

DIRECTIVE No. 17
CUSTOMS WAREHOUSING

Issued by the Agent of the Impôts on the 1st January 2021

1. Introduction

Customs Warehousing is a special procedure that allows Third Country goods to be imported into Jersey with suspension of import duty. The use of a customs warehouse requires an authorisation issued by the Agent of the Impôts.

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3. Definitions

In the context of this instruction:

“Agent of the Impôts” means Head of the Jersey Customs and Immigration Service

“CAESAR” means the Customs and Excise System for Administering Revenue.

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

“Customs Order” means the Customs and Excise (Customs Tariff and Import Duty) (Jersey) Order 2019.

“Third Country” means any country outside the United Kingdom - Crown Dependencies Customs Union.

“UK – CDs Customs Union” - means Jersey, UK, Guernsey and the Isle of Man.

“Customs approved treatment or use” means any use to which goods are put which is approved by the Agent of the Impôts, for example, re-export, entry into a customs warehouse, release for free circulation, entry to another customs approved procedure e.g. Inward Processing Procedure.

“import duty” means:

- Customs duties that are not excise duty.
- Charges having equivalent effect to Customs duty.
- GST and Excise duty.

“Release for free circulation” means released to the UK-CD’s Customs Union Market.

“Usual forms of handling” means such handling operations as are needed to ensure preservation of goods or to improve packaging or marketable quality which may be carried out in customs warehouses.

The “Customs Arrangement” is the arrangement entered into between Jersey and the United Kingdom covers all trade in goods that includes the elimination between its members of customs duty on imports and exports, and the adoption of the UK Global Tariff in their relations with third countries; and requires the members of the Customs Union to keep their Customs Law correspondent with that of the United Kingdom.

“GC” means Goods Control, Maritime House, La Route du Port Elizabeth, Jersey.

“Established in Jersey means”-

- (a) in the case of an individual, where the individual is resident in Jersey; or
- (b) in all other cases, where the person-

- a. has a registered office in Jersey; or
- b. has a permanent place in Jersey from which the person carries out activities for which the person is constituted to perform.

“Equivalent goods” means “equivalent domestic goods”

“Domestic goods” is to goods as per Article 1(3) of the Customs and Excise (Customs Tariff and Import Duty) (Jersey) Order 2019.

“Equivalent domestic goods” means goods that are of the same, or substantially the same, description as the imported goods.

“Non-tariff trade policy measure” means a provision made by or under any enactment relating to government policy in respect of international trade in goods, other than provisions relating to the amount of import duty.

4. Legal basis

Article 6(1A) (b) of the Customs Law provides for the Agent of the Impôts to implement the UK-CD’s Customs Arrangement.

The “Arrangement” which is the arrangement entered into between Jersey and the United Kingdom covers all trade in goods that includes the elimination between its members of customs duty on imports and exports, and the adoption of the UK Global Tariff in their relations with third countries; and requires the members of the UK – CDs Customs Union to keep their Customs Law correspondent with that of the United Kingdom.

Paragraph 11 of the “Arrangement” states - Subject to any variations in practice and procedure which may be agreed between the Competent Authorities of the United Kingdom and Jersey, Jersey’s Competent Authority will adopt practices and procedures for the management of operations relating to Jersey Customs Law correspondent with those in the United Kingdom.

Article 2 of the Customs Order defines “import duty” and provides that such duty is to be collected and paid in accordance with the Customs Law.

Article 3 of the Customs Order creates an obligation to declare goods on importation for one of 2 customs procedures, either for release for free circulation in Jersey or for a “special customs procedure”.

Article 3 (5)(a) of the Customs Order provides for relief from import duty for a special customs procedure.

Article 5 of the Customs Order specifies the persons liable to pay import duty on imported dutiable goods.

Article 7 of the Customs Order gives effect in Jersey to the United Kingdom tariff regulations.

Article 8 and 9 of the Customs Order define, respectively, the value of goods and place of origin of goods for the purposes of import duty.

Article 15 of the Customs Law provides for goods which are under customs control may not be stored, manufactured, produced or otherwise processed except in premises approved by the Agent of the Impôts for that purpose.

Article 17 of the Customs Law provides that the Agent of Impôts may give directions, subject to conditions as he or she may impose, permitting the movement of goods which are under customs control.

5. Customs Warehousing

Customs warehousing allows for the storage of third country goods in an authorised designated location within Jersey without being subject to import duties. The duty liability is discharged if the goods are re-exported outside of the UK – CDs Customs Union. If the goods are released to free circulation, then the duty and other charges become payable at this time.

6. Public and Private customs warehouses

There are 2 categories of customs warehouses, private customs warehouse and public customs warehouse.

Public warehouse

This is a warehouse operated by a business whose purpose is to store other people's goods. They are the 'warehouse keeper' and not the depositor.

Private warehouse

This is a warehouse operated by a business to store their own goods. They are the 'warehouse keeper' and the depositor.

7. Application for Authorisation

To be approved as a warehouse keeper, the applicant shall:

- Be established in Jersey.
- Be financially solvent.
- Have a good compliance record in dealing with customs.
- Prove you have a business need for the warehouse.
- Be able or prepared to make declarations using CAESAR.
- Be able to keep stock records.
- Provide a guarantee (deposit) if required for Customs Duty.

8. Application Procedure

Application should be made via CAESAR found at www.customs.gst.gov.je

Only electronic applications can be accepted. Where authorisations & reliefs are granted the Agent of the Impôts will only accept an application if all the relevant information is present. There is a 30-day period for acceptance of the application during which time all the information required to make a decision must be submitted.

Prior contact can be made to:

Customs and Immigration Service, Goods Control

Tel: 01534 448000

Email – rgc@gov.je

9. Processing of the application

Once the application has been accepted it will be referred to Agent of the Impôts for review. Goods Control will examine the premises, the accounting procedures, the stock control systems and security issues, to ensure that all conditions are fulfilled by anyone availing of customs warehousing.

The Agent of the Impôts has 60 days in which to make a decision on the application once it has been formally accepted. It may be necessary to extend this 60-day period if it is found that further information is required.

The trader must meet the following conditions:

- Demonstrate there is an economic need for customs warehousing.
- The warehouse is to be used primarily for the storage of goods.
- A verifiable and accurate stock control and accounting system is in place.
- Any usual forms of handling which is intended to be carried out is clearly set out in the records.
- Official supervision and checks can be affected without the need for an administrative system which is out of proportion to the economic needs involved.
- The trader can fulfil the obligations that arise from the storage of goods covered by the customs warehousing procedure and of complying with the conditions of approval governing the Authorisation.
- The intended premises are suitable regarding security, access arrangements, health and safety and storage facilities.
- If the trader includes goods which may present a danger or are likely to spoil other goods or require special storage facilities, the premises must be equipped to receive such goods.

10. Economic Need

The trader must provide sufficient evidence of economic need at the time of application and this evidence must be assessed as to the necessity for customs warehousing facilities. An example of evidence of economic need may be contractual arrangements between the applicant and their customers or potential customers.

The following is the criteria for establishing economic need:

- An application for **public** warehousing must include evidence of public demand for general warehousing facilities. This should include details of the expected volume of business e.g. the anticipated number of traders, number of transactions, amount of customs liability at any one time and the degree of openness or availability of the warehousing facilities to the public.
- An application for **private** warehousing must include evidence of the necessity for the trader to have storage facilities for imported goods. As a rule, an economic need can be said to exist for a private warehouse where commercial operations necessitate the storage of goods (for example, awaiting entry into Inward Processing). Supporting evidence should indicate the operational necessity for storage, stock levels, frequency of usage, nature of business and any further information necessary to aid assessment.

11. Guarantee

A guarantee is required if the customs duty (excluding Excise and GST) liability exceeds £10,000 in any given month. If required, the guarantee must be in place before a customs warehouse authorisation can be granted. A guarantee must be provided in the form of a bank guarantee. The trader may qualify for a waiver if they can fulfil the following conditions:

- Show an appropriate record of compliance with customs requirements.
- Show a satisfactory system of managing commercial and where appropriate, transport records, which allows appropriate customs controls.
- Demonstrate, where appropriate, proven financial solvency and have practical standards of competence, or professional qualifications directly related to the activity carried out.

12. Goods that can to be stored in a customs warehouse

The following goods can be stored in a customs warehouse:

- Third Country goods liable to customs duty.
- Equivalent goods not under the warehouse procedure.

13. Goods that cannot be stored in a customs warehouse

The following goods cannot be stored in a customs warehouse:

- Meat, meat products and other goods subject to veterinary checks unless the necessary import licence and, or health certificate have been presented and veterinary checks have been completed at the frontier.
- Third Country goods subject to prohibitions or restrictions unless the necessary supporting documentation such as an import licence has been presented.

- Goods liable to excise duties unless the customs warehouse is also authorised as an excise warehouse, or the excise duty is paid before the goods are entered into the customs warehouse.

14. Length of time goods can be stored

Generally, there is no limit on the length of time that goods can be stored in a customs warehouse.

15. Can goods be retailed in a Customs warehouse?

Retail sales cannot take place in a customs warehouse unless goods are retailed in any of the following situations:

- With relief from import duty to travellers to or from countries or territories outside the UK – CDs Customs Union (e.g. from duty free shops at airports).
- With relief from import duty under diplomatic or consular arrangements.
- to members of international organisations.
- with relief from import duty to NATO forces.
- remotely, including via the Internet where the goods are picked and dispatched to order.

16. Authorisation

Goods Control will issue the authorisation to the applicant.

When does an Authorisation become effective?

An Authorisation will take effect on the date of issue, or on any later date specified in the Authorisation. Customs Warehouse Authorisations cannot be issued retrospectively.

Period of validity

There is no limit to the period of validity for a customs warehouse authorisation.

17. Entry of goods to the procedure

Goods can be entered into the customs warehouse procedure by direct import, by transfer from another warehouse, or by transfer from another special procedure.

A customs declaration is mandatory when entering goods to the customs warehousing procedure. The authorisation holder must:

- Enter details of the goods in the stock records on their arrival at the customs warehouse.

18. Discharging goods from the customs warehouse procedure

Goods may be discharged by any of the following:

- Release for free circulation.
- Re-export outside the UK – CDs Customs Union.
- Entry to another special procedure within Jersey.

A customs declaration is required to remove the goods or declare them to another procedure.

19. Releasing for free circulation

A customs declaration is mandatory when releasing goods from the warehouse to free circulation.

The authorisation holder must:

- Present the declaration and any other appropriate documents required by the Agent of the Impôts.
- Pay any customs duty and charges – a deferred payment arrangement may be entered into.
- Record details of the discharge, including details of the declaration (number and date) etc. in the stock records.

20. Simplifications

An authorisation for warehouse procedure allows for standard entry and discharge of the procedure only. The use of Simplified Procedures must be covered by a separate authorisation.

21. How is the duty calculated

The amount of duty on goods released for free circulation is based on the transaction value of the goods when sold for export to Jersey. Where the goods are not sold prior to being brought into Jersey but are sold while in a warehouse the transaction value will be determined on the basis of that sale.

If the goods have incurred warehousing, preservation or handling costs while in the customs warehouse these costs may be deducted provided, they are shown separately from the price actually paid or payable for the goods and are clearly reflected in the trader's accounts. Where the above costs are deducted, the value of warehoused goods on entry for free circulation should not be less than the declared value on original entry into the warehouse.

22. Goods to be re-exported

An export declaration must be completed in respect of goods being re-exported which were previously entered for the customs warehousing arrangements.

Evidence that the goods have left Jersey must be kept by the holder of the authorisation.

In the case of goods which were originally under the Inward Processing procedure and are now under warehousing the re-export declaration must refer to the IP declaration.

23. Discharge of goods to another procedure other than to free circulation

For a discharge to any procedure (other than to free circulation) the following is required:

- Presentation of a customs declaration and other appropriate documents to the Agent of the Impôts.
- Details of the discharge including details of the declaration (entry number and date) must be recorded by the trader in the stock records.
- Details of entry to the subsequent procedure (e.g. Inward Processing).

24. Accounting for losses

Customs duty must be collected on losses caused by events outside the control of a trader or on goods stolen from the customs warehouse.

25. Stock records the trader must maintain

The trader must maintain stock records as follows:

- Details from all customs declarations entering goods to the customs warehouse.
- Details from all customs declarations discharging goods out of the customs warehouse to any other customs procedure.
- (If approved) details of transfers in and out on based on commercial documentation.
- The date and reference particulars of any other documents relating to the entry and discharge of goods from the customs warehouse.
- Types of usual forms of handling carried out.
- Where goods are to undergo usual forms of handling in the customs warehouse, separate accounts must be held on the cost of such handling.
- Information enabling the goods to be monitored, including their location within the customs warehouse premises and particulars of any transfer.
- Commercial or technical descriptions necessary to identify the goods.
- Details of movements, temporary removals.
- Details of common storage.
- Details of use of equivalent goods.
- Details of any goods entered to other economic procedures within the customs warehouse.

The stock records must give a complete history of the goods from the time of their entry to and discharge from the customs warehouse.

26. Normal commercial stock records

If the normal stock records maintained by the customs warehouse contain all of the requirements mentioned above, the trader will be approved to use them for the purpose of customs warehouse control.

27. Stock returns

Stock returns must be submitted by the trader to the Agent of the Impôts every 100 days. The minimum stock detail required is as follows:

- Opening stock by commodity code.
- Details of **all** entries into the customs warehouse on declarations and, or commercial documentation.

These details should include:

- Date of entry into the customs warehouse.
 - Customs declaration number and date.
 - (If approved), details of transfers using commercial documentation.
 - Quantity and description.
 - Commodity code.
- Details of all discharges from the customs warehouse:

These details should include:

- Date of discharge from customs warehousing.
 - Customs declaration number and date relating to the discharge.
 - (if approved), details of transfers using commercial documentation.
 - T1 Full Transit number if relevant.
 - Quantity and description.
 - Commodity code.
- If authorised, details of all temporary removals from the customs warehouse.
 - Details of all goods transferred to another customs warehouse.
 - Closing stock by commodity code, description and quantity.
 - Details of stock segregation if used.
 - Details of equivalent goods if used.
 - The details required in the stock return should be agreed with the trader before the Authorisation is issued and should be set out in the conditions attached to the Authorisation.
 - The trader should demonstrate that they can produce the required return.

28. Signing of stock returns

The stock return must be certified as being true and complete by the trader or their nominated representative.

The certificate should be in the following format:

I.....being authorised on behalf of declare that the information contained in the attached report, consisting of () pages, dated.....and titled is true and complete and represents the actual stock in the warehouse.

29. Stock returns not received

If the stock return is not received by the due date the trader should be requested to submit it immediately. On receipt of the stock return the Agent of the Impôts will:

- Confirm that the return is certified by the trader or their nominee.
- Confirm that the opening stock balances agrees with closing balances at the end of the previous period.
- Confirm that discharges from the customs warehouse shown on the return agree with total releases in the customs declaration.
- (If it was approved), confirm the method agreed, and set down in the conditions, for entering transfers in and out on commercial documentation is being adhered to.
- Examine returns for deviations from the normal pattern of activity at the customs warehouse.
- Compare the summary details contained in the return against CAESAR records.
- Seek immediate explanation for any discrepancy.
- File copy for future reference.
- Where necessary confirm the physical presence of the goods.

If any discrepancies are discovered in the return the trader should be requested to provide clarification at the earliest opportunity and appropriate measures should be taken to regularise matters. If necessary, a visit to the customs warehouse to compare the stock returns with the actual stock records should be arranged.

30. Temporary removal of goods from a customs warehouse

Temporary removal must be authorised by the Agent of the Impôts and the conditions for such removal set down in the warehouse authorisation. If the trader wishes to temporarily remove goods after the authorisation is in place, they must contact Goods Control to amend their authorisation in advance of any removals. The goods can only be removed to undertake any of the usual forms of handling and cannot be removed to a private premise not under customs control. In all cases the goods must be returned to the same customs warehouse from which they were temporarily removed. These goods will always remain under the warehouse procedure and any liability that might arise during this time will be the responsibility of the holder of the warehouse authorisation. Removal for shows/exhibitions etc is not allowed.

31. Movement of customs warehouse goods

Movement of goods under the warehousing procedure may take place without customs formalities:

- a. Between different storage facilities designated in the same authorisation;
- b. from the customs office of arrival to the storage facilities;
- c. from the storage facilities to the customs office of exit or any customs office indicated in the authorisation empowered to release goods to a subsequent customs procedure or to receive the re-export declaration for the purposes of discharging the special procedures.

The warehouse records must always show the location of the goods and all information about the movement.

32. Handling of goods in a customs warehouse

Usual forms of handling

While the main purpose of the customs warehousing procedure is storage, minor handling operations (known as usual forms of handling) may be allowed while the goods remain under the procedure. The list of usual forms of handling allowed under the Customs Warehousing procedure is provided on the UK Government website.

Where a trader intends to carry out usual forms of handling on a regular basis the authorisation must state the forms of handling approved.

Inward Processing (IP) and Authorised-Use

Where an economic need exists and revenue supervision is not adversely affected, goods on the premises of a customs warehouse may undergo more complex processing operations. The goods must first be discharged to IP or authorised-use. When finished, the goods may then be returned to the customs warehousing procedure. If a trader wishes to discharge goods to IP or authorised-use, they must be authorised in advance for the use of that procedure.

33. Common storage of goods in a customs warehouse

Where an economic need exists, UK – CDs Customs Union and third country goods may be stored in a customs warehouse. The authorisation holder must ensure that it is always possible to identify and distinguish the status of such goods. Common storage must not be allowed to affect the operation of the customs warehouse arrangements. While UK – CDs Customs Union goods are not subject to the customs warehousing arrangements the trader may be requested to enter certain details in the stock records if it is considered necessary. Where it is always impossible to identify each type of goods, the authorisation shall allow accounting segregation to be carried out regarding each type of goods, customs status and, where appropriate, origin of the goods.

34. Equivalent goods

Equivalent goods shall consist of UK – CDs Customs Union goods which are stored instead of the goods placed under the warehousing procedure. They shall have the same eight-digit CN code, the same commercial quality and the same technical characteristics as the goods which they are replacing. Equivalence can be authorised

on the condition that the proper conduct of the procedure, in regards customs supervision, is ensured.

35. Restrictions to the use of equivalence

The use of equivalent goods shall not be authorised:

- Where third country goods would be subject to a provisional or definitive anti-dumping, countervailing, safeguard duty or an additional duty resulting from a suspension of concessions if they were declared for release for free circulation.
- For goods or products that have been genetically modified or contain elements that have undergone genetic modification.
- Where it would lead to an unjustified import duty advantage.
- The use of equivalent goods is not permitted for goods which are sensitive goods for outward processing as provided on the UK Government website.

36. 'Non-tariff trade policy measures'

Where non-tariff trade policy measures apply to:

- (a) **the release of goods for free circulation**; the measures do not apply when the goods are entered to the customs warehousing procedure but will apply at discharge from the warehouse.
- (b) **the introduction of goods into the UK – CDs Customs Union**; the measure will apply as soon as the goods are entered to the customs warehousing procedure;
- (c) **the export of goods**; the measures will apply when the goods are exported from the customs union after being discharged from the customs warehousing procedure.

SPECIAL PROVISIONS CONCERNING EQUIVALENT GOODS

I. Customs warehousing and inward processing

Conventionally produced goods and organic goods

It is not permitted to replace organic goods by conventionally produced goods and conventionally produced goods by organic goods.

II. Inward processing

An authorisation in relation to equivalent goods is subject to any condition as set out in a notice published by UK Government concerning-

Rice;
Wheat;
Sugar;
Live animals and meat;
Maize;
Olive oil; and
Milk and milk products

See UK Government website for notices.

Mark Cockerham
Agent of the Impôts
1st January 2021