

Treasury
Customs and Excise Division

Notice 1002 MAN

Annex A

General Customs legislation



January 2016



Isle of Man
Government

Reilts Ellan Vannin

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Isle of Man
Government

Reilrys Ellan Vannin

Customs Consolidation Act 1876 (c.36)

Prohibited and restricted imports

42. The goods specified in the following table are hereby prohibited to be imported or brought into the United Kingdom, save as excepted in that table –

TABLE OF PROHIBITED AND RESTRICTED IMPORTS

1. Coin, namely false money or counterfeit sterling.
2. Coin being legal tender in the United Kingdom, or any money purporting to be such, not being of the established standard in weight or fitness.
3. Indecent or obscene prints, paintings, photographs, or photographic films, books, cards, lithographic or other engravings or any other indecent or obscene articles whatsoever.
4. Clocks and watches, or any other article of metal impressed with any mark or stamp representing, or in imitation or, any legal British assay, mark or stamp, or purporting by any mark or appearance to be of the manufacture of the United Kingdom.
5. All articles bearing or having affixed to them any stamp, name, writing or other device implying or intending to imply any sanction or guarantee by any department of the Government of the United Kingdom or by the Government of the Isle of Man, or by any Board of Tynwald or Statutory Board (as defined in section 3 of the Interpretation Act 1976, an Act of Tynwald).
6. (1) Goods proved to the satisfaction of the Finance Board by evidence tendered to them to have been made or produced wholly or in part in any foreign prison, gaol, house of correction or penitentiary, except goods in transit or not imported for the purposes of trade, or of a description not manufactured in the United Kingdom or originating or in free circulation in another member State.

(2) Any question under item 6(1) whether goods originate or are in free circulation in another member State shall be determined in accordance with the Treaties.
7. Any advertisement or other notice of, or relating to the drawing, or intended drawing, of any lottery which, in the opinion of the Finance Board, is imported or brought into the Isle of Man for the purpose of publication in the said Isle in contravention of any enactment of Tynwald, relating to lotteries, or of any instrument of a legislative character made under any such enactment.
8. Skins of seals taken in contravention of any Order in Council mentioned in the Seal Fisheries (North Pacific) Acts 1895 and 1912, and skins of seals identified as being of the species known as *Callorhinus alascanus*, *Callorhinus ursinus* and *Callorhinus kurilensis* and belonging to the American, Russian or Japanese herds, except such as are taken under the authority of the respective Powers to which the breeding grounds of those herds belong and have been officially marked and certified as having been so taken.
9. Any work to which the Children and Young Persons (Harmful Publications) Act 1955 applies, any plate prepared for the purpose of printing copies of any such work and any photographic film prepared for that purpose.

The Import, Export and Customs Powers (Defence) Act 1939 (c.69)

Application and extension of law as to prohibited goods

3. (1) If any goods –

- (a) are imported, exported, carried coastwise or shipped as ships' stores in contravention either of an order under this Act or of the law relating to trading with the enemy, or
- (b) are brought to any quay or other place, or waterborne, for the purpose of being exported or of being so carried or shipped in contravention either of an order under this Act or of the law relating to trading with the enemy,

those goods shall be deemed to be prohibited goods and shall be forfeited; and the exporter of the goods or his agent, or the shipper of the goods, shall be liable, in addition to any other penalty under the enactments for the time being in force relating to customs or excise –

- (a) on summary conviction, to a customs penalty of £400;
- (b) on conviction on information, to a customs penalty or any amount.

(2) If any such order as aforesaid prohibits the exportation of any goods unless consigned to a particular place or person, and such goods so consigned are delivered otherwise than to that place or person, as the case may be, the vessel in which the goods were exported shall be deemed to have been used in the conveyance of prohibited goods.

(3) If any goods are imported, exported, carried coastwise or shipped as ships' stores, or are brought to any quay or other place, or waterborne, for the purpose of being exported or of being so carried or shipped, an officer of Customs and Excise may require any person possessing or having control of the goods to furnish proof that the importation, exportation or carriage coastwise of the goods or the shipment of the goods as ships' stores, as the case may be, is not unlawful by virtue either of an order under this Act or of the law relating to trading with the enemy; and if such proof is not furnished to the satisfaction of the Finance Board, then, unless the contrary is proved, the goods shall be deemed to be prohibited goods and be forfeited.

4 – 6. (*Rep. by the Customs and Excise Act 1952, s.320 and Sch. 12, Part I; see now ss. 53 and 64 of, and para. 2(c) of Sch. 7 to, that Act, Vol. 9 pp.99, 106, 218*).

Provisions as to ultimate destination of goods

7. (1) Where a person about to export goods from the United Kingdom, in the course of making entry thereof before shipment, makes a declaration as to the ultimate destination thereof, and the Finance Board have reason to suspect that the declaration is untrue in any material particular, the goods may be detained until the Board are satisfied as to the truth of the declaration, and, if the Board are not so satisfied, the goods shall be forfeited.

(2) Any exporter or shipper of goods which have been exported from the United Kingdom shall, if so required by the Finance Board, satisfy the Board that those goods have not reached any enemy or enemy territory, and if he fails so to do, he shall be liable on summary conviction to a customs penalty of treble the value of the goods or one hundred pounds at the election of the Board, unless he proves that he did not consent to or connive at the goods reaching an enemy or enemy territory, and that he took all reasonable steps to secure that the ultimate destination of the goods was not other than that specified in the documents shown or furnished to the officers of Customs and Excise in connection with the exportation of the goods.

Interpretation, &c.

8. (1) For the purposes of this Act –

(a) the expression “enemy” means –

- (i) any State, or Sovereign of a State, at war with His Majesty;
- (ii) any individual resident in enemy territory;
- (iii) any body of persons (whether corporate or unincorporate) carrying on business in any place, if and so long as the body is controlled by a person who, under this subsection, is an enemy;
- (iv) any body of persons constituted or incorporated in, or under the laws of, a State at war with His Majesty; or
- (v) any other person, who for the purposes of any Act relating to trading with the enemy is to be deemed to be an enemy;

but does not include any person by reason only that he is an enemy subject;

(b) the expression “enemy subject” means –

- (i) an individual who, not being either a British subject or a British protected person, possesses the nationality of a State at war with His Majesty, or
- (ii) a body of persons constituted or incorporated in, or under the laws of, any such State; and

(bb) the expression “import” includes the removal of goods to the Isle of Man from the United Kingdom where the goods are of a class or description the importation of which into the Isle of Man is for the time being subject to any prohibition or restriction but are not subject to a corresponding prohibition or restriction in the United Kingdom;

(c) the expression “enemy territory” means any area which is under the sovereignty of, or in the occupation of, a Power with whom His Majesty is at war, not being an area in the occupation of His Majesty or of a Power allied with His Majesty.

(2) A certificate of one of Her Majesty’s Secretaries of State that any area is or was under the sovereignty of, or in the occupation of, any Power, or as to the time at which any area became or ceased to be under such sovereignty or in such occupation shall, for the purposes of any proceedings taken by virtue of this Act, be conclusive evidence of the facts stated in the certificate.

Short title, construction and duration of Act

9. (1) This Act may be cited as the Import, Export and Customs Powers (Defence) Act 1939.

(2) This Act shall be construed as one with the Customs and Excise Management Act 1979.

(3) This Act shall continue in force until such date as His Majesty may by Order in Council declare to be the date on which the emergency that was the occasion of the passing of this Act came to an end, and shall then expire except as respects things previously done or omitted to be done.

Radioactive Substances Act 1948 (c.37)

2. (2) If any radioactive substances are imported, exported, carried coastwise or shipped as ships' stores in contravention of any order under subsection (1) of this section are brought to any quay or other place, or waterborne, for the purpose of being exported or of being so carried or shipped in contravention of any such order, those goods shall be deemed to be prohibited goods and shall be forfeited; and the exporter of the goods or his agent, or the shipper of the goods, shall be liable, in addition to any other penalty under the enactments for the time being in force relating to customs or excise –

(a) on summary conviction, to a customs penalty of £400;

(b) on conviction on information, to a customs penalty of any amount.

(3) This Act shall be construed as one with the Customs and Excise Management Act 1979.

The Wireless Telegraphy Act 1967 (c.72)

7. (1) Subject to subsection (2) below, wireless telegraphy apparatus of the following class or description is hereby specified for the purposes of this section namely, wireless telegraphy apparatus capable of transmitting on any of the following frequencies, that is to say, on any frequency between 26.1 and 29.7 megacycles per second or between 88 and 108 megacycles per second, and notwithstanding that the said apparatus is also capable of transmitting on other frequencies outside the limits aforesaid.

(2) Subsection (1) of this section does not apply to wireless telegraphy apparatus which is designed or adapted for the purpose of transmitting spoken messages on the frequency channels specified in paragraph 1.3 of Home Office Specification MPT 1320 and which complies with the requirements specified in Regulations 3 and 4 of, and the Schedule to, the Wireless Telegraphy (Control of Interference from Citizens' Band Radio Apparatus) Regulations 1982.

(3) The importation of apparatus of the class or description specified in subsection (1) of this section is hereby prohibited, save with the authority of the Finance Board and subject to compliance with any terms and conditions attached by the Finance Board to that authority; and any such terms and conditions may relate to a period after, as well as to the time of, or a period before, the importation.

(4) The Finance Board's authority aforesaid may be given, and any terms or conditions may be attached by them thereto, either generally by means of a notice in a newspaper published and circulating in the Isle of Man or by an instrument in writing issued to each person authorised to import any apparatus to which the authority relates.

(5) The Finance Board shall not give any authority under sub-section (3) of this section, or attach any term or condition to such an authority, unless it has consulted the Secretary of State who is satisfied that the authority, term or condition in question is compatible with the international obligations of the United Kingdom.

(6) A person authorised in writing by the Finance Board to be an officer of customs and excise may require any person possessing or having control of any apparatus of a class or description specified in subsection (1) of this section which is being or has been imported to furnish proof that the importation of the apparatus is or was not unlawful by virtue of this section; and if such proof is not furnished to the satisfaction of the said officer, then, unless the contrary is proved, the apparatus shall be deemed to be prohibited goods and be liable to forfeiture under the Customs and Excise Management Act 1979.

(7) Any person who contravenes or fails to comply with any terms or conditions attached to any authority given by the Finance Board under this section to import any apparatus, shall, without prejudice to any liability to a penalty which he may have incurred under the said Act of 1979, be guilty of an offence and shall be liable on summary conviction to imprisonment for a term not exceeding 3 months or to a fine not exceeding £400 or to both.

(8) In this section, "Secretary of State" means one of Her Majesty's Secretaries of State.

STATUTORY INSTRUMENT

1954 No. 23

CUSTOMS

IMPORT OF GOODS (CONTROL)

The Import of Goods (Control) Order, 1954

Made 14th January 1954

Coming into Operation 21st January 1954

The Board of Trade, in exercise of the powers conferred upon them by Section 1 of the Import, Export and Customs Powers (Defence) Act, 1939, and all other powers enabling them in that behalf, do hereby order as follows:-

Prohibition on importation

1. Subject to the provisions of this Order, all goods are prohibited to be imported into the *Isle of Man and* United Kingdom.

Licensed imports

2. Nothing in Article 1 hereof shall be taken to prohibit the importation of any goods under the authority of any licence granted by the *Treasury* under this Article and in accordance with any condition attached thereto.

2A. (1) Any licence granted under Article 2 permitting goods to be imported for transit or transshipment may be granted subject to either or both of the following conditions:

- (a) that the goods shall be exported to a specified destination;
- (b) that the goods shall be exported within a specified time.

(2) If any goods are imported under the authority of such a licence and any such condition imposed by the licence is contravened or not complied with, then the goods shall be liable to forfeiture.

2B. A licence granted under Article 2 shall not have effect in relation to the importation of finely-cut tobacco contained in, or for use in, sachets or pouches and intended for use by being placed in the mouth.

2C. A licence granted by the Secretary of State for Trade and Industry shall be deemed for the purposes of this Order to have been granted by the *Treasury*.

Channel Islands

3. Nothing in Article 1 hereof shall be taken to prohibit the importation of any goods which are proved to the satisfaction of the *Treasury of the Isle of Man* to have been consigned from the Channel Islands, other than –

- (a) dyes, dyestuffs and intermediates, the following:-
 - (i) synthetic organic dyestuffs (including pigment dyestuffs), whether soluble or insoluble;
 - (ii) compounds, preparations and articles manufactured from any such dyestuffs, except any such compounds, preparations and articles as are not suitable for use in dyeing;
 - (iii) organic intermediate products used in the manufacture of any such dyestuffs;
- (b) arms and ammunition, the following:-
 - (i) firearms, lethal, including any lethal barrelled weapon of any description from which any shot, bullet or other missile can be discharged and other weapons of whatever description designed or adapted for the discharge of any noxious liquid, gas or other thing;
 - (ii) component parts of any such firearm or other weapon as aforesaid, and any accessory to any such firearm or other weapon designed or adapted to diminish the noise or flash caused by firing the weapon;
 - (iii) ammunition, including grenades, bombs and other like missiles, and any ammunition containing or designed or adapted to contain any noxious liquid, gas or other thing, and component parts of any such ammunition;
- (c) plumage, other than plumage of birds imported alive and other than plumage of birds ordinarily used in the United Kingdom as articles of diet.

False statements. etc

4. If for the purpose of obtaining a licence under this Order, any person makes any statement or furnishes any document or information which to his knowledge is false in a material particular, or recklessly makes any statement which is false in a material particular, he shall be guilty of an offence and be liable on summary conviction to a fine not exceeding £2,500 or to imprisonment for a term not exceeding six months, or to both such fine and such imprisonment; and any licence which may have been granted in connection with the application for which the false statement was made or the false document or information was furnished shall be void as from the time when the licence was granted.

Licences

5. (1) Any licence granted under Article 2 hereof may be modified or revoked by the *Treasury of the Isle of Man* at any time.

(2) Any current licence granted under any Order hereby revoked shall, for the purposes of this Order, have effect as if it had been granted under Article 2 hereof.

Interpretation and revocation

6. (1) In this Order "goods", unless otherwise specified, means both used and unused goods.

(2) The Interpretation Act, 1899, shall apply to the interpretation of this Order as it applies to the interpretation of an Act of Parliament and as if this Order and there Orders hereby revoked were Acts of Parliament.

7. ...Omitted.

Citation and Commencement

8. This Order may be cited as the Import of Goods (Control) Order, 1954.

Dated this 14th day of January, 1954

Ralph M. Nowell,
An Under-Secretary of the Board of Trade.

STATUTORY INSTRUMENTS

Extract of

1976 No. 1783

CIVIL AVIATION

The Air Navigation Order 1976

Made	27 th October 1976
Laid before Parliament	4 th November 1976
Coming into Operation:	
(a) for the purpose of making Regulations	25 th November 1976
(b) for all other purposes	1 st December 1976

Customs airports

76. (1) The Governor in Council, may after consultation with the Commissioners of Customs and Excise, and subject to such conditions as he may think fit by order designate any aerodrome to be a place for the landing or departure of aircraft for the purpose of the enactments for the time being in force relating to customs and excise.

(2) The Governor in Council may, after consultation with, the Commissioners of Customs and Excise, by order revoke any designation so made.

(3) In this Article, "Governor in Council" means the Governor (as defined in section 3 of the Interpretation Act 1976, an Act of Tynwald) acting on the advice and with the concurrence of the Executive Council of the Isle of Man.

STATUTORY INSTRUMENTS

1981 No. 1259

CUSTOMS AND EXCISE

The Aircraft (Customs and Excise) Regulations 1981

Made	28 th August 1981
Laid before Parliament	10 th September 1981
Coming into Operation	1 st October 1981

The Commissioners of Customs and Excise, in pursuance of the powers conferred on them by sections 35(4), 42(1) and 66(1)(a) of the Customs and Excise Management Act 1971 and of all other powers enabling them in that behalf, hereby make the following Regulations:-

Citation, commencement, interpretation and revocation

1. These Regulations may be cited as the Aircraft (Customs and Excise) Regulations 1981.

2. In these Regulations:-

“the Act” means the Customs and Excise Management Act 1979;

“aircraft” includes all balloons, kites, gliders, airships and flying machines;

“Community transit document” means a document which is being used in accordance with a Community Regulation governing Community transit requiring, amongst other matters or conditions, that the goods which are to be moved under the external or internal Community transit procedure be covered by that document;

“loader” means the owner of an aircraft into with goods are to be loaded, or a person appointed by him; and

“loading pass” means a document relating to goods which a proper officer in his discretion may issue indicating the existence of a Community transit document relating to those goods and containing such other information as he considers appropriate.

3. ...Omitted.

Duties of the commander of an aircraft arriving in the United Kingdom

4. (1) Save as the *Finance Board* otherwise permit, the commander of an aircraft arriving in the United Kingdom of which report is required under section 35(1) of the Act shall immediately:-

- (a) take the aircraft or cause it to be taken to the examination station at the customs and excise airport at which the aircraft has arrived;
- (b) make report of the aircraft by delivering to the proper officer in such form as the *Finance Board* direct:-

- (i) a General Declaration;
 - (ii) particulars of the goods on board the aircraft; and
 - (iii) a list in duplicate of the stores on board the aircraft;
- (c) produce to the proper officer such other documents relating to the flight as the officer may require;
- (d) produce to the proper officer all goods in the aircraft except such as are to be carried on to another customs and excise airport or to a foreign destination and are permitted by the proper officer to remain in the aircraft;
- (e) unload, subject to regulation 5 below, all goods in the aircraft except such as are to be carried on to another customs and excise airport or to a foreign destination and are permitted by the proper officer to remain in the aircraft; and
- (f) unless the proper officer otherwise permits, deposit all goods unloaded from the aircraft in a transit shed at the customs and excise airport.

(2) If through circumstances over which the commander has no control an aircraft is prevented from being taken to the examination station as required by paragraph (1)(a) above the commander shall –

- (a) immediately make report of the aircraft as required by paragraph (1)(b) above; and
- (b) remove all goods in the aircraft to a transit shed or other place as required by the proper officer.

(3) With the exception of the requirement contained in paragraph (1)(a) above, any act required to be performed by the commander of an aircraft by virtue of this regulation may, subject to such conditions as the *Finance Board* see fit, be carried out on his behalf by a responsible person authorized for the purpose by the owner of the aircraft.

Unloading of goods imported by air

5. No person shall unload, or permit the unloading of, any goods imported by air from the importing aircraft –

- (a) except during such hours as the *Finance Board* may approve for the purpose;
- (b) without the authority of the proper officer; and
- (c) unless the unloading is done for the purpose of a removal pursuant to the provisions of paragraph (2) of regulation 4, at any place other than an examination station or such other place as the *Finance Board* may permit.

Removal of unloaded goods imported by air

6. (1) Save as the *Finance Board* may otherwise permit, no person shall remove or permit to be removed goods imported by air from an examination station or from such other place as the *Finance Board* may permit under sub-paragraph (c) of regulation 5:-

- (a) except to a transit shed;

- (b) unless, in the case of goods entered under section 37 of the Act, the proper officer authorises the removal from the examination station or from the other place mentioned above; or
- (c) except in accordance with any special permission granted by the *Finance Board* and in compliance with any conditions attached to the grant of such permission.

(2) Save as the *Finance Board* may otherwise permit, goods imported by air situated in a transit shed or at any other place to which they were removed as required by the proper officer under paragraph (2)(b) of regulation 4 shall not be removed therefrom:-

- (a) until, in the case of goods of which entry is required by section 37 of the Act, the entry is made; and
- (b) without the authority of the proper officer.

Loading of goods on a departing aircraft

7. (1) Subject to paragraph (2) of this regulation, no person shall load on an aircraft about to depart on a flight to an eventual destination outside the United Kingdom and the Isle of Man goods for exportation or as stores:-

- (a) except at the examination station at a customs and excise airport, or such other place as the *Finance Board* may permit; and
- (b) without the authority of the proper officer, save as may be permitted by him.

(2) Paragraph (1)(b) of this regulation shall not apply to a loader if, in relation to the goods due to be loaded by him, he is acting under a direction of the *Finance Board* pursuant to subsection (4) or (5) of section 57 of the Act (directions that certain goods should not be loaded without authority of a proper officer, and directions relaxing such requirements and substituting other requirements).

(3) Where the goods are said to be moving under the external or internal Community transit procedure the proper officer may withhold his authority required under paragraph (1)(b) of this regulation until the person applying for his authority either, produces to him the Community transit document or, instead of it, furnishes him with a loading pass which satisfies him that the goods are being moved under one of the aforementioned procedures.

Embarkation of passengers

8. No passenger shall embark or be permitted by any person to embark on a flight to an eventual destination outside the United Kingdom and the Isle of Man unless:-

- (a) he is authorised by the proper officer to embark; and
- (b) he embarks at the examination station at a customs and excise airport or at such other place as the *Finance Board* may permit.

9. (1) The *Treasury* and the proper officer shall exercise their powers under regulations 4 to 8 above so as to secure that the obligations imposed by those regulations do not, except in a case falling within paragraph (2) below, prevent, restrict or delay the movement between different member States of any goods or passenger entering or leaving the United Kingdom.

(2) The cases mentioned in paragraph (1) above are those where it appears to the *Treasury* or the proper officer that there are reasonable grounds for believing that the movement in question is not in fact between different member States or that compliance with an obligation imposed by those regulations is required for purposes connected with –

- (a) securing the collection of any Community customs duty or giving effect to any Community legislation relating to any such duty;
- (b) the enforcement of any prohibition or restriction for the time being in force by virtue of any Community legislation with respect to the movement of goods in or out of the member States; or
- (c) the enforcement of any prohibition or restriction for the time being in force by virtue of any enactment with respect to the importation or exportation of goods into or out of the United Kingdom.

28th August 1981.
King's Beam House,
Mark Lane,
London EC3R 7HE.

N. Godfrey
Commissioner of Customs and Excise.

STATUTORY INSTRUMENTS

1981 No. 1260

CUSTOMS AND EXCISE

**The Ship's Report, Importation and Exportation by Sea
Regulations 1981**

Made	28 th August 1981
Laid before Parliament	10 th September 1981
Coming into Operation	1 st October 1981

The Commissioners of Customs and Excise, in exercise of the powers conferred on them by sections 35(4), 42(1) and 66(1)(a) and (c) of the Customs and Excise Management Act 1979 and of all other powers enabling them in that behalf, hereby make the following Regulations:-

Citation, commencement, application, interpretation and revocation

1. (1) These Regulations may be cited as the Ship's Report, Importation and Exportation by Sea Regulations 1981.
- (2) These Regulations shall not apply to pleasure craft as defined in the Pleasure Craft (Arrival and Report) Regulations 1979.
- (3) In these Regulations "the Act" means the Customs and Excise Management Act 1979.
- (4) ...Omitted.

PART I

PROCEDURE FOR SHIP'S REPORT REQUIRED UNDER SECTION 35(1) OF THE ACT

Report procedure

2. Subject to regulation 6 below, the procedure for making report of a ship of which report is required under section 35(1) of the Act shall be in accordance with regulations 3 and 4 below.
3. The forms directed by the *Treasury* under section 35(1) of the Act shall be completed by the master or, where the *Treasury* so *permits* a person authorised by him.
4. The forms duly completed in accordance with regulation 3 above shall be delivered by the master or a person duly authorised by him:-
 - (a) in the case of a ship boarded by an officer, to the officer immediately, if so requested by him,
 - (b) in any other case, to the proper place designated at the port of arrival:-

- (i) within 3 hours of the ship having reached its place of loading or unloading; or
- (ii) on the expiration of 24 hours following the arrival of the ship within the limits of that port if by then the ship has not reached a place of loading or unloading.

Copies of report documents

5. (1) The master shall ensure that a copy of each of the forms referred to in regulation 3 above is retained on board ship for inspection by an officer as long as the ship remains within the limits of the port.

(2) At the request of an officer either the master or any person authorised by him shall furnish the officer with an additional copy of any such form.

Modified procedure for report

6. The *Treasury* may relax all or any of the requirements of regulations 3 to 5 above as they see fit in relation to any ship arriving at any port in the United Kingdom

PART II

PROCEDURE FOR SHIP ARRIVING AT A PORT AND FOR THE UNLOADING, LANDING AND REMOVAL OF GOODS IMPORTED BY SEA

Procedure for ship arriving at a port

7. (1) On the arrival of a ship at a port the master shall –
- (a) where a boarding station has been appointed at that port, immediately bring the ship to at that boarding station;
 - (b) thereafter, or where no boarding station has been appointed at that port, bring the ship as quickly up to the proper mooring or unloading place as the nature of the port will permit without touching at any other place except as may be necessary for the safe navigation of the ship:

Provided always that nothing in this regulation shall affect the provisions of any regulations made under the powers conferred by the enactments relating to public health in force respectively in *the Isle of Man* with respect to ships which are to be taken to mooring stations within the meaning of those regulations.

(2) The ship shall not be moved from the said mooring or unloading place:-

- (a) except directly to some other mooring or unloading place; and
- (b) unless the proper officer has been informed of such movement.

Unloading, landing and removal of goods imported by sea

8. Goods imported by sea shall not be landed except at an approved wharf, and shall not be unloaded, landed or removed from the place of landing or from a transit shed:-

- (a) outside such hours as the *Finance Board* may appoint;
- (b) without the authority of the proper officer;

- (c) until report of the importing ship has been made, save as permitted by the *Finance Board*;
- (d) until due entry of the goods has been made, save as permitted by the *Finance Board*; or
- (e) on a Sunday or a holiday, save as permitted by the *Finance Board*;

Provided that:-

- (i) paragraphs (a), (c), (d) and (e) of this regulation shall not apply in relation to whales and fresh fish (including shellfish) of British *or Manx* taking brought by British ships;
- (ii) paragraphs (c) and (d) shall not apply in relation to the unloading or landing of goods for deposit in a transit shed; and
- (iii) paragraph (d) shall not apply in relation to passengers' baggage.

Transfer of imported goods from one ship to another for landing

9. Goods unloaded from an importing ship into another ship for landing at an approved wharf shall not, except with the permission of the proper officer, be again removed into another ship before being so landed, but shall forthwith be taken to and landed at that wharf.

PART III

LOADING OF GOODS INTO AN EXPORTING SHIP AND MANIFESTS

Loading of goods into an exporting ship

10. (1) (a) In paragraph (3) of this regulation "loader" means the owner of the ship into which goods are to be shipped, or a person appointed by him, except that, where the ship is subject to charter by demise, "loader" means the charterer or a person appointed by him.
- (b) In paragraph (4) of this regulation:
- (i) and in sub-paragraph (ii) below, "Community transit document" means a document which is being used in accordance with a Community Regulation governing Community transit requiring, amongst other matters or conditions, that the goods which are to be moved under the external or internal Community transit procedure be covered by that document, and
 - (ii) "loading pass" means a document relating to goods which a proper officer in his discretion may issue indicating the existence of a Community transit document relating to those goods and containing such other information as the proper officer considers appropriate.
- (2) Subject to paragraph (3) of this regulation, no person shall load into a ship or make waterborne for loading any goods for exportation or as stores:-
- (a) outside such hours as the *Finance Board* may appoint;
 - (b) except at an approved wharf;

- (c) without the authority of the proper officer, save as permitted by him;
- (d) before entry outwards of the ship; or
- (e) on a Sunday or a holiday, save as permitted by the *Finance Board*.

(3) Paragraph (2)(c) of this regulation shall not apply to a loader if, in relation to the goods due to be loaded by him, he is acting under a direction of the *Finance Board* pursuant to subsection (4) or (5) of section 57 of the Act (directions that certain goods should not be loaded without authority of a proper officer, and directions relaxing such requirements and substituting other requirements).

(4) Where the goods are said to be moving under the external or internal Community transit procedure the proper officer may withhold his authority required by paragraph (2)(c) of this regulation until the person applying for his authority either, produces to him the Community transit document or, instead of it, furnishes him with a loading pass which satisfies him that the goods are being moved under one of the aforementioned procedures.

Delivery of manifest and contingent manifest facility

11. (1) The manifest due to be delivered pursuant to paragraph (2), or (3)(c), or this regulation shall:-

- (a) contain such particulars as the *Finance Board* direct of all goods shipped as cargo into the exporting ship which has been cleared outwards;
- (b) be accompanied by such other documents relating to the cargo as the *Finance Board* direct; and
- (c) be accompanied by a declaration, made by the person discharging the obligation to deliver the manifest, that the manifest contains a true account of the cargo of the exporting ship which has been cleared outwards.

(2) Subject to paragraph (3)(b) of this regulation and save as may be permitted otherwise by the *Finance Board*, the owner or master of every exporting ship, or in the case of the exporting ship being subject to a charter by demise at the time of its clearance outwards, the charterer or master of that ship shall by himself or his agent deliver a manifest to the proper officer within 14 days after the clearance outwards of the ship.

- (3) (a) In sub-paragraphs (b) and (c) below the expression "any terminating day" means such day, if any, which is the first to be specified by the *Finance Board* or the person who has been permitted by them to be subject to sub-paragraph (c) below in accordance with respectively the first or the second of the following procedures:-
- (i) a day specified by the *Finance Board* in a notice served on the person permitted by them to be subject to sub-paragraph (c) below or deposited at the address given for these purposes in the application described in sub-paragraph (b) below, being a day occurring at least one month after the day of service or deposit of the notice, and
 - (ii) a day specified by the person permitted by the *Finance Board* to be subject to sub-paragraph (c) below in a notice furnished to them and containing such particulars as they may require, being a day occurring at least one month after the day on which the notice was furnished;

- (b) Where, as a consequence of an application (containing such particulars as the *Finance Board* may require) by the owner of a ship to be used as an exporting ship, or, in the case where a ship will be subject to a charter by demise at the time of a clearance outwards of it, by the person who will be the charterer at the time, the *Finance Board* permit him in their discretion to be subject to sub-paragraph (c) below, paragraph (2) of this regulation shall not apply in respect of the clearance outwards of the aforementioned ship occurring on or after the day appointed by the *Finance Board* for these purposes and not later than any terminating day;
- (c) In the case of the clearance outwards of an exporting ship which occurs on or after the day appointed by the *Finance Board* for these purposes and not later than any terminating day, the person permitted by the *Finance Board* to be subject to this sub-paragraph, shall by himself or his agent deliver a manifest to the proper officer within 7 days, or such longer period as may be permitted by the *Finance Board*, after a demand for it is made by the proper officer on him within 6 months after the aforementioned clearance outwards.

12. (1) The *Treasury* and the proper officer shall exercise their powers under regulations 8 to 11 above so as to secure that the obligations imposed by those regulations do not, except in a case falling within paragraph (2) below, prevent, restrict or delay the movement between different member States of any goods or ship entering or leaving the United Kingdom.

(2) The cases mentioned in paragraph (1) above are those where it appears to the *Treasury* or the proper officer that there are reasonable grounds for believing that the movement in question is not in fact between different member States or that compliance with an obligation imposed by those regulations is required for purposes connected with –

- (a) securing the collection of any Community customs duty or giving effect to any Community legislation relating to any such duty;
- (b) the enforcement of any prohibition or restriction for the time being in force by virtue of any Community legislation with respect to the movement of goods into or out of the member States; or
- (c) the enforcement of any prohibition or restriction for the time being in force by virtue of any enactment with respect to the importation or exportation of goods into or out of the United Kingdom.

28th August 1981.
King's Beam House,
Mark Lane,
London EC3R 7HE.

N. Godfrey
Commissioner of Customs and Excise

STATUTORY INSTRUMENTS

1984 No. 1176

CUSTOMS AND EXCISE

The Control of Movement of Goods Regulations 1984

Made	1 st August 1984
Laid before Parliament	3 rd August 1984
Coming into Operation	6 th August 1984

The Commissioners of Customs and Excise, in exercise of the powers conferred upon them by section 31 of the Customs and Excise Management Act 1979 and of all other powers enabling them in that behalf, hereby make the following Regulations:-

Citation and Commencement

1. These Regulations may be cited as the Control of Movement of Goods Regulations 1984.

Revocation

2. ...Omitted.

Interpretation

3. In these Regulations –

“the Act” means the Customs and Excise Management Act 1979;

“approved place” –

- (a) in relation to imported goods means a place approved by the *Finance Board* under section 20 or 25 of the Act for the clearance out of charge of such goods, and
- (b) in relation to goods intended for export means a place appointed under section 159 of the Act for the examination of goods which is approved by the *Finance Board* under section 31 of the Act for the examination of such goods before their movement to a place of exportation;

“the loader” shall have the same meaning as in section 57 of the Act; that is to say the owner of the ship or aircraft in which the goods are to be exported or a person appointed by him;

“place of importation” and “place of exportation” shall, where appropriate, include a free zone;

“removal” means a movement of goods which is authorised under these Regulations and “remove” and “removed” shall be construed accordingly;

“removal document” means a document obtained from or approved by the *Finance Board* made in such form and containing such particulars as the *Finance Board* may direct under section 31(2A) of the Act and for the purpose of regulation 15 shall include a copy of the application referred to in regulations 5, 6 and 7 stamped by the proper officer.

4. (1) These Regulations shall not apply where any goods are moved under the internal or external Community transit procedure.

(2) The application of regulations 11 and 13 of these Regulations to goods carried under the provisions of an international convention having effect in the *Isle of Man* shall be without prejudice to any such provisions.

Restrictions on the movement of goods

5. Subject to regulation 10, no imported goods not yet cleared from customs and excise charge shall be moved between their place of importation and either an approved place or a free zone and, in the case of transit goods, between their place of importation and a place of exportation unless the movement is authorised by the proper officer upon application made to him.

6. Subject to regulation 10, no goods shall be moved between –

- (a) a free zone and a place approved for the clearance out of charge of such goods,
- (b) such a place and a free zone, and
- (c) a free zone and another free zone,

unless the movement is authorised by the proper officer upon application made to him.

7. Subject to regulations 9 and 10, no goods intended for export and made available at an approved place or a place designated by the proper officer under sections 53(4) or 58(3) of the Act for the purposes of examination shall be moved between any such place and a place of exportation unless the movement is authorised by the proper officer upon application made to him.

8. Save as the *Finance Board* may otherwise allow, the applications referred to in regulations 5, 6 and 7 above shall be made in writing on a document obtained from or approved by the *Finance Board* for that purpose and shall be made –

- (a) in the case of imported goods, by the importer or the person in charge of the goods,
- (b) in the case of goods intended for export, by the exporter or the person in charge of the goods, and
- (c) in any other case, by the proprietor of the goods or the person in charge of the goods.

Local export control

9. (1) Where a notice under section 58A(3)(a)(i) of the Act is delivered by the exporter such notice shall replace the application required under regulation 7.

(2) Where the notice is for a single movement of goods, if the authority of the proper officer, required under regulation 7, is neither given nor refused by the date and time for the movement specified in that notice, it shall be deemed to be given on the date and immediately before the time so specified.

(3) Where the notice is for more than one movement of goods, if the authority of the proper officer, required under regulation 7, is neither given nor refused, it shall be deemed to be given immediately before each movement commences.

Standing permission to remove

10. Where the *Finance Board* so permit, during a period specified by them, goods may be moved as contemplated in regulations 5, 6 and 7 without an application to the proper officer; and, unless the proper officer previously gives or refuses his authority, it shall be deemed to be given immediately before the movement commences.

Requirement for removal document

11. Before any removal commences the person by whom, or on whose behalf, the goods are being moved shall be in possession of a removal document.

Specification of vehicles etc

12. (1) The *Finance Board* may, in respect of any class or description of goods, require that vehicles or containers in which goods of a particular class or description are removed shall be of a type specified by them for the removal of such goods.

(2) Save as provided by paragraph (3) below, no person shall remove any goods in respect of which a requirement under paragraph (1) above has been imposed unless the vehicle or container in which they are carried conforms to such requirement.

(3) The proper officer, upon application made to him by the person in charge of goods to be removed, may for the purposes of the removal in question relax any requirement imposed under paragraph (1) above.

Specification of routes

13. Vehicles and containers proceeding under a removal shall be moved by such routes as the *Finance Board* may specify.

Security of goods, vehicles and containers

14. (1) Before any goods are removed they or the vehicle or container carrying them shall be secured or identified by any such seals, locks or marks as the *Finance Board* may specify.

(2) Where in the *Isle of Man*, seals, locks or marks are affixed for any customs or excise purpose in order to secure or identify the goods to be removed or the vehicles or containers carrying the goods, they shall be so affixed by the proper officer or by such other person as the *Finance Board* may authorise.

15. (1) Save in the circumstances hereunder mentioned, no person shall at any time during a removal –

- (a) wilfully break, open or remove any seal, lock or mark affixed for any customs or excise purpose on any goods or to a vehicle or container; or
- (b) load or unload or assist in the loading or unloading of a vehicle or container.

(2) The circumstances referred to in paragraph (1) above are –

- (a) where authorisation has been given by the proper officer; or

- (b) in accordance with any general or special permission given by the *Finance Board*; or
- (c) in an emergency in order to safeguard the goods or to protect life or property.

Completion of removals, time limits and accidents

16. (1) Save as the *Finance Board* otherwise allows, the person in charge of goods proceeding under a removal shall complete the removal by producing the goods, together with the vehicle or container in which they are carried if such vehicle or container has been secured or identified, and delivering a removal document to the proper officer at the approved place or, in the case of goods intended for export, at the place of exportation.

(2) The *Finance Board* may allow the removal of goods intended for export to be completed by the person in charge of the goods placing them, together with any container in which they are carried if such container has been secured or identified, under the control of the loader and delivering the removal document to him.

17. The person in charge of goods proceeding under a removal shall complete the removal within such period as the *Finance Board* may specify.

18. Where as a result of an accident or other occurrence arising during a removal a vehicle or container is delayed or diverted from a specified route the person in charge of the goods shall as soon as practicable give sufficient notification of the accident or occurrence as required by the *Finance Board* to the local office of customs and excise.

King's Beam House, Mark Lane,
London, EC3 7HE.
1st August 1984.

N. Godfrey,
Commissioner of Customs and Excise.

1995 No. 1203

CUSTOMS AND EXCISE

The Customs Traders (Accounts and Records) Regulations 1995

Made	2 nd May 1995
Laid before Parliament	10 th May 1995
Coming into force	1 st June 1995

The Commissioners of Customs and Excise, in exercise of the powers conferred upon them by section 21(1) and (6) of the Finance Act 1994, and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation and Commencement

1. These Regulations may be cited as the Customs Traders (Accounts and Records) Regulations 1995.

Interpretation

2. (1) In these Regulations –

“the Act” means the Finance Act 1994;

“the Commission Regulation” means Commission Regulation (EEC) No. 2454/93;

“customs trader” means any person carrying on a trade or business which consists of or includes any of the activities mentioned in section 20(1) of the Act.

(2) Schedule 1 shall be interpreted in accordance with the notes contained therein.

Customs trader’s records to be kept and preserved

3. A customs trader who receives, prepares, maintains or issues a record consisting of an item described in Schedule 1 relating to a business within the meaning of section 20(3)(b) of the Act shall –

- (a) in the case of a received record, keep and preserve it;
- (b) in the case of an issued record, keep and preserve a copy of it; and
- (c) in the case of a record that is prepared or maintained and which has not been received or which is not issued, preserve it.

Specific records in the case of certain traders

4. (1) Subject to paragraph (2) below, a customs trader required by Article 76(2) of Council Regulation (EEC) No. 2913/92 to furnish a supplementary declaration shall keep and preserve a copy of every such supplementary declaration made by him or on his behalf and a copy of every simplified declaration so made.

(2) The trader referred to in paragraph (1) above may instead keep and preserve a record of all the information set out in the declarations referred to in that paragraph.

(3) For the purposes of paragraph (2) above, in cases where the declarations are made using a data-processing technique, the information shall consist of all data sent by him or on his behalf for that purpose.

(4) In this regulation –

“data-processing technique” has the meaning given by Article 4a of the Commission Regulation;

“simplified declaration” is a declaration within the meaning of Article 243(2) of the Commission Regulation.

Record specified in public notices

5. A customs trader shall keep and preserve such other records as the *Treasury* may specify for any case or cases in a notice published by them in pursuance of these Regulations and not withdrawn by a further notice.

Records relating to customs declarations

6. (1) Where any record (including a copy of a record) is kept or preserved by a customs trader under a duty imposed by or under these Regulations and that record relates to a customs declaration made by him or on his behalf, it shall be so kept or preserved as to be readily apparent that it does relate to that particular declaration.

(2) In this regulation “customs declaration” has the meaning given by Article 4(17) of Council Regulation (EEC) No. 2913/92.

Form of records

7. (1) Except for the records specified in paragraph (2) below and without prejudice to the provisions of section 21(4) and (5) of the Act, records (including copies of records) required to be kept or preserved by or under these Regulations may be kept or preserved in any form, and in particular they may be in documentary or other written form, or be in the form of anything that is commonly called or referred to as an account or a report; and the information which they contain or are to contain may be contained in or be in the form of an item described in Schedule 2.

(2) The excepted records referred to are –

(a) records required to be kept and preserved by regulation 3(a) and (c) above; and

(b) such records as may be required to be kept and preserved under regulation 5 above which are –

(i) received by a customs trader; or

- (ii) prepared or maintained by him which he has neither received nor issued.

Time of recording

8. Where a customs trader is required by or under these Regulations to keep a record, he shall do so at the time when any information that is by virtue of these Regulations to be recorded is first known to him or as soon as possible thereafter.

Period of preservation of records

9. Any record (including a copy of a record) required by or under these Regulations to be preserved shall be preserved for a period of four years or such lesser period as the *Treasury* may require, starting on the day that the obligation to preserve arises.

New King's Beam House
22 Upper Ground
London
SE1 9PJ

2nd May 1995

E. Woods
Commissioner of Customs and Excise

SCHEDULE 1

Regulation 3

RECEIVED, PREPARED, MAINTAINED OR ISSUED ITEMS

1. An order.
2. An invoice.
3. A delivery note.
4. A credit note.
5. A debit note.
6. A record relating to an importation or an exportation.
7. A statement of account.
8. A record of payment or of receipt.
9. A journal or ledger.
10. A profit and loss account, trading account, management account, management report or balance sheet.
11. An internal or an external auditor's report.
12. A record relating to any drawback, remission, repayment or reimbursement of, or relief from, duty.

13. A record required, other than by virtue of these Regulations, by or under the customs and excise Acts.
14. A stock record.
15. Any other record maintained for a trading or business purpose.

Notes of interpretation

1. In paragraphs 1 to 15 above an item described therein includes anything in any form that it may take when the information, to which the item relates, is received, or, as the case may be, when that information is dealt with for the purpose of preparing, maintaining or issuing an item, and which it may take subsequently whilst it is being preserved by the customs trader who received it or, as the case may be, prepared, maintained or issued it.
2. In note 1 above "anything" includes –
 - (a) an item described in Schedule 2 to these Regulations containing the information which is expressly or impliedly described in paragraphs 1 to 15 above or which is obtained for a purpose described in those paragraphs; and
 - (b) anything which is commonly called or referred to as an account or a report.
3. In note 1 above "form" includes documentary or other written form.
4. In paragraphs 6, 8 and 12 above "record" means anything containing information expressly or impliedly described respectively in those paragraphs, irrespective of its form.
5. In paragraph 12 above "duty" means any duty of customs and includes any agricultural levy of the European Community.
6. In paragraph 13 above "record" means anything containing information which is required by or under the legislation specified therein, irrespective of its form.
7. In paragraph 15 above "record" means anything that is maintained for the purposes specified therein, irrespective of its form.

SCHEDULE 2

Regulation 7(1) and Schedule 1

1. A drawing, graph, map or plan.
2. A photocopy.
3. A disc, sound track, tape, or other device in which sounds or other data (not being visual images) are recorded so as to be capable (with or without the aid of some other equipment) of being reproduced therefrom.
4. Any film, microfilm, negative, tape or other device in which one or more visual images are recorded so as to be capable (as aforesaid) of being reproduced therefrom.
5. A transcript or reproduction.

1997 No. 534

CUSTOMS AND EXCISE

The Customs Reviews and Appeals (Tariff and Origin) Regulations 1997

Made	27 th February 1997
Laid before Parliament	3 rd March 1997
Coming into force	24 th March 1997

The Commissioners of Customs and Excise, it appearing to them that there are decisions falling to be made for the purposes of the Community Customs Code and its implementing provisions which are not decisions to which section 14 of the Finance Act 1994 otherwise applies, in exercise of the powers conferred upon them by section 14(6) and (7) of the Finance Act 1994 and of all other powers enabling them in that behalf, hereby make the following Regulations:

1. These Regulations may be cited as the Customs Reviews and Appeals (Tariff and Origin) Regulations 1997.

2. In these Regulations –

“the Act” means the Finance Act 1994.

3. (1) Section 14 of the Act, as it applies to the decisions mentioned in section 14(1) of the Act, shall apply to the following decisions of the *Treasury*, so far as they are made for the purposes of the Community provisions relating to binding tariff information or the Community provisions relating to binding origin information –

- (a) any decision as to the tariff classification or determination of the origin of any goods;
- (b) any decision as to whether or not binding tariff information or binding origin information is to be supplied;
- (c) any decision as to whether or not any binding tariff information or binding origin information is to be annulled, withdrawn or revoked.

(2) In this regulation –

“binding tariff information” and “tariff classification” have the same meaning as in the Community provisions relating to binding tariff information;

“binding origin information” and “determination of the origin” have the same meanings as in the Community provisions relating to binding origin information;

“the Community provisions relating to binding tariff information” and “the Community provisions relating to binding origin information” mean Article 12 of Council Regulation (EEC) No. 2913/92 establishing the Community Customs Code and Title II of

Part I of Commission Regulation (EEC) No. 2454/93 laying down provisions for the implementation of Council Regulation (EEC) No. 2913/92.

4. Section 16(4) of the Act (review jurisdiction) shall have effect as if decisions (b) and (c) mentioned in regulation 3(1) above were of a description specified in paragraph 1 of Schedule 5 to the Act.

5. (1) Section 14 of the Act, as it applies to the decisions mentioned in section 14(1) of the Act, shall apply to the following decisions of the *Treasury*, so far as they are made for the purposes of preferential tariff measures applicable to the exportation of goods and are not decisions falling within regulation 3 above –

- (a) any decision as to the determination of the origin of any goods;
- (b) any decision as to whether there is sufficient evidence to determine the origin of any goods.

(2) In this regulation –

“preferential tariff measures” means the preferential tariff measures mentioned in Article 20(3)(d) and (e) of the Community Customs Code.

6. Section 16(4) of the Act (review jurisdiction) shall have effect as if decision (b) mentioned in regulation 5(1) above was of a description specified in paragraph 1 of Schedule 5 to the Act.

7. The Customs Reviews and Appeals (Binding Tariff Information) Regulations 1995 are hereby revoked.

New King's Beam House
22 Upper Ground
London
SE1 9PJ

27th February 1997

M. J. Eland
Commissioner of Customs and Excise

STATUTORY INSTRUMENTS

2000 No. 633

CUSTOMS AND EXCISE

The Interest on Repayments of Customs Duty (Applicable Period) Order 2000

Made	8 th March 2000
Laid before Parliament	9 th March 2000
Coming into force	1 st April 2000

The Commissioners of Customs and Excise, in exercise of the powers conferred upon them by section 127(9) of the Finance Act 1997, hereby make the following Order:

1. This Order may be cited as the Interest on Repayments of Customs Duty (Applicable Period) Order 2000.

2. For subsection (3) of section 127 of the Finance Act 1999 there shall be substituted –

“(3) Subject to section 128 below, in relation to any amount that carries interest under subsection (1) above, the applicable period for the purposes of this section is the period which –

- (a) begins with the thirty-first working day after the making of the claim for repayment of that amount; and
- (b) ends with the date on which the *Treasury* issue the repayment of that amount,

and in paragraph (a) above “working day” means any day other than a non-business day within the meaning of section 92 of the Bills of Exchange Act 1883.”

New King's Beam House
22 Upper Ground
London SE1 9PJ

8th March 2000

A R Rowsthorne
Commissioners of Customs and Excise

**EXTRACT OF RELEVANT SECTIONS
OF FINANCE ACT 2003 (c.14)
(AN ACT OF PARLIAMENT)**

AS THEY HAVE EFFECT IN THE ISLAND

PART 3

TAXES AND DUTIES ON IMPORTATION AND EXPORTATION: PENALTIES

Preliminary

24 Introductory

(1) This Part makes provision for and in connection with the imposition of liability to a penalty where a person-

- (a) engages in any conduct for the purpose of evading any relevant tax or duty, or
- (b) engages in any conduct by which he contravenes a duty, obligation, requirement or condition imposed by or under legislation relating to any relevant tax or duty.

(2) For the purposes of this Part "relevant tax or duty" means any of the following-

- (a) customs duty;
- (b) Community export duty;
- (c) Community import duty;
- (d) import VAT;
- (e) customs duty of a preferential tariff country.

(3) In this Part-

"appeal tribunal" means a VAT and duties tribunal;

"the Community Customs Code" means Council Regulation 2913/92/EEC establishing the Community Customs Code;

"Community export duty" means any of the duties, charges or levies which are export duties within the meaning of the Community Customs Code (as at 9th April 2003, see the definition of "export duties" in Article 4(11) of that Code);

"Community import duty" means any of the duties, charges or levies which are import duties within the meaning of the Community Customs Code (as at 9th April 2003, see the definition of "import duties" in Article 4(10) of that Code);

"contravene" includes fail to comply with;

"customs duty of a preferential tariff country" includes a reference to any charge imposed by a preferential tariff country and having an equivalent effect to customs duty payable on the importation of goods into the territory of that country;

"demand notice" means a demand notice within the meaning of section 30;

"import VAT" means value added tax chargeable by virtue of section 1(1)(c) of the Value Added Tax Act ~~1994~~ 1996 (importation of goods from places outside the member States);

"notice" means notice in writing;

"preferential tariff country" means a country outside the European Community which is, or is a member of a group of countries which is, party to an agreement falling within Article 20(3)(d) of the Community Customs Code (preferential tariff agreements with the Community);

"prescribed" means specified in, or determined in accordance with, regulations made by the Treasury;

"relevant rule", in relation to any relevant tax or duty, has the meaning given by subsection (8) of section 26 (as read with subsection (9) of that section);

"representative", in relation to any person, means-

- (a) his personal representative,
- (b) his trustee in bankruptcy or interim or permanent trustee,
- (c) any receiver or liquidator appointed in relation to that person or any of his property,

or any other person acting in a representative capacity in relation to that person.

(4) References in this Part to the Community Customs Code are references to that Code as from time to time amended, whether before or after the coming into force of this Part.

(5) ...omitted.

(6) ...omitted.

(7) ...omitted.

The penalties

25 Penalty for evasion

- (1) In any case where-
 - (a) a person engages in any conduct for the purpose of evading any relevant tax or duty, and
 - (b) his conduct involves dishonesty (whether or not such as to give rise to any criminal liability),

that person is liable to a penalty of an amount equal to the amount of the tax or duty evaded or, as the case may be, sought to be evaded.

(2) Subsection (1) is subject to the following provisions of this Part.

(3) Nothing in this section applies in relation to any customs duty of a preferential tariff country.

(4) Any reference in this section to a person's "evading" any relevant tax or duty includes a reference to his obtaining or securing, without his being entitled to it,-

- (a) any repayment, rebate or drawback of any relevant tax or duty,
- (b) any relief or exemption from, or any allowance against, any relevant tax or duty, or
- (c) any deferral or other postponement of his liability to pay any relevant tax or duty or of the discharge by payment of any such liability,

and also includes a reference to his evading the cancellation of any entitlement to, or the withdrawal of, any such repayment, rebate, drawback, relief, exemption or allowance.

(5) In relation to any such evasion of any relevant tax or duty as is mentioned in subsection (4), the reference in subsection (1) to the amount of the tax or duty evaded or sought to be evaded is a reference to the amount of-

- (a) the repayment, rebate or drawback,
- (b) the relief, exemption or allowance, or
- (c) the payment which, or the liability to make which, is deferred or otherwise postponed,

as the case may be.

(6) Where, by reason of conduct falling within subsection (1) in the case of any relevant tax or duty, a person-

- (a) is convicted of an offence,
- (b) is given, and has not had withdrawn, a demand notice in respect of a penalty to which he is liable under section 26, or
- (c) is liable to a penalty imposed upon him under any other provision of the law relating to that relevant tax or duty,

that conduct does not also give rise to liability to a penalty under this section in respect of that relevant tax or duty.

26 Penalty for contravention of relevant rule

(1) If, in the case of any relevant tax or duty, a person of a prescribed description engages in any conduct by which he contravenes-

- (a) a prescribed relevant rule, or
- (b) a relevant rule of a prescribed description,

he is liable to a penalty under this section of a prescribed amount.

(2) Subsection (1) is subject to the following provisions of this Part.

(3) The power conferred by subsection (1) to prescribe a description of person includes power to prescribe any person (without further qualification) as such a description.

(4) Different penalties may be prescribed under subsection (1) for different cases or different circumstances.

(5) Any amount prescribed under subsection (1) as the amount of a penalty must not be more than £2,500.

(6) ...omitted.

(7) ...omitted.

(8) In this Part "relevant rule", in relation to any relevant tax or duty, means any duty, obligation, requirement or condition imposed by or under any of the following-

- (a) the Customs and Excise Management Act 1986, as it applies in relation to the relevant tax or duty;
- (b) any other Act, or any statutory provision, as it applies in relation to the relevant tax or duty;
- (c) in the case of customs duty, Community export duty or Community import duty, Community customs rules;
- (d) in the case of import VAT, Community customs rules as they apply in relation to import VAT;
- (e) any directly applicable Community legislation relating to the relevant tax or duty;
- (f) any relevant international rules applying in relation to the relevant tax or duty.

(9) In subsection (8)-

"Community customs rules" means customs rules, as defined in Article 1 of the Community Customs Code;

"relevant international rules" means international agreements so far as applying in relation to a relevant tax or duty and having effect as part of the law of Island by virtue of-

- (a) any Act or statutory provision, or
- (b) any directly applicable Community legislation.

27 Exceptions from section 26

(1) A person is not liable to a penalty under section 26 if he satisfies-

- (a) the Treasury, or
- (b) on appeal, an appeal tribunal,

that there is a reasonable excuse for his conduct.

(2) For the purposes of subsection (1) none of the following is a reasonable excuse-

- (a) an insufficiency of funds available to any person for paying any relevant tax or duty or any penalty due;
- (b) that reliance was placed by any person on another to perform any task;

- (c) that the contravention is attributable, in whole or in part, to the conduct of a person on whom reliance to perform any task was so placed.

(3) Where, by reason of conduct falling within subsection (1) of section 26 in the case of any relevant tax or duty, a person-

- (a) is prosecuted for an offence,
- (b) is given, and has not had withdrawn, a demand notice in respect of a penalty to which he is liable under section 25, or
- (c) is liable to a penalty imposed upon him under any other provision of the law relating to that relevant tax or duty,

that conduct does not also give rise to liability to a penalty under section 26 in respect of that relevant tax or duty.

(4) A person is not liable to a penalty under section 26 in respect of any conduct, so far as relating to import VAT, if in respect of that conduct-

- (a) he is liable to a penalty under any of sections 62 to 69A of the Value Added Tax Act 1996 (penalty for contravention of statutory requirements as to VAT), or
- (b) he would be so liable but for section 62(4), 63(11), 64(6), 67(9), 69(9) or 69A(7) of that Act (conduct resulting in conviction, different penalty etc).

28 Liability of directors etc where body corporate liable to penalty for evasion

(1) Where it appears to the Treasury-

- (a) that a body corporate is liable to a penalty under section 25, and
- (b) that the conduct giving rise to the penalty is, in whole or in part, attributable to the dishonesty of a person who is, or at the material time was, a director or managing officer of the body corporate (a "relevant officer"),

the Treasury may give a notice under this section to the body corporate (or its representative) and to the relevant officer (or his representative).

(2) A notice under this section must state-

- (a) the amount of the penalty referred to in subsection (1)(a) (the "basic penalty"), and
- (b) that the Treasury proposes, in accordance with this section, to recover from the relevant officer such portion (which may be the whole) of the basic penalty as is specified in the notice.

(3) If a notice is given under this section, this Part shall apply in relation to the relevant officer as if he were personally liable under section 25 to a penalty which corresponds to that portion of the basic penalty specified in the notice.

(4) If a notice is given under this section-

- (a) the amount which may be recovered from the body corporate under this Part is limited to so much (if any) of the basic penalty as is not recoverable from the relevant officer by virtue of subsection (3), and

- (b) the body corporate is to be treated as discharged from liability for so much of the basic penalty as is so recoverable from the relevant officer.
- (5) In this section "managing officer", in relation to a body corporate, means-
 - (a) a manager, secretary or other similar officer of the body corporate, or
 - (b) a person purporting to act in any such capacity or as a director.
- (6) Where the affairs of a body corporate are managed by its members, this section applies in relation to the conduct of a member in connection with his functions of management as if he were a director of the body corporate.

Reduction of amount of penalty

29 Reduction of penalty under section 25 or 26

- (1) Where a person is liable to a penalty under section 25 or 26-
 - (a) the Treasury (whether originally or on review) or, on appeal, an appeal tribunal may reduce the penalty to such amount (including nil) as they think proper; and
 - (b) the Treasury on a review, or an appeal tribunal on an appeal, relating to a penalty reduced by the Treasury under this subsection may cancel the whole or any part of the reduction previously made by the Treasury.
- (2) In exercising their powers under subsection (1), neither the Treasury nor an appeal tribunal are entitled to take into account any of the matters specified in subsection (3).
- (3) Those matters are-
 - (a) the insufficiency of the funds available to any person for paying any relevant tax or duty or the amount of the penalty,
 - (b) the fact that there has, in the case in question or in that case taken with any other cases, been no or no significant loss of any relevant tax or duty,
 - (c) the fact that the person liable to the penalty, or a person acting on his behalf, has acted in good faith.

Demand notices

30 Demands for penalties

(1) Where a person is liable to a penalty under this Part, the Treasury may give to that person or his representative a notice in writing (a "demand notice") demanding payment of the amount due by way of penalty.

(2) An amount demanded as due from a person or his representative in accordance with subsection (1) is recoverable as if it were an amount due from the person or, as the case may be, the representative as an amount of customs duty.

This subsection is subject to-

- (a) any appeal under section 33 (appeals to tribunal); and

- (b) subsection (3).
- (3) An amount so demanded is not recoverable if or to the extent that-
 - (a) the demand has subsequently been withdrawn; or
 - (b) the amount has been reduced under section 29.

31 Time limits for demands for penalties

- (1) A demand notice may not be given-
 - (a) in the case of a penalty under section 25, more than 20 years after the conduct giving rise to the liability to the penalty ceased, or
 - (b) in the case of a penalty under section 26, more than 3 years after the conduct giving rise to the liability to the penalty ceased.
- (2) A demand notice may not be given more than 2 years after there has come to the knowledge of the Treasury evidence of facts sufficient in the opinion of the Treasury to justify the giving of the demand notice.
- (3) A demand notice-
 - (a) may be given in respect of a penalty to which a person was liable under section 25 or 26 immediately before his death, but
 - (b) in the case of a penalty to which the deceased was so liable under section 25, may not be given more than 3 years after his death.

32 No prosecution after demand notice for penalty under section 26

Where a demand notice is given demanding payment of an amount due by way of penalty under section 26 in respect of any conduct of a person, no proceedings may be brought against that person for any offence constituted by that conduct (whether or not the demand notice is subsequently withdrawn).

Reviews

33 Right to appeal against certain decisions

- (1) If, in the case of any relevant tax or duty, the ~~Commissioners~~ Treasury give a person or his representative a notice informing him-
 - (a) that they have decided that the person has engaged in conduct by which he contravenes a relevant rule, and
 - (b) that the person is, in consequence, liable to a penalty under section 26, but
 - (c) that they do not propose to give a demand notice in respect of the penalty,the person or his representative may make an appeal to an appeal tribunal in respect of the decision mentioned in paragraph (a).
- (2) Where the Treasury give a demand notice to a person or his representative, the person or his representative may make an appeal to an appeal tribunal in respect of -
 - (a) their decision that the person is liable to a penalty under section 25 or 26, or

- (b) their decision as to the amount of the liability.
- (3) Where the Treasury give a notice under section 28 to a body corporate and to a relevant officer-
 - (a) subsection (2) does not apply to any demand notice given in respect of the liability of either of them to a penalty under this Part in respect of the conduct in question, but
 - (b) subsections (4) and (5) have effect instead in relation to any such demand notice.
- (4) Where the Treasury give a demand notice to the relevant officer or his representative for a penalty which corresponds to the portion of the basic penalty specified in the notice under section 28, the relevant officer or his representative may make an appeal to an appeal tribunal in respect of -
 - (a) their decision that the conduct of the body corporate referred to in section 28(1)(b) is, in whole or in part, attributable to the relevant officer's dishonesty, or
 - (b) their decision as to the portion of the basic penalty which the Treasury are seeking to recover from the relevant officer or his representative.
- (5) Where the Treasury give a demand notice to the body corporate or its representative for so much of the basic penalty as is not recoverable from the relevant officer by virtue of section 28(3), the body corporate or its representative may make an appeal to an appeal tribunal in respect of -
 - (a) their decision that the body corporate is liable to a penalty under section 25, or
 - (b) their decision as to amount of the basic penalty as if it were the amount specified in the demand notice.
- (6) The powers of an appeal tribunal on an appeal under this section include -
 - (a) power to quash or vary a decision; and
 - (b) power to substitute the tribunal's own decision for any decision so quashed.
- (7) On an appeal under this section -
 - (a) the burden of proof as to the matters mentioned in section 25(1) or 26(1) lies on the Treasury; but
 - (b) it is otherwise for the appellant to show that the grounds on which any such appeal is brought have been established.

33A Offer of review

- (1) The Treasury must offer a person (P) a review of a decision that has been notified to P if an appeal lies under section 33 in respect of that decision.
- (2) The offer of the review must be made by notice given to P at the same time as the decision is notified to P.
- (3) This section does not apply to the notification of the conclusions of a review.

33B Review by the Treasury

- (1) The Treasury must review a decision if -

- (a) the Treasury has offered a review of the decision under section 33A, and
- (b) P notifies the Treasury accepting the offer within 30 days from the date of the document containing the notification of the offer.

(2) But P may not notify acceptance of the offer if P has already appealed to the appeal tribunal under section 33F.

(3) The Treasury shall not review a decision if P has appealed to the appeal tribunal under section 33F in respect of the decision.

33C Extensions of time

(1) If under section 33A, the Treasury has offered P a review of a decision, the Treasury may within the relevant period notify P that the relevant period is extended.

(2) If notice is given the relevant period is extended to the end of 30 days from –

- (a) the date of the notice, or
- (b) any other date set out in the notice or a further notice.

(3) In this section, "relevant period" means –

- (a) the period of 30 days referred to in section 33B(1)(b), or
- (b) if notice has been given under subsection (1) that period as extended (or as most recently extended) in accordance with subsection (2).

33D Review out of time

(1) This section applies if –

- (a) the Treasury has offered a review of a decision under section 33A, and
- (b) P does not accept the offer within the time allowed under section 33B(1)(b) or 33C(2).

(2) The Treasury must review the decision under section 33B if –

- (a) after the time allowed, P notifies the Treasury in writing requesting a review out of time,
- (b) the Treasury is satisfied that P had a reasonable excuse for not accepting the offer or requiring the review within the time allowed, and
- (c) the Treasury is satisfied that P made the request without reasonable delay after the excuse had ceased to apply.

(3) The Treasury shall not review a decision if P has appealed to the appeal tribunal under section 33F in respect of the decision.

33E Nature of review etc

(1) This section applies if the Treasury is required to undertake a review under section 33B or 33D.

- (2) The nature and extent of the review are to be such as appear appropriate to the Treasury in the circumstances.
- (3) For the purposes of subsection (2), the Treasury, must in particular, have regard to steps taken before the beginning of the review –
- (a) by the Treasury in reaching the decision, and
 - (b) by any person in seeking to resolve disagreement about the decision.
- (4) The review must take account of any representations made by P at a stage which gives the Treasury a reasonable opportunity to consider them.
- (5) The review may conclude that the decision is to be –
- (a) upheld,
 - (b) varied, or
 - (c) cancelled.
- within– (6) The Treasury must give P notice of the conclusions of the review and its reasoning
- (a) a period of 45 days beginning with the relevant date, or
 - (b) such other period as the Treasury and P may agree.
- (7) In subsection (6), "relevant date" means –
- (a) the date the Treasury received P's notification accepting the offer of a review (in a case falling within section 33A), or
 - (b) the date on which the Treasury decided to undertake the review (in a case falling within section 33D).
- (8) Where the Treasury is required to undertake a review but does not give notice of the conclusions within the period specified in subsection (6), the review is to be treated as having concluded that the decision is upheld.
- (9) If subsection (8) applies, the Treasury must notify P of the conclusions which the review is treated as having reached.

33F Bringing of appeals

- (1) an appeal under section 33 is to be made to the appeal tribunal before –
- (a) the end of the period of 30 days beginning with the date of the document notifying the decision to which the appeal relates, or
 - (b) if later, the end of the relevant period (within the meaning of section 33C).
- (2) But that is subject to subsections (3) to (5).
- 33B– (3) In a case where the Treasury is required to undertake a review under section
- (a) an appeal may not be made until the conclusion date, and

- (b) any appeal is to be made within the period of 30 days beginning with the conclusion date.

(4) In a case where the Treasury is requested to undertake a review in accordance with section 33D –

- (a) an appeal may not be made to the tribunal –
 - (i) unless the Treasury has notified P as to whether or not a review will be undertaken; and
 - (ii) if the Treasury has notified P that a review will be undertaken, until the conclusion date;
- (b) any appeal where paragraph (a)(ii) applies is to be made within the period of 30 days beginning with the conclusion date; and
- (c) if the Treasury has notified P that a review will not be undertaken, an appeal may only be made if the tribunal gives permission to do so.

(5) In a case where section 38E(8) applies, an appeal may be made at any time from the end of the period specified in section 33E(6) to the date 30 days after the conclusion date.

(6) An appeal may be made after the end of the period specified in subsection (1), (3)(b), (4)(b) or (5) if an appeal tribunal gives permission to do so.

(7) In this section, "conclusion date" means the date of the document notifying the conclusions of the review.

34 ...Omitted.

35 ...Omitted.

36 ...Omitted.

37 Appeal tribunals

Section 85 of the Value Added Tax Act 1996 (settling appeals by agreement) has effect as if reference to section 83 of that Act included a reference to section 33 above.

Evidence

38 Admissibility of certain statements and documents

(1) Statements made or documents produced by or on behalf of a person are not inadmissible in-

- (a) any criminal proceedings against that person in respect of any offence in connection with or in relation to any relevant tax or duty, or
- (b) any proceedings against that person for the recovery of any sum due from him in connection with or in relation to any relevant tax or duty,

by reason only that any of the matters specified in subsection (2) has been drawn to his attention and that he was, or may have been, induced by that matter having been brought to his attention to make the statements or produce the documents.

(2) The matters mentioned in subsection (1) are-

- (a) that the Treasury have power, in relation to any relevant tax or duty, to demand by means of a written notice an amount by way of a civil penalty, instead of instituting criminal proceedings;
- (b) that it is the Treasury's practice, without being able to give an undertaking as to whether they will make such a demand in any case, to be influenced in determining whether to make such a demand by the fact (where it is the case) that a person has made a full confession of any dishonest conduct to which he has been a party and has given full facilities for an investigation;
- (c) that the Treasury or, on appeal, an appeal tribunal have power to reduce a penalty under section 25, as provided in subsection (1) of section 29; and
- (d) that, in determining the extent of such a reduction in the case of any person, the Treasury or tribunal will have regard to the extent of the co-operation which he has given to the Treasury in their investigation.

(3) References in this section to a relevant tax or duty do not include a reference to customs duty of a preferential tariff country.

Miscellaneous and supplementary

39 Service of notices

Any notice to be given to any person for the purposes of this Part may be given by sending it by post in a letter addressed to that person or his representative at the last or usual residence or place of business of that person or representative.

40 Not applied

41 Regulations and orders

(1) Any power conferred on the Treasury by this Part to make regulations or an order includes power—

- (a) to make different provision for different cases, and
- (b) to make incidental, consequential, supplemental or transitional provision or savings.

(2) ..Omitted.

(3) A public document containing regulations made under this Part must be laid before Tynwald as soon as practicable after it is made, and if Tynwald at the sitting of Tynwald before which it is laid, or the following sitting, resolves that the document shall be annulled, it shall cease to have effect.

2003 No. 467

CUSTOMS AND EXCISE

The Customs (Presentation of Goods for Export) Regulations 2003

Made	3 rd March 2003
Laid before Parliament	4 th March 2003
Coming into force	26 th March 2003

The Commissioners of Customs and Excise, being a Department designated for the purposes of section 2(2) of the European Communities Act 1972 in relation to customs matters of the European Communities, in exercise of the powers conferred upon them by that section and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Customs (Presentation of Goods for Export) Regulations 2003.

Interpretation

2. In these Regulations –

“the Council Regulation” means the Council Regulation (EEC) 2913/92 establishing the Community Customs Code;

“customs declaration” has the meaning given by Article 4(17) of the Council Regulation;

“electronic communication” means a communication transmitted (whether from one person to another, from one device to another or from a person to a device or vice versa) –

(a) by means of a telecommunication system (within the meaning of section 106(1) of the Telecommunications Act 1984;

(b) by other means but while in an electronic form;

“export” means the customs procedure for export described in Articles 4(16), 161 and 162 of the Council Regulation;

“official system” means a system operated by the Treasury for the acceptance of an electronic communication containing information in connection with the completion of a customs procedure.

Presentation of goods for export by documentary means

3. For the purposes of Article 4(19) of the Council Regulation (presentation of goods to Customs), presentation of goods to the Treasury for export shall be made by delivering to the

Treasury –

- (a) the form prescribed in Schedule 1, or a form to the like effect approved by the Treasury, containing the information required in relation to those goods by that form; and
- (b) a document containing the information required in relation to those goods by Schedule 2.

Presentation of goods for export using an electronic communication

4. (1) Subject to paragraph (2), the requirements concerning presentation of goods described in regulation 3 may be satisfied by delivery, to an official system by means of an electronic communication, of information concerning the place at which those goods are situated.

(2) Information shall be taken to have been delivered to an official system by means of an electronic communication only if it is accepted by the official system to which it is delivered and is in a form intelligible to the Treasury.

Evidence of contents of an electronic communication

5. (1) A document certified by the Treasury to be a printed-out version of any information delivered by means of an electronic communication shall be evidence, unless the contrary is proved, of the authenticity and entirety of the information delivered on that occasion.

(2) A document purporting to be a certificate given in accordance with paragraph (1) shall be presumed to be such a certificate unless the contrary is proved.

Ray McAfee
Commissioner of Customs and Excise

New King's Beam House, 22 Upper Ground, London, SE1 9PJ
3rd March 2003

SCHEDULE 1

Regulation 3(a)

PRESENTATION OF GOODS FOR EXPORT

I hereby notify Customs that goods listed on

(document reference)

attached

Arrived at _____

(name of wharf, port, airport, together with transit shed reference)

on _____

(date)

at _____

(time)

I present the goods under Article 161 of the Council Regulation (EEC) No. 2913/92.

Signature: _____

Name: _____

Company: _____

Status: _____

Date: _____

SCHEDULE 2

Regulation 3(b)

PARTICULARS

1. The number of packages containing goods in respect of which a customs declaration for export will be made.
2. The marks and numbers affixed to each such package.
3. A description of the goods in each such package sufficient to enable an officer of customs and excise to identify them.
4. The expected date of export of each such package.
5. The final destination of each such package.
6. The name of the ship, the flight number of the aircraft or the number of the train by means of which each such package will be exported.

Note: For goods carried in a freight container or vehicle, items 4, 5 and 6 may be omitted provided the appropriate container or vehicle manifest showing the details required by those items and the identifying number of the container or the registration number of the vehicle is attached to the form prescribed in Schedule 1 or the form to like effect approved by the Treasury.

STATUTORY INSTRUMENTS

2004 No. 1836

CUSTOMS AND EXCISE

The Fireworks Regulations 2004

Made	14 th July 2004
Laid before Parliament	16 th July 2004
Coming into force	
Regulations 9 and 11	1 st January 2005
Remainder	7 th August 2004

Whereas the Secretary of State considers that there is a risk that the use of fireworks will have the consequences of death of persons or injury, alarm, distress or anxiety to persons; death of animals or injury or distress to animals; or destruction of, or damage to, property;

And whereas the Secretary of State, in accordance with section 2(1)(b) and (2) of the Fireworks Act 2003, considers it appropriate to make provision by regulations for securing that the risk that the use of fireworks will have the aforesaid consequences is the minimum compatible with their being used;

And whereas the Secretary of State, in accordance with section 2(3) of that Act, has consulted the Health and Safety Commission, those organisations which appear to her to be representative of interests substantially affected by these Regulations and such other persons whom she considers it appropriate to consult;

And whereas the Secretary of State has issued a full regulatory impact assessment in accordance with section 2(4) of that Act;

And whereas the Commissioners of Customs and Excise, every fire and civil defence authority, every chief officer of police in England and Wales and every chief constable in Scotland have, in accordance with section 27(2)(a) of the Consumer Protection Act 1987, agreed to the transfer to them of such enforcement duties as are specified in these Regulations;

Now, therefore, the Secretary of State, in exercise of the powers conferred upon her by sections 2 to 5 and 7 to 9 of the Fireworks Act 2003 and by sections 11(3) and 27(2) of the Consumer Protection Act 1987 (as applied respectively by sections 11(6) and 12(1) of the Fireworks Act 2003), hereby makes the following Regulations:

Citation, commencement and extent

1. (1) These Regulations may be cited as the Fireworks Regulations 2004.
- (2) ...Omitted.
- (3) ...Omitted.
- (4) ...Omitted.

Revocation of the Fireworks Regulations 2003

2. ...Omitted.

Interpretation

3. In these Regulations –

“BS 7114” means the British Standard Specification comprising the following parts –

- (a) BS 7114: Part 1: 1988, the British Standard Specification for classification of fireworks published on 30th November 1988;
- (b) BS 7114: Part 2: 1988, the British Standard Specification for fireworks published on 30th November 1988; and
- (c) BS 7114: Part 3: 1988, the British Standard Specification for methods of test for fireworks published on 30th November 1988;

and references to Parts 1, 2 and 3 of BS 7114 shall be construed accordingly;

“fireworks” means devices which –

- (a) are fireworks for the purposes of the British Standard Specification relating to fireworks published on 30th November 1988 (BS 7114) or any British Standard Specification replacing it, or
- (b) would be fireworks for those purposes if they were intended as a form of entertainment.

Prohibition of possession of fireworks by persons below the age of eighteen

4. ...Omitted.

Prohibition of possession of category 4 fireworks

5. ...Omitted.

Exceptions to regulations 4 and 5

6. ...Omitted.

Prohibition of use of certain fireworks at night

7. ...Omitted.

Prohibition of supply of excessively loud category 3 fireworks

8. ...Omitted.

Licensing of fireworks suppliers

9. ...Omitted.

Information about adult fireworks

10. ...Omitted.

Importation of fireworks

11. No person shall import any firework, unless he has given the following information to the Treasury –

- (a) his name and address;
- (b) the name of the person who is to store the fireworks following their importation; and
- (c) the address of the premises at which the fireworks are to be stored following their importation.

Transfer of enforcement duties

12. ...Omitted.

Proceedings

13. ...Omitted.

Gerry Sutcliffe,
Parliamentary Under Secretary of State for Employment Relations,
Competition and Consumers, Department of Trade and Industry

14th July 2004

STATUTORY INSTRUMENTS

2008 No. 2795

ANIMALS

CUSTOMS

The Cat and Dog Fur (Control of Import, Export and Placing on the Market) Regulations 2008

Made	26 th October 2008
Laid before Parliament	28 th October 2008
Coming into force	31 st December 2008

The Secretary of State, being a designated Minister under section 2(2) of the European Communities Act 1972, makes the following Regulations in exercise of his powers under that section.

Interpretation

1. (1) These Regulations may be cited as the Cat and Dog Fur (Control of Import, Export and Placing on the Market) Regulations 2008.

(2) In these Regulations, the following definitions shall apply –

“business” includes a trade or profession and the activities of a professional or trade association or of a local authority or other public authority;

“cat” means an animal of the species *felis silvestris*;

“dog” means an animal of the subspecies *canis lupus familiaris*;

“enforcement authority” means any body on whom functions are conferred by or under regulation 3(1);

“goods” means any article which an officer reasonably believes to be cat and dog fur or a product containing such fur;

“officer” has the same meaning as in section 184(1) of the Customs and Excise Management Act 1986; and

“records” includes any books or documents and any records in electronic form.

Penalty for breach of Regulation (EC) No 1523/2007

2. Any person who contravenes Article 3 of Regulation (EC) No 1523/2007 of the European Parliament and of the Council of 11 December 2007 banning the placing on the market and the import to, or export from, the Community of cat and dog fur, and products containing such fur shall be guilty of an offence and liable –

- (a) on conviction on information, to a fine not exceeding £75,000; and
- (b) on summary conviction, to a fine not exceeding £5,000.

Powers of investigation and enforcement

3. (1) ...Omitted.

(2) It shall be the duty of the Treasury to enforce these Regulations at any place where goods are subject to customs supervision within the meaning of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code.

(3) For the purposes of enforcing these Regulations, an officer may at any reasonable hour and on production, if required, of evidence that he is an officer –

- (a) inspect any goods;
- (b) enter any premises (including any place or vehicle) other than premises occupied only as a dwelling;
- (c) purchase any goods for the purposes of inspection;
- (d) examine any procedure connected with the production of any goods;
- (e) require any person carrying on a business, or employed in connection with a business, to produce any records relating to the business;
- (f) seize and detain any goods or records where there are reasonable grounds for believing that they may be –
 - (i) required as evidence in proceedings for an offence under regulation 2; or
 - (ii) (in relation to goods only) liable to be forfeited under regulation 4;
- (g) take copies of, or of any entry in, any records produced by virtue of sub-paragraph (e) or seized by way of sub-paragraph (f);
- (h) require any person having authority to do so to open any container; and
- (i) where a requirement made under sub-paragraph (h) has not been complied with, open or break open any container.

Forfeiture and destruction of goods

4. (1) The Treasury may apply under this regulation for an order for the forfeiture of any goods on the grounds that there has been an offence under regulation 2 in relation to the goods.

(2) An application under this regulation may be made –

- (a) where proceedings have been brought in the High Bailiff's court for an offence under regulation 2 in relation to some or all of the goods, to that court; or
- (b) where an application for the forfeiture of the goods has been made under sub-paragraph (a), by way of complaint to the High Bailiff's court.

(3) On an application under this regulation, the court shall make an order for the forfeiture of any goods only if it is satisfied that there has been an offence under regulation 2 in relation to the goods.

(4) A court may infer for the purposes of this regulation that an offence under regulation 2 has been committed in relation to any goods if it is satisfied that an offence under regulation 2 has been committed in relation to goods which are representative of those goods (whether by reason of being part of the same consignment or batch or otherwise).

(5) Any person aggrieved by an order made under this regulation by the High Bailiff's court, or by a decision of such a court not to make such an order, may appeal against that order or decision to the High Court and an order made under this regulation by the High Bailiff's Court may contain such provision as appears to the court to be appropriate for delaying the coming into force of the order pending the making and determination of any appeal.

(6) Where any goods are forfeited under this regulation they shall be destroyed.

Obstruction of an officer

5. (1) It is an offence for a person ("P") –

- (a) intentionally to obstruct an officer in the exercise of any power granted under these Regulations;
- (b) intentionally to fail to comply with any requirement properly imposed on P by an officer in the exercise of any such power;
- (c) to fail, without reasonable excuse, to give an officer any assistance or information which the officer may reasonably require of P for the purpose of exercising any such power; or
- (d) in giving to an officer any information which P has been required to give an officer exercising any such power, to make any statement which P knows to be false or misleading in a material particular.

(2) A person who is guilty of an offence under this regulation is liable on summary conviction to a fine not exceeding £1,000.

(3) Nothing in this section is to be taken to require any person to answer any question put to that person by an officer, or to give any information to such an officer, if to do so might incriminate that person.

Gareth Thomas
Minister of State for Trade, Investment and Consumer Affairs
Department for Business, Enterprise and Regulatory Reform

26th October 2008

STATUTORY INSTRUMENTS

2008 No. 2852

CONSUMER PROTECTION

ENVIRONMENTAL PROTECTION

HEALTH AND SAFETY

The REACH Enforcement Regulations 2008

Made	1 st November 2008
Laid before Parliament	10 th November 2008
Coming into force	1 st December 2008

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The Secretary of State, being a Minister designated for the purposes of section 2(2) of the European Communities Act 1972 in relation to measures relating to persistent organic pollutants, dangerous substances, preparations and chemicals, makes the following Regulations in exercise of the powers conferred by that section:

PART 1

Introduction

Citation

1. These Regulations may be cited as the REACH Enforcement Regulations 2008.

Interpretation

2. (1) In these Regulations –

“a listed REACH provision” means a provision of REACH listed in the REACH table but only insofar as it prohibits, restricts or relates to the import or export of any thing into or from the Island;

“REACH” means Regulation (EC) No 1907/2006 of the European Parliament and of the Council concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (as it has effect in the Island);

“the REACH table” means the table in Schedule 1 to these Regulations.

- (2) In these Regulations -

“authorised person” means an officer of customs and excise within the meaning of section 184(1) of the Customs and Excise Management Act 1986;

“enforcement duty” means a duty placed on the Treasury under regulation 3.

- (3) Other expressions used in these Regulations which are used in REACH have the meaning they bear in REACH.

Competent authority

- 2A. The competent authority for the purposes of REACH, (but only insofar as it prohibits, restricts or relates to the import or export of any thing into or from the Island) is the Treasury.

PART 2

Enforcement

Enforcement

3. (1) The Treasury must enforce a listed REACH provision in the REACH Table, but only (insofar as it prohibits, restricts, or relates to the import or export of any thing into or from the Island).

- (2) The duty in paragraph (1) is subject to the following provisions of this regulation.

- (3) The enforcement duty commences on 1 November 2010.

- (4) ...Omitted.

- (5) In relation to an offshore installation, the enforcement duty applies to the competent authority.

- (6) ...Omitted.

(7) The enforcement duty applies to the Treasury where enforcement of the listed REACH provision is a function of that authority.

(8) The functions of the Treasury for the purposes of these Regulations are set out in Schedule 2 (functions of the Treasury).

Co-operation and information sharing

4. (1) The Treasury must co-operate with –
- (a) the Department of Environment, Food and Agriculture;
 - (b) the Department of Infrastructure;
 - (c) a competent authority in the United Kingdom, namely –
 - (i) in England, the Secretary of State;
 - (ii) in Scotland, the Scottish Ministers;
 - (iii) in Wales, the Welsh Ministers;
 - (iv) in Northern Ireland, the Department of Enterprise, Trade and Investment and the Department of Environment acting alone or jointly; and
 - (v) in relation to matters outside the competence of the Scottish Ministers, the Welsh Ministers or the Northern Ireland Assembly, the Secretary of State;
 - (d) Her Majesty's Commissioners for Revenue and Customs or the United Kingdom Border Agency in the United Kingdom or a body performing the equivalent functions in a member State; and
 - (e) the European Chemicals Agency;

where this will facilitate compliance with, or the enforcement of, the REACH Regulation in the European Union or the Island.

(2) The Treasury must disclose to a person referred to in paragraph (1) information it holds in relation to compliance with, or the enforcement of, REACH where it believes –

- (a) it is reasonable for it to make that disclosure; and
- (b) the disclosure will facilitate compliance with, or the effective enforcement of, REACH in the European Union or the Island.

(3) ...Omitted.

Enforcement agreements

5. ...Omitted.

Health and safety enforcement

6. ...Omitted.

PART 3 Exemptions

Defence

7. (1) A person is exempt from compliance with a listed REACH provision if that person –
- (a) has the benefit of a defence exemption certificate made by the Secretary of State in respect of that provision; or
 - (b) can demonstrate that the appropriate authorities of a member State have exempted that person from compliance in the interests of defence.
- (2) Schedule 4 (defence exemption certificates) has effect.

Marketing and use of leaded paint

8. ...Omitted.

PART 4 Enforcement powers and civil proceedings

Enforcement powers

9. (1) Schedule 6 (powers of enforcement) has effect.
- (2) To facilitate the exercise of a duty of the Treasury under these Regulations, an authorised person may detain, for not more than two working days, an article or substance which has been imported.
- (3) Anything detained must be dealt with in such manner as the Treasury may direct.
- (4) In paragraph (2), the reference to two working days has the meaning given in section 47A of the Customs and Excise Management Act 1986 (power of customs officer to detain articles and substances).

Authorised persons

10. ...Omitted.

PART 5 Offences and penalties

CHAPTER 1

Offences and penalties in relation to a listed REACH provision and Schedules 4 and 5

Offences

11. (1) It is an offence for a person to contravene a listed REACH provision or cause or permit another person to do so, (but only insofar as it prohibits, restricts or relates to the import or export of any thing into or from the Island).
- (2) ...Omitted.
- (3) It is an offence for a person when subject to paragraph 6 of Schedule 4 (defence exemption certificate) –

- (a) to provide a false certificate or copy; or
- (b) to fail to provide when requested, as appropriate –
 - (i) the defence exemption certificate;
 - (ii) a copy of the certificate made by the Secretary of State; or
 - (iii) a copy of an extract of the certificate made by the Secretary of State,

or cause or permit another person to do so.

- (4) ...Omitted.

Penalties

- 12. Any person guilty of an offence under regulation 11 is liable –
 - (a) on summary conviction, to custody for not more than 3 months, a fine not exceeding £5,000, or both;
 - (b) on conviction on information, to custody for not more than 2 years, a fine, or both.

CHAPTER 2 Other offences and penalties

Offences

- 13. (1) It is an offence for a person –
 - (a) intentionally to obstruct an authorised person in the exercise or performance of the powers or duties of the authorised person; or
 - (b) to make a statement –
 - (i) which that person knows to be false or misleading in a material particular; or
 - (ii) recklessly and which is false or misleading in a material particular,where the statement is made in purported compliance with a listed REACH provision (but only insofar as it prohibits, restricts or relates to the import or export into or from the Island) or with a requirement to furnish any information imposed by or under these Regulations.
- (2) Where an authorised person exercises the powers in Schedule 6 (powers of enforcement), it is an offence for a person –
 - (a) to fail to comply with –
 - (i) any requirement imposed by or made under those powers;
 - (ii) a notice described in that Schedule;
 - (b) to fail or refuse –

- (i) to provide facilities or assistance; or
- (ii) to permit any inspection,
when reasonably required by an authorised person; or
- (c) to prevent any other person from appearing before an authorised person, or answering any question to which an authorised person may require an answer.

(3) It is a defence for a person charged with an offence under paragraph (2) to prove that they had a reasonable excuse for the matters with which they are charged.

(4) It is an offence for a person to pretend to be an authorised person.

(5) It is an offence for a person to disclose the information described in paragraph (6) where –

- (a) that person received that information from the Treasury; and
- (b) the disclosure has not been made –
 - (i) with the prior consent of the Treasury; or
 - (ii) pursuant to a legal obligation.

(6) The information referred to in paragraph (5) is information which relates to a person whose identity –

- (a) is specified in the disclosure; or
- (b) may be deduced from the disclosure,

but excludes information about internal administrative arrangements of the Treasury (whether relating to officers or others).

(7) It is a defence for a person charged with an offence under paragraph (5) to prove that they believed that –

- (a) the disclosure was lawful; or
- (b) the information had already and lawfully been made available.

(8) In this regulation, “powers or duties” includes powers or duties exercisable by virtue of a warrant.

Penalties

14. A person guilty of an offence under regulation 13 is liable –

- (a) on summary conviction to custody for not more than 3 months, a fine not exceeding £5,000, or both;
- (b) on conviction on indictment, to custody for not more than 2 years, a fine, or both.

CHAPTER 3
Bodies corporate etc and remediation

Bodies corporate etc

15. (1) Where an offence under this Part is committed by a body corporate and –

- (a) it is committed with the consent or connivance of an officer: or
- (b) it is attributable to any neglect on the officer's part,

the officer as well as the body corporate is guilty of the offence and is liable to be proceeded against and punished accordingly.

(2) "Officer" includes –

- (a) in relation to a body corporate, a director, manager, secretary, chief executive, member of the committee of management and its registered agent;
- (b) in relation to an unincorporated association, any officer of the association and any member of its governing body; and
- (c) in relation to a limited liability company constituted under the Limited Liability Companies Act 1996, the company's manager, the registered agent and its members,

and any person purporting to act in such a capacity.

(3) If the affairs of a body corporate or limited liability company are managed by its members, paragraph (1) applies in relation to the acts or defaults of a member in connection with that member's functions of management as if the member were a director of the body corporate.

(4) If an offence under this Part committed by a partnership is shown –

- (a) to have been committed with the consent or the connivance of a partner; or
- (b) to be attributable to any neglect on the part of a partner,

the partner as well as the partnership is guilty of an offence and liable to be proceeded against and punished accordingly.

(5) If an offence under this Part committed by an unincorporated association (other than a partnership) is shown –

- (a) to have been committed with the consent or the connivance of an officer of the association, or
- (b) to be attributable to any neglect on the part of any such officer,

the officer as well as the association is guilty of an offence and liable to be proceeded against and punished accordingly.

(6) In paragraph (4), "partner" includes a person holding himself or herself out to be a partner (within the meaning of section 16(1) of the Partnership Act 1909).

Power of court to order cause of offence to be remedied

16. (1) Paragraph (1) applies where a person is convicted of an offence under this Part in respect of any matters which appear to the court to be matters which it is in that person's power to remedy.

(2) Where paragraph (1) applies, the court may order the person convicted –

- (a) in addition to or instead of imposing any punishment; and
- (b) within such time as may be fixed by the order,

to take such steps as may be specified in the order for remedying the matters in respect of which the person was convicted.

(3) The time fixed by an order under paragraph (2) may be extended or further extended by order of the court on an application made before the end of the time as originally fixed or extended under this paragraph, as the case may be.

(4) Where a person is ordered under paragraph (2) to remedy any matters, that person is not liable under regulation 11 or 13 in respect of those matters in so far as they continue during the time fixed by the order or any further time allowed under paragraph (3).

CHAPTER 4

Matters in relation to criminal proceedings

Appearance of authorised persons before a court of summary jurisdiction

17. ...Omitted.

Criminal proceedings under regulation 11 or 13

18. No criminal proceedings for an offence under regulation 11 or 13 may be instituted except by, or with the consent of, the Attorney General.

Criminal proceedings against the Crown

19. (1) No contravention by the Crown of these Regulations makes the Crown criminally liable but the High Court may on the application of the Treasury declare unlawful any act or omission of the Crown which constitutes a contravention of these Regulations.

(2) Notwithstanding paragraph (1), these Regulations apply to persons in the public service of the Crown as they apply to other persons.

(3) In this regulation, "Crown" means the Crown in right of the Government of the Island.

CHAPTER 5

Civil proceedings

Proceedings before a civil court

20. If the Treasury is of the opinion that proceedings against a person for an offence under this Part would afford an ineffectual remedy against that person, the Treasury may take civil proceedings against that person for the purpose of seeking such remedy as the Treasury believes is appropriate in the circumstances.

PART 6
Appeals against notices and service of documents

Appeals against notices

21. ...Omitted.

Service of documents

22. ...Omitted.

PART 7
Revocations and amendments

Revocations and amendments

23. ...Omitted.

Huw Irranca-Davies
Parliamentary Under Secretary of State
Department for Environment, Food and Rural Affairs

1st November 2008

SCHEDULE 1

Table of REACH provisions

Provision of REACH	Provision of REACH
Article 7(2) (Subject to Article 7(6)).	Requirement on an importer of an article to notify the European Chemicals Agency.
Article 7(3) (Subject to Article 7(6)).	Requirement on an importer to supply appropriate instructions to the recipient of the article.
Article 8(2) (first sentence).	Requirement on a representative of a non-community manufacturer to comply with obligations of importers.
Article 9(2)	Requirement on an importer of articles to notify the European Chemicals Agency of relevant information when that person seeking to rely on the exemption for product and process orientated research and development.
Article 9(6)	Requirement on an importer of articles to comply with conditions imposed by the European Chemicals Agency.
Article 12(2)	Requirement on an importer to notify the European Chemicals Agency of additional information where it reaches the next tonnage threshold.
Article 24(2)	Requirement on an importer to notify, in accordance with Article 10 (information to be submitted for general registration purposes) and Article 12 (information to be submitted depending on tonnage), if the quantity of a notified substance reaches the next tonnage threshold.
Article 36(1)	Requirement on an importer to keep available for at least ten years after it last imported the substance or preparation, all the information it requires to carry out its duties under REACH. Requirement on an importer to submit or make available information to a competent authority or the European Chemicals Agency when requested to do so.
Article 37(3)	Requirements providing when an importer must comply with Article 14 (chemical safety report and duty to apply and recommend risk reduction measures) for registered substances. Requirements providing when an importer must comply with Article 14 for a phase-in substance. Requirement on an importer to provide the European Chemicals Agency and downstream users with reasons why a use identified by a downstream user cannot be included in the chemical safety report.

Provision of REACH	Description of relevant subject matter
	<p>Prohibition on an importer supplying a downstream user with a substance without stating in the information referred to in Article 31 (requirements for safety data sheets) and Article 32 (duty to communicate information down the supply chain for substances on their own or in preparations for which a safety data sheet is not required) the reasons why a use is not an identified-use.</p> <p>Requirement on an importer to include the use notified under Article 37 (2) in the update of the registration under Article 22(1)(d).</p>
Article 56(1) (subject to Article 56(4)-(6))	Prohibition on an importer importing for a use or to use it himself if that substance is included in Annex XIV (list of substances subject to authorisation) unless Article 56(1)(a), (b), (c), (d) or (e) are satisfied.
Article 67(1) (subject to Article 67(2))	Prohibition on the importation of a substance on its own, in a preparation or in an article for which Annex XVII (restrictions on the manufacture, placing on the market and use of certain dangerous substances, preparations and articles) contains a restriction unless this complies with the conditions of that restriction.
Article 113(1)	Requirement on an importer or group of importers, who place on the market a substance within the scope of Article 112 (scope), to provide information listed in Article 113(1)(a), (b), (c), (d) or (e) unless submitted with a registration.

Regulation 3(8)

SCHEDULE 2

Functions of the Treasury

The functions of the Treasury, in exercise of controls on importation, are to -

- (a) (a) prevent, minimise, remedy or mitigate the effects of pollution of the environment;
- (b) (b) ensure the safety of the environment;
- (c) (c) control the placing on the market of articles and substances.

Regulation 6(2)

SCHEDULE 3

Health and safety enforcement

...Omitted.

SCHEDULE 4**Defence exemption certificates**

1. The Secretary of State may decide that it is necessary in the interests of defence for a person to be exempt from compliance with a listed REACH provision.
2. The Secretary of State may decide to apply the exemption -
 - (a) to a person, including the Secretary of State, or a category of persons;
 - (b) to one or more provision at the same time;
 - (c) prospectively;
 - (d) for a limited or unlimited period;
 - (e) generally or to a particular case;
 - (f) subject to such limitations and conditions as the Secretary of State sees fit.
3. A decision of the Secretary of State to apply the exemption must be evidenced in writing by a certificate.
4. A certificate -
 - (a) must contain sufficient particulars of the persons to whom, and the matters to which, it relates; and
 - (b) may be varied or revoked in writing.
5. The Secretary of State may provide to a person who has the benefit of a certificate -
 - (a) the certificate;
 - (b) a copy of it; or
 - (c) a copy of the relevant extract of the certificate.
6. A person who claims the benefit of a certificate must produce to the persons listed in paragraph 7 when requested to do so -
 - (a) the certificate;
 - (b) a copy of it made by the Secretary of State; or
 - (c) a copy made by the Secretary of State of a relevant extract of the certificate.
7. The persons referred to in paragraph 6 -
 - (a) the Treasury;
 - (b) a body mentioned in regulation 4(1)(b) or (c);
 - (c) the European Chemicals Agency.

8. Unless the contrary is proved -
- (a) a certificate;
 - (b) a copy of it made by the Secretary of State; or
 - (c) a copy made by the Secretary of State of a relevant extract of the certificate,
- is conclusive evidence of the matters to which it relates.

Regulation 8

SCHEDULE 5

Marketing and use of leaded paints

...Omitted.

Regulation 9(1)

SCHEDULE 6

Powers of enforcement

PART 1

SECTION 1

Powers of entry and warrants

1. The powers of any authorised person are -
- (a) to enter at any reasonable time (or, in an emergency, at any time and, if need be, by force) any premises which that person has reason to believe it is necessary to enter;
 - (b) on entering any premises by virtue of sub-paragraph (a), to -
 - (i) be accompanied by any other person duly authorised by the Treasury and, if the authorised person has reasonable cause to apprehend any serious obstruction in the execution of the authorised person's duty, a constable;
 - (ii) take any equipment or materials required for any purpose for which the power of entry is being exercised;
 - (c) to make such examination and investigation as may in any circumstances be necessary;
 - (d) as regards those premises which the authorised person has power to enter, to direct that those premises or any part of them, or anything in them, shall be left undisturbed (whether generally or in particular respects) for so long as is reasonably necessary for the purpose of any examination or investigation under sub-paragraph (c);
 - (e) to take such measurements and photographs and make such recordings as the authorised person considers necessary for the purpose of any examination or investigation under sub-paragraph (c);
 - (f) to take samples, or cause samples to be taken, of any thing found in or on any premises which the authorised person has power to enter, and of the air, water or land in, on or in the vicinity of, the premises;

- (g) in the case of any thing found in or on any premises which the authorised person has power to enter and which appears to that person to be in contravention of a listed REACH provision (but only insofar as it prohibits, restricts or relates to the import or export of any thing into or from the Island), to cause it to be dismantled or subjected to any process or test (but not so as to destroy or damage it, unless that is necessary);
- (h) in the case of any thing mentioned in sub-paragraph (g), to take possession of it and detain it for so long as is necessary for all or any of the following purposes -
 - (i) examine it, or cause it to be examined, and to do, or cause to be done, to it anything which the authorised person has power to do under that sub-paragraph;
 - (ii) to ensure that it is not tampered with before examination of it is completed; and
 - (iii) to ensure that it is available for use in any proceedings for an offence under regulation 11 or 13;
- (i) to require any person whom the authorised person has reasonable cause to believe to be able to give any information relevant to any examination or investigation under sub-paragraph (c) to answer (in the absence of persons other than a person nominated by that person to be present and any persons whom the authorised person may allow to be present) such questions as the authorised person thinks fit to ask and to sign a declaration of the truth of that person's answers;
- (j) to require the production of, or where the information is recorded in computerised form, the furnishing of extracts from, any records which it is necessary for the authorised person to see for the purposes of an examination or investigation under sub-paragraph (c) and to inspect, and take copies of, or of any entry in, the records; and
- (k) to require any person to afford the authorised person such facilities and assistance with respect to any matters or other things within the other person's control or in relation to which that person has responsibilities as are necessary to enable the authorised person to exercise any of the powers conferred on the authorised person by Part 1 of this Schedule.

2. Except in an emergency, in any case where it is proposed to enter any premises used for residential purposes, or to take heavy equipment on to any premises which are to be entered, any entry by virtue of paragraph 1 must only be effected -

- (a) after the expiration of at least seven days' notice of the proposed entry given to a person who appears to be the authorised person in question to be in occupation of the premises in question; and
- (b) either -
 - (i) with the consent of the person who is in occupation of those premises; or
 - (ii) under the authority of a warrant by virtue of section 2 of Part 1 of this Schedule.

3. Except in an emergency, where an authorised person proposes to enter any premises and -

- (a) entry has been refused and the authorised person apprehends on reasonable grounds that the use of force may be necessary to effect entry; or

- (b) the authorised person apprehends on reasonable grounds that entry is likely to be refused and that the use of force may be necessary to effect entry,

any entry on to those premises by virtue of paragraph 1 must only be effected under the authority of a warrant by virtue of section 2 of Part 1 of this Schedule.

4. ...Omitted.

5. Where an authorised person proposes to exercise the power conferred by paragraph 1(g), that person must, if so requested by a person who at the time is present on and has responsibilities in relation to those premises, cause anything which is to be done by virtue of that power to be done in the presence of that other person.

6. Before exercising the power conferred by paragraph 1(g), an authorised person must consult -

- (a) such persons having duties on the premises where the thing is to be dismantled or subject to the process or test; and
- (b) such other persons,

as appear to the authorised person to be appropriate for the purpose of ascertaining what dangers, if any, there may be in doing anything which it is proposed to do or cause to be done under the power.

7. No answer given by a person in pursuance of a requirement imposed under paragraph 1(i) is admissible in evidence against that person in any criminal proceedings.

8. Nothing in paragraph 1 compels the production by any person of a document which -

- (a) that person would on grounds of legal professional privilege be entitled to withhold production on an order for discovery in an action in the High Court; or
- (b) ...Omitted.

9. Section 2 of Part 2 of this Schedule has effect with respect to the powers of entry and related powers conferred by paragraph 1.

10. In this section -

“emergency” means a case in which it appears to the authorised person in question -

- (a) that there is an immediate risk of serious pollution of the environment or serious harm to human health; or
- (b) that circumstances exist which are likely to endanger life or health;

and that immediate entry to any premises is necessary to verify the existence of that risk or those circumstances or to ascertain the cause of that risk or those circumstances or to effect a remedy;

“premises” means any land, vehicle, vessel or plant which is designed to move or be moved whether on roads or otherwise.

SECTION 2
Warrants, evidence and compensation

11. If it is shown to the satisfaction of a justice of the peace, on sworn information in writing -
- (a) that there are relevant grounds for the exercise in relation to any premises of the powers under paragraph 1; and
 - (b) that one or more of the conditions specified in paragraph 12 is fulfilled in relation to those premises,

the justice may by warrant authorise the Treasury to designate a person who is authorised to exercise the power in relation to those premises, in accordance with the warrant and, if need be, by force.

12. The conditions mentioned in paragraph 11 are -
- (a) that the exercise of the power in relation to the premises has been refused;
 - (b) that such a refusal is reasonably apprehended;
 - (c) that the premises are unoccupied;
 - (d) that the occupier is temporarily absent from the premises and the case is one of urgency; or
 - (e) that an application for admission to the premises would defeat the object of the proposed entry.

13. In a case where paragraph 12 applies, a justice of the peace must not issue a warrant under paragraph 11 by virtue only of being satisfied that the exercise of the power in relation to any premises has been refused, or that a refusal is reasonably apprehended, unless the justice of the peace is also satisfied that the notice required by that paragraph has been given and that the period of that notice has expired.

14. Every warrant under paragraph 11 continues in force until the purposes for which the warrant was issued have been fulfilled.

15. An authorised person must produce evidence of that person's authorisation or designation and other authority before exercising the power.

16. Information obtained in consequence of the exercise of the powers in paragraph 1, with or without the consent of any person is admissible in evidence against that or any other person.

17. Without prejudice to the generality of paragraph 16, information obtained by means of monitoring or other apparatus installed on any premises in the exercise of the powers in paragraph 1, with or without the consent of any person in occupation of the premises, is admissible in evidence in any proceedings against that or any other person.

18. A person who, in exercise of the powers in paragraph 1, enters on any premises which are unoccupied or whose occupier is temporarily absent must leave the premises as effectively secured against trespassers as that person found them.

19. Where any person exercises any power conferred by paragraph 1(a) or (b), it is the duty of the Treasury under whose authorisation that person acts to make full compensation to any person who has sustained loss or damage by reason of -

-
- (a) the exercise of a power under paragraph 1 by the authorised person; or
 - (b) the performance of, or failure of the authorised person to perform, the duty imposed under paragraph 18.
20. Compensation is not payable by virtue of paragraph 19 in respect of any loss or damage if -
- (a) it is attributable to the default of the person who sustained it; or
 - (b) it is loss or damage in respect of which compensation is payable by virtue of any other enactment.
21. Any dispute as to a person's entitlement to compensation under paragraph 19, or as to the amount of any such compensation -
- (a) must be referred to the arbitration of a single arbitrator appointed by agreement between the Treasury in question and the person who claims to have sustained the loss or damage or, in default of agreement, appointed by the Treasury;
 - (b) ...omitted;
 - (c) ...omitted.
22. An authorised person is not to be liable in any civil proceedings for anything done in the purported exercise of the powers under paragraph 1 if the court is satisfied that the act was done in good faith and that there were reasonable grounds for doing it.

SECTION 3

Seizure in cases of imminent danger of serious pollution

23. If an authorised person has entered any premises and has reasonable cause to believe that any thing there which has or is being imported into, or is being exported from, the Island is a cause of imminent danger of serious pollution of the environment, the authorised person may seize it and cause it to be rendered harmless (whether by destruction or otherwise).
24. An authorised person who exercises the power in paragraph 23 must as soon as possible prepare and sign a written report giving particulars of the circumstances in which the thing was seized and so dealt with and must -
- (a) give a signed copy of the report to a responsible person at the premises where the thing was found; and
 - (b) unless the person is the owner of the thing, also serve a signed copy of the report on the owner.
25. If the authorised person cannot after reasonable inquiry ascertain the name or address of the owner, the copy may be served on the owner by giving it to the person to whom a copy was given under paragraph 24(a).
26. Where the powers under paragraph 23 are exercised, the Treasury is entitled to recover the costs it reasonably incurs from the person who knowingly caused or permitted the thing to become a cause of imminent danger of serious pollution of the environment.

SECTION 4

Notices

27. An authorised person may, by a notice served on any person, require that person to furnish
-

such information as is specified in the notice, in such form and within such period following service of the notice or at such time as is so specified.

28. If an authorised person is of the opinion that a person has contravened, is contravening or is likely to contravene a listed REACH provision (but only insofar as it prohibits, restricts or relates to the import or export of any thing into or from the Island), the authorised person may serve on that person an enforcement notice.

29. An enforcement notice must -

- (a) state that the authorised person is of the opinion referred to in the preceding paragraph;
- (b) specify the matters constituting the contravention or the matters making it likely that the contravention will arise, as the case may be;
- (c) specify the steps that must be taken to remedy the contravention or to remedy the matters making it likely that the contravention will arise, as the case may be; and
- (d) specify the period within which those steps must be taken.

30. An enforcement notice may be withdrawn at any time.

31. If an authorised person is of the opinion that the activities of a person, in relation to a contravention or likely contravention of a listed REACH provision (but only insofar as it prohibits, restricts or relates to the import or export of any thing into or from the Island), are such that they involve an imminent danger of serious pollution of the environment, the authorised person may serve on that person a prohibition notice.

32. A prohibition notice must -

- (a) state that the authorised person is of the opinion referred to in the preceding paragraph;
- (b) specify the danger involved in the activity; and
- (c) specify the steps that must be taken to remove it and the period within which they must be taken.

33. A prohibition notice may be withdrawn at any time.

34. If a person fails to comply with an enforcement notice or prohibition notice, the Treasury may do what that person was required to do and may recover from that person any expenses reasonably incurred in doing so.

35. References in this Part to an "enforcement notice" or a "prohibition notice" have effect only for the purposes of this Part.

PART 2
The Health and Safety Executive, the Health and Safety Executive
for Northern Ireland and local (health and safety) authorities

...Omitted

PART 3
Local (consumer safety) authorities

...Omitted

PART 4
The Secretary of State

...Omitted

SCHEDULE 7

Regulation 10(2)

Authorisations

...Omitted

SCHEDULE 8

Regulation 21(2)

Appeals

...Omitted

SCHEDULE 9

Regulation 22

Service of documents

...Omitted

SCHEDULE 10

Regulation 23

Revocations and amendments

...Omitted

STATUTORY INSTRUMENTS

2010 No. 2068

ANIMALS

The Seal Products Regulations 2010

Made	15 th August 2010
Laid before Parliament	17 th August 2010
Coming into force	20 th August 2010

The Secretary of State is a Minister designated in relation to products derived from pinnipeds under section 2(2) of the European Communities Act 1972.

These Regulations make provisions for a purpose mentioned in that section and it appears to the Secretary of State that it is expedient for reference to Regulation (EC) No 1007/2009 of the European Parliament and of the Council on trade in seal products of 16th September 2009 to be construed as references to that Regulation as amended from time to time.

The Secretary of State makes these Regulations in exercise of the powers conferred by section 2(2) of, and paragraph 1A of Schedule 2 to, the European Communities Act 1972.

Title and commencement

1. These Regulations may be cited as the Seal Products Regulations 2010.

Interpretation

2. In these Regulations –

“general customs official” means a customs official designated under section 3 of the Borders, Citizenship and Immigration Act 2009;

“the EU Regulation” means Regulation (EC) No. 1007/2009 of the European Parliament and of the Council on trade in seal products of 16th September 2009 as amended from time to time;

“seal products” means all products, either processed or unprocessed, deriving or obtained from seals, including meat, oil, blubber, organs, raw fur skins and fur skins, tanned or dressed, including fur skins assembled in plates, crosses and similar forms, and articles made from fur skins.

Penalty for breach of the EU Regulation

3. (1) A person who breaches Article 3 of the EU Regulation is guilty of an offence and is liable –
 - (a) on summary conviction, to a fine not exceeding the statutory maximum; and

(b) on conviction on indictment, to a fine not exceeding £75,000.

Enforcement authorities

4. (1) It is the duty of a general customs official to enforce the EU Regulation at a place where goods are subject to customs supervision by that general customs official.

(2) For the purpose of paragraph (1), goods are subject to customs supervision within the meaning of Council Regulation (EEC) No. 2913/92 establishing the Community Customs Code.

Competent Authority

5. The Secretary of State is the Competent Authority for the purpose of the EU Regulation.

Jim Paice
Minister of State
Department for Environment, Food and Rural Affairs

15th August 2010

STATUTORY INSTRUMENTS

2010 No. 2982

PUBLIC HEALTH

The Public Health (Aircraft and Ships) (Isle of Man) Order 2010

Made 15th December 2010

Coming into force 1st February 2011

At the Court at Buckingham Palace, the 15th day of December 2010

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred upon Her by section 76 of the Public Health (Control of Disease) Act 1984, by and with the advice of Her Privy Council, makes the following Order:

Citation and commencement

1. This Order may be cited as the Public Health (Aircraft and Ships) (Isle of Man) Order 2010 and shall come into force on 1st February 2011.

Interpretation

2. In this Order –

“the Aircraft Regulations” means the Public Health (Aircraft) Regulations 1979 as they apply in relation to England;

“the Ships Regulations” means the Public Health (Ships) Regulations 1979 as they apply in relation to England.

Extension of the Aircraft Regulations to the Isle of Man

3. The Aircraft Regulations shall extend to the Isle of Man subject to –

(a) the general modifications in article 5; and

(b) the specific modifications, additions and omissions in Schedule 1.

Extension of the Ships Regulations to the Isle of Man

4. The Ships Regulations shall extend to the Isle of Man subject to –

(a) the general modifications in article 5; and

(b) the specific modifications, additions and omissions in Schedule 2.

General modifications

5. In this Order any reference –
- (a) to an Act of Parliament, or to a provision of an Act of Parliament, shall be construed, unless the contrary intention appears, as a reference to that Act or provision as it has effect in the Isle of Man; and
 - (b) to an Act of Tynwald, or to a provision of an Act of Tynwald, shall be construed as including a reference to that Act or provision as amended or replaced by or under any other such Act or provision.

Judith Simpson
Clerk to the Privy Council

SCHEDULE 1

Article 3

Modification of the Aircraft Regulations

1. For "a customs airport", wherever occurring, substitute "Ronaldsway aerodrome".
2. In regulation 2(1) (interpretation) –
 - (a) in the definition of "animals" for "Article 2(1) of the Rabies (Control) Order 1974" substitute –

"article 2 of the Isle of Man's Rabies (Control) Order 1976;
 - (b) for the definition of "authorised officer" substitute –

""authorised officer" means

 - (a) the director of public health of the Isle of Man;
 - (b) an environmental health officer of the Department; or
 - (c) an officer of the Department duly authorised by it in writing either generally or specifically to act in any matter specified or in matters of any specified kind;"
 - (c) omit the definition of "customs airport";
 - (d) for the definition of "customs officer" substitute –

""customs officer" means an officer appointed in accordance with section 1(2) of the Customs and Excise Management Act 1986 (an Act of Tynwald);"
 - (e) after the definition of "day" insert –

""Department" means the Department (within the meaning of the Government Departments Act 1987 (an Act of Tynwald)) which is responsible for environmental health;

- “director of public health” has the same meaning as in section 72 of the Local Government Act 1985 (an Act of Tynwald);”;
- (f) in the definition of “immigration officer” after “Immigration Act 1971” insert “(as that Act has effect in the Isle of Man)”;
 - (g) for the definition of “medical officer” substitute –
““medical officer” means the director of public health of the Isle of Man or any other medical practitioner appointed by the director under regulation 5;”;
 - (h) omit the definition of “responsible authority”;
 - (i) omit the definition of “Secretary of State”.
3. In regulation 3 after “Visiting Forces Act 1952” insert “(as that Act has effect in the Isle of Man)”.
4. For regulation 4 (enforcement and execution of regulations) substitute –
- “4. These Regulations shall be enforced and executed by –
- (a) the Department;
 - (b) authorised officers;
 - (c) customs officers; and
 - (d) medical officers,
- as the Regulations may provide.”.
5. (1) Regulation 5 (appointment and duties of authorised officers and provision of services by responsible authorities) is modified as follows.
- (2) In the heading, omit “by responsible authorities”.
 - (3) For the introductory words and paragraph (a) substitute –
“For the purposes of these Regulations the director of public health may, and if so required by the Department shall –
 - (a) appoint such medical practitioners as may be necessary for the proper enforcement and execution of these Regulations;”. - (4) For paragraph (g) substitute –
“(g) do all such other things as are necessary to secure compliance with these Regulations.”.
6. In regulation 8 (examination, etc of persons on aircraft) –
- (a) in paragraph (1) for “Secretary of State” substitute “Department”; and
 - (b) omit paragraph (6).
7. (1) Regulation 9 (power in respect of persons leaving aircraft) is amended as follows.

(2) For paragraph (1) substitute –

“(1) Where a person intending to leave an aircraft at Ronaldsway aerodrome is suffering, or a medical officer suspects that he is suffering, from an infectious disease or tuberculosis, the medical officer may –

- (a) cause such person on leaving the aircraft to be isolated, or to be sent to a hospital or to some other suitable place approved for that purpose by the Department, as may be appropriate; or
- (b) unless the commander has imposed a requirement under regulation 21, the medical officer may, by notice in writing to the commander, prohibit the person from leaving the aircraft without the medical officer’s written consent.”.

(3) In paragraph (2) for “Secretary of State” (in both places) substitute “Department”.

8. In regulation 12 (notification of infectious disease, etc, on board) –

(a) in paragraph (1B) for “the first customs airport at which the aircraft is due to land” substitute “Ronaldsway aerodrome”;

(b) for paragraph (1C) substitute –

“(1C) The persons referred to at paragraph (1B) are –

- (a) the authorised officer; or
- (b) the director, or deputy director, of Ronaldsway aerodrome.”;

(c) in paragraph (3) for “the customs airport” substitute “Ronaldsway aerodrome”; and

(d) in paragraph (4) for “owner or manager of an aerodrome or any person deputed to act on his behalf,” substitute “director, or deputy director, of Ronaldsway aerodrome”.

9. In regulation 14 (detention of aircraft) –

(a) in paragraph (1) for “United Kingdom” substitute “Isle of Man”;

(b) in paragraph (2) for “person in charge of the customs airport” substitute “director, or deputy director, of Ronaldsway aerodrome”.

10. In regulation 19 (release of aircraft) for “person in charge of the customs airport” substitute “director of public health”.

11. (1) Regulation 22 (removal to airport able to apply measures) is modified as follows.

(2) For paragraph (1) substitute –

“(1) Paragraph (1A) applies if –

- (a) an authorised officer considers that measure under these Regulations should be applied to an aircraft which alights

anywhere in the Isle of Man other than at Ronaldsway aerodrome or to any person carried on such an aircraft; and

(b) the measures cannot be applied where the aircraft is.

(1A) If this paragraph applies, the authorised officer may direct that the aircraft (and any person aboard it) –

(a) proceed to Ronaldsway aerodrome; or

(b) leave the Isle of Man.

(1B) If an authorised officer gives a direction under paragraph (1A)(b) he shall also give notice to that effect to the medical officer of health for the area in which is situated the aerodrome to which it is intended the aircraft shall proceed.”.

(3) In paragraph (2) for “paragraph (1)” substitute “paragraph (1A)”.

12. (1) Regulation 25 (aircraft alighting elsewhere than a customs airport) is modified as follows.

(2) For paragraph (1) substitute –

“(1) Where an aircraft alights anywhere in the Isle of Man other than at Ronaldsway aerodrome paragraphs (1A) to (1C) apply.

(1A) The commander shall forthwith give notice of the landing of the aircraft to the Department, a customs officer, an immigration officer or a police officer of the Isle of Man Constabulary.

(1B) Except for the purpose of paragraph (1A), no person carried by the aircraft shall leave its vicinity unless authorised by the authorised officer, and any person so authorised shall inform such officer of his name and his intended destination and address, but this paragraph shall not be construed as dispensing with the necessity to secure any consent arising under any other enactment.

(1C) These Regulations shall apply as if the aircraft had alighted at Ronaldsway aerodrome except that –

(a) in the case of conflict between any provisions of the Regulations and the provisions of paragraph (1A) or (1B), those paragraphs shall prevail;

(b) an authorised officer may nevertheless require the aircraft (and any stores, equipment, cargo or persons carried on the aircraft) –

(i) to proceed or to be taken to Ronaldsway aerodrome; or

(ii) to leave, or to be taken from, the Isle of Man;

(c) the Regulations shall be modified as necessary to enable their application in the circumstances described in this regulation.

(1D) If an authorised officer requires an aircraft to leave, or to be taken from, the Isle of Man under paragraph (1C)(b)(ii), he shall give notice to that effect to the medical officer of health for the area in which is situated the aerodrome to which it is intended the aircraft shall proceed.”.

(3) In paragraph (2) for “medical officer of the responsible authority for the place at which he left the aircraft” substitute “director of public health”.

13. In regulation 26(c) and (d) (saving for certain aircraft) for “Secretary of State” substitute “Department”.

14. In regulation 27 (examination, etc, of persons proposing to embark) for “United Kingdom” substitute “Isle of Man”.

15. (1) Regulation 28 (infected places) is modified as follows.

(2) In the text preceding paragraph (a) –

(a) for “Secretary of State” wherever it appears (except in the expression “any aerodrome specified by the Secretary of State”) substitute “director of public health”;

(b) for “the London Gazette” –

(i) where it first occurs substitute “one or more newspapers published and circulating in the Isle of Man”;

(ii) where it occurs for the second time substitute “the same way”;

(c) for “any aerodrome specified by the Secretary of State” substitute “the Isle of Man”;

(d) for “United Kingdom” substitute “Isle of Man”.

(3) In paragraph (a) for “Secretary of State” substitute “Department”.

(4) For paragraph (f) substitute –

“(f) if the published notice declares any part of the Isle of Man to be infected with plague, and if there is reason to believe that there are rodents on the aircraft, the authorised officer may, and if so required by the Department shall, take steps to secure the deratting of the aircraft.”.

16. For regulation 31 (which concerns persons placed under surveillance) substitute –

“31. Every person who is placed under surveillance under these regulations shall –

(a) give facilities for any medical examination required by the medical officer;

(b) furnish all such information as the medical officer may reasonably require with a view to ascertaining the person’s state of health;

(c) forthwith upon arrival during the period of surveillance at any address other than the one stated as his intended address when placed under surveillance, send particulars of that address to the medical officer.”.

17. In regulation 32 (charges for services) for "a responsible authority" (wherever occurring) substitute "the Department" and similarly, for "A responsible authority" (wherever occurring) substitute "The Department".
18. In regulation 34 (expenses of health authorities) –
- (a) in the heading, for "health authorities" substitute "the Department";
 - (b) for "a responsible authority" substitute "the Department";
 - (c) for "them" substitute "it"; and
 - (d) for "their" substitute "its".
19. In regulation 36(3) (saving for aircraft unwilling to comply with these regulations) for "England and Wales" substitute "the Isle of Man".
20. For regulation 37 (saving for existing enactments) substitute –
- "37. Nothing in these regulations shall affect the Immigration Act 1971 (as that Act has effect in the Isle of Man).".
21. Omit regulation 38 and Schedule 4 (revocations).
-

SCHEDULE 2

Article 4

Modification of the Ships Regulations

1. In regulation 2(1) (interpretation) –
- (a) in the definition of "animals" for "Article 2(1) of the Rabies (Control) Order 1974" substitute –

"article 2 of the Isle of Man's Rabies (Control) Order 1976";
 - (b) for the definition of "arrival" substitute –

"“arrival”, in relation to a ship, means the entry within the limits of jurisdiction of the Isle of Man of a ship which has not during it voyage or since it last –
 - (a) called at a port outside the Isle of Man;
 - (b) met with an offshore installation; or
 - (c) met with a ship which has proceeded from a foreign port,been subjected elsewhere in the Isle of Man to measures provided for in these Regulations, disregarding any measure which may have been applied there to any person, baggage or cargo landed from the ship, and "arrives" shall be construed accordingly;";
 - (c) for the definition of "authorised officer" substitute –

"“authorised officer” means –
 - (a) the director of public health;

-
- (b) an environmental health officer of the Department; or
 - (c) an officer of the Department duly authorised by it in writing either generally or specifically to act in any matter specified or in matters of any specified kind;";
 - (d) omit the definition of "authorised port";
 - (e) for the definition of "customs officer" substitute –
"“customs officer” means an officer appointed in accordance with section 1(2) of the Customs and Excise Management Act 1986 (an Act of Tynwald);";
 - (f) after the definition of "day" insert –
"“Department” means the Department (within the meaning of the Government Departments Act 1987 (an Act of Tynwald)) which is responsible for environmental health;
"“director of public health” has the same meaning as in section 72 of the Local Government Act 1985 (an Act of Tynwald);";
 - (g) omit the definition of "district";
 - (h) in the definition of "immigration officer" after "Immigration Act 1971" insert "(as that Act has effect in the Isle of Man)";
 - (i) omit the definition of "local authority";
 - (j) for the definition of "medical officer" substitute –
"“medical officer” means the director of public health of the Isle of Man or any other medical practitioner appointed by the director under regulation 5;";
 - (k) for the definition of "mooring station" substitute –
"“mooring station” means a place which is specified by the Department (within the meaning of the Government Departments Act 1987 (an Act of Tynwald)) responsible for the Island’s harbours, for the mooring of ships for medical inspection so that they do not come into contact with other ships or the shore;";
 - (l) for the definition of "offshore installation" substitute –
"“offshore installation” has the same meaning as in section 12(1) of the Mineral Workings (Offshore Installations) (Isle of Man) Act 1974 (an Act of Tynwald);";
 - (m) omit the definition of "Secretary of State".
2. In regulation 3(1) (application of Regulations to ships of Her Majesty's armed forces) after "Visiting Forces Act 1952" insert "(as that Act has effect in the Isle of Man)".
3. For regulation 4 (enforcement and execution of regulations) substitute –
- “4. These Regulations shall be enforced and executed by –
- (a) the Department;
-

- (b) authorised officers;
- (c) customs officers; and
- (d) medical officers,

as the Regulations may provide.”.

4. (1) Regulation 5 (appointment and duties of authorised officers and provision of services by local authorities) is modified as follows.

(2) In the heading, omit “by local authorities”.

(3) For the introductory words and paragraph (a) substitute –

“5. For the purposes of these Regulations the director of public health may, and is so required by the Department shall –

- (a) appoint such medical practitioners as may be necessary for the proper enforcement and execution of these Regulations;”.

(4) For paragraph (f) substitute –

“(f) do all such other things as are necessary to secure compliance with these Regulations.”.

5. In regulation 7 (inspection of ships) –

- (a) in paragraphs (1) and (2)(b) for “district” substitute “Isle of Man”;
- (b) in paragraph (2)(a) for “local authority” substitute “Department”.

6. In regulation 8 (direction of ships) for “district” substitute “Isle of Man”.

7. In regulation 9 (examination, etc, of persons on ships) –

- (a) in paragraph (1) for –
 - (i) “Secretary of State” substitute “Department”;
 - (ii) for “district” substitute “Isle of Man”; and
- (b) omit paragraph (7).

8. (1) Regulation 10 (powers in respect of certain persons on ships) is amended as follows.

(2) For paragraph (1) substitute –

“(1) Where there is, or a medical officer suspects that there is, on board a ship on arrival or already in the Isle of Man a person suffering from an infectious disease or tuberculosis, the medical officer may –

- (a) cause the person to be removed from the ship and isolated or sent to hospital or to some other suitable place approved for that purpose by the Department;

- (b) in the case of cholera, smallpox or viral haemorrhagic fever, place such person under surveillance for the appropriate period specified in regulation 36(1); or
 - (c) unless the commander has imposed a requirement under regulation 31, the medical officer may, by notice in writing to the master, prohibit the removal of the person or his disembarking from the ship without the medical officer's written consent."
- (3) In paragraph (2) for "Secretary of State" (in both places" substitute "Department".
- 9. In regulation 11(1) (supply of information, etc, by masters) for "a district" substitute "the Isle of Man".
- 10. In regulation 12 (permission to enter district) –
 - (a) in the heading, for "district" substitute "the Isle of Man";
 - (b) in paragraph (2) for "his district" substitute "the Isle of Man".
- 11. In regulation 13(2) and (3) (notification of infectious disease, etc, on board) for "local authority" (wherever occurring) substitute "Department".
- 12. In regulation 15(2) (Maritime Declaration of Health) for "local authority" substitute "Department".
- 13. In regulation 16 (which concerns arrival after delivery of Maritime Declaration of Health) for "or a corresponding provision in force in Scotland or Northern Ireland, the ship arrives in a district or calls at another district, as the case may be" substitute ", the ship arrives in the Isle of Man".
- 14. (1) Regulation 18A (application for a Ship Sanitation Control Exemption Certificate or Ship Sanitation Control Certificate) is modified as follows.
 - (2) For paragraph (1) substitute –
 - "(1) Upon receipt of an application in writing from the owner of a ship, or from the master acting for or on behalf of the owner, for a ship sanitation certificate in respect of the ship, an authorised officer must inspect the ship to prevent danger to public health or the spread of infection with a view to issuing a ship sanitation certificate and either –
 - (a) carry out, or cause to be carried out under the supervision of an authorised officer, control measures necessary for the control of danger to public health or the spread of infection with a view to issuing a ship sanitation certificate; or
 - (b) otherwise take, or cause to be taken, any steps which that officer considers necessary to satisfy himself that the ship does not present a danger to public health and is free of infection."
 - (3) In paragraph (2) for "paragraph (1)(a)" substitute "paragraph (1)".
- 15. (1) Regulation 18B (production of a ship sanitation certificate) is modified as follows.
 - (2) For paragraph (1) substitute –

“(1) If the master of a ship which during its voyage has been in a foreign port cannot produce to an authorised officer a valid ship sanitation certificate in respect of the ship, an authorised officer may inspect the ship for evidence of danger to public health or infection with a view to issuing a ship sanitation certificate.”.

(3) In paragraph (2) for “paragraph (1)(a)” substitute “paragraph (1)”.

(4) For paragraphs (3) and (4) substitute –

“(3) If, after a ship has been inspected by an authorised officer, the authorised officer is not satisfied that the ship is exempt from control measures he must –

(a) carry out or require to be carried out under the supervision of an authorised officer control measures necessary for the control of danger to public health or the spread of infection; or

(b) otherwise take or cause to be taken any steps which the officer considers necessary to satisfy himself that the ship does not present a danger to public health and is free of infection.

(4) If the master produces a ship sanitation certificate but the authorised officer has evidence of danger to public health or infection, notwithstanding such certificate the authorised officer must either –

(a) carry out or require to be carried out under the supervision of an authorised officer control measures necessary for the control of danger to public health or the spread of infection; or

(b) otherwise take or cause to be taken any steps which that officer considers necessary to satisfy himself that the ship does not present a danger to public health and is free of infection.”.

(5) In paragraphs (6) and (7) for “paragraph (3)(a) or (4)(a)” substitute “paragraph (3) or (4)”.

16. (1) Regulation 18C (ship sanitation certificates: supplementary) is modified as follows.

(2) In paragraphs (1) and (2) for “18A(1)(a)(ii) or 18B(3)(a) or (4)(a)” substitute “18A(1)(a) or (b) or 18B(3) or (4)”.

(3) In paragraph (3) for “local authority” substitute “Department”.

(4) In paragraph (4) for “An authorised officer of a port where control measures are applied” substitute “Where control measures are applied to a ship, an authorised officer”.

17. In regulation 18D(3) (ship sanitation certificates: form: period of validity and retention) for “local authority” substitute “Department”.

18. In regulation 21(1) (detention of ships, and ships to be taken to mooring stations) for “United Kingdom” substitute “Isle of Man”.

19. In regulation 33 (examination, etc, of persons proposing to embark) for "United Kingdom" substitute "Isle of Man".
20. (1) Regulation 34 (infected places in England and Wales) is modified as follows.
- (2) For the heading, for "England and Wales" substitute "the Isle of Man".
- (3) In the text preceding paragraph (a) –
- (a) for "Secretary of State" wherever occurring (except in the expression "any district specified by the Secretary of State") substitute "director of public health";
- (b) for "the London Gazette" –
- (i) where it first occurs substitute "one or more newspapers published and circulating in the Isle of Man";
- (ii) where it occurs for the second time substitute "the same way";
- (c) for "any district specified by the Secretary of State" substitute "the Isle of Man";
- (d) for "United Kingdom" substitute "Isle of Man".
- (4) In paragraph (a) for "Secretary of State" substitute "Department".
- (5) For paragraph (f) substitute –
- "(f) if the published notice declares any part of the Isle of Man to be infected with plague, and if there is reason to believe that there are rodents on the ship, the authorised officer may, and if so required by the Department shall, take steps to secure the deratting of the ship."
21. For regulation 37 (which concerns persons placed under surveillance) substitute –
- "37. Every person who is placed under surveillance under these regulations shall –
- (a) give facilities for any medical examination required by the medical officer;
- (b) furnish all such information as the medical officer may reasonably require with a view to ascertaining the person's state of health;
- (c) forthwith upon arrival during the period of surveillance at any address other than the one stated as his intended address when placed under surveillance, send particulars of that address to the medical officer."
22. In regulation 38 (charges for services) –
- (a) in paragraphs (1) and (4) for "A local authority" substitute "The Department";
- (b) in paragraph (1)(a) and (b) for "its district" substitute "the Isle of Man";
- (c) in paragraph (5) for "a local authority" substitute "the Department".
23. In regulation 39 (recovery of charges) for "regulations 20 or 38" substitute "regulation 38".

-
24. In regulation 40 (expenses of local authorities) –
 - (a) in the heading, for “local authorities” substitute “the Department”;
 - (b) for “a local authority” substitute “the Department”.
 25. In regulation 42 (saving for ships unwilling to comply with these regulations) –
 - (a) for “a district” or “the district” (wherever occurring) substitute “the Isle of Man”;
 - (b) in paragraph (3) for “other district” substitute “other place in the Isle of Man”.
 26. In regulation 43 (saving for existing enactments) after “Immigration Act 1971” insert “(as that Act has effect in the Isle of Man)”.
 27. Omit regulation 44 and Schedule 6 (revocations).

FINANCE ACT 1994 (c.9)

CHAPTER III

CUSTOMS: ENFORCEMENT POWERS

Interpretation etc.

20. (1) This Chapter applies to any person carrying on a trade or business which consists of or includes any of the following activities -

- (a) importing or exporting any goods of a class or description subject to a duty of customs (whether or not in fact chargeable with that duty);
- (b) producing, manufacturing or applying a process to them;
- (c) buying, selling or dealing in them;
- (d) handling or storing them;
- (e) financing or facilitating any activity mentioned in paragraphs (a) to (d) above.

(2) In subsection (1) above "duty of customs" includes any agricultural levy of the European Community.

(3) In this Chapter -

- (a) "customs goods" means any goods mentioned in paragraph (a) of subsection (1) above; and
- (b) any reference to the business of a person to whom this Chapter applies is a reference to the trade or business carried on by him as mentioned in that subsection.

(4) This Chapter shall have effect and be construed as if it were contained in the Customs and Excise Management Act 1986.

(5) In consequence of the provision made by sections 21 to 27 below, any power under -

- (a) section 77A, 77B or 77C of the Customs and Excise Management Act 1979 1986 to require a person importing or exporting goods to keep or preserve records, or
- (b) section 78A, 78B or 78C of that Act to require a person to furnish information or produce documents relating to imported or exported goods,

shall cease to be exercisable in relation to a person to the extent that the goods in question are customs goods.

Requirements about keeping records

21. (1) ...Omitted.

(2) The Treasury may also require any person mentioned in subsection (3) below -

- (a) to keep such records as they may specify; and

- (b) to preserve those records for such period not exceeding four years as they may require.
- (3) The person referred to is any person who -
 - (a) is not carrying on a trade or business which consists of or includes the importation or exportation of customs goods, but
 - (b) is concerned in some other capacity in such importation or exportation.
- (4) A duty imposed under subsection (1)(b) or (2)(b) above to preserve records may be discharged by the preservation of the information contained in them by such means as the Treasury may approve.
- (5) On giving approval under subsection (4) above, the Treasury may impose such reasonable requirements as appear to them necessary for securing that the information will be as readily available to them as if the records themselves had been preserved.
- (6) ...Omitted.
- (7) Any person who fails to comply with a requirement imposed by virtue of this section shall be liable on summary conviction to a penalty not exceeding £1,000.

Records and rules of evidence

22. (1) Where any information is preserved by approved means as mentioned in section 21(4) above, a copy of any document in which it is contained shall, subject to subsection (2) below, be admissible in evidence in any proceedings, whether civil or criminal, to the same extent as the records themselves.

(2) A statement contained in a document produced by a computer shall not by virtue of subsection (1) above be admissible in evidence -

- (a) in civil proceedings, except in accordance with sections 5 and 6 of the Civil Evidence Act 1973;
- (b) in criminal proceedings, except in accordance with section 7 of the Criminal Justice Act 1991;
- (c) ...omitted;
- (d) ...omitted;
- (e) ...omitted;
- (f) ...omitted.

Furnishing of information and production of documents

23. (1) Every person to whom this Chapter applies shall furnish the Treasury, within such time and in such form as they may reasonably require, with such information relating to his business as they may reasonably specify.

(2) Every person to whom this Chapter applies shall, if required to do so by an officer, produce or cause to be produced for inspection by the officer -

- (a) at that person's principal place of business or at such other place as the officer may reasonably require, and
- (b) at such time as the officer may reasonably require,

any documents which relate to his business.

(3) Where it appears to an officer that any documents which relate to a business of a person to whom this Chapter applies are in the possession of another person, the officer may require that other person, at such time and place as the officer may reasonably require, to produce those documents or cause them to be produced.

(4) For the purposes of this section, the documents which relate to a business of a person to whom this Chapter applies shall be taken to include -

- (a) any profit and loss account and balance sheet, and
- (b) any documents required to be kept by virtue of section 2(1) above.

(5) Every person mentioned in section 21(3) above shall furnish the Treasury, within such time and in such form as they may reasonably require, with such information relating to the importation or exportation of customs goods in which he is concerned as they may reasonably specify.

(6) Every person mentioned in section 21(3) above shall, if required to do so by an officer, produce or cause to be produced for inspection by the officer at such time and place as the officer may reasonably require, any documents which relate to the importation or exportation of customs goods in which he is concerned.

(7) An officer may take copies of, or make extracts from, any document produced under this section.

(8) If it appears to an officer to be necessary to do so, he may, at a reasonable time and for a reasonable period, remove any document produced under this section.

(9) Where a document is removed under subsection (8) above -

- (a) if the person from whom the document is removed so requests, he shall be given a record of what was removed;
- (b) if the document is reasonably required for the proper conduct of any business, the person by whom the document was produced or caused to be produced shall be provided as soon as practicable with a copy of the document free of charge;
- (c) if the document is lost or damaged, the Treasury shall be liable to compensate the owner of it for any expenses reasonably incurred by him in replacing or repairing it.

(10) If a person claims a lien on any document produced by him under subsection (3) or (6) above -

- (a) the production of the document shall be without prejudice to the lien; and
- (b) the removal of the document under subsection (8) above shall not be regarded as breaking the lien.

(11) Any person who fails to comply with a requirement imposed under this section shall be liable on summary conviction to a penalty not exceeding £1,000.

Power of entry

24. Where an officer has reasonable cause to believe that -

- (a) any premises are used in connection with a business of a person to whom this Chapter applies, and
- (b) any customs goods are on those premises,

he may at any reasonable time enter and inspect those premises and inspect any goods found on them.

Order for production of documents

25. (1) Where, on an application by an officer, a justice is satisfied that there are reasonable grounds for believing -

- (a) that an offence in connection with a duty of customs is being, has been or is about to be committed, and
- (b) that any information or documents which may be required as evidence for the purpose of any proceedings in respect of such an offence is in the possession of any person,

he may make an order under this section.

(2) An order under this section is an order that the person who appears to the justice to be in possession of the information or documents to which the application relates shall -

- (a) furnish an officer with the information or produce the document,
- (b) permit an officer to take copies of or make extracts of any document produced, and
- (c) permit an officer to remove any document which he reasonably considers necessary,

not later than the end of the period of seven days beginning with the date of the order or the end of such longer period as the order may specify.

(3) In this section "justice" means a justice of the peace.

Procedure when documents are removed

26. (1) An officer who removes any document in the exercise of a power conferred under section 25 above shall, if so requested by a person showing himself -

- (a) to be the occupier of premises from which it was removed, or
- (b) to have had custody or control of it immediately before the removal,

provide that person with a record of what he removed.

(2) The officer shall provide the record within a reasonable time from the making of the request for it.

(3) Subject to subsection (7) below, if a request for permission to be granted access to any document which -

- (a) has been removed by an officer, and
- (b) is retained by the Treasury for the purposes of investigating an offence,

is made to the officer in charge of the investigation by a person who had custody or control of the document immediately before it was removed or by someone acting on behalf of such a person, the officer shall allow the person who made the request access to it under the supervision of an officer.

(4) Subject to subsection (7) below, if a request for a photograph or copy of any such document is made to the officer in charge of the investigation by a person who had custody or control of the document immediately before it was so removed, or by someone acting on behalf of such a person, the officer shall -

- (a) allow the person who made the request access to it under the supervision of an officer for the purpose of photographing it or copying it, or
- (b) photograph or copy it, or cause it to be photographed or copied.

(5) Where any document is photographed or copied under subsection (4)(b) above, the photograph or copy shall be supplied to the person who made the request.

(6) The photograph or copy shall be supplied within a reasonable time from the making of the request.

(7) There is no duty under this section to grant access to, or to supply a photograph or copy of, any document if the officer in charge of the investigation for the purposes of which it was removed has reasonable grounds for believing that to do so would prejudice -

- (a) that investigation;
- (b) the investigation of an offence other than the offence for the purposes of the investigation of which the document was removed; or
- (c) any criminal proceedings which may be brought as a result of -
 - (i) the investigation of which he is in charge; or
 - (ii) any such investigation as is mentioned in paragraph (b) above.

(8) Any reference in this section to the officer in charge of the investigation is a reference to the person whose name and address are endorsed on the order concerned as being the officer in charge of it.

Failure of officer to comply with requirements under section 26

27. (1) Where, on an application made as mentioned in subsection (2) below, the appropriate judicial authority is satisfied that a person has failed to comply with a requirement imposed by section 26 above, the authority may order that person to comply with the requirement within such time and in such manner as may be specified in the order.

(2) An application under subsection (1) above shall be made -

-
- (a) in the case of a failure to comply with any of the requirements imposed by subsections (1) and (2) of section 26 above, by the occupier of the premises from which the document in question was removed or by the person who had custody or control of it immediately before it was so removed, and
 - (b) in any other case, by the person who has such custody or control.
- (3) In this section "the appropriate judicial authority" means a court of summary jurisdiction.
- (4) An application for an order under this section shall be by way of complaint.
- (5) ...Omitted.

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