

Regulation (EC) No 1889/2005 of the European Parliament and of the Council  
of 26 October 2005 on controls of cash entering or leaving the Community

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EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 26 October 2005

on controls of cash entering or leaving the Community

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 95 and 135 thereof,

Having regard to the proposal from the Commission<sup>(1)</sup>,

After consulting the European Economic and Social Committee,

Acting in accordance with the procedure referred to in Article 251 of the Treaty<sup>(2)</sup>,

Whereas:

- (1) One of the Community's tasks is to promote harmonious, balanced and sustainable development of economic activities throughout the Community by establishing a common market and an economic and monetary union. To that end the internal market comprises an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured.
- (2) The introduction of the proceeds of illegal activities into the financial system and their investment after laundering are detrimental to sound and sustainable economic development. Accordingly, Council Directive 91/308/EEC of 10 June 1991 on prevention of the use of the financial system for the purpose of money laundering<sup>(3)</sup> introduced a Community mechanism to prevent money laundering by monitoring transactions through credit and financial institutions and certain types of professions. As there is a risk that the application of that mechanism will lead to an increase in cash movements for illicit purposes, Directive 91/308/EEC should be supplemented by a control system on cash entering or leaving the Community.
- (3) At present such control systems are applied by only a few Member States, acting under national legislation. The disparities in legislation are detrimental to the proper functioning of the internal market. The basic elements should therefore be harmonised at Community level to ensure an equivalent level of control on movements of cash crossing the borders of the Community. Such harmonisation should not, however, affect the possibility for Member States to apply, in accordance with the existing provisions of the Treaty, national controls on movements of cash within the Community.
- (4) Account should also be taken of complementary activities carried out in other international fora, in particular those of the Financial Action Task Force on Money Laundering (FATF), which was established by the G7 Summit held in Paris in 1989.

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Special Recommendation IX of 22 October 2004 of the FATF calls on governments to take measures to detect physical cash movements, including a declaration system or other disclosure obligation.

- (5) Accordingly, cash carried by any natural person entering or leaving the Community should be subject to the principle of obligatory declaration. This principle would enable the customs authorities to gather information on such cash movements and, where appropriate, transmit that information to other authorities. Customs authorities are present at the borders of the Community, where controls are most effective, and some have already built up practical experience in the matter. Use should be made of Council Regulation (EC) No 515/97 of 13 March 1997 on mutual assistance between the administrative authorities of the Member States and cooperation between the latter and the Commission to ensure the correct application of the law on customs and agricultural matters<sup>(4)</sup>. This mutual assistance should ensure both the correct application of cash controls and the transmission of information that might help to achieve the objectives of Directive 91/308/EEC.
- (6) In view of its preventive purpose and deterrent character, the obligation to declare should be fulfilled upon entering or leaving the Community. However, in order to focus the authorities' action on significant movements of cash, only those movements of EUR 10 000 or more should be subject to such an obligation. Also, it should be specified that the obligation to declare applies to the natural person carrying the cash, regardless of whether that person is the owner.
- (7) Use should be made of a common standard for the information to be provided. This will enable competent authorities to exchange information more easily.
- (8) It is desirable to establish the definitions needed for a uniform interpretation of this Regulation.
- (9) Information gathered under this Regulation by the competent authorities should be passed on to the authorities referred to in Article 6(1) of Directive 91/308/EEC.
- (10) Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data<sup>(5)</sup> and Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data<sup>(6)</sup> apply to the processing of personal data by the competent authorities of the Member States pursuant to this Regulation.
- (11) Where there are indications that the sums of cash are related to any illegal activity, associated with the movement of cash, as referred to in Directive 91/308/EEC, information gathered under this Regulation by the competent authorities may be passed on to competent authorities in other Member States and/or to the Commission. Similarly, provision should be made for certain information to be transmitted whenever there are indications of cash movements involving sums lower than the threshold laid down in this Regulation.

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- (12) Competent authorities should be vested with the powers needed to exercise effective control on movements of cash.
- (13) The powers of the competent authorities should be supplemented by an obligation on the Member States to lay down penalties. However, penalties should be imposed only for failure to make a declaration in accordance with this Regulation.
- (14) Since the objective of this Regulation cannot be sufficiently achieved by the Member States and can therefore, by reason of the transnational scale of money laundering in the internal market, be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.
- (15) This Regulation respects the fundamental rights and observes the principles recognised in Article 6(2) of the Treaty on European Union and reflected in the Charter of Fundamental Rights of the European Union, in particular in Article 8 thereof,

HAVE ADOPTED THIS REGULATION:

<sup>F1</sup>Article 1 **U.K.**

### Objective

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#### Textual Amendments

- F1** Art. 1 omitted (31.12.2020) by virtue of [The Cash Controls \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/712\)](#), regs. 1(1), **2(2)** (with reg. 1(2)); 2020 c. 1, Sch. 5 para. 1(1)

Article 2 **U.K.**

### Definitions

For the purposes of this Regulation:

- 1. [<sup>F2</sup>‘HMRC’ means Her Majesty’s Revenue and Customs;]
- 2. ‘cash’ means:
  - (a) bearer-negotiable instruments including monetary instruments in bearer form such as travellers cheques, negotiable instruments (including cheques, promissory notes and money orders) that are either in bearer form, endorsed without restriction, made out to a fictitious payee, or otherwise in such form that title thereto passes upon delivery and incomplete instruments (including cheques, promissory notes and money orders) signed, but with the payee's name omitted;
  - (b) currency (banknotes and coins that are in circulation as a medium of exchange).

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### Textual Amendments

- F2** Art. 2(1) substituted (31.12.2020) by [The Cash Controls \(Amendment\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/712), regs. 1(1), **2(3)** (with reg. 1(2)); 2020 c. 1, Sch. 5 para. 1(1)

## Article 3 **U.K.**

### Obligation to declare

[<sup>F31</sup> A person who enters or exits the United Kingdom and who is carrying a sum of cash to a value of £10,000 or more must make a declaration of that sum to HMRC in accordance with paragraphs 2 and 3. The obligation to declare shall not have been fulfilled if the information provided is incorrect or incomplete at the time of entry to, or exit from, the United Kingdom.]

- 2 The declaration referred to in paragraph 1 shall contain details of:
- a the declarant, including full name, date and place of birth and nationality;
  - b the owner of the cash;
  - c the intended recipient of the cash;
  - d the amount and nature of the cash;
  - e the provenance and intended use of the cash;
  - f the transport route;
  - g the means of transport.

[<sup>F43</sup> The declaration referred to in paragraph 1 must be made in such form or manner as HMRC specify by written notice which is made publicly available. Such notice may make different provision for different cases or different purposes.]

### Textual Amendments

- F3** Art. 3(1) substituted (31.12.2020) by [The Cash Controls \(Amendment\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/712), regs. 1(1), **2(4)(a)** (with reg. 1(2)); 2020 c. 1, Sch. 5 para. 1(1)
- F4** Art. 3(3) substituted (31.12.2020) by [The Cash Controls \(Amendment\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/712), regs. 1(1), **2(4)(b)** (with reg. 1(2)); 2020 c. 1, Sch. 5 para. 1(1)

## Article 4 **U.K.**

### Powers of the competent authorities

<sup>F51</sup> .....

[<sup>F62</sup> Where a person has failed to comply with Article 3, an officer of Revenue and Customs may detain cash which that person is found to be carrying. Cash may be detained until the time a decision has been made whether or not to impose a penalty under regulation 3(1) of the Control of Cash (Penalties) Regulations 2007. Where a penalty has been imposed, regulation 8 of those Regulations applies.]

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#### Textual Amendments

- F5** Art. 4(1) omitted (31.12.2020) by virtue of [The Cash Controls \(Amendment\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/712), regs. 1(1), **2(5)(a)** (with reg. 1(2)); 2020 c. 1, Sch. 5 para. 1(1)
- F6** Art. 4(2) substituted (31.12.2020) by [The Cash Controls \(Amendment\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/712), regs. 1(1), **2(5)(b)** (with reg. 1(2)); 2020 c. 1, Sch. 5 para. 1(1)

### Article 5 **U.K.**

#### Recording and processing of information

<sup>F7</sup>1

[<sup>F8</sup>2 Where, by virtue of the making of a declaration referred to in Article 3(1), an officer of Revenue and Customs has cause to believe that a person is carrying a sum of cash in relation to an illegal activity, the officer may disclose to the relevant customs or law enforcement authorities of another territory such information in relation to the person as the officer considers necessary for the detection or prevention of the illegal activity or to enable proceedings to be taken against any person in relation to the illegal activity.]

#### Textual Amendments

- F7** Art. 5(1) omitted (31.12.2020) by virtue of [The Cash Controls \(Amendment\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/712), regs. 1(1), **2(6)(a)** (with reg. 1(2)); 2020 c. 1, Sch. 5 para. 1(1)
- F8** Art. 5(2) substituted (31.12.2020) by [The Cash Controls \(Amendment\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/712), regs. 1(1), **2(6)(b)** (with reg. 1(2)); 2020 c. 1, Sch. 5 para. 1(1)

### <sup>F9</sup>Article 6 **U.K.**

#### Exchange of information

#### Textual Amendments

- F9** Arts. 6-11 omitted (31.12.2020) by virtue of [The Cash Controls \(Amendment\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/712), regs. 1(1), **2(7)** (with reg. 1(2)); 2020 c. 1, Sch. 5 para. 1(1)

### <sup>F9</sup>Article 7 **U.K.**

#### Exchange of information with third countries

#### Textual Amendments

- F9** Arts. 6-11 omitted (31.12.2020) by virtue of [The Cash Controls \(Amendment\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/712), regs. 1(1), **2(7)** (with reg. 1(2)); 2020 c. 1, Sch. 5 para. 1(1)

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<sup>F9</sup>Article 8 **U.K.**

**Duty of professional secrecy**

**Textual Amendments**

**F9** Arts. 6-11 omitted (31.12.2020) by virtue of [The Cash Controls \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/712\)](#), regs. 1(1), **2(7)** (with reg. 1(2)); 2020 c. 1, Sch. 5 para. 1(1)

<sup>F9</sup>Article 9 **U.K.**

**Penalties**

**Textual Amendments**

**F9** Arts. 6-11 omitted (31.12.2020) by virtue of [The Cash Controls \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/712\)](#), regs. 1(1), **2(7)** (with reg. 1(2)); 2020 c. 1, Sch. 5 para. 1(1)

<sup>F9</sup>Article 10 **U.K.**

**Evaluation**

**Textual Amendments**

**F9** Arts. 6-11 omitted (31.12.2020) by virtue of [The Cash Controls \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/712\)](#), regs. 1(1), **2(7)** (with reg. 1(2)); 2020 c. 1, Sch. 5 para. 1(1)

Article 11 **U.K.**

**Entry into force**

<sup>F9</sup>

It shall apply from 15 June 2007.

**Textual Amendments**

**F9** Arts. 6-11 omitted (31.12.2020) by virtue of [The Cash Controls \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/712\)](#), regs. 1(1), **2(7)** (with reg. 1(2)); 2020 c. 1, Sch. 5 para. 1(1)

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F10  
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Done at Strasbourg, 26 October 2005.

*For the European Parliament*

*The President*

J. BORRELL FONTELLES

*For the Council*

*The President*

D. ALEXANDER

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**Textual Amendments**

**F10** Words in [Signature](#) omitted (31.12.2020) by virtue of [The Cash Controls \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/712\)](#), regs. 1(1), **2(8)** (with reg. 1(2)); 2020 c. 1, Sch. 5 para. 1(1)

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- (1) [OJ C 227 E, 24.9.2002, p. 574.](#)
- (2) Opinion of the European Parliament of 15 May 2003 ([OJ C 67 E, 17.3.2004, p. 259](#)), Council Common Position of 17 February 2005 ([OJ C 144 E, 14.6.2005, p. 1](#)), Position of the European Parliament of 8 June 2005 and Council Decision of 12 July 2005.
- (3) [OJ L 166, 28.6.1991, p. 77.](#) Directive as amended by Directive 2001/97/EC of the European Parliament and of the Council ([OJ L 344, 28.12.2001, p. 76](#)).
- (4) [OJ L 82, 22.3.1997, p. 1.](#) Regulation as amended by Regulation (EC) No 807/2003 ([OJ L 122, 16.5.2003, p. 36](#)).
- (5) [OJ L 281, 23.11.1995, p. 31.](#) Directive as amended by Regulation (EC) No 1882/2003 ([OJ L 284, 31.10.2003, p. 1](#)).
- (6) [OJ L 8, 12.1.2001, p. 1.](#)



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