

CHANGES TO IMPORT CUSTOMS CONTROLS AND PROCEDURES 1 JAN 2022

The government has reminded companies importing goods from the EU that new paperwork and customs checks are being introduced from 1 October 2021, and there are concerns that many are still not prepared.

The government postponed the start of import controls in March 2021 for six months to give businesses more time to prepare and for border control infrastructure to be set up.

New Rules

Importers have been required to keep internal records of imports since the start of the year, but may have to start providing documentation from 1 October 2021 – initially for goods subject to sanitary and phytosanitary (SPS) controls such as meat, cheese and eggs.

However, full Customs checks on all imports will begin on 1 January 2022 with tariffs, duties and VAT deferrable until the end of 2022. Full Customs Declarations will be required from 1 Jan 2022.

New responsibilities

HMRC has written to more than 160,000 businesses reminding them of their responsibilities.

Those who deferred Customs declarations in January 2021 now have to file supplementary declarations for their goods movements. These declarations must be completed 175 days after the date that the goods were imported into the UK.

Non-compliant businesses could lose the right to delay future declarations and could face financial penalties.

End of easements

Some EU importers have mistaken the ongoing easements from the government as a permanent “light touch” approach to Customs checks. Businesses should check that their partners are ready to comply.

2022: Full customs procedures

According to Lloyd's Loading List, freight companies view 1 January 2022 – when full customs procedures will come into effect for all imports – as an even bigger challenge than January 2021, because there are more new processes to master.

Traders should consider appointing an intermediary, i.e. a Customs clearing agent, to deal with their Customs documentation, whilst they concentrate on their core business.

Upcoming changes include:

The end of delayed declarations:

From 1 January 2021, importers were allowed 175 days before the full (supplementary) import declaration needed to be submitted, VAT and duty (if any) to be paid. This is facilitated as long as the correct authorisations such as CFSP (Customs Freight Simplified Procedures) and EIDR (Entry in declarants records) are in place. If your Customs Broker has CFSP then you, as the importer of record, can use their facility.

The delayed declaration facility will end on 1 January 2022, and confirmation of this is expected.

Rules of Origin

From 1 January 2021, the EU and UK customs authorities agreed that they would not request proof of origin for goods. This will change on 1 January 2022. All exporters and importers must be able to prove the original manufacturing country for the goods they are shipping. Furthermore, they will be able to retrospectively request proof for goods that were shipped during 2021.

REX – Invoice Statements – Declaration of Origin

If you are importing goods into the UK from a country or bloc with whom the UK has a free trade agreement (FTA), your overseas supplier will need to declare the goods originated in their country. Each FTA will have an official notification in the documentation. It could be a statement on the invoice, a Certificate of Origin, a preferential trade certificate, a supplier's declaration, a trusted trader status (REX, Approved Exporter (AE) or AEO) (or the goods originate in a GSP country). Whatever it is, you as the importer of record must show HMRC that you have done sufficient due diligence to prove the goods you are importing meet FTA preference rules.

As this is a new chapter in our relationship with the EU, from 1 January 2022 all suppliers from Europe must have a REX (Registered Exporter) authorisation. The REX registered number must be shown on their Commercial Invoice for the goods to enter the UK duty free. Any goods arriving at the UK customs border point without the REX authorisation number will have an import duty charge if the products commodity code carries duty.

It is important that all businesses bring this to the attention of all their EU suppliers. It is very easy to get REX authorisation and it is free. For UK companies exporting to the EU, they will continue to put officially worded origin declarations on their commercial invoices. For the rest of the world UK-EUR1 preferential trade certificates, Certificates of Origin, invoice statement declarations, long term supplier's declarations or a trusted trader status (REX, AE, AEO) etc will be used to prove origin.

Products of Animal Origin (POAO), Sanitary and Phytosanitary products

Sanitary products relate to animal health and certification is required to determine the health of the animals. Phytosanitary relates to plants and fauna certification. These are referred to as SPS checks. POAO relates mainly to the food chain however does include other industry sectors, such as products from leather, gelatine etc.

From 1 January 2022, UK importers of Products of Animal Origin (POAO), animal by-products, and high-risk food and feed not of animal origin, must pre-notify UK import authorities of incoming consignments. Shipments coming from the EU or European Economic Area must be pre-notified before the consignment is due to arrive in Great Britain.

Exporting POAO from the EU to UK

From 1 January 2022, an Export Health Certificate (EHC) will be required for exports of POAO from the EU into the UK. EU exporters must be registered on TRACES NT to apply for an EHC. TRACES NT (TNT) is the European Commission's digital certification and management platform for all sanitary and phytosanitary requirements, supporting the importation of animals, animal products, food and feed of non-animal origin and plants in the European Union.

Importing POAO into the UK

1 January 2022, UK importers must be registered with IPAFFS (Import of Products, Animals, Food, and Feed System) and are responsible for the import. They must have a UK address and are responsible for submitting the pre-notification of incoming consignments with the attached EHC via IPAFFS before the consignment is due to arrive. IPAFFS is a web-based service used to notify UK authorities of imports of live animals, their products, and germplasm.

The Goods Vehicle Movement (GVMS) system:

This new system will be in place by 1 January 2022, and primarily affects hauliers and Customs brokers and clearing agents.

CHIEF v CDS

The old and outdated Customs control system known as CHIEF (Customs Handling of Import and Export Freight) will be replaced for imports from 30 September 2022. The new digital system will take over this important function. Known as CDS (Customs Declaration Service), it is being developed to accommodate all procedure and process changes to the EU legislation brought by the Union Customs Code in 2016.

It is planned that all export declarations will be introduced on CDS by 31 March 2023 after which the old CHIEF system will be discontinued. This means more detailed information will be required for import and export declarations.

While this is important for the Customs Brokers rather than the importer or exporter of record, it does mean that digital records are more traceable, thus compliance is essential. This is just part of the bigger picture of the way we will move goods around the world.

UK and EU Customs will be stepping up their scrutinization of goods moving across borders from 1st January 2022. If you are a UK importer or exporter of record, you are responsible to ensure that all your paperwork, proof of due diligence, origin, VAT and duty payments are in order and filed ready for HMRC inspection. Failure to comply will result in penalties and could affect your ability to apply for Customs authorisations in the future.

SAFETY AND SECURITY DECLARATIONS

From 1 July 2022, safety and security declarations will become due on goods being imported from the EU and other territories that did not require these before 1 January 2021 to Great Britain. This will reflect the existing model already in place for trade between Great Britain and countries outside the EU.

From 1 October 2021, safety and security declarations will become due on goods leaving Great Britain in vehicles, and for empty containers, pallets and vehicles moving to the EU under a transport contract. This will reflect the existing model already in place for Great Britain trade with countries outside the EU.

Safety and security requirements for goods moving from Great Britain to Northern Ireland are in place as of 1 January 2021 and are covered in the Northern Ireland section.

Safety and security declarations continue to be required for goods entering and leaving the UK from countries outside the EU.

The UK is committed to upholding the principles of the World Customs Organisation (WCO) SAFE framework.

Any references to Great Britain within this document include the 3 island territories off the coast of Great Britain which are Crown Dependencies. These are:

- the Isle of Man
- the Bailiwick of Jersey
- the Bailiwick of Guernsey (which includes Alderney and Sark)

The safety and security regulations mandate pre-arrival information for all consignments entering Great Britain, with exceptions for qualifying Northern Ireland goods moving from either:

- Northern Ireland to Great Britain
- Northern Ireland to Ireland, and then to Great Britain

The government has legislated to guarantee unfettered access for Northern Ireland business to the whole of the UK internal market.

For safety and security that means:

- no entry summary (ENS) declaration as qualifying Northern Ireland goods enter the rest of the UK from Northern Ireland
- no requirement to submit export or exit summary (EXS) declarations for qualifying Northern Ireland goods leaving Northern Ireland for the rest of the UK

The only exceptions to these arrangements will be goods falling within the very limited number of procedures relating to specific international obligations binding on the UK and the EU – for example, obligations on the movement of endangered species and where traders want to use special procedures like duty suspense where we would continue to provide facilitations.

On 9 September 2021, the government legislated to make sure that no ENS declaration will be required for qualifying Northern Ireland goods which arrive in Great Britain having moved through Ireland. Further guidance will be provided closer to this change coming into effect.

All information submitted will be assessed against a set of risk rules, allowing the UK to continue to secure its borders effectively.

Imports into Great Britain and Northern Ireland

Safety and security data for imports is submitted by the lodgement of an ENS declaration.

Responsibility

The legal requirement to submit an ENS declaration lies with the operator of the active means of transport – for example the vessel, aircraft, train or road vehicle – on or in which the goods are brought into the customs territory (either Great Britain or Northern Ireland). We will refer to this party as the carrier.

For rail, this means the Rail Freight Operator who is authorised to traction the train through the Channel Tunnel, into Great Britain.

For maritime and air, the legal requirement is with the party that has contracted and issued the bill of lading or an air waybill, for the carriage of the goods into Great Britain or Northern Ireland. For sea, this means the shipping company is responsible, and for air, the airline.

For roll on roll off (RoRo), this means the haulage company is responsible for lodging the declaration for 'accompanied' goods and the ferry operator for 'unaccompanied' goods.

In the case of 'combined transport' – such as a truck carried on a ferry – the obligation to file an ENS lies with the operator of the active means of transport on arrival in the UK. Where a truck is carried on a ferry, and will drive off the ferry on arrival in the UK, the obligation lies with the trucking company.

Where a ferry is transporting an unaccompanied trailer or container, the active means of transport is the ferry, even where the trailer or container could be attached to a truck when it arrives at its destination.

Accuracy and completeness

Customs authorities and economic operators must be able to identify who is responsible for compliance with this requirement.

The declarant must provide the information known to them at the time of lodgement of the ENS. They are entitled to base their ENS filing on data provided by the trading or contracting parties.

All the data elements prescribed in the table in [Appendix 1 for safety and security](#) and [Appendix 2 for ICS NI](#) must be contained in the ENS filing. If the declarant learns later that one or more particulars contained in the ENS filing have been incorrectly declared, the provisions on amendments will apply.

Safety and security declarations are an important part of Border Force's frontier risk assessment processes. The timely provision of complete and accurate data will help your goods flow through the border more smoothly.

The government will continue to engage with carriers, hauliers and traders to make sure that their obligations to meet safety and security requirements are fully understood. HMRC will seek to support those who make genuine errors to get it right, including education and intervention. Enforcement action in respect of non-compliance will be evidenced based and proportionate. This action could involve goods being delayed at the border for further checks and risking fines.

Who can submit the ENS

Someone other than the carrier may lodge an ENS. However, as it is the carrier's responsibility to make sure that it is submitted within the legal time limits, and it must only be done by a representative or third party with the carrier's knowledge and consent.

Arranging for an alternative third party ENS filing may be done through the use of commercial terms and conditions and may involve the third-party declarant and the carrier making amendments to an existing, or creating a new, contractual agreement that the third party is to file the ENS instead of the carrier.

How the carrier's consent to the third party ENS filing is to be evidenced and under which conditions and terms are subject to contractual agreement between the commercial parties. For example time for submission of the ENS, the shipments involved, and the duration of the filing arrangement.

Except where there is evidence to the contrary, the customs authorities may assume that the carrier has given its consent under contractual arrangements and that the third party's lodging of the ENS is made with the carrier's knowledge and consent.

If responsibility is passed on to a third party, the legal liability to make sure that an ENS declaration is submitted remains with the carrier. However, the responsibility that the information provided is accurate lies with the declarant – in this case, the third party.

When to submit

Legislation requires that an electronic ENS must be lodged before arrival in Great Britain or Northern Ireland or, in the case of maritime deep-sea containerised shipments, before loading onto the vessel that will carry the goods into Great Britain or Northern Ireland.

Time limits for submitting an ENS to Great Britain or Northern Ireland

Check the time limits for submitting an ENS for:

- maritime containerised cargo (except short sea containerised shipping) – at least 24 hours before loading onto the vessel that will carry the goods into Great Britain or Northern Ireland
- maritime bulk or break bulk (except short sea bulk or break bulk shipping) – at least 4 hours before arrival at the Office of First Entry in Great Britain or Northern Ireland
- short sea voyages – at least 2 hours before arrival at the Office of First Entry in Great Britain or Northern Ireland
- short-haul flights less than 4 hours in duration – at least by the time of the actual take off
- long-haul flights more than 4 hours in duration – at least 4 hours before arrival at the Office of First Entry in Great Britain or Northern Ireland
- rail – at least 2 hours before arrival at the UK customs Office of Entry (Dollands Moor for rail) or at least 1 hour if the journey is less than 2 hours

Short sea journeys into Great Britain refer to journeys from:

- the English Channel – or the Atlantic coast of Europe from the point where it meets the English Channel to and including the port of Algeciras
- Norway
- Ireland
- the Faroe Islands & Iceland
- ports on the Baltic Sea and the North Sea

Short sea journeys into Northern Ireland refer to journeys from:

- Great Britain and the Channel Islands
- Greenland
- the Faroe Islands
- Iceland
- ports on the Baltic Sea, the North Sea, the Black Sea and the Mediterranean Sea
- all ports of Morocco

Time limits for RoRo accompanied and unaccompanied

For RoRo accompanied this must be lodged at least 2 hours before the goods are due to arrive in the Great Britain or Northern Ireland – for Channel Tunnel, due to juxtaposed controls this must be lodged at least 1 hour before arrival at the Eurotunnel EU terminal – by the haulage company if goods are accompanied.

For RoRo unaccompanied this must be lodged at least 2 hours before the goods are due to arrive in Great Britain or Northern Ireland, by the ferry operator if goods are unaccompanied.

If you are using the Goods Vehicle Movement Service

The entry summary declaration will need to be submitted at the earliest of either:

- the minimum timing requirement
- before check-in closes

This is to allow for the movement reference number (MRN) from the entry summary declaration to be recorded in the Goods Movement Reference, which will be validated by the carrier at check in.