



STATUTORY INSTRUMENTS.

S.I. No. 281 of 2021



EUROPEAN UNION (CONTROLS OF CASH ENTERING OR LEAVING
THE UNION) REGULATIONS 2021

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I, PASCHAL DONOHOE Minister for Finance, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972), and for the purpose of giving full effect to Regulation (EU) 2018/1672¹ of the European Parliament and of the Council of 23 October 2018, hereby make the following regulations:

1. (1) These Regulations may be cited as the European Union (Controls of Cash Entering or Leaving the Union) Regulations 2021.

(2) These Regulations come into operation on 3 June 2021.

2. The Customs Act 2015 (No. 18 of 2015) is amended by the substitution of the following section for section 42:

“42. Controls of cash entering or leaving European Union through the State

(1) As provided for by Article 2, the Commissioners, as the customs authority in the State, are the competent authority to apply the 2018 Regulation.

(2) As provided for by Article 3, a carrier entering or leaving the European Union carrying cash of a value of €10,000 or more is obliged to make a declaration to the competent authority and to make the cash available to the competent authority for control and, for that purpose, in the case of such carrier so entering or leaving the European Union through the State –

(a) the declaration shall be made to the Commissioners in accordance with Article 3, and

(b) the cash shall be made available to the Commissioners for control.

(3) As provided for by Article 4, the sender or recipient, or a representative of the sender or recipient, of unaccompanied cash of a value of €10,000 or more entering or leaving the European Union may be required to make a disclosure declaration to the competent authority and to make the cash available to the competent authority for control and, for that purpose, in the case of such unaccompanied cash entering or leaving the European Union through the State –

(a) an officer of customs may, by notice to the sender or recipient, or a representative of the sender or recipient, as the case may be, of the unaccompanied cash, require the making

¹ OJ No. L284, 12.11.2018, p.6

of a disclosure declaration to the Commissioners within 30 days from the date of the notice in accordance with Article 4,

- (b) the officer of customs may detain the cash until the person notified under paragraph (a) makes the disclosure declaration, and
- (c) the person notified under paragraph (a) shall make the unaccompanied cash available to the Commissioners for control.

(4) Notice under subsection (3) shall be given in writing and the notice shall be deemed to have been duly given to the person concerned

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- (a) if it is delivered to the person personally,
- (b) if it is addressed to the person and left or forwarded by post to the person at the usual or last known place of abode or business of the person or, in the case of a body corporate, at its registered or principal office, or
- (c) if the person has no known address in the State, by publication of the notice in the *Iris Oifigiúil*.

(5) For the purposes of –

- (a) checking if a carrier has complied with the obligation to declare, on entering or leaving the European Union, that he or she has possession of cash of a value of €10,000 or more, or
- (b) recording the information and details referred to in Article 3(2) where a carrier is carrying cash of a value of less than €10,000 and there are indications that the cash is related to criminal activity,

an officer of customs may do one or more of the following:

- (i) question the carrier on so entering or leaving the European Union through the State;
- (ii) search the carrier's baggage and means of transport.

(6) Where, as a consequence of any response or lack of response to any question asked under subsection (5)(i) or a search carried out under subsection (5)(ii), or both, an officer of customs has reasonable grounds to suspect that the carrier –

- (a) is importing into or exporting from the European Union through the State in contravention of the 2018 Regulation and this section, or
- (b) intends or is about to so import or export in contravention of the 2018 Regulation and this section,

cash of a value of €10,000 or more, or cash of a value of less than €10,000 where there are indications that the cash is related to criminal activity, then the officer may search the carrier or cause the carrier to be searched

by another officer of customs and section 30(2), (3), (4) and (6) shall apply to the carrying out of such a search under this subsection.

(7) For the purpose of –

- (a) implementing the obligation to disclose unaccompanied cash of a value of €10,000 or more entering or leaving the European Union, or
- (b) recording the information and details referred to in Article 4(2) where unaccompanied cash of a value of less than €10,000 is entering or leaving the European Union and there are indications that the cash is related to criminal activity,

an officer of customs may search any consignments, conveyances, postal packets, courier shipments, baggage or receptacles which the officer of customs has reasonable grounds to suspect may contain unaccompanied cash.

(8) Where –

- (a) the obligation to declare accompanied cash under subsection (2) and Article 3 or the obligation to disclose unaccompanied cash under subsection (3) and Article 4 has not been fulfilled, or
- (b) there are reasonable grounds to suspect that accompanied or unaccompanied cash, irrespective of the amount of such cash, is related to criminal activity,

an officer of customs may detain the cash for such period of time or, where the cash has already been detained in accordance with subsection (3)(b), such further period of time, which shall not exceed 30 days, as may be required to determine whether a further detention in accordance with subsection (9) is warranted.

(9) Where an officer of customs determines that –

- (a) the circumstances warrant a further detention of cash detained in accordance with subsection (8), and
- (b) such further detention of the cash is necessary and proportionate in the circumstances,

the officer of customs may continue to detain the cash for a period of no longer than 90 days from the date it was detained in accordance with subsection (8).

(10) Where –

- (a) an officer of customs determines that the circumstances do not warrant a further detention of cash in accordance with subsection (9), or
- (b) no determination is made within the period of 30 days referred to in subsection (8),

the officer of customs shall release the cash immediately to the person from whom the cash was detained.

(11) At any time while cash is detained pursuant to subsection (8) or (9), a judge of the District Court may direct its release if satisfied, on an application made by the person from whom it was detained or a person on whose behalf it was being imported or exported, that there are no, or are no longer, any such grounds for its detention in accordance with this section.

(12) A person who fails to –

- (a) make a correct and complete declaration as required by subsection (2)(a), or
- (b) make cash available for control as required by subsection (2)(b),

commits an offence and is liable, on summary conviction, to a fine of €5,000.

(13) A person who fails to –

- (a) make a correct and complete disclosure declaration within 30 days in accordance with a notice under subsection (3)(a), or
- (b) make unaccompanied cash available for control as required by subsection (3)(c),

commits an offence and is liable, on summary conviction, to a fine of €5,000.

(14) Where a person is charged for an offence under subsection (12) or (13), cash detained from the person by virtue of this section may continue to be detained until the prosecution is finally determined.

(15) In this section, “2018 Regulation” means Regulation (EU) No. 2018/1672 of the European Parliament and of the Council of 23 October 2018² on controls on cash entering or leaving the Union and repealing Regulation (EC) No 1889/2005.

(16) A word or expression that is used in this section and is also used in the 2018 Regulation has the same meaning in this section as it has in that Regulation.

(17) A reference in this section to a numbered Article is a reference to the Article so numbered of the 2018 Regulation.

(18) Part 7 shall not apply to any decision of an officer of customs made under this section.”.

² OJ No. L284, 12.11.2018, p.6



GIVEN under my Official Seal,
2 June, 2021.

PASCHAL DONOHOE,
Minister for Finance.

EXPLANATORY NOTE

(This is not part of the instrument and does not purport to be a legal interpretation.)

These Regulations are made under section 3 of the European Communities Act 1972 and come into effect on 3 June 2021. The purpose of these Regulations is to implement Regulation (EU) No. 2018/1672 of the European Parliament and of the Council of 23 October 2018 by enacting necessary changes to section 42 of the Customs Act, 2015.

The Regulations provide that persons entering or leaving the European Union through the State and carrying cash with a value of €10,000 or more must make a declaration to the Revenue Commissioners and make the cash available for control. Failure to do so is an offence.

The Regulations further provide that in the case of unaccompanied cash with a value of €10,000 or more which is entering or leaving the European Union through the State, the sender, recipient or a representative thereof may be required to make a declaration to the Revenue Commissioners and make the cash available for control. Failure to do so is an offence.

The Regulations also provide for powers of customs officers to carry out controls in relation to accompanied and unaccompanied cash.

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