

# **DIRECTIVE No. 5**

## **APPROVED PREMISES AND BONDED STORES**

**Issued by the Agent of the Impôts on 10<sup>th</sup> February 2014**

### **1. BACKGROUND**

Article 17 of the Customs & Excise (Jersey) Law 1999 and Directive No 3 issued by the Agent of the Impôts impose restrictions upon the movement of imported goods that are under Customs control.

Notwithstanding those restrictions it is, nonetheless, in the interests of efficiency and good business practice that goods under Customs control may be delivered by Approved Shipping Lines and Airlines directly to Approved Premises and furthermore that excise goods may be delivered from the place of importation or production directly into Approved Bonded Stores.

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### **3. DEFINITIONS**

In this Directive –

"approved" or "authorised" means approved or authorised by Customs.

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

"Appointed Handling Agent" means a person or company appointed by an Approved 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 securing detained goods: Customs must be advised of all such appointments.

"Approved Premises Operator" means an operator authorised to receive into or hold at specified premises, detained goods or goods otherwise under Customs control.

"Approved Premises" means premises approved by Customs under the rules of this Directive.

"Approved Shipping Line" means a person or company approved to operate one or more vessels into the Bailiwick, part of whose business is to import goods carried as freight.

"Approved Trader" means a person or company approved by Customs to take possession of imported goods in accordance with arrangements made with Customs.

"Approved Bonded Store" means premises approved by Customs under this Directive whereby excise goods may be securely held without payment of excise duty. The duty point in relation to these goods is the moment they leave the Store, other than for those goods sent direct for export. The excise rate applicable at that moment shall be the rate prevailing at the time and not the rate which existed when the goods were imported or produced.

"Bond" or "into Bond" means excise goods placed into an Approved Bonded Store.

"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.

"clear days" when computing any period expressed in this Directive as a period of clear days, no account shall be taken of the day of the event from which the period is computed or of any Sunday or holiday.

"consignee" shall have the meaning assigned to "importer" in the Customs & Excise (Jersey) Law, 1999.

"customs duty" means duty due on goods imported into the Customs Territory of the European Union, including Jersey, from third countries.

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

"detained goods" means imported goods detained by a Customs Officer or imported goods designated 'detained' by CAESAR.

"duty" means any duty of customs and excise including GST.

"Goods under customs control" has the meaning assigned to it under the Customs Law and specifically includes goods imported into the Bailiwick as freight which are either:

- a) imported without entry on the relevant ship's or aircraft's manifest; or

b) liable to duty and that duty has not been paid or otherwise accounted for to the satisfaction of Customs; (excluding goods released under Approved Trader arrangements or under other arrangements allowed by the Agent of the Impôts);

or

c) detained goods.

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

"groupage operator" means a person or firm operating a service for the carriage of goods addressed to various consignees shipped together as a composite load to or from the island.

"GST" means Goods and Services Tax as defined in the Goods and Services Tax (Jersey) Law 2007.

"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.

"the Law" means the Customs and Excise (Jersey) Law 1999, as amended.

"Manifest Report" means the Report required to be made under Art. 24 of the Law.

#### **4. LEGAL BASIS**

Article 15 (1) of the Customs Law states that goods under Customs control must be stored...in premises that have been approved by the Agent of the Impôts for that purpose.

Article 15 (2) of the Customs Law states that in approving premises the Agent of the Impôts may impose such conditions as he or she thinks fit.

Article 15 (3) of the Customs Law states that if the person responsible for approved premises receives goods liable to duty into the premises and fails to produce those goods to Customs or account for them properly, the person shall be liable for any duty payable.

Article 15 (4) of the Customs Law allows for Officers to enter approved premises and search for goods that are in any way under Customs control or any documents relating to such goods.

Article 16 of the Customs Law requires the person responsible for approved premises to provide and maintain such facilities as are reasonably necessary to enable Customs Officers to perform their duties and to provide any assistance necessary.

Article 17 of the Customs Law imposes conditions upon the movement of imported goods under Customs control within the limits of any port or airport,

between any port or airport and any approved premises, and between approved premises.

## **5. APPLICATION TO ACT AS AN 'APPROVED PREMISES OPERATOR'**

Any person or company concerned with the importation, Customs clearance or movement and storage of goods under Customs control may make application to Customs to become an Approved Premises Operator. Applicants may seek to designate the whole or any part of premises as an Approved Premises. Such applications will include the following:

- (i) The identification of specific areas within the applicant's premises which are proposed to be used as secure storage for goods under Customs control.
- (ii) An agreement only to release goods under Customs control in accordance with:
  - the specific authority of Customs or
  - under the terms of a valid agreement existing with Customs
- (iii) An undertaking to pay on demand all Customs and Excise duties on goods found to be deficient or missing. This includes Goods and Services Tax where applicable.

## **6. APPLICATION TO ACT AS AN 'APPROVED BOND OPERATOR'**

Any person or company concerned with the importation, production or duty free sale of excise goods may make application to Customs to become an Approved Bond Operator. Applicants may seek to designate the whole or any part of premises as an Approved Bond. Such applications will include the following:

- (i) The identification of specific areas within the applicant's premises which are proposed to be used as a secure Bonded Store.
- (ii) An agreement as to the duty payment arrangements applicable at the point at which excise goods are removed from the Bonded Store either to home use or for export.
- (iii) An undertaking to pay on demand all duties on goods found to be deficient or missing. This includes Goods and Services Tax where applicable.

## **7. NOTIFICATION OF 'APPROVED' STATUS**

The Agent of the Impôts reserves the right to attach such terms and conditions as he sees fit to any approval granted under this Directive. Where all arrangements are found to be satisfactory, Customs will notify the applicant that he is an Approved Premises or Bonded Store Operator. Such approvals may be withdrawn following:

- (i) any change in the circumstances of the approved operator; or
- (ii) any breach of the terms and conditions of the approval; or

(iii) any infraction of the Law.

## **8. PROCEDURES FOR APPROVED PREMISES OPERATORS**

An Approved Premises Operator may remove, or arrange to be removed, any consignment of goods under Customs control from the care of a shipping line/airline to its Approved Premises. It shall hold those goods securely and only deliver them to the consignee with either:

- the specific authority of Customs or
- under the terms of arrangements agreed with Customs, save that an Approved Premises Operator may release goods to Approved Traders, unless those goods are detained. (In order to properly discharge this responsibility, the Approved Premises Operator will have access to an up to date list of Approved Traders available on CAESAR).

Approved Premises Operators shall not release goods under Customs control without authority to do so from Customs; the normal method of notification that goods may be released from Customs control is via CAESAR.

Importers that make use of third party Approved Premises for the secure storage of their goods on importation pending Customs clearance, shall ensure that their designated Approved Premises Operator has access to all relevant information about the status of such goods on CAESAR.

Approved Premises Operators may be permitted to allow goods under Customs control to be delivered on to other Approved Premises Operators.

## **9. PROCEDURES FOR APPROVED BOND OPERATORS**

An Approved Bond Operator may remove, or arrange to be removed, any consignment of excise goods, under Customs control, from the care of a shipping line / airline, or from the place of production, into its Bonded Store. It shall hold those goods securely and only deliver them for home use or export under the terms of specific arrangements agreed with the Agent of the Impôts.

Approved Bond Operators must retain proper stock control records at all times recording all excise goods taken into and removed from Bond.

Approved Bond Operators shall make entry within three clear days of importation or production for all excise goods entering their Bond. Declaration shall be made by electronic means, that is to say, on line directly via the Customs website and to indicate at this time that the goods are being declared to Bond. Save that these arrangements may be waived for Approved Bond Operators who operate duty free shops.

When Approved Bond Operators release excise goods from their Bond for home use they shall make Declaration within 3 clear days and pay on demand excise duties applicable at the rate prevailing at that time.

When Approved Bond Operators release excise goods from their Bond for export, or delivery to a duty free shop, they shall make Declaration within 3 clear days clearly showing that the goods are intended for export in which case there will be no demand for duty to be paid.

## **10. VARIATION OF CONDITIONS**

When it is in the interests of efficiency and good practice, the Agent of the Impôts may modify or waive any of the requirements of this Directive in specific agreements with Approved Premises Operators and Approved Bond Operators.

## **11. PENALTIES**

Where an Approved Premises Operator or Approved Bonded Store Operator fails to comply with any condition set in relation to Approved Premises by the Agent of the Impôts, this shall constitute an offence under Article 15 of the Customs & Excise (Jersey) Law 1999 and shall be liable to a fine not exceeding level 4 on the standard scale (£5,000)'.

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.

## **12. REVOCATION/RIGHT TO MAKE FUTURE AMENDMENTS**

The previous Agent's Directive No.5 dated 6<sup>th</sup> May 2008 is hereby revoked. This Directive shall have effect from 10<sup>th</sup> February 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  
10<sup>th</sup> February 2014