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STATUTORY INSTRUMENTS

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**2011 No. 2534**

**CUSTOMS**

**The Customs (Contravention of a Relevant Rule) (Amendment) Regulations 2011**

<i>Made</i>	- - - -	<i>24th October 2011</i>
<i>Laid before the House of Commons</i>	- - - -	<i>25th October 2011</i>
<i>Coming into force</i>	- -	<i>15th November 2011</i>

The Treasury, in exercise of the powers conferred by sections 24(3), 26(1) to (5), (8), (9) and 41(1) of the Finance Act 2003(1), make the following Regulations:

**Citation and Commencement**

1. These Regulations may be cited as the Customs (Contravention of a Relevant Rule) (Amendment) Regulations 2011 and come into force on 15th November 2011.

**Amendment of the Customs (Contravention of a Relevant Rule) Regulations 2003**

2. The Customs (Contravention of a Relevant Rule) Regulations 2003(2) are amended as follows.

3. In regulation 2 (Interpretation), insert in the appropriate place—

““customs territory” has the meaning given by Article 3 of the Code(3) to “customs territory of the Community””.

4. After regulation 3(6), add—

“(7) Where a person is liable to a penalty under these Regulations and the conduct giving rise to the liability continues after the date specified in a notice in writing given to that person by the Commissioners(4), that continuation of the conduct—

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(1) 2003 c. 14.

(2) S.I. 2003/3113, to which there are amendments not relevant to these Regulations.

(3) Article 3(1) of the Code was substituted by the 1994 Act of Accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden, Annex I(III)(B)(4) (OJ No C 241, 29.8.94) and amended by Article 1(1) of European Parliament and Council Regulation (EC) 82/97 (OJ No L 17, 21.1.97, p1). Article 3(2) of the Code was substituted by Article 1(1) of European Parliament and Council Regulation (EC) 82/97 (OJ No L 17, 21.1.97, p 1). “The Code” is defined in regulation 2 of S.I. 2003/3113 to mean Council Regulation (EEC) No 2913/92 (OJ No L 302, 19.10.92, p1).

(4) Section 24(3) of the Finance Act 2003 provides that “the Commissioners” means the Commissioners of Customs and Excise. The functions of the Commissioners of Customs and Excise were transferred to the Commissioners for Her Majesty’s Revenue and Customs by section 5(2) of the Commissioners for Revenue and Customs Act 2005 (c. 11). Section 50(1) of that Act

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- (a) shall constitute a further contravention of the same rule; and  
 (b) shall make that person liable to a separate penalty accordingly.”

5. In the Schedule, for references to “customs territory of the Community” and “Community customs territory” substitute “customs territory”.

6. In the Schedule, above the first entry (Article 40 of the Code) under the heading “Goods brought into the customs territory of the Community (United Kingdom)”, insert the following—

<i>“Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Description of Relevant Rule / Relevant Rule of a description</i>	<i>Person of a description</i>	<i>Penalty for contravention</i>
<b>Articles 36a and 36b of the Code(5) and Articles 183, 184a and 184c of the Implementing Regulation(6)</b>		
Goods brought into the customs territory must be covered by a summary declaration.	The person who brings the goods into the customs territory.	£1,000.
The declaration must be lodged electronically.	The person on whom the obligation to lodge the declaration falls in accordance with Article 183(b) or 183(c) of the Implementing Regulation.	£1,000.
The declaration must be lodged at the customs office of entry unless otherwise permitted.	The person who submits the summary declaration.	£1,000.
The declaration must be lodged within the time-limits laid down in Articles 184a and 184c of the Implementing Regulation.		
The declaration must contain the particulars set out in Annex 30A of the Implementing Regulation and be completed in accordance with the explanatory notes to that Annex.		
<b>Article 183d(1) of the Implementing Regulation(7) – first sentence</b>		

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provides that a reference to the Commissioners of Customs and Excise shall be taken as a reference to the Commissioners for Her Majesty’s Revenue and Customs.

- (5) Articles 36a and 36b of the Code were inserted by Article 1(6) of European Parliament and Council Regulation (EC) No 648/2005.
- (6) Articles 184a to 184f of the Implementing Regulation were inserted by Article 1(11) of Commission Regulation (EC) No 1875/2006 (OJ No L 360, 19.12.2006, p64). “The Implementing Regulation” is defined in regulation 2 of S.I. 2003/3113 to mean Commission Regulation (EC) No 2454/93 (OJ No L 253, 11.10.93, p1) as it implements the Code.
- (7) Article 183d of the Implementing Regulation was substituted by Article 1(7) of Commission Regulation (EC) No 312/2009 (OJ L 98 17.4.2009, p3).

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Description of Relevant Rule / Relevant Rule of a description</i>	<i>Person of a description</i>	<i>Penalty for contravention</i>
<p>The operator of an active means of transport entering the customs territory must (except in the circumstances identified in article 183a) submit a ‘diversion request’ message if that means of transport arrives first at a customs office in a member state not declared on the Entry Summary Declaration.</p> <p><b>Article 183d(1) of the Implementing Regulation – second sentence</b></p>	<p>The operator of the active means of transport.</p>	<p>£2,500.</p>
<p>The diversion request message must contain the particulars set out in Annex 30 of the Implementing Regulation.</p> <p><b>Article 184 of the Implementing Regulation(8)</b></p>	<p>The operator of the active means of transport.</p>	<p>£1,000.</p>
<p>Goods covered by a summary declaration which have not been unloaded and have not yet been assigned a customs-approved treatment or use must be re-presented intact whenever the Customs so require.</p> <p><b>Article 184g of the Implementing Regulation(9) – first sentence</b></p>	<p>The person who has made the summary declaration.</p> <p>Any person who holds the goods after they have been unloaded in order to move or store them.</p>	<p>£1,000.</p> <p>£1,000.</p>
<p>The operator of an active means of transport entering the customs territory or his agent must notify Customs of its arrival at the office of entry.</p> <p><b>Article 184g of the Implementing Regulation – second sentence</b></p>	<p>The operator of the active means of transport.</p>	<p>£2,500.</p>
<p>The notification must contain all the particulars necessary for the identification of the entry summary declarations lodged in</p>	<p>The operator of the active means of transport.</p>	<p>£1,000.</p>

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(8) Article 184(1) of the Implementing Regulation was amended by Article 1(10) of [Commission Regulation \(EC\) No 1875/2006](#).  
(9) Article 184g of the Implementing Regulation was inserted by Article 1(12) of [Commission Regulation \(EC\) No 312/2009](#).

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<i>“Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Description of Relevant Rule / Relevant Rule of a description</i>	<i>Person of a description</i>	<i>Penalty for contravention</i>
respect of all goods carried on that means of transport.		
<b>Article 186 of the Implementing Regulation</b>		
Non-Community goods presented to Customs shall be covered by a summary declaration for temporary storage in the form prescribed by Customs.	The person who presents the goods.	£1,000.”
The declaration must be lodged no later than at presentation.		

7. In the Schedule, omit the first (Article 40 of the Code) and fourth (Articles 43 and 44 of the Code, Article 183 of the Implementing Regulation and regulation 4 of the Importation Regulations) entries under the heading “Presentation of Goods to Customs”.

8. In the Schedule, after the sixth entry (Article 47 of the Code) under the heading “Presentation of Goods to Customs”, insert the following—

<i>“Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Description of Relevant Rule / Relevant Rule of a description</i>	<i>Person of a description</i>	<i>Penalty for contravention</i>
<b>Directions made on 2 August 2011 under section 30 of the Act</b>		
No goods to which section 30 applies to be moved except:	The declarant.	£1,000.
(a) on the instructions of a proper officer;	The person who moves the goods.	£1,000.”
(b) in the manner and under the conditions specified by a proper officer.		

9. In the Schedule, after the last entry (Articles 62 and 77 of the Code, Article 199 of the Implementing Regulation and section 167(3) of the Act) under the heading “Customs Declarations”, insert the following—

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<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Description of Relevant Rule / Relevant Rule of a description</i>	<i>Person of a description</i>	<i>Penalty for contravention</i>
<b>Article 201 of the Implementing Regulation(10)</b>		
The customs declaration must be lodged at one of the following customs offices: (a) the customs office responsible for the place of presentation; (b) the customs office responsible in the place where the exporter is established or from which the goods are exported.	The declarant.	£1,000.”

10. In the Schedule, for the first entry (Articles 6 and 7 of the Code and Articles 260 to 262 of the Implementing Regulation) under the heading “Simplified Procedures”, substitute the following—

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Description of Relevant Rule / Relevant Rule of a description</i>	<i>Person of a description</i>	<i>Penalty for contravention</i>
<b>Articles 253(6) and 253(7) of the Implementing Regulation(11)</b>		
A person authorised for the simplified or local clearance procedure must: (a) comply with the relevant conditions, meet the relevant criteria and comply with the relevant obligations; (b) inform Customs of all factors arising after authorisation has been granted which may influence its continuation or content.	The authorised person.	£2,500.”

11. For the second (Article 76 of the Code and Article 199 of the Implementing Regulation) and third (Articles 199 and 260 of the Implementing Regulation) entries under the heading “Simplified Procedures”, substitute the following—

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(10) Article 201 of the Implementing Regulation was substituted by Article 1(17) of [Commission Regulation \(EC\) No 1875/2006](#); Article 201(3) was inserted by Article 1(4) of [Commission Regulation \(EC\) No 1192/2008](#) (OJ No L 329 6.12.2008 p1).  
(11) Articles 253(4) to 253(8) of the Implementing Regulation were inserted by Article 1(5) of [Commission Regulation \(EC\) No 1192/2008](#).

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<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Description of Relevant Rule / Relevant Rule of a description</i>	<i>Person of a description</i>	<i>Penalty for contravention</i>
<b>Articles 76 of the Code and Article 260 of the Implementing Regulation</b>		
The simplified declaration or the document or documents permitted in lieu of it must:	The declarant	£2,500.”
(a) contain at least the particulars for a simplified declaration set out in Annex 30A;		
(b) be accompanied by all documents which may be required to secure the release of the goods to free circulation;		
(c) bear a reference to any general release authorisation;		
(d) where the goods are entered for the relevant procedure by means of an entry in the records, bear the date of such entry.		
A supplementary declaration must be furnished.		

12. In the Schedule, omit the last entry (Article 261 of the Implementing Regulation) under the heading “Simplified Procedures”.

24th October 2011

*Michael Fabricant*  
*Angela Watkinson*  
 Two of the Lords Commissioners of Her Majesty’s Treasury

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Customs (Contravention of a Relevant Rule) Regulations 2003 (S.I. 2003/3113, “the 2003 Regulations”). The 2003 Regulations provide that, where a person of a prescribed description contravenes a rule listed in the Schedule, that person is liable to a penalty in the prescribed amount.

Regulation 3 inserts into regulation 2 of the 2003 Regulations a definition of “customs territory” and regulation 5 substitutes that expression where appropriate throughout.

Regulation 4 provides that persistence in a contravention will constitute a separate contravention.

Regulation 6 inserts in the Schedule to the 2003 Regulations (“the Schedule”) new entries reflecting the introduction in Council Regulation (EEC) 2913/92 (OJ No L 302, 19.10.92, p1) (“the Community Customs Code”) and Commission Regulation (EC) 2454/93 (OJ No L 253, 11.10.93, p1) of new provisions concerned with entry summary declarations.

Regulation 7 revokes the first and fourth entries in the Schedule under the heading “Presentation of Goods to Customs”, the first because it is, in substance, duplicated by the entry which follows it (which refers to the relevant domestic implementing provisions) and the fourth because the relevant provisions of the Community Customs Code have been revoked.

Regulation 8 adds to the Schedule a new entry to provide for directions made under section 30 of the Customs and Excise Management Act concerning the movement of uncleared goods.

Regulation 9 adds to the Schedule a new entry in order to provide for the introduction in the Community Customs Code of a new provision concerned with the place where a customs declaration is to be lodged and the relevant time-limits.

Regulation 10 substitutes a new first entry in the Schedule under the “Simplified Procedures” heading, to make more precise reference to the relevant provisions.

Regulation 11 substitutes for the second and third entries in the Schedule under the “Simplified Procedures” heading a single new entry, which refers more precisely to the relevant provisions.

Regulation 12 revokes the last entry in the Schedule under the “Simplified Procedures” heading, since it does not properly describe a rule.

A Tax Information and Impact Note covering this instrument has been published on the HMRC website at <http://www.hmrc.gov.uk/thelibrary/tiins.htm>.