
 STATUTORY INSTRUMENTS

1977 No. 910

CUSTOMS AND EXCISE

The Inward Processing Relief Regulations 1977

<i>Made - - - -</i>	<i>25th May 1977</i>
<i>Laid before Parliament</i>	<i>2nd June 1977</i>
<i>Coming into Operation</i>	<i>1st July 1977</i>

The Secretary of State, in exercise of the powers conferred on him by section 5(6) of the European Communities Act 1972(a) (as regards relief from import duties) and of all other powers enabling him in that behalf, and the Minister of Agriculture, Fisheries and Food and the Secretary of State, being Ministers designated(b) for the purposes of section 2(2) of the said Act as regards relief from agricultural levies, in exercise of the powers conferred on them by the said section 2(2) and of all other powers enabling them in that behalf, hereby make the following Regulations:—

Citation, operation, interpretation

1.—(1) These Regulations may be cited as the Inward Processing Relief Regulations 1977 and shall come into operation on 1st July 1977.

(2) In these Regulations “compensating products” means goods produced or manufactured by one or more of the following operations—

- (a) working of goods, including fitting or assembling them or adjusting them to other goods;
- (b) processing of goods including such usual forms of handling as are needed to ensure preservation or to improve packaging or marketable quality(c);
- (c) repair of goods, including restoring them to their original condition and putting them in order;
- (d) use of agents such as catalysts, accelerators or retarders of chemical reactions which disappear entirely or partially in the course of production and are thereafter not distinguishable in the goods produced.

(3) In these Regulations, unless the context otherwise requires—

“agricultural levy” means any tax or charge, not being a customs duty, chargeable under Community arrangements on agricultural products or on products which are processed from agricultural products and are the subject of arrangements under Article 235 of the EEC Treaty;

(a) 1972 c. 68.

(b) S.I. 1976/897 (1976 II, p. 2330).

(c) See Directives 69/74/EEC (O.J. No. L58, 8.3.69, p. 7; O.J./SE 1969 (I) p. 82), 71/235/EEC (O.J. No. L143, 29.6.1971, p. 28; O.J./SE 1971 (II) p. 398) and 74/147/EEC (O.J. No. L84, 28.3.74, p. 1).

“agricultural products” means the products listed in Annex II to the EEC Treaty, as amended (a);

“appropriate Minister” means, in relation to import duties, the Secretary of State and, in relation to agricultural levies, the Minister of Agriculture, Fisheries and Food and the Secretary of State;

“authorisation” means a general or special authorisation granted by the Commissioners authorising inward processing relief arrangements;

“Commissioners” means the Commissioners of Customs and Excise;

“competent authorities” means the Commissioners in the case of goods imported into the United Kingdom or the corresponding authorities of another member State in the case of goods imported into that member State;

“equivalent goods” has the meaning assigned to it in Regulation 3;

“free zone” means any premises established by the competent authorities in order that goods therein may be regarded as not being within the Community for the purposes of applying customs duties and agricultural levies(b);

“imported goods” means any goods imported or proposed to be imported into the United Kingdom;

“imported or equivalent goods” has the meaning assigned to it in Regulation 3;

“intermediate products” means goods produced or manufactured after goods have undergone an operation specified in paragraph (2) but not to the extent provided for in the authorisation;

“outside the Community” means outside the Customs territory of the European Economic Community(c) or, in the case of goods covered by the ECSC Treaty or the Euratom Treaty, outside the territories to which the Treaty constituting the Community in question applies(d), as the case may be, and “within the Community” shall be interpreted accordingly;

and other expressions have the same meanings as in the Customs and Excise Act 1952(e).

(4) References in these Regulations to inward processing relief are references to relief in accordance with these Regulations whereby imported goods which do not satisfy the conditions in Articles 9 and 10 of the EEC Treaty may be processed without giving rise to liability for payment of import duties or of agricultural levies, where it is intended to export such goods outside the Community wholly or partly in the form of compensating products.

(5) The Interpretation Act 1889(f) shall apply for the interpretation of these Regulations as it applies for the interpretation of an Act of Parliament and as if these Regulations were an Act of Parliament.

(a) Regulation No. 7a, 18.12.59 (O.J. No. 7, 30.1.61, p. 71/61; O.J./SE 1959–1962 p. 68)

(b) See Directive 69/75/EEC (O.J. No. L58, 8.3.69, p. 11; O.J./SE 1969 (I) p. 86).

(c) See Regulation (EEC) 1496/68 (O.J. No. L238, 28.9.68; p. 1 O.J./SE 1968 (II), p. 436) and Annex I to the Treaty concerning United Kingdom accession to the Community, as adjusted by Council Decision of 1.1.73 (O.J. No. L2, 1.1.73, p. 1).

(d) See Article 79 (ECSC Treaty) and 198 (Euratom Treaty).

(e) 1952 c. 44.

(f) 1889 c. 63.

Authorisation etc.

2.—(1) In the case of goods to be imported into the United Kingdom on or after 1st July 1977 with a view to inward processing relief being granted any person established in the territory of a member State may make an application to the Commissioners in pursuance of any provisions which apply generally or for an authorisation.

(2) Any application under these Regulations shall be in such form, and verified in such manner, as may be required by the appropriate Minister or the Commissioners, and the applicant shall furnish such information as may be so required for the purpose of the application.

(3) An application for an authorisation shall be made before entry of the imported goods as required by Regulation 4(1)(c) or their removal from warehouse or at such later time as the Commissioners may in any particular case allow and, where the Commissioners are requested in the application to exercise their powers under Regulation 3(1) so that goods treated as compensating products produced or manufactured from equivalent goods are to be exported before importation of the imported goods, the application shall be made to them before exportation of the compensating products.

(4) Subject to paragraph (5), the Commissioners, after receiving any application pursuant to paragraph (1), may specify such conditions as they think expedient, either by way of any provisions which apply generally or in an authorisation, to secure the object or prevent abuse of the relief from import duties or from agricultural levies or for securing that the imported or equivalent goods will be exported wholly or partly in the form of compensating products, and in particular there shall be specified in any authorisation granted by them—

- (a) the rate of yield including the nature, quantity and quality of compensating products to be produced from a given quantity of the goods or the method whereby the rate is fixed as the case may be;
- (b) the period within which the goods are to be exported in the form of compensating products;
- (c) where the Commissioners intend to treat any goods in the manner provided under Regulation 3(1) so that goods treated as compensating products produced or manufactured from equivalent goods are to be exported before importation of the imported goods, the time limit within which the imported goods must be imported;
- (d) the method whereby relief from duty or levy will be granted, stating whether relief is to be granted by suspension of duty or levy or reimbursement of any amount deposited in respect of the duty or levy and, where relief is to be granted by suspension of duty or levy, the form and amount of any security to be given to the Commissioners.

(5) The Commissioners shall not grant an authorisation unless they are satisfied that it is intended to export outside the Community the imported goods wholly or partly in the form of compensating products, or that equivalent goods have been or are intended to be so exported wholly or partly in the form of compensating products and that in the circumstances it is proper for goods to be treated in the manner provided under Regulation 3(1).

(6) Subject to paragraph (5), the Commissioners may grant authorisations in all cases where inward processing relief would contribute towards providing the most favourable conditions for the export of goods resulting from the operations specified in Regulation 1(2) while not conflicting with the essential interests of producers within the Community and in particular in respect of goods—

- (a) to be processed in performance of a contract to make up work from materials supplied, entered into with a person established outside the Community; or
- (b) which are not available within the Community because they are not produced there or are produced there but not in sufficient quantities or because suppliers within the Community are not able to make them available to the user within a suitable time; or
- (c) the use of which is requisite in order to ensure that any provisions concerning the protection of industrial and commercial property are observed; or
- (d) the use of which is requisite by reason of the fact that those available within the Community cannot be used because, in the light of the particular requirements specified by purchasers of compensating products, they do not have the desired qualities; or
- (e) to undergo only the usual forms of handling referred to in Regulation 1(2)(b); or
- (f) to undergo only the operations referred to in Regulation 1(2)(c).

(7) Subject to paragraph (5), the Commissioners may also grant authorisations if they are satisfied that goods of similar quality available within the Community cannot be used because their cost is such as to make the proposed commercial transaction economically impracticable.

(8) The Commissioners shall exercise the powers conferred by paragraphs (6) and (7) after consultation with the appropriate Minister, except as may be agreed between the Commissioners and the appropriate Minister.

Equivalent goods

3.—(1) For the purposes of these Regulations the Commissioners may under an authorisation, or under a special equivalence authorisation on a later application by the person to whom an authorisation has already been granted, treat as compensating products goods produced or manufactured by one or more of the operations specified in Regulation 1(2) from equivalent goods in substitution for imported goods, if the Commissioners are satisfied that the goods to be treated as compensating products have been or are intended to be exported outside the Community and that to exercise the powers under this paragraph would not lead to an unjustified advantage in regard to relief from import duties or agricultural levies.

(2) The Commissioners shall not grant an equivalence authorisation unless they have consulted as regards that matter with the appropriate Minister, except as may be agreed between the Commissioners and the appropriate Minister.

(3) The Commissioners shall determine the time when the substitution referred to in paragraph (1) is to be considered as having taken place and thereafter for customs purposes the equivalent goods shall be treated as imported goods and the imported goods shall be treated as the equivalent goods were previously treated.

(4) In these Regulations—

“imported or equivalent goods” means:

- (a) only the equivalent goods, where the Commissioners have exercised any powers under paragraph (1) or
- (b) the imported goods, where the Commissioners have not exercised any such powers;

“equivalent goods” means goods of any description which—

- (a) in the opinion of the Commissioners fall within the same tariff subheading, are of the same commercial quality and possess the same technical characteristics as the imported goods or are in their opinion in the category of intermediate products that could be produced or manufactured from the imported goods on condition that the essential part of the operations specified in Regulation 1(2) covered by the authorisation are carried out on the goods in the category of intermediate products by the person to whom the authorisation has been granted; and
- (b) satisfy the conditions in Articles 9 and 10 of the EEC Treaty or are included in an authorisation other than an authorisation relating to the imported goods;

and an equivalence authorisation means an authorisation authorising the treatment referred to in paragraph (1).

Relief from Import Duty and Agricultural Levy

4.—(1) The Commissioners shall have power to grant relief from any import duty and agricultural levy which apart from these Regulations would be chargeable in respect of any imported goods subject to—

- (a) the provisions of these Regulations
- (b) compliance with any conditions specified by the Commissioners in pursuance of these Regulations
- (c) the goods being entered for inward processing
- (d) the Commissioners being satisfied that the imported goods can be identified as having been incorporated in the compensating products or, where Regulation 3 applies, that the conditions in that Regulation have been fulfilled
- (e) the goods being exported in the form of compensating products.

(2) Where compensating products, intermediate products or imported or equivalent goods in the unaltered state are destroyed with the permission of the Commissioners, or are in their opinion destroyed accidentally or by force majeure, and are deprived of all value, no import duty or agricultural levy shall be charged.

(3) The Commissioners may at any time where circumstances so warrant relax any of the conditions that they have specified in pursuance of Regulations 2 and 3 as they think fit in relation to any imported goods or equivalent goods or for reasonable cause revoke any authorisation granted by them: Provided that the Commissioners shall not exercise any power conferred by this paragraph unless they have consulted as regards that matter with the appropriate Minister, except as may be agreed between the Commissioners and the appropriate Minister.

(4) Where circumstances so warrant the Commissioners may grant relief from any import duty or agricultural levy in accordance with these Regulations, where the imported or equivalent goods are with their permission exported outside the Community in the unaltered state or in the form of intermediate products and the goods would qualify for relief if so exported in the form of compensating products.

(5) Where an authorisation has been granted in respect of any goods, they shall qualify for relief under these Regulations only if they are imported by a person to whom an authorisation has been granted in respect of the goods and if any subsequent transfer of the goods before exportation outside the Community, whether in the form of compensating products, intermediate products or imported or equivalent goods in the unaltered state, is to a person to whom an authorisation has been granted in respect of the goods.

Miscellaneous

5.—(1) Any relief from duty or levy under these Regulations shall be subject to the qualification that, in such circumstances as the Commissioners may require, there shall become payable such amount of the duty or levy otherwise qualifying for relief as may be so required, having regard to the following provisions of this Regulation.

(2) Subject to paragraph (4), where compensating products, intermediate products or imported or equivalent goods in the unaltered state (including goods treated as being exported under Regulation 6(1)), or products emerging from the destruction of goods not deprived of all value as mentioned in Regulation 4(2), are with the permission of the Commissioners put on the market within the Community, then the import duties and agricultural levies payable shall be calculated on the basis of the value and at the rate applicable to the imported goods at the date of acceptance of the relevant customs document for those goods by the Commissioners.

(3) Subject to paragraph (4), where part only of the compensating products or of the intermediate products (including goods treated as being exported under Regulation 6(1)) are put on the market within the Community—

(a) where only one kind of product is derived from the processing, the duties and levies shall be calculated on the basis described in paragraph (2) by reference to the quantity of the product put on the market in proportion to the total quantity of the product so derived;

- (b) where several kinds of product are derived from the processing,
- (i) if the Commissioners are satisfied that the quantity of imported or equivalent goods used in each of the various products put on the market in the course of their production can be ascertained, the duties and levies shall be calculated on the basis described in paragraph (2) by reference to that quantity in proportion to the total quantity of the imported or equivalent goods;
 - (ii) if the Commissioners are not so satisfied, the duties and levies shall be calculated on the basis described in paragraph (2) by reference to the value of each of the various products put on the market in proportion to the total value, assessed as at the same date, of all the goods produced.
- (4) (a) Where scrap and waste from one of the operations specified in Regulation 1(2) are with the permission of the Commissioners put on the market within the Community, any import duties and agricultural levies payable under this Regulation shall be calculated—
- (i) on that quantity of the scrap and waste which corresponds proportionally to the quantity of other compensating products exported, on the basis of the value and at the rate (if any) applicable to the scrap and waste at the date on which they are put on the market unless the person to whom the authorisation has been granted requests that the duty or levy shall be calculated in accordance with paragraphs (2) and (3); and
 - (ii) on the remainder of the scrap and waste, in accordance with paragraphs (2) and (3);
- (b) where by virtue of subparagraph (a) any such scrap or waste put on the market is exempt from import duty or agricultural levy, the value thereof shall be treated as nil for the purposes of the calculation referred to in paragraph (3)(b)(ii).
- (5) Where at any time a person to whom an authorisation has been granted fails to produce, or account for, to the Commissioners on request any goods in respect of which the authorisation was granted whether in the form of compensating products, intermediate products or imported or equivalent goods in the unaltered state, or where the period referred to in Regulation 2(4)(b) has expired and the Commissioners do not require the goods to be exported outside the Community, duty or levy on the goods in question shall be payable in accordance with this Regulation, as if they had been put on the market.

6.—(1) Compensating products and, where Regulation 4(4) applies, intermediate products or imported or equivalent goods in the unaltered state shall be treated as being exported outside the Community for the purposes of these Regulations if, in accordance with the terms of any authorisation, they are placed in a bonded warehouse, in a free zone or under the external Community transit procedure instituted by Regulation (EEC) 222/77(a) with a view to their subsequent exportation outside the Community.

(2) Where Regulation 1(2)(d) applies, the total disappearance of agents or their partial disappearance, to the extent that they disappear, shall be treated

(a) O.J. No. L38, 9.2.77, p. 1.

as exportation of compensating products if the goods produced are exported outside the Community.

7.—(1) In subsection (1) of section 10 of the Import Duties Act 1958(a) (penalties for false statements etc. in applications for relief under certain provisions of that Act)—

(a) for the words from “under subsection (1)” to “this Act” there shall be substituted the words “from any import duty under section 5(1) or section 6 of this Act or under a Community instrument or for the purpose of an application for an authorisation under regulations made under section 2(2) or section 5(6) of the European Communities Act 1972”;

(b) for the words from “authority” to “that section” there shall be substituted the words “or to any authority or person on whom functions are conferred by or under section 5 or section 6 of this Act or a Community instrument”; and

(c) in paragraph (a) after the word “relief” there shall be inserted the words “or granting the authorisation”.

(2) In Schedule 2 to the Import Duties (Outward Processing Relief) Regulations 1976(b) (amendments to Part II of the Import Duties Act 1958) the words “and in section 10 after the words ‘this Act’ wherever they occur” shall be omitted.

8. The enactments specified in the Schedule hereto are hereby repealed: Provided that these repeals shall not affect the operation of section 7 of the Import Duties Act 1958 or section 1 of the Finance Act 1966(c) in relation to duties under the Customs Duties (Dumping and Subsidies) Act 1969(d).

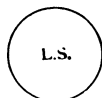
9. The enactments repealed by these Regulations shall continue to apply in relation to any goods imported into the United Kingdom before 1st July 1977 as if these Regulations had not been made.

Michael Meacher,

Parliamentary Under-Secretary of State,
Department of Trade.

25th May 1977.

In Witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 25th May 1977.



John Silkin,

Minister of Agriculture, Fisheries
and Food.

(a) 1958 c. 6.
(c) 1966 c. 18.

(b) S.I. 1976/838 (1976 II, p. 2105).
(d) 1969 c. 16.

Regulation 8

SCHEDULE

Chapter	Short Title	Extent of Repeal
1958 c. 6.	The Import Duties Act 1958	Section 7
1966 c. 18.	The Finance Act 1966	Section 1
1972 c. 68.	The European Communities Act 1972	In section 6(5), the figure "7".

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations, which come into operation on 1st July 1977, provide for inward processing relief (defined in Regulation 1) from import duty and agricultural levy otherwise chargeable on importation into the United Kingdom, where goods imported into the United Kingdom are intended for export outside the Community in the form of compensating products (also defined in Regulation 1) produced or manufactured in the United Kingdom by processing.

They implement in UK law the appropriate parts of Council Directive No. 69/73/EEC on "the harmonisation of provisions laid down by law, regulation or administrative action in respect of inward processing" (the basic Directive) (O.J. No. L58, 8.3.69, p. 1 (O.J./SE 1969 (I) p. 75)) and subsequent Directives (73/82/EEC (O.J. No. L106, 20.4.73, p. 7), 74/147/EEC (O.J. No. L84, 28.3.74, p. 1), 75/349/EEC (O.J. No. L156, 18.6.75, p. 25), 76/344/EEC (O.J. No. L89, 2.4.76, p. 29)), previously implemented by section 7 of the Import Duties Act 1958 and section 1 of the Finance Act 1966, which are repealed.

Regulation 2 provides for application for authorisation of relief to be made to the Commissioners of Customs and Excise before entry of the goods to be processed, and sets out various provisions to be specified in the authorisation. It requires the Commissioners to consult the Secretary of State in relation to import duty or the Minister of Agriculture, Fisheries and Food and the Secretary of State in relation to agricultural levy. Subject to such consultation (except as may be agreed), it empowers the Commissioners to grant authorisations where inward processing relief would contribute towards providing the most favourable conditions for the export of goods resulting from processing while not conflicting with the essential interests of Community producers. It also specifies particular circumstances satisfying these general conditions.

Regulation 3 provides for the Commissioners, subject to consultation as before, to authorise relief from duty or levy otherwise chargeable on imported goods where compensating products derived from equivalent goods (as defined in this Regulation) are to be exported.

Regulation 4 empowers the Commissioners to grant relief subject to the imported goods having been entered for inward processing and to compliance with any conditions they have specified. It also empowers them to relax those conditions in certain circumstances in consultation—except as agreed—with the appropriate Minister.

Regulation 5 provides that relief from duty and levy under these Regulations shall be subject to all or part of the duty or levy otherwise qualifying for relief becoming payable in certain events, in particular where the goods or part of the goods are put on the market within the Community.

Regulation 6 provides that goods shall be treated as being exported when they are disposed of in specified ways with a view to their subsequent exportation outside the Community.

Regulation 7 provides for an amendment to section 10(1) of the Import Duties Act 1958 to make it clear that the making of false statements or the furnishing of false documents for the purposes of an application for an authorisation of relief from import duties or agricultural levies under these Regulations invalidates any decision allowing the relief and may amount to an offence under section 10. The amendment also covers applications for authorisations under any other Regulations under section 5(6) of the European Communities Act 1972, or for relief under a Community instrument, not necessarily relating to inward processing.

Regulation 8 provides for consequential repeal of section 7 of the Import Duties Act 1958 and section 1 of the Finance Act 1966 subject to a transitional provision in respect of anti-dumping and countervailing duties under the Customs Duties (Dumping and Subsidies) Act 1969.

Regulation 9 provides for the repealed enactments to continue to apply in relation to goods imported into the United Kingdom before 1st July 1977, as if these Regulations had not been made.

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