

SECOND SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 0000 of 00 January, 2000

LEGAL NOTICE No. 5 OF 1987.

IMPORTS AND EXPORTS ACT, 1986.

TEMPORARY IMPORTATION REGULATIONS, 1987

Regulations made by the Governor in exercise of the powers conferred upon him by section 129 of the Imports and Exports Act 1986 and of all other enabling powers.

Title and commencement.

1.(1) These regulations may be cited as the Temporary Importation Regulations 1987.

(2) These regulations shall be deemed to have come into operation on the 1st day of January, 1987.

PART I. IMPORTATION OF VEHICLES BY TEMPORARY VISITORS.

Preliminary

Interpretation of Part I.

2. In this Part-

"business use" means any use, other than private use or excluded use, in the course of an activity carried on for consideration or financial gain;

"excluded use" means use of a vehicle for the conveyance of passengers for hire or reward between two points within Gibraltar, or the industrial or commercial transportation of goods between two such points, provided that the transportation by a sales representative of the samples, handbooks and tools necessary for the exercise of his occupation shall not be treated as an excluded use;

"private use" means any use other than business use or excluded use;

"temporary visitor" means a person normally resident outside Gibraltar who, at the time of his entry into Gibraltar, intends to remain temporarily without becoming normally resident there;

"vehicle"-

- (a) includes the component parts, normal accessories and equipment imported with it and the lubricants and fuel contained in the standard tanks fitted by the manufacturer to a vehicle of that type;
- (b) does not include any vehicle which by its type of construction or equipment is designed for and capable of transporting more than nine persons including the driver, or goods, or any special purpose vehicle or mobile workshop.

Calculation of temporary importation period.

3.(1) Subject to the provisions of this regulation, for the purposes of these regulations "temporary importation period", in relation to goods imported by a temporary visitor, means the period which begins when the goods are imported into Gibraltar and ends either-

- (a) on the date of his departure therefrom; or
- (b) on such date as, in the twelve months immediately preceding his departure, he has had the goods in Gibraltar for a period of, or periods together amounting to, six months,

whichever is the earlier date.

(2) The Collector may extend the temporary importation period subject to such conditions as he may think fit, where he is satisfied, on application by the temporary visitor to whom relief was afforded, that reasonable grounds for such extension exist.

Conditions of exemption.

Exemption to be conditioned upon fulfillment of intention.

4. Where exemption from payment of duty is allowed under this Part subject to a specified intention on the part of a person in relation to the duration of his visit to Gibraltar or his departure therefrom, or the use or subsequent

exportation of the goods in respect of which exemption is allowed, it shall be a condition of the exemption that such intention be fulfilled.

Restriction of disposal etc.

5. Where exemption from payment of duty is allowed under this Part, it shall be a condition of the exemption that the goods are not lent, hired out or otherwise disposed of while they are in Gibraltar.

Effect of non-compliance.

6. Where exemption from payment of duty has been allowed under this Part and subsequently the Collector is not satisfied that any condition subject to which such exemption was allowed has been complied with, then, unless the Collector sanctions the noncompliance, the duty shall become payable forthwith by the person to whom the exemption was allowed (except to the extent that the Collector may see fit to waive payment of the whole or any part thereof) and the goods shall be liable to forfeiture.

Exemption for vehicles imported by temporary visitors.

Exemption for vehicles for private use.

7.(1) Subject to the provisions of regulations 4, 5 and 6, and of this regulation, a person entering Gibraltar shall not be required to pay import duty chargeable on the importation of any vehicle on condition that-

- (a) he is a temporary visitor;
- (b) the vehicle is intended solely for his private use;
- (c) the vehicle is intended to be exported from Gibraltar within the temporary importation period.

(2) Notwithstanding sub-regulation (1) and regulation 5, where exemption is allowed in respect of any vehicle the subject of a hire contract which ends before the expiry of the temporary importation period, the Collector may authorize a re-hiring of the vehicle with a view to its exportation within five days, and its non-reimportation into Gibraltar.

Exemption for workers crossing frontier.

8. Subject to the provisions of regulations 4, 5 and 6 and of regulation 10, a person entering Gibraltar across the land frontier with the Kingdom of Spain shall not be required to pay import duty chargeable on the importation of any vehicle on condition that-

- (a) he is a temporary visitor normally resident in the Kingdom of Spain whose occupation requires him to travel regularly between his home and place of work situated in Gibraltar;
- (b) the vehicle is intended for the outward and return journeys between his home and his place of work and is not intended for any excluded use; and
- (c) the vehicle is intended to be exported from Gibraltar on his departure therefrom, unless in any particular case the Collector otherwise allows.

Exclusion of vehicles obtained duty or tax free abroad.

9. A person shall not be entitled to exemption under regulation 8 unless the vehicle has borne, in its country of origin or exportation, the customs or other duties and taxes to which vehicles of that class or description are normally liable, and have not, by reason of their exportation, been subject to any exemption from, or refund of, such duties and taxes as aforesaid, or any turnover tax, excise duty or other consumption tax.

**PART II. IMPORTATION OF MOTOR VEHICLES BY MEMBERS
OF HER MAJESTY'S FORCES AND PERSONS SERVING UNDER
TECHNICAL CO-OPERATION AGREEMENTS**

Interpretation of Part II.

10. In this Part-

"motor vehicle" includes motor cycle.

Conditions for delivery of vehicles without payment of duty.

11.(1) If a person imports a motor vehicle into Gibraltar and satisfies the Collector-

- (a) that he or she is a member of one of Her Majesty's forces or the spouse of such a member; or
- (b) that he or she is an officer serving in Gibraltar under a technical co-operation agreement or the spouse of such an officer; and
- (c) that at the date of the importer's first arrival in Gibraltar the vehicle has been his or her property for a period of not less than six months preceding such date:

Provided that the Collector may, if he is satisfied that the vehicle has been driven for at least 2,500 miles whilst in the ownership of such person, reduce such period of six months to a period of not less than three months; and

- (d) that neither the importer nor his or her spouse owns any other motor vehicle in Gibraltar which has been imported under the provisions of this Part and on which duty has not been paid; and
- (e) that the following provisions of this Part and such other conditions as may be imposed by the Collector are and will be complied with,

the vehicle may be delivered without payment of import duty, and duty shall not be payable so long as the Collector continues to be so satisfied.

(2) In this regulation, and in regulation 15, "member of one of Her Majesty's forces" means a serving and uniformed member of one of Her Majesty's forces posted from overseas for service in Gibraltar.

Examination of vehicle and security for duty.

12. The importer shall, at the time of importation-

- (a) produce the motor vehicle to a customs officer for examination;
- (b) deposit, in accordance with the officer's directions, such sum of money or other security as the officer may require to secure the duty and compliance with these regulations; and

- (c) give such additional information relating to the vehicle, the circumstances of its importation and its intended use as the officer may require.

Restrictions on use of vehicle.

13. While in Gibraltar, the motor vehicle-

- (a) shall not be used for any industrial or commercial purpose, either with or without remuneration; and
- (b) save as the Collector may allow-
 - (i) shall be operated and used only by the importer or by some other person accompanying him or her or expressly authorized in writing by him or her to operate and use the vehicle;
 - (ii) shall not be operated or used by, or in the service of, any other person.

Restrictions on disposal of vehicles.

14.(1) While in Gibraltar the motor vehicle shall not, save with the prior consent in writing of the Collector, who may, in his absolute discretion, give or refuse such consent and attach such conditions as he may think fit to any such consent given; be lent, sold, pledged; hired, given away or otherwise disposed of.

(2) Where the Collector gives his consent under sub-regulation (1), he may require that import duty be forthwith paid on the motor vehicle and the duty shall be assessed on the value of the vehicle at the time when consent is given.

(3) Where a motor vehicle is disposed of without the consent of the Collector and contrary to these regulations, import duty shall forthwith become payable by the importer, and the duty shall be assessed on the value of the vehicle at the time when it was first imported into Gibraltar.

Requirement of re-exportation.

15.(1) A motor vehicle delivered without payment of duty under regulation 11 shall be re-exported from Gibraltar-

- (a) before the expiration of three years from the date of importation; or
- (b) if the importer is a member of one of Her Majesty's forces, on his or her being posted to duty elsewhere than in Gibraltar; or
- (c) if the importer is the spouse of a member of one of Her Majesty's forces on the member being posted to duty elsewhere than in Gibraltar; or
- (d) on the importer or the spouse of the importer, as the case may be, ceasing to be an officer serving in Gibraltar under a technical co-operation agreement,

whichever is the earlier, or within such further period as the Collector may in special circumstances allow.

(2) Sub-regulation (1) shall not apply where the vehicle has been disposed of, with the consent of the Collector given under regulation 14.

Procedure on re-exportation.

16. When a motor vehicle is re-exported; the importer shall-

- (a) produce the vehicle and the relevant import documents to the customs officer for examination; and
- (b) give such additional information and make such declaration relating to the vehicle and the circumstances of its use in Gibraltar as the officer may require.

PART III. IMPORTATION OF SMALL SHIPS.

Meaning of "small ship".

17. In this Part, "small ship" means a ship of less than 80 gross tons.

Conditions for importation without payment of duty.

18. If any small ship is imported into Gibraltar and the importer satisfies the Collector that-

- (a) he is not normally resident in Gibraltar;
- (b) he has complied with the provisions of regulation 19; and
- (c) the provisions of regulation 20, including such conditions as the Collector may impose, will be complied with,

the ship may be imported without payment of duty, and duty shall not be payable so long as the Collector continues to be so satisfied.

Examination of ship and security for duty.

19. The importer shall, at the time of importation-

- (a) produce the ship to a customs officer for examination;
- (b) if the Collector so requires, either-
 - (i) satisfy the officer that security for payment of the duty and for compliance with these regulations has been given; or
 - (ii) deposit, in accordance with the officer's directions, such sum of money or other security as the officer may require to secure the duty and compliance with these regulations; and
- (c) give such additional information relating to the ship, the circumstances of its importation and the intended use of it as the officer may require.

Restrictions on use and disposal of ships.

20. No person who has imported a small ship without payment of duty under regulation 18 shall, except with the prior consent in writing of the Collector, who may, in his absolute discretion, give or refuse such consent or attach such conditions as he may think fit to any such consent,-

- (a) permit the ship to be operated or used by any other person, other than a person not normally resident in Gibraltar

accompanying him or expressly authorized in writing by him to operate and use it;

- (b) use or permit the ship to be used for any industrial or commercial purpose, either with or without remuneration, or by or in the service of a company or firm the head office of which is in Gibraltar, or for the transport of persons or goods for remuneration; or
- (c) lend, sell, pledge; hire, give away or exchange or otherwise dispose of such ship.

Liability to duty.

21.(1) Where a small ship has been imported without payment of duty under regulation 18, the importer shall become liable to pay import duty on it if-

- (a) he becomes normally resident in Gibraltar; or
- (b) there is a breach of the provisions of regulation 20 or of any condition imposed by the Collector under that regulation.

(2) Where duty becomes payable under the provisions of subregulation (1), it shall be assessed upon the value of the ship at the time of importation.

(3) Notwithstanding anything contained in sub-regulation (1), the Collector may, in his absolute discretion, waive the whole or any part of the duty which becomes payable under this regulation.

Dated this 2nd day of January, 1987.

By Command,
J. K. E. BROADLEY,
Deputy Governor.