

2015 No. 636

CUSTOMS

**The Customs (Contravention of a Relevant Rule) (Amendment)
Regulations 2015**

<i>Made</i>	- - - -	<i>10th March 2015</i>
<i>Laid before the House of Commons</i>		<i>11th March 2015</i>
<i>Coming into force</i>	- -	<i>2nd April 2015</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(a) and section 102 of the Finance Act 2014(b) make the following Regulations:

Citation and Commencement

1. These Regulations may be cited as the Customs (Contravention of a Relevant Rule) (Amendment) Regulations 2015 and come into force on 2nd April 2015.

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

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

3. In regulation 2 (interpretation) omit all the definitions except those of—

- (a) “the Act(d)”,
- (b) “the Code(e)”,
- (c) “Customs”,
- (d) “customs territory”,
- (e) “the 1994 Act(f)”,
- (f) “the Implementing Regulation(g)” and
- (g) “the Importation Regulations”.

(a) 2003 c. 14.
(b) 2014 c. 26.
(c) S.I. 2003/3113, amended by S.I. 2009/3164, S.I. 2011/2534.
(d) “The Act” is defined in regulation 2 of S.I. 2003/3113 to mean the Customs and Excise Management Act 1979 (c. 2).
(e) “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, p 1).
(f) “The 1994 Act” is defined in regulation 2 of S.I. 2003/3113 to mean the Finance Act 1994 (c. 9).
(g) “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, p 1) as it implements the Code.

4. In regulation 3(7) (relevant rule and amount of penalty), for “Where a person is liable to a penalty under these Regulations” substitute “Where as a consequence of these Regulations, a person is liable to a penalty under section 26 of the Finance Act 2003”.

5. In the Schedule—

- (a) for “Ship’s Report Regulations” substitute “Ship’s Report, Importation and Exportation by Sea Regulations 1981(a)”;
- (b) for “Aircraft Report Regulations” substitute “Aircraft (Customs and Excise) Regulations 1981(b)”;
- (c) omit “Article 5a of the Code and”;
- (d) for “Simplified Procedures” substitute “Simplified and Local Procedures”;
- (e) omit “Local Clearance Procedures” and the entry beneath it;
- (f) for “Articles 6, 7, 85 to 87 and 90 of the Code and Articles 505 to 508 of the Implementing Regulation(c)” substitute “Articles 85 and 87 of the Code”;
- (g) omit “and Article 528 of the Implementing Regulation”;
- (h) omit “In respect of customs warehousing”;
- (i) omit the entries headed—
 - (i) “Article 313b(5) of the Implementing Regulation(d)”;
 - (ii) “Article 313b(7) of the Implementing Regulation”;
 - (iii) “Articles 6 and 7 of the Code and Articles 290a and 290b of the Implementing Regulation(e)”;

(j) insert at the beginning—

“Sections 20, 22 and 25 of the Act(f)

Any condition or restriction attaching to any approval given under section 20, 22 or 25 of the Act.	The approved person.	£1,000.
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Section 21(1) and (3)(b) of the Act

Except where permitted, not to cause, or permit, to land an aircraft other than at a customs and excise airport (which, in the case of flights departing the UK, must be as specified in the clearance application), except with Customs’ permission or for unavoidable cause.	The commander of the aircraft.	£2,500.
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Section 21(2) of the Act(g)

Except as permitted by Customs, not to bring into	The person bringing in the goods.	£2,500.
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(a) S.I. 1981/1260, amended by S.I. 1986/1819, S.I. 1991/2724, S.I. 1992/3095, S.I. 2011/1043.
 (b) S.I. 1981/1259, amended by S.I. 1992/3095.
 (c) Articles 496-592 and 799-814 were substituted by Article 1 of Commission Regulation (EC) No 993/2001 (OJ No L 141 28.05.01, p 1).
 (d) Article 313b was substituted by Commission Regulation (EU) 177/2010 (OJ No L 52 3.3.2010, p 28).
 (e) Article 290a and 290b were substituted by Article 1(1), (2), (3) of Commission Regulation (EC) No 402/2006 (OJ No L 70 9.3.06, p 35).
 (f) Sections 20, 22 and 25 were substituted by S.I. 1991/2724, regulation 6(1), (3), (6), (7) and amended by S.I. 1992/3095, regulations 3(2) and 10(1), Schedule 1, paragraph 4; section 25 was amended by S.I. 1993/3014, regulations 2(1) and (2).
 (g) Section 21(2) was amended by S.I. 1991/2724, regulations 6(1) and (4)(b).

the United Kingdom, in an aircraft, at any place other than a customs and excise airport, goods being imported from within the customs territory.

Section 21(3)(a) of the Act

Except where permitted, not to depart on a flight to a place or area outside the United Kingdom from any place in the United Kingdom other than a customs and excise airport.

The person departing. £2,500.

Section 21(4)(a) of the Act

In the case of landing other than as permitted under sections 21(1) or (3), (a) to make immediate report (b) not to permit goods to be unloaded from the aircraft (c) not to permit any crew or passengers to leave its vicinity (d) to comply with any directions given by an officer.

The commander of the aircraft. £2,500.

Section 21(4)(b) of the Act

In the case of landing other than as permitted under sections 21(1) or (3), no passenger or crew member to leave the immediate vicinity of the aircraft without the consent of an officer or constable.

The passenger or crew member in question. £2,500.

Section 33(1) of the Act

To allow an officer to board and inspect an aircraft and all goods and documents carried in and relating to it.

The commander of the aircraft. £2,500.

Section 33(2) of the Act

To permit an officer to enter and inspect an aerodrome.

The person in control of the aerodrome. £2,500.

Section 33(3) of the Act

To keep the prescribed records of flights to and from that aerodrome; to permit an officer to make copies and take extracts from such records.

The person in control of the aerodrome. £2,500.

Section 34(1) of the Act(a)

Any instructions given under section 34(1) of the

The commander of the aircraft. £2,500.

(a) Section 34(1) was amended by the Isle of Man Act 1979 (c. 58), section 13, Schedule 1.

Act.

The owner of the aircraft. £2,500.”; and

(k) insert before “Goods brought into the customs territory (United Kingdom)”—

“Section 64(1)(a) of the Act

Except as permitted by Customs, no ship or aircraft requiring clearance under this section should depart from a port or customs and excise airport to a destination outside the member States and the Isle of Man, without a valid clearance.	The master of the ship.	£1,000.
	The commander of the aircraft.	£1,000.

Section 71(1) of the Act

To deliver a report to the proper officer as directed.	The master of the ship.	£500.
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Section 72(2) and (3)(b) of the Act

Any requirement made under section 72(2) or (3)(b) of the Act.	The master of the ship.	£500.
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Section 77(1)(b) of the Act

Any requirement made under section 77(1) of the Act.	The person of whom the requirement is made.	£1,000.
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Section 78(1) of the Act

(a) A person (P) entering the United Kingdom must, at such place and in such manner as Customs may direct, declare any thing contained in P’s baggage or carried with P which P has obtained outside the United Kingdom and in respect of which P is not entitled to exemption from duty and tax by virtue of any order under section 13 of the Customs and Excise Duties (General Reliefs) Act 1979 (personal reliefs)(c).	Any person.	£1,000.
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(b) A person (P) entering the	Any person.	£1,000.
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- (a) Section 64(1) was amended by the Isle of Man Act 1979, section 13, Schedule 1 and by S.I. 1992/3095, regulation 3(7).
(b) Section 77(1) was amended by the Finance Act 1987, sections 10, 72(7), Schedule 16, Part III and by S.I. 1992/3095, regulation 10(1), Schedule 1, paragraph 7.
(c) 1979 c. 3. Section 13(1A) was inserted by section 15(1) and (2) of the Finance Act 1984 (c. 43). Section 13(3) was amended by section 15(1), (3) and (4) of that Act and by paragraph 8(1) of Schedule 1 to the Finance (No 2) Act 1992 (c. 48). Subsections (3A) to (3C) of section 13 were inserted by paragraph 8(1) of Schedule 1 to the Finance (No 2) Act 1992. Section 13(4) was amended by section 15(1) and (5) of the Finance Act 1984, S.I. 2011/1043, articles 6(1)(d) and (3) and by paragraphs 8(3) of Schedule 1 and 93 of Schedule 3 to the Finance (No 2) Act 1992.

United Kingdom must, at such place and in such manner as Customs may direct, declare any thing contained in P's baggage or carried with P which, being dutiable goods or chargeable goods, P has obtained in the United Kingdom without payment of duty or tax and in respect of which P is not entitled to exemption from duty and tax by virtue of any order under section 13 of the Customs and Excise Duties (General Reliefs) Act 1979.

Section 158(1) and (3) of the Act(a)

Provision and maintenance of appliances, facilities and fittings; keeping the appliances in an approved place; allowing use of the same at any time to a proper officer; all necessary assistance to be given.	The person on whom the obligation falls.	£1,000.
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The Control of Movement of Goods Regulations 1984(b)

Not to move or interfere with goods to which the Regulations apply other than in accordance with the Regulations.	The person moving or interfering with the goods.	£2,500.”;
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- (l) for the entries headed “Articles 36a and 36b(c) of the Code and Articles 183, 184a and 184c of the Implementing Regulation(d)” substitute—

“Articles 36a and 36b of the Code and Articles 183, 184a and 184c of the Implementing Regulation

Goods brought into the customs territory to be covered by a summary declaration, lodged within the applicable time-limits, by the prescribed means, to the prescribed office of entry and containing the requisite particulars.	Where a declaration has not been lodged, the person upon whom the obligation to lodge the declaration falls.	£1,000.
	Where a declaration has been lodged, the person who lodges the declaration.	£1,000.”;

(a) Section 158(3) was amended by the Criminal Justice Act 1982 (c. 48), sections 38, 46.
 (b) S.I. 1984/1176.
 (c) Articles 36a and 36b of the Code were inserted by Article 1(6) of European Parliament and Council Regulation (EC) No 648/2005.
 (d) Articles 184a to 184f of the Implementing Regulation were inserted by Article 1(11) of Commission Regulation (EC) No 1875/2006.

(m) for the entries headed “Article 16 of the Code and Regulations 3 to 5 and 9 of the Accounts and Records Regulations” substitute—

“Article 16 of the Code, the Customs Traders (Accounts and Records) Regulations 1995(a)”

To keep and preserve records as required by Article 16 of the Code and by the Regulations.	The person upon whom the obligation falls.	£1,000.”;
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(n) for the entries headed “Article 105 of the Code and Articles 803 and 804 of the Implementing Regulation” substitute—

“Article 176 of the Code”

To keep stock records in the form approved by Customs.	The designated person.	£1,000.”;
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(o) for the heading “Postal Packets” and the entries under it substitute—

“The Postal Packets (Revenue and Customs) Regulations 2011(b) Regulations 17, 18(1) and 19”

All foreign postal packets (a) to be accompanied by a customs declaration in the appropriate form, completed in one of the permitted languages, legibly, accurately and in full, and	The sender.	£1,000.
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(b) in the cases to which regulation 18(1) applies, to be labelled or distinguished as required by that regulation.	The postal operator.	£2,500.
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Regulation 18(2)

On accepting a packet satisfying the requirements of regulation 18(1) to give the sender a duly endorsed certificate of sending.	The postal operator.	£2,500.
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Regulation 21

When so requested by a customs officer, to produce any packet to that officer or open it for that officer’s examination.	The postal operator.	£2,500.
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Regulation 22(3)

To return, destroy or deliver up to Customs goods for which no proper account is given within the requisite period.	The postal operator.	£2,500.
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Regulation 23

(a) S.I. 1995/1203.

(b) S.I. 2011/3036.

To pay over to Customs any sums due to them recovered under section 105(3) of the Postal Services Act 2000. The postal operator. £2,500.”; and

(p) for “Community System of Duty Reliefs” and the entries under it substitute—

“Reliefs from customs duty and import VAT

Articles 8, 16, 33, 48, 52, 64, 71, 72, 78, 79 of Council Regulation 1186/2009(a)

Not to lend, hire out, transfer or (in the case of Articles 8, 16 and 33) give as security goods admitted duty-free under the Regulation without (a) prior notification to Customs; and (b) payment of any import duties arising.	In respect of non-notification: the person lending, hiring, transferring the goods or giving them as security. In respect of non-payment of duties: the person to whom the relief has been given.	£1,000. £1,000.
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Articles 52, 65 and 80 of Council Regulation 1186/2009

To inform Customs where the conditions for entitlement cease to be fulfilled or where the goods are to be used other than for the permitted purposes.	The institution or organisation in question.	£1,000.
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The Customs and Excise (Personal Reliefs for Special Visitors) Order 1992(b)

The conditions for relief set out in the Order.	The entitled person.	£1,000.”.
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*Mark Lancaster
Gavin Barwell*

10th March 2015

Two of the Lords Commissioners of Her Majesty’s Treasury

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.

(a) OJ No L 324, 10.12.09, p 23.

(b) S.I. 1992/3156, amended by the British Overseas Territories Act 2002 (c. 8), section 2(3), by S.I. 2007/5, article 2 and by S.I. 2005/2114, article 5.

Regulation 3 removes a number of unnecessary definitions from regulation 2 of the 2003 Regulations.

Regulation 4 corrects an incorrect reference inserted by an earlier amendment to the 2003 Regulations.

Regulation 5(a) to (h) makes such amendments to the Schedule to the 2003 Regulations as are necessary in consequence of the removal of the unnecessary definitions and simplifies some of the entries in the Schedule.

Regulation 5(i) removes a number of unnecessary and redundant entries.

Regulations 5(j) and 5(k) insert new entries into the Schedule, for breaches of rules in the Customs and Excise Management Act 1979 that are currently enforceable only by way of prosecution.

Regulation 5(l) amends the first entries in the Schedule under “Goods brought into the Customs Territory” to make clear who is liable to the penalty.

Regulation 5(m) amends the entries for breaches of Article 16 of Council Regulation (EEC) 2913/92 (OJ No L 302, 19.10.92, p 1) (“the Code”) and of the Customs Traders (Accounts and Records Regulations) 1995 (S.I. 1995/1203) to refer to those Regulations as a whole, and to simplify the description of the rules in question.

Regulation 5(n) amends the entries for breaches of Article 105 of the Code and Articles 803 and 804 of the Implementing Regulation to refer instead to Article 176 of the Code and to simplify the description of the rule in question.

Regulation 5(o) replaces, in the Schedule, the entries for the revoked Postal Packets Regulations 1986 (S.I. 1986/260) with new entries corresponding to the relevant provisions of the Postal Packets Regulations 2011 (S.I. 2011/3036).

Regulation 5(p) replaces, in the Schedule, the entries for breaches of the repealed Council Regulation (EEC) 918/83 (OJ No L 105, 23.4.83, p 1), with new (and simpler) entries for breaches of its successor, Council Regulation (EC) 1186/2009 (OJ No L 324, 10.12.09, p 23). It also makes separate provision for breaches of the Customs and Excise (Personal Reliefs for Special Visitors) Order 1992 (S.I. 1992/3156).

A Tax Information and Impact Note covering this instrument was published on 22nd July 2014 and is available on the gov.uk website at <https://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins>. It remains an accurate summary of the impacts that apply to this instrument.

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