Taxation (Cross-border Trade) Act 2018

2018 CHAPTER 22

PART 1

IMPORT DUTY

Administration etc

20 Notification and payment of import duty, etc

Schedule 6 makes provision for—

(a) the notification of any liability to pay import duty,

(b) the payment of import duty,

(c) the giving of guarantees in respect of any liability to pay import duty,

(d) the repayment of import duty,

(e) the remission of import duty, and

(f) the recovery of import duty.

Commencement Information

I1 S. 20 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

I2 S. 20 in force at 31.12.2020 in so far as not already in force by S.I. 2020/1642, **reg. 4(a)**

21 Customs agents

(1) A person ("the principal") may appoint any other person (a "Customs agent") to act on the principal's behalf for the purposes of this Part, and—

(a) the agent may make Customs declarations in the name of the principal (and in that case the agent acts as a "direct agent"), or

(b) the agent may make Customs declarations in the agent's own name (and in that case the agent acts as an "indirect agent").

(2) The appointment of a person as a Customs agent, and the withdrawal of an appointment of a person as a Customs agent, must be disclosed to HMRC in accordance with regulations made by HMRC Commissioners.

(3) The effect of an appointment of a person as a Customs agent is that anything done under, or otherwise for the purposes of, this Part by, or in relation to, the agent is regarded as done under, or otherwise for the purposes of, this Part by, or in relation to, the principal (and not by the agent).

(4) There is an exception to this rule if a Customs agent acts as an indirect agent (and see also section 37(8)(b)).

(5) In that case, the indirect agent is liable to import duty in accordance with section 6(1) (and the principal is also liable to import duty in accordance with section 6(3)(a)).

(6) If a Customs agent acts as a direct agent, the agent is also liable to import duty if—

(a) the agent acts at time when the appointment has not been disclosed to HMRC as mentioned in subsection (2),

(b) the agent acts at a time when the appointment of the person as a Customs agent has been withdrawn,

(c) the agent otherwise purports to act on behalf of the principal when the agent has no authority to do so, or

(d) a liability to import duty is incurred by reference to the importation of goods declared for a Customs procedure and the declaration was not made in accordance with regulations under paragraph 9 of Schedule 1 (simplified Customs declarations).

(7) HMRC Commissioners may by regulations make further provision about Customs agents for the purposes of import duty.

(8) Each of the following is an example of the kind of provision that may be made by the regulations—

(a) provision requiring persons to be eligible for appointment as Customs agents only if an HMRC officer has approved the appointment, and

(b) provision specifying the criteria for approving the appointment (including provision for the criteria to be specified in a public notice given by HMRC Commissioners).

Modifications etc. (not altering text)

C1 S. 21 applied in part (31.12.2020) by The Customs (Northern Ireland) (EU Exit) Regulations 2020 (S.I. 2020/1605), regs. 1(1), **20**; S.I. 2020/1643, reg. 2, Sch.

C2 S. 21 applied in part (31.12.2020) by The Customs (Northern Ireland) (EU Exit) Regulations 2020 (S.I. 2020/1605), regs. 1(1), **27**; S.I. 2020/1643, reg. 2, Sch.

C3 S. 21(1)-(4) applied (with modifications) (31.12.2020) by The Customs (Export) (EU Exit) Regulations 2019 (S.I. 2019/108), regs. 1(5), **55(1)** (with reg. 64) (as amended by S.I. 2020/1449, reg. 13(3)); S.I. 2020/1643, reg. 2, Sch.

Commencement Information

I3 S. 21 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

I4 S. 21 in force at 31.12.2020 in so far as not already in force by S.I. 2020/1642, **reg. 4(a)**

22 Authorised economic operators

(1) HMRC Commissioners may by regulations make provision—

(a) disapplying or simplifying specified requirements made by or under this Part in relation to things required or authorised to be done by authorised economic operators, or

(b) requiring HMRC to have regard to the status of a person as an authorised economic operator when considering whether or not, or how, to exercise any power or other function for the purposes of this Part.

(2) For this purpose "authorised economic operators" means persons authorised in accordance with provision made by or under the regulations.

(3) Regulations under this section may (for example)—

(a) specify the criteria to be applied in determining whether or not any person should be an authorised economic operator,

(b) specify those criteria by reference to professional standards of competence (as set by any specified person) or by reference to anything else (including the judgment of any person as to suitability),

(c) make provision for a person's status as an authorised economic operator to be subject to compliance with conditions specified in the regulations or in the authorisation, and

(d) establish different classes of authorised economic operator.

Commencement Information

I5 S. 22 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

I6 S. 22 in force at 31.12.2020 in so far as not already in force by S.I. 2020/1642, **reg. 4(a)**

23 Approvals and authorisations granted under regulations

(1) This section applies in relation to approvals granted to any person under regulations made under this Part (whether in respect of premises or anything else) unless the regulations in question make alternative provision.

(2) In this section references to an approval include an authorisation.

(3) The regulations under which an approval is granted may—

(a) require an application for approval to be made in a specified form and in a specified manner and to contain specified information,

(b) specify cases in which an application for approval may not be made,

(c) require HMRC to consider, within a specified period, whether or not an application, or purported application, for approval is, as a result of provision made by paragraph (a) or (b), one that falls to be determined,

(d) confer on the applicant a right of appeal to an appeal tribunal in a case where HMRC have failed to comply with paragraph (c),

(e) require HMRC to notify a person making a purported application for approval that, as a result of provision made by paragraph (a) or (b), the purported application does not fall to be determined, and

(f) make further provision about the notification.

(4) The provision that may be made under subsection (3)(d) includes—

(a) provision for an appeal to be brought only if a period specified in the regulations has ended, and

(b) provision limiting the power of an appeal tribunal to the power to direct HMRC, in a case where it is satisfied that HMRC have acted unreasonably, to consider the application as mentioned in subsection (3)(c) within such further period as is specified by the tribunal.

(5) An approval granted by HMRC is treated as if it had never been granted if—

(a) the (purported) application for approval was deficient in some respect,

(b) the applicant knew, or ought reasonably to have known, of the deficiency,

(c) HMRC consider that the approval would not have been granted if the deficiency was known at the time it was granted by the person granting it, and

(d) HMRC give a notice to the applicant under this subsection notifying the applicant of the effect of this subsection.

(6) Regulations made by HMRC Commissioners may make any provision that they consider appropriate for the purposes of subsection (5), including provision specifying cases in which the approval is to continue to be treated as still in force.

(7) An approval may be amended, suspended or revoked in cases specified in the regulations under which it was granted.

(8) The amendment, suspension or revocation of an approval takes effect from the date specified in a notice given by HMRC to the person approved (and, accordingly, does not affect anything already done by any person before that date in reliance on the approval).

(9) HMRC—

(a) may not specify a date before the notice is given unless HMRC and the person both agree that such a date may be given, and

(b) may not specify a date that falls more than one year after the date on which the notice is given.

(10) In this section "an appeal tribunal" has the same meaning as in Chapter 2 of Part 1 of the Finance Act 1994 (see section 7).

Modifications etc. (not altering text)

C4 S. 23 applied (31.12.2020) by The Customs Transit Procedures (EU Exit) Regulations 2018 (S.I. 2018/1258), art. 1(2), **Sch. 2 para. 26(8)**; S.I. 2020/1643, reg. 2, Sch.

Commencement Information

I7 S. 23 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

I8 S. 23 in force at 31.12.2020 in so far as not already in force by S.I. 2020/1642, **reg. 4(a)**

24 Rulings as to application of customs tariff [[F1], valuation method] or place of origin

(1) HMRC Commissioners must by public notice make provision establishing a system under which persons apply for rulings given by HMRC officers for the purpose of—

(a) determining any issue as to the code in the customs tariff applicable to any goods,

[[F2](aa) determining the value of any goods for the purposes of this Part,**]** or

(b) determining the place of origin of any goods for the purposes of this Part.

(2) Each of the following is an example of the kind of provision that may be made by the notice—

(a) provision specifying cases in which rulings need not be given,

(b) provision about the making of the applications (including their form, the information to be contained in them and any documents to accompany them),

(c) provision requiring the applications to be determined within a specified period,

(d) provision about the period for which, and other conditions subject to which, the rulings are to have effect,

(e) provision about the form in which the rulings are to be given,

(f) provision for the withdrawal or amendment of rulings,

(g) provision determining the extent to which the rulings may be relied on by applicants, and

(h) provision requiring any person to whom a ruling has been given to disclose that fact to HMRC.

(3) The system established by the notice must secure that an application may be made for a ruling even if an HMRC officer considers that the ruling is not, or may not be, required to resolve a doubt as to the issue being determined.

Textual Amendments

F1 Words in s. 24 heading inserted (11.7.2023) by Finance (No. 2) Act 2023 (c. 30), **s. 317(2)**

F2 S. 24(1)(aa) inserted (11.7.2023) by Finance (No. 2) Act 2023 (c. 30), **s. 317(3)**

Modifications etc. (not altering text)

C5 S. 24 applied (with modifications) (31.12.2020) by The Customs (Crown Dependencies Customs Union) (EU Exit) Regulations 2019 (S.I. 2019/385), regs. 1(2), **7(1)**; S.I. 2020/1643, reg. 2, Sch.

Commencement Information

I9 S. 24 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

I10 S. 24 in force at 31.12.2020 in so far as not already in force by S.I. 2020/1642, **reg. 4(a)**

Changes to legislation:
There are currently no known outstanding effects for the Taxation (Cross-border Trade) Act 2018, Cross Heading: Administration etc.