



STATUTORY INSTRUMENTS.

S.I. No. 281 of 2007

EUROPEAN COMMUNITIES (CONTROLS OF CASH ENTERING OR
LEAVING THE COMMUNITY) REGULATIONS 2007

(Prn. A7/1111)

EUROPEAN COMMUNITIES (CONTROLS OF CASH ENTERING OR LEAVING THE COMMUNITY) REGULATIONS 2007

I, BRIAN COWEN, 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 purposes of giving full effect to Regulation (EC) No. 1889/2005 of the European Parliament and of the Council of 26 October 2005¹, hereby make the following regulations—

1. (1) These Regulations may be cited as the European Communities (Controls of Cash Entering or Leaving the Community) Regulations 2007.

(2) These Regulations apply from 15 June 2007.

2. (1) In these Regulations “EC Regulation” means Regulation (EC) No. 1889/2005 of the European Parliament and of the Council of 26 October 2005¹.

(2) A word or expression that is used in these Regulations and which is also used in the EC Regulation has, unless the contrary intention appears, the same meaning in these Regulations that it has in the EC Regulation.

3. As provided for by Article 2 of the EC Regulation, the Revenue Commissioners, as the customs authority in the State, are the competent authority to apply the EC Regulation.

4. As provided for by Article 3 of the EC Regulation, any natural person entering or leaving the Community and carrying cash of a value of €10,000 or more is obliged to make a declaration to the competent authority and, for that purpose, the declaration shall be made in writing and be made to the Revenue Commissioners in the case of such person so entering or leaving the Community through the State.

5. (1) An officer of the Revenue Commissioners may seize and, in accordance with this Regulation, detain any cash worth not less than €10,000 that is being imported into or exported from the Community through the State in contravention of the EU Regulation and these Regulations.

(2) For the purposes of checking if a person has complied with the obligation to declare, on entering or leaving the Community, that he or she has possession of cash worth not less than €10,000, an officer of the Revenue Commissioners may do one or more of the following—

(a) question the person on so entering or leaving through the State for the purpose of establishing whether or not he or she has in his or her possession an amount of cash worth not less than €10,000;

¹OJ No. L309 of 25.11.2005, p.9

Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 15th June, 2007.

(b) search the person's baggage and means of transport.

(3) Where as a consequence of any response or lack of response to any question asked under paragraph (2)(a) or a search carried out under paragraph (2)(b), or both, an officer of the Revenue Commissioners has reasonable grounds for suspecting that the person—

(a) is importing or exporting from the Community in contravention of the EU Regulation and these Regulations, or

(b) intends or is about to so import or export in contravention of the EU Regulation and these Regulations,

an amount of cash worth not less than €10,000, then the officer may search the person or cause the person to be searched by another officer of the Revenue Commissioners.

(4) Cash seized by virtue of this Regulation shall not be detained for more than 48 hours under these Regulations.

(5) If at a time when any cash is being detained by virtue of these Regulations a judge of the District Court if satisfied, on an application made by an officer of the Revenue Commissioners that that cash could, on the basis of information available at the time of the detention or subsequently available, have been detained under section 38 of the Criminal Justice Act 1994, then the judge may make the order under subsection (2) of the said section 38 as if the cash had been seized and detained under that section, and the Criminal Justice Act 1994 shall have effect and apply accordingly to the cash.

6. (1) A person who fails to make a declaration as required by Article 3 of the EC Regulation commits an offence.

(2) A person who makes an incorrect or incomplete declaration for the purpose of the EC Regulation commits an offence.

(3) A person who commits an offence under these Regulations is liable, on summary conviction, to a fine not exceeding €5,000.

7. The Probation of Offenders Act 1907 does not apply to an offence under these Regulations.

8. These Regulations shall be construed together with the Customs Acts.



GIVEN under my Official Seal,
11 June 2007

BRIAN COWEN,
Minister for Finance.

EXPLANATORY NOTE

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

The purpose of these Regulations are to implement Regulation (EC) No. 1889/2005 of the European Parliament and of the Council of 26 October 2005 and the measures to be taken when a person entering or leaving the Community and carrying cash of a value of €10,000 or more fails to make a declaration to Customs or makes an incorrect or incomplete declaration.

These Regulations specify that the Revenue Commissioners, as the customs authority in the State, are the competent authority for the control of cash entering or leaving the Community. They also create offences and provide for related penalties and enforcement powers.

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