

CUSTOMS CONTROLLED AREA REGULATIONS

INTERPRETATION

1. In these Regulations,

“Act” means the *Customs Act*;

“Agency” means the Canada Border Services Agency;

“customs controlled area” means an area designated by the Minister for purposes of subsection 11.2(1) of the Act;

“restricted area pass” means a document issued by or under the authority of the owner or operator of a facility in which a customs controlled area is located, that entitles the holder to have access to a specific restricted area during a specified period.

AUTHORIZED PERSONS

[11.3(a), 11.5(a)]

2. (1) Subject to subsection (2), the Minister may authorize persons within the following classes of persons to be granted ongoing access to a customs controlled area:

(a). any person who

(i) where receipt of a security clearance from the Minister of Transport is a condition of employment in the customs controlled area, has received such a clearance, and

(ii) where receipt of a restricted access pass from the owner or operator of a facility in which a customs controlled area is located is a condition of employment in such an area, holds such a pass and displays the pass on their outer clothing when they enter the customs controlled area;

(b). any person who is a licensee for the purposes of the *Customs Sufferance Warehouse Regulations* or the *Duty Free Shop Regulations* made under the Act, or the *Customs Bonded Warehouse Regulations* made under the *Customs Tariff*; and

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(c) any person who is employed by a licensee described in paragraph (b), provided that prior to the time at which the Minister intends to authorize the person, the licensee has provided the Minister with the following documentation concerning the person:

(i) the person's name,

(ii) the person's date of birth, and

(iii) a copy of an identification document issued to the person by a federal or provincial government agency containing a photograph of the person.

(2) The Minister may authorize the persons described in subsection (1) to be given access to a customs controlled area during those hours when the person is required to enter the area for a purpose related to their employment or for a purpose related to

(a) a determination as to the admissibility of a person into Canada;

(b) the release of imported goods; or

(c) the exportation of goods.

ISSUANCE, AMENDMENT, SUSPENSION, CANCELLATION OR REINSTATEMENT OF AUTHORIZATION
[11.5(a), (c)]

3. (1) For purposes of these regulations, the Minister may give notice that a person or class of persons has been authorized for purposes of section 11.3 of the Act by giving written notice of such authorization to the owner or operator of the facility where the customs controlled area is located.

(2) An authorization given by the Minister shall be effective for the period set out in the notice described in subsection (1).

4. (1) The Minister may amend the authorization in respect of a person to

(a) change the name of the authorized person; or

(b) change the period for which the authorization is effective.

(2) The Minister may suspend or cancel the authorization of a person if the person

(a) no longer meets the requirements set out in section 2 to be an authorized person;

- (b) has contravened the Act, the *Customs Tariff*, the *Export and Import Permits Act*, the *Immigration and Refugee Protection Act*, the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* or the *Special Import Measures Act*, or any regulations made under any of those Acts; or
- (c) has provided, for the purposes of obtaining the authorization, information that was not true, accurate or complete.
- (3) The Minister shall, without undue delay, give written notice of the amendment, cancellation or suspension of an authorization to the person to whom notice of the authorization was provided under section 3.
- (4) A person whose authorization has been suspended or cancelled may request a review of a decision to suspend or cancel his or her authorization by sending written notice of their request to the Minister within 30 days after the day on which the cancellation or suspension became effective.

PRESCRIBED PERSONS WHO MAY ACCESS A CUSTOMS CONTROLLED AREA
[11.3(b), 11.5(b)]

5. (1) The following persons or class of persons may, unless section 2 applies, be granted access to a customs controlled area in any of the circumstances described in subsection (2), without having been authorized by the Minister:
- (a) any person who intends to leave Canada and who enters a customs controlled area prior to boarding a conveyance about to leave Canada;
 - (b) any other person who has arrived in Canada or who is departing from Canada and who enters a customs controlled area for purposes of meeting the requirements imposed under any federal statute that controls the importation or exportation of goods or the movement of people into or out of Canada;
 - (c) an official of the Agency, Department of Citizenship and Immigration Canada; the Canadian Food Inspection Agency or the Department of Health Canada with responsibility for the administration or enforcement of legislation that controls, regulates or prohibits the importation or exportation of goods or the movement of people into or out of Canada;
 - (d) a preclearance officer within the meaning of section 2 of the *Preclearance Act*;
 - (e) a peace officer within the meaning of paragraph (c) of the definition of “peace officer” in section 2 of the *Criminal Code*;
 - (f) an official of Transport Canada, NAVCAN or the Canadian Transportation Agency; or

(g) any other person who requires access to the area for any purpose related to the health or safety of an individual or for a purpose described in subsection (2).

(2) The persons described in any of paragraphs 1(c) to (g) may be granted access to a customs controlled area during those hours when the person is required to enter such an area

(a) for a purpose related to that person's employment; or

(b) for a purpose related to:

(i) a determination as to the admissibility of a person into Canada,

(ii) the release of imported goods, or

(iii) the exportation of goods.

PRESCRIBED MANNER OF PRESENTATION

[11.4(1)(a), 11.5(d)]

6. Any person who enters a customs controlled area for the purpose of boarding a conveyance about to leave Canada but who leaves the area for another purpose must present themselves to a customs officer immediately on leaving the area.

PRESCRIBED PERSONS NOT REQUIRED TO PRESENT THEMSELVES

[11.4(2)(b)]

7. Any person who enters a customs controlled area for any purpose, other than that described in section 6, is not required to present themselves to a customs officer unless requested to do so by an officer for a purpose related to the administration or enforcement of the Act, the *Customs Tariff*, the *Export and Import Permits Act*, the *Immigration and Refugee Protection Act*, the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* or the *Special Import Measures Act*, or any regulations made under any of those Acts.

PRESCRIBED MANNER OF REPORTING GOODS

[11.4(1)(b), 11.5(d)]

8. Any person who is required to present themselves to a customs officer in the circumstances described in either of sections 6 or 7, shall, where requested by an officer, verbally report and make available for inspection any goods which were acquired by any means while the person was in the customs controlled area and which are being removed from the area.

PRESCRIBED PERSONS WHO MAY BE SEARCHED
[99.2(2), 99.4(a)]

9. An officer may, for purposes of section 99.2 of the Act and in accordance with section 10, search any person described in subsection 2(1) or any of paragraphs 5(1)(c) to (g).

PRESCRIBED MANNER, TYPE AND CIRCUMSTANCES OF SEARCH
[99.2(2), 99.4(b)]

10. (1) In this section,

- (a) “frisk search” means a search carried out from head to foot, down the sides, front and rear of the body, around the legs and inside clothing folds, pockets and footwear; and
- (b) “strip search” means a visual inspection of the person by an officer, in the course of which inspection the person being searched shall undress completely in front of the officer and may be required to open the person's mouth, display the soles of their feet, run their fingers through their hair, present open hands and arms, bend over or otherwise enable the staff member to perform the visual inspection.

(2) An officer may conduct a frisk search of any person described in subsection 2(1) or any of paragraphs 5(1)(c) to (g), where the officer has reasonable grounds to suspect that the person has secreted on or about his or her person,

- (a) anything in respect of which the Act, the *Customs Tariff*, the *Export and Import Permits Act*, the *Immigration and Refugee Protection Act*, the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* or the *Special Import Measures Act* has or might be contravened;
- (b) any goods the importation or exportation of which is prohibited, controlled or regulated under the *Customs Act* or any other Act of Parliament or any regulations made under any of those Acts; or
- (c) anything that would afford evidence with respect to a contravention of an act described in paragraph (a) or (b).

(3) For purposes of carrying out a frisk search under subsection (2), the officer may request the person to remove outer articles of clothing prior to conducting the search.

(4) An officer may conduct a strip search of any person described in subsection 2(1) or any of paragraphs 5(1)(c) to (g), where the officer has reasonable grounds to believe that the person has secreted on or about his or her person, any goods described in subsection (2).

(5) A strip search under subsection (4) shall be conducted by an officer of the same sex as the person to be searched and if there is no officer of the same sex at the place at which the search is to take place, an officer may authorize any suitable person of the same sex to perform the search.

(6) A frisk search described in subsection (2) shall be carried out in a private area, and a strip search described in subsection (4) shall be carried out in a private room, and the officer about to undertake the search is authorized to move the person to such an area or room for purposes of conducting the search.

(7) An officer who is about to search a person under this section shall, on the request of that person, forthwith take him before the senior officer at the place where the search is to take place.

(8) A senior officer before whom a person is taken pursuant to subsection (7) shall, if they see no reasonable grounds for the search, discharge the person or if they believe otherwise, direct that the person be searched.

NON-INTRUSIVE EXAMINATION OF GOODS

[99.3(1), 99.4(c)]

11. (1) Subject to subsection (2), an officer may, in accordance with subsection 99.3(1) of the Act, examine any goods in the possession of a person who is about to leave a customs controlled area, by employing

(a) any technical aid to contraband detection that does not require any baggage, package or container to be physically opened in order to be examined; or

(b) a dog, provided that the baggage, package or container is removed from the person before the examination.

(2) Subsection (1) does not apply to goods in the possession of a person who is required to present themselves under section 11 of the Act or report goods under section 12 of the Act.