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*Number 18 of 2015*

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**CUSTOMS ACT 2015**

**REVISED**

**Updated to 22 November 2021**

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This Revised Act is an administrative consolidation of the *Customs Act 2015*. It is prepared by the Law Reform Commission in accordance with its function under the *Law Reform Commission Act 1975* (3/1975) to keep the law under review and to undertake revision and consolidation of statute law.

All Acts up to and including the *Child and Family Agency (Amendment) Act 2021* (34/2021), enacted 24 November 2021, and all statutory instruments up to and including the *Maritime Jurisdiction Act 2021 (Commencement) Order 2021* (S.I. No. 601 of 2021), made 17 November 2021, were considered in the preparation of this Revised Act.

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Number 18 of 2015

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## **CUSTOMS ACT 2015**

**REVISED**

**Updated to 22 November 2021**

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An Act to revise and partially consolidate the law relating to customs; to repeal the **Customs Consolidation Act 1876** and certain other enactments; to make provision in connection with Council Regulation (EEC) No. 2913/92 of 12 October 1992 establishing the Community Customs Code; to give continuing effect to the Customs Co-operation Convention drawn up on the basis of Article K.3 of the Treaty on European Union, on mutual assistance and co-operation between customs administrations, done at Brussels on 18 December 1997 (Naples II Convention); to give effect to the Council Convention on centralised customs clearance concerning the allocation of national collection costs retained when traditional own resources are made available to the EU budget, done at Brussels on 10 March 2009; to give effect to Council Decision 2009/917/JHA of 30 November 2009 on the use of information technology for customs purposes (CIS Decision); and to provide for related matters.

[18<sup>th</sup> June, 2015]

Be it enacted by the Oireachtas as follows:

### **Annotations**

#### **Editorial Notes:**

- E1** Act included in group of Acts made subject to appeal provisions by *Taxes Consolidation Act 1997* (29/1997), Part 40A, as inserted (21.03.2016) by *Finance (Tax Appeals) Act 2015* (59/2015), s. 34, S.I. No. 110 of 2016.
- E2** Electronic filing of certain returns mandated (31.12.2016) by *Customs (Mandatory Electronic Filing) (Specified Persons) Regulations 2016* (S.I. No. 615 of 2016), in effect as per reg. 1(2). Note that this SI, reg. 7 revoked *Customs (Mandatory Electronic Filing) (Specified Persons) Regulations 2014* (S.I. No. 475 of 2014).

## **PART 1**

### **PRELIMINARY AND GENERAL**

#### **Short title, construction and commencement**

1. (1) This Act may be cited as the Customs Act 2015.
- (2) The Customs Acts and this Act shall be construed together as one.

- (3) This Act comes into operation on such day or days as the Minister may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.
- (4) Without prejudice to the generality of *subsection (3)*, an order or orders under that subsection may appoint different days for the coming into operation of *section 3* so as to effect the repeal or revocation provided by that section of—
- (a) an enactment specified in *Part 1* or *Part 2* of *Schedule 1*, on different days for different purposes; or
- (b) different provisions of an enactment specified in *Part 1* or *Part 2* of *Schedule 1*, on different days.

#### Annotations

#### Editorial Notes:

- E3** Power pursuant to subs. (3) exercised (31.12.2016) by *Customs Act 2015 (Commencement) Order 2016* (S.I. No. 611 of 2016).
2. The day appointed as the day upon which the Customs Act 2015 (No. 18 of 2015) comes into operation is 31 December 2016.

#### Interpretation

##### 2. (1) In this Act—

“authorised or exempted” means authorised or exempted by the Commissioners;

“contiguous zone of the State” has the same meaning as in F3[[the Maritime Jurisdiction Act 2021](#)];

“controlled drug” has the same meaning as in *section 2* of the *Misuse of Drugs Act 1977*;

“Commissioners” means Revenue Commissioners;

“container” has the same meaning as in the Customs Convention on Containers done at Geneva on 2 December 1972;

“contravene” includes, in relation to any provision, a failure to comply with that provision;

“cross-border mail” and “postal packets” have the meanings assigned to them, respectively, by *section 6* of the *Communications Regulation (Postal Services) Act 2011*;

F1[“Customs Code” means the Union Customs Code established by the Customs Code Regulation, as last supplemented by Commission Delegated Regulation (EU) 2016/341 of 17 December 2015<sup>2</sup> and as last implemented by Commission Implementing Regulation (EU) 2015/2447 of 24 November 2015<sup>3</sup>;]

F2[ “Customs Code Regulation” means Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013<sup>4</sup>;]

<sup>2</sup> OJ No. L69, 15.3.2016, p. 1.

<sup>3</sup> OJ No. L343, 29.12.2015, p. 558.

<sup>4</sup> OJ No. L269, 10.10.2013, p. 1.

“conveyance” means any vessel, aircraft, vehicle or other means of transport used in the transportation of goods or passengers;

“customs airport” means an airport appointed under *section 6*;

“customs port” means a port appointed under *section 6*;

“duties of customs” has the same meaning as “import duties” or “export duties” have, as the case may be, in the Customs Code;

“enactment” means—

(a) an Act of the Oireachtas,

(b) a statute that was in force in Saorstát Éireann immediately before the date of the coming into operation of the Constitution and that continues in force by virtue of Article 50 of the Constitution,

(c) an instrument made under—

(i) an Act of the Oireachtas, or

(ii) a statute referred to in *paragraph (b)*, or

(d) any legislation of an institution of the European Union for the time being in force;

“exportation” means the exportation or removal from the State of any goods to a place outside the State;

“goods” includes things of every kind, whether animate or inanimate;

“goods subject to any prohibition or restriction on importation” means goods the importation of which is prohibited or restricted by any national or European Union legislation for the time being in force;

“goods subject to any prohibition or restriction on exportation” means goods the exportation of which is prohibited or restricted by any national or European Union legislation for the time being in force;

“importation” means the importation or bringing into the State of any goods from outside the State;

“land”, in relation to aircraft, includes alighting on water;

“land frontier” means the land frontier between the State and Northern Ireland;

“master”, in relation to a vessel, means the person having or taking command or charge of the vessel, but does not include a pilot of that vessel;

“Minister” means Minister for Finance;

“officer of customs” means an officer of the Commissioners authorised by them under *section 37* to be an officer of customs, and includes—

(a) an officer of the Commissioners, not so authorised,

(b) a member of the Garda Síochána, or

(c) a member of the Defence Forces,

for the time being employed on any duty or service relating to customs;

“pilot-in-command” means, in relation to an aircraft, the person having or taking command or charge of the aircraft during flight time;



“place” means a place or space or part of a place or space;

“records” means any books, accounts, documents or other recorded information including information recorded electronically or in other non-legible form;

“regulations” means regulations made under *section 39*;

“repealed enactments” means the enactments repealed or revoked by *section 3*;

“vehicle” means a mechanically propelled vehicle (within the meaning of the *Road Traffic Act 1961*) or any other conveyance other than a vessel or an aircraft, and includes any container, trailer, tank or any other thing, which—

(a) is or may be used for the storage of goods in the course of carriage, and

(b) is designed or constructed to be placed on, in or attached to, any such vehicle or other conveyance;

“vessel” means any ship, boat, lighter, barge or water-borne craft of any type whatsoever and includes hovercraft.

(2) A word or expression that is used in this Act and is also used in the Customs Code has the same meaning in this Act as it has in that Code.

(3) In this and every other Act of the Oireachtas (whether passed before or after this Act) “Customs Acts” means this Act and all other enactments relating to customs and includes the Customs Code and any decision of an institution of the European Union relating to customs that is binding on the State.

#### Annotations

#### Amendments:

<b>F1</b>	Substituted (13.12.2016) by <i>European Union (Customs Code) Regulations 2016</i> (S.I. No. 610 of 2016), reg. 2(a)(i).
<b>F2</b>	Inserted (13.12.2016) by <i>European Union (Customs Code) Regulations 2016</i> (S.I. No. 610 of 2016), reg. 2(a)(ii).
<b>F3</b>	Substituted (22.11.2021) by <i>Maritime Jurisdiction Act 2021</i> (28/2021), s. 20(3) and sch. 2, S.I. No. 601 of 2021.

#### Repeals and revocations

3. (1) The enactments specified in *Part 1* of *Schedule 1* are repealed to the extent specified in column (4) of that Part.

(2) The statutory instruments specified in *Part 2* of *Schedule 1* are revoked to the extent specified in column (4) of that Part.

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4. If, and in so far as a provision of this Act operates, as and from the day appointed under *section 1*, in substitution for a provision of the repealed enactments, any order or regulation made or having effect as if made, and anything done or having effect as if done, under the substituted provision before that day is to be treated on and from that day as if it were an order

or regulation made or a thing done under the provision of this Act which so operates.

**Continuity and construction of certain references to old and new law**

5. (1) The Commissioners shall have all the jurisdictions, powers and duties in relation to customs under this Act which they had before the passing of this Act.

(2) The continuity of the operation of the law relating to customs shall not be affected by the substitution of this Act for the repealed enactments.

(3) Any reference, whether expressed or implied, in any enactment or document (including this Act and any Act amended by this Act)—

(a) to any provision of this Act, or

(b) to things done or to be done under or for the purposes of any provision of this Act,

shall, if and in so far as the nature of the reference permits, be construed as including, in relation to the times, circumstances or purposes in relation to which the corresponding provision in the repealed enactments applied or had applied, a reference to, or, as the case may be, to things done or to be done under or for the purposes of, that corresponding provision.

(4) Any reference, whether expressed or implied, in any enactment or document (including the repealed enactments and enactments passed and documents made after the passing of this Act)—

(a) to any provision of the repealed enactments, or

(b) to things done or to be done under or for the purposes of any provision of the repealed enactments,

shall, if and in so far as the nature of the reference permits, be construed as including, in relation to the times, circumstances or purposes in relation to which the corresponding provision of this Act applies, a reference to, or as the case may be, to things done or deemed to be done or to be done under or for the purposes of, that corresponding provision.

(5) All instruments, documents, authorisations, appointments, approvals and directions made or issued under the repealed enactments and in force immediately before the commencement of this provision shall continue in force as if made or issued under this Act.

(6) An officer of the Commissioners who stands appointed or authorised by them to be an officer of Customs and Excise shall, from the date of passing of this Act, be deemed to be authorised to be an officer of customs.

(7) Save as is otherwise expressly provided for, every mention or reference contained in any enactment of or to an officer of Customs and Excise shall, for the purposes of the Customs Acts or any other enactment, from the date of passing of this Act, be construed and take effect as a mention of or a reference to an officer of customs.

(8) All officers of the Commissioners who, immediately before the commencement of this provision, stood authorised, nominated or designated for the purposes of any provision of the repealed enactments, are deemed to be authorised, nominated or designated, as the case may be, for the corresponding provision of this Act.

(9) Any provision of the repealed enactments which imposes a fine, forfeiture, penalty or punishment for any act or omission shall, in relation to any act or omission which took place or began before the repeal of that provision by this Act, continue to apply in substitution for the provision of this Act to which it corresponds.

(10) This section is without prejudice to the generality of the [Interpretation Act 2005](#) and, in particular, section 27 of it.

#### Annotations

#### Editorial Notes:

- E4** Certain functions assigned to Commission or Commissioners may be performed by members of Commission staff acting under the Commission's authority as provided (21.03.2016) by *Finance (Tax Appeals) Act 2015* (59/2016), s. 5(2), S.I. No. 110 of 2016.

## PART 2

### CUSTOMS CONTROLS

#### Customs ports and airports

6. (1) For the purposes of the Customs Acts, the Commissioners may, in consultation with the Minister for Transport, Tourism and Sport, subject to such conditions or restrictions as they may determine, appoint any place in the State as a customs port or a customs airport.
- (2) Other than in a case referred to in *subsection (3)*, a customs airport appointed under *subsection (1)* shall be designated as a Type I customs airport.
- (3) Where a customs airport appointed under *subsection (1)* is subject to a—
- (a) requirement to give prior notification to customs in relation to an aircraft arriving at the customs airport from outside the State,
  - (b) restriction as regards the time at which an aircraft may arrive at the customs airport from outside the State, or
  - (c) restriction as regards the locations outside the State from which an aircraft may arrive at the customs airport,
- the airport shall be designated as a Type II customs airport.
- (4) The Commissioners may amend or revoke an appointment made under *subsection (1)* or amend or revoke a condition or restriction to which it was subject.
- (5) The appointment of a customs port or a customs airport, made under any enactment, shall continue to apply and have effect as if it had been made under this section, for a period of 5 years from the date of passing of this Act, and *subsection (4)* applies accordingly.

#### Approval of places within customs ports and airports

7. (1) The Commissioners may, in consultation with the Minister for Transport, Tourism and Sport, with regard to any customs port or customs airport,

approve for such periods and subject to such conditions or restrictions as they may determine, a place at that port or airport for the—

- (a) berthing, landing, mooring, anchoring, arrival and departure of vessels or aircraft,
  - (b) embarkation and disembarkation of passengers, crew and their baggage, or
  - (c) loading and unloading of goods, stores and conveyances.
- (2) The Commissioners may amend or revoke an approval made under *subsection (1)* or amend or revoke a condition or restriction to which it was subject.
- (3) The approval made under any enactment of a place for the purposes mentioned in *subsection (1)*, shall continue to apply and have effect as if it had been made under this section for a period of 5 years from the date of passing of this Act, and *subsection (2)* applies accordingly.
- (4) The operator of a customs airport appointed under *section 6(1)* and the occupier of any place approved under *subsection (1)* at a customs port or a customs airport, shall, if required by the Commissioners, provide and maintain at that port or airport, such reasonable and proportionate office accommodation and other facilities for customs staff as are appropriate.

#### Customs control of movement of vessels into and out of State

8. (1) The master of a vessel entering the State shall, unless otherwise authorised or exempted, ensure that the vessel berths, lands, moors, anchors or arrives at a place approved under *section 7(1)(a)* and that all passengers, crew, baggage, conveyances, goods and stores are disembarked or unloaded at a place approved under *section 7(1)(b)* or *(c)*, as appropriate.
- (2) *Subsection (1)* does not apply to the master of a vessel that is obliged by law or other requirement relating to navigation, or that is compelled by accident, stress of weather, or other unavoidable cause, to—
- (a) berth, land, moor, anchor or arrive at a place other than a place approved under *section 7(1)(a)*, or
  - (b) disembark the passengers or crew, or land the baggage, conveyances, goods or stores at a place other than a place approved under *section 7(1)(b)* or *(c)*, as appropriate.
- (3) The master of a vessel departing the State shall, unless otherwise authorised or exempted, ensure that the vessel departs from a place approved under *section 7(1)(a)* and that all passengers, crew, baggage, conveyances, goods and stores are embarked or loaded only at a place approved under *section 7(1)(b)* or *(c)*, as appropriate.
- (4) The master of a vessel departing to a place outside the State from a place approved under *section 7(1)(a)* shall not, following its departure, cause or permit the vessel to berth, land, moor, anchor or otherwise arrive at a place in the State other than at a place approved under *section 7(1)(a)*, unless the vessel is obliged by law or other requirement relating to navigation, or is compelled by accident, stress of weather, or other unavoidable cause to berth, land, moor, anchor or arrive at such other place.
- (5) The master of a vessel referred to in *subsections (2)* and *(4)* that berths, lands, moors, anchors or otherwise arrives at a place in the State other than at a place approved under *section 7(1)(a)*, shall—

- (a) notify an officer of customs of the vessel's berthing, landing, mooring, anchoring or arrival, and
  - (b) comply with any directions given by that officer with regard to the vessel, passengers, crew, baggage, conveyances, goods or stores carried.
- (6) The notification referred to in *subsection (5)* shall be given within such time and in such form and manner as the Commissioners may determine.
- (7) A person who contravenes *subsection (1), (3), (4), (5) or (6)* commits an offence and is liable on summary conviction to a fine of €5,000.

#### **Report inwards and outwards of vessels**

9. (1) The master of a vessel, whether laden or in ballast, entering the State shall—
- (a) under and in accordance with regulations under *subsection (3)*, submit or cause to be submitted a report of the vessel to the Commissioners, and
  - (b) answer all questions relating to the voyage, vessel, passengers, crew, baggage, conveyances and goods or stores carried on board, as may be put to him or her by an officer of customs.
- (2) The master of a vessel, whether laden or in ballast, departing the State shall—
- (a) under and in accordance with regulations under *subsection (3)*, submit or cause to be submitted a report of the vessel to the Commissioners, and
  - (b) answer all questions relating to the voyage, vessel, passengers, crew, baggage, conveyances and goods or stores carried on board, as may be put to him or her by an officer of customs.
- (3) The Commissioners may make regulations for the purposes of *subsections (1) and (2)* specifying—
- (a) the circumstances in which reports are required to be submitted and may specify different reporting requirements for different types and classes of vessel, and for different activities,
  - (b) the place and time for submission of such reports, and
  - (c) the form, manner and particulars of such reports.
- (4) A person who contravenes *subsection (1) or (2)* commits an offence and is liable on summary conviction to a fine of €5,000.

#### **Annotations**

#### **Editorial Notes:**

- E5** Power pursuant to subs. (3) exercised (31.12.2016) by *Customs (Reports Inwards and Outwards by Vessels) Regulations 2016* (S.I. No. 612 of 2016), in effect as per reg. 1(2).

#### **Customs control of movement of aircraft into and out of State**

10. (1) The pilot-in-command of an aircraft entering the State, unless otherwise authorised or exempted—

(a) for the first time after such entry, or

(b) at any time while it is carrying passengers, crew, baggage, conveyances, goods or stores brought in that aircraft from a place outside the State and not yet cleared by customs in the State,

shall not cause or permit it to land at any place other than a customs airport.

(2) The pilot-in-command of an aircraft departing the State, unless otherwise authorised or exempted, shall not cause or permit it to depart from any place other than a customs airport.

(3) In addition to the requirements of *subsections (1) and (2)*, any landing at or departure from a customs airport shall be in compliance with the conditions or restrictions attaching to the appointment of that airport as a customs airport.

(4) The pilot-in-command of an aircraft to which *subsection (1)* applies, unless otherwise authorised or exempted, shall ensure that all passengers, crew, baggage, conveyances, goods and stores are only disembarked or unloaded at a place approved under *section 7(1)(b) or (c)*, as appropriate.

(5) The pilot-in-command of an aircraft to which *subsection (2)* applies, unless otherwise authorised or exempted, shall ensure that all passengers, crew, baggage, conveyances, goods and stores are only embarked or loaded at a place approved under *section 7(1)(b) or (c)*, as appropriate.

(6) *Subsections (1), (3) and (4)* do not apply to the pilot-in-command of an aircraft that is required by law or other requirement relating to aviation or that is compelled by accident, stress of weather, or other unavoidable cause, to—

(a) land at a place other than a customs airport, or

(b) disembark the passengers or crew, or land the baggage, conveyances, goods and stores at a place other than that approved under *section 7(1)(b) or (c)*, as appropriate.

(7) The pilot-in-command of an aircraft departing to a place outside the State shall not, following its departure, cause or permit the aircraft to land at a place in the State other than a customs airport, unless the aircraft is required by law or other requirement relating to aviation, or is compelled by accident, stress of weather, or other unavoidable cause, to land at such other place.

(8) The pilot-in-command of an aircraft referred to in *subsections (6) and (7)* which lands at a place in the State other than a customs airport shall—

(a) notify an officer of customs of the aircraft's landing, and

(b) comply with any directions given by that officer with regard to the aircraft, passengers, crew, baggage, conveyances, goods or stores carried.

(9) Where an aircraft entering or departing the State lands at or departs from a customs airport in contravention of the conditions or restrictions attaching to the appointment of that airport, the licensee or person having charge of that airport shall notify the relevant customs officer of such landing or departure.

(10) The notification referred to in *subsections (8) and (9)* shall be given within such time and in such form and manner as the Commissioners may determine.

- (11) A person who contravenes *subsection (1), (2), (3), (4), (5), (7), (8), (9) or (10)* commits an offence and is liable on summary conviction to a fine of €5,000.

### Report inwards and outwards of aircraft

#### 11. (1) The pilot-in-command of an aircraft entering the State shall—

- (a) under and in accordance with regulations under *subsection (3)*, submit or cause to be submitted a report of the aircraft to the Commissioners, and
- (b) answer all questions relating to the flight, aircraft, passengers, crew, baggage, conveyances and goods or stores carried on board, as may be put to him or her by an officer of customs.

#### (2) The pilot-in-command of an aircraft departing the State shall—

- (a) under and in accordance with regulations under *subsection (3)*, submit or cause to be submitted a report of the aircraft to the Commissioners, and
- (b) answer all questions relating to the flight, aircraft, passengers, crew, baggage, conveyances and goods or stores carried on board, as may be put to him or her by an officer of customs.

#### (3) The Commissioners may make regulations for the purposes of *subsections (1) and (2)* specifying—

- (a) the circumstances in which reports are required to be submitted and may specify different reporting requirements for different types and classes of aircraft, and for different activities,
- (b) the place and time for submission of such reports, and
- (c) the form, manner and particulars of such reports.

#### (4) A person who contravenes *subsection (1) or (2)* commits an offence and is liable on summary conviction to a fine of €5,000.

### Annotations

#### Editorial Notes:

- E6** Power pursuant to subs. (3) exercised (31.12.2016) by *Customs (Reports Inwards and Outwards by Aircraft) Regulations 2016* (S.I. No. 613 of 2016), in effect as per reg. 1(2).

### Control of persons and their baggage

#### 12. (1) A person entering or leaving the State shall—

- (a) at such place as the Commissioners may designate and in such manner as the Commissioners may determine, declare to an officer of customs any goods included in his or her baggage or brought with him or her, which are liable to any duty or tax, or are subject to any prohibition or restriction on importation or exportation,
- (b) answer such questions as may be put to him or her by an officer of customs, in exercise of the powers conferred on the officer by *section 31*, with respect to—
  - (i) the person's arrival or departure,

- (ii) the person's identity, usual place of residence and actual or intended address within the State,
  - (iii) the person's baggage, and
  - (iv) anything included in that baggage or brought by that person by whatever means,
  - (c) if required by that officer, produce and unpack that baggage and any such thing for examination, and repack it following such examination, and
  - (d) remain present for the duration of such examination.
- (2) For the purposes of *subsection (1)(a)*, where a channel system is in place at a customs port or customs airport, a person entering the State shall declare, by electing to enter and entering the red channel, that he or she has in his or her baggage, or has brought with him or her goods that are liable or may be liable to any duty or tax, or that are subject or may be subject to any prohibition or restriction on importation.
- (3) A person entering the State who leaves a place approved under *section 7(1)*, or who leaves a customs port or customs airport, without making a declaration under *subsection (1)* shall be deemed to have declared that there are no goods included in his or her baggage or brought with him or her, that are liable or may be liable to any duty or tax, or that are subject or may be subject to any prohibition or restriction on importation.
- (4) A person who contravenes *subsection (1)* commits an offence and is liable on summary conviction to a fine of €5,000.
- (5) In this section and in *section 13*, "duty or tax" means duties of customs, excise duty or Value-Added Tax payable on goods imported or exported.

#### F4[Customs control at customs ports

- 12A.** (1) The person in charge or taking charge of a vehicle containing goods which have been unloaded from a ferry at a place (at a customs port) approved under *section 7(1)(c)*, being a vehicle that has entered the State from a place, other than a place situate in another Member State, shall—
- (a) comply with such instructions, as are given to him or her electronically or by other means by the Commissioners, regarding the movement of the vehicle to a place designated by the Commissioners as an area of customs supervision, and
  - (b) ensure that the vehicle remains at that place and shall comply with such further instructions as are given to him or her (by the foregoing means) by the Commissioners as the Commissioners consider appropriate, until clearance (by the foregoing means) to depart that place is given.
- (2) A person who fails, without lawful excuse, to—
- (a) comply with any instruction given to him or her under *paragraph (a)* or *(b)* of *subsection (1)*, or
  - (b) ensure that the vehicle referred to in *subsection (1)* remains, in accordance with *paragraph (b)* of that subsection, at the place there referred to,
- commits an offence.



(3) A person who commits an offence under *subsection (2)* is liable, on summary conviction, to a fine of €5,000 or imprisonment for a term not exceeding 12 months or both.

(4) In this section, ‘ferry’ means a vessel with facilities that enable vehicles to be driven on board the vessel and to be driven off it.]

#### Annotations

#### Amendments:

**F4** Inserted (31.12.2020 at 11 p.m.) by *Withdrawal of the United Kingdom from the European Union (Consequential Provisions) Act 2020* (23/2020), s. 88, S.I. No. 723 of 2020.

#### Editorial Notes:

**E7** The section heading is taken from the amending section in the absence of one included in the amendment.

### **F5[Procedures for goods entering or departing the State by ferry (from or to a place outside the customs territory of the Union)]**

**12B.** (1) In this section—

‘carrier’ means a person who has assumed responsibility for carriage of a relevant shipment or an empty vehicle, or the effecting of a relevant movement in relation to goods, into or out of the State by ferry and includes a person who provides haulage services or logistical services in relation to any of the foregoing matters;

‘Council Regulation’ means Council Regulation (EC) No. 1186/2009 of 16 November 2009<sup>13</sup> setting up a Community system of reliefs from customs duty;

‘Delegated Regulation’ means Commission Delegated Regulation (EU) 2015/2446 of 28 July 2015<sup>14</sup> supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards detailed rules concerning certain provisions of the Union Customs Code;

‘electronic data processing technique’ means such electronic data processing technique as stands specified by the Commissioners for the purposes of this section;

‘export’ means the exportation or removal from the State of any goods to a place outside the customs territory of the Union;

‘ferry’ means a vessel with facilities that enable vehicles to be driven on board the vessel and to be driven off it;

‘ferry operator’ means a person engaged in the provision of ferry services between a port outside the customs territory of the Union and the State;

‘import’ means the importation or bringing into the State of any goods from outside the customs territory of the Union;

‘master reference number’ has the same meaning as it has in the Delegated Regulation;

‘pre-boarding notification’ shall be construed in accordance with *subsection (6)*;

<sup>13</sup> OJ No. L 324, 10.12.2009, p.23

<sup>14</sup> OJ No. L 343, 29.12.2015, p.1

‘relevant movement’ means each of the following cases where goods are to be imported or exported by ferry in accordance with the Customs Acts and for which a master reference number has not been allocated by the Commissioners, that is to say, a case where:

- (a) a customs declaration for goods being imported through postal consignment is to be lodged in accordance with Article 144 of the Delegated Regulation;
- (b) goods in postal consignment are being exported in accordance with Article 141(4) of the Delegated Regulation;
- (c) an oral customs declaration for temporary admission is intended to be made upon entry into the State in respect of goods being transported in the vehicle concerned in accordance with Articles 136, 163 and 165 of the Delegated Regulation;
- (d) goods for export are being moved in accordance with the ATA Convention (within the meaning of the Delegated Regulation) or the Istanbul Convention (within the meaning of the Delegated Regulation);
- (e) it is intended to apply for temporary admission relief in respect of imported goods using a valid ATA carnet (within the meaning of the Delegated Regulation);
- (f) a paper declaration is intended to be made upon entry into the State in respect of goods being transported in the vehicle concerned for relief from importation charges on the basis of transfer of residence under Chapter I of Title II of the Council Regulation;
- (g) a paper declaration is intended to be made upon entry into the State in respect of goods being transported in the vehicle concerned for relief from importation charges on the basis of transfer of business as provided for in Chapter VII of Title II of the Council Regulation;
- (h) it is intended to apply for relief from import duty upon entry into the State in respect of goods being transported in the vehicle concerned on the basis that it contains personal property acquired by inheritance as provided for in Chapter III of Title II of the Council Regulation;
- (i) relief applies in the case of the importation of a coffin containing a deceased person or an urn containing ashes of a deceased person as provided for in Chapter XXX of Title II of the Council Regulation;
- (j) a declaration commonly referred to as a ‘Dip 1 paper declaration’ is intended to be made upon entry into the State in respect of goods being imported by an Embassy or other recognised international institution under section 5 of the Diplomatic Relations and Immunities Act 1967;
- (k) any other circumstance arises in which the Customs Acts permits the making of a paper or oral customs declaration in respect of goods contained in the vehicle concerned,

and *subsection (2)* supplements this definition;

‘relevant shipment’ means all of the particular goods which are to be imported or exported by ferry in accordance with the Customs Acts, or all of the particular goods moved under the customs transit procedure into or out of the State, for which a master reference number has been allocated by the Commissioners.

- (2) For the purposes of this section, in addition to what is provided in *subsection (1)* respecting the expression ‘relevant movement’, a reference in any subsequent provision of this section to a ‘relevant movement’ shall

be deemed to include, where the context admits and notwithstanding that there are no goods in the vehicle, a reference to a case of the carriage of an empty vehicle on a ferry.

(3) The following provisions shall have effect in relation to a relevant shipment, or the effecting of a relevant movement in relation to goods, entering or departing the State.

(4) A person who has made a declaration in accordance with the Customs Acts regarding a proposed relevant shipment or who has made or intends to make a paper or oral declaration in accordance with the Customs Acts regarding a proposed relevant movement shall—

(a) provide the master reference number or particulars of the relevant movement relating to the goods concerned to the carrier, where the identity of the carrier is known to him or her, for the purposes of the pre-boarding notification in relation to those goods being completed,

(b) provide the master reference number or particulars of the relevant movement relating to the goods concerned to any other person in the supply chain to whom the identity of the carrier is known, for the purposes of the pre-boarding notification in relation to those goods being completed, or

(c) if by reason of the particular different shipments or movements that will take place, by means of a particular vehicle, both of the preceding cases apply, do each of the things referred to in *paragraphs (a) and (b)* (for the purposes of the pre-boarding notification in relation to the goods concerned being completed).

(5) *Paragraph (a) or (b)* (or both, as appropriate) of *subsection (4)* shall be complied with as soon as—

(a) in the case of that *paragraph (a)*, the information referred to in that paragraph becomes available to the first-mentioned person in that subsection,

(b) in the case of that *paragraph (b)*, the information referred to in that paragraph becomes available to the first-mentioned person in that subsection,

and, in any event, in advance of the check in of the vehicle concerned by the ferry operator at the ferry port of departure.

(6) A carrier shall, in accordance with *subsection (7)*, provide to the Commissioners a statement (in this section referred to as a ‘pre-boarding notification’), that complies with *subsection (8)*, in relation to, as appropriate—

(a) the relevant shipment or relevant shipments of goods contained in a vehicle, or

(b) the relevant movement or relevant movements being effected in relation to goods contained in a vehicle, or

(c) if each of the preceding cases apply, the matters specified in both *paragraphs (a) and (b)*, or

(d) an empty vehicle,

the carriage of goods in which, or the effecting of the relevant movement or movements by which, the carrier has assumed responsibility for.

(7) The pre-boarding notification shall be provided to the Commissioners—

- (a) prior to the departure of the vehicle concerned on a ferry bound for, or departing from, the State, and
  - (b) by means of an electronic data processing technique.
- (8) The pre-boarding notification shall—
- (a) in the case of *subsection (6)(a)*, contain the master reference numbers of the one or more relevant shipments being carried on the vehicle,
  - (b) in the case of *subsection (6)(b)*, specify the one or more relevant movements being effected in relation to goods contained in the vehicle,
  - (c) in the case of *subsection (6)(c)* —
    - (i) contain the master reference numbers of the one or more relevant shipments being carried on the vehicle, and
    - (ii) specify the one or more relevant movements being effected in relation to goods contained in the vehicle,
  - or
  - (d) in the case of *subsection (6)(d)*, specify that the vehicle does not contain a relevant shipment and is not being used to effect a relevant movement in relation to goods.
- (9) A carrier may appoint a person as the carrier's agent to fulfil the obligations imposed on the carrier by *subsections (6) to (8)*.
- (10) Notwithstanding the appointment of a person under *subsection (9)* by a carrier, the carrier shall not be relieved of the duty to comply with the foregoing obligations and, accordingly, *subsection (9)* does not prejudice the application of *subsection (11)* as it relates to a carrier.
- (11) A person who contravenes *subsection (4), (5), (6), (7) or (8)* commits an offence and is liable, on summary conviction, to a fine of €5,000 or imprisonment for a term not exceeding 12 months or both.]

**Annotations****Amendments:**

- F5** Inserted (31.12.2020 at 11 p.m.) by *Withdrawal of the United Kingdom from the European Union (Consequential Provisions) Act 2020* (23/2020), s. 90, S.I. No. 723 of 2020.

**Editorial Notes:**

- E8** The section heading is taken from the amending section in the absence of one included in the amendment.

**Control of postal traffic**

- 13.** (1) The Customs Acts shall apply to postal packets in cross-border mail.
- (2) The Commissioners may approve premises operated by the postal authority for the receipt and storage of postal packets awaiting customs clearance.
- (3) The operator of a premises approved under *subsection (2)* shall, if required by the Commissioners, provide and maintain at those premises, such reasonable and proportionate office accommodation and other facilities for customs staff, as are appropriate.

- (4) All postal packets in cross-border mail may be examined and opened and the contents examined by an officer of customs without the requirement to notify the addressee of such examination.
- (5) Where, following examination of the contents of a postal packet in cross-border mail, it is found that the description or declared value on or attached to that postal packet is false or misleading, such postal packet may be seized as liable to forfeiture.
- (6) For the purposes of this section the addressee of the postal packet referred to in *subsection (4)* shall be deemed to be the owner of the goods.
- (7) (a) Where duty or tax is payable on goods contained in a postal packet in cross-border mail, the value of which falls below the threshold for which a declaration for free circulation is required under the Customs Code, such duty or tax shall be collected by the postal authority and paid over by the authority to the Commissioners at such time and in such manner as shall be from time to time determined by the Commissioners.
- (b) Where delivery of a postal packet in cross-border mail is not accepted by the addressee and the duty or tax payable on it is not collected, that postal packet shall be returned by the postal authority to the sender.
- (c) Where no sender under *paragraph (b)* can be identified and where the postal packet is subsequently sold or disposed of other than by destruction, by or at the request of, the postal authority, any duty or tax payable on it shall be paid by the postal authority to the Commissioners within 30 days from its disposal.
- (8) For the purposes of examining a postal packet in cross-border mail under *subsection (4)*, an officer of customs may—
- (a) require such postal packet to be taken by the postal authority to such place as the officer may consider suitable for carrying out the examination,
- (b) require that the postal authority open, unpack and repack any such postal packet,
- (c) require that any facilities or assistance required for any such examination be provided by the postal authority, or
- (d) take samples of the goods in the postal packet,
- and any costs incurred under *paragraph (a), (b) or (c)* shall be borne by the postal authority and any costs incurred under *paragraph (d)* shall be borne by the owner of the goods in the postal packet.
- (9) The postal authority shall have the same right of recovering any sums paid to the Commissioners in pursuance of the Customs Acts, in respect of any postal packet, as that authority would have if the sum so paid were a rate of postage.
- (10) *Subsection (4)* shall apply in respect of a postal packet in cross-border mail originating in another Member State or being consigned from the State to another Member State only where an officer of customs has reasonable grounds to suspect that the postal packet may contain any of the following:
- (a) goods that are liable to any duty or tax; or
- (b) goods that are subject to any prohibition or restriction on importation or exportation.

(11) A person who contravenes *subsection (7) or (8)* commits an offence and is liable on summary conviction to a fine of €5,000.

(12) In this section—

“addressee”, in relation to a postal packet, means the person to whom it is addressed;

“postal authority” means any entity designated by the Commission for Communications Regulation as a universal postal service provider;

“universal postal service provider” has the same meaning as it has in the [Communications Regulation \(Postal Services\) Act 2011](#).

## PART 3

### OFFENCES, PENALTIES AND PROCEEDINGS

#### Offences relating to improper importation or exportation of goods

14. (1) A person who—

- (a) evades or attempts to evade duties of customs chargeable on the importation of any goods with intent to defraud the State, either directly or indirectly, of such duties,
- (b) takes possession, custody or charge of, removes, transports, deposits, conceals, or otherwise deals with any goods in respect of which any duties of customs are for the time being payable on importation, with intent to defraud the State, either directly or indirectly, of such duties,
- (c) imports into the State any goods contrary to any prohibition or restriction on importation of those goods, whether or not the goods are unloaded from the conveyance in which they were imported into the State,
- (d) takes possession, custody or charge of, removes, transports, deposits, conceals, or otherwise deals with any goods contrary to any prohibition or restriction on importation of those goods, whether or not the goods are unloaded from the conveyance in which they were imported into the State,
- (e) evades or attempts to evade any duties of customs chargeable on the export of goods with intent to defraud the State, either directly or indirectly, of such duties, or
- (f) exports or attempts to export from the State any goods contrary to any prohibition or restriction on exportation of those goods,

commits an offence.

(2) A person who commits an offence under this section is liable—

- (a) on summary conviction, to a fine of €5,000 or imprisonment for a term not exceeding 12 months or both,
- (b) on conviction on indictment, to a fine not exceeding—
  - (i) €125,000, or

(ii) where the value of the goods concerned, including the duty and tax payable on them, is greater than €250,000, three times that value,

or imprisonment for a term not exceeding 5 years or both.

(3) Section 13 of the Criminal Procedure Act 1967 applies in relation to an offence under this section as if, in place of the penalties specified in subsection (3) of the said section 13, there were specified in that subsection the penalties provided for by subsection (2)(a), and the reference in section 13(2)(a) of the Criminal Procedure Act 1967 to the penalties provided for in subsection (3) of that section shall be construed and apply accordingly.

(4) Nothing in this section shall prevent any action or other proceedings being brought for the collection or recovery of duties of customs.

#### Miscellaneous customs offences

15. (1) A person who—

- (a) fails without lawful and sufficient excuse to comply with any requirement imposed on him or her under any provision of Part 4,
- (b) rescues, damages or destroys any thing liable to forfeiture or does anything calculated to prevent the procuring of evidence as to whether or not any thing is so liable to forfeiture,
- (c) throws overboard, staves or destroys any goods in order to prevent or avoid the seizure of those goods,
- (d) makes any signal or other communication with the intention to aid or assist the unlawful importation or unlawful exportation of goods,
- (e) prevents the arrest of any person by an officer of customs or rescues any person so arrested,
- (f) damages or otherwise interferes in any way with any equipment, vessel, aircraft, vehicle, communications system or other thing used, or intended for use, by an officer of customs,
- (g) wounds, maims, abducts, kills or otherwise injures a customs dog without lawful authority or reasonable excuse,
- (h) wilfully and prematurely removes or tampers with a seal, lock or mark that is used by an officer of customs to secure or identify any goods,
- (i) owns or is in charge of any conveyance which is found within the State having been constructed, adapted, altered or fitted in any manner for the purpose of concealing goods in connection with their illegal importation or exportation,
- (j) counterfeits or falsifies any seal, signature, initials or other mark of, or used by, an officer of customs for the verification of a document or for the security or identification of goods or for any other purpose in connection with any matter relating to customs, or
- (k) attempts or endeavours to commit, or aids, abets or assists in the commission of, any of the offences mentioned in this section,

commits an offence.

(2) The person in charge of the goods mentioned in subsection (1)(j) is deemed to have committed the offence, and where a seal, lock or mark has been

used by an officer of customs on board a vessel or aircraft, the master or pilot-in-command is deemed to be the person in charge of the goods.

- (3) A person who commits an offence under *subsection (1)* is liable, on summary conviction, to a fine of €5,000 or imprisonment for a term not exceeding 12 months or both.

#### **Trial of offences summarily or on indictment**

**16.** The following provisions shall, notwithstanding any other enactment, have effect in relation to an offence under *section 14* —

- (a) an estimated value of the goods shall be stated in the summons, information or charge,
- (b) the defendant may, by notice to the prosecution given before the commencement of the period of 4 days ending immediately before the date fixed for the hearing of the proceedings in the District Court (or given later by permission of that Court), challenge the estimated value,
- (c) if the estimated value is not challenged—
  - (i) in case treble the estimated value exceeds €1,900, the offence shall be tried on indictment, and
  - (ii) at the trial of the offence, whether on indictment or summarily, the estimated value shall be taken as being the value of the goods,
- (d) if the estimated value is challenged—
  - (i) the judge of the District Court shall, before proceeding with the hearing, determine the value of the goods, and
  - (ii) where treble the value so determined exceeds €1,900, the offence shall be tried on indictment,
- (e) in estimating or determining the value of the goods under this section, that value shall be taken as the price which the goods might reasonably be expected to have fetched, after payment of any duty chargeable on them, if they had been sold on the open market at or about the date of the commission of the offence, provided that the value in relation to prohibited goods shall be taken as the price that such goods could be expected to fetch on the market for the unlawful sale or supply of such prohibited goods.

#### **Forfeiture**

- 17.** (1) Any goods in respect of which an offence has been committed under *section 14* or *15* or any goods which are packed with or used in concealing such goods, are liable to forfeiture and, where any such goods are found in, on, or in any manner attached to, any conveyance, such conveyance is deemed to have been made use of in the transport of such goods and shall also be liable to forfeiture.
- (2) Where any goods or conveyances are liable to forfeiture under *subsection (1)*, anything containing or that contained such goods or conveyance, and anything made use of in the transport of such goods or conveyance, is liable to forfeiture.
- (3) Where a duty of customs chargeable on any goods is not paid at the time at which payment of such duty becomes due or within such longer period as may be permitted for payment by or under any enactment, such goods are liable to forfeiture.



**Notice of seizure**

18. (1) Subject to *subsection (2)*, an officer of customs shall give notice of the seizure of anything as liable to forfeiture and of the grounds for seizure to any person who to the officer's knowledge was at the time of the seizure the owner or one of the owners of the thing seized.
- (2) Notice under *subsection (1)* need not be given under this section to a person if the seizure was made in the presence of the person whose offence or suspected offence occasioned the seizure or, in the case of anything seized in any vessel or aircraft, in the presence of the master or pilot-in-command of such vessel or aircraft.
- (3) Notice under *subsection (1)* shall be given in writing and the notice shall be deemed to have been duly given to the person concerned—
- (a) if it is delivered to the person personally,
  - (b) if it is addressed to the person and left or forwarded by post to the person at the usual or last known place of abode or business of the person or, in the case of a body corporate, at its registered or principal office, or
  - (c) if the person has no known address in the State, by publication of notice of the seizure concerned in the *Iris Oifigiúil*.

**Notice of claim**

19. (1) Where any goods have, under any provision of the Customs Acts, been seized as liable to forfeiture, a person (in this section and in *section 20* referred to as the "claimant") may—
- (a) within 30 days from the date of the notice of seizure under *section 18*,  
or
  - (b) where no such notice has been given, within 30 days from the date of the seizure,
- give notice in writing to the Commissioners of a claim (in this section referred to as a "notice of claim") that the goods seized are not so liable.
- (2) A notice of claim shall specify the full name and address of the claimant and the basis on which the claim is grounded and, where that address is outside the State, any documents relating to condemnation proceedings under *section 20* may be served at that address by post.
- (3) If, on the expiration of a period referred to in *subsection (1)*, no notice of claim has been given, the thing seized shall be deemed to have been duly condemned as forfeited, and the forfeiture shall apply from the date when the liability to forfeiture arose.
- (4) Where a notice of claim has been given, the Commissioners shall, subject to *section 35(1)* and (2), take court proceedings under *section 20* for the condemnation of the thing concerned.

**Proceedings for condemnation by court**

20. (1) Proceedings for condemnation by the court (in this section referred to as "condemnation proceedings") are civil proceedings, and such proceedings shall be commenced in the name of the Commissioners.

- (2) Where in any condemnation proceedings the court finds that the thing seized was, at the time of seizure, liable to forfeiture, the court shall condemn it as forfeited, and in any other case the court shall order its release.
- (3) Condemnation proceedings may be instituted in the High Court or, if in the opinion of the Commissioners the value of the thing seized (that is to be the subject of such proceedings) does not exceed—
  - (a) €75,000, the Circuit Court, or
  - (b) €15,000, the District Court.
- (4) In any condemnation proceedings, the claimant or any solicitor acting on behalf of such claimant, shall state on oath that the thing seized was, or was to the best of his or her knowledge and belief, the property of the claimant at the time of the seizure.
- (5) The Commissioners may, in their discretion, stay or compound any condemnation proceedings.
- (6) The Commissioners may restore anything seized which is the subject of condemnation proceedings.
- (7) Where in any condemnation proceedings—
  - (a) judgment is given for the claimant and the court or judge certifies that there was probable cause for making such seizure or detention, no officer of the Commissioners or other person who made or assisted in making the seizure is liable to any civil or criminal proceedings on account of the seizure or detention of the thing seized, and
  - (b) anything is condemned as forfeited, the forfeiture shall apply from the date when the liability to forfeiture arose.

#### **Proceedings in relation to offences**

- 21.** (1) Where there is evidence that an offence under the Customs Acts has been committed by 2 or more persons—
- (a) proceedings may be instituted against such persons, jointly or severally, for the recovery of a penalty, and
  - (b) on the imposition of a penalty, such persons shall be jointly and severally liable for that penalty.
- (2) Where an offence under the Customs Acts is committed by a body corporate and is proven to have been so committed with the consent, connivance or approval of or to have been attributable to any wilful neglect on the part of any person, being a director, manager, secretary or any other officer of the body corporate or a person who was purporting to act in any such capacity, that person, as well as the body corporate, commits an offence and is liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence.
  - (3) Where the affairs of a body corporate are managed by its members, *subsection (2)* applies in relation to the acts and defaults of a member in connection with his or her functions of management as if he or she were a director or manager of the body corporate.
  - (4) Where proceedings have been instituted or continued in the name of an officer of the Commissioners who has ceased for any reason to be such an officer, or being such officer is absent at any time during those proceedings, then such proceedings may be continued in the name of any other officer

of the Commissioners or of the officer so absent, as appropriate in the circumstances.

- (5) Any summons, notice, order or other document relating to proceedings relating to any appeal against a judgment pursuant to such proceedings, may be served by an officer of the Commissioners.
- (6) In any proceedings, the fact that the duties of customs have been secured by bond or otherwise shall not be relevant in deciding whether or not an offence has been committed.
- (7) Notwithstanding [section 10\(4\)](#) of the [Petty Sessions Ireland Act 1851](#), summary proceedings for an offence under the Customs Acts may be instituted within 2 years from the date of the offence.
- (8) [Section 1\(1\)](#) of the [Probation of Offenders Act 1907](#) does not apply to offences under the Customs Acts.

### **Damages**

**22.** Where, in any civil or criminal proceedings against any officer of customs or other person on account of the seizing or detention of any thing, judgment is given against that officer or other person, or a conviction is recorded against him or her in respect of the matter, and where the court or judge certifies that there was probable cause for such seizure or detention, then, as the case may be—

- (a) the plaintiff shall not be entitled to any damages, besides the thing seized or the value of such thing, nor to any costs, and
- (b) the officer or other person shall not be liable for any punishment or penalty.

### **Presumptions and onus of proof**

**23.** (1) In any proceedings under the Customs Acts, an averment in any process that—

- (a) those proceedings were instituted by the order of the Commissioners,
- (b) any person is or was a Commissioner, an officer of the Commissioners, an officer of customs, a member of the Garda Síochána or a member of the Defence Forces,
- (c) any person is or was an officer appointed by the Commissioners or authorised by them for the purpose of the Customs Acts,
- (d) the Commissioners are or are not of an opinion as to any matter as to which they are required to have an opinion under any provision of those Acts, or
- (e) any goods thrown overboard, staved or destroyed were so dealt with in order to prevent or avoid the seizure of those goods,

shall, until the contrary is shown, be sufficient evidence of the matter in question.

(2) In any proceedings relating to goods seized under the Customs Acts and brought against one or more of the following—

- (a) the State,

- (b) the Attorney General,
- (c) the Commissioners,
- (d) the Revenue Solicitor,
- (e) an officer of the Commissioners,

any question arises as to—

- (i) the place from which any goods have been brought,
- (ii) compliance with any prohibition or restriction on the importation or exportation of goods,
- (iii) whether goods were lawfully imported on payment of duties payable or on securing of duties payable, as the case may be, on them,
- (iv) whether goods were lawfully imported,
- (v) whether goods were lawfully unloaded from any conveyance,
- (vi) whether goods were brought or sent to or kept at any place for the purpose of exportation,
- (vii) whether goods were dealt with in any other manner for the purpose of exportation, or
- (viii) whether any signal or communication made was not intended to aid or assist the unlawful importation or unlawful exportation of goods,

then in every such case the onus of proof in relation to any such question shall lie upon the person bringing the proceedings.

- (3) In any proceedings for an offence, a certificate signed by an officer of the State Laboratory or an officer of the Forensic Science Laboratory, stating the result of any test, examination or analysis of any goods or a sample of those goods, as the case may be, shall be, with regard to those goods or sample of those goods, as the case may be, evidence of the matters stated in the certificate unless the contrary is proved.

- (4) In this section—

“certificate” means a certificate referred to in *subsection (3)*;

“officer of the Forensic Science Laboratory” means the Director General of the Forensic Science Laboratory of the Department of Justice and Equality, or another person employed or engaged at that Laboratory and authorised by the Director General to sign a certificate;

“officer of the State Laboratory” means the State Chemist or another chemist employed or engaged at the State Laboratory and authorised by the State Chemist to sign a certificate.

#### **Other penalties to which a person may be liable**

- 24. The specification in this Act of a penalty in respect of an offence committed under a provision of it is without prejudice to any other penalty to which the person concerned may be liable under the Customs Acts or any other enactment.

## PART 4

## POWERS OF OFFICERS OF CUSTOMS

**Power to enter, inspect and patrol certain places**

**25.** (1) An officer of customs, and any person assisting such officer, may, for the purposes of carrying out their functions under the Customs Acts, at any time and without warrant—

F6[(a) enter and inspect a customs port or customs airport or any place approved under the Customs Acts, or any conveyance within such port, airport or place,]

(b) patrol upon and pass freely along and over any part of the coast or shore and over any land within 32 kms of the land frontier and may remain in any such place for the purposes of carrying out patrols or surveillance,

and shall not be liable in any proceedings for anything done in the discharge or purported discharge of his or her functions under this section.

(2) An officer of customs, when exercising a power under this section, may be accompanied by other persons and may take with him or her, or those persons may take with them, any equipment, materials, vessel, aircraft, vehicle, customs dog or other thing to assist the officer in the exercise of the power.

(3) An officer of customs or other person in charge of any vessel employed for the prevention of smuggling may anchor, moor, berth or land the vessel, or haul the vessel ashore, at any place within the State and at no cost to the State.

**Annotations****Amendments:**

**F6** Substituted (31.12.2020 at 11 p.m.) by *Withdrawal of the United Kingdom from the European Union (Consequential Provisions) Act 2020* (23/2020), s. 89, S.I. No. 723 of 2020.

**Power to stop conveyances**

**26.** (1) An officer of customs in uniform or serving on a patrol vessel clearly marked as being in the service of the State, may, subject to *subsection (2)*, in such manner as he or she considers appropriate, stop or cause to stop any conveyance that—

(a) is entering or has entered the State,

(b) is leaving the State,

(c) is in the contiguous zone of the State, or

(d) is at any other place in the State.

(2) The power specified in—

(a) *subsection (1)(a)* in respect of a conveyance that is entering or has entered the State from another Member State,

(b) *subsection (1)(b)* in respect of a conveyance that is leaving the State destined for another Member State, or

(c) *subsection (1)(d)*,

shall only be exercised where the officer concerned has reasonable grounds to suspect that the conveyance or any goods carried on or in it are—

(i) chargeable with a duty of customs which has not been paid or secured,

(ii) being or have been imported, or are intended to be exported, contrary to any prohibition or restriction on their importation or exportation, as the case may be,

(iii) records relating to transactions in contravention of the Customs Acts, or

(iv) otherwise liable to forfeiture under the Customs Acts.

(3) A person in charge of a moving conveyance shall, at the request of an officer of customs referred to in *subsection (1)* and for the purposes of this section, stop such conveyance.

(4) Where a person in charge of a moving conveyance fails to stop that conveyance after having been duly requested to do so by an officer of customs under this section, that officer may take all reasonable measures to stop such conveyance.

(5) A person in charge of a conveyance which is already stationary or which has been stopped by an officer of customs under this section, shall, at the request of an officer of customs—

(a) keep such conveyance stationary for such period as is reasonably required to enable an officer of customs to exercise any power conferred on such officer by *section 27* or *28*,

(b) where such conveyance is in the opinion of such officer of customs situated in a place unsuitable for the exercise of any power conferred on that officer by *section 27* or *28*, take such conveyance or cause it to be taken to such place as he or she considers suitable for the exercise of that power.

#### **Power to board and search conveyances**

**27.** (1) An officer of customs, on production of the authorisation of that officer, if so requested by any person affected, and any officer accompanying such officer, may, at any time and in such manner as the officer considers appropriate, subject to *subsection (2)*, enter or board any conveyance that—

(a) is entering or has entered the State,

(b) is leaving the State,

(c) is in the contiguous zone of the State, or

(d) is at any other place in the State,

and remain on that conveyance for such period as is necessary for the purposes of *subsection (3)*.

(2) The power specified in—

- (a) *subsection (1)(a)* in respect of a conveyance that is entering or has entered the State from another Member State,
- (b) *subsection (1)(b)* in respect of a conveyance that is leaving the State destined for another Member State, or
- (c) *subsection (1)(d)*,

shall only be exercised where the officer concerned has reasonable grounds to suspect that the conveyance or any goods carried on it are—

- (i) chargeable with a duty of customs which has not been paid or secured,
- (ii) being or have been imported, or are intended to be exported, contrary to any prohibition or restriction on their importation or exportation, as the case may be,
- (iii) records relating to transactions in contravention of the Customs Acts, or
- (iv) otherwise liable to forfeiture under the Customs Acts.

(3) An officer of customs who stops, enters or boards a conveyance mentioned in *subsection (1)* may—

- (a) examine that conveyance,
- (b) search the conveyance and examine any goods on or in it as appear to him or her to be necessary to establish whether anything on or in the conveyance or in any manner attached to the conveyance is liable to forfeiture under the Customs Acts,
- (c) examine any records found on or in the conveyance and take copies of, or extracts from, any such records,
- (d) remove and retain those records for such period as may be reasonable for further examination,
- (e) take a sample of any goods on or in the conveyance,
- (f) cause any goods to be marked before they are loaded onto or unloaded from that conveyance,
- (g) lock up, seal, mark or otherwise secure any goods carried on or in the conveyance,
- (h) break open any place or receptacle, which is locked and of which the keys are withheld,
- (i) question the person in charge of the conveyance in relation to the conveyance or any goods on it, in it, or in any manner attached to it, and require that person, within such time and in such form or manner as may be specified by the officer—
  - (i) to give all information in relation to the conveyance and goods, and
  - (ii) to produce and permit the inspection of and the taking of copies of, or extracts from, all records relating to the conveyance and any such goods,

as may reasonably be required by the officer and which is in the possession or procurement of such person,

- (j) seize and detain any goods found in the course of a search under this section, which are liable to forfeiture under the Customs Acts or which

may be required as evidence in proceedings for an offence under the Customs Acts or any other enactment.

- (4) An officer of customs may require any person in control of a conveyance which is being searched under *subsection (3)*, and any person travelling on that conveyance, not to remove any goods from the conveyance and to remain with the conveyance for the duration of the search.

#### **Power to examine goods**

- 28.** (1) An officer of customs may, subject to *subsection (2)*, at any time and in such manner as he or she considers appropriate, examine any goods that have been imported, declared for export or are otherwise under customs control.

- (2) The power specified in *subsection (1)* shall only be exercised in respect of goods that are entering or have entered the State from another Member State or that are leaving or are intended to leave the State destined for another Member State, where the officer has reasonable grounds to suspect that such goods are—

- (a) chargeable with any duty of customs which has not been paid or secured,
- (b) subject to any prohibition or restriction on their importation or exportation, or
- (c) liable to forfeiture under the Customs Acts.

- (3) An officer of customs may, for the purpose of examining any goods referred to in *subsection (1)* —

- (a) require the goods to be taken to such place as he or she considers suitable for carrying out such examination,
- (b) require that the importer, exporter or agent of the goods open, unpack and repack any container or package containing the goods,
- (c) require that all necessary facilities or assistance required for any such examination be provided, or
- (d) take samples of the goods,

and any costs incurred shall be borne by the importer or exporter of the goods, as the case may be.

#### **Power to search premises or land**

- 29.** (1) A judge of the District Court, who is satisfied on information on oath of an officer of customs that there are reasonable grounds to suspect that—

- (a) anything liable to forfeiture under the Customs Acts, or
- (b) any records relating to transactions in contravention of the Customs Acts,

is or are kept or concealed on or at any premises or land, may issue a search warrant.

- (2) A search warrant issued under this section shall be expressed and shall operate to authorise a named officer of customs, accompanied by such other officers of customs or persons or both as the officer considers necessary, at any time or times within one month from the date of issue of the warrant—



- (a) to enter, if necessary by the use of reasonable force, the premises or land named or specified in the warrant,
- (b) to search the premises or land,
- (c) to require any person found on the premises or land to remain there for the duration of the search,
- (d) to examine anything found on the premises or land,
- (e) to inspect any record found on the premises or land,

and, if there are reasonable grounds to suspect that anything found is liable to forfeiture under the Customs Acts, or that anything found, including records, may be required as evidence in any proceedings under the Customs Acts or any other enactment, to seize or detain the thing as liable to forfeiture or, in the case of records, to detain them for so long as is reasonably required.

(3) In this section—

“land” includes any structure on land;

“structure” means building, structure or any other thing constructed, erected, placed or made on, in or under any land.

#### **Power to search persons**

**30.** (1) An officer of customs who with reasonable cause suspects that a person at or in the vicinity of any port or airport, the coast, the land frontier, or any premises or land the subject of a search warrant issued under *section 29*, or on board a conveyance that has been boarded under *section 27*, is in possession of—

- (a) anything liable to forfeiture under the Customs Acts, or
- (b) any records relating to transactions in contravention of the Customs Acts,

may, subject to *subsection (2)*, without warrant—

- (i) search the person and, if the officer considers it necessary for that purpose, detain the person for such time as is reasonably necessary for carrying out the search, and
- (ii) examine, by opening or otherwise, and seize and detain anything found in the course of the search which appears to the officer to be something which may be required as evidence in proceedings for an offence under the Customs Acts or any other enactment.

(2) An officer conducting a search of a person under *subsection (1)* shall ensure that—

- (a) as far as practicable, the person being searched understands the reason for the search and that it is conducted with due respect for that person,
- (b) the person, unless consent is so given, shall not be searched by an officer or other person (who is not a registered medical practitioner or a registered nurse), of another sex, and

- (c) where the search of the person involves removal of clothing, other than headgear or a coat, jacket, glove or similar article of clothing, no other officer or person of another sex shall be present unless either that person is a registered medical practitioner or a registered nurse, or the officer considers that the presence of that person is necessary by reason of the violent conduct of the person being searched.
- (3) An officer of customs who decides to search a person under this section may require the person to accompany such officer to a customs office or to such other place as may be specified by that officer for the purpose of being so searched at that office or other place, and may arrest without warrant any person who fails to comply with this requirement.
- (4) A requirement mentioned in *subsection (3)* shall remain in force until the search in relation to which it is made is completed, but such search shall be carried out as soon as is practicable.
- (5) Where an officer of customs has reasonable grounds to suspect that a person is in possession of a controlled drug or other thing which is concealed internally, then such officer may detain the person and, as soon as is practicable thereafter—
  - (a) present the person, or
  - (b) bring and present the person,
 to a member of the Garda Síochána.
- (6) In this section—

“registered nurse” means a nurse whose name is registered in—

- (a) the register of nurses established under [section 27](#) of the [Nurses Act 1985](#), or
- (b) the nurses division of the register of Nurses and Midwives established under [section 46](#) of the [Nurses and Midwives Act 2011](#);

“registered medical practitioner” means a registered medical practitioner within the meaning of the [Medical Practitioners Act 2007](#).

#### **Powers relating to persons entering or leaving State**

- 31.** (1) An officer of customs may, subject to *subsection (2)*, stop any person entering or leaving the State and question that person with respect to—
- (a) the person’s arrival or departure,
  - (b) the person’s identity, usual place of residence and actual or intended address within the State,
  - (c) the person’s baggage, and
  - (d) anything included in that baggage or brought by that person by whatever means,
- and the officer may examine any such baggage or thing.
- (2) The power specified in *subsection (1)* shall only be exercised in respect of a person arriving or purporting to arrive from another Member State or departing to or purporting to depart to another Member State where the

officer of customs has reasonable grounds to suspect that the person entering or leaving the State—

(a) may be engaged in—

(i) the importation into the State of non-Community goods (including any such goods that have been conveyed through one or more other Member States),

(ii) the exportation of goods from the Community, or

(iii) the carriage of goods which are subject to any prohibition or restriction on importation or exportation,

or

(b) has not come from another Member State or is not travelling to another Member State.

#### **Power of arrest**

32. Where an officer of customs has reasonable grounds to suspect that a person is committing or has committed an offence under—

(a) *section 14* or *15*, or

(b) any provision of the *Taxes Consolidation Act 1997* that provides that it is an offence to assault an officer of customs,

such officer may arrest that person without warrant.

#### **Power to detain goods and conveyances**

33. (1) Where an officer of customs has reasonable grounds to suspect that any goods—

(a) are being or have been imported, or

(b) are being, or are intended to be, exported,

either without payment of any duty of customs payable on them or in contravention of any prohibition or restriction on their importation or exportation, the goods may be detained by the officer until such examination, enquiries or investigations as may be deemed necessary by him or her, or by another officer, have been made for the purpose of determining to the satisfaction of either such officer whether or not the goods were imported, or were being, or were intended to be, exported.

(2) Where any goods are detained by an officer under *subsection (1)*, all conveyances and other things made use of in their importation or exportation, as the case may be, may also be detained by the officer.

(3) Where a determination referred to in *subsection (1)* has been made in respect of any goods, or upon the expiry of 30 days from the date on which those goods were detained, whichever is the earlier, the goods, together with any conveyances, or things detained with them under *subsection (2)*, shall either be seized as liable to forfeiture under the Customs Acts, or released, as appropriate.

(4) Where an officer of customs has reasonable grounds to suspect that any goods being imported or exported are goods that may be required as evidence in any criminal proceedings under any enactment other than the

Customs Acts, the officer may detain such goods for such period of time as may be required to determine if they are so required as evidence and may place such goods in the custody of the Garda Síochána or another authority as appropriate for the purpose of such proceedings.

#### **Power to seize goods and conveyances**

34. (1) Any goods or conveyances that are liable to forfeiture under the Customs Acts may be seized by an officer of customs.
- (2) Any thing detained or seized under the Customs Acts may, in addition to being duly kept by an officer of the Commissioners, also be kept in any secure premises or place designated by the Commissioners for such purpose, and the Commissioners may designate a premises or place under the control of a person contracted to them for such purpose.

#### **Power to deal with seizures, before and after condemnation**

35. (1) The Commissioners may, in their discretion, restore anything seized as liable to forfeiture under the Customs Acts.
- (2) Without prejudice to *subsection (1)*, the Commissioners may as they think fit, and notwithstanding that the thing seized has not yet been condemned, or deemed to have been condemned, as forfeited—
- (a) if a notice of claim in relation to such thing has been duly given under *section 19*, deliver it up to the claimant on payment to them of such sum as they deem proper, being a sum not exceeding that which represents the value of the thing, including any tax or duty on it that has not been paid, or
- (b) if the thing seized is, in the opinion of the Commissioners, of a perishable or hazardous nature, sell or destroy it.
- (3) If, where anything is delivered up, sold or destroyed under *subsection (2)*, it is held by the court in condemnation proceedings under *section 20* that such thing was not liable to forfeiture at the time of its seizure, the Commissioners shall, subject to any deduction allowed under *subsection (4)*, on demand tender to such claimant—
- (a) where a sum has been paid by such claimant under *subsection (2)(a)*, an amount equal to that sum,
- (b) if the thing has been sold under *subsection (2)(b)*, an amount equal to the proceeds of sale, or
- (c) if the thing has been destroyed under *subsection (2)(b)*, an amount equal to the market value of the thing at the time of its seizure.
- (4) Where the amount to be tendered under *subsection (3)* includes any sum on account of any duty or tax chargeable on the thing which has not been paid before its seizure, the Commissioners may deduct from the amount so much of it as represents the duty or tax.
- (5) If the claimant accepts any amount tendered under *subsection (3)*, such claimant shall not be entitled to maintain proceedings in any court on account of the seizure, detention, sale or destruction of the thing concerned.
- (6) All goods seized by an officer of customs as liable to forfeiture shall after condemnation of such goods be either sold or destroyed or otherwise disposed of in such manner as the Commissioners may direct.

## PART 5

### ADMINISTRATION

#### Duties of customs

- 36.** (1) All duties of customs shall be under the care and management of the Commissioners and the Commissioners are the customs authority for the purposes of the Customs Code.
- (2) The Commissioners may do all such acts as may be deemed necessary and expedient for raising, collecting, receiving and accounting for duties of customs in the like and in as full and ample a manner as they are authorised to do in relation to any other duties and taxes under their care and management.

#### Authorisations

- 37.** (1) The Commissioners may—
- (a) authorise any officer of the Commissioners to be an officer of customs, and
  - (b) authorise such officers and other persons for collecting, receiving, managing and accounting for any duties of customs and for functions in connection with the application of prohibitions and restrictions on the importation and exportation of goods and for any other function deemed necessary by the Commissioners as are not required to be authorised by some other authority,

and the holders of such authorisations shall have power to execute the duties of their respective offices in every part of the State.

- (2) All such authorisations shall continue in force, notwithstanding the death, or the ceasing to hold office, of any Commissioner.
- (3) The Commissioners may revoke an authorisation made under this section.

#### Exercise of functions

- 38.** (1) Any act or thing required or permitted by the Customs Acts to be done by the Commissioners in relation to duties of customs may be done by any one Commissioner.
- (2) Any power, function or duty conferred or imposed on the Commissioners by the Customs Acts (other than under [section 6](#), [39](#) and [41](#)) may be exercised or performed on their behalf, and subject to their direction and control, by an officer of the Commissioners authorised by them in writing for that purpose.

#### Regulations

- 39.** (1) The Commissioners may make regulations in relation to all or any of the following matters:
- (a) securing, paying, collecting, remitting or repaying of duties of customs;
  - (b) the procedures relating to conveyances, goods, crew and passengers and their baggage on their arrival in the State and departure from the State;

- (c) applying any of the provisions of the Customs Acts to—
  - (i) pipelines and goods conveyed in or discharged from or charged into pipelines,
  - (ii) cables and electricity transmitted by such cables, or
  - (iii) postal packets in cross-border mail.
- (2) The Minister may, subject to *subsection (3)*, make regulations specifying the customs controls to apply in relation to, and generally regulating for customs purposes, the importation into or exportation from the State of any goods by land.
- (3) In particular, but without prejudice to the generality of *subsection (2)*, regulations under that subsection may—
  - (a) apply all or any of the provisions of the Customs Acts, subject to such modifications as the Minister considers appropriate, to the importation into or exportation from the State by land of any goods,
  - (b) prohibit the importation into or exportation from the State by land of all goods or any classes of goods, except by such routes within the State or at such places on the land frontier, and on such days and during such hours, as may be prescribed by those regulations,
  - (c) require any person in charge of any train or other vehicle entering or leaving the State by land, to stop such train or vehicle at any specified place, and to allow an officer of customs to examine such train or vehicle or any goods in either of them and to take account of such goods,
  - (d) require any person in charge of any vehicle travelling at any time, within such area as may be specified, to stop such vehicle upon request by an officer of customs and allow that officer to examine the vehicle and any goods in it and to take account of such goods, or
  - (e) require any person in charge of any train or other vehicle to stop such train or vehicle and to answer all such questions relating to his or her journey, or to any goods conveyed by the train or vehicle as may be put to him or her by an officer of customs.
- (4) Regulations made under this section may contain such incidental, supplementary and consequential provisions as appear to the Commissioners or the Minister, as the case may be, to be necessary for the purposes of giving full effect to the Customs Acts.
- (5) Every regulation made under this section shall be laid before Dáil Éireann as soon as may be after it is made and, if a resolution annulling that regulation is passed by Dáil Éireann within the next 21 days on which that House has sat after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done under it.
- (6) A person who contravenes a provision of regulations made under this section which is stated in the regulations to be a penal provision, commits an offence.
- (7) A person convicted of an offence under this section is liable, on summary conviction, to a fine of €5,000.
- (8) In this section—

“cable” means a cable or system of cables, together with any apparatus or associated works, used for the transmission of electricity into or out of the State;

“pipeline” means a pipe or system of pipes, together with any apparatus or associated works, used for the conveyance of goods into or out of the State.

## PART 6

### EU AND INTERNATIONAL OBLIGATIONS

#### Administrative penalties for contravention of Customs Acts

##### 40. (1) A person who—

- (a) fails to comply with a duty, obligation, requirement or condition imposed under the Customs Acts which relates to F7[[Article 135](#), [Article 233\(1\)](#), [\(2\) and \(3\)](#) or [Article 242 of the Customs Code Regulation](#)] is liable to a penalty of €500 in respect of each such failure,
- (b) fails to comply with a duty, obligation, requirement or condition imposed under the Customs Acts which relates to a declaration, in respect of each such failure, where the person—
  - (i) does not make the declaration, he or she is liable to a penalty of €2,000,
  - (ii) does not make the declaration within the time limit specified under the Customs Acts, he or she is liable to a penalty of €250 for each month or part of a month during which the return remains outstanding, subject to a maximum penalty of €2,000,
  - (iii) makes an incorrect or incomplete declaration, he or she is liable to a penalty of €100,
  - (iv) makes a declaration using an electronic data-processing technique while not in possession of the required supporting documents, he or she is liable to a penalty of €100,

or

- (c) fails to comply with a duty, obligation, requirement or condition imposed under the Customs Acts which relates to a matter other than those specified in *paragraph (a) or (b)*, is liable to a penalty of €250 in respect of each such failure.
- (2) Where the person referred to in *subsection (1)* is a body of persons and they fail to comply with a duty, obligation, requirement or condition imposed under the Customs Acts, then the person acting in the capacity of secretary to such body is liable to a separate penalty of an equivalent amount to that stated in that subsection in respect of each such failure.
- (3) Any penalty payable under this section is deemed to be a debt due to the Minister for the benefit of the Central Fund and shall be payable to the Commissioners.
- (4) Chapter 3A (inserted by [section 98](#) of the [Finance \(No. 2\) Act 2008](#)) of Part 47 of the [Taxes Consolidation Act 1997](#) shall apply to any penalty payable under this section and *Part 7* shall not apply.

(5) Nothing in this section shall prevent any action or other proceedings being brought for the collection or recovery of duties of customs.

(6) In this section—

“declaration” means any declaration, return or statement required to be made by a person in accordance with the Customs Acts and includes a declaration made using an electronic data-processing technique;

“supporting documents” means the documents—

(a) required under the Customs Acts to support a declaration, and

(b) where the declaration is made using an electronic data-processing technique, which are required to be in the possession of the person making the declaration.

#### Annotations

#### Amendments:

**F7** Substituted (13.12.2016) by *European Union (Customs Code) Regulations 2016* (S.I. No. 610 of 2016), reg. 2(b).

### Naples II Convention and CIS Decision

**41.** (1) Subject to this Act, the Naples II Convention which was given the force of law in the State by section 2 of the Act of 2001, continues to have the force of law in the State and judicial notice shall be taken of it.

(2) The Commissioners are designated as—

(a) the national authority for the purposes of Articles 7(1) and 8(2) of the CIS Decision, and

(b) the competent customs administration for the purposes of Article 10 of the CIS Decision.

(3) The Data Protection Commissioner—

(a) who was designated by section 6 of the Act of 2001 as the national supervisory authority for the purposes of the Naples II Convention, continues to be so designated, and

(b) is designated as the national supervisory authority for the purposes of Article 24 of the CIS Decision.

(4) F8[...]

(5) F8[...]

(6) Subject to *subsection (7)*, the State shall not be bound by Articles 20, 21 and 23 of the Naples II Convention or any part of those Articles.

(7) The Government may, by order, provide that the State shall be bound by Articles 20, 21 or 23 of the Naples II Convention or any part of those Articles.

(8) The Minister may make regulations for the purpose of enabling the Naples II Convention and the CIS Decision to have full effect.



(9) Without prejudice to the generality of *subsection (8)*, regulations under this section may contain such incidental, supplementary and consequential provisions as appear to the Minister to be necessary or expedient for the purposes of those regulations.

(10) F8[...]

(11) For the purposes of Article 26 of the Naples II Convention, paragraph (5)(a) of that Article shall continue to apply in the State.

(12) (a) Where a declaration is made pursuant to Article 26(4) of the Naples II Convention specifying that paragraph (5)(b) of that Article shall apply in the State, the Minister may by order declare that the declaration (the text of which shall be set out in the order) has been made.

(b) *Subsection (11)* shall cease to have effect on the commencement of an order made under *paragraph (a)*.

(13) Judicial notice shall be taken of any ruling or decision of, or expression of opinion by, the Court of Justice of the European Union on any question as to the meaning or effect of any provision of the Naples II Convention or the CIS Decision.

(14) Where it is proposed to make an order under *subsection (7)* or *(12)*, a draft of the order shall be laid before each House of the Oireachtas and the order shall not be made unless a resolution approving of the draft has been passed by each such House.

(15) In this section—

“Act of 2001” means **Customs and Excise (Mutual Assistance) Act 2001**;

‘CIS Decision’ means Council Decision 2009/917/JHA of 30 November 2009<sup>6</sup>

on the use of information technology for customs purposes; ‘Customs Information System (CIS)’ means the joint automated system for customs purposes established by Article 1 of the CIS Decision; ‘Naples II Convention’ means the Customs Co-operation Convention drawn up on the basis of Article K.3 of the Treaty on European Union, on mutual assistance and co-operation between customs administrations, done at Brussels on 18 December 1997.

#### Annotations

#### Amendments:

**F8** Deleted (25.05.2018) by *Data Protection Act 2018 (7/2018)*, s. 227, S.I. No. 174 of 2018.

#### Modifications (not altering text):

**C1** Reference to Data Protection Commissioner construed (25.05.2018, establishment day) by *Data Protection Act 2018 (7/2018)*, s. 14(2), commenced as per subs. (4) and S.I. No. 175 of 2018.

#### Transfer of functions of Data Protection Commissioner to Commission

**14.** (1) All functions that, immediately before the establishment day, were vested in the Data Protection Commissioner are transferred to the Commission.

(2) A reference in any enactment or instrument under an enactment to the Data Protection Commissioner or to the Office of the Data Protection Commissioner shall be construed as a reference to the Commission.

...

<sup>6</sup>O.J. No. L323, 30.9.2009, p.20

**F9[Controls of cash entering or leaving European Union through the State**

**42.**(1) As provided for by Article 2, the Commissioners, as the customs authority in the State, are the competent authority to apply the 2018 Regulation.

(2) As provided for by Article 3, a carrier entering or leaving the European Union carrying cash of a value of €10,000 or more is obliged to make a declaration to the competent authority and to make the cash available to the competent authority for control and, for that purpose, in the case of such carrier so entering or leaving the European Union through the State –

(a) the declaration shall be made to the Commissioners in accordance with Article 3, and

(b) the cash shall be made available to the Commissioners for control.

(3) As provided for by Article 4, the sender or recipient, or a representative of the sender or recipient, of unaccompanied cash of a value of €10,000 or more entering or leaving the European Union may be required to make a disclosure declaration to the competent authority and to make the cash available to the competent authority for control and, for that purpose, in the case of such unaccompanied cash entering or leaving the European Union through the State –

(a) an officer of customs may, by notice to the sender or recipient, or a representative of the sender or recipient, as the case may be, of the unaccompanied cash, require the making of a disclosure declaration to the Commissioners within 30 days from the date of the notice in accordance with Article 4,

(b) the officer of customs may detain the cash until the person notified under paragraph (a) makes the disclosure declaration, and

(c) the person notified under paragraph (a) shall make the unaccompanied cash available to the Commissioners for control.

(4) Notice under *subsection (3)* shall be given in writing and the notice shall be deemed to have been duly given to the person concerned –

(a) if it is delivered to the person personally,

(b) if it is addressed to the person and left or forwarded by post to the person at the usual or last known place of abode or business of the person or, in the case of a body corporate, at its registered or principal office, or

(c) if the person has no known address in the State, by publication of the notice in the *Iris Oifigiúil*.

(5) For the purposes of –

(a) checking if a carrier has complied with the obligation to declare, on entering or leaving the European Union, that he or she has possession of cash of a value of €10,000 or more, or

(b) recording the information and details referred to in Article 3(2) where a carrier is carrying cash of a value of less than €10,000 and there are indications that the cash is related to criminal activity,

an officer of customs may do one or more of the following:

(i) question the carrier on so entering or leaving the European Union through the State;

(ii) search the carrier's baggage and means of transport.

(6) Where, as a consequence of any response or lack of response to any question asked under *subsection (5)(i)* or a search carried out under *subsection (5)(ii)*, or both, an officer of customs has reasonable grounds to suspect that the carrier –

(a) is importing into or exporting from the European Union through the State in contravention of the 2018 Regulation and this section, or

(b) intends or is about to so import or export in contravention of the 2018 Regulation and this section,

cash of a value of €10,000 or more, or cash of a value of less than €10,000 where there are indications that the cash is related to criminal activity, then the officer may search the carrier or cause the carrier to be searched by another officer of customs and *section 30(2), (3), (4) and (6)* shall apply to the carrying out of such a search under this subsection.

(7) For the purpose of –

(a) implementing the obligation to disclose unaccompanied cash of a value of €10,000 or more entering or leaving the European Union, or

(b) recording the information and details referred to in Article 4(2) where unaccompanied cash of a value of less than €10,000 is entering or leaving the European Union and there are indications that the cash is related to criminal activity,

an officer of customs may search any consignments, conveyances, postal packets, courier shipments, baggage or receptacles which the officer of customs has reasonable grounds to suspect may contain unaccompanied cash.

(8) Where –

(a) the obligation to declare accompanied cash under *subsection (2)* and Article 3 or the obligation to disclose unaccompanied cash under *subsection (3)* and Article 4 has not been fulfilled, or

(b) there are reasonable grounds to suspect that accompanied or unaccompanied cash, irrespective of the amount of such cash, is related to criminal activity,

an officer of customs may detain the cash for such period of time or, where the cash has already been detained in accordance with *subsection (3)(b)*, such further period of time, which shall not exceed 30 days, as may be required to determine whether a further detention in accordance with *subsection (9)* is warranted.

(9) Where an officer of customs determines that –

(a) the circumstances warrant a further detention of cash detained in accordance with *subsection (8)*, and

(b) such further detention of the cash is necessary and proportionate in the circumstances,

the officer of customs may continue to detain the cash for a period of no longer than 90 days from the date it was detained in accordance with *subsection (8)*.

(10) Where –

- (a) an officer of customs determines that the circumstances do not warrant a further detention of cash in accordance with *subsection (9)*, or
  - (b) no determination is made within the period of 30 days referred to in *subsection (8)*,
- the officer of customs shall release the cash immediately to the person from whom the cash was detained.
- (11) At any time while cash is detained pursuant to *subsection (8)* or *(9)*, a judge of the District Court may direct its release if satisfied, on an application made by the person from whom it was detained or a person on whose behalf it was being imported or exported, that there are no, or are no longer, any such grounds for its detention in accordance with this section.
- (12) A person who fails to –
- (a) make a correct and complete declaration as required by *subsection 2(a)*, or
  - (b) make cash available for control as required by *subsection (2)(b)*,
- commits an offence and is liable, on summary conviction, to a fine of €5,000.
- (13) A person who fails to –
- (a) make a correct and complete disclosure declaration within 30 days in accordance with a notice under *subsection (3)(a)*, or
  - (b) make unaccompanied cash available for control as required by *subsection (3)(c)*,
- commits an offence and is liable, on summary conviction, to a fine of €5,000.
- (14) Where a person is charged for an offence under *subsection (12)* or *(13)*, cash detained from the person by virtue of this section may continue to be detained until the prosecution is finally determined.
- (15) In this section, “2018 Regulation” means Regulation (EU) No. 2018/1672 of the European Parliament and of the Council of 23 October 2018<sup>2</sup> on controls on cash entering or leaving the Union and repealing Regulation (EC) No 1889/2005.
- (16) A word or expression that is used in this section and is also used in the 2018 Regulation has the same meaning in this section as it has in that Regulation.
- (17) A reference in this section to a numbered Article is a reference to the Article so numbered of the 2018 Regulation.
- (18) Part 7 shall not apply to any decision of an officer of customs made under this section.]

#### Annotations

#### Amendments:

- F9** Substituted (3.06.2021) by *European Union (Controls of Cash Entering or Leaving the Union) Regulations 2021* (S.I. No. 281 of 2021), reg. 2, in effect as per reg. 1(2).

### Council Convention on centralised customs clearance

- 43.** (1) The Convention shall have the force of law in the State and judicial notice shall be taken of it.
- (2) The Commissioners are designated as the authorising customs authorities or the assisting customs authorities, as the case may be, for the purposes of Articles 3, 4 and 5 of the Convention, and they shall comply with those Articles.
- (3) In this section, “Convention” means the Council Convention on centralised customs clearance concerning the allocation of national collection costs retained when traditional own resources are made available to the EU budget, done at Brussels on 10 March 2009 (the text of which in the English language is set out for ease of reference in *Schedule 2*).

## PART 7

### CUSTOMS APPEALS

#### Definitions

**44.** In this Part—

F10[‘Appeal Commissioner’ has the meaning given to it by *section 2 of the Finance (Tax Appeals) Act 2015*];

“appellant” means a person who appeals to the Commissioners or to the Appeal Commissioners, as the case may be, under *section 45* or *47*;

“decision” means any official act of the Commissioners or an officer of the Commissioners, being an act having legal effect on one or more specific or identifiable persons, relating to or under the Customs Acts, including a ruling on a particular case or a binding information within the meaning of F11[*Article 33 of the Customs Code Regulation*], but excluding a determination by the Commissioners under *section 46*.

#### Annotations

#### Amendments:

- F10** Substituted (21.03.2016) by *Finance (Tax Appeals) Act 2015* (59/2015), s. 42 and sch. 2 part 6 para. 6(a), S.I. No. 110 of 2016.
- F11** Substituted (13.12.2016) by *European Union (Customs Code) Regulations 2016* (S.I. No. 610 of 2016), reg. 2(c).

#### Appeal to Commissioners

- 45.** (1) Any person who has paid or is liable to pay import duty or export duty or who has complied with or is required to comply with a decision notified in writing and is, or was, required to pay an amount of such duty or is otherwise bound by such decision, may appeal to the Commissioners against the liability or the decision or the amount of such duty or the implementation of the decision.

- (2) Any person who has claimed and has either been refused or has received a remission or repayment of import duty or export duty may appeal to the Commissioners against the decision concerned in respect of the refusal of, or the amount of such repayment, or the refusal of or the extent of such remission.
- (3) Any person who has requested the Commissioners to give a decision relating to the application of the Customs Acts and who has not obtained, in accordance with the provisions of those Acts, a ruling on that request, may appeal to the Commissioners.
- (4) An appeal under this section shall be by notice in writing and shall—
- (a) specify in detail the grounds of the appeal, and
  - (b) be lodged with the Commissioners within 30 days from the date of—
    - (i) the payment by the person of an amount of the import duty or export duty concerned,
    - (ii) the notification of the person by the Commissioners of a decision in accordance with F12[Article 22(3) of the Customs Code Regulation],
    - (iii) the person being called upon by the Commissioners to pay an amount of import duty or export duty or to comply with a decision,
    - (iv) the remission or repayment of an amount of import duty or export duty,
    - (v) the notification of the person by the Commissioners of a refusal of remission or repayment by them of import duty or export duty,
    - F13[(vi) where an application for a decision under Article 22 of the Customs Code Regulation has been made and no decision has been taken within the time period for the taking of a decision under Article 22(3) of the Customs Code Regulation, the expiry of that period,]
- or within such longer period as the Commissioners may allow.

#### Annotations

#### Amendments:

- F12** Substituted (13.12.2016) by *European Union (Customs Code) Regulations 2016* (S.I. No. 610 of 2016), reg. 2(d)(i).
- F13** Inserted (13.12.2016) by *European Union (Customs Code) Regulations 2016* (S.I. No. 610 of 2016), reg. 2(d)(ii).

#### Determination of appeal

- 46.** (1) An appeal shall be determined by the Commissioners and any such determination shall, subject to *subsection (5)*, be made within 30 days from the lodgement of the notice of appeal, unless there are reasonable grounds to extend that period, in which case the Commissioners shall so inform the appellant before the expiry of the period, stating the reasons for extending it and indicating the further reasonable period of time which they consider necessary for the determination of the appeal.
- (2) The Commissioners may designate one or more of their officers (“designated officers”) to perform the functions of the Commissioners under this section, but only one such officer shall determine any particular appeal.

- (3) A designated officer shall not determine an appeal against a decision made by that officer.
- (4) The Commissioners shall notify the appellant by notice in writing of their determination of an appeal and the reasons for their determination.
- (5) Where a notice of appeal has been lodged with the Commissioners but the appeal has not been determined within the period referred to in *subsection (1)*, there shall be deemed to have been a determination by the Commissioners on the last day of the said period that the appeal was not upheld, but such deeming shall cease to have effect if a determination is subsequently made by the Commissioners before a determination is made by the Appeal Commissioners under F14[[section 949AJ of the Taxes Consolidation Act 1997](#)] in respect of the matter concerned.

**Annotations****Amendments:**

- F14** Substituted (21.03.2016) by *Finance (Tax Appeals) Act 2015* (59/2015), s. 42 and sch. 2 part 6 para. 6(b), S.I. No. 110 of 2016.

**Appeal Commissioners**

- F15**[[47. A person aggrieved by a determination of the Commissioners made under section 46 may appeal the determination to the Appeal Commissioners, in accordance with section 949I of the Taxes Consolidation Act 1997, within the period of 30 days after the date of the notice of that determination.](#)]

**Annotations****Amendments:**

- F15** Substituted (21.03.2016) by *Finance (Tax Appeals) Act 2015* (59/2015), s. 42 and sch. 2 part 6 para. 6(c), S.I. No. 110 of 2016.

**Effect of lodgement of appeal on decision to which appeal relates**

- 48.** (1) The lodgement of a notice of appeal under [section 45](#) or [47](#) shall not, pending the determination of the appeal by the Commissioners or, as the case may be, the Appeal Commissioners, cause the implementation of the decision to which the appeal relates to be suspended.
- (2) The Commissioners shall, however, suspend the implementation of such a decision in whole or in part where they have reasonable grounds to believe that the decision is inconsistent with the Customs Acts or that irreparable loss would be likely to be caused to the person concerned by the implementation of such a decision.
- (3) Where the decision concerned causes import duties or export duties to be charged, the suspension of implementation of the decision shall be subject to the existence or provision, within the meaning of the Customs Code, of a security unless that security requirement would be likely, owing to the debtor's circumstances, to cause serious financial difficulties to him or her.
- (4) Where liability to import duty or export duty or compliance with a decision is the subject of criminal proceedings or a decision is pending on whether to initiate criminal proceedings in respect of such liability or compliance, then an appeal may not be brought under [section 45](#) or [47](#) against such liability or compliance or the amount of such import duty or export duty

or any repayment or remission connected with or sought in respect of such liability until any such criminal proceedings are determined or a decision is duly taken not to initiate criminal proceedings.

#### Service of notices and determinations

49. (1) Any notice or other document which is required to be served on the Commissioners, including a notice of appeal under *section 45* F16[...] shall be addressed to the Revenue Commissioners, Dublin Castle, in the city of Dublin.

(2) Prima facie evidence of any notice or determination given under the Customs Acts by the Commissioners or an officer of the Commissioners, may be given in any proceedings by the production of a document purporting—

(a) to be a copy of the notice, or

(b) if the details specified in the notice are contained in an electronic, photographic or other record maintained by the Commissioners, to reproduce those details in so far as they relate to that notice,

and it shall not be necessary to prove the official position of the person by whom the notice purports to be given or, if it is signed, the signature, or that the person signing and giving it was authorised to do so.

#### Annotations

##### Amendments:

**F16** Deleted (21.03.2016) by *Finance (Tax Appeals) Act 2015* (59/2015), s. 42 and sch. 2 part 6 para. 6(d), S.I. No. 110 of 2016.

## PART 8

### MISCELLANEOUS

#### Prohibited or restricted goods on importation or exportation

50. Goods subject to any prohibition or restriction on importation or exportation in any enactment shall be prohibited or restricted goods on importation or exportation, as the case may be, for the purposes of the Customs Acts and the provisions of the Customs Acts shall apply accordingly.

#### Interest

51. F17[...].

#### Annotations

##### Amendments:

**F17** Deleted (13.12.2016) by *European Union (Customs Code) Regulations 2016* (S.I. No. 610 of 2016), reg. 2(e).



**Amendment of section 1078 (Revenue offences) of the Taxes Consolidation Act 1997**

**52.** Section 1078 of the Taxes Consolidation Act 1997 is amended in subsection (2) —

(a) by substituting the following for paragraph (d):

“(d) knowingly or wilfully issues or produces any incorrect invoice, receipt, instrument or other document in connection with any tax or in connection with the importation into the State or exportation from the State of any goods in contravention of any prohibition or restriction on their importation or exportation for the time being in force,”,

(b) by substituting the following for paragraph (j):

“(j) (i) obstructs, impedes, assaults or interferes with any officer of the Revenue Commissioners, or any other person, in the exercise or performance of powers or duties under the Acts for the purpose of any tax or in connection with the importation into the State or exportation from the State of any goods in contravention of any prohibition or restriction on their importation or exportation for the time being in force, or

(ii) attempts in any way to coerce or intimidate any officer of the Revenue Commissioners, or any other person, in connection with the performance of powers or duties under the Acts.”

## SCHEDULE 1

## Repeals and Revocations

## Section 3

## Part 1

## Enactments Repealed

Item (1)	Session and Chapter or Number and Year (2)	Short Title (if any) or Subject (3)	Extent of Repeal (4)
1	1805 (45 Geo. 3, c.121)	Smuggling Act 1805	The whole Act
2	1807 (47 Geo. 3, sess.2, c.66)	Smuggling Act 1807	The whole Act
3	1808 (48 Geo. 3, c.84)	Smuggling Act 1808	The whole Act
4	1809 (49 Geo. 3, c.62)	Smuggling Act 1809	The whole Act
5	1819 (59 Geo. 3, c.121)	Smuggling Act 1819	The whole Act
6	1822 (3 Geo. 4, c.110)	Smuggling Act 1822	The whole Act
7	1849 (12 & 13 Vict., c.90)	Customs Act 1849	The whole Act (S.43)
8	1853 (16 & 17 Vict., c.107)	Customs Consolidation Act 1853	S.324 to S.331
9	1876 (39 & 40 Vict., c.35)	Customs Tariff Act 1876	The whole Act
10	1876 (39 & 40 Vict., c.36)	Customs Consolidation Act 1876	The whole Act
11	1877 (40 & 41 Vict., c.13)	Customs, Inland Revenue and Savings Banks Act 1877	The whole Act
12	1878 (41 & 42 Vict., c.15)	Customs and Inland Revenue Act 1878	S.4, S.5, S.6
13	1879 (42 & 43 Vict., c.21)	Customs and Inland Revenue Act 1879	S.5, S.14
14	1881 (44 & 45 Vict., c.30)	Customs (Officers) Act 1881	The whole Act
15	1882 (45 & 46 Vict., c.74)	Post Office (Parcels) Act 1882	S.14
16	1883 (46 & 47 Vict., c.10)	Customs and Inland Revenue Act 1883	S.3

Item (1)	Session and Chapter or Number and Year (2)	Short Title (if any) or Subject (3)	Extent of Repeal (4)
17	1883 (46 & 47 Vict., c.55)	Revenue Act 1883	S.3, S.4, S.5, S.6, S.7, S.8, S.9, S.11
18	1884 (47 & 48 Vict., c.62)	Revenue Act 1884	S.2, S.3, S.4, S.5
19	1887 (50 & 51 Vict., c.7)	Customs Consolidation Act 1876 Amendment Act 1887	The whole Act
20	1889 (52 & 53 Vict., c.42)	Revenue Act 1889	S.2, S.3, S.4, S.6, S.8
21	1898 (61 & 62 Vict., c.46)	Revenue Act 1898	S.1, S.2, S.4, S.6
22	1909 (9 Edw.7, c.43)	Revenue Act 1909	S.4
23	1914 (4 & 5 Geo. 5., c.10)	Finance Act 1914	S.1
24	No. 28/1925	Finance Act 1925	S.44
25	No. 15/1933	Finance Act 1933	S.33, S.35
26	No. 31/1934	Finance Act 1934	S.26, S.27
27	No. 31/1936	Finance Act 1936	S.19, S.20
28	No. 25/1938	Finance Act 1938	S.24, S.25
29	No. 14/1940	Finance Act 1940	S.22
30	No. 21/1942	Customs (Amendment) Act 1942	The whole Act
31	No. 22/1942	Central Bank Act 1942	S.57
32	No. 16/1943	Finance Act 1943	S.11
33	No. 15/1946	Finance Act 1946	S.15, S.16, S.19
34	No. 14/1952	Finance Act 1952	S.16
35	No. 7/1956	Customs Act 1956	The whole Act

Item (1)	Session and Chapter or Number and Year (2)	Short Title (if any) or Subject (3)	Extent of Repeal (4)
36	No. 23/1963	Finance Act 1963	S.31, S.34(1), S.34(2), S.34(3), S.34(4) delete "section 186 of the Customs Consolidation Act 1876, section 3 of the Customs Act 1956, or any enactment of the Customs Acts amended by subsection (3) of this section, or", S.34(5), S.34(7), S.34(9), S.34(10), S.34(11)
37	No. 17/1967	Finance Act 1967	S.16, S.17
38	No. 21/1969	Finance Act 1969	S.40
39	No. 23/1971	Finance Act 1971	S.29
40	No. 27/1974	Finance Act 1974	S.76
41	No. 16/1976	Finance Act 1976	S.45
42	No. 21/1978	Finance Act 1978	S.29
43	No. 15/1983	Finance Act 1983	S.72
44	No. 10/1988	Customs and Excise (Miscellaneous Provisions) Act 1988	The whole Act
45	No. 9/1992	Finance Act 1992	S.162
46	No. 22/1997	Finance Act 1997	S.94
47	No. 2/2001	Customs and Excise (Mutual Assistance) Act 2001	The whole Act
48	No. 7/2001	Finance Act 2001	S.177, S.178, S.179, S.180
49	No. 3/2003	Finance Act 2003	S.80
50	No. 11/2007	Finance Act 2007	S.127
51	No. 5/2010	Finance Act 2010	S.95, S.96
52	No. 6/2011	Finance Act 2011	S.54

## Statutory Instruments Revoked

Item	S.I. No. and Year	Short Title	Extent of Revocation
(1)	(2)	(3)	(4)
1	S.I. No. 189 of 1964	Customs and Excise (Aircraft) Regulations 1964	The whole Regulations
2	S.I. No. 143 of 1965	Relief from Customs Duties (Fairs, Exhibitions and Similar Events) Order 1965	The whole Order
3	S.I. No. 144 of 1965	Relief from Customs Duties (Professional Equipment) Order 1965	The whole Order
4	S.I. No. 223 of 1965	Relief from Customs Duties (Packings) Order 1965	The whole Order
5	S.I. No. 131 of 1967	Customs and Excise (Aircraft) (Amendment) Regulations 1967	The whole Regulations
6	S.I. No. 117 of 1968	Customs (Land Frontier) Regulations 1968	The whole Regulations
7	S.I. No. 334 of 1972	European Communities (Customs) Regulations 1972	Regulations 3, 4, 5, 6, 7, 8, 9, 10, 11, 12
8	S.I. No. 324 of 1978	Customs (Land Frontier) Regulations 1978	The whole Regulations
9	S.I. No. 211 of 1980	European Communities (Customs) (Amendment) Regulations 1980	The whole Regulations
10	S.I. No. 202 of 1982	European Communities (Customs) (No. 2) Regulations 1982	The whole Regulations
11	S.I. No. 78 of 1983	European Communities (Customs) Regulations 1983	The whole Regulations
12	S.I. No. 365 of 1984	European Communities (Customs) Regulations 1984	The whole Regulations
13	S.I. No. 366 of 1984	European Communities (Customs) (No. 2) Regulations 1984	The whole Regulations
14	S.I. No. 299 of 1988	Customs (Land Frontier) Regulations 1988	The whole Regulations
15	S.I. No. 177 of 1989	European Communities (Customs) (Revocation of Statutory Instruments) Regulations 1989	The whole Regulations
16	S.I. No. 57 of 1991	European Communities (Customs & Excise) Regulations 1991	The whole Regulations

Item	S.I. No. and Year	Short Title	Extent of Revocation
(1)	(2)	(3)	(4)
17	S.I. No. 174 of 1991	European Communities (Customs & Excise) Regulations (Amendment) 1991	The whole Regulations
18	S.I. No. 368 of 1991	European Communities (Customs & Excise) Regulations (Amendment) (No. 2) 1991	The whole Regulations
19	S.I. No. 431 of 1992	European Communities (Customs) Regulations 1992	Regulations 4, 5, 6, 7, 8, 9, 10, 15, 16, 17
20	S.I. No. 432 of 1992	European Communities (Customs) Regulations 1992	The whole Regulations
21	S.I. No. 433 of 1992	European Communities (Community Transit) Regulations 1992	The whole Regulations
22	S.I. No. 61 of 1993	European Communities (TIR carnet and ATA Carnet-Transit) Regulations 1993	The whole Regulations
23	S.I. No. 355 of 1995	European Communities (Customs Appeals) Regulations 1995	The whole Regulations
24	S.I. No. 114 of 1996	European Communities (Customs Declarations) Regulations 1996	The whole Regulations
25	S.I. No. 254 of 2004	Customs and Excise (Mutual Assistance) Act 2001 (Section 8) (Protection of Manual Data) Regulations 2004	The whole Regulations
26	S.I. No. 281 of 2007	European Communities (Controls of Cash Entering or Leaving the Community) Regulations 2007	The whole Regulations

## SCHEDULE 2

*Council Convention on Centralised Customs Clearance Concerning the Allocation of National Collection Costs Retained When Traditional Own Resources are Made Available to the EU Budget*

## Section 43

THE CONTRACTING PARTIES, Member States of the European Union:

HAVING REGARD to Council Decision No 2007/436/EC, Euratom of 7 June 2007<sup>8</sup> on the system of the European Communities' own resources (hereinafter referred to as the Decision),

CONSIDERING Council Regulation (EC, Euratom) No 1150/2000 of 22 May 2000<sup>9</sup> implementing the abovementioned Decision on own resources (hereinafter referred to as the Regulation),

CONSIDERING that centralised clearance, and other simplifications of customs formalities, within the meaning of Regulation (EC) No 450/2008 of the European Parliament and of the Council of 23 April 2008<sup>10</sup> laying down the Community Customs Code (hereinafter referred to as the Modernised Customs Code) may help create conditions favourable to trade,

CONSIDERING that the Single Authorisation as defined by Article 1(13) of Commission Regulation (EC) No 2454/93<sup>11</sup> provides the same benefits for the period until the Modernised Customs Code has become applicable,

CONSIDERING the Council's statement of 25 June 2007 on the sharing of duty collection costs, on VAT and on statistics under the centralised clearance system and the statement of the Council and the Commission of 25 June 2007 on the evaluation of the functioning of the centralised clearance system,

TAKING ACCOUNT of Articles 17 and 120 of the Modernised Customs Code which respectively provide for the recognition of the validity of decisions taken by customs authorities throughout the Community, and stipulate the conclusive force of the results of verifications throughout the territory of the Community,

WHEREAS:

- (1) The management of centralised clearance, which may be combined with simplifications of customs formalities, where goods are declared for free circulation in a Member State but presented to customs in another Member State implies administrative expenditure in both Member States. That justifies a partial redistribution of the collection costs which are retained when traditional own resources are made available to the Community budget in accordance with the Regulation.
- (2) That redistribution, carried out by the Contracting Party where the customs declaration is lodged for the benefit of the Contracting Party where the goods are presented, corresponds to a total of 50 % of the retained collection costs.
- (3) Smooth implementation of the redistribution of collection costs requires the adoption of specific procedures in the form of a Convention between the Contracting Parties.
- (4) This Convention is to be applied by the Contracting Parties in accordance with their national laws and procedures,

HAVE AGREED AS FOLLOWS:

<sup>8</sup>OJ No. L163, 23.06.2007, p.17

<sup>9</sup>OJ No. L130, 31.05.2000, p.1

<sup>10</sup>OJ No. L145, 04.06.2008, p.1

<sup>11</sup>OJ No. L253, 11.10.1993, p.1

## CHAPTER I

## SCOPE AND DEFINITIONS

*Article 1*

1. This Convention defines the procedures for the redistribution of collection costs when own resources are made available to the EU budget, which shall be followed by the Contracting Parties in case of centralised clearance as defined by Article 106 of the Modernised Customs Code, where goods are declared for release for free circulation in a Member State but presented to customs in another Member State.
2. The procedures referred to in paragraph 1 shall also apply when the concept of centralised clearance is combined with simplifications established under the Modernised Customs Code.
3. The procedures referred to in paragraph 1 shall also apply to the Single Authorisation as defined by Article 1(13) of Commission Regulation (EC) No 2454/93<sup>12</sup>, for release for free circulation.

*Article 2*

For the purposes of this Convention, the following definitions shall apply:

- (a) 'authorisation' means any authorisation issued by the customs authorities which allows the release of goods for free circulation at the customs office responsible for the place where the authorisation holder is established, irrespective of the customs office where the goods are presented;
- (b) 'Authorising Customs Authorities' means the customs authorities of the participating Member State which allow the release of the goods for free circulation at the customs office responsible for the place where the authorisation holder is established, irrespective of the customs office where the goods are presented;
- (c) 'Assisting Customs Authorities' means the customs authorities of the participating Member State which assist the authorising customs authorities in the supervision of the procedure and the release of the goods;
- (d) 'import duties' means customs duties payable on the importation of goods;
- (e) 'collection costs' means the amounts which the Member States are authorised to retain in accordance with Article 2(3) of the Decision or a corresponding provision of any other subsequent decision which may replace it.

## CHAPTER II

## DETERMINATION AND REDISTRIBUTION OF COLLECTION COSTS

*Article 3*

1. The Member State of the Authorising Customs Authorities shall notify the Member State of the Assisting Customs Authorities, by electronic or, where not available, any other appropriate means, of the relevant information concerning the amount of collection costs to be redistributed.

<sup>12</sup>OJ No. L253, 11.10.1993, p.1



2. The Assisting Customs Authorities shall communicate to the authorising customs authorities:
  - (a) the name and address of the authority competent for receiving the information under paragraph 1;
  - (b) the references of the bank account into which the amount of collection costs to be redistributed shall be paid.
3. The relevant information referred to in paragraph 1 is the following:
  - (a) the identification of the authorisation;
  - (b) the date on which the amount of established own resources is credited in accordance with Articles 9 and 10 of the Regulation;
  - (c) the amount of own resources made available, taking into account possible repayment or post-clearance recovery of import duties;
  - (d) the amount of collection costs retained.

*Article 4*

The amount of the collection costs to be redistributed by the Member State of the Authorising Customs Authorities to the Member State of the assisting customs authorities shall be equal to fifty per cent (50 %) of the amount of the collection costs retained.

*Article 5*

1. The payment of the amount referred to in Article 4 shall be made in the month during which the amount of established own resources is credited in accordance with Articles 9 and 10 of the Regulation.
2. Interest on arrears shall be charged on the amount referred to in paragraph 1 from the date of expiry of the prescribed period until the date of payment.

The rate of interest on arrears shall be the interest rate applied by the European Central Bank to its most recent main refinancing operation carried out before the first calendar day of the half-year in question (the reference rate), plus two percentage points.

For a Member State of the Authorising Customs Authorities which is not participating in the third stage of economic and monetary union, the reference rate referred to above shall be the equivalent rate set by its national central bank. In that case, the reference rate in force on the first calendar day of the half-year in question shall apply for the following six months.

CHAPTER III

**DISPUTE SETTLEMENT**

*Article 6*

Any dispute arising between the Contracting Parties in relation to the interpretation or functioning of this Convention shall be resolved as far as possible by negotiation. If no solution is found within three months, the Contracting Parties concerned may by common accord choose a mediator to resolve the dispute.

CHAPTER IV

**IMPLEMENTATION AND FINAL PROVISIONS***Article 7*

1. The Secretary-General of the Council of the European Union shall act as depositary of this Convention.
2. The Member States of the European Union may become Contracting Parties to this Convention by lodging with the Secretary-General of the Council of the European Union an instrument of ratification, acceptance, approval or accession, once the internal procedures required for the adoption of this Convention have been completed.
3. This Convention shall enter into force ninety days after the last signatory Member State has declared that it has completed all the internal procedures necessary for its adoption. In the meantime, however, any Member State which has completed those procedures may declare that it will apply the Convention in its relations with those Member States which have made the same declaration, with regard to the provisions concerned by this Convention.
4. All administrative arrangements between Member States concerning the redistribution of amounts of collection costs in situations within the scope of this Convention shall be superseded by the provisions of this Convention as from its date of application between the Member States concerned.

*Article 8*

1. Amendments to this Convention may be proposed by any Contracting Party, in particular when a Contracting Party faces serious budgetary losses due to the application of this Convention. Any proposed amendment shall be sent to the depositary referred to in Article 7 who shall communicate it to the Contracting Parties.
2. Amendments shall be adopted by common agreement by the Contracting Parties.
3. Amendments adopted in accordance with paragraph 2 shall come into force in accordance with Article 7.

*Article 9*

This Convention shall be reviewed by the Contracting Parties at the latest three years after the date of application of the Modernised Customs Code and if necessary may be amended on the basis of that review in accordance with Article 8.

*Article 10*

1. Any Contracting Party may denounce this Convention by so notifying the Secretary-General of the Council of the European Union.
2. Denunciation shall take effect 90 days after the date of receipt by the Secretary-General of the notification of the denunciation.

In witness whereof, the undersigned Plenipotentiaries have hereunto set their hands.

Done at Brussels on the tenth day of March in the year two thousand and nine in a single original in the Bulgarian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Irish, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovene, Spanish and Swedish languages, each text being equally authentic, the original being

deposited in the archives of the General Secretariat of the Council of the European Union.

**Annotations****Modifications (not altering text):****C2**



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*Number 18 of 2015*

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**CUSTOMS ACT 2015**

**REVISED**

**Updated to 22 November 2021**

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**About this Revised Act**

This Revised Act presents the text of the Act as it has been amended since enactment, and preserves the format in which it was passed.

**Related legislation**

This Act is not collectively cited with any other Act.

**Annotations**

This Revised Act is annotated and includes textual and non-textual amendments, statutory instruments made pursuant to the Act and previous affecting provisions.

An explanation of how to read annotations is available at [www.lawreform.ie/annotations](http://www.lawreform.ie/annotations).

**Material not updated in this revision**

Where other legislation is amended by this Act, those amendments may have been superseded by other amendments in other legislation, or the amended legislation may have been repealed or revoked. This information is not represented in this revision but will be reflected in a revision of the amended legislation if one is available.

Where legislation or a fragment of legislation is referred to in annotations, changes to this legislation or fragment may not be reflected in this revision but will be reflected in a revision of the legislation referred to if one is available.

A list of legislative changes to any Act, and to statutory instruments from 1972, may be found linked from the page of the Act or statutory instrument at [www.irishstatutebook.ie](http://www.irishstatutebook.ie).

**Acts which affect or previously affected this revision**

- *Maritime Jurisdiction Act 2021 (28/2021)*
- *Withdrawal of the United Kingdom from the European Union (Consequential Provisions) Act 2020 (23/2020)*
- *Data Protection Act 2018 (7/2018)*
- *Finance (Tax Appeals) Act 2015 (59/2015)*

All Acts up to and including *Child and Family Agency (Amendment) Act 2021* (32/2021), enacted 24 November 2021, were considered in the preparation of this revision.

**Statutory instruments which affect or previously affected this revision**

- *European Union (Controls of Cash Entering or Leaving the Union) Regulations 2021* (S.I. No. 281 of 2021)
- *Customs (Mandatory Electronic Filing) (Specified Persons) Regulations 2016* (S.I. No. 615 of 2016)
- *Customs (Electronic Filing of Returns) Order 2016* (S.I. No. 614 of 2016)
- *Customs (Reports Inwards and Outwards by Aircraft) Regulations 2016* (S.I. No. 613 of 2016)
- *Customs (Reports Inwards and Outwards by Vessels) Regulations 2016* (S.I. No. 612 of 2016)
- *Customs Act 2015 (Commencement) Order 2016* (S.I. No. 611 of 2016)
- *European Union (Customs Code) Regulations 2016* (S.I. No. 610 of 2016)

All statutory instruments up to and including *Maritime Jurisdiction Act 2021 (Commencement) Order 2021* (S.I. No. 601 of 2021), made 17 November 2021, were considered in the preparation of this revision.