

2011 No. 3036

CUSTOMS

The Postal Packets (Revenue and Customs) Regulations 2011

Made - - - - *19th December 2011*

Laid before the House of Commons *20th December 2011*

Coming into force - - *10th January 2012*

The Treasury, in exercise of the powers conferred by sections 105(2) and 122 of the Postal Services Act 2000(a), and on the recommendation of the Commissioners for Her Majesty's Revenue and Customs(b) and the Secretary of State, make the following Regulations.

Citation and commencement

1. These Regulations may be cited as the Postal Packets (Revenue and Customs) Regulations 2011 and come into force on 10th January 2012.

Definitions

2. In these Regulations—

“the Act of 1979” means the Customs and Excise Management Act 1979(c);

“CN22” and “CN23” mean the customs declaration forms for postal items described under those names in the provisions of the Universal Postal Convention and detailed regulations made thereunder which are for the time being in force;

“the Commissioners” means the Commissioners for Her Majesty's Revenue and Customs;

“the customs and excise Acts” has the meaning given by section 1(1) of the Act of 1979;

“the Customs and Excise Acts 1979” has the meaning given by section 1(1) of the Act of 1979;

“customs officer” means an officer of Revenue and Customs(d);

(a) 2000 c. 26; section 105(2) provides for the Treasury to make regulations on the recommendation of the Commissioners of Customs and Excise.

(b) The functions of the Commissioners of Customs and Excise were transferred to the Commissioners for Her Majesty's Revenue and Customs by section 5(2) of the Commissioners for Revenue and Customs Act 2005 (c. 11). Section 50(1) of that Act provides that a reference to the Commissioners of Customs and Excise shall be taken as a reference to the Commissioners for Her Majesty's Revenue and Customs.

(c) 1979 c. 2.

(d) The Borders, Citizenship and Immigration Act 2009 (c. 11), section 3(5), provides that, so far as is appropriate, references to an officer of Revenue and Customs in an enactment to which the Act applies are to be construed as including a reference to a general customs official; section 3(7) provides that, subject to express provision to the contrary, section 3 applies to enactments passed after the Act is passed; sections 11(4) and 11(6) provide, in terms analogous to those of sections 3(5) and 3(7), for references to an officer of Revenue and Customs to include a reference to a customs revenue official.

“the customs territory” means the territories which, in accordance with Article 3 of Council Regulation 2913/92/EEC(a) (as amended from time to time), comprise the customs territory of the Community;

“duty” includes value added tax and any other charge on imported goods; and

“exporter” and “importer” have the meanings given by section 1(1) of the Act of 1979.

Revocations

3. The Postal Packets (Customs and Excise) Regulations 1986(b) are revoked.
4. The Postal Packets (Revenue and Customs) Regulations 2007(c) are revoked.

Application of Section 105 of the Postal Services Act 2000

5. Section 105(d) of the Postal Services Act 2000 applies to all foreign postal packets.

Modifications and Exceptions

6. In its application to foreign postal packets, the Act of 1979 is subject to the modifications and exceptions made by regulations 7 and 8.

7. Section 159(e) (power to examine and take account of goods) has effect as if—

- (a) in subsection (2), for “at such place as the Commissioners appoint for the purpose” there were substituted “at the place of importation, the place of exportation or any premises where loading, unloading, sorting, distribution, handling or storage of foreign postal packets (within the meaning of section 105 of the Postal Services Act 2000) takes place”, and
- (b) in subsection (8), for the words after “the Commissioners may” there were substituted “accept as the account of those goods for that purpose an account taken by the postal operator concerned or by a person authorised for that purpose by that postal operator.”.

8. Paragraph 1(1) of Schedule 3 (notice of seizure) does not apply where the seizure was made in the presence of an officer of the postal operator concerned, authorised for the purpose by that postal operator.

9. In its application to foreign postal packets carried by a universal service provider acting in that capacity, the Act of 1979 is subject to the modifications and exceptions made by regulations 10 to 16.

10. Section 5 (time of importation, exportation, etc) has effect as if—

- (a) subsections (3) and (5) were omitted, and
- (b) for subsection (4) there were substituted—

“(4) The time of exportation of goods is the time when they are posted (or redirected) in the United Kingdom for transmission to a place outside the customs territory.”.

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- (a) OJ No L 302, 19.10.1992, p 1; Article 3(1) was substituted by the 1994 Act of Accession of the Kingdom of Norway, the Republic of Austria, the Republic of Finland and the Kingdom of Sweden, Annex I(III)(B)(4) (OJ No C 241, 29.8.94) and amended by Article 1(1) of European Parliament and Council Regulation (EC) 82/97 (OJ No L 17, 21.1.97, p 1), by the 2003 Act of Accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia (OJ L 236, 23.9.03, p 1), Annex II, Article 19A(I) and by Council Regulation (EC) 1791/2006 (OJ No L 363, 20.12.2006, p 1), Article 1(1), Annex, Part 12.
 - (b) S.I. 1986/260, amended by S.I. 1986/1019, 1992/3224, 2001/1149.
 - (c) S.I. 2007/2195.
 - (d) As amended by the Proceeds of Crime Act 2002 (c. 29), section 99(4) and by the Postal Services Act 2011, Schedule 12, Part 1, paragraphs 1, 36.
 - (e) As amended by the Isle of Man Act 1979 (c. 58), Schedule 1, by the Finance Act 1984 (c. 43), Schedule 4, Part II, paragraph 5, by the Police and Criminal Evidence Act 1984 (c. 60), section 114(1), by the Finance Act 1988 (c. 46), section 12(1)(a), (6), and by the Finance Act 2008 (c. 1), section 117(1), (3), (4), (5).

11. Subsection (3) of section 40(a) (sale of uncleared goods deposited in Queen’s warehouse) applies to goods deposited under regulation 22(4) as it applies to goods deposited by a proper officer under that section.

12. Section 43(b) (duty on imported goods) has effect as if—

- (a) subsection (1) were omitted, and
- (b) in subsection (2)(c), for sub-paragraphs (i) and (ii) there were substituted “those in force at the time when the officer assesses the amount of duty”.

13. Section 49 (forfeiture of goods improperly imported) has effect as if subsection (1)(a) were omitted.

14. Section 53(c) (entry outwards of goods) has effect as if in subsection (8)—

- (a) for “shipped for exportation or as stores or are waterborne for such shipment” there were substituted “exported”; and
- (b) for “shipping or making waterborne” there were substituted “exportation”.

15. Section 77(d) (information in relation to goods imported or exported) applies in relation to any foreign postal packet and its contents as it applies in relation to goods.

16. Section 99 (provisions as to deposit in Queen’s warehouse) applies to any goods deposited in a Queen’s Warehouse under regulation 22(4) as it applies to goods so deposited under or by virtue of the Customs and Excise Acts 1979.

Customs declarations for foreign postal packets carried by a universal service provider

17. All foreign postal packets carried by a universal service provider—

- (a) posted to the United Kingdom from a place outside the customs territory, or
- (b) posted in the United Kingdom to a place outside the customs territory,

must be accompanied by a customs declaration in form CN22 or CN23 as appropriate, completed accurately and in full.

Declarations and labelling of packets for exportation

18.—(1) Except where regulation 17 applies, every postal packet containing goods to be exported by post without payment of any duty to which they are subject, or on drawback or repayment of such duty, must—

- (a) be accompanied by a customs declaration fully stating the nature, quantity and value of the goods which it contains or of which it consists and such other particulars as the Commissioners or the postal operator concerned may require,
- (b) have affixed to its outer cover in the form and manner required by the Commissioners a label printed with the words “Exported by Post under Revenue and Customs control” or be distinguished in such other manner as the Commissioners may require.

(2) Where the requirements of paragraph (b) have been fulfilled, the postal operator concerned must endorse a certificate of posting on the appropriate document and give it to the sender.

(a) As amended by the Finance Act 1981 (c. 16), section 10(1), Schedule 6, paragraph 5.

(b) As amended by the Isle of Man Act 1979, section 13, Schedule 1, by the Finance Act 1981, section 10(1), Schedule 6, paragraphs 7(1), (2)(a), (4), by the Customs Duty Regulations 1982 (S.I. 1982/1324), regulations 2(2) and 2(4) and by the Finance (No 2) Act 1992 (c. 48), section 1, Schedule 1, paragraphs 2(a), 2(b).

(c) Substituted by the Finance Act 1981, section 10(2), (4), Schedule 7, Part I; amended by the Police and Criminal Evidence Act 1984, section 114(1) and by the Finance Act 1988, section 12(1)(a), (6).

(d) As amended by the Criminal Justice Act 1982 (c. 48), sections 38 and 46, by the Finance Act 1987 (c. 16), sections 10, 72(7), Schedule 16, Part III and by the Customs and Excise (Single Market etc) Regulations 1992, regulation 10(1), Schedule 1, paragraph 7.

Language of declarations

19. The declarations referred to in regulations 17 and 18 shall be completed legibly in English, French or the language of the destination country.

Liability to forfeiture of non-compliant foreign postal packets

20.—(1) Where—

- (a) the contents of a foreign postal packet are not in accordance with the accompanying customs declaration, or
- (b) a foreign postal packet is not accompanied by the prescribed declaration, completed in accordance with these Regulations, or
- (c) a foreign postal packet is not labelled in accordance with these Regulations,

the packet and all its contents shall be liable to forfeiture.

(2) Subject to regulation 8, section 139(a) (provisions as to detention, seizure and condemnation of goods, etc.) of and Schedule 3 to the Act of 1979 shall apply to anything liable to forfeiture under paragraph (1) above as they apply to goods liable to forfeiture under that Act.

Production and examination of postal packets

21. Where a customs officer so requires, in relation to any foreign postal packet, the proper officer of the postal operator concerned must—

- (a) produce the packet to that customs officer; or
- (b) open the packet for examination by that customs officer.

Power to require an entry or account and disposal of goods for which no entry or no proper account is given

22.—(1) This regulation applies to goods contained in postal packets which are brought into the United Kingdom from outside the customs territory.

(2) A customs officer may send to the addressee of the postal packet in which the goods are contained, or to any other person who is for the time being the importer of the goods, a notice requiring entry to be made of them or requiring a full and accurate account of them to be delivered to the officer.

(3) Where such entry is not made or such account is not delivered within 28 days of the date of the notice or within such longer period as the Commissioners may allow, then the postal operator concerned shall either—

- (a) return the goods to the sender of the packet in which they were contained or otherwise export them from the customs territory in accordance with any request or indication appearing on the packet, or
- (b) in accordance with arrangements agreed with the Commissioners, destroy the goods, or
- (c) if required by the Commissioners, deliver them to any customs officer.

(4) Where the goods have been delivered to a customs officer under paragraph (3)(c) of this regulation, that officer may deposit the goods in a Queen's warehouse.

(5) This regulation is without prejudice to the Commissioners' powers of seizure if the goods are liable to forfeiture under these Regulations or any other provisions of the customs and excise Acts.

(6) This regulation is without prejudice to the Commissioners' power to refuse customs clearance for the goods.

(a) As amended by the Criminal Justice Act 1982, section 46 and, in relation to Northern Ireland, by the Police (Northern Ireland) Act 1998 (c. 32), section 74(1), Schedule 4, paragraph 14.

Payment of duty and other sums

23.—(1) A postal operator must pay over to the Commissioners any sums due to them which are recovered by that postal operator pursuant to section 105(3) of the Postal Services Act 2000.

(2) Where any sums due to the Commissioners and demanded by a postal operator pursuant to section 105(3) of the Postal Services Act 2000 are not paid to that postal operator, that postal operator may, with the agreement of the Commissioners, dispose of the goods contained in the postal packet concerned as that postal operator sees fit.

Authorisation of postal operator to perform duties of importer or exporter

24. The postal operator concerned is authorised to perform, in relation to any postal packet or its contents, such of the duties which the customs and excise Acts require the importer or exporter to perform as the Commissioners may require.

The Postal Services Act 2000

25. Nothing in these Regulations authorises any article to be brought into or sent out of the United Kingdom by post contrary to any provision of the Postal Services Act 2000.

UK Border Agency

26. References in these Regulations to the Commissioners shall include a reference to the Secretary of State by whom general customs functions are exercisable and the Director of Border Revenue(a).

*Michael Fabricant
Angela Watkinson*

19th December 2011

Two of the Lords Commissioners of Her Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations revoke and replace the Postal Packets (Customs and Excise) Regulations 1986 (S.I. 1986/260) (“the 1986 Regulations”) and the Postal Packets (Revenue and Customs) Regulations 2007 (S.I. 2007/2195) (“the 2007 Regulations”).

Provision concerning the posting of packages into and out of the customs territory of the member States of the European Union (“the customs territory”) is now made by Council Regulation 2913/92/EEC (OJ No L 302, 19.10.92, p1) establishing the Community Customs Code (“the Code”). Those provisions of the 1986 Regulations that have been entirely superseded by the Code are therefore revoked. The remainder are re-enacted, with some modifications, in these Regulations. It is no longer appropriate to confine the application of section 105 of the Postal Services Act 2000 to postal packets carried by postal operators that are not universal service providers and the 2007 Regulations (which prescribed that limitation) are therefore revoked in their entirety.

Regulation 2 re-enacts the definitions provision in the 1986 Regulations with modifications and additional definitions.

Regulations 3 and 4 repeal the 1986 and 2007 Regulations.

(a) Section 6 of the Borders, Citizenship and Immigration Act 2009 (c. 11) requires the Secretary of State to designate an official in the department of the Secretary of State by whom general customs functions are exercisable as the Director of Border Revenue.

Regulations 5 to 16 provide for the application to foreign postal packets, with modifications where appropriate, of section 105 of the Postal Services Act 2000 and of selected provisions of the Customs and Excise Management Act 1979.

Regulation 17 provides that foreign postal packets posted to or from a place outside the customs territory and carried by a universal service provider are to be accompanied by a customs declaration in the form prescribed by the Universal Postal Convention.

Regulation 18 makes corresponding provision in relation to postal packets for export not carried by a universal service provider.

Regulation 19 requires that all declarations required by the Regulations be completed legibly and in English, French or the language of the destination country.

Regulation 20 provides that postal packets that are not compliant with the Regulations are liable to forfeiture.

Regulation 21 provides that the Commissioners may require the postal operator to produce any foreign packet to them or open it on their behalf.

Regulation 22 allows the Commissioners to require an entry or account in relation to goods imported in postal packets and to dispose of those goods where no satisfactory entry or account of them is given to the Commissioners within the relevant deadline.

Regulation 23 requires the postal operator to pay over to the Commissioners any duty or other sums recovered on the Commissioners' behalf in relation to a postal packet and allows the postal operator, where those sums are not recovered, to dispose of the relevant postal packet.

Regulation 24 allows the postal operator, if the Commissioners so require, to perform the duties of the importer or exporter in relation to a postal packet.

Regulation 25 provides that the Regulations are without prejudice to the Postal Services Act 2000.

Regulation 26 provides that references in the Regulations to the Commissioners for Her Majesty's Revenue and Customs include a reference to the Secretary of State by whom general customs functions are exercisable and the Director of Border Revenue.

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

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STATUTORY INSTRUMENTS

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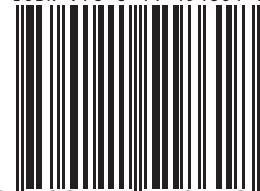
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