Customs and Excise Amendment Regulations (No 3) 2004

Pursuant to sections 50 and 286 of the Customs and Excise Act 1996, Her Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, makes the following regulations.

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1 Title

(1) These regulations are the Customs and Excise Amendment Regulations (No 3) 2004.

(2) In these regulations, the Customs and Excise Regulations 1996[1] are called "the principal regulations".

2 Commencement

These regulations come into force on 1 December 2004.

3 New Part 2A inserted

The principal regulations are amended by inserting, after regulation 11, the following Part:

[1] SR 1996/232

"Part2A
"Customs-approved areas for storing exports (CASEs)

"**11A Application for CASE licence**

Every application for an area to be licensed as a CASE—

"(a) must be in form 2A; and

"(b) must be made at the Customs office that is nearest to the area in respect of which the licence is sought.

"**11B Form of CASE licence**

Every CASE licence granted under the Act must be in form 2B."

4 New regulations 12 to 12D substituted

The principal regulations are amended by revoking regulation 12, and substituting the following regulations:

"**12 Content of advance notice of arrival varies depending on type of craft and what carried**

"(1) The notice required by section 21(1)(a) of the Act must contain the information in regulation 12A and—

"(a) if the craft to which it relates is carrying cargo, the information in regulation 12B(1); and

"(b) if the craft to which it relates is a ship or boat carrying cargo, the information in regulation 12B(2); and

"(c) if the craft to which it relates is an aircraft, the information in regulation 12C; and

"(d) if the craft to which it relates is a ship or a boat, the information in regulation 12D(1); and

"(e) if the craft to which it relates is a ship primarily involved in the transportation of passengers, the information in regulation 12D(2).

"(2) In regulations 12C and 12D, **status** means, in relation to a person, that person's status in relation to a craft, for example, whether the person is a passenger on, or a crew member of, a craft.

"**12A Content of advance notice of arrival**

The advance notice required by section 21(1)(a) of the Act must contain the following information:

"(a) the estimated date and time of arrival of the craft in New Zealand; and

"(b) the Customs place or other place at which the craft will arrive; and

"(c) the name of the person in charge of the craft; and

"(d) the name and contact details of the person providing the information.

"**12B Content of advance notice of arrival: craft carrying cargo**

"(1) The advance notice required by section 21(1)(a) of the Act for all craft carrying cargo must contain the following information:

"(a) a statement as to whether the cargo on the craft is arriving by air or by sea; and

"(b) the name and voyage or flight number of the craft carrying the cargo; and

"(c) the names of the parties involved in the transporting of the cargo; and

"(d) details of the bill or airway bill issued in relation to the cargo; and

"(e) a description of the cargo's attributes; and

"(f) the place at which the cargo was first loaded for export, and if it was transhipped, the place or places at which it was transhipped; and

"(g) the place at which the cargo is to be discharged, and if it is to be delivered elsewhere, the place of delivery; and

"(h) the names and addresses of the consignors and consignees of the cargo, and any contact parties; and—

"(i) details of any packaging in which the cargo is packed; and

"(j) the number of inward cargo reports intended to be given, and the names of the persons who will be giving them.

"(2) The advance notice required by section 21(1)(a) of the Act for all ships and boats carrying cargo must contain the following information:

"(a) details of the shipping containers in which the cargo is packed; and

"(b) the place at which each container was packed and its point of final delivery.

"**12C Content of advance notice of arrival: aircraft**

The advance notice required under section 21(1)(a) of the Act for all aircraft must contain the following information:

"(a) the type of aircraft; and

"(b) the aircraft's registration number; and

"(c) the aircraft's originating airport; and

"(d) the name of every airport at which the aircraft has landed between its originating airport and arrival at the Customs place or place of arrival; and

"(e) the name of every airport in New Zealand at which it intends to land; and

"(f) the status of each traveller, including passengers and crew members; and

"(g) the respective numbers of passengers and crew members on the aircraft; and

"(h) in respect of every passenger and crew member—

"(i) the person's full name, date of birth, gender, and nationality; and

"(ii) an indication of whether the person's travel document is a passport or certificate of identity, the number and expiry date of the passport or certificate of identity, the state or organisation that issued it, and the city in which it was issued; and

"(iii) the airport at which the person embarked on the aircraft; and

"(iv) whether the person is disembarking at the Customs place and, if not, the airport at which the person is expected to disembark; and—

"(i) the crew ranking or rating of every crew member on the aircraft; and

"(j) the Customs place or other place at which the aircraft is intended to depart from New Zealand, the aircraft's expected time of departure, and its intended place of overseas destination.

"**12D Content of advance notice of arrival: ships and boats**

"(1) The advance notice required under section 21(1)(a) of the Act for all ships and boats must contain the following information:

"(a) the type of ship or boat and its gross tonnage; and

"(b) the name and identity of the ship or boat, including its voyage number, International Maritime Organisation number, the country of registration, registration number if applicable, and its radio call sign; and

"(c) the name of the ship or boat's owner or charterer; and

"(d) details of the ship or boat's voyage, including the name of every port in New Zealand at which the ship or boat intends to call and the estimated date of arrival at each of those ports; and

"(e) the ship or boat's originating port; and

"(f) the next overseas port for which the ship or boat is destined; and

"(g) the respective numbers of passengers and crew members on board the ship or boat; and

"(h) the date and port at which the ship or boat's crew members signed on; and—

"(i) in respect of every passenger and crew member—

"(i) the person's full name, date of birth, gender, and nationality, and status; and

"(ii) the number of the person's passport or certificate of identity, the state or organisation that issued it, and the city in which it was issued; and

"(iii) the port at which the person embarked on the ship or boat; and

"(iv) whether the person is disembarking at the Customs place and, if not, the port or place at which the person is expected to disembark; and

"(j) the crew ranking or rating of every crew member on the ship or boat.

"(2) The advance notice required under section 21(1)(a) of the Act for all ships primarily involved in the transportation of passengers (for example, a cruise ship) must contain information on the expected time and date of departure of the craft from the Customs place or other place of departure."

5 New regulation 17A inserted

The principal regulations are amended by inserting, after regulation 17, the following regulation:

"**17A Delivery time of outward report of craft**

An outward report must be delivered to the Customs under section 34(a) of the Act,—

"(a) in the case of a ship or boat, not less than 4 hours before the intended time of departure of the craft to which it relates; and

"(b) in the case of an aircraft, not less than 30 minutes before the intended time of departure of the craft to which it relates."

6 New Part 3A inserted

The principal regulations are amended by inserting, after regulation 20, the following Part:

"**Part3A**

"**Customs access to information**

"**20A Access to information on border-crossing craft and border-crossing persons**

A person who is required to give the Customs access to information under section 38D or section 38E of the Act must provide the Customs with electronic access to the required information in a way that—

"(a) enables the Customs to access the information from within New Zealand without the need to make an inter-national connection; and

"(b) allows for a physical connection—

"(i) with any Customs electronic system used for the purpose of viewing the required information; and

"(ii) that enables the Customs to view the information directly from a location designated by the Customs for that purpose.

"**20B Access to business records**

A person to whom section 95A of the Act applies must give the Customs electronic access to the records that he or she is required to keep under section 95 of the Act, in a way that—

"(a) enables the Customs to access the information from within New Zealand without the need to make an international connection; and

"(b) allows for a physical connection—

"(i) with any Customs electronic system used for the purpose of viewing and using the required information; and

"(ii) that enables the Customs to view and use the information directly from a location designated by the Customs for that purpose."

7 Passing of entry of imported goods

Regulation 24 of the principal regulations is amended by revoking paragraph (c), and substituting, the following paragraph:

"(c) in any other case, when a delivery order message is generated by the Customs."

8 New regulation 28B inserted

The principal regulations are amended by inserting, after regulation 28A, as inserted by the Customs and Excise (Fees) Regulations 2004, the following regulation:

"**28B Passing of entry of goods for export**

An entry of goods for export under section 49(1) of the Act is deemed to have been passed for the purposes of the Act when a delivery order message is generated by the Customs in respect of that entry."

9 Goods for export exempt from entry

Regulation 29(2) of the principal regulations is amended by omitting the word "exported", and substituting the word "entered".

10 Application for registration

Regulation 74 of the principal regulations is amended by revoking subclause (2), and substituting the following subclauses:

"(2) An applicant to become a registered user of a Customs computerised entry processing system must provide details of the hardware and software equipment to be used by him or her to transmit electronic messages.

"(3) An applicant to become a registered user of a Customs computerised entry processing system must provide personal identification of the following kinds:

"(a) his or her birth certificate; and

"(b) a passport, or New Zealand driver's licence, or any other form of official identification bearing a photo of the applicant that is acceptable to the Chief Executive as a comparable form of official identification.

"(4) If the applicant is making the application in a name that is different from that on his or her birth certificate, the applicant must provide—

"(a) a marriage certificate; or

"(b) a dissolution of marriage order; or

"(c) a deed poll of change of name; or

"(d) any other comparable evidence of identity that is acceptable to the Chief Executive as evidence of the identity of the applicant.

"(5) If any form of personal identification required by subclause (3), and if applicable subclause (4), is not written in English,—

"(a) the applicant must provide an English translation of the personal identification; and

"(b) the English translation provided must be certified by a translator nominated by the Chief Executive."

11 New regulation 78A inserted

The principal regulations are amended by inserting, after regulation 78, the following regulation:

"**78A Search and viewing warrant**

Every search and viewing warrant issued under section 38J of the Act must be in form 11A."

12 Schedule 2 amended

(1) Schedule 2 of the principal regulations is amended by inserting after form 2, the forms 2A and 2B set out in Schedule 1.

(2) Schedule 2 of the principal regulations is amended by revoking form 9, and substituting the form 9 set out in Schedule 2.

(3) Schedule 2 of the principal regulations is amended by inserting after form 11, the form 11 A set out in Schedule 3.

(4) Schedule 2 of the principal regulations is amended by inserting in form 14, after the heading "PART 2—DECISION APPEALED AGAINST", the following:

"Name of person who made the decision appealed against (if known):
"If applicable, the entry number relating to the goods in respect of which the decision appealed against was made:"

Schedule 1

r 12(1)

New forms 2A and 2B inserted in Schedule 2 of principal regulations

"Form 2A

r 11A(a)

"Application for CASE licence

"

Form 2A—*continued*

Section 19C, Customs and Excise Act 1996

To the New Zealand Customs Service

at [*place*]

Application is made for a CASE licence for the area specified in this application, for the purpose of storing goods for export (temporarily or otherwise) until they are transported (either directly or via another area or areas) to the place of shipment, and shipped.

1 Name of applicant: .....

Trading as [*if applicable*]: .....

[Note:

(a) registered company full registered name and company registration number to be shown; and

(b) partnership/sole trader full names of all persons involved and trading name if applicable.]

2 Address of applicant's principal place of business:

.....

3 Addresses of other places at which the applicant carries on, or proposes to carry on, business:

.....

[Note:

(a) state full address, postal address, and telephone number for each place of business; and

(b) indicate the nature of the business (or proposed business) at each place.]

4 Legal description of area to be licensed as a CASE (Lot and DP number from Council area plan):.....

[Note: *A detailed plan of the area should accompany this application. The plan should contain specific reference to any place where goods subject to the control of the Customs will be stored or examined. Full details should be provided of any buildings, including dimensions, windows, doors, and the nature of construction.*]

5 Specific activity to be undertaken in the area to be licensed and the hours of operation:

.....

.....

.....

Form 2A—*continued*

6 Any particular security measures that will be applied to the area to be licensed:

.....

.....

.....

7 Details of procedures and records used to account for the consolidating, packing, repacking, treating, or other handling and storage of goods subject to the control of the Customs [*if applicable*]:

.....

.....

.....

8 Details of any CASE licence that the applicant currently holds or has previously held:

.....

9 Details of any Customs-controlled area licence that the applicant currently holds or has previously held:

.....

10 Estimate of cargo volumes for the next 3 years in respect of the area to be licensed:

.....

11 Nature of cargo to be handled, and equipment for handling cargo in respect of the area to be licensed:

.....

12 Contact person nominated by the applicant for the purpose of discussing this application:

.....

I, ...declare that the particulars contained in this application are true and correct.

.....

Signature of applicant

.....

Date

"Form 2B "CASE Licence"

r 11B

"

Form 2B—*continued*

Sections 12 and 19C, Customs and Excise Act 1996

Pursuant to section 12 and section 19C of the Customs and Excise Act 1996, I hereby grant a CASE licence to [*name of licensee*] for the area located at [*specify area in respect of which the licence is granted*].

This licence enables the area specified above to be used for the purpose of storing goods for export (temporarily or otherwise) until they are transported (either directly or via another area or areas) to the place of shipment, and shipped.

This licence is granted subject to the terms, conditions, and restrictions set out in the procedure statement issued with this licence.

Dated at.....this.....day of .....20.....

.....
Chief Executive
of the New Zealand
Customs Service

Note

Section 13 of the Customs and Excise Act 1996 (as applied by section 19D(1) of that Act) provides that the Chief Executive may, by notice in writing, vary or revoke the terms, conditions, or restrictions to which this licence is subject.

Schedule 2

r 12(2)

New form 9 substituted in Schedule 2 of principal regulations

"Form 9

r 74(1)

"Application for registration as a user of Customs computerised entry processing system"

"

Form 9—*continued*

Section 132, Customs and Excise Act 1996

Application for registration as a user of a Customs computerised entry processing system is made in accordance with the details set out below.

Section 1: Applicant identification details

Customs Declarant Code:

Surname: .....

First names: .....

Other names by which you are known: .....

Date of birth: .....

Form of identification

Birth certificate No: .....

Official photo identification: .....

*Passport No: .....

*New Zealand driver's licence No: .....

*Other comparable photo identification and No: .....

Evidence of change in name, if your name is different from that on your birth certificate:

*Marriage certificate; or *Dissolution of marriage order; or

*Deed poll of change of name; or

*Other comparable evidence of identity.

*Delete if inapplicable.

Section 2: Applicant contact details

Work contact details

Company name: .....

Mailing address: .....

Physical address: .....

Phone No: .....

Email address: .....

Home contact details

Mailing address: .....

Physical address: .....

Phone No: .....

Email address: .....

Form 9—*continued*

Section 3: Reasons for registration

Indicate which of the following reasons apply:

Importing goods for your own use	Yes/No
Exporting goods in your own name	Yes/No
Employed by or conducting business as a—	
Customs broker dealing in imports	Yes/No
Company/entity that imports goods	Yes/No
Customs broker dealing in exports	Yes/No
Company/entity that exports goods	Yes/No

Section 4: Customs Client Code details

If you are importing goods for your own use or exporting goods in your own name, state your Customs Client Code number:

.....

If you are employed by or conducting business as a company/entity that imports or exports goods, state the name/s and Customs Client Code/s of the company(*or* companies) *or* entity (or entities) in whose name you wish to lodge entries:

.....

If you are employed by or conducting business as a Customs broker, state the name/s or the Customs Client Code/s of the broker company (*or* companies) in whose name you wish to lodge entries:

Section 5: Transmission details

How do you, or will you, transmit entries to the Customs?

The New Zealand Customs Service's Internet website (www.customsentry.govt.nz)	Yes/No
A commercial software package	Yes/No
[*State name of commercial software package.*]	
A system developed for your company	Yes/No

Form 9—*continued*

Section 6: Declaration

I, ...declare that the information I have provided is true, correct, and complete.

I am aware of the provisions of sections 131 to 136 of the Customs and Excise Act 1996.

.....

Signature of applicant

.....

Date

Privacy Act 1993

You are advised that the information requested on this form is collected to enable you to enter goods by electronic messages in the prescribed form and for the Customs to verify the correctness of the entries for Customs purposes.

The Customs and Excise Act 1996 provides that every entry of goods shall be made in such form and within such time and in such manner as may be prescribed. If you do not supply the information you will not be able to enter goods by means of an electronic message through the Customs computerised entry systems.

You have the right to see and ask for correction, with some exceptions, to the personal information the Customs holds about you. You can do this by contacting either—

- the Business Assistance sections at Regional Ports; or
- any Customs Office.

Schedule 3

r 12(3)

New form 11A inserted in Schedule 2 of principal regulations

"Form 11A

r 78A

"Search and viewing warrant"

"

Form 11A—*continued*

Section 38J, Customs and Excise Act 1996

To every Customs officer (*or* [*full name*], Customs officer) This warrant relates to application [*specify application number*], made to me in writing on oath, under section 38J(2) of the Customs and Excise Act 1996 (the **Act**).

I am satisfied that the requirements of section 38J(4) of the Act have been fulfilled, namely—

(a) that there are reasonable grounds to suspect that—

*(i) there is a risk or threat relevant to the purpose stated in section 38B(1) of the Act; or

*(ii) a relevant offence, as defined in section 38J(6) of the Act has been (*or* is being) (*or* will be) committed; and

*Delete if inapplicable.

(b) that the search criteria specified in the application to which this warrant relates are reasonably related to the information available to the Customs that gives rise to those reasonable grounds to suspect.

This is to authorise you within 14 days after the day on which this warrant is granted to—

(a) search for information to which access is given under section 38E of the Act to determine whether it includes information that is relevant to the search criteria specified in the application to which this warrant relates; and

(b) view any information that is relevant to the search criteria specified in the application to which this warrant relates and that is included in information to which access is given under section 38E of the Act.

Dated at..... this .....day of .....20....

.....

District Court Judge

Diane Morcom,

Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations, which come into force on 1 December 2004, amend the Customs and Excise Regulations 1996 (the "principal regulations").

The amendments made to the principal regulations take account of the changes to the Customs and Excise 1996 (the Act), by the

Customs and Excise Amendment Act 2004 (for example amendments that provide for Custom-approved areas for storing exports (CASEs), and Customs access to and use of information about border-crossing goods, persons, and craft).

The following are the main changes made to the principal regulations by these regulations:

- regulation *3* inserts into the principal regulations, new Part 2A, which relates to Customs-approved areas for storing exports; and
- regulation *4* inserts into the principal regulations, new regulations 12 to 12D, which prescribe the content of the advance notice of arrival required from all craft, certain types of craft, and craft carrying cargo; and
- regulation *6* inserts a new Part 3A into the principal regulations, which prescribes the form and manner in which a person must give Customs access to information required under sections 38D, 38E, or 95A of the Act; and
- regulation *10* amends regulation 74 of the principal regulations by prescribing additional information to be provided by applicants in order to be a registered user of a Customs computerised entry processing system; and
- regulation *12* updates the Schedule to the principal regulations, by—
- inserting new forms 2A and 2B (application for and licence as CASE); and
- replacing form 9 (application to be a registered user); and
- inserting new form 11A (search and viewing warrant); and
- amending form 14 (notice of appeal).

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