
STATUTORY INSTRUMENTS

2018 No. 1248

The Customs (Import Duty) (EU Exit) Regulations 2018

PART 14

Fees

Interpretation

132. In this Part, “proper officer” means a person engaged by the orders or with the concurrence of the HMRC Commissioners who acts with, or in place of, an HMRC officer in the exercise of a function of HMRC described in regulation 139.

Fees authorised

133. The authority to charge a fee in the cases described in regulations 134 to 138 is subject to regulation 139.

Requested attendance at premises or vehicles on a Sunday or other non-working days

134.—(1) Where a person requests attendance by an HMRC officer or proper officer at premises or a vehicle because—

- (a) the person is required—
 - (i) to make a report in respect of a vehicle under section 35 of CEMA 1979(1); or
 - (ii) to deliver an account in respect of a ship under section 36 of CEMA 1979(2); or
- (b) the attendance is required in order that goods may be exported from the United Kingdom in accordance with the applicable export provisions(3),

HMRC may charge that person a fee in relation to the attendance but only where the attendance is requested to occur on a day which is not a working day but treating a Saturday as a working day for the these purposes.

- (2) In this regulation, “vehicle” has the same meaning as it has in section 1(1) of CEMA 1979(4).

(1) Section 35 of CEMA 1979 is amended by Schedule 1 to the Isle of Man Act 1979 (c. 58), sections 37, 38 and 46 of the Criminal Justice Act 1982 (c. 48), Schedule 1 to the Territorial Sea Act 1987 (c. 49), section 35 of the Immigration, Asylum and Nationality Act 2006 (c. 13) and paragraph 27 of Schedule 7 to the Act and S.I. 1992/3095.

(2) Section 36 of CEMA 1979 is amended by Schedule 1 to the Isle of Man Act 1979 and sections 37, 38 and 46 of the Criminal Justice Act 1982.

(3) Section 35 of the Act defines for the purposes of Part 1 of the Act what is meant by an export of goods from the United Kingdom being in accordance with the applicable export provisions.

(4) The definition of “vehicle” is amended by paragraph 4(2)(1) of Schedule 7 to the Act.

Requested attendance further to section 159(1) of CEMA 1979

135.—(1) Where a person requests attendance by an HMRC officer or proper officer at premises in order for the officer to examine and take account of goods under section 159(1) of CEMA 1979(5), HMRC may charge that person a fee in relation to the attendance.

(2) But a fee may be charged only if the premises attended—

- (a) are operated for the purposes of a commercial activity; or
- (b) are a dwelling or form part of a dwelling.

Goods requiring special care or treatment

136.—(1) Paragraph (2) applies where—

- (a) directions as to the movement or storage of goods are given further to section 30 of CEMA 1979(6);
- (b) the goods are of a combustible or inflammable nature or otherwise of such a hazardous nature as to require special care or treatment; and
- (c) in consequence, HMRC must undertake special measures which would not otherwise be required—
 - (i) to store or transport the goods;
 - (ii) to examine and take account of the goods under section 159(1) of CEMA 1979; or
 - (iii) to take samples of the goods under section 160(1) of CEMA 1979.

(2) HMRC may charge the person in possession or control of the goods (other than an HMRC officer or proper officer) or the owner of the goods a fee in relation to the special measures.

Examination and taking samples of goods

137.—(1) Paragraph (2) applies where a person makes a Customs declaration in respect of goods and a requirement exists—

- (a) to examine and take account of the goods under section 159(1) of CEMA 1979;
- (b) to take of samples of the goods under section 160(1) of CEMA 1979; or
- (c) to examine or take of samples of the goods in order that an HMRC officer may provide a ruling further to section 24 of the Act.

(2) HMRC may charge the person making the declaration a fee in relation to, as appropriate, the examination, account or taking of samples—

- (a) undertaken on behalf of HMRC by a person other than an HMRC officer or proper officer; or
- (b) undertaken by an HMRC officer or proper officer—
 - (i) in the case described in paragraph (1)(c); or
 - (ii) if the person has failed to comply with directions given further to section 30 of CEMA 1979 in relation to the goods which are the subject of the declaration.

Destruction of goods

138.—(1) Paragraph (2) applies where goods seized by HMRC are destroyed.

(5) Section 159(1) of CEMA 1979 is amended by Schedule 1 to the Isle of Man Act 1979, Schedule 4 to the Finance Act 1984 (c. 43), section 117 of the Finance Act 2008 (c. 9) and paragraph 107 of Schedule 7 to the Act.

(6) Section 30 of CEMA 1979 is amended by sections 37 and 46 of the Criminal Justice Act 1982 and paragraph 22 of Schedule 7 to the Act.

(2) HMRC may charge the person who was in possession or control of the goods before they were seized (other than an HMRC officer or proper officer) or the owner of the goods a fee in relation to the destruction of the goods carried out on behalf of HMRC by a person other than an HMRC officer or proper officer.

Fees authorised and functions

139. In a case described in a preceding regulation of this Part, the authority to charge a fee exists only if, or to the extent that, the function or power in relation to which a fee may be charged is exercised—

- (a) for the purposes of, or otherwise in connection with, import duty; and
- (b) in relation to—
 - (i) the acceptance of a Customs declaration(7);
 - (ii) the verification of a Customs declaration(8); or
 - (iii) the release or discharge of goods to and from a Customs procedure(9).

Amount of fees

140.—(1) In a case where a fee is authorised to be charged, the amount of the fee which is authorised is limited to the costs incurred, or to be incurred, by HMRC in exercising the function or power in relation to which a fee may be charged.

(2) The amount authorised may include—

- (a) either or both of the following—
 - (i) a fixed amount (“flat rate”) representing the costs usually incurred in a case mentioned in regulations 134 to 138; and
 - (ii) an amount calculated by reference to an hourly rate of an HMRC officer or proper officer; and
- (b) an amount in reimbursement of charges incurred by HMRC, including charges for the preparation of reports or for the transport or postage of goods or samples of goods.

(3) HMRC must publish a notice specifying a list of the flat rates and hourly rates which are authorised and which have effect from time to time and the date from which the rates have effect.

Discretion to reduce or waive fees

141.—(1) If it is fair and reasonable to do so having regard to the circumstances in a particular matter, an HMRC officer may decide that a fee which would otherwise be charged be reduced or waived.

(2) In particular, where a fee is authorised to be charged by regulation 134 or 135, an HMRC officer may decide that the fee be waived if the attendance requested would usually have been carried out without the request.

Payment of fees

142.—(1) HMRC must notify a fee to the person liable to pay it.

(2) A fee is payable within 30 days of the date on which it is so notified and must be paid in the form and manner provided by notice published by HMRC.

(7) For acceptance of Customs declarations, see paragraphs 10 to 12 of Schedule 1 to the Act.

(8) For verification of Customs declarations, see paragraph 13 of Schedule 1 to the Act.

(9) For release and discharge of goods to and from a Customs procedure, see paragraph 17 of Schedule 1 to the Act.

(3) Paragraphs (4) and (5) apply where a fee is authorised to be charged by regulation 134 or 135.

(4) HMRC may require a fee, or part of it, to be paid before making the attendance requested.

(5) Where—

(a) HMRC makes arrangements to attend; and

(b) the request is withdrawn before the attendance occurs,

HMRC may charge so much as a fee as is reasonable in the circumstances, having regard to the costs incurred or to be incurred which cannot be avoided.