

STATUTORY INSTRUMENTS

2018 No. 1248

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

PART 7

Remission and repayment of import duty

Modifications etc. (not altering text)

- C1** Pts. 1-10 applied (with modifications) (31.12.2020) by [The Customs \(Northern Ireland\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1605\)](#), regs. 1(1), **32**; [S.I. 2020/1643](#), reg. 2, Sch.

CHAPTER 1

Preliminary

Interpretation

46. In this Part—

- “application for remission of duty” has the meaning given by regulation 54(3);
- “application for repayment of duty” has the meaning given by regulation 55(3);
- “reduced duty case” has the meaning given by regulation 47; and
- “remit” means to discharge a liability to import duty.

Commencement Information

- II** Reg. 46 in force at 31.12.2020 by [S.I. 2020/1643](#), reg. 2, Sch.

CHAPTER 2

Reduced duty cases

Reduced duty cases

47. In this Part, a “reduced duty case” is a case described in this chapter and the amount of import duty in respect of which a remission or repayment may be made further to an application under chapter 3 is the amount stated in each case.

Commencement Information

- I2** Reg. 47 in force at 31.12.2020 by [S.I. 2020/1643](#), reg. 2, Sch.

Changes to legislation: The Customs (Import Duty) (EU Exit) Regulations 2018, PART 7 is up to date with all changes known to be in force on or before 07 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

Incorrect amount of import duty

48.—(1) Paragraph (3) applies where—

- (a) a notification of liability to pay import duty states an amount of duty in respect of goods which is lower than the amount correctly due;
- (b) the incorrect amount arose by virtue of a mistake made by HMRC or the customs authorities of the territory from which the goods were exported;
- (c) that mistake could not reasonably have been detected by the applicant making the application under chapter 3;
- (d) the applicant has taken all reasonable steps to ensure compliance with—
 - (i) the Customs procedures relevant to the goods; and
 - (ii) any requirements imposed by an HMRC officer concerning control of the goods ^{M1}; and
- (e) the goods are not, and have not been, liable to forfeiture.

(2) A mistake under paragraph (1) does not include a mistake by HMRC which gives rise to a reduced duty case under regulation 50.

(3) The difference between the correct and incorrect amount of duty is the amount which may be remitted or repaid.

Commencement Information

I3 Reg. 48 in force at 31.12.2020 by [S.I. 2020/1643](#), reg. 2, [Sch.](#)

Marginal Citations

M1 For goods being subject to the control of an HMRC officer, see section 37(7) of the Act.

Lower rate of import duty applied incorrectly

49.—(1) Subject to paragraph (2), paragraph (3) applies where—

- (a) a Customs declaration for the free-circulation procedure ^{M2} is accepted in respect of chargeable goods ^{M3};
- (b) at the time of the acceptance, a lower rate of import duty was applied to the goods by virtue of provision made under any of sections 9 to 12 of the Act;
- (c) that lower rate was applied because of information provided by the customs authorities (“the exporting authorities”) of the territory from which the goods were exported;
- (d) that information was inaccurate;
- (e) any conditions relevant to the application of the lower rate of import duty have been complied with; and
- (f) had the lower rate not been applied, the liability to pay import duty in respect of the goods would have been for an amount (“the higher amount”) more than that stated (“the stated amount”) in the declaration or, where it is given, in the notification of liability.

(2) Paragraph (3) does not apply where the inaccuracy arose by virtue of inaccurate information provided to the exporting authorities by the exporter unless—

- (a) the exporter reasonably believed the information to be true and accurate; and
- (b) the exporting authority acted reasonably in failing to correct the inaccuracy.

(3) The difference between the higher amount and the stated amount is the amount which may be remitted or repaid.

Commencement Information

I4 Reg. 49 in force at 31.12.2020 by [S.I. 2020/1643](#), reg. 2, [Sch.](#)

Marginal Citations

M2 “The free-circulation procedure” is defined in section 3(3)(a) of the Act.

M3 “Chargeable goods” is defined in section 2 of the Act.

Lower rate of import duty available

50.—(1) Paragraph (2) applies where a notification of liability to pay import duty states an amount of duty in respect of goods which is greater than the amount correctly due because by mistake an incorrect rate of import duty was applied.

(2) The difference between the correct and incorrect amount of duty is the amount which may be remitted or repaid.

Commencement Information

I5 Reg. 50 in force at 31.12.2020 by [S.I. 2020/1643](#), reg. 2, [Sch.](#)

Defective and non-compliant chargeable goods

51.—(1) Subject to paragraph (3), paragraph (4) applies where—

- (a) chargeable goods are released ^{M4} to a Customs procedure;
- (b) a contract was entered into for the sale and purchase of the goods before that release; and
- (c) the buyer notified the seller that the goods were rejected as not being in compliance with the contract as soon as practicable after the grounds for rejection became known to the buyer.

(2) In paragraph (1)(c)—

- (a) grounds for rejection include where the goods are defective or damaged; and
- (b) the rejection may occur after the goods cease to be chargeable goods.

(3) Paragraph (4) does not apply where—

- (a) the goods have been used or processed, other than that which was necessary to determine if the goods were in compliance with the contract; or
- (b) before the goods were released to a Customs procedure, the goods were declared for a special Customs procedure ^{M5} in order to be tested to determine if the goods were in compliance with the contract, unless such testing would not normally have revealed such compliance.

(4) The amount of import duty in respect of the rejected goods is the amount which may be remitted or repaid.

Commencement Information

I6 Reg. 51 in force at 31.12.2020 by [S.I. 2020/1643](#), reg. 2, [Sch.](#)

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Marginal Citations

- M4** See paragraph 17 of Schedule 1 to the Act on release of goods to a Customs procedure.
M5 “Special Customs procedure” is defined in section 3(4) of the Act.

Just and equitable reduction

52.—(1) Paragraph (2) applies where—

- (a) a person (“P”) making the application under chapter 3 incurs a liability to import duty in respect of the goods stated in the application in the course of a business carried on by P;
- (b) P has taken all reasonable steps to ensure compliance with—
 - (i) the Customs procedures relevant to the goods; and
 - (ii) any requirements imposed by an HMRC officer concerning control of the goods; and
- (c) HMRC consider that by reason of exceptional circumstances which apply to that business, were HMRC to enforce some or all of the liability against P, P would suffer a disadvantage in carrying on that business compared to other persons carrying on a similar business.

(2) The amount of import duty which HMRC considers is just and equitable to reduce having regard to the exceptional circumstances is the amount which may be remitted or repaid.

Commencement Information

- I7** Reg. 52 in force at 31.12.2020 by [S.I. 2020/1643](#), [reg. 2](#), [Sch.](#)

Withdrawal of a Customs declaration

53.—(1) Paragraph (2) applies where a Customs declaration is withdrawn in accordance with paragraph 16 of Schedule 1 to the Act and before the withdrawal a payment is made in respect of the liability to import duty incurred under that declaration.

(2) The amount paid is the amount which may be repaid.

Commencement Information

- I8** Reg. 53 in force at 31.12.2020 by [S.I. 2020/1643](#), [reg. 2](#), [Sch.](#)

[^{F1}Trade remedy repayment investigations

53A.—(1) Paragraph (2) applies where—

- (a) a person has paid import duty attributable to the imposition of an anti-dumping amount or countervailing amount specified in a notice made by the Secretary of State under section 13 of the Act;
- (b) the relevant dumping margin or amount of the subsidy has been eliminated or reduced to a level which is lower than the amount specified in the notice made by the Secretary of State under section 13 of the Act; and
- (c) the application to conduct a repayment investigation under regulation 89 of the Trade Remedies (Dumping and Subsidisation) (EU Exit) Regulations 2019 was made no later than 6 months after the end of the importation period to which the application related.

(2) The amount of repayment determined to be due pursuant to regulation 89 of the Trade Remedies (Dumping and Subsidisation) (EU Exit) Regulations 2019 at the conclusion of the repayment investigation is the amount which may be repaid.

(3) For the purposes of this regulation—

(a) an “importation period” is any continuous six month period commencing on—

(i) the day after the date on which the Trade Remedies (Dumping and Subsidisation) (EU Exit) Regulations 2019 commence;

(ii) the day after the period in paragraph (i) terminates;

(iii) the anniversary of the day in paragraphs (i) or (ii);

(b) a “notice made by the Secretary of State under section 13 of the Act” includes a notice made by the Secretary of State under—

(i) regulation 96A(1) of the Trade Remedies (Dumping and Subsidisation) (EU Exit) Regulations 2019;

(ii) regulation 101C(2)(a) of the Trade Remedies (Dumping and Subsidisation) (EU Exit) Regulations 2019.]

Textual Amendments

F1 Reg. 53A inserted (31.12.2020) by [The Taxation \(Cross-border Trade\) \(Miscellaneous Provisions\) \(EU Exit\) Regulations 2019 \(S.I. 2019/486\)](#), regs. 1(3), **6(20)** (as amended by [S.I. 2019/1346](#), **reg. 9(2)(c)**); [S.I. 2020/1643](#), **reg. 2**, **Sch.**

[^{F2}Repayment of import duty following Trade Remedies Authority review

53B.—(1) Paragraph (2) applies where the Secretary of State has made a public notice under regulation 96D(2B), regulation 96H(7) or (8)(b) of the Trade Remedies (Dumping and Subsidisation) (EU Exit) Regulations 2019.

(2) The amount of repayment determined by HMRC to be due having regard to the applicable public notice in paragraph (1) is the amount that may be repaid.]

Textual Amendments

F2 [Reg. 53B](#) inserted (4.12.2023) by [The Customs \(Aerodromes and Miscellaneous Amendments\) Regulations 2023 \(S.I. 2023/1202\)](#), regs. 1, **4(11)**

CHAPTER 3

Applications for remission and repayment

Remission

54.—(1) Paragraph (2) applies in relation to a liability to import duty in respect of which no payment has been made.

(2) An application may be made to HMRC to remit the liability (in whole or part) by virtue that a reduced duty case applies, other than the reduced duty case described in regulation 53.

(3) An application described in paragraph (2) is an application for remission of duty.

(4) Where a determination to grant an application has effect under regulation 64(3), the liability is remitted to the extent stated in the determination.

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(5) Paragraph (4) is subject to regulation 69.

Commencement Information

I9 Reg. 54 in force at 31.12.2020 by [S.I. 2020/1643](#), reg. 2, [Sch.](#)

Repayment

55.—(1) Paragraph (2) applies in relation to a liability to import duty in respect of which a payment has been made.

(2) An application may be made to HMRC to repay (in whole or part) the payment by virtue that a reduced duty case applies.

(3) An application described in paragraph (2) is an application for repayment of duty.

(4) A determination to grant an application for repayment of duty which has effect under regulation 64(3) is subject to regulation 69.

Commencement Information

I10 Reg. 55 in force at 31.12.2020 by [S.I. 2020/1643](#), reg. 2, [Sch.](#)

Applications for remission and repayment of duty

56.—(1) An application for remission or repayment of duty may be made notwithstanding that the goods stated in the application cease to be chargeable goods.

(2) Paragraph (3) applies where—

- (a) an application for remission of duty has been made which is not withdrawn, rejected or determined; and
- (b) a payment is made in respect of the liability which is the subject of the application.

(3) Where—

- (a) the applicant makes the payment, the application is to be treated as an application for repayment of duty; or
- (b) a person other than the applicant makes the payment, the application is to be treated as withdrawn,

and HMRC must notify the applicant of that fact as soon as practicable after the payment is made.

(4) No application may be made where—

- (a) an appeal has been made in respect of the amount of the liability to import duty to which the application would apply; and
- (b) the appeal has not been determined.

Commencement Information

I11 Reg. 56 in force at 31.12.2020 by [S.I. 2020/1643](#), reg. 2, [Sch.](#)

Applicants

57.—(1) An application for remission of duty may be made by a person who is liable to pay the import duty.

(2) An application for repayment of duty may be made by a person who has paid some or all of the payment to which the application relates.

Commencement Information

I12 Reg. 57 in force at 31.12.2020 by [S.I. 2020/1643](#), reg. 2, [Sch.](#)

Content of applications

58.—(1) An application must state—

- (a) the goods to which the application relates;
- (b) the reduced duty case which applies;
- (c) whether it is an application for remission or repayment of duty, or both;
- (d) the amount of the liability to import duty;
- (e) the amount which the applicant claims should be remitted or repaid;
- (f) where payment has been made in respect of the liability, the amount paid and the person who paid it; and
- (g) the location of the goods.

(2) An application must—

- (a) include such details identifying each person making the application;
- (b) be made to the place;
- (c) be made in the form and manner, including electronic; and
- (d) be accompanied by such information,

as specified in a notice published by HMRC.

(3) HMRC must publish a notice specifying the matters referred to in paragraph (2).

Commencement Information

I13 Reg. 58 in force at 31.12.2020 by [S.I. 2020/1643](#), reg. 2, [Sch.](#)

Time periods for applications

59.—(1) Subject to paragraphs (2) to (4), an application for remission or repayment of duty must be made by no later than the end of the following periods beginning with the day after the date of the notification of liability to pay import duty in respect of the goods—

- (a) except where sub-paragraph (b) applies, three years;
- (b) where the application concerns the reduced duty case described in regulation 51, one year.

(2) Where an appeal was made in respect of the amount of import duty to which the application relates and the appeal has been determined, the period between the commencement and determination of the appeal is to be disregarded for the purposes of determining the periods in paragraph (1).

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(3) Where the application concerns the reduced duty case described in regulation 53, the application must be made by no later than the date required to notify the withdrawal of the Customs declaration as provided by public notice made under paragraph 16(a) of Schedule 1 to the Act.

[^{F3}(3A) Where the application concerns the reduced duty case described in regulation 53B, the application must be made by no later than three years beginning with the day following the day on which the public notice is published.]

(4) Where by virtue of force majeure or unforeseeable circumstances it would be unreasonable to expect a person to make an application in time, HMRC may, on written request by the person which gives reasons for the request, allow the person to make the application out of time.

Textual Amendments

F3 [Reg. 59\(3A\)](#) inserted (4.12.2023) by [The Customs \(Aerodromes and Miscellaneous Amendments\) Regulations 2023 \(S.I. 2023/1202\)](#), regs. 1, 4(**12**)

Commencement Information

I14 [Reg. 59](#) in force at 31.12.2020 by [S.I. 2020/1643](#), reg. 2, [Sch.](#)

CHAPTER 4

Post-application

Meaning of “application”

60. In this chapter and the following chapters of this Part, “application” means an application for remission or repayment of duty, or both, as the case may be.

Commencement Information

I15 [Reg. 60](#) in force at 31.12.2020 by [S.I. 2020/1643](#), reg. 2, [Sch.](#)

Inspection of goods

61.—(1) Subject to paragraphs (2) and (3), in respect of the goods stated in the application, the applicant must—

- (a) ensure that the goods are available for inspection by an HMRC officer on reasonable notice; and
- (b) except where the goods have been inspected by an HMRC officer and no further inspection is required, notify HMRC in advance if the applicant intends to move the location of the goods and notify the intended new location.

(2) Where the goods stated in the application are destroyed or dismantled further to a consent given under regulation 62(6)(a), paragraph (1) applies instead to any remains or components of the goods.

(3) Paragraph (1) does not apply where—

- (a) the goods, or the remains or components of the goods, are removed from the United Kingdom further to a consent given under regulation 62(6)(b) or (7); or
- (b) the goods are declared for an inward processing [^{F4}, transit] or storage procedure further to a consent given under regulation 62(6)(c).

Textual Amendments

- F4** Words in [reg. 61\(3\)\(b\)](#) inserted (31.12.2020) by [The Taxation \(Cross-border Trade\) \(Miscellaneous Provisions\) \(EU Exit\) \(No. 2\) Regulations 2019 \(S.I. 2019/1346\)](#), regs. 1(2), **2(11)**; [S.I. 2020/1643](#), reg. 2, Sch.

Commencement Information

- I16** Reg. 61 in force at 31.12.2020 by [S.I. 2020/1643](#), reg. 2, Sch.

Determinations to grant applications

- 62.**—(1) HMRC may determine to grant an application if it is satisfied that—
- (a) the application has been made in compliance with chapter 3;
 - (b) the reduced duty case stated in the application applies; and
 - (c) incorrect or incomplete information which was deliberately misleading such as to enable the application to be made was not provided to HMRC by a person responsible for complying with the Customs procedures relevant to the goods stated in the application.
- (2) In the case of an application for remission, the grant of the application does not, unless the determination provides otherwise, discharge the liability of a person who was not an applicant.
- (3) An application may be granted—
- (a) in the case of a joint application, other than to all the applicants;
 - (b) to remit a liability or to make a repayment of an amount different to that stated in the application, so long as the amount does not exceed that provided by the applicable reduced duty case;
 - (c) in respect of—
 - (i) fewer goods than stated in the application; or
 - (ii) remains or components of the goods stated in the application, in cases where the goods are, or are to be, destroyed or dismantled; or
 - (d) subject to the compliance with conditions, including that any of the goods stated in the application, or components of them, must be destroyed or dismantled.
- (4) Except for the conditions set out in regulation 67, where an application is granted subject to compliance with conditions, they may be varied or waived by HMRC.
- (5) Paragraph (6) applies—
- (a) where an application concerns the reduced duty case described in regulation 51; and
 - (b) before HMRC—
 - (i) accepts or rejects the application under regulation 63; or
 - (ii) determines the application under regulation 64.
- (6) HMRC may consent on request by the applicant to the goods stated in the application being—
- (a) destroyed or dismantled;
 - (b) removed from the United Kingdom in accordance with the applicable export provisions^{M6}^{F5}where the removal is from Great Britain, and in accordance with Union customs legislation where the removal is from Northern Ireland];^{F6}...
- [^{F7}(ba) removed from Great Britain to Northern Ireland; or]

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- (c) declared for an inward processing [^{F8}, transit] or storage procedure but such a consent is not an authorisation to make the declaration.

[^{F9}(7) Where HMRC consents to the destruction or dismantling of the goods it may also consent to—

- (a) the removal from the United Kingdom of any remains or components of the goods in accordance with the applicable export provisions where the removal is from Great Britain, and in accordance with Union customs legislation where the removal is from Northern Ireland; or
- (b) the removal of any remains or components of the goods from Great Britain to Northern Ireland.]

Textual Amendments

- F5** Words in reg. 62(6)(b) inserted (31.12.2020) by [The Customs \(Northern Ireland\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1605\)](#), regs. 1(1), **37(4)(a)(i)**; S.I. 2020/1643, reg. 2, Sch.
- F6** Word in reg. 62(6)(b) omitted (31.12.2020) by virtue of [The Customs \(Northern Ireland\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1605\)](#), regs. 1(1), **37(4)(a)(ii)**; S.I. 2020/1643, reg. 2, Sch.
- F7** Reg. 62(6)(ba) inserted (31.12.2020) by [The Customs \(Northern Ireland\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1605\)](#), regs. 1(1), **37(4)(a)(ii)**; S.I. 2020/1643, reg. 2, Sch.
- F8** Words in reg. 62(6)(c) inserted (31.12.2020) by [The Taxation \(Cross-border Trade\) \(Miscellaneous Provisions\) \(EU Exit\) \(No. 2\) Regulations 2019 \(S.I. 2019/1346\)](#), regs. 1(2), **2(12)**; S.I. 2020/1643, reg. 2, Sch.
- F9** Reg. 62(7) substituted (31.12.2020) by [The Customs \(Northern Ireland\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1605\)](#), regs. 1(1), **37(4)(b)**; S.I. 2020/1643, reg. 2, Sch.

Modifications etc. (not altering text)

- C2** Reg. 62 modified (31.12.2020) by [The Customs \(Crown Dependencies Customs Union\) \(EU Exit\) Regulations 2019 \(S.I. 2019/385\)](#), regs. 1(2), **5(10)** (with reg. 2); S.I. 2020/1643, reg. 2, Sch.

Commencement Information

- I17** Reg. 62 in force at 31.12.2020 by [S.I. 2020/1643](#), reg. 2, Sch.

Marginal Citations

- M6** Section 35 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.

Acceptance and rejection

63.—(1) By no later than 30 days after the date on which an application is received by HMRC, HMRC must notify the applicant that the application—

- (a) has been made in accordance with chapter 3 and is accepted; or
- (b) is rejected for the reasons set out in the notification.

(2) If an acceptance or rejection is not made as required by paragraph (1), the application is deemed to be rejected.

Commencement Information

- I18** Reg. 63 in force at 31.12.2020 by [S.I. 2020/1643](#), reg. 2, Sch.

Determinations

64.—(1) Where an application is accepted under regulation 63(1)(a), HMRC must notify the applicant that it has—

- (a) determined to grant the application (in whole or part); or
- (b) determined to refuse the application.

(2) Where—

- (a) paragraph (1)(a) applies, the notification must include details of—
 - (i) how the amount of reduced duty has been calculated; and
 - (ii) such of the matters, if any, set out in regulation 62(3) as are applicable to the case;
- (b) paragraph (1)(b) applies, the notification must state the reasons for the refusal.

(3) A determination to grant the application (in whole or part)—

- (a) which is not made subject to compliance with conditions, has effect on the date of the determination;
- (b) which is made subject to compliance with conditions, has effect once HMRC is satisfied that the conditions have been complied with.

(4) Where paragraph (3)(b) applies and HMRC is not so satisfied—

- (a) HMRC must as soon as practicable notify the applicant that the application is treated as withdrawn; and
- (b) no further application may be made in relation to the goods to which the withdrawn application applied.

(5) A notification of determination under paragraph (1) must be made by no later than the expiry of—

- (a) the period of 120 days beginning with the day after the date of the acceptance of the application; or
- (b) an extended period, not exceeding 30 days, beginning with the day when the period of 120 days expires, where HMRC needs an extension in order to reach a determination.

(6) HMRC must notify the applicant within the period of 120 days of any such extended period which it needs.

(7) Where HMRC fails to reach a determination in accordance with paragraph (5), the application is deemed to be refused.

(8) Where the application is an application for repayment of duty, HMRC must pay to the applicant the amount it has determined as a repayment as soon as practicable after the determination has effect.

Commencement Information

I19 Reg. 64 in force at 31.12.2020 by [S.I. 2020/1643](#), reg. 2, [Sch.](#)

Where rejection or refusal is required

65.—(1) Paragraph (4) applies where—

- (a) the applicant has failed without reasonable excuse to comply with regulation 61(1);
- (b) HMRC is not satisfied that the goods which are the subject of the application are the same as those in respect of which the liability to import duty was incurred; or

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- (c) except where paragraph (3) applies, in the reduced duty case described in regulation 51, the goods are sold after the application is made.
- (2) It is not a reasonable excuse to fail to comply with regulation 61(1) by virtue that the goods or the remains or components of the goods are—
 - (a) except as provided by regulation 61(2), destroyed or dismantled; or
 - (b) removed from the United Kingdom.
- (3) Paragraph (1)(c) does not apply where the goods are sold after the goods are removed from the United Kingdom or declared for an inward processing [^{F10}, transit] or storage procedure, further to consent given under regulation 62(6)(c).
- (4) HMRC must reject the application under regulation 63(1)(b) or refuse the application under regulation 64(1)(b) as soon as practicable after it becomes aware of the occurrence of a matter in paragraph (1).

Textual Amendments

F10 Words in reg. 65(3) inserted (31.12.2020) by [The Taxation \(Cross-border Trade\) \(Miscellaneous Provisions\) \(EU Exit\) \(No. 2\) Regulations 2019 \(S.I. 2019/1346\)](#), regs. 1(2), **2(13)**; [S.I. 2020/1643](#), reg. 2, Sch.

Commencement Information

I20 Reg. 65 in force at 31.12.2020 by [S.I. 2020/1643](#), reg. 2, Sch.

Lower rate of import duty available: required rejection

- 66.—**(1) This regulation applies where—
- (a) an application concerns the reduced duty case described in regulation 50;
 - (b) a Customs declaration for the free-circulation procedure was made in respect of the goods stated in the application; and
 - (c) a lower rate of duty was available by virtue of provision made under any of sections 9 to 12 of the Act.
- (2) Except where paragraph (3) applies, the application must be rejected where, at the date the application is made, a lower rate of import duty can no longer be applied to the goods by virtue of provision made under any of sections 9 to 12 of the Act.
- (3) Where the reason that such a lower rate of import duty was not applied at the time the declaration for free-circulation of the goods was accepted was because of a failure by HMRC, the application is not required to be rejected if the Customs declaration which was accepted contained all the information necessary to have enabled HMRC to apply the lower rate of duty.

Commencement Information

I21 Reg. 66 in force at 31.12.2020 by [S.I. 2020/1643](#), reg. 2, Sch.

Defective and non-compliant chargeable goods: required conditions

- 67.—**(1) This regulation applies where—
- (a) an application concerns the reduced duty case described in regulation 51; and
 - (b) a determination is made to grant the application (in whole or part).

- (2) Subject to paragraph (3), the determination must—
- (a) impose a condition that the goods—
 - (i) are destroyed or dismantled;
 - (ii) are removed from the United Kingdom in accordance with the applicable export provisions [^{F11}where the removal is from Great Britain, and in accordance with Union customs legislation where the removal is from Northern Ireland]; or
 - (iii) are [^{F12}declared for] an inward processing [^{F13}, transit] or storage procedure but such a condition is not an authorisation to make a declaration for the procedure; and
 - (b) state a period for compliance with the condition imposed, being a period of no longer than 60 days beginning with the date of the determination.
- (3) Paragraph (2) does not apply if one of the matters in paragraph (2)(a) has occurred before the time of the determination further to a consent given under regulation 62(6).

Textual Amendments

- F11** Words in reg. 67(2)(a)(ii) inserted (31.12.2020) by [The Customs \(Northern Ireland\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1605\)](#), regs. 1(1), **37(5)**; [S.I. 2020/1643](#), reg. 2, Sch.
- F12** Words in reg. 67(2)(a)(iii) substituted (31.12.2020) by [The Taxation \(Cross-border Trade\) \(Miscellaneous Provisions\) \(EU Exit\) \(No. 2\) Regulations 2019 \(S.I. 2019/1346\)](#), regs. 1(2), **2(14)(a)**; [S.I. 2020/1643](#), reg. 2, Sch.
- F13** Words in reg. 67(2)(a)(iii) inserted (31.12.2020) by [The Taxation \(Cross-border Trade\) \(Miscellaneous Provisions\) \(EU Exit\) \(No. 2\) Regulations 2019 \(S.I. 2019/1346\)](#), regs. 1(2), **2(14)(b)**; [S.I. 2020/1643](#), reg. 2, Sch.

Modifications etc. (not altering text)

- C3** Reg. 67(2)(a)(ii) modified (31.12.2020) by [The Customs \(Crown Dependencies Customs Union\) \(EU Exit\) Regulations 2019 \(S.I. 2019/385\)](#), regs. 1(2), **5(11)** (with reg. 2); [S.I. 2020/1643](#), reg. 2, Sch.

Commencement Information

- I22** Reg. 67 in force at 31.12.2020 by [S.I. 2020/1643](#), reg. 2, Sch.

[^{F14}Goods which cease to be chargeable goods

67A.—(1) Subject to paragraph (3), goods are to be regarded as chargeable goods from the date of the determination to grant an application (in whole or in part) where—

- (a) it is a condition of the determination that the goods be declared for an inward processing, transit or storage procedure; and
- (b) the goods stated in the application have ceased to be chargeable goods.

(2) Subject to paragraph (4), goods are to be regarded as chargeable goods from the date any consent is given by HMRC under regulation 62(6)(c) where—

- (a) a request has been made under regulation 62(6)(c); and
- (b) the goods stated in the application have ceased to be chargeable goods.

(3) Paragraph (1) does not apply where—

- (a) a notification under regulation 64(4)(a) is issued; or
- (b) the determination is treated as null and void in accordance with regulation 69(2).

(4) Paragraph (2) does not apply where—

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- (a) HMRC rejects the application under regulation 63;
- (b) HMRC determines to refuse the application under regulation 64; or
- (c) the determination is treated as null and void in accordance with regulation 69(2).]

Textual Amendments

F14 Reg. 67A inserted (31.12.2020) by [The Taxation \(Cross-border Trade\) \(Miscellaneous Provisions\) \(EU Exit\) \(No. 2\) Regulations 2019 \(S.I. 2019/1346\)](#), regs. 1(2), **2(15)**; [S.I. 2020/1643](#), reg. 2, Sch.

Interest payable by HMRC

68.—(1) Paragraph (2) applies where—

- (a) an application for repayment of duty is made;
- (b) a period of 30 working days has expired since the date that a determination to grant the application has effect as provided by regulation 64(3);
- (c) HMRC has failed to pay some or all of the repayment; and
- (d) that failure is substantially the fault of HMRC.

(2) HMRC must pay interest at the applicable rate on the amount of the unpaid repayment for the period—

- (a) beginning with the day after the date on which the 30 working days period described in paragraph (1)(b) expires; and
- (b) ending with the date on which the amount is paid in full.

(3) In paragraph (2), “the applicable rate” means the rate of interest provided by regulations for the purposes of section 197(2)(f) of the Finance Act 1996 ^{M7}.

Commencement Information

I23 Reg. 68 in force at 31.12.2020 by [S.I. 2020/1643](#), reg. 2, Sch.

Marginal Citations

M7 [1996 c. 8](#). At the time these Regulations are made, the rate is provided by regulation 5(1)(e) of [S.I. 1998/1461](#) as 5% per annum. Regulation 5 was substituted by [S.I. 2001/631](#) and regulation 5(1)(e) amended by [S.I. 2003/230](#).

CHAPTER 5

Remission or repayment made in error

Remission or repayment made in error

69.—(1) Paragraph (2) applies where—

- (a) a determination to grant an application has effect as provided by regulation 64(3);
- (b) HMRC finds that the determination was made in error; and
- (c) that finding is made before the expiry of the period of X days beginning immediately after the expiry of the period within which a notification of liability to import duty may be given in respect of the goods stated in the application.

(2) The determination is to be treated as null and void.

(3) Where paragraph (2) applies, HMRC must give notification of that fact as soon as practicable to the applicant and such other persons as HMRC considers are likely to be affected by the matter.

(4) If a repayment was made to a person to whom notification is given, that person must pay that repayment to HMRC, together with any interest paid by HMRC under regulation 68, before the expiry of the period of 10 days beginning with the date following the date on which the notification is given.

(5) In paragraph (1)(c), “X days” means the number of days in the period beginning with the date on which the application referred to in paragraph (1)(a) was made and ending with the date on which the application was determined.

Commencement Information

I24 Reg. 69 in force at 31.12.2020 by [S.I. 2020/1643](#), reg. 2, [Sch.](#)

CHAPTER 6

Remission or repayment without an application

Remission or repayment without an application

70.—(1) Paragraph (2) applies where—

- (a) HMRC is satisfied that, had an application been made in accordance with chapter 3, HMRC would have determined to grant the application; and
- (b) HMRC is aware of a person (“a relevant person”) it considers would have been entitled to make the application.

(2) Where this paragraph applies, HMRC may make a determination to remit a liability or make a repayment as it would have done had the application been made.

(3) Where such a determination is made, HMRC must give notification of the determination as it would have done had the application been made.

(4) HMRC may treat the relevant person as the person to whom notification is to be given or any repayment is to be paid.

Commencement Information

I25 Reg. 70 in force at 31.12.2020 by [S.I. 2020/1643](#), reg. 2, [Sch.](#)

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^{M8}, has the meaning given by regulation 73;
- “relevant breach or failure” has the meaning given by regulation 72.

Commencement Information

I26 Reg. 71 in force at 31.12.2020 by [S.I. 2020/1643](#), reg. 2, [Sch.](#)

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Marginal Citations

M8 See section 36 of the Act.

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 ^{M9} 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);
 - (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).

Commencement Information

I27 Reg. 72 in force at 31.12.2020 by [S.I. 2020/1643](#), reg. 2, [Sch.](#)

Marginal Citations

M9 See section 3(4) of the Act.

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^{M10}, except a transit procedure^{F15} or a free zone procedure^{M11}, 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.

Textual Amendments

F15 Words in [reg. 73\(5\)\(b\)](#) inserted (8.11.2021) by [The Free Zones \(Customs, Excise and Value Added Tax\) Regulations 2021 \(S.I. 2021/1156\)](#), regs. 1, **2(10)**

Commencement Information

I28 Reg. 73 in force at 31.12.2020 by [S.I. 2020/1643](#), reg. 2, [Sch.](#)

Marginal Citations

M10 “Special Customs procedure” is defined in section 3(4) of the Act.

M11 “A transit procedure” is defined in paragraph 5 of Schedule 2 to the Act.

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.

Commencement Information

I29 Reg. 74 in force at 31.12.2020 by [S.I. 2020/1643](#), reg. 2, [Sch.](#)

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No avoidance of liability

75.—(1) Paragraph (2) applies where—

- (a) a relevant breach or failure occurs;
- (b) a liability to import duty in respect of chargeable goods ^{M12} 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.

Commencement Information

I30 Reg. 75 in force at 31.12.2020 by [S.I. 2020/1643](#), reg. 2, [Sch.](#)

Marginal Citations

M12 “Chargeable goods” is defined in section 2 of the Act.

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.

Commencement Information

I31 Reg. 76 in force at 31.12.2020 by [S.I. 2020/1643](#), reg. 2, [Sch.](#)

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.

Commencement Information

I32 Reg. 77 in force at 31.12.2020 by [S.I. 2020/1643](#), reg. 2, [Sch.](#)

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.

Commencement Information

I33 Reg. 78 in force at 31.12.2020 by [S.I. 2020/1643](#), reg. 2, [Sch.](#)

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

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- (b) the expiry of the period of 20 years beginning with the date on which the liability to import duty was incurred.

Commencement Information

I34 Reg. 79 in force at 31.12.2020 by [S.I. 2020/1643](#), reg. 2, [Sch.](#)

Changes to legislation:

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Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- Pt. 4 Ch. 3 s. 2 applied (with modifications) by [S.I. 2018/1249 reg. 13\(3\)](#) (Reg. 13(1)-(3) omitted on IP completion day by S.I. 2019/108, regs. 1(5), 60(2); S.I. 2020/1643, reg. 2, Sch.)
- Pt. 13A inserted by [S.I. 2019/1215 reg. 11\(23\)](#) (This amendment not applied to legislation.gov.uk. Reg. 11(23) omitted (29.10.2020) by virtue of S.I. 2020/1088, regs. 1(3), 9(4)(b))
- Table of Contents words inserted by [S.I. 2019/326 reg. 7](#) (This amendment not applied to legislation.gov.uk. The table of contents for this legislation will be dynamically updated when its provisions are revised)
- reg. 4(3AA) inserted by [S.I. 2019/1215 reg. 11\(3\)\(c\)](#) (This amendment not applied to legislation.gov.uk. Reg. 11(3)(c) is omitted on IP completion day by virtue of S.I. 2020/1234, regs. 1(2), 7(2); S.I. 2020/1643, reg. 2, Sch.)
- reg. 4(4A) inserted by [S.I. 2019/1215 reg. 11\(3\)\(g\)](#) (This amendment not applied to legislation.gov.uk. Reg. 11(3)(g) is omitted on IP completion day by virtue of S.I. 2020/1234, regs. 1(2), 7(2); S.I. 2020/1643, reg. 2, Sch.)
- reg. 4A inserted by [S.I. 2019/1215 reg. 11\(4\)](#) (This amendment not applied to legislation.gov.uk. Reg. 11(4) is omitted on IP completion day by virtue of S.I. 2020/1234, regs. 1(2), 7(2); S.I. 2020/1643, reg. 2, Sch.)
- reg. 33(1)(c) inserted by [S.I. 2019/486 reg. 6\(12\)\(c\)](#) (This amendment not applied to legislation.gov.uk. Reg. 6(12)(13) omitted (29.10.2020) by virtue of S.I. 2020/1088, reg. 1(3), 7(2))
- reg. 33(2A)-(2D) inserted by [S.I. 2019/486 reg. 6\(13\)](#) (This amendment not applied to legislation.gov.uk. Reg. 6(12)(13) omitted (29.10.2020) by virtue of S.I. 2020/1088, reg. 1(3), 7(2))
- reg. 33(2A)(2B) transitional provisions for effects of S.I. 2019/486, reg. 6(13) by [S.I. 2019/513 reg. 15\(6\)](#) (This amendment not applied to legislation.gov.uk. Pt. 4 omitted on IP completion day by virtue of S.I. 2020/1495, regs. 1(2), 22(5); S.I. 2020/1641, reg. 2, Sch.)
- reg. 33(2A)(2B) transitional provisions for effects of S.I. 2019/486, reg. 6(13) by [S.I. 2019/513 reg. 15\(6\)](#) (This amendment not applied to legislation.gov.uk. Pt. 4 omitted on IP completion day by virtue of S.I. 2020/1495, regs. 1(2), 22(5); S.I. 2020/1641, reg. 2, Sch.)
- reg. 43(3A) inserted by [S.I. 2019/326 reg. 11\(4\)](#) (This amendment comes into force on such day as the Treasury may by regulations under 2018 c. 22, s. 52 appoint)
- reg. 89(1A)-(1C) inserted by [S.I. 2024/194 reg. 2\(4\)\(a\)](#)
- reg. 89(2A) inserted by [S.I. 2024/194 reg. 2\(4\)\(c\)](#)
- reg. 89(5A) inserted by [S.I. 2024/194 reg. 2\(4\)\(d\)](#)
- reg. 98(5) inserted by [S.I. 2019/1215 reg. 11\(17\)\(d\)](#) (This amendment not applied to legislation.gov.uk. Reg. 11(17)(c)(d) omitted (29.10.2020) by virtue of S.I. 2020/1088, regs. 1(3), 9(4)(a))