
STATUTORY INSTRUMENTS

2018 No. 1248

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

PART 7

Remission and repayment of import duty

CHAPTER 7

Remission in cases of relevant breaches and in cases of minimal liability

Interpretation applicable to chapter 7

71. For the purposes of this chapter—

“no significant effect”, on the occurrence of a relevant breach or failure in relation to a Customs procedure or an outward processing procedure⁽¹⁾, has the meaning given by regulation 73;

“relevant breach or failure” has the meaning given by regulation 72.

Relevant breaches or failures

72.—(1) “A relevant breach or failure” means any relevant breach or failure described in this regulation.

(2) A relevant breach is where a person—

(a) makes a Customs declaration for a special procedure⁽²⁾ but the person has no entitlement to make it; or

(b) breaches any requirement relating to the procedure.

(3) A relevant breach is where a person—

(a) breaches the terms of the declaration for an outward processing procedure;

(b) breaches any other requirement in relation to the procedure; or

(c) in the case of goods being processed for any other purpose except for their repair without charge, imports the goods not in accordance with the procedure.

(4) A relevant breach is where a person is in breach of—

(a) section 5(1)(b) of the Act (presentation of goods to Customs on import where required); or

(b) section 35(2) of the Act (export of goods in accordance with the applicable export provisions).

(5) A relevant failure occurs where any of the following apply—

(a) paragraph 1(5) of Schedule 1 to the Act (Customs declaration not made within the 90 day period);

(1) See section 36 of the Act.

(2) See section 3(4) of the Act.

- (b) paragraph 3(4) of Schedule 1 to the Act (Customs declaration not made before goods are imported); or
- (c) regulation 11(2) (goods treated as not presented and to which section 5(1) of the Act applies).

No significant effect on procedures

73.—(1) This regulation provides for the purposes of regulation 75(1)(c) for cases where the occurrence of a relevant breach or failure has no significant effect on a Customs procedure or an outward processing procedure, as the case may be.

- (2) There is no significant effect on the procedure where—
 - (a) the relevant breach or failure concerns a person exceeding by a period (“the exceeded period”) the time limit within which the person is required to comply with a requirement in relation to the procedure; and
 - (b) had an application to extend the time limit been made, HMRC would have been likely to grant an extension of time for compliance by a period no shorter than the exceeded period.
- (3) There is no significant effect on the procedure where subsequent to the relevant breach—
 - (a) the goods are declared for the free-circulation procedure; and
 - (b) accepted for that procedure.
- (4) There is no significant effect on the procedure where—
 - (a) the relevant breach consists of a movement of goods other than as agreed by an HMRC officer; but
 - (b) subsequent to the breach, HMRC agrees to the location of the goods.
- (5) Paragraph (6) applies where—
 - (a) the relevant breach consists of making a Customs declaration containing an error;
 - (b) the goods have been released to a special Customs procedure⁽³⁾, except a transit procedure⁽⁴⁾, or are held in a temporary storage facility; and
 - (c) the error was unknown to HMRC when the declaration was accepted.
- (6) There is no significant effect on a Customs procedure if, had the error been known to HMRC before the acceptance, HMRC would have been likely not to have delayed or prevented the acceptance.
- (7) There is no significant effect on the Customs procedure if the person who causes the relevant breach or failure to occur notifies full details of the breach to HMRC before—
 - (a) a person is notified of a liability to import duty in respect of the goods; or
 - (b) HMRC takes any steps in relation to the goods which would likely lead HMRC to discover that the relevant breach or failure has occurred.

No applications for remission of duty

74. No application for remission of duty is to be made in respect of the cases described in regulations 75 to 78.

No avoidance of liability

- 75.**—(1) Paragraph (2) applies where—

⁽³⁾ “Special Customs procedure” is defined in section 3(4) of the Act.

⁽⁴⁾ “A transit procedure” is defined in paragraph 5 of Schedule 2 to the Act.

- (a) a relevant breach or failure occurs;
- (b) a liability to import duty in respect of chargeable goods⁽⁵⁾ is incurred in consequence;
- (c) for a case to which regulation 73 applies, the relevant breach or failure has no significant effect on a Customs procedure or an outward processing procedure, as applicable to the breach or failure;
- (d) none of the persons who caused the relevant breach or failure to occur did so for the purposes of avoiding any or all of the liability; and
- (e) a person liable to the import duty—
 - (i) notifies HMRC of the relevant breach or failure as soon as practicable after it occurred;
 - (ii) takes all steps which can reasonably be taken to rectify the consequences of the breach or failure; and
 - (iii) is not in breach of, as the case may be, a Customs procedure or an outward processing procedure in relation to the goods, other than in respect of the relevant breach or failure.

(2) HMRC must remit the liability to import duty incurred in consequence of the relevant breach or failure in respect of each person liable to pay the duty.

Goods leaving the United Kingdom

76.—(1) Paragraph (2) applies where—

- (a) a relevant breach or failure occurs;
- (b) a liability to import duty in respect of chargeable goods is incurred in consequence; and
- (c) a person liable to the import duty—
 - (i) notifies HMRC of the relevant breach or failure as soon as practicable after it occurs and before HMRC discovers it; and
 - (ii) provides to HMRC sufficient evidence to show that the goods were not used or consumed in the United Kingdom and have permanently left the United Kingdom.

(2) Subject to paragraph (3), HMRC must remit the liability to import duty incurred in consequence of the relevant breach or failure in respect of each person liable to pay the duty.

(3) No remission may be made in respect of a person who, whether alone or with another person, caused the relevant breach or failure to occur for the purposes of avoiding any or all of the liability.

Assistance to HMRC

77.—(1) Paragraph (2) applies where—

- (a) a relevant breach or failure occurs;
- (b) a liability to import duty in respect of chargeable goods is incurred in consequence;
- (c) any of the persons responsible for causing the relevant breach or failure to occur did so for the purposes of avoiding any or all of the liability; and
- (d) a person (“P”) who did not cause, alone or with another person, the relevant breach or failure to occur provides assistance to HMRC which enables HMRC to identify the relevant breach or failure.

(2) HMRC must remit the liability of P to the import duty incurred in consequence of the relevant breach or failure.

(5) “Chargeable goods” is defined in section 2 of the Act.

Minimal liability to import duty

78.—(1) Paragraph (3) applies where—

- (a) a liability to import duty is incurred;
- (b) no notification of the liability is made further to paragraph 2 of Schedule 6 to the Act (notification of liability to pay import duty); and
- (c) the amount of the liability does not exceed £9.

(2) For the purposes of paragraph (1)(b), a notification of liability includes cases where notification is presumed, taken as met by some specified act or not required further to regulations made under paragraph 3 of Schedule 6 to the Act.

(3) HMRC must remit the liability to import duty in respect of each person liable to pay the duty.

Time periods

79.—(1) This regulation has effect for the purposes of regulations 75 to 78.

(2) Except where paragraph (4) applies, any remission must be made as soon as practicable and in any event before the expiry of the period of three years beginning with the date on which the liability to import duty was incurred.

(3) Paragraph (4) applies where—

- (a) an HMRC officer considers that a criminal offence may have been committed in relation to the relevant breach or failure; and
- (b) the period required to determine that an offence has not been committed is longer than the period provided by paragraph (2).

(4) Any remission must be made on the earlier of—

- (a) the determination that no such offence has been committed; and
- (b) the expiry of the period of 20 years beginning with the date on which the liability to import duty was incurred.