



BRITISH ANTARCTIC TERRITORY

THE CUSTOMS ORDINANCE 2020

© Government of the British Antarctic Territory

All rights reserved. No part of this publication may be reproduced in any form or by any means (including photocopying or copying in electronic format) without the written permission of the Commissioner of the British Antarctic Territory, or otherwise as permitted under the terms of a licence from the Government of the British Antarctic Territory.

BRITISH ANTARCTIC TERRITORY
THE CUSTOMS ORDINANCE 2020

ARRANGEMENT OF SECTIONS

Section	Page
1. Citation and commencement.	3
2. Interpretation.	3
3. Collector of Customs and other officers.	4
4. Imposition of duties: exemptions, and remission of duties and other charges.	5
5. Procedures to be observed.	5
6. Dutiable goods to be entered.	7
7. Duties payable as at time of entry.	7
8. <i>Ad valorem</i> duties.	7
9. Duties imposed according to weight or measurement.	7
10. Duties on composite goods.	7
11. Assessment of duties.	7
12. Temporary importation.	8
13. Concessionary terms on importation for special purposes.	8
14. Drawbacks.	8
15. Remission of duties on re-imported goods.	9
16. Charges short levied.	9
17. Powers and duties of customs officers.	9
18. Regulations.	10
19. Offences and penalties.	11
20. Forfeiture.	12
21. Exclusion of law of England on customs.	13

BRITISH ANTARCTIC TERRITORY

Enacted by the Commissioner,
Ben Merrick,
XX XXXX 2020

Ordinance No. 15 of 2020

THE CUSTOMS ORDINANCE 2020

AN ORDINANCE to make provision with respect to customs duties, with respect to the procedures to be observed in connection with the importation of goods into the Territory and the exportation of goods from the Territory, with respect to the enforcement of prohibitions and restrictions on such importation and exportation and with respect to the powers and duties of customs officers, and to provide for matters connected therewith.

Citation and commencement.

1. This Ordinance may be cited as the Customs Ordinance 2020 and shall come into force on XXXXXX.

Interpretation.

2. In this Ordinance, unless the contrary intention appears –

“the Collector” means the person appointed to be the Collector of Customs under section 3(1) and includes any person for the time being nominated to discharge the Collector’s functions under section 3(3);

“customs duty” means a duty of customs imposed under section 4;

“customs officer” means the Collector or any officer appointed under section 3(5);

“drawback” means the repayment, on the exportation of goods which were previously imported, of the whole or any part of the customs duties that were paid on their importation;

“dutiable”, in relation to goods (or components of goods), means that customs duties are chargeable on the importation or exportation of those goods (or components of goods);

“entry”, in relation to goods, means the acceptance and certification by the Collector, in accordance with the prescribed procedures in that behalf, that

the importer or exporter of those goods has properly completed all the relevant prescribed procedures, including, where appropriate, the payment of the customs duties chargeable on their importation or exportation; and in this definition "the prescribed procedures" means the procedures prescribed or directed under section 5;

“export” means export from the Territory;

“exporter”, in relation to any exported goods, includes the owner of the goods at the time of their exportation;

“import” means import into the Territory;

“importer”, in relation to any imported goods, includes the owner of the goods at the time of their importation;

“owner”, in relation to any goods, means any person for the time being possessed of or beneficially interested in the goods; and

“prohibited goods” means goods whose importation or exportation is prohibited or restricted by or under any law for the time being in force in the Territory.

Collector of
Customs and
other officers.

3. (1) The Commissioner may, by notice which shall be published in the *Gazette*, appoint a public officer, whether by name or by designation of an office, to be the Collector of Customs.

(2) Where an appointment is made under subsection (1) by the designation of an office, the person for the time being holding or acting in that office shall be the Collector of Customs.

(3) At any time when there is no person appointed to be the Collector of Customs or when the person so appointed is unable to discharge the Collector's functions, those functions shall be discharged by such person as the Commissioner, by notice which shall be published in the *Gazette*, may for the time being nominate in that behalf; and the Commissioner may so nominate a person either by name or by the designation of an office.

(4) Where a person is nominated under subsection (3) by the designation of an office, the person for the time being holding or acting in that office shall act as the Collector of Customs.

(5) The Collector of Customs may appoint other public officers to be, for the time being, customs officers.

(6) Subject to the provisions of this Ordinance or of any regulations made thereunder or, in relation to functions conferred on customs officers by or under any other law for the time being in force in the Territory, subject to the provisions of or made under such other law, every customs officer shall

exercise the functions of a customs officer in accordance with such general or special directions as the Collector may provide.

(7) Save where a law conferring, or providing for the conferment of, a function on the Collector or any other customs officer otherwise provides in relation to that function, the Collector and every other customs officer may exercise any of their functions either within or outside the Territory.

Imposition of duties: exemptions, and remission of duties and other charges.

4. (1) The Commissioner may, by notice which shall be published in the *Gazette* –

(a) impose import duties of customs on the importation of such goods or such categories of goods as may be specified in the notice;

(b) impose export duties of customs on the exportation of such goods or such categories of goods as may be specified in the notice; and

(c) determine the respective rates at which such duties are for the time being chargeable.

(2) The Commissioner may, by notice which shall be published in the *Gazette*, exempt any person from liability to pay customs duties; and any such exemption may relate to the importation of goods or to the exportation of goods or to both and to all goods or to any goods or goods of any category specified in the notice and may be granted subject to such conditions or restrictions as may be so specified.

(3) The Commissioner or the Collector may remit, in whole or in part, any customs charge that is payable or refund any customs charge that has been paid.

(4) For the purposes of subsection (3), the term “customs charge” means a customs duty or a fee or other charge payable under this Ordinance and includes any liability to which a person may be subject under this Ordinance (otherwise than by order of a court) to forfeit a deposit or have the enforcement of a security; and in relation to such a liability as aforesaid the term “refund” means return any deposit that has been forfeited or repay any sum that has been realised by the enforcement of a security.

(5) Subject to any exemption or remission granted under this section, the importer or the exporter of dutiable goods shall pay the customs duties chargeable thereon to the Collector in accordance with the procedures in that behalf prescribed or directed under section 5.

Procedures to be observed.

5. (1) Subject to the provisions of this Ordinance or of any other law for the time being in force in the Territory regarding the importation or exportation of goods, the Commissioner may, for the purposes of this Ordinance or of any such other law, prescribe, by regulations which shall be published in the

Gazette, the procedures to be observed, and the relevant powers, duties, rights, obligations and liabilities of any person, with respect to –

(a) the handling, movement, storage and custody of goods which are, or are to be, imported or exported;

(b) the documentation to be furnished to the Collector, or by the Collector, concerning such goods or concerning any other aspect of such importation or exportation;

(c) the provision to the Collector, and the acquisition by the Collector, of other information which concerns such importation or exportation or which concerns the arrival in the Territory or the departure from the Territory of any ship, aircraft or vehicle or which the Collector may otherwise require for the purposes aforesaid;

(d) the assessment, levying, collection, remission or refund of customs charges (within the meaning assigned to that term in section 4(3) by section 4(4));

(e) the lodging of deposits or the giving of bonds or other security for the due performance of any obligation arising under this Ordinance or any such other law as aforesaid and the disposal of any such deposit, bond or other security.

(2) Without prejudice to the authority of the Commissioner, by regulations under subsection (1), to confer powers and rights and to impose duties, obligations and liabilities on other persons with respect to the matters specified in that subsection, the procedures prescribed by those regulations shall be observed by the following persons as appropriate or as the regulations may specifically indicate –

(a) the importer or exporter (or intending importer or exporter) of any goods;

(b) any other person who, in such manner as the regulations indicate, is responsible for or involved in such importation or exportation;

(c) the master of any ship or the commander of any aircraft or the driver of any vehicle which arrives in or departs from the Territory in such circumstances as the regulations indicate;

(d) the Collector and other customs officers.

(3) Subject as provided in subsection (1) and to any regulations made thereunder, the procedures to be observed by any person with respect to the matters specified in that subsection shall be in accordance with such directions as the Collector may give either generally or in any particular case.

Dutiable goods to be entered.	6. All dutiable goods shall be presented by the importer or the exporter, as the case may be, for entry in accordance with the procedures in that behalf prescribed or directed under section 5.
Duties payable as at time of entry.	7. The rate at which customs duties are chargeable on the importation or exportation of any goods is the rate that is in force at the time when the goods are entered.
<i>Ad valorem</i> duties.	8. When customs duties are chargeable <i>ad valorem</i> on the importation or exportation of goods, the value of the goods shall, if they were purchased by the importer or consignee, be taken to be the price charged by the vendor and, in any other case, to be the actual market value of the goods in the place from which they are being imported into the Territory or to which they are being exported from the Territory, as assessed at the time when they are entered for importation or exportation.
Duties imposed according to weight or measurement.	9. (1) Where customs duties are chargeable on the importation or exportation of goods according to weight or measurement, the weight or measurement of the goods shall be ascertained according to the weights and measures approved by the Collector. (2) Where customs duties are chargeable on the importation or exportation of goods according to a specified quantity, weight or measurement, they shall be chargeable in proportion on the importation or exportation of any greater or less quantity, weight or measurement.
Duties on composite goods.	10. Where goods which are imported or exported (not being goods that are dutiable as such) are composed of two or more articles or two or more ingredients, any or all of which are dutiable, customs duties shall be chargeable on the importation or exportation of those goods and shall be so chargeable at the rate applicable to the dutiable article or ingredient or, if there is more than one such, at the higher or highest of the rates so applicable.
Assessment of duties.	11. (1) Subject to the foregoing provisions of this Ordinance, the assessment of the customs duties chargeable on the importation or the exportation of any goods shall be made in conformity with such regulations, which shall be published in the <i>Gazette</i> , as may be made in that behalf by the Commissioner or, subject to any such regulations, as may be directed by the Collector either generally or in any particular case. (2) If a dispute arises in any particular case as to whether goods are dutiable or as to the proper rate or amount of the duties chargeable, the importer or the exporter (as the case may be) may make a conditional deposit with the Collector of the amount demanded and the transaction shall then proceed as if that amount were agreed to be the amount chargeable, but this shall be without prejudice to the right of the importer or the exporter to institute proceedings in the Supreme Court for the determination of the

amount properly chargeable and the subsequent adjustment of accounts as between the importer or the exporter and the Collector in accordance with that determination:

Provided that if no such proceedings are instituted within six months from the date on which the deposit was made, the amount demanded by the Collector shall be deemed conclusively to be the proper amount.

Temporary importation.

12. (1) The Collector may permit any person to import any goods without payment of the customs duties chargeable on such importation, if the Collector is satisfied that the goods are being imported only for temporary use or for a temporary purpose and if the importer deposits with the Collector the amount of the customs duties chargeable or, in lieu thereof, provides such security therefor as the Collector may determine.

(2) If goods imported in accordance with subsection (1) are exported within a period of six months from the date on which the Collector gave permission (or such longer period as the Collector may allow in any particular case), any deposit paid on their importation shall be repaid or any security given in lieu thereof shall be cancelled; but if such goods are not so exported, the deposit shall be forfeited or, if security was given in lieu thereof, the importer shall pay the full amount of customs duties chargeable on the importation and the security may be enforced for that purpose.

(3) The provisions of this section are without prejudice to the generality of section 4(3).

Concessionary terms on importation for special purposes.

13. Where goods which are ordinarily dutiable are authorised by or under this Ordinance to be imported on concessionary terms (that is to say, either without payment of any customs duties or on payment of customs duties of a lesser amount or at a lower rate than would otherwise be chargeable in such a case) and those concessionary terms are applicable subject to the observance of conditions as to how or by whom or for what purposes the goods are to be used, then, if at any time within a period of two years from the date on which the goods are imported it is found that those conditions have not been observed, the importer shall, without prejudice to any other penalty therefor to which the importer may be liable under this Ordinance, pay the full amount (or as the case may be, the balance of the full amount) of the customs duties that would ordinarily have been chargeable on the importation of the goods.

Drawbacks.

14. (1) The Commissioner may, by regulations which shall be published in the *Gazette*, provide for the allowance by the Collector of such drawbacks, in such circumstances and subject to such conditions, as the regulations may specify; and may by such regulations prescribe the procedure for applying for and for paying such drawbacks.

(2) The Collector may, but subject to any directions which the Commissioner may specify, allow a drawback in any particular case; and may do so to such extent and subject to such conditions as the Collector considers just or expedient in the circumstances of the case.

(3) The provisions of this section are without prejudice to the generality of section 4(3).

Remission of duties on re-imported goods.

15. (1) The Commissioner may, by regulations which shall be published in the *Gazette*, provide for the remission by the Collector, to such extent, in such circumstances and subject to such conditions as the regulations may specify, of the customs duties to which this section applies.

(2) The Collector may, but subject to any directions which the Commissioner may specify, remit in any particular case the customs duties to which this section applies; and may do so to such extent and subject to such conditions as the Collector considers just or expedient in the circumstances of the case.

(3) This section applies to customs duties which are otherwise chargeable on the re-importation of any goods that have previously been exported after having earlier been imported and on whose earlier importation customs duties were chargeable and paid.

(4) The provisions of this section are without prejudice to the generality of section 4(3).

Charges short levied.

16. Where any customs duties, or fees or charges payable under this Ordinance, have been short levied or erroneously refunded, the person who should have paid the amount short levied or to whom the refund has been erroneously made shall, on demand being made by the Collector, pay to the Collector the amount short levied or erroneously refunded; and the Collector may refuse to complete any entry for goods belonging to that person until that amount is paid.

Powers and duties of customs officers.

17. (1) The customs officers appointed under section 3(5) shall –

(a) assist the Collector in the discharge of the Collector's functions under this Ordinance and under any law for the time being in force in the Territory regarding the importation or exportation of goods;

(b) exercise on behalf of the Collector any of the functions specified in subsection (1)(a), under the superintendence of the Collector and subject to any general or special directions, or exceptions, as the Collector may specify.

(2) Every customs officer shall, for the purposes of carrying out the functions of a customs officer under this Ordinance or any such law as aforesaid, exercise any of the powers (so far as they are applicable in local circumstances) vested in comparable circumstances in an officer of Her Majesty's Customs and Excise in England under any provision or rule of law of the law of England as for the time being in force in England, and for that purpose any such provision or rule of law shall be read with such

modifications, adaptations, qualifications and exceptions as the circumstances of the case render necessary.

(3) Without prejudice to the generality of subsection (2), any customs officer may –

(a) question any person who has recently arrived in the Territory or is about to depart from the Territory as to whether there are any dutiable goods or prohibited goods in that person's possession or baggage;

(b) search any person, or the baggage of any person, if the customs officer has reasonable cause to suspect that the person has concealed any such goods as aforesaid;

(c) search any ship, aircraft or vehicle which has recently arrived in the Territory or which is about to depart from the Territory for the purpose of ascertaining whether any such goods as aforesaid are unlawfully contained therein or carried thereon;

(d) search any premises, if the customs officer has reasonable cause to suspect that such goods as aforesaid are unlawfully contained therein;

(e) arrest, for the purpose of bringing before a court, any person who the customs officer has reasonable cause to suspect has committed, is committing or is about to commit any offence under this Ordinance or under any other law for the time being in force in the Territory regarding the importation or exportation of goods; and

(f) seize and detain, with a view to proceedings under section 19 and pending the outcome of such proceedings, any goods which the customs officer has reasonable cause to suspect have been imported or are intended to be exported without payment of the customs duties chargeable on such importation or exportation and with intent to evade such payment or in contravention of any prohibition or restriction on their importation or exportation that is for the time being imposed by any law in that behalf.

Regulations.

18. (1) The Commissioner may, by regulations which shall be published in the *Gazette*, make such provision as appears to the Commissioner to be necessary or expedient for the effective implementation, administration and enforcement of this Ordinance.

(2) Without prejudice to the generality of subsection (1), regulations made under this section may –

(a) prescribe or provide for the several matters which are specified in sections 5(1), 11(1), 14(1) and 15(1) as matters which may be so prescribed or provided for;

(b) impose fees or charges on importers or exporters of goods for the carrying out, by or on behalf of the Collector, of transactions or proceedings connected with such importation or exportation, and prescribe, or provide for the prescription of, the respective amounts or rates of such fees or charges;

(c) confer powers and impose duties on customs officers additional to those conferred or imposed by section 17; and

(d) provide that any contravention of a provision of any such regulation (being a contravention defined by reference either to the acts or omissions involved or the particular provision contravened) shall be an offence under this Ordinance.

Offences and penalties.

19. (1) The following persons shall be guilty of an offence under this Ordinance –

(a) any person who, being required by or under this Ordinance to pay customs duties on the importation or exportation of goods and with intent to evade such payment, fails to pay them in accordance with the procedures in that behalf prescribed or directed under section 5;

(b) any person who imports or exports, or is knowingly concerned in the importation or exportation or intended exportation of, or is knowingly in possession of, any goods which have been imported or are intended to be exported without payment of the customs duties chargeable on such importation or exportation or in contravention of any prohibition or restriction on their importation or exportation that is for the time being imposed by any law in that behalf and with intent to evade such payment or, as the case may be, such prohibition or restriction;

(c) any person who refuses or fails to provide to a customs officer any information which that person is required, under this Ordinance or under any other law for the time being in force in the Territory regarding the importation or exportation of goods, to provide to that officer or who provides such information to a customs officer knowing it to be false or misleading in any particular;

(d) any person who assaults, resists or obstructs a customs officer in the exercise of the powers provided by section 17; and

(e) any person who commits such a contravention of a regulation made under section 18 as is declared to be an offence by a regulation made under section 18(2)(d).

(2) Subject to any other law for the time being in force in the Territory which makes provision for the trial and punishment of offences under this Ordinance committed with respect to goods specified for that purpose by that law, a person convicted of an offence under this Ordinance other than an offence under subsection (1)(e) shall be liable to a term of imprisonment not exceeding 5 years or to a fine not exceeding £10,000 or to both such imprisonment and such fine.

(3) Offences under subsection (1)(e) may be tried only summarily and a person convicted of such an offence shall be liable to a term of imprisonment or a fine not exceeding the statutory maximum or to both such imprisonment and such fine.

(4) Where an offence under this Ordinance committed by a body corporate or unincorporate is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body or a person purporting to act in any such capacity, that person, as well as the body, shall be guilty of that offence and shall be liable to be prosecuted and punished accordingly.

(5) Prosecution of offences under this Ordinance may be instituted in the name of the Collector and, in the case of offences under subsection (1)(e), may be conducted by the Collector or, with the consent of the Collector or the Attorney General, any other customs officer; but, without prejudice to section 7 of the Attorney General Ordinance 2020, in the conduct of any such prosecution the Collector or other customs officer shall comply with any general or special directions provided by the Attorney General.

Offences and penalties.

20. (1) The following goods shall, on such terms, if any, as the court may think just, be forfeited to the Crown by order of any court (including a court before which proceedings under section 19 are brought) made upon application by or with the authority of the Attorney General –

(a) any goods which have been imported without payment of the customs duties chargeable on such importation or in contravention of any prohibition or restriction on such importation that is for the time being imposed by any law in that behalf and with intent to evade such payment or, as the case may be, such prohibition or restriction (whether or not any person has been convicted of any offence in connection therewith);

(b) any goods which are intended to be exported without payment of the customs duties chargeable on such exportation or in contravention of any prohibition or restriction on such exportation that is for the time being imposed by any law in that behalf and

with intent to evade such payment or, as the case may be, such prohibition or restriction and in connection with which intended exportation any person has been convicted of an offence;

(c) any dutiable goods concealed in any manner with intent to evade the payment of customs duties;

(d) any dutiable goods or prohibited goods found in the possession or baggage of any person who has recently arrived in the Territory or who is about to depart from the Territory and who has denied to a customs officer that there are any dutiable or prohibited goods in that person's possession or baggage or, when questioned by a customs officer, has not fully disclosed that such goods are in that person's possession or baggage.

(2) The forfeiture of any goods may, if the court so orders, extend to the forfeiture of the package containing the goods and to any other goods contained in the package.

Exclusion of law
of England on
customs.

21. (1) For the avoidance of doubt it is hereby declared –

(a) that the foregoing provisions of this Ordinance (being “specific laws” within the meaning of that term in section 5 of the Administration of Justice Ordinance 2020) exclude the operation as part of the law of the Territory, by virtue of section 5(1)(b) of that Ordinance, of the law of England specifically relating to customs duties and the functions of customs officers; but

(b) that the law of England, as for the time being in force in England, is otherwise in force in the Territory by virtue of the said section 5(1)(b) for the purposes of the administration and enforcement of this Ordinance.

(2) Subsection (1) is without prejudice to section 17(2) (which confers on customs officers certain powers defined by reference to the law of England relating to the powers of officers of Her Majesty's Customs and Excise).

(3) Notwithstanding subsection (1), the rules established by section 154 of the Customs and Excise Management Act 1979 (which deals with the proof of certain matters in the proceedings to which that section refers) shall, so far as those rules are applicable to proceedings arising under this Ordinance or otherwise relating to customs duties or to prohibitions or restrictions on the importation or exportation of goods and subject to such modifications, adaptations, qualifications and exceptions as may be necessary in such application, have effect in relation to those proceedings.