



# Customs duties

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## Introduction

Customs duties are payable in respect of some goods imported into the UK from outside the European Union. Since 1973, there are no Customs on duties on imports from other states within the EU. Indeed, strictly speaking, these are not regarded as “imports” at all, but are called acquisitions. Some non-EU states are part of the same Customs union, which means their goods are also free of duties.

The position with regard to the UK after it has left the European Union is being negotiated at the time this article was written.

In addition, Customs procedures are designed to protect the country from banned or restricted goods, and to protect against smuggling.

Although Customs duties can in theory be applied to exported goods, no such duties have been imposed in more than 100 years. Customs still has a role in checking that goods are not exported contrary to regulations, such as when the government has imposed sanctions against another country.

Customs officers have considerable powers of enforcement. For example, under Customs and Excise Management Act 1979 s92(2) a Customs vessel may open fire on a ship that fails to bring to after Customs has given chase, raised an ensign and fired a warning shot.

Customs duties are the oldest tax still levied in the UK. The first such duty was levied in 1055. It started as a custom, which had the force of law, hence the name.

## General procedure

The general principle of Customs duties are that goods brought into the UK must be landed at a registered port, airport or similar facility. They are not released until any Customs inspection has been completed and any Customs duties and other import taxes are paid. There are some procedures that are designed to achieve the same aims but have been designed to accommodate the needs of business.

In addition to Customs duties, imports can be subject to import value added tax (VAT). The amount of VAT is the same as if the goods were produced within the UK. So imported books are zero-rated, while imported toys are standard-rated.

Alcoholic drink and tobacco products are also subject to excise duties. There are special taxes and procedures for cars and oil.

Import VAT and any excess duties must be paid with any Customs duties.

The rate of tax is determined by a Tariff code. This is a 15-digit number that identifies the product under 21 sections. This number can be looked up in a set of tables that run to many volumes. These list the rates of duty for different countries. This can be accessed on-line at <https://www.gov.uk/trade-tariff>.

Some delivery companies also provide website features where you can look up the rate. Customs must advise the rate on request if it relates to an envisaged or actual import. Most rates are around 10% but there are many examples of duties of zero, and there are some rates that exceed 50%.

Customs duties are not charged on services or intangible property unless incorporated with goods. So an import of a compact disc worth £1, but sold for £50 because of the software on it, is treated as an import of £50 worth of goods. VAT may be chargeable on imported services. Customs duties and Customs procedures are backed up by strict laws. If someone is caught smuggling, not only can they face criminal proceedings, but the goods and any vehicle used to smuggle them may be seized.

No duty is payable for goods that an importer declines to accept (perhaps because they are faulty) or for goods that are seized by Customs or abandoned by the importer.

## Method of importation

Goods imported by sea must be taken to an approved wharf, which can be found at all major ports. Unless another arrangement is made, goods brought ashore are kept in a **transit shed** until released by Customs. An alternative arrangement is for goods to be held in an **enhanced remote transit shed** (formally established in 1993). These are subject to tighter control.

Goods imported by air must be taken to an approved examination station at an approved airport.

Goods imported through the Channel Tunnel (which opened in 1990) are cleared at an **inland clearance depot** in Ashford, Kent. Incoming freight trains are cleared at Willesden.

There is a procedure for goods delivered through a pipeline. There is also a procedure for goods that move between Northern Ireland and the Irish Republic, though as both states are within the European Union, this is purely for control of goods and not to collect duties.

## The parties

The **importer** is the person who owns the imported goods and who is ultimately responsible for them. The importer's name must be stated on the import documents.

The **declarant** is the person who signs the Customs declaration, usually the importer or agent. Most legal provisions relating to Customs duties relate to the declarant.

An **agent** is the person or organisation that acts on behalf of another person, usually the importer. An agent must state that he, she or it is acting in such a capacity. An agent may appoint a sub-agent.

## Customs supervision

All imported goods are immediately brought under Customs supervision until their Customs status is determined. This is the earliest of:

- a change of Customs status (such as release after paying the duty)
- entry into a free zone
- entry into a free warehouse
- re-export
- destruction.

Imported goods must be **presented** to Customs. In practice this means giving notice to Customs within three hours of their arrival. The goods must be accompanied by a summary declaration signed by the declarant. This document is usually the **single administrative document (SAD)**. This document may be commercially produced.

Customs assigns the treatment as one of those listed above. This must be completed within 45 days for seaborne goods and within 20 days for other goods.

When Customs is satisfied that the goods may legally be imported, the SAD has been checked and the duty paid, the goods are released for **free circulation**.

## Other procedures

**Transit** rules apply when goods are imported to the UK as part of their journey to another destination. This procedure allows goods to move to or through other EU states without further Customs formalities.

A **Customs warehouse** may be used to hold goods which are not required for immediate use on import, such as where work first needs to be done on the imported goods. There are also **free zones** and **free warehouses** where goods may be kept before payment of duty and release.

**Inward processing** is when goods are imported for some work to be done before being exported again. For such goods, duty is either suspended, or is paid and then reclaimed under a drawback system.

**Outward processing** applies when goods are imported that have previously been exported solely for processing, such as for an overseas repair. This avoids duty being paid on import, but must be authorised by Customs in advance.

**Processing under Customs control** applies when goods are imported as product A and then turned into product B. They are released as product B and pay duty for that classification.

**Temporary imports** are exempt for duty. This includes items borrowed for an exhibition or for medical treatment.

**Personal effects** of a person legally entering the UK are not subject to Customs duty.

**Destruction** of goods means that they no longer exist in usable form. Customs may destroy goods in some circumstances, such as if they start rotting or leaking.

**Abandonment** means that the importer disowns the goods. They then pass to Customs on the same basis as seized goods, and are usually sold at auction.

## Reliefs

In addition to the procedures above, other reliefs may be available.

**Low value consignments** are exempt from duty. In 2015, there is generally no charge for goods valued up to £135, and a special 2.5% rate for goods between £135 and £630. Customs duty is not charged if the amount is less than £9. Note that excise duty and VAT may still be payable.

**Scholastic material** is generally exempt. This includes items to be used by public bodies.

**Charities** may import certain items for disaster relief and for some other charitable purposes.

There is a separate exemption for **diplomats** and goods for diplomatic premises.

**Vehicles** used for importing and incidental items, such as fuel in the tank, are excluded.

Some of these reliefs are known as **end-use relief** as their exemption depends on the final use of the goods.

## Value of goods

The value of imported goods is determined at the time of importation, so subsequent changes in value are ignored.

For some goods, particular methods of valuation have been developed. For example, food products may be subject to special provisions regarding yield and wastage.

Value includes related costs such as transport, insurance and brokerage fees. Any import VAT is charged on the goods plus Customs duty, but subject to an adjustment for the element that relates to delivery charges within the UK.

If someone repeatedly imports goods, they can make a **general valuation statement**. This is a form of season ticket that avoids the need for individual valuations.

Payment is made either at the time of import or by setting up an account with HMRC.

Duty is sometimes reduced on imports from a **beneficiary country**. This is a country which the European Union has determined needs lower or zero rates to assist the development of their economy as an indirect form of aid.

The other extreme is **anti-dumping duty** that can be imposed at high rates if imports are of goods imported at very low value with a view to destroying the domestic market. Such goods may be subsidised by another government to be sold at less than cost price.

## Prohibited and restricted goods

**Prohibited goods** are those items which may not be imported at all. Any items found are confiscated by Customs. This category includes:

- goods that harm health and safety (such as certain animals)
- endangered plants and animals, and their products (such as ivory)
- risks to national security (such as weapons and explosives)
- pornography
- counterfeit goods
- copyright-infringed products.

Many items may be imported subject to special procedures. Animals, for example, may need to be quarantined or passported.

**Restricted goods** are usually those where the country wishes to protect the domestic market. Historically, restrictions have applied to textiles and steel.

## Powers

HMRC officers have considerable powers to enforce Customs regulations.

They may **board** vehicles, inspect goods on board, mark them, demand that any locked area be unlocked, and break open any area which is not unlocked on request. It is an offence for a ship

or aeroplane to leave contrary to Customs directions. Such a vehicle can be forcibly prevented from leaving.

Customs officers may **enter premises** to look for prohibited or smuggled goods. There are powers to force entry and remove obstructions.

Customs officers may **seize** goods where duty has not been paid or where the packaging has been falsified with a view to not paying the full duty. They may also seize goods that have been concealed. A vehicle used to smuggle goods may also be seized.

Customs has powers of **forfeiture** for seized goods and vehicles.

Anyone carrying baggage into the UK is liable to be **searched**. A search of the person is one of a rub-down, strip search or intimate search. A strip search involves removal of external clothing and must be conducted by an officer of the same sex. An intimate search requires removal of underclothing and may only be conducted by a doctor or nurse. There are safeguards to protect individuals subject to personal searches.

There is a wide range of **penalties** for non-compliance. These take the form of both civil and criminal penalties. Prosecutions are usually brought by the Revenue and Customs Prosecuting Authority (RCPO) which operates on a similar basis to the police.