
S. I. _____ OF 2013

CUSTOMS MANAGEMENT ACT 2011

(Act 22 of 2011)

Customs Management (Disposal of Goods) Regulations, 2013

In the exercise of powers conferred by section **270** and section **116** of the Customs Management Act 2011, the Minister of Finance, Trade & Investment hereby makes the following Regulations

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1. These regulations may be cited as the Customs Management (Provisional and incomplete Declarations) Regulations, 2013 and shall be deemed to have come into operation on _____ 2013. Citation and commencement
2. The Assistant Commissioner of Customs shall take any necessary and appropriate measures to regularise goods including confiscation, seizure, abandonment, destruction or sale to dispose of goods in the following cases- Measures to be taken by Customs
 - (a) where the goods have been brought unlawfully into the customs territory or have been withheld from Customs supervision or control;
 - (b) where the goods are subject to prohibitions or restrictions, including those related to security and safety;
 - (c) where the formalities necessary for the goods to be assigned a Customs – approved treatment or use are not initiated within 30 working days after completing discharge for goods carried by sea and air respectively
 - (d) where the goods have not been removed within a reasonable period after their release or clearance by Customs;
 - (e) where the goods cannot be released because it has not been possible to undertake or continue examination of the goods within the period prescribed by Customs for reasons attributable to the declarant;
 - (f) where payments or a guarantee which should have been made or provided in respect of import or export duties and/or taxes, as the case may be, have not been made or provided within the period prescribed;
 - (g) The documents which must be produced before the goods can be placed under, or released for, the Customs procedure requested have not been made available.

3. Where, in the circumstances referred to in paragraph 2 (g) above the declarant has not produced the requisite documents within the time limit specified by the Assistant Commissioner of Customs, the declaration in question shall be deemed invalid and the Customs office shall cancel it and the goods shall be deemed to have been abandoned under these regulations.
4. The goods specified under paragraph (a) and (b) are liable to forfeiture and may be seized and dealt with under the appropriate provisions prescribed in these Regulations
5. In the circumstances referred to in paragraph (c), (d), (e), and (f) the Assistant Commissioner of Customs shall advise the importer that if the stated position is not regularized within 21 days of notification, the goods in question shall be deemed to have been abandoned to the State, and may be dealt with accordingly.
6. Notification shall be deemed to have been duly served on the importer in the following circumstances-
 - (a) if addressed to the importer and left or forwarded by post at his usual or last known place of abode or business or, in the case of a body corporate, at its registered or principal office; or
 - (b) Where the importer has no address within Seychelles, or the address is unknown, by publication of notice of abandonment by operation of law in the *Gazette*.
 - (c) The date of notification shall be 3 working days from the date of posting or the date of the relevant publication in the *Gazette*.
7. The importer shall have the right to appeal against decision taken for those cases specified under paragraphs (c), (d), (e), (f) and (g).
8. Where the circumstances so require, the Assistant Commissioner of Customs may require goods, and where necessary with the packages in which such goods are contained, presented to Customs to be destroyed and shall inform the importer/consignee of the goods in writing accordingly. The costs of destruction shall be borne by the importer/consignee of the goods.
9. Where goods are disposed of in terms of these Regulations, a person with any rights in those goods shall not be entitled to any accounting or compensation for their value.
10. Any waste or scrap remaining after destruction shall be liable, if taken into home use or exported, to the duties and taxes that would be applicable to such waste or scrap imported or exported in that state.
11. Imported goods and end-use goods may be voluntarily abandoned to Customs by the holder of the procedure or, where applicable, the holder of the goods.

Destruction
of
goods

Abandonment

12. Abandonment shall not entail any expense to Customs. The holder of the procedure or, where applicable, the holder of goods, shall bear the costs of any destruction or other disposal of goods.
13. When Customs sell goods which have not been declared within the time allowed or could not be released, although no offence has been discovered, the proceeds of the sale, after deduction of any duties and/or taxes and all other charges and expenses incurred, shall be made over to those persons entitled to receive them or, when this is not possible, held at their disposal for a reasonable period to be decided by the Assistant Commissioner of Customs in the circumstances of the case.
14. This provision does not apply to the sale of goods by Customs where the goods have been voluntarily abandoned to Customs. In such cases all the proceeds of the sale shall remain with Customs.
15. At a sale by auction the auctioneer shall announce —

Sale by Auction

 - (a) the amount of duty, rent and charges due to Customs on each lot;
 - (b) that the bids taken will be inclusive of such duty, rent and charges;
 - (c) that any goods sold but not cleared within 14 days from the day of sale are liable to forfeiture; and
 - (d) any other special conditions that the Assistant Commissioner of Customs may attach to the sale of any lot
16. Where good which has not been seized or being liable to forfeiture, may by virtue of these regulations be sold, it shall be, unless it is of a perishable nature, be offered for sale at a public auction.
 - 1) Any auction under these regulations shall be advertised in the national newspaper circulated in Seychelles, not less than 15 days before it is due to take place.
 - 2) The Assistant Commissioner of Customs shall appoint a person, who may be an officer, to act as auctioneer at any auction under these regulations.
17. An officer shall not be permitted to bid for anything at an auction under these regulations
18. Any goods not sold at an auction under these regulations, and all prohibited goods forfeited, shall be destroyed or otherwise disposed of as the Assistant Commissioner of Customs may direct.

19. These regulations do not prevent the Assistant Commissioner of Customs, with authorisation from the Revenue Commissioner, from withholding the sale of any goods forfeited for use by the public service or otherwise dealt with in the best interest of revenue.

MADE this Day of 2013