

Treasury
Customs and Excise Division

Notice 279C MAN

Exports of Cultural Goods



February 2022



Isle of Man
Government

Reilts Ellan Vannin

INDEX

	Page
Purpose of Notice	3
Introduction	4
What type of licence is required?	4
Goods covered by the licensing requirements	6
Deferral of a licence	7
Appeals	8
Contact details	8
Annex 1 - OGEL limits for the export of cultural goods	10
Annex 2 - Decision flowchart	12
Annex 3 - Export licence information form	13



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This Notice provides guidance on the export controls applying where someone wishes to remove cultural objects from the Isle of Man. It is not intended as a definitive statement of the law, nor does it have any force in law.

The purposes of export controls on cultural objects are to prevent the removal from the Island of items of great importance to the Island's history and culture, or alternatively, to provide scope for the retention in the Island of other cultural goods (by, for example, deferring the granting of a licence and thus allowing an alternative purchaser of goods intended for export to come forward).

In the Isle of Man the Treasury is the licensing agency for the export of cultural goods in general, although objects of a Manx cultural interest are also subject to licensing control by Manx National Heritage.

In exercising its controls, the Treasury will also consider the importance of any object in the larger British context, and will liaise with the Arts Council England (which administers export controls in the UK). The Treasury may refuse or defer a licence where an item is considered to be of outstanding British national importance.

**This Notice is intended as a general guide only and has no force in law.
The information contained in it was correct on 1 February 2022.**

1. Introduction

- 1.1 The current export control legislation in the Island which is concerned with cultural objects is contained in legislation applied by means of—
- The Export of Objects of Cultural Interest (Control) Order 2003 (as applied in the Island by the Export of Goods Etc (Control) (Application) Order 2004¹); and
 - The Customs and Excise Acts (Dealing in Cultural Objects) (Application) Order 2004².
- 1.2 The Customs and Excise Acts (Dealing in Cultural Objects) (Application) Order 2004 applied a UK Act, the Dealing in Cultural Objects (Offences) Act 2003, in Island law, but only those provisions concerned with import and export offences. The Act, as applied in the Island, has the effect of making it an offence to be involved in the importation into, or export from, the Island or UK of a cultural object which had been unlawfully removed from, or unlawfully excavated in, its country of origin.
- 1.3 This Notice provides further information about the applied instruments, as well as details of contacts for advice, licence enquiries etc.
- 1.4 In the Isle of Man, the Customs & Excise Division of the Treasury has overall responsibility for enforcing export control law. Licences are issued by the Treasury, with applications and enquiries routed via its Customs & Excise Division.
- 1.5 In addition to a Treasury licence, cultural items of a Manx interest may also be subject to a requirement for a licence from Manx National Heritage under section 21 of the Manx Museum and National Trust Act 1959.

An MNH licence would be required for any removal from the Island, even removals to the UK.

2. What type of licence is required?

2.1 *Is the object going to the UK?*

A licence from Manx National Heritage may be required if the item is of Manx cultural interest. This would include archaeological items discovered in the Island, as well as items manufactured or produced in the Island. The definition may also include items made elsewhere, but which have a cultural link to the Island.

You should contact Manx National Heritage for further advice and for details of how to apply for a licence for such items.

If not requiring a licence from Manx National Heritage the item could be removed from the Isle of Man to the UK. However, onward removal from the UK would be subject to export licensing requirements.

1 SD No 89/04.
2 SD No 90/04.

If the goods are travelling via the UK for onward removal from the UK you should contact Customs & Excise for advice on licensing.

If the goods are in the UK, and subsequently the owner wishes to remove them to another country then he or she should contact the Arts Council England for advice and details of how to apply for a licence.

2.2 *Removals to a place outside the UK*

You may need an individual licence unless your goods qualify for an open general export licence (OGEL) or if you are a regular exporter you may be able to obtain an open individual export licence (OIEL).

There are threshold values, which vary depending on the type of item involved. Licences are required for items whose value is above these thresholds. See Annex 1 for details of the value thresholds.

2.3 *Removals of items of UK cultural interest*

The export from the Island of items that are of outstanding national importance to the United Kingdom will not normally be automatically granted an export licence if such a licence would be refused or deferred if an application were to be made to the UK competent authority, the Arts Council England.

There are memoranda of understanding with the relevant UK authorities on the export of goods (including cultural objects) from the Island and/or the UK, and Customs and Excise. Customs and Excise may consult both the Arts Council England and Manx National Heritage (MNH) on matters concerned with export controls on cultural objects.

Any application for a licence considered to be of relevance to either Arts Council England or MNH would routinely be referred to them for their comments and advice.

2.4 *Temporary removals*

Both Manx National Heritage and Customs & Excise will accept applications for temporary licences. These would be for the removal of items on the basis that they will be returned to the Island by a specific date.

A temporary licence may not be granted in cases where a permanent export licence would be refused.

2.5 *Other export controls*

In addition to UN and UK trade and financial sanctions, intending exporters should also be aware that there exists a number of other prohibitions or restrictions on the export of goods from the Isle of Man/UK.

These include controls on movements of military and paramilitary equipment, and certain species of animals and plants (which might include items incorporating plumage or ivory) subject to control under the Convention on International Trade in Endangered Species (CITES).

2.6 *If an item is exported without a licence*

If a cultural object that would have required a licence is inadvertently exported without one the exporter should make a voluntary written disclosure of the fact to Customs & Excise as soon as is practicable. Export without a licence is an offence under customs law.

If an item is presented for export in either the Isle of Man or UK without an export licence then the unlicensed object is liable to seizure, and those involved in the attempted export could be subject to penalties, including criminal prosecution.

2.7 *Tainted cultural objects*

These are objects which have been unlawfully excavated or removed from their country of origin. The Customs and Excise Acts (Dealing in Cultural Objects) (Application) Order 2004 applied in the Isle of Man certain provisions of the Dealing in Cultural Objects (Offences) Act 2003, an Act of Parliament.

3. **Goods covered by the licensing requirements**

3.1 *Manx cultural item*

This category of goods, including archaeological items and objects of cultural interest to the Island (see paragraph 2.1 above), require a licence from Manx National Heritage.

3.2 *Other goods*

See the flowchart in Annex 2, and the value thresholds set out in Annex 1.

3.3 *The Waverley criteria*

In deciding if an item is of outstanding national importance the Treasury will, after consultation and advice from both Manx National Heritage and the Arts Council England, assess applications against the "Waverley criteria".

If either Manx National Heritage or the Arts Council England advise against the granting of a licence (or recommend that a deferral period be imposed) then the Treasury will normally follow that advice.

If neither of these two bodies advise against granting of a licence, then the Treasury would itself examine the application using the criteria named after the chairman of a 1950 committee that advised the UK on the formulation of its policy on the export of cultural objects.

The three basic questions that the Waverley criteria pose are—

1. is the object so closely connected with our history and national life that its departure would be a misfortune?
2. is the object of outstanding aesthetic importance?

3. is the object of outstanding significance for the study of some particular branch of art, learning or history?

In its use of the criteria it is likely that the Treasury would interpret the term "national" in its larger sense, i.e. in terms of *British* national life, as opposed to a purely *Manx* national life (the latter consideration being, in any case, something that Manx National Heritage would have taken into account in its decision).

4. **Deferral of licence**

- 4.1 The Treasury may defer a final decision on the issuing of a licence for the export of an item, if that item falls within the Waverley criteria. This deferral is intended to allow for an alternative offer to be made that would permit the item in question to remain in the Isle of Man or UK.
- 4.2 For the purposes of deciding on whether or not an item falls within the Waverley criteria, and that the deferral process is appropriate, the Treasury will make use of the expert advisers retained by the Arts Council England for this purpose and the Reviewing Committee on the Export of Works of Art (RCEWA), a non-departmental public body administered by, but independent of, Arts Council England.
- 4.3 An expert adviser may be appointed to consider a particular application for an export licence. If that adviser makes an objection to an export then the Treasury would refer the application to the RCEWA. The RCEWA, which meets on a monthly basis in London, would decide if the item meets any of the Waverley criteria, a fair market price, and recommends a suitable period for deferral of a licence. The RCEWA may use independent assessors to assist it in its work.
- 4.4 Both the applicant and the expert adviser are able to submit statements to the RCEWA, and may attend the meeting at which the matter is considered. The meetings themselves are private.
- 4.5 If the RCEWA consider the item to be caught by the Waverley criteria it may ask the applicant if they would consider a matching offer (i.e. an offer of equivalent fair price, that would enable the item to remain in the Isle of Man or, perhaps, the UK). If the applicant agrees to acceptance of a matching offer then the RCEWA may recommend deferral of a licence, so as to allow time for a matching offer to be made.
- 4.6 Exceptionally, the RCEWA may recommend that a licence be refused outright.
- 4.7 If the RCEWA finds that the item is not caught by the Waverley criteria it will recommend that a licence should be granted.
- 4.8 The recommendations of the RCEWA are considered by the Treasury, and it is the Treasury which makes the final decision on the granting, deferral or refusal of a licence.
- 4.9 If no-one comes forward with a matching offer during a deferral period a licence would normally be granted. However, if someone comes forward during the deferral period with a serious intent to buy the item then the period may be extended so as to allow that person to raise the price required.

4.10 If a would-be purchaser does raise the required matching offer price the applicant is not obliged to accept it and sell the item. However, in such cases the Treasury would normally not grant an export licence.

5. Appeals

If you are refused a licence you should apply in writing for a reconsideration of the decision to—

Manx National Heritage where an MNH licence has been refused.

or

the Collector of Customs & Excise where a Treasury licence has been refused.

6. Contact details

Isle of Man Customs & Excise

PO Box 6, Custom House, North Quay, Douglas, Isle of Man, IM99 1AG

Tel: (01624) 648109
Email: customs@gov.im
Website: www.gov.im/customs

Manx National Heritage

Manx Museum, Kingswood Grove, Douglas, Isle of Man, IM1 3LY

Tel: (01624) 648000
Email: enquiries@mnh.im
Website: <https://manxnationalheritage.im/>

Arts Council England

Export Licensing Unit, The Arts Council, 21 Bloomsbury Street, London, WC1B 3HF

Tel: 0161 934 4317
Email: elu@artscouncil.org.uk
Website: <https://www.artscouncil.org.uk/export-controls/export-licensing>

Changes made to this Notice since 3 February 2021

February 2022 Updated to remove references to European Union, updated contact details and Annexes.

Privacy Notice

The Treasury collects information about you in order to administer taxation and carry out other functions for which it is responsible (e.g. National Insurance, customs and excise duties, property rates, social security benefits, state pensions and legal aid etc.), and for the detection and prevention of crime.

Whilst that information will primarily be provided by you, where the law allows we may also get information about you from other organisations, or give information about you to them. This may be to check the accuracy of the information provided, prevent or detect crime or protect public funds in other ways. These organisations may include other government departments, the police and other agencies.

To find out more about how we collect and use personal information, contact any of our offices or visit our website at: <https://www.gov.im/about-the-government/departments/the-treasury/privacy-notice/>

Annex 1 - Value thresholds for national export licences

OGEL limits for the export of cultural goods

Category of Object	OGEL limit ¹
1 Any item over 50 years of age (excluding objects listed in categories 2 - 10 below) ²	£65,000
2 Archaeological material found in UK/IOM soil or UK/IOM territorial waters over 50 years of age	£Zero
3 Any document or manuscript (in any case not being printed matter) ³ over 50 years of age	£Zero
4 Any archive of manuscripts and documents in any medium, created and/or accumulated by an individual, family, corporate body or institution, which has survived or been preserved as evidence of their purpose and activities over 50 years of age	£Zero
5 An architectural, scientific and engineering drawing produced by hand over 50 years of age	£Zero
6 A photographic positive or negative or any assemblage of such photographs over 50 years of age	£10,000
7 A textile (excluding carpets and tapestries) over 50 years of age	£12,000
8 A portrait or other article consisting of or including a representation of the likeness of a British Historical Personage ⁴ (made otherwise than by photography and excluding a coin) over 50 years of age	£10,000
9 A firearm over 100 years of age and any other arms or armour ⁵	£35,000
10 A firearm between 50 and 100 years of age ⁵	£65,000
11 A painting in oil or tempera (excluding any portrait of a British historical personage) over 50 years of age	£180,000

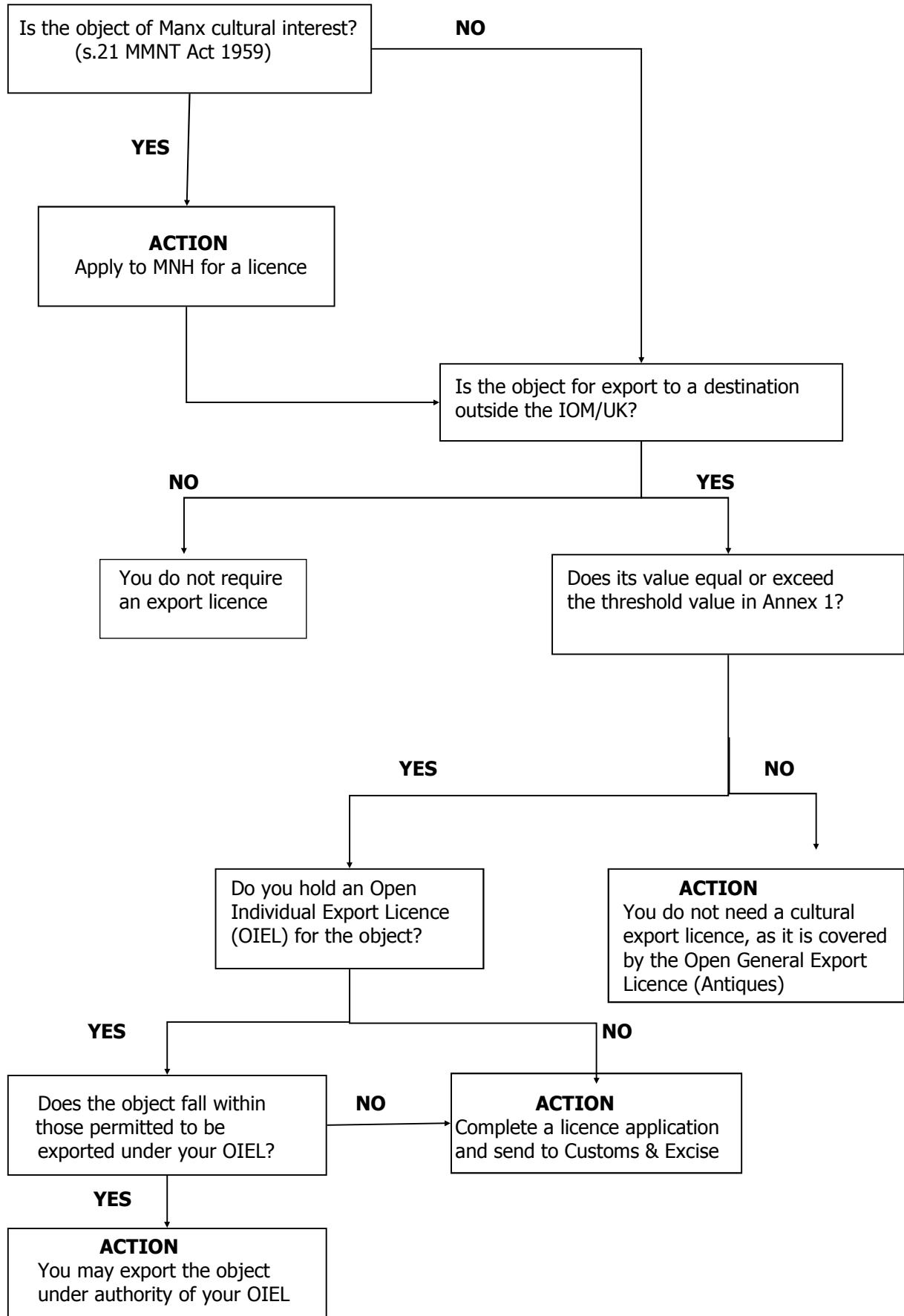
¹ The value is the value of the article as required to be declared for Customs purposes and if the goods to be exported consist of a matching set or pair of articles the value of the matching set or pair.

² An individual export licence is not required to export the following goods:

- any musical instrument over 50 years of age temporarily exported for a period of less than 6 months for use in the course of work by a professional musician;
- any musical instrument over 50 years of age exported following temporary importation for a period of less than 6 months, having been imported for use in the course of work by a professional musician;
- any motor vehicle (wherever registered) over 50 years of age (other than those designed or adapted for military or paramilitary use) temporarily exported for a period of less than 6 months for use for social, domestic or pleasure purposes (including attendance at or participation in a race, rally, or non-commercial exhibition);

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- d) any foreign-registered motor vehicle over 50 years of age (other than those designed or adapted for military or paramilitary use) exported following temporary importation for a period of less than 6 months, having been imported for use for social, domestic or pleasure purposes (including attendance at or participation in a race, rally or non-commercial exhibition);
 - e) any article over 50 years of age that is in the UK/IOM following its importation solely for the purpose of transit through the UK with a view to export;
 - f) any article over 50 years of age that is not in free circulation in the UK/IOM;
 - g) any article over 50 years of age that the Secretary of State has approved for return to the claimant following a recommendation of the Spoliation Advisory Panel. For such articles there must be produced to Customs in the place of export a copy of the Spoliation Advisory Panel's report together with a letter from the claimant confirming that they are content for the article to be exported.
- 3 Before considering submitting a licence application for manorial documents, applicants must consult the Secretary of the Royal Commission on Historical Manuscripts (HMC) on whether the Master of the Rolls will consent to their export.
- 4 A British historical personage means any person, living or dead, in respect of whom an entry appears in the *Dictionary of National Biography* (or any supplement thereto), *Who's Who*, or *Who was Who*.
- 5 An export licence from the Export Control Joint Unit within the Department for International Trade (DIT) may be required for cultural goods classified as firearms, military or paramilitary equipment manufactured or produced less than 100 years before the date of exportation, regardless of monetary value. See address at Section 6.

Annex 2 - Decision Flowchart



Annex 3 - Export Licence Information Form



Application for an Export Licence
(Objects of Cultural Interest)

Official Ref:

When completed, please return this form to The Licensing Officer, Isle of Man Customs and Excise, PO Box 6, Custom House, North Quay, Douglas, Isle of Man, IM99 1AG.

Contact telephone number for any queries

Contact name(s)

Name and Address of consignor

Postcode

Name and address of all present owners

Postcode

Name and address of consignee

Postcode

Name and address of ultimate purchaser (if different)

Postcode

1. Are the goods being exported on a firm order? YES / NO
2. Are the goods on consignment (sale or return)? YES / NO
3. Are the goods for temporary exportation, e.g. for exhibition or repair and then for return to the UK or Isle of Man? YES / NO
4. If they are to be returned, give date of return
5. State date of proposed shipment
6. Have the goods been imported into the UK and Isle of Man in the last 50 years from anywhere other than the Channel Islands? YES / NO
If "YES", supply available evidence. (NB: The answer should be "NO" for items which have previously been licensed for temporary export and return only, but which otherwise had been in the UK/Isle of Man for more than 50 years).
7. Are the goods being re-exported from the UK/Isle of Man after temporary importation? YES / NO
8. State official reference number(s) of any previous export licence or licence application for the goods

Please now read notes 5-7 on page 4

WARNING

It is an offence under article 4 of the Export of Objects of Cultural Interest (Control) Order 2003:
a) to make any statement or furnish any document or information which is false in a material particular; or
b) recklessly to make any statement or furnish any document or information which is false in a material particular,
for the purpose of obtaining an export licence.

Penalties may be imposed upon conviction, including a fine and/or imprisonment for a term not exceeding 2 years.

Declaration

1. The goods to be exported are my/our property or are the property of the owner(s) named above for whom I am authorised to act in this transaction as the sole responsible representative.
2. I am aware that the exporter or shipper of the goods may be required to provide to the Treasury, within such time as it allows, evidence of the destination to which the goods covered by this licence were delivered.

Signed

Owner of goods/proprietor/partner/director/company secretary*
(*delete as appropriate)

Full name

Date

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Whilst that information will primarily be provided by you, where the law allows we may also get information about you from other organisations, or give information about you to them. This may be able to check the accuracy of the information provided, prevent or detect crime or protect public funds in other ways. These organisations may include other government departments, the police and other agencies.

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APPLICATION FOR EXPORT LICENCE

General

1. Shipment of the goods should not be arranged until a licence has been granted.

Description of articles – a matching set of items is regarded as one article

2. For objects of cultural interest the description on page 3 should state the style or class to which the object belongs (eg by Raphael, style of Adam, Chelsea Cloisonne, mezzotint, Sheffield plate, the nature of the material, design and decoration, general colour, period, country of origin and exact measurements). For a painting the full title by which it is usually known should be given: whether signed and, if dated, the date.
3. For gold and silver articles, the maker, date and place including hallmark should be stated and, except in the case of filled articles, the weight.
4. For photographic positives or negatives, state the name of the photographer and particulars of the subject, eg the name(s) of the sitter(s), location, etc.

Warning

5. The Licence
 - may be varied, suspended or revoked by the Treasury at any time without reason given;
 - may not be altered except by the Treasury;
 - is not transferable;
 - does not guarantee neither the value, authenticity or title of its holder.

Goods sent by post

6. The licence is available for one posting only and must be surrendered at the time of posting even if the quantity of goods posted is less than that shown on the licence. Attach the licence in an envelope marked "Export Licence" to the outside of the package or, if a batch, to one packet. Failure to do so may lead to delay.

Goods not sent by post

7. The licence must travel with the goods and should be produced to a Customs Officer or UKBA Frontier Officer when requested.
8. Exhausted Licences to be returned to:
Isle of Man Customs and Excise, PO Box 6, Custom House, North Quay, Douglas, Isle of Man, IM99 1AG.

Published by:
Isle of Man Customs & Excise Division
PO Box 6
Custom House
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Telephone: (01624) 648109

Email: customs@gov.im

Website: www.gov.im/customs

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