



# Government of South Georgia & the South Sandwich Islands

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## **Guide to the *Customs Ordinance***

### Introduction

The Customs Ordinance is legislation made by the Government of South Georgia & the South Sandwich Islands (the Government) which applies to the Territory of South Georgia & the South Sandwich Islands (The Territory). It sets out a framework to allow the Government to impose customs controls such as:

- imposing duties (taxes on the import, export, production, sale or supply of goods);
- making certain goods prohibited; and
- allowing the appointment of Customs Officers to enforce its customs rules.

Currently there are no customs duties or restrictions on goods that can be brought into, sold, supplied or taken out of the Territory. The Government does not currently plan to impose any duties or restrictions because the Territory does not have a resident population and has no domestic industry or commercial activity and does not import or export any significant volume of goods.

If the Government decides to introduce customs duties, or prohibit goods then under the framework of the Ordinance the Commissioner will make Customs Orders (secondary legislation) to do so.

Vessels that enter and leave the Territory will continue to declare certain information so that the Government is aware of what vessels have on them when they arrive and leave the Territory. The Commissioner has made a Customs Order to require this.

### Customs Officials

There will be a Collector of Customs. This person has responsibility for overseeing the administration of the customs system that the Government has put in place. The Commissioner appoints the Collector of Customs.

In practice the Collector of Customs will be the same person who is appointed to be the Financial Secretary for the Government who is usually also the Financial Secretary for the Falkland Islands Government.

The Commissioner also appoints the Customs Officers to carry out the functions set out in the Ordinance and any Customs Orders.

In practice the Government Officers based on South Georgia will be appointed as Customs Officers and carry out this role as they do now.

### Customs Controls

The Ordinance sets out a framework that the Commissioner can use to bring in customs controls if required. The controls that can be introduced are the imposition of customs duties on goods, and the prohibition of certain goods.

Customs duties, if introduced, can be applied to specific goods or classes of goods. The duties can be applied to the import, export, production, sale or supply of the goods specified. The Commissioner would specify the goods concerned and set the amount of any duties. To bring in custom duties the Commissioner must make an Order, which must be published.

The Commissioner also has the power to prohibit the import, export, production and sale of specified goods. If introduced the Commissioner would need to make an Order specifying the goods that are prohibited and the nature of the prohibition. Such an Order must be published.

### Enforcement

The Ordinance gives the Commissioner the power to make an Order to require persons entering or leaving the territory to make a declaration for customs purposes, and to make Orders about things that are needed in connection with the import, sale, supply, production or export of goods.

When the Commissioner made the Customs Ordinance he also made an Order that requires the person in control of a vessel to make a declaration when entering and leaving the Territory about what is on board that vessel, including cargo, people and fuel.

This system of requiring declarations was in place before the new Customs Ordinance was made. Fees to be charged for entry and exit declarations are set by the Commissioner and are published in the South Georgia and South Sandwich Islands Gazette. They are reviewed periodically.

The Commissioner may also make an Order giving Customs Officers the power to seize goods although there are currently no plans to introduce such an Order.

Customs Officers have the power to require a person to answer questions, make a declaration and provide information and documents. These powers can be exercised when a Customs Officer needs to ensure that a Customs Order is complied with, or they are investigating a breach of a Customs Order.

A Customs Officer may search a person or property if they suspect that goods will be found on which customs duties should have been paid, or which could be evidence of breach of a Customs Order. However a Customs Officer cannot carry out an intimate personal search unless the Commissioner makes regulations setting out when and how intimate searches can

be carried out. The Government has no current plans to ask the Commissioner to make such regulations.

A Customs Officer may arrest and detain a person if they have reasonable suspicion that that person has committed an offence under the Customs Ordinance. The Commissioner can make an order that sets out how long a person may be detained and the procedure to be followed.

### Offences

The Ordinance sets out four criminal offences. They are:

- failing to pay Customs duties with the intention of evading making payment;
- breaching a provision of a Customs Order;
- failing to comply with a requirement of a Customs Officer unless there is a reasonable excuse;
- obstructing a Custom Officer or failing to cooperate with a Customs Officer when they are exercising their duties as Customs Officers.

The maximum penalty that a court can impose if a person is guilty of one of the offences is a prison sentence of up to five years and a fine of up to £10,000.

The Commissioner can also bring in a system of civil penalties to deal with minor offences. The Commissioner would have to make an Order to do this and there are currently no plans to introduce civil penalties.

### Review and Appeal

A person who thinks that a decision made by a Customs Officer is wrong or unfair can ask the Collector of Customs to review that decision. If the person is unhappy with the decision of the Collector of Customs then they can appeal to the Supreme Court.