

DIRECTIVE No. 4

Customs clearance of goods exported as freight

Issued by the Agent of the Impôts on 9th April 2014

1. BACKGROUND

It is the responsibility of the Agent of the Impôts to manage and account for the export of goods out of the Island. This Directive provides a framework within which that responsibility can be discharged without imposing unreasonable bureaucratic constraints upon the activities of persons engaged in the export of goods. It further defines the functions and subsequent responsibilities of shipping lines, airlines, clearance agents and handling agents in this respect.

The Customs control outlined in this Directive is based upon an electronic platform which offers a fast, efficient method of manifesting outbound goods. It is a feature within this Directive that exporters are responsible for the correct and accurate declaration of goods within the manifest at the time of export.

This Directive, therefore, sets out a simplified control regime which enables Approved Shipping Lines, Airlines, Clearance Agents and Handling Agents to expeditiously clear their goods for export with minimal Customs intervention. To counter balance this, strict record keeping requirements are imposed as it is on this basis that Customs will apply post-export audit, backed by a system of penalties which may come in to effect should this Directive not be adhered to.

2. CONTENTS

This Directive includes the following sections:

1. Background
2. Contents
3. Definitions
4. Legal Basis
5. Approved Shipping Lines and Airlines
6. Manifest Report
7. Control of the movement of exported goods
8. Clearance Agents
9. Export Declaration Audit
10. Penalties
11. Revocations / Right to make future amendments

3. DEFINITIONS

“approved” means approved by Customs.

“Approved Airline” means a person or company approved to operate one or more aircraft out of the Bailiwick, part of whose business is to import goods carried as freight.

“Approved Clearance Agent” means a person or company appointed by an importer and approved by Customs to make Customs Export Declarations on their behalf. Such Clearance Agents must retain satisfactory evidence proving that they are properly authorised to act on behalf of given exporters.

“Appointed Handling Agent” means a person or company appointed by a Shipping Line, Airline or Groupage Operator to make Manifest Report on their behalf. Such Appointed Handling Agents will normally be required to have Approved Premises for holding goods pending exportation. Customs must be advised of all such appointments.

Approved Premises Operator” means an operator authorised to hold at specified premises, goods under Customs control pending export.

“Approved Premises” means premises approved by Customs under the rules of Directive No.5

“Approved Shipping Line” means a person or company approved to operate one or more vessels out of the Bailiwick, part of whose business is to export goods carried as freight.

“Approved Trader” is a generic term which means a person or company approved by Customs to take possession of imported goods, including, in some cases, excise goods, in accordance with arrangements made with Customs.

“Approved Trader Number” is the unique number which identifies individual Approved Traders.

“CAESAR” means Customs and Excise System for Administration of Revenue; that is to say the Customs goods control and revenue collection IT system as updated for GST purposes.

“CLC” means Consignment Line Code, which enables Customs to trace any consignment through the commercial records of the individual business presenting Manifest Report.

“Customs” means the States of Jersey Customs and Immigration Service.

“Customs Officer” means an “officer” as defined by the Customs and Excise (Jersey) Law, 1999, that is “the Agent of the Impôts or any other officer of the Impôts”.

“Customs Law” means the Customs and Excise (Jersey) Law, 1999

“designated ports” means ports and airports specified in the Import and Export (Ports and Airport) (Jersey) Order 2000

“duty” means any duty of Customs and Excise including GST

“excise duty” has the same meaning as under the Customs and Excise (Jersey) Law 1999

“excise goods” means goods liable to excise duty as specified at Schedule 1 Part 2 of the Customs and Excise (Jersey) Law 1999

“export declaration” means Outwards Entry in accordance with Article 35 of the Customs Law; whether by remote access to CAESAR or by other means of making declaration, approved by the Agent of the Impôts.

“freight” means any goods exported into the Island where the carriage of the goods is undertaken for remuneration, or where the exportation of the goods is for commercial purpose.

“GST” means Goods and Services Tax

“GST Law” means the Goods and Services Tax (Jersey) Law 2007

“GST Registered” means a person or company registered with the Income Tax Department for GST purposes.

“groupage” and “groupage goods” means goods addressed to various consignees shipped together as a composite load.

“groupage operator” means a person or company operating a service for the carriage of goods addressed to various consignees shipped together as a composite load from the Island. Groupage Operators may be authorised by individual consignees within the groupage load, to make Export Entry on their behalf.

“holiday” means Good Friday, Christmas Day and any day appointed as a public holiday or bank holiday under Article 2 of the Public Holidays and Bank Holidays (Jersey) Law 1951

“Manifest Report” means the information required for Report to be made under Art. 34 of the Customs Law (see section 6)

“MRN” means unique Movement Reference Number allocated to consignments shipped under NCTS

“NCTS” means the New Computerised Transit System of the European Community

4. LEGAL BASIS

Article 17 (1) of the Customs Law states that the Agent of the Impôts may give direction regarding the movement of goods under Customs control.

Article 34 (2) of the Customs Law allows the Agent of the Impôts to issue directions specifying the forms and procedure for making report required under that Article for Outward Entry (Manifest Report)

Article 34 (3) of the Customs Law requires the person making report (Manifest Report) to answer all such questions relating to the goods carried on the ship or aircraft and allows the Agent of the Impôts to require to be produced on demand any documents relating to the carriage of goods by any ship or aircraft.

Article 34 (4) of the Customs Law states that any goods which are required to be the subject of a Manifest Report, but which are not so reported, are liable to forfeiture.

Article 35 (1) of the Customs Law requires that the exporter of specified goods shall make Outward Entry (Manifest Report) and give assurances that the goods will be exported and discharged at the destination for which they are entered and within such time as the Agent of the Impôts considers reasonable.

Article 35 (3) of the Customs Law states that any such goods that are required to be the subject of a Manifest Report, but which are not so reported or found not to correspond to such Manifest report, are liable to forfeiture.

Article 35 (4) of the Customs Law states that where any specified goods are shipped with fraudulent intent, any person concerned therein with knowledge of that intent shall be liable to a fine or a term of imprisonment not exceeding two years, or to both.

Article 35 (5) of the Customs Law requires that the exporter of any goods under this Article must furnish the Agent of the Impôts with any information, in such form as he may require, relating to the goods at any time within three years after the exportation.

Article 35 (6) of the Customs Law specifies the goods in this Article as;

- (a) goods from approved premises;
- (b) transit goods;
- (c) any other goods chargeable with any duty which has not been paid;
- (d) drawback goods;
- (e) goods of which the exportation is restricted by or under this Law or any other enactment; and
- (f) any goods required by or under this Law to be entered before exportation or before shipment for exportation.

Article 36 (1) of the Customs Law provides for penalties in relation to goods loaded for exportation that are subsequently unloaded in the Bailiwick without proper authorization.

Article 37 (1) of the Customs Law provides for penalties in relation to the export of goods that are contrary to any prohibition or restriction in force by virtue of any enactment.

Article 71 of the Customs Law allows the Agent of the Impôts to refuse to deal with agents or to require that agents show written authority from their principals.

5. APPROVED SHIPPING LINES AND AIRLINES

5.1 Any shipping line or airline exporting goods as freight is required to be approved, in advance, by Customs before exporting goods from the Island. The Agent of the Impôts will not grant approval until a formal undertaking by the shipping line or airline has been agreed.

Should any shipping line or airline commence exporting goods as freight without the prior approval of Customs, any goods so exported shall be liable to forfeiture (contrary to Art 34 (4) Customs and Excise (Jersey) Law 1999).

6. MANIFEST REPORT

6.1 Whilst CAESAR will automatically record the date and time of manifest submission, the following minimum information is required:

- i) Name of Approved Shipping / Airline or Appointed Handling Agent presenting the Report.
- ii) Name of the vessel or flight number
- iii) Port / airport of departure
- iv) Scheduled date and time of departure
- v) For each consignment carried, including groupage loads:
 - Name of consignor
 - Name and address of consignee
 - Number of packages
 - Description of goods
 - Declaration of value of goods
 - Identification number of the relevant container / trailer
 - MRN of goods shipped under NCTS
 - Existence of licences / certificates

6.2 Electronic presentation of Manifest Report Before the departure of any ship or aircraft from the Bailiwick bearing goods carried as freight, Manifest Report shall be made to Jersey Customs by Approved Shipping Lines / Airlines, or their Appointed Handling Agent in the form of an electronic Manifest report directly into CAESAR.

If Manifest Reports cannot be presented before the departure, Customs must be notified of this fact as soon as possible. Any failure to submit Manifest Report before departure, without making explanation to Customs, will be treated as a breach of the terms of this Directive.

Please note that Article 8 of the Community Provisions (Restrictive Measures – Iran) (Jersey) Order 2010 requires that data for all goods to be exported from Jersey on cargo aircraft or merchant vessels owned or operated by Iran Air Cargo or the Islamic Republic of Iran Shipping Line, or any other cargo aircraft or merchant vessel known to carry goods to Iran, must be entered in advance of departure; the time of entry to be agreed with the Customs and Immigration Service.

6.3 Manual Manifest Report Making Manifest Report other than by electronic means will entail slower clearance of exported goods. Presentation of paper manifests will be restricted to Customs' public office opening hours. All exported goods reported to Customs on paper manifests will have to be detained at the port / airport of departure or at Approved Premises. Authority for the release of these detained goods cannot be obtained prior to the uploading of the Manifest Report into CAESAR.

6.4 Groupage Manifests Where individual items are carried as a composite load by one groupage operator the following rules will apply;

i) The Approved Shipping Line, Airline, or its Appointed Handling Agent must, as a minimum, enter the following details into the Manifest Report;

- Name of the groupage consignor
- Name of the groupage consignee
- Total number of packages
- Total weight of groupage items carried
- Registration or identifying number of the vehicle, trailer or container concerned

ii) If the Approved Shipping Line, Airline, or its Appointed Handling Agent is not authorised by the groupage operator to report the groupage manifest, then the responsibility for doing so passes to the groupage operator. Once the manifest has been submitted and accepted, CAESAR will give authority for goods to be exported.

iii) Where single consignors ship consolidated loads to multiple private individual consignees (e.g. catalogue goods), and that consignor is registered for GST with the Taxes Department, then the consignor can apply in writing to the Agent of the Impôts for the requirement for the presentation of specific data to be waived. Any decision to waive this requirement will be based according to the risk involved.

6.5 Amendments to Manifest Report The Shipping Line, Airline or their Appointed Handling Agent must notify Customs, via CAESAR, of any amendments to the Manifest Reports in order to reflect any short shipments / over shipments or other discrepancies. Customs reserve the right to require additional details before authorising such amendments.

6.6 Record keeping Shipping Lines / Airlines / Appointed Handling Agents are required to retain relevant commercial records for a minimum of three years in order to allow for audit by Customs. These records will include;

- Manifest records
- Consignment notes, airway bills, or bill of lading, as applicable
- Company invoices
- Journals
- Bank statements
- Payment books
- Ledger records
- Delivery records
- Charges
- Customer accounts
- Shipping charges
- Licences

6.7 Empty Containers / Trailers / Pallets Empty units leaving the Island must be reported on the manifest. However, provisions within the CAESAR system will enable their immediate release for export to be effected.

6.8 Mail The requirement for groupage manifests is waived where mail is shipped as a composite load. Provisions within the CAESAR system will enable the immediate release of mail for export to be effected.

6.9 Courier Documents Courier documents are required to be entered separately on the Manifest Report. The requirement for a groupage manifest is waived enabling the immediate release for export of these goods to be effected.

6.10 Jersey fishing vessels Jersey registered fishing boats which also operate as shipping lines carrying goods for remuneration are required to be approved and must submit Manifest Reports for goods carried as freight.

7. CONTROL OF THE MOVEMENT OF EXPORTED GOODS.

7.1 Designated ports or airports Goods may only be exported from a designated port or airport.

7.2 Place of uploading for export within designated ports Exported goods must be uploaded:

- i) Within a secure area at the port or airport into which the public does not have general access; or
- ii) From an unsecured area specifically designated and approved by the Agent of the Impôts for the uploading of exported goods; or
- iii) From an unsecured area of a designated port / airport but for direct transport to Approved Premises.

No goods exported as freight may be removed from the place of uploading unless the following conditions are met:

- Manifest Report has been presented in accordance with this Directive and authority to release goods for export has been granted by Customs; or
- The goods are delivered to an Approved Premises where they are further detained pending Customs clearance.

7.3 Authority to release goods In all instances, exported goods subject to Manifest Report cannot be released from the designated port, airport or Approved Premises for export until authority has been granted by Customs.

8. CLEARANCE AGENTS

Businesses or persons may apply to the Agent of the Impôts for authority to act as Approved Clearance Agents on behalf of third parties for commercial gain.

Application to become an Approved Clearance Agent must be submitted to the Agent of the Impôts on line. Whilst all such applications will be considered on their merits, it is expected that any applicant wishing to become an Approved Clearance Agent must be able to demonstrate a strong understanding of Customs procedures.

For confirmation, Approved Shipping / Airlines, Appointed Handling Agents, Groupage Operators and Approved Premises Operators may all apply to act as Approved Clearance Agents.

Such Approved Clearance Agents will be required to retain proof of authorisation from Customs as well as proper evidence from their principals that they are authorised to act on their behalf.

9. EXPORT DECLARATION AUDIT

9.1 Requirements to maintain records Approved Traders, Approved Clearance Agents and other exporters are obliged to maintain the following records for 3 years;

- Consignment notes / airway bills / bills of lading
- Original invoices
- Shipping charges
- Other charges
- Bank statements
- Customer accounts
- Journals
- Payment books
- Ledger records
- Delivery records

Export licences and transit documents should be passed to Customs, cross referred with the CLC.

10. PENALTIES

10.1 Penalty tax Schedule 7, paragraph 4 of the GST Law states:

- (1) If a penalty has been accepted under Article 65 of the Customs and Excise (Jersey) Law 1999 from a person in respect of any conduct, the person shall not be assessed to penalty tax under this Law in respect of the same conduct.
- (2) If a person has been assessed to penalty tax under this Law in respect of any conduct, a penalty shall not be accepted under Article 65 of the Customs and Excise (Jersey) Law 1999 from the person in respect of the same conduct.

10.2 Penalty amounts under the Customs Law Under Article 65 of the Law the Agent of the Impôts may accept a sum by way of a penalty not exceeding three times the level of duty payable or the value of the goods, whichever is the greater instead of referring a matter with a view to prosecution.

10.3 Possible infractions under this Directive The following table sets out the infractions that may arise from failing to abide by the terms of this Directive and the penalties that may be applicable as a consequence. The Schedule to the Criminal Justice (Standard Scale Of Fines) (Jersey) Law 1993 specifies a fine for level 4 on the Standard Scale to be £5,000 and level 2 on the Scale to be £500

Failure	Infraction	Penalty
Exporting goods as freight without prior approval of Customs	Art 34 (4) Customs Law	Fine: not exceeding level 4 on standard scale; and Goods not reported which require to be reported are liable to forfeiture; or possible penalty amounts under Customs Law
Failure to make Manifest Report	Art 34 (4) Customs Law	Fine: not exceeding level 4 on standard scale; and Goods not reported which require to be reported are liable to forfeiture; or possible penalty amounts under Customs Law
Failure to comply with other provisions regarding Manifest	Art 34 (4) Customs Law	Fine: not exceeding level 4 on standard scale; and

Report (Section 6 of this Directive) including failure to produce relevant documents on demand		Goods not reported which require to be reported are liable to forfeiture; or possible penalty amounts under Customs Law
Release of goods under customs control without Customs authorisation	Art 17(4) Customs Law	Persons releasing the goods : Fine not exceeding level 2 on the standard scale and goods liable to forfeiture; Proprietor or consignee: Fine not exceeding level 2 on the standard scale and goods liable to forfeiture; or possible penalty amounts under Customs Law
Failure to provide documents relating to exported goods within a 3 year period of exportation (in support of Export Declarations)	Art 35 (5) Customs Law	Proprietor or consignee liable to fine of level 4 on standard scale; or possible penalty amounts under Customs Law
Failure to make Export Declarations within required time period deadline	Art 35(1) (b) Customs Law	Proprietor or consignee liable to fine of level 4 on standard scale; and Cancellation of Approved Trader status; or possible penalty amounts under Customs Law
Fraudulent claim for relief of duty	Art 61(2)(a) Customs Law	Unlimited fine and / or 7 years imprisonment; and Goods liable to forfeiture

11. REVOCATION / RIGHT TO MAKE FUTURE AMENDMENTS

The previous Agent's Directive No 4 dated 16th March 2012 is hereby revoked. This Directive shall have effect from 9th April 2014.

The Agent of the Impôts reserves the right, unequivocally, to amend or withdraw, without prior notice, any rules and concessions contained in this Directive.

David A.J. Nurse
Agent of the Impôts
9th April 2014