

Statutory Document No. 2018/0203



*Finance Act 2003*

## **CUSTOMS (CONTRAVENTION OF A RELEVANT RULE) (AMENDMENT) REGULATIONS 2018**

*Laid before Tynwald:* 16<sup>th</sup> October 2018  
*Coming into Operation:* 9 July 2018

The Treasury makes the following Regulations under sections 24(3), 26(1) to (5), (8), (9) and 41 of the Finance Act 2003<sup>1</sup> as those provisions have effect in the Isle of Man.

### **1 Title**

These Regulations are the Customs (Contravention of a Relevant Rule) (Amendment) Regulations 2018.

### **2 Commencement**

These Regulations come into operation on 9 July 2018<sup>2</sup>.

### **3 Amendment of the Customs (Contravention of a Relevant Rule) Regulations 2009**

- (1) The Customs (Contravention of a Relevant Rule) Regulations 2009<sup>3</sup> are amended as follows.
- (2) In regulation 3 (interpretation) –
  - (i) in the definition of “the Code”, for “Council Regulation 2913/92/EEC” substitute **■** Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code **■**<sup>4</sup>;
  - (ii) after the definition of “customs territory” insert –

<sup>1</sup> 2003 c.14 (of Parliament), as applied in the Island by SD 843/03, except section 41 which was applied by means of SD 906/09.

<sup>2</sup> Regulations made under section 41 of the Finance Act 2003, as it has effect in the Island must be laid before Tynwald as soon as practicable after it is made, and if Tynwald at the sitting of Tynwald before which it is laid, or the following sitting, resolves that the document shall be annulled, it shall cease to have effect.

<sup>3</sup> SD 907/09, which has been amended by SD 0989/11 and SD 2015/0129.

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

“Delegated Regulation” means Commission Delegated Regulation (EU) 2015/2446 of 28 July 2015 supplementing the Code as regards certain provisions of the Code;<sup>5</sup>

(iii) in the definition of “the Implementing Regulation”, for “Commission Regulation 2454/93/EEC” substitute Commission Implementing Regulation (EU) 2015/2447 of 24 November 2015<sup>6</sup>.

(3) The Schedule is amended in accordance with the Schedule to these Regulations.

**MADE 2<sup>ND</sup> JULY 2018**

**A L CANNAN**  
*Minister for the Treasury*

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<sup>5</sup> OJ No L343, 29.12.2015, p.1.

<sup>6</sup> OJ No L343, 29.12.2015, p.1.

**SCHEDULE**

[Regulation 3(3)]

**AMENDMENTS TO THE SCHEDULE TO THE CUSTOMS (CONTRAVENTION  
OF A RELEVANT RULE) REGULATIONS 2009**

- 1 In the entry headed “Articles 36a and 36b of the Code and Articles 183, 184a and 184c of the Implementing Regulation”, for the first 2 columns substitute –

<p><b>Articles 16 and 127 of the Code and Articles 182 and 183 of the Implementing Regulation</b> Goods brought into the customs territory to be covered by an entry summary declaration, lodged electronically within the applicable time-limits laid down in Articles 105 to 110 of the Delegated Regulation, at the customs office of entry unless otherwise permitted, containing the particulars set out in Annex B to the Delegated Regulation, and completed in accordance with the explanatory notes to that Annex.</p>	<p>The carrier (as defined in Article 5(40) of the Code) or a person mentioned in paragraph (a) or (b) of Article 127(4) of the Code.</p> <p>The person on whom the obligation to provide particulars falls under Article 112 or 113 of the Delegated Regulation.</p>	
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- 2 In the entry headed “Article 183d(1) of the Implementing Regulation – first sentence”, for the first column substitute –

<p><b>Article 189 of the Implementing Regulation</b> Where an active means of transport entering the customs territory is diverted and is expected to arrive first at a customs office in a member State not indicated in the entry summary declaration, the operator of that means of transport must inform the customs office indicated in the entry summary declaration at the customs office of the first entry of that diversion.</p>		
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- 3 In the entry headed “Article 183d(1) of the Implementing Regulation – second

sentence”, for the first column substitute –

<p><b>Article 133 of the Code and Article 189 of the Implementing Regulation</b> The diversion notification must contain the particulars set out in Annex B (dataset G1) to the Delegated Regulation. <b>22</b>.</p>		
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4 Omit the entry headed “Article 184 of the Implementing Regulation”.

5 In the entry headed “Article 184g of the Implementing Regulation – first sentence”, for the heading substitute **Article 133 of the Code 22**.

6 In the entry headed “Article 184g of the Implementing Regulation – second sentence”, for the first column substitute –

<p><b>Article 133 of the Code</b> The notification of arrival must contain the particulars set out in Annex B (dataset G2) to the Delegated Regulation. <b>22</b>.</p>		
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7 In the entry headed “Article 186 of the Implementing Regulation”, for the first column substitute –

<p><b>Article 145 of the Code</b> Non-Union goods presented to Customs must be covered by a temporary storage declaration containing all necessary particulars by the time of presentation of the goods to Customs. <b>22</b>.</p>		
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8 In the entry headed “Article 38 of the Code”, for the first column substitute –

<p><b>Article 135 of the Code</b> Goods must be conveyed without delay to the customs office or other place designated or approved by Customs, or into a free zone, by the route specified and in accordance with any instructions of Customs. <b>22</b>.</p>		
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9 For the entry headed “Article 39 of the Code” substitute –

<p><b>Article 137 of the Code</b> Pursuant to Article 137, to inform without delay the Customs of:</p> <p>(a) the inability to comply with Article 135(1) due to unforeseen circumstances or force majeure; and</p> <p>(b) the precise location of the goods where the unforeseen circumstances or force majeure does not result in the total loss of the goods.</p>	<p>In respect of Article 137(1) the person bringing the goods into the customs territory or any person acting on behalf of that person.</p> <p>In respect of Article 137(2), the person bringing the vessel or aircraft into the customs territory, or in the case of a vessel or aircraft covered by Article 135(6).</p>	<p>£1,000</p> <p>£1,000. <b>22</b>.</p>
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10 In the entry headed “Article 42 of the Code” for the first column substitute –

<p><b>Article 134(2) of the Code</b> To seek permission of the Customs before examination or sampling of goods in order to determine their tariff classification, customs value or customs status. <b>22</b>.</p>		
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11 In the entry headed “Article 46 of the Code” for the first column substitute –

<p><b>Article 140 of the Code</b> Goods shall:</p> <p>(a) except in the event of imminent danger, only be unloaded or transhipped from the means of transport with the permission of Customs and in places designated or approved or;</p> <p>(b) be unloaded and unpacked as required by Customs for the purposes of inspecting the goods and means of transport.</p> <p>Where permission is not required, Customs must immediately be</p>		
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informed accordingly. <b>22</b> .		
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12 For the entry headed “ Article 47 of the Code” substitute –

<b>22 Article 139(7) of the Code</b> Goods must not be removed from the place where they have been presented without permission of Customs.	The person who brought the goods into the customs territory.	£1,000
	The person in whose name or on whose behalf the person who brought the goods into that territory acts.	£1,000
	The person who assumed responsibility for carriage of the goods after they were brought into that territory.	£1,000. <b>22</b> .

13 For the entry headed “ Articles 48 and 49 and 59 of the Code and Regulation 5 of the Importation Regulation” substitute –

<b>22 Article 149 of the Code</b> Non-Union goods in temporary storage must be placed under a customs procedure or re-exported within 90 days.	The person who brought the goods into the customs territory.	£1,000
	The person in whose name or on whose behalf the person who brought the goods into that territory acts.	£1,000
	The person who assumed responsibility for carriage of the goods after they were brought into that territory.	£1,000. <b>22</b> .

14 In the entry headed “ Article 51 of the Code”, for the first column substitute –

<b>22 Article 147 of the Code</b> Goods in temporary storage must be stored only in temporary storage facilities or in other places		
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designated or approved by Customs. <b>22</b> .		
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- 15 In the entry headed “Article 59 of the Code”, for the first column substitute –

<b>23 Article 158 of the Code</b> Goods intended to be placed under a customs procedure, except for the free zone procedure, must be covered by a declaration. <b>22</b> .		
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- 16 In the entry headed “Articles 62 and 77 of the Code and Article 199 of the  
Implementing Regulation Section 175(3) of the Act”, for the first column  
substitute –

<b>23 Articles 162 and 163 of the Code and section 175(3) of the Act</b> Declarations must contain all the particulars necessary, and be accompanied by all the documents required, for the application of the provisions governing the customs procedure for which the goods are declared. <b>22</b> .		
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- 17 In the entry headed “Article 201 of the Implementing Regulation”, for the first  
column substitute –

<b>23 Article 127(3) of the Code</b> The entry summary declaration must be lodged at the customs office of first entry, within a specific time-limit, before the goods are brought into the customs territory. <b>22</b> .		
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- 18 In the entry headed “Article 14w of the Implementing Regulation”, for the first  
column substitute –

<b>23 Articles 23(2) and 38 of the Code</b> Customs must be informed of any factors, arising after the grant of the status of authorised economic		
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operator, which may influence the continuation or content of the decision to grant that status. <b>22</b> .		
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- 19 In the entry headed “Articles 253(6) and 253(7) of the Implementing Regulation”, for the heading and the words in the first column from the beginning to “must” substitute –

<b>22</b> <b>Articles 23(1) &amp; 23(2) of the Code and Articles 145 and 150 of the Delegated Regulation</b> A person authorised under Article 166(2) of the Code for the regular use of a simplified declaration must <b>22</b> .		
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- 20 In the entry headed “Article 76 of the Code and Article 260 of the Implementing Regulation”, for the heading and the words in the first column from the beginning to “Annex 30A” substitute –

<b>22</b> <b>Article 166 of the Code</b> The simplified declaration or the document or documents permitted in lieu of it must: (a) contain at least the particulars for a simplified declaration set out in Chapter 1 of Title XII of Annex A to the Delegated Regulation <b>22</b> .		
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- 21 In the entry headed “Articles 85 and 87 of the Code”, for the heading and the first column substitute –

<b>22</b> <b>Articles 211, 218, 219 and 254 of the Code, Articles 265 to 266 of the Implementing Regulation and Articles 166 to 173 and 239 of the Delegated Regulation</b> To comply with a condition (including special conditions governing the procedure in question) of an immediately enforceable binding decision of Customs, in respect of an authorisation or transferred obligations for use of any special		
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<p>procedure referred to in Article 211(1) of the Code. To notify Customs of all factors arising after the authorisation is granted and which may influence its continuation or content. <b>22</b>.</p>		
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22 For the entry headed “Article 105 of the Code”, substitute –

<p><b>23 Article 214 of the Code and Article 178 of the Delegated Regulation</b> Appropriate records for goods placed under a special procedure must be kept in a form approved by Customs.</p>	<p>The holder of the authorisation.</p>	<p>£1,000</p>
	<p>The holder of the procedure.</p>	<p>£1,000</p>
	<p>Any person carrying on an activity involving the storage, working or processing of goods, or the sale or purchase of goods in a free zone.</p>	<p>£1,000 <b>22</b>.</p>

23 In the entry headed “Articles 6, 7, 21, 82, 85 to 87 and 90 of the Code and Articles 292 and 293 of the Implementing Regulation”, in the first column –

- (a) for the heading substitute **23** Article 254 of the Code and Article 239 of the Delegated Regulation **22**; and
- (b) for “end-use referred to in Article 21 or 82” substitute **23** the end-use procedure referred to in Article 254 of the Code **22**.

24 In the entry headed “Articles 6, 7, 167 and 172 of the Code and Articles 800 and 801 of the Implementing Regulation”, for the heading substitute **23** Articles 22, 23, 243 and 244 to 249 of the Code **22**.

25 Omit the entry headed “Article 176 of the Code”.

26 In the entry headed “Article 94(1) of the Code” –

- (a) in the heading, for “Article 94(1)” substitute **23** Article 233(1)(c) **22**; and
- (b) in the second column, for “The principal to the transit operation.” substitute **23** The holder of the transit procedure. **22**.

27 For the entry headed “Article 96(1) and (2) of the Code”, substitute –

<p><b>Article 233(1)(a) and (b) and (3) of the Code</b></p>		
<p>(a) present the goods intact and the required information at the customs office of destination within the prescribed time-limit and in compliance with the measures taken by Customs to ensure their identification;</p>	<p>The holder of the transit procedure.</p>	<p>£2,500</p>
<p>(b) observe the provisions relating to the Union transit procedure.</p>	<p>A carrier or recipient of goods who accepts the goods knowing they are moving under Union transit.</p>	<p>£2,500</p>
	<p>The holder of the transit procedure.</p>	<p>£2,500.</p>

28 In the entry headed “Article 324d of the Implementing Regulation”, for the heading substitute **Article 153(2) of the Code** and paragraph 25 of Annex 72-04 to the Implementing Regulation.

29 In the entry headed “Article 448(5) as it applies to Article 324e(5) of the Implementing Regulation”, for the heading substitute **Article 320(4) of the Implementing Regulation** as it applies to Article 204 of that Regulation.

30 In the entry headed “Article 359(1) of the Implementing Regulation”, for the first column substitute –

<p><b>Article 304(1) of the Implementing Regulation</b> The goods together with the Movement Reference Number (MRN) of the transit declaration must be presented at each customs office of transit.</p>		
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31 In the entry headed “Article 360(1) of the Implementing Regulation”, for the first column substitute –

<p><b>Article 305(1) of the Implementing Regulation</b> In the circumstances described in Article 305(1)(a) to (e) (prescribed itinerary changed, seals broken, goods transferred to another means of transport, goods unloaded, or an incident which may affect the ability of the holder</p>		
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<p>of the procedure or carrier to comply with his obligations) of the Implementing Regulation, to present the goods together with the Movement Reference Number (MRN) of the transit declaration to the nearest customs authority of the member State in whose territory the means of transport is located. <b>22</b>.</p>		
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- 32 For the entry headed “Article 361(1) of the Implementing Regulation”, substitute –

<p><b>22 Article 306(1) of the Implementing Regulation</b> To present the goods, the Movement Reference Number (MRN) and any information required by Customs at the office of destination during the official opening hours; or, where allowed by the office of destination and at the request and expense of the party concerned, outside the official opening hours or at any other place.</p>	<p>The holder of the transit procedure.  The carrier.</p>	<p>£2,500  £2,500 <b>22</b>.</p>
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- 33 For the entry headed “Articles 6 and 7 of the Code and Articles 372 to 376 of the Implementing Regulation”, for the first 2 columns substitute –

<p><b>22 Articles 22 and 233(4) of the Code and Articles 313 to 320 of the Implementing Regulation</b> To comply with conditions of authorisation set out by Customs (including conditions for operation and control methods) for the use of simplifications regarding the placing of goods under the Union transit procedure.</p>	<p>The holder of the transit procedure.  The consignee. <b>22</b>.</p>	
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- 34 In the entry headed “Article 377(1) of the Implementing Regulation”, for the first column substitute –

<p><b>22 Article 23(2) of the Code</b></p>		
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Customs must be informed of any factors arising after the decision was taken which may influence its continuation or content. <b>22</b> .		
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35 In the entry headed “Article 408(1) of the Implementing Regulation”, for the first column substitute –

<p><b>22 Article 315 of the Implementing Regulation</b> Obligation to:</p> <p>(a) notify immediately the customs office of destination of the arrival of the goods and inform it of any irregularities or incidents that occurred during transport;</p> <p>(b) wait for permission from the customs office of destination before unloading the goods;</p> <p>(c) enter, after unloading, the results of the inspection and any other relevant information relating to the unloading into the consignee’s records without delay;</p> <p>(d) notify the customs office of destination of the results of the inspection of the goods and inform it of any irregularities no later than the third day following the day on which the consignee receives permission to unload the goods. <b>22</b>.</p>		
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36 In the entry headed “Article 353(3) of the Implementing Regulation”, for the first 2 columns substitute –

<p><b>22 Article 291(2) of the Implementing Regulation</b> The approval of Customs must be obtained for the acceptance of a paper based transit declaration in</p>	The holder of the transit procedure. <b>22</b> .	
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the event of a temporary failure within Article 291(1)(b) or (c) of the Implementing Regulation.		
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- 37 In the entry headed “Point 5 of Annex 37d to the Implementing Regulation”, for the first 2 columns substitute –

<p><b>¶ Paragraph 4 of Annex 72-04 to the Implementing Regulation</b> Following unavailability of the computerised system used by the holder of the procedure for lodging the Union transit declaration data by means of electronic data-processing techniques, or of the electronic connection between that computerised system and the electronic transit system, Customs must be informed when it becomes available again.</p>	The holder of the transit procedure. ¶.	
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- 38 In the entry headed “Point 15 of Annex 37d to the Implementing Regulation”, for the first column substitute –

<p><b>¶ Paragraph 12 to Annex 72-04 to the Implementing Regulation</b> Under the business continuity procedure, to present a transit advice note in the required form to each office of transit. ¶.</p>		
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- 39 In the entry headed “Point 30.1 of Annex 37d to the Implementing Regulation”, for the first column substitute –

<p><b>¶ Paragraph 26 of Annex 72-04 to the Implementing Regulation</b> Under the business continuity procedure: (a) the customs office of destination must be informed of the arrival of the goods; (b) copies 4 and 5 of the SAD that accompanied the goods, or the copy of the TAD/TSAD that accompanied the goods, indicating the date of arrival, the condition of any seals affixed and</p>		
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any irregularity, must be delivered to the customs office of destination. <b>22</b> .		
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- 40 In the entry headed “Article 290c and Annexes 38b and 38c of the Implementing Regulation”, for the heading substitute **63** Article 163(3) of the Code, Article 251 of the Implementing Regulation and Article 155 of the Delegated Regulation **22**.
- 41 In the entry headed “Article 14 of the Code and section 23 of the 1994 Act”, in the heading, for “14” substitute **63** 15 **22**.
- 42 In the entry headed “Article 16 of the Code, the Customs Traders (Accounts and Records) Regulations 1995 (as they have effect in the Island)”, in the first column –
- (a) in the heading, for “16” substitute **63** 51 **22**; and
- (b) for “as required by Article 16” substitute **63** as required by Article 51(1) **22**.
- 43 In the entry headed “Articles 241 and 243 of the Implementing Regulation”, in the heading, for “241 and 243” substitute **63** 239 and 240 **22**.
- 44 In the entry headed “Articles 27 and 20(3)(d) of the Code and the agreements therein referred to, which the Community has concluded with certain countries or groups of countries and which provide for the granting of preferential tariff treatment and which require that penalties shall be imposed on any person who draws up or causes to be drawn up a document which contains incorrect information for the purpose of obtaining preferential treatment for products”, in the heading –
- (a) for “27 and 20(3)(d)” substitute **63** 64 and 56(2)(d) and (e) **22**; and
- (b) for “the Community” substitute **63** the Union **22**.
- 45 In the entry headed “Articles 5 and 62 of the Code and Articles 84 and 199 of the Implementing Regulation”, in the first column –
- (a) for the heading substitute **63** Articles 15(2), 18, 19, 162 and 163 of the Code **22**;
- (b) for “the Community” substitute **63** the Union **22**; and
- (c) for “Community legislation” substitute **63** EU legislation **22**.

*EXPLANATORY NOTE*

*(This note is not part of the Regulations)*

These Regulations are the Customs (Contravention of a Relevant Rule) (Amendment) Regulations 2018 and amend the Customs (Contravention of a Relevant Rule) Regulations 2009<sup>7</sup> (“the 2009 Regulations”). The 2009 Regulations prescribe the customs rules, contravention of which gives rise to a liability to a customs penalty, the persons who may be penalised and the maximum penalty that may be imposed in particular cases.

Regulation 3(2) amends some of the definitions contained in Regulation 3 of the 2009 Regulations to update references to current EU provisions.

Regulation 3(3) and the Schedule amends the Schedule to the 2009 Regulations to update references to the current EU provisions, replacing references to the Community Customs Code and associated legislation which have lapsed with references to the Union Customs Code and associated legislation that are currently in operation and have effect in the Island.

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<sup>7</sup> SD 907/09, which has been amended by SD 0989/11 and SD 2015/0129.