedure**" has the meaning given to it under the Customs and Excise (Special Procedures) Regulations, 2020,

"**temporary admission**" has the meaning given to it under the Customs and Excise (Temporary Admission) Regulations, 2020, and

"**qualifying traveller**" means a person who —

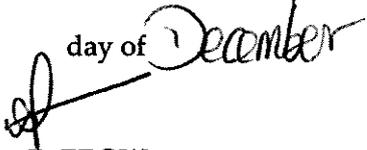
- (e) is not resident in the Island and arrives in the Island for a temporary stay, or
- (f) is resident in the Island and is returning after a temporary stay outside the Island.

Citation.

28. These Regulations may be cited as the Customs and Excise (Import) (Customs Declarations) Regulations, 2020.

Commencement

29. These Regulations shall come into force on exit day; and in this regulation "exit day" has the same meaning as in the European Union (Brexit) (Bailiwick of Guernsey) Law, 2018^f.

Dated this 14 day of December, 2020

R. PROW

President of the Home Affairs Committee

For and on behalf of the Committee

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made under section 79 as read with sections 15 and 20(1A) of the Customs and Excise (General Provisions) (Island of Guernsey) Law, 1972.

Section 15 of the Customs Law provides for entry of goods on importation. Subsection (1) provides for the Committee to make regulations and subsection (3) specifies particular matters for which regulations may be made in relation to customs declarations. Section 15(4) and (5) provide for regulations to specify further details relating to the process of making customs declarations.

^f Order in Council No. I of 2019.

Section 20(1A) provides for persons who are liable to pay import duty on chargeable goods. Paragraph (b) provides for regulations to be made to specify classes of persons liable to pay such duty.

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

