

L.N. 14 of 2016**CUSTOMS ORDINANCE
(CAP. 37)****Customs (Amendment) Regulations, 2016**

BY VIRTUE of the powers conferred by article 80 of the Customs Ordinance, the Minister for Finance has made the following regulations:-

Citation and scope.

S.L. 37.05

1. (1) The title of these regulations is the Customs (Amendment) Regulations, 2016, and these regulations shall be read and construed as one with the Customs Regulations, hereinafter referred to as "the principal regulations".

(2) These regulations are promulgated in the light of article 5 of the Community Customs Code (Council Regulation (EEC) No 2913/92 of 12 October 1992) and any subsequent legislation which replaces it.

Adds new Part to the principal regulations.

2. Immediately after Part X of the principal regulations, there shall be added the following new Part:

"Part XI**Authorisation to act as Customs Representative**

Customs representative.

57. (1) Any person who is established in Malta may act as a customs representative in Malta, provided he fulfils all the requirements laid down in this Part of these regulations.

(2) Such representation may be either direct, in which case the customs representative shall act in the name of and on behalf of another person, or indirect in which case the customs representative shall act in his capacity or his own name but on behalf of another person.

(3) A customs representative shall declare whether he is acting as a direct or indirect representative in every declaration to the customs authorities.

(4) A customs representative shall fill up the power of attorney in the Fourth Schedule, showing his empowerment by the person represented and also showing the type of representation which he chooses in every declaration to customs.

(5) The customs authorities may require persons stating that they are acting as customs representative to provide evidence of their empowerment by the person represented.

Application for
authorisation.

58. The person applying for authorisation to act as a customs representative shall:

(a) fill out Form 13 in the Fourth Schedule and present it to the customs authorities;

(b) produce a recent police conduct certificate;

(c) present proof of attendance of a training course in the use of customs import and export IT systems or submit proof of adequate experience in the use of the system;

(d) produce a cash deposit or bank guarantee for four hundred and sixty-six euro (€466) in favour of the Director General Customs, to be withdrawn by the customs authorities in case of loss of any duty or other taxes payable to the customs authorities, in declarations where that customs representative was involved; and

(e) present an original VAT certificate.

Authorisation.

59. Such authorisation under these regulations entitles the customs representative to lodge electronic and manual import and export declarations on behalf of another person or in his name, but does not empower the customs representative to load, or unload and carry goods inside or from customs areas.

Authorized economic operator.

60. A customs representative established in Malta who meets the criteria of an authorized economic operator may act as a customs representative in another Member State.

Persons who fail to state that they are acting as a customs representative or who are not empowered to act as a customs representative.

61. (1) Persons who fail to state that they are acting as a customs representative or who state that they are acting as a customs representative without being empowered to do so shall be deemed to be acting in their own name and on their own behalf.

(2) Article 79 of the Ordinance shall be applicable to this Part of these regulations with regard to the offences and punishments therein provided.

Owner of any cargo may lodge customs declarations personally.

62. Nothing in these regulations shall preclude the owner of any cargo to lodge customs declarations personally."

Adds new Forms in the Fourth Schedule.

3. Immediately after Form 12 in the Fourth Schedule to the principal regulations, there shall be added the following new forms:

"Form 13
(Part XI)

Application for authorisation to act as customs representative



Customs
Electronic
System

Application to act as a Customs Representative

REPRESENTATIVE DETAILS

EORI / VAT NUMBER: _____

NAME OF REPRESENTATIVE: _____

ADDRESS: _____

_____ POST CODE: _____

Tel: _____ FAX: _____

E-mail _____

Do you have any experience in customs IT Systems? Yes No

Have you attended any courses on import/export procedures? Yes No

Are you aware of the Community Customs Code obligations with regards to representation on behalf of third parties? Yes No

Would you require more than one user login name? Yes No

Authorisation to act as a customs representative does not entitle you to load/unload goods in a customs controlled area on behalf of third parties.

USER DETAILS

FOR OFFICIAL USE

User Name

User 1

Name & Surname: _____

ID Card No: _____ Sign.: _____

User 2

Name & Surname: _____

ID Card No: _____ Sign.: _____

Signature..... Date.....

Form 14
(Part XI)

Power of attorney to act as a Customs Declarant or Representative

I (i)

Having authority to sign on behalf of

A (name) (EORI/VAT) (ii)

Hereby appoint

Company/person (EORI/VAT)
(iii)

To act on behalf of firm named at A above in the capacity of a **Direct Representative** in accordance with article 5 of Council Regulation (EEC) No 2913/92 and article 18 of Council Regulation (EU) No 952/2013.

To act on behalf of firm named at A above in the capacity of an **Indirect Representative** in accordance with article 5 of Council Regulation (EEC) No 2913/92 and article 18 of Council Regulation (EU) No 952/2013.

Select both or one of these options.

This appointment applies with effect from the date of signature until revoked by the firm named above.

Note:

In accordance with the current Customs Code and future Union Customs Code, a **Direct Representative** acts in the name of and on behalf of another person. In relation to import/export declarations, the importer/exporter will be liable for any customs debt arising from the declaration.

The **Indirect Representative** acts in his or her name but on behalf of another person. In relation to import/export declarations, the representative and the importer/exporter will be jointly liable for any customs debt arising from the declaration.

Signed: ID No

Position:

Date:

(i) Name of person signing. He / she must have authority to sign on behalf of importer/exporter

(ii) Legal name & EORI/VAT number of importer or exporter

(iii) Legal name & EORI/VAT number of representative or agent".

