

Subsidiary Legislation made under s.13.

**TGEU Implementation (Protocol on Mutual
Administrative Assistance in Customs Matters)
Regulations 2026**

LN.2026/189

Commencement **15.7.2026**

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In exercise of the powers conferred on the Government by section 13 of the Treaty on Gibraltar and European Union Act 2026, and all other enabling powers, and for the purposes of implementing the Protocol on Mutual Administrative Assistance in Customs Matters to the Agreement in respect of Gibraltar entered into between the European Union and the European Atomic Energy Community of the one part and the United Kingdom of Great Britain and Northern Ireland of the other part, and for connected purposes, the Government has made these Regulations-

Title.

1. These Regulations may be cited as the TGEU Implementation (Protocol on Mutual Administrative Assistance in Customs Matters) Regulations 2026.

Commencement.

2. These Regulations come into operation on the Implementation Date.

Interpretation.

3. In these Regulations, unless otherwise stated below, expressions used have the same meaning as the Treaty on Gibraltar and the European Union Act 2026 including, in particular, those in Part 6 (Arrangements on customs, indirect taxation and trade related issues) and the corresponding Protocols—

“the Act” means the Treaty on Gibraltar and the European Union Act 2026;

“administrative authority” means the authority of a Member State that has the competence under its domestic law in relation to matters contained in the Protocol;

“applicant authority” means the administrative authority in a Member State requesting administrative assistance under the Protocol and notified by that Member State as competent for that purpose;

“Article” means a numbered Article of the Protocol;

“Competent Authority” means the authority designated under regulation 5;

“customs legislation” for Gibraltar and Member States, means any laws and regulations applying in the territory of either party concerning the importation, exportation, and transit or circulation of goods, and their placing under any customs regime or

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procedure, including measures of prohibitions, restrictions, and other similar controls respecting the movement of goods;

“information” means any data, document, image, report, communication or authenticated copy, in any format, including electronic, whether or not processed or analysed;

“Member State” has the same meaning as in section 3(3) of the Act;

“operation in breach of customs legislation” means any violation or attempted violation of customs legislation;

“Protocol” means the Protocol on Mutual Administrative Assistance in Customs Matters to the TGEU;

“requested authority” means an administrative authority in a Member State receiving a request for assistance under the Protocol, and notified by that Member State as competent for that purpose;

“request” means a request for assistance under the Protocol; and

“the Treaty on Gibraltar and the European Union” (or “TGEU”) has the meaning given by section 5 of the Treaty on Gibraltar and the European Union Act 2026.

Scope of these Regulations.

4.(1) These Regulations implement the Protocol and make provision for assistance between Gibraltar and Member States, under the conditions laid down in the Protocol, to ensure the correct application of customs legislation, in particular by preventing, investigating and combating operations in breach of customs legislation in accordance with Article PCUST.2(1).

(2) These Regulations are without prejudice to-

- (a) other mutual legal assistance provisions in criminal matters under Gibraltar law; and
- (b) information obtained under powers exercised at the request of a judicial authority, except where communication of such information is authorised by that authority.

(3) Where information has been obtained by the Competent Authority pursuant to an order from a court, that information must not be communicated to the applicant authority under these

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Regulations unless the court concerned has consented to such communication, and subject to any conditions imposed by the court.

Competent Authority.

5.(1) HM Customs Gibraltar is designated as the Competent Authority for the purposes of these Regulations.

(2) The Competent Authority shall perform the functions assigned to it or the duties conferred upon it under these Regulations.

Transmission of requests and communications.

6. For the purposes of these Regulations, any communication or request must be in accordance with the requirements referred to in section 113(8) of the Act.

Assistance on request.

7.(1) This regulation implements Article PCUST.3.

(2) The Competent Authority shall, upon the request of an applicant authority, provide all relevant information relating to the proper application and enforcement of customs legislation, including information relating to activities which have been undertaken, are being undertaken, or are planned, where those activities constitute or may constitute an operation in breach of customs legislation.

(3) Without prejudice to the generality of subregulation (2), the Competent Authority shall, upon request, provide information as to whether-

- (a) goods exported from a Member State have been properly imported into Gibraltar, specifying, where appropriate, the customs procedure applied to the goods; or
- (b) goods imported into the Member State have been properly exported from Gibraltar, specifying, where appropriate, the customs procedure applied to the goods.

(4) Upon a request by the applicant authority and subject to subregulation (5), the Competent Authority shall in accordance with these Regulations and any other applicable laws, undertake special surveillance, and provide information concerning-

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- (a) any person in respect of whom there are reasonable grounds for believing that the person is, has been or may be involved in an operation in breach of customs legislation;
 - (b) any goods which are being, have been or may be transported in circumstances giving reasonable grounds to believe that they have been or are intended to be used in connection with an operation in breach of customs legislation;
 - (c) any place where goods are stored, assembled or otherwise kept in circumstances giving reasonable grounds to believe that those goods have been or are intended to be used in connection with an operation in breach of customs legislation;
 - (d) any means of transport in respect of which there are reasonable grounds to believe that it is being or may be used in connection with an operation in breach of customs legislation; and
 - (e) any premises suspected by the applicant authority of being used for the commission of an operation in breach of customs legislation.
- (5) For the purposes of this regulation, the Competent Authority may undertake or cause to be undertaken any special surveillance of any person, goods, place, means of transport, premises or activity referred to in subregulation (4), insofar as such surveillance is authorised under the laws of Gibraltar.
- (6) The Competent Authority may send a request to a requested authority in accordance with Article PCUST.3.

Spontaneous exchange.

8.(1) This regulation implements Article PCUST.4.

(2) The Competent Authority shall spontaneously exchange with any Member State or administrative authority information relating to activities which have been concluded, are being undertaken, or are planned, where those activities constitute, or appear to constitute, an operation in breach of customs legislation and may be of interest to that Member State or administrative authority.

(3) Without limiting subregulation (2), information shall be provided in relation to-

- (a) goods known or reasonably suspected to be the subject of an operation in breach of customs legislation;

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- (b) persons in respect of whom there are reasonable grounds to believe they are or have been, or may be involved in an operation in breach of customs legislation;
- (c) means of transport in respect of which there are reasonable grounds to believe that they have been, are being, or may be used in connection with an operation in breach of customs legislation; and
- (d) new methods, techniques, practices, schemes or means employed in, or suspected of being employed in, the commission of an operation in breach of customs legislation.

(4) The Competent Authority may receive from a Member State the information referred to in Article PCUST.4.

Form and substance of requests for assistance.

9.(1) This regulation implements Article PCUST.5.

(2) A request under these Regulations must be made in writing or, where possible, by any means of communication (which includes in electronic form) capable of producing a written record, and must be accompanied by any documents or information reasonably necessary to enable the request to be complied with.

(3) Notwithstanding subregulation (2), where-

- (a) the matter is urgent; and
- (b) the Competent Authority agrees,

a request may be made in oral form, and if made orally, must be confirmed in writing by the applicant authority as soon as possible.

(4) The Competent Authority may refuse to execute a request under Article PCUST.5 unless it contains the following information-

- (a) the name and contact details of the applicant authority and the identity of the requesting officer;
- (b) a description of the information sought or the assistance requested;

- (c) the purpose of and the reasons for the request;
- (d) particulars of the laws and regulations, or other legal provisions relevant to the request;
- (e) particulars or specific information identifying the goods or persons to whom the request relates;
- (f) a summary of the relevant facts and any enquiries or investigations already undertaken; and
- (g) any other information reasonably required to enable the Competent Authority to comply with the request.

Language of requests.

10.(1) This regulation implements Article PCUST.5.

(2) Requests may only be accepted by the Competent Authority when they are in the English language, and English shall be deemed to be an acceptable language for the purposes of a request under these Regulations.

(3) Subregulation (2) does not apply to documents accompanying a request, but the Competent Authority may accept a translation into English from an applicant authority.

Defective requests.

11.(1) This regulation implements Article PCUST.5.

(2) Where the request does not comply with the requirements under these Regulations, the Competent Authority shall request that the applicant authority amend, supplement or complete the request before taking any further action.

(3) Pending receipt of the amendments, additions or completion of the request, the Competent Authority may take such precautionary measures in relation to the request as it considers necessary in the circumstances.

Execution of requests.

12.(1) This regulation implements Article PCUST.6.

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(2) Upon receipt of a request, the Competent Authority must take such steps as are reasonably necessary to give effect to the request in the same manner as it would do for a domestic case, and must give consideration to any urgency identified by the applicant authority in the request.

(3) For the purposes of subregulation (2), the Competent Authority shall-

- (a) provide information already in its possession or control ;
- (b) conduct such enquiries or investigations as it considers appropriate; or
- (c) arrange for such enquiries or investigations to be conducted by any authority or person having jurisdiction in the matter.

(4) The request shall be executed in accordance with these Regulations and any other applicable law.

Form in which information is to be communicated.

13.(1) This regulation implements Article PCUST.7.

(2) Where a request for assistance has been executed under these Regulations, the Competent Authority shall communicate the results of any enquiries or investigations to the applicant authority in writing.

(3) Information communicated under subregulation (2) may be accompanied by-

- (a) relevant documents;
- (b) certified copies of documents; or
- (c) any other records, materials or items relevant to the request.

(4) Information or documents provided by the Competent Authority under this regulation may be transmitted by electronic means.

(5) Where circumstances require, the Competent Authority may communicate results of enquiries orally, provided that a written record of the information communicated is supplied to the applicant authority as soon as reasonably practicable.

(6) Original documents shall be transmitted by the Competent Authority only –

- (a) at the request of the applicant authority; and
- (b) where certified copies would not be sufficient for the purpose for which they are required,

and subject to any restriction or condition imposed by the Competent Authority.

(7) The Competent Authority must provide to the applicant authority any information related to the authenticity of the documents issued or certified by official agencies within Gibraltar in support of a goods declaration.

Verification of authenticity.

14.(1) This regulation implements Article PCUST.7.

(2) The Competent Authority may provide to the applicant authority any information available to the Competent Authority concerning the authenticity of—

- (a) documents issued by a public authority in Gibraltar; or
- (b) documents certified by a public authority in Gibraltar,

where such documents have been produced in support of a customs declaration or customs procedure.

Presence of officials of one party in the territory of another.

15.(1) This regulation implements Article PCUST.8.

(2) The Competent Authority may permit duly authorised officials of a Member State to be present at the offices of HM Customs or any other authority involved in the execution of a request, for the purpose of obtaining information relating to activities which constitute, or may constitute, operations in breach of customs legislation.

(3) Permission under subregulation (2) shall be granted only-

- (a) with the prior approval of the Competent Authority;
- (b) subject to such conditions as the Competent Authority considers appropriate; and
- (c) to the extent permitted by Gibraltar law.

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(4) Duly authorised officials of a Member State may, with the approval of the Competent Authority and subject to such conditions as may be imposed, be present during enquiries carried out in Gibraltar pursuant to a request.

(5) The Competent Authority may at any time vary, suspend or withdraw permission granted under this regulation where it is necessary to do so in the public interest, for the protection of confidential information, or for the proper administration of customs legislation.

Delivery and notification.

16.(1) This regulation implements Article PCUST.9.

(2) The Competent Authority must upon the request of an applicant authority take all necessary measures in accordance with any applicable laws to-

- (a) deliver any documents; or
- (b) notify any decisions issued by the applicant authority,

that fall within the scope of the Protocol to any person residing, carrying on business or established in Gibraltar.

(3) A request for the delivery of a document or notification of a decision shall be made in writing.

(4) A request under subregulation (2) shall be submitted in English.

Automatic exchange of information.

17.(1) This regulation implements Article PCUST.10.

(2) The Competent Authority may, by mutual arrangement with a Member State, and in accordance with Article PCUST.15(1), enter into arrangements with the Member State for -

- (a) the automatic exchange of information falling within the scope of the Protocol; and
- (b) the exchange, prior to the arrival of goods in the territory of the other party, of information relating to consignments destined for that territory.

(3) An arrangement under subregulation (2) may provide for-

- (a) the categories of information to be exchanged;
- (b) the form and manner in which information is to be transmitted;
- (c) the frequency and timing of exchanges; and
- (d) any other matter necessary for the effective exchange of information.

Refusal or postponement of assistance.

18.(1) This regulation implements Article PCUST.11.

(2) Assistance under these Regulations may be refused, or may be granted subject to such conditions as may be considered appropriate, where the provision of the assistance would-

- (a) be likely to prejudice the sovereignty of Gibraltar,
- (b) be likely to prejudice public policy, security or other essential interests, in particular in the cases referred to in PCUST.12; or
- (c) result in the disclosure of any trade, business, industrial, commercial or professional secret or process; or
- (d) be otherwise contrary to Gibraltar law.

(3) The Competent Authority may postpone the execution of a request where it is satisfied that compliance with the request would interfere with—

- (a) an investigation;
- (b) any proceedings; or
- (c) any enforcement action being undertaken by an authority,

until such time as it deems reasonable.

(4) Prior to making a decision to postpone assistance under subregulation (3), the Competent Authority must consult with the applicant authority to determine whether assistance may be

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provided subject to such terms, conditions or limitations as the Competent Authority considers appropriate.

(5) A request must be acted on by the Competent Authority subject to any terms, conditions or limitations imposed pursuant to subregulation (4).

(6) Where the applicant authority seeks assistance which it is unable to provide under its domestic legislation, it must disclose this to the Competent Authority, who will then decide how to proceed with the request from the applicant authority.

(7) In a case falling within subregulation (6), the Competent Authority may take that fact into account in determining whether and on what terms assistance should be provided.

(8) Where assistance is refused, granted subject to conditions, or postponed under this regulation, the Competent Authority shall, as soon as reasonably practicable, notify the applicant authority in writing of-

- (a) the decision; and
- (b) the reasons for the decision.

Information exchange and confidentiality.

19.(1) This regulation implements Article PCUST.12.

(2) Any information obtained under these Regulations by the Competent Authority may only be used for the purposes specified in the Protocol.

(3) Any information obtained in accordance with the Protocol may be used in any proceedings relating to an operation in breach of customs legislation.

(4) Without limiting subregulation (3), information obtained and documents received under these Regulations may be-

- (a) adduced in evidence;
- (b) included in reports, statements, records or testimony; and
- (c) relied upon in proceedings before a court, tribunal or other authority.

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(5) Where the requested authority providing information imposes a condition requiring notification of its use in proceedings, the Competent Authority shall comply with that condition.

(6) Any information obtained by the Competent Authority may not without the prior consent of the requested authority, be used for any purpose other than a purpose under subregulations (2) or (3).

(7) Pursuant to subregulation (6), the Competent Authority may agree to any conditions or terms as imposed by the requested authority prior to any use being made of the information.

(8) The Competent Authority may make the provision of any information to an applicant authority subject to any terms and conditions as communicated to the applicant authority and agreed to by that authority prior to the provision of any information being made.

(9) Information communicated or transmitted under these Regulations must be treated as confidential.

(10) A person who receives information under these Regulations shall not disclose that information except-

- (a) for a purpose authorised by these Regulations;
- (b) where disclosure is required by law; or
- (c) with the prior consent of the authority that supplied the information.

(11) Personal data may be transmitted as part of the execution of a request from an applicant authority only in accordance with the data protection legislation.

(12) For the purposes of this regulation, “the data protection legislation” has the meaning given in section 2 of the Data Protection Act 2004.

Experts and witnesses.

20.(1) This regulation implements Article PCUST.13.

(2) With the approval of the Chief Minister, the Competent Authority may authorise an officer of an administrative authority of a Member State to appear as an expert or witness in any proceedings in Gibraltar, concerning matters within the scope of the Protocol.

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- (3) An officer authorised under this regulation may, to the extent authorised, produce-
- (a) records or documents;
 - (b) certified copies of records or documents;
 - (c) objects or other evidential material; and
 - (d) such other information as is required for the purposes of the proceedings.
- (4) A request for the appearance of an officer under this regulation shall state-
- (a) the court, tribunal or other authority before which the officer is required to appear;
 - (b) the nature of the proceedings;
 - (c) the matters on which the officer is to be questioned; and
 - (d) the title or qualification in respect of which the officer's evidence is sought.

Application of Part III of the Mutual Legal Assistance (European Union) Act 2005.

- 21.(1) In respect of a request or matter under the Protocol, where-
- (a) these Regulations make provision for a request or matter of that kind, these Regulations apply;
 - (b) these Regulations do not make provision for a request or matter of that kind, but Part III of the Mutual Legal Assistance (European Union) Act 2005 makes provision for a request or matter of that kind, the provisions in Part III of that Act apply with the necessary modifications; and
 - (c) Part III of the Mutual Legal Assistance (European Union) Act 2005 does not make provision for a request or matter of that kind, but any other provision under Gibraltar law does make provision for the request or matter, those provisions under Gibraltar law may be applied with the necessary modifications.
- (2) Any provision in the Mutual Legal Assistance (European Union) Act 2005 that is inconsistent with the Protocol shall not apply for the purposes of assistance under these Regulations.

Costs and expenses.

22.(1) This regulation implements Article PCUST.14.

(2) Subject to subregulations (3) and (4), the ordinary costs incurred in providing assistance shall be borne by the Competent Authority where it receives a request under the Protocol or takes any act or step for the purposes of complying with the Protocol.

(3) Where the Competent Authority makes a request to a requested authority under the Protocol, it shall be responsible for the reasonable expenses and allowances paid to experts, witnesses, interpreters and translators by the requested authority, but this does not include an employee or any person otherwise engaged by, or acting for or on behalf of, a public service.

(4) The Competent Authority may seek reimbursement from an applicant authority of the costs and expenses referred to in Article PCUST.14(2).

(5) If expenses of a substantial or extraordinary nature are or will be incurred for the purposes of executing a request under the Protocol, the Competent Authority shall consult the applicant authority to determine the terms and conditions under which the request is to be executed, as well as the manner in which the costs are to be borne.

Implementation.

23.(1) This regulation implements Article PCUST.15.

(2) For the purposes of implementing the Protocol, the Government in accordance with Article PCUST.15(1) may agree –

- (a) the practical measures; and
- (b) the practical arrangements,

which are necessary, taking into consideration the applicable laws of Gibraltar, in particular for the protection of personal data.

(3) The Competent Authority shall make the necessary notifications in accordance with Article PCUST.15(2).

(4) The Competent Authority may designate officers or units within HM Customs as authorised to send, receive and process communications and requests under these Regulations.

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(5) The Competent Authority shall notify the Member States of any designation made under subregulation (4), and of any amendment or revocation of such designation.

Other agreements.

24.(1) This regulation implements Article PCUST.16.

(2) The provisions of the Protocol shall take precedence over anything contained in any bilateral agreement on mutual administrative assistance in customs matters which has been or may be concluded between any Member State and Gibraltar, insofar as the provisions of those bilateral agreements are incompatible with the Protocol.