

Treasury
Customs and Excise Division

Notice 12A (MAN)

What you can do if things are seized
by Customs and Excise



July 2009
(updated to 13 June 2018)



Isle of Man
Government

Reilts Ellan Vannin

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Foreword

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1. Introduction

1.1 What is this Notice about?

This Notice gives important advice and information on what you can do following the seizure of any thing (including vehicles and other goods) by Customs and Excise. It provides information about whom to contact when you have had things seized from you.

Things seized from you are listed on either:

- A Notice of Seizure (sent to you if you or your agent were not present when the thing was seized); or
- A Seizure Information Notice on form C156 MAN (handed to you or your agent if we seized the thing in your or their presence). The reason for the seizure should have been explained to the person present at the time of seizure.

This Notice is available both on paper and on our website. A glossary of terms used in this notice can be found at section 5.

This Notice does not cover seizures of cash under the Proceeds of Crime Act (POCA) 2008. The receipt for seized cash gives details about how to appeal the liability to seizure of cash.

1.2 What can I do now?

If you have had something seized by Customs and Excise and you do not accept that we were legally entitled to seize it and/or you want us to consider returning it, you can:

- a) Appeal against the legality of the seizure by sending us a Notice of Claim. (See Section 2).



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Or

- b) Ask us in writing to return the thing to you, even if you accept that Customs and Excise had a legal right to seize it. This is called Restoration. There is a separate appeals process for people who are dissatisfied with decisions about returning things. This involves an internal review, followed by a right to appeal to an independent Tribunal. (See Section 3).

Or

- c) Do both of the above at the same time by contesting the legality of the seizure and asking us to return the seized thing(s) in the meantime. (See Sections 2 and 3).

In addition to the above you may, when appropriate, follow our complaints procedure which is about how you were dealt with as a person rather than whether things should have been seized from you or restored to you. (See Section 4).

A notice of claim against the legality of seizure must be received by Customs and Excise **within one month of the date the seizure occurred**. You cannot claim against the legality of the seizure at a later date. Whatever you decide to do, your case will be dealt with more quickly if it is clear from the start what you are asking us to do.

In addition to the information in this notice you may wish to obtain legal advice. You may have to pay for this.

1.3 What about my personal property?

If we have seized your vehicle you should try to take as much of your personal property from it as you can, particularly any high value items. You will not be allowed to take any seized things. You should tell the seizing officer about any property you are unable to take so that it can be recorded. Smaller items will be placed in a sealed bag.

Write to the address shown on the outside back cover of this Notice to arrive **within 45 days** to arrange the collection of any property you could not take with you. Please mark the envelope "Personal Property". You **must** collect or make arrangements for collection of your personal property within a reasonable period. **(2 months from the date of seizure). If you have not collected your personal property within 2 months, it'll be disposed of.**

1.4 What about documents Customs and Excise have taken from me?

If you are present at the time of seizure we will, whenever possible, give you copies of any documents that we take from you. If you did not receive copies, please contact the officer at the address shown on the outside back cover of this Notice or, if none is shown, the address on the Seizure Information Notice (C156 MAN) or the Notice of Seizure to arrange for copies to be sent to you.

2. What if I don't think Customs and Excise had a legal right to seize the thing(s)?

If you believe that the thing was not liable to seizure you must challenge the legality of the seizure. You may believe that Customs and Excise had no legal right to seize it because for example:

- goods were within your statutory allowance,
- excise goods were for your own use or to be given away,
- goods were not prohibited or restricted, or
- a vehicle was running on duty-rebated fuel (e.g. red diesel) which it was allowed to use.

2.1 How do I challenge the seizure?

You can challenge the seizure by sending us a Notice of Claim setting out your reasons for appeal. In legal terms, by sending a Notice of Claim you are asking us to start condemnation proceedings in a court, (usually before the Deputy High Bailiff). You may use Letter A in Section 6 of this notice to challenge the seizure but if you prefer to write in your own words, you should make it clear why you believe we were wrong to seize the thing. You must include your full name and address and any Customs and Excise reference you have been given. Use continuation sheets where necessary to include all required information. It is recommended that if you post a Notice of Claim that you use a registered or recorded service that provides you with proof of postage.

2.2 Who can appeal against seizure?

Only the owner of the goods at the time of seizure can challenge the legality of the seizure. The owner can ask someone else to submit a Notice of Claim for them, but it must include or be accompanied by a signed authority for them to act on behalf of the owner. Failure to include such an authority could result in delay.

2.3 Is there a time limit?

Yes. Customs and Excise must receive your Notice of Claim within one calendar month of the date of seizure or the Notice of Seizure.

2.4 What if I miss the time limit?

If a valid Notice of Claim is not received within one calendar month of the date of the seizure or the Notice of Seizure then the legality of the seizure is confirmed. This is a matter of law. **You will no longer be able to challenge the legality of the seizure.**

2.5 Where should I send the Notice of Claim?

It is important that you send your Notice of Claim to Customs and Excise at:

Isle of Man Customs and Excise
PO Box 6
Custom House
North Quay
Douglas
Isle of Man
IM99 1AG

Please send as much information as you can so that your Notice of Claim can be sent to the correct person to deal with your case.

2.6 **What if I am outside the United Kingdom and Isle of Man?**

If you are outside the United Kingdom or the Isle of Man you must provide, within the time limit, the name and address of an advocate in the Island instructed to accept the service of legal documents and act on your behalf.

2.7 **What if I want only to appeal the seizure of some of the things seized?**

You must state exactly which things are the subject of your appeal. Be as specific as possible including quantities - for example, weight of rolling tobacco, number of cigarettes or litres of beer, wine or spirits and brand names if possible.

2.8 **What if some of the seized things are owned by other people?**

Every person who want to appeal the seizure of a thing **must** send a Notice of Claim to us within the time limit.

If you want to write a joint letter each person must:

- Sign - giving full name and addresses;
- State, where appropriate, which of the seized things are the subject of individual appeals; and
- Use continuation sheets where necessary to include **all required information**.

2.9 **What happens next?**

Upon receipt of a Notice of Claim we will apply to the Court for an appeal hearing. You will receive a summons from the court telling you when and where the hearing will take place - normally at the court nearest to where the things were seized. We will give you a written decision unless you have already been given a decision at, for example, the time of seizure. This process is called restoration (see Section 3).

2.10 **Are these criminal proceedings?**

No. Appeals against seizure are civil proceedings mainly concerned with establishing whether the thing subject to the appeal was liable to seizure. You will not have a criminal record just because the court finds the things liable to seizure.

2.11 What happens in court?

You will be asked to confirm on oath that you were the owner of the thing at the time it was seized. We will present our evidence as to why we think the thing was liable to seizure. You will be able to tell the court why you think it was not liable to seizure. The court will then decide in favour of one or other party. The court may also consider, where appropriate, whether we have acted in a proportionate way in not returning the thing to you.

2.12 Do I need legal representation in court?

No. You don't have to be legally represented in court but you may want to instruct an advocate (normally at your own expense) to act on your behalf.

2.13 How long does the process take?

The process of appeal against seizure can take several months from the date you send your Notice of Claim until the court hearing. The court hearing itself will normally take less than a day.

2.14 What will happen if I am successful at the appeal hearing?

If the court finds in your favour the thing or any restoration fee that you have paid will be returned to you. If we have already disposed of the seized thing we will pay you an amount equivalent to its market value at the time of seizure (e.g. the price you paid abroad). You may also submit a claim at the court for your costs in relation to the hearing (for example travel to and from the court, legal fees, photocopying etc).

2.15 How likely is it that Customs and Excise will have disposed of the seized thing?

We will dispose of perishable goods (including tobacco and beer and all food products) as quickly as possible. We will normally begin to dispose of non-perishable things (such as vehicles and spirits) 45 days after the date of seizure unless we have received an appeal against seizure, in which case they will normally be retained by us until the seizure appeal process is concluded.

2.16 What will happen if the court finds in favour of Customs and Excise?

If the court finds in favour of Customs and Excise it will make an order which makes to goods forfeit. The court may also order you to pay costs.

2.17 Can I change my mind part way through the appeal process?

Yes. You can withdraw your appeal against seizure of a thing at any stage by writing to us but you may still be liable to pay some of our costs if the case is well advanced. If you withdraw your appeal against seizure this will not affect any request for restoration (see Section 3) but the legality of the seizure will have been established and you will be unable to challenge it during any subsequent consideration of a request for restoration.

2.18 What if I don't want to go through the appeals process but would like Customs and Excise to consider returning the seized thing?

If you do not lodge an appeal against the legality of the seizure by submitting a valid Notice of Claim within the time limit, ownership of the seized thing will automatically pass to Customs and Excise and you will be unable to challenge the legality of the seizure at a later date. However, if you accept that the thing was legally seized, you can still ask us to consider returning the seized thing (see Section 3).

3. I want Customs and Excise to return the seized thing(s)

3.1 In what circumstances can I ask for the return of a seized thing?

You can ask us to consider returning the seized thing even if:

- you accept that it was liable to seizure; or
- you have already challenged the seizure and you are waiting for a court hearing; or
- the time limit for challenging the seizure has expired and ownership of the thing has passed automatically to Customs and Excise; or
- you don't accept that it was liable to seizure but you do not wish to challenge the legality of the seizure.

This process is called **restoration**. If you maintain that a seized thing should not have been seized you **cannot** rely on that as a reason for it to be returned to you. In those circumstances you **must** also challenge the legality of the seizure as set out in Section 2.

If the seizure involves a vehicle you may be given a restoration decision for the vehicle at the time of seizure or after we have received a valid Notice of Claim notifying us that you wish to contest the seizure (see Section 2).

3.2 Is Customs and Excise likely to return seized thing(s)?

Our general policy is **not** to return seized excise goods (such as alcohol or tobacco products), vehicles used for commercial smuggling or any seized prohibited thing (such as illegal drugs, offensive weapons or endangered plant and animal species). However, we will consider all requests taking into account all relevant facts.

3.3 How do I ask Customs and Excise to restore a seized thing?

You should make your request for restoration in writing although the seizing officer **may** make you an offer to restore the thing at the time of seizure (for example, on humanitarian grounds).

You can use Letter B in Section 6 of this Notice or, if you prefer to write in your own words, you must make it clear that you want the seized thing restored to you.

3.4 **Where should I send a letter requesting the restoration of a seized thing?**

It is important that you send your request for restoration to the address below:

Isle of Man Customs and Excise
PO Box 6
Custom House
North Quay
Douglas
Isle of Man
IM99 1AG

If you send your request elsewhere it could delay the processing of the request. Please send as much information as you can so that your letter can be sent to the correct person to deal with your case.

3.5 **What should I include in my letter?**

Explain why you think the thing should be restored to you. Tell us the full circumstances and enclose any available evidence to support your claim. If your reason for asking for restoration is simply because you think that it should not have been seized, you **must** also appeal against the legality of the seizure (see section 2). If the court concludes it was not lawful, the seized thing (or any amount paid if we have already agreed to restore it) will be returned to you in accordance with paragraph 2.14).

You should also enclose proof of ownership of the thing (such as purchase receipts). A copy of a vehicle registration document is useful but in the United Kingdom it shows only the registered keeper who may not be the legal owner. We will normally only restore a thing to its rightful owner but will take into consideration arrangements with third parties. You should give your full name and address and quote any Customs and Excise reference number shown on the Seizure Information Notice (C156 MAN) or Notice of Seizure. We will normally respond within 10 working days.

3.6 **Is there a time limit?**

There is no time limit prescribed by law but we would normally expect to receive a request for restoration of a seized thing within one month of the date of seizure or the Notice of Seizure. However, if we have not heard from you within 45 days we will begin disposing of non-perishable seized things. Once they have been disposed of a decision on restoration will not normally be given.

3.7 **How likely is it that Customs and Excise will have disposed of the seized thing(s)?**

We will dispose of seized perishable goods (including tobacco, beer and all food products) as quickly as possible. We will normally begin to dispose of non-perishable things (such as vehicles and spirits) 45 days after the date of seizure unless we receive a request for their restoration in the meantime, in which case they will normally be retained by us until the restoration matter is fully concluded. However, older cars will normally be disposed of once a restoration request has been considered and refused (i.e. before any restoration appeal process is concluded - see also

paragraphs 2.15 and 3.11). If we decide that we should restore the seized thing but have in the meantime disposed of it, we will normally offer you an appropriate payment instead.

3.8 **If Customs and Excise restore the seized thing(s) will I have to pay anything?**

If we do offer to restore a seized thing this will normally be on payment of a fee. Any such fee will vary depending on the specific circumstances. We may also ask you to pay any duty and/or VAT due.

3.9 **What can I do if Customs and Excise refuses to restore the seized thing, or if I disagree with the conditions of its restoration?**

When we give you our restoration decision we will explain how you can request a review of that decision if you do not agree with it. An impartial Review Officer will consider your case. The Review Officer, who can confirm, vary or withdraw the original decision, will be independent of both the officer who seized the thing and the officer who made the original decision.

3.10 **How do I request a review?**

The notification of a restoration decision will normally contain a paragraph which briefly sets out your rights, the time limit (see 3.12) and gives advice on how to request a review. Your request should clearly set out the reasons why you disagree with the decision. It will be helpful if you can attach a copy of the notification or include details of any reference. The Review Officer will acknowledge receipt of your application for a review and will confirm the expiry date of the 45 day period for conducting the review.

3.11 **How will the review be conducted?**

The Review Officer will call for all the papers from the Officer who issued the decision and may discuss the reasons for the decision with him or her. The Review Officer may need to contact you to clarify any points or seek further information. The review stage, though mandatory, is not intended to be complex or to require professional representation. Nevertheless, if you choose to employ professional advisers you should bear in mind that you will be responsible for their charges. If you do so we will ask you to confirm that they are representing you. We will advise you in writing of the outcome of the review and of any further rights of appeal.

3.12 **What about time limits?**

- **You** have up to **45 days** from the date we issue our decision on restoration to write and ask us to review it (we will normally tell you if our decision is appealable).
- **We** then have up to **45 days** from the receipt of your letter requesting us to review our decision to carry out a review and notify you of the outcome.
- If, following the review, you still wish to pursue the matter you have **30 days** from the date of the review decision to lodge your appeal with the Tribunal.

If you request a review outside of the statutory 45 day time limit you must be able to show 'reasonable excuse' as to why your request is outside the time limit - for example because of ill health or bereavement. You should include your reasons, in writing, with your request.

If your request for an 'out of time' review is refused you may, within 30 days from the date we issue our refusal letter, appeal against our refusal.

3.13 Can the time limit for a review to be carried out be extended?

If we do not complete a review within 45 days then this can be extended, by mutual agreement, by up to another 30 days.

3.14 What if I still disagree? Can I appeal to someone else?

Yes. If you disagree with the Review Officer's decision you have the right to appeal to the Tribunal, which is independent of Customs and Excise.

3.15 What happens if I do not get a review decision within 45 days of requesting it but I still want to appeal to the Tribunal?

If we do not complete the review within 45 days and there has not been agreement to extend the review time then:

- The original decision stands; and
- You have the right to lodge an appeal with the Tribunal.

If the 30 day time limit has expired for you to lodge an appeal to the Tribunal then you must apply direct to the Manchester Tribunal Centre for an extension of time in which to lodge an appeal. Tribunal Service appeal forms are available from the Tribunals Service website (<http://www.justice.gov.uk/about/hmcts>). You can also phone the Tribunals Service for copies or write to the Tribunals Service.

3.16 Can I accept an offer to restore the seized thing even if I am unhappy with the fee payable, and then ask for a review of the restoration offer?

Yes. If you accept the restoration offer, pay the restoration fee, and take back possession of the seized thing but you consider the fee to be unreasonable, you can ask for a review of the restoration decision. If you remain dissatisfied you may then appeal the 'reviewed' decision to the Tribunal. However you will not be able to challenge the legality of the seizure (Section 2) **unless** we receive a valid Notice of Claim within one month of the date of seizure.

3.17 Can I appeal direct to the Tribunal?

No. You must first ask Customs and Excise to review the original decision. You cannot appeal to the Tribunal until this process has been completed. Note, however, that you can appeal direct to the Tribunal if the Review Officer has been unable to reach a decision within the 45 day time limit and you have not been able to mutually agree an extension.

3.18 Can I have a restoration decision reviewed even when I am appealing against the seizure?

Yes. You can submit a Notice of Claim against the seizure (Section 2) and still receive a restoration decision that can then be reviewed prior to the condemnation proceedings in court. If you are dissatisfied with the reviewed decision you may then appeal the reviewed decision to the Tribunal. We would normally ask for any Tribunal hearing to be deferred until the condemnation proceedings have been concluded.

3.19 How do I appeal to the Tribunal?

The Tribunals publish explanatory leaflets that set out how to lodge a Notice of Appeal. You are strongly advised to read the relevant leaflet, which also gives details of the procedures leading up to a hearing, what happens at a hearing and how applications for costs are treated. You can obtain these leaflets together with the appropriate appeal form from the Manchester Tribunal Centre.

A copy of the original decision and a copy of any letter notifying you of the outcome of the review by Customs and Excise **must** also accompany your appeal to the Tribunal. Your appeal to the Tribunal should be sent to the Manchester Tribunal Centre and **not** to Customs and Excise.

3.20 Will my request for restoration be affected if I lose the appeal against seizure?

No. Losing an appeal against the legality of the seizure does not affect any simultaneous request for the restoration of the thing.

4. Complaining about the way you were dealt with by Customs and Excise

If you are unhappy about the way you were dealt with or about the behaviour of our officers you may make a complaint to the officer or make your complaint in writing to the Collector of Customs and Excise. This is entirely separate from the appeals procedures in sections 2 and 3 which deal with the things seized from you and the reasons they were seized. The complaints procedure is about how you were dealt with as a person rather than whether things should have been seized from you or restored to you.

5. Glossary of terms used in this Notice

Glossary	
Seizure	The physical act of Customs and Excise taking possession of a thing which they believe to be liable to forfeiture under the customs and excise Acts.
Forfeiture	The legal act, whether by order of a court or by passage of time (if there is no appeal) which transfers ownership of a seized thing to Customs and Excise.

Notice of Claim	A letter formally appealing against the seizure of a thing by Customs and Excise. Legal ownership of the seized thing will pass automatically to Customs and Excise within one month of the date of seizure if a Notice of Claim is not submitted. See paragraph 2.1.
Condemnation proceedings	The legal term for an appeal against the seizure of a thing by Customs and Excise. Condemnation proceedings will establish whether or not legal ownership of the seized thing will pass to Customs and Excise. See paragraph 2.1.
Restoration	A means by which Customs and Excise can return a seized thing to its owner, usually for a sum of money.

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/>

6. **Letter A - Notice of Claim - Use this letter if you want to appeal to a court against the legality of the seizure (see section 2 of this notice)**

My address
Daytime Telephone No

Date

Customs address

Any Customs Seizure Reference No
and date and place of seizure

List the seized things you wish to be included in your appeal:

Owner	Thing and Quantity*

NB: Remember to include proof of ownership (this is particularly important if vehicles are concerned), together with any documentary information to support your claim.

I/We** the undersigned wish to appeal against Customs' legal right to seize the thing (s) listed above (see also attached sheet**). Please commence legal proceedings so that I/we** can challenge why the thing(s) were seized by Customs.

Signed (1)	Signed (2)**	Signed (3) **	Signed (4)**
Print Name	Print Name**	Print Name**	Print Name**

* For example show kilos (of rolling tobacco), number (of cigarettes) and litres (of alcohol) + brand name

** Delete as applicable

EACH PERSON APPEALING AGAINST SEIZURE MUST PROVIDE THEIR FULL NAME AND ADDRESS. USE CONTINUATION SHEETS WHERE NECESSARY.

7. Letter B - Use this letter if you want Customs and Excise to return seized things to you (see section 3 of this notice)

My address
Daytime Telephone No

Date

Customs address

Any Customs Seizure Reference No
and date and place of seizure

List the seized things you wish to be returned to you (if you are also appealing against the legality of the seizure and have already listed the things in Letter A you need only tick here []):

Owner	Thing and Quantity*

NB: Remember to include proof of ownership (this is particularly important if vehicles are concerned), together with any documentary information to support your claim.

I/We** the undersigned ask for the return of the thing(s) indicated above (see also attached sheet**):

I/We** believe that these things should be returned for the following reasons (please refer to section 3.5), if you require more space please attach a separate sheet:

Note: If your only reason for requesting the return of seized things is that you think that Customs had no legal right to seize them (e.g. that excise goods were entirely for your 'own use' or they were to be given to others as gifts 'free of charge'), you cannot rely on that as a reason for it to be returned to you. In those circumstances you must also challenge the legality of the seizure as set out in Section 2 of this notice.

If you wish us only to consider returning the seized thing you must make it clear (by ticking the box below) that you do not also wish to contest the legality of the seizure.

I/we do not wish to contest the legality of the seizure** []

Signed (1)
Print Name

Signed (2)**
Print Name**

Signed (3) **
Print Name**

Signed (4)**
Print Name**

* For example show kilos (of rolling tobacco), number (of cigarettes) and litres (of alcohol) + brand name

** Delete as applicable

Complete both Letter A and Letter B if you wish to contest the legality of the seizure and, at the same time, ask Customs to consider returning a seized thing (see sections 2 and 3 of this notice).

EACH PERSON APPEALING AGAINST SEIZURE MUST PROVIDE THEIR FULL NAME AND ADDRESS. USE CONTINUATION SHEETS WHERE NECESSARY.

Do you have any comments?

We would be pleased to receive any comments or suggestions you may have about this notice. Please write to:

Isle of Man Customs and Excise
PO Box 6
Custom House
North Quay
Douglas
Isle of Man
IM99 1AG

If you have a complaint or suggestion

If you have a complaint please try to resolve it on the spot with our officer. If you are unable to do so, or have a suggestion about how we can improve our service, you should write to the Collector of Customs and Excise at the above address.

Amendments to this Notice

9 August 2013	Paragraph 2.1 amended, and paragraphs 2.2 and 2.6 replaced.
30 May 2018	Privacy Notice added.
13 June 2018	Paragraph 1.3 amended re time limits for disposal.

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This document can be provided in large print or audio tape on request

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