

STATUTORY INSTRUMENTS

2020 No. 1605

The Customs (Northern Ireland) (EU Exit) Regulations 2020

PART 2

Importation of goods and goods potentially for export

CHAPTER 4

Goods potentially for export from Northern Ireland

“At risk of subsequently being moved into the European Union” – definition

10. For the purposes of section 40A of the Act “at risk of subsequently being moved into the European Union” in relation to goods means that they are not goods for the internal market.

Commencement Information

- I1** Reg. 10 not in force at made date, see [reg. 1\(1\)](#)
I2 Reg. 10 in force at 31.12.2020 by [S.I. 2020/1643](#), [reg. 2](#), [Sch.](#)

Goods not chargeable under section 40A

11.—(1) Goods to which this regulation applies are not chargeable to duty under section 40A(1) of the Act.

- (2) This regulation applies to goods that are not domestic goods if they are—
- (a) goods for the internal market; and
 - (b) subject to an inward processing procedure that was not discharged in accordance with paragraph 9(5) of Schedule 2 to the Act or regulation 26 of the special procedures regulations (temporary export of goods released to an inward processing procedure) when the goods were removed to Northern Ireland.

Commencement Information

- I3** Reg. 11 not in force at made date, see [reg. 1\(1\)](#)
I4 Reg. 11 in force at 31.12.2020 by [S.I. 2020/1643](#), [reg. 2](#), [Sch.](#)

Goods potentially for export – relevant goods

- 12.**—(1) Goods are “relevant goods” for the purposes of this Chapter if they—
- (a) are removed to Northern Ireland from Great Britain by direct transport;
 - (b) are not goods to which regulation 11 applies;
 - (c) are not domestic goods; and

(d) are goods for the internal market.

(2) In paragraph (1)(a) “moved by direct transport” has the same meaning as it has in Article 5(1) of the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement.

Commencement Information

- I5** Reg. 12 not in force at made date, see [reg. 1\(1\)](#)
I6 Reg. 12 in force at 31.12.2020 by [S.I. 2020/1643](#), [reg. 2](#), [Sch.](#)

Application of provisions made by or under the Act

13.—(1) The relevant tariff provisions apply for the purposes of duty charged under section 40A in respect of relevant goods as if any reference to the importation of goods were to their removal to Northern Ireland from Great Britain [^{F1}and with the modifications in paragraph (3)].

(2) A provision is a “relevant tariff provision” if it is—

- (a) section 7(1) of the Act;
- (b) provision made by or under any of—
 - (i) sections 9 to 15 of the Act, including as modified by any provision made by or under section 31 or 51 of the Act;
 - (ii) section 17 of the Act; or
- (c) provision relating to relief contained in any of—
 - (i) the Customs (Tariff Quotas) (EU Exit) Regulations 2020;
 - (ii) the Customs (Tariff-free Access for Goods from British Overseas Territories) (EU Exit) Regulations 2020;
 - (iii) the Customs Tariff (Preferential Trade Arrangements) (EU Exit) Regulations 2020.

[^{F2}(3) Section 7(1) of the Act applies as if, in the Tariff of the United Kingdom—

- (a) where a term used corresponds to a term used in the Union customs legislation, the term were a reference to the corresponding term in the Union customs legislation, as the context requires;
- (b) in Part Two, in Section 1, in paragraph 9, for “Part 12 of the Customs (Import Duty) (EU Exit) Regulations 2018” there were substituted “Articles 71 to 76 of the Union Customs Code”;
- (c) in Part Four—
 - (i) in paragraph 3, for “Part 12 of the Customs (Import Duty) (EU Exit) Regulations 2018” there were substituted “Articles 71 to 76 of the Union Customs Code”;
 - (ii) in paragraph 17—
 - (aa) for “regulations 18 and 23 of the Customs (Special Procedures and Outward Processing) (EU Exit) Regulations 2018” there were substituted “Article 86(4) of the Union Customs Code and Article 76 of the Delegated Regulation”;
 - (bb) “United Kingdom” were omitted; and
 - (iii) in paragraph 18, for the words from “the value of the processed goods” the first time they occur to the end there were substituted “Article 75 of the Delegated Regulation”;

- (iv) in paragraph 19, for the words from “(as defined in” to the end there were substituted “any amount of duty applicable shall be calculated on the basis of Article 75 of the Delegated Regulation”.]

Textual Amendments

- F1** Words in reg. 13(1) inserted (31.12.2020) by [The Customs \(Modification and Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1629\)](#), regs. 1(2), **6(5)(a)**
- F2** Reg. 13(3) inserted (31.12.2020) by [The Customs \(Modification and Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1629\)](#), regs. 1(2), **6(5)(b)**

Commencement Information

- I7** Reg. 13 not in force at made date, see [reg. 1\(1\)](#)
- I8** Reg. 13 in force at 31.12.2020 by [S.I. 2020/1643](#), [reg. 2](#), [Sch.](#)

[^{F3}Amount of section 40A(1) duty for certain steel products

13A.—(1) This regulation applies to goods if—

- (a) they are removed to Northern Ireland from Great Britain,
- (b) they are declared, in accordance with Union customs legislation, for a procedure corresponding to the free-circulation procedure or the authorised use procedure,
- (c) they are not relevant goods,
- (d) they are not Union goods,
- (e) they are not domestic goods,
- (f) they are not goods to which regulation 11 applies,
- (g) the origin of the goods (as determined in accordance with the provisions of Union customs legislation in force relating to non-preferential origin) is neither in the United Kingdom nor in the European Union,
- (h) they would (ignoring this regulation) have been subject to an EU steel safeguarding measure, and
- (i) if they had instead been imported into a member State they would have benefitted from tariff-rate quota in relation to that measure.

(2) For the purpose of determining the amount of duty charged under section 40A(1) of the Act in respect of goods to which this regulation applies—

- (a) the EU steel regulation does not apply, and
- (b) the steel safeguards notice applies as if references to import duty were to duty charged under section 40A(1).]

Textual Amendments

- F3** Reg. 13A inserted (with effect in accordance with [Sch. 20 para. 4\(4\)](#) of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [Sch. 20 para. 4\(1\)](#)

[^{F4}Amount of section 40A(1) duty for certain domestic steel products

13B.—(1) This regulation applies to goods if—

- (a) they are removed to Northern Ireland from Great Britain,
 - (b) they are declared, in accordance with Union customs legislation, for a procedure corresponding to the free-circulation procedure or the authorised use procedure,
 - (c) they are domestic goods,
 - (d) they are not relevant goods,
 - (e) they are not Union goods,
 - (f) they are not goods to which regulation 11 applies,
 - (g) the origin of the goods (as determined in accordance with the provisions of Union customs legislation in force relating to non-preferential origin) is neither in the United Kingdom nor in the European Union,
 - (h) they would (ignoring this regulation) have been subject to an EU steel safeguarding measure, and
 - (i) if they had instead been imported into a member State they would have benefitted from tariff-rate quota in relation to that measure.
- (2) Where the person declaring the goods makes a relevant claim that is accepted by HMRC, the EU steel regulation does not apply for the purpose of determining the amount of duty charged under section 40A(1) of the Act in respect of the goods.
- (3) In this regulation “relevant claim” means a claim—
- (a) made in accordance with a procedure specified in a notice given by HMRC Commissioners, or
 - (b) if no such notice is in force, made in accordance with the procedure set out in the steel notice provided all conditions in that notice are complied with.
- (4) HMRC Commissioners may by notice provide that a person who makes a relevant claim of the type mentioned in paragraph (3)(a) must notify the Secretary of State of the making of the claim.
- (5) The notice may provide—
- (a) that specified information must be included in the notification to the Secretary of State;
 - (b) for the form and manner in which such a notification must be given;
 - (c) that such a notification must be given within such period as is specified in the notice.
- (6) A notice under paragraph (3)(a) or (4)—
- (a) must be published;
 - (b) may be withdrawn;
 - (c) may be amended from time to time.]

Textual Amendments

- F4** Regs. 13B, 13C inserted (with effect in accordance with [Sch. 20 para. 5\(3\)](#) of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [Sch. 20 para. 5\(1\)](#)

[^{F4}Amount of section 40A(1) duty for certain steel products before 3 March 2021

- 13C.**—(1) This regulation applies to goods if—
- (a) they are removed to Northern Ireland from Great Britain,
 - (b) they are declared before 3 March 2021, in accordance with Union customs legislation, for a procedure corresponding to the free-circulation procedure or the authorised use procedure,

- (c) they are not domestic goods,
- (d) they are not relevant goods,
- (e) they are not Union goods,
- (f) they are not goods to which regulation 11 applies,
- (g) the origin of the goods (as determined in accordance with the provisions of Union customs legislation in force relating to non-preferential origin) is neither in the United Kingdom nor in the European Union,
- (h) they would (ignoring this regulation) have been subject to an EU steel safeguarding measure,
- (i) if they had instead been imported into a member State they would have benefitted from tariff-rate quota in relation to that measure, and
- (j) they would not have been subject to a domestic steel safeguarding measure (whether they would have benefitted from a quota or were otherwise not subject to the measure) if—
 - (i) the goods had been declared for the free-circulation procedure or the authorised use procedure in Great Britain, and
 - (ii) that declaration had been accepted at the same time as the actual declaration was accepted.

(2) Where the person declaring the goods makes a relevant claim that is accepted by HMRC, the EU steel regulation does not apply for the purpose of determining the amount of duty charged under section 40A(1) of the Act in respect of the goods.

(3) In this regulation “relevant claim” means a claim made in accordance with the procedure set out in the steel notice provided all conditions in that notice are complied with.]

Textual Amendments

- F4** Regs. 13B, 13C inserted (with effect in accordance with [Sch. 20 para. 5\(3\)](#) of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [Sch. 20 para. 5\(1\)](#)

Determination of section 40A charge

14. Regulations 13, [^{F5}13A,][^{F6}13B, 13C,] 15 and 16 apply for the purpose of determining the amount of duty charged under section 40A of the Act.

Textual Amendments

- F5** Word in reg. 14 inserted (with effect in accordance with [Sch. 20 para. 4\(4\)](#) of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [Sch. 20 para. 4\(2\)](#)
- F6** Words in reg. 14 inserted (with effect in accordance with [Sch. 20 para. 5\(3\)](#) of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [Sch. 20 para. 5\(2\)](#)

Commencement Information

- I9** Reg. 14 not in force at made date, see [reg. 1\(1\)](#)
- I10** Reg. 14 in force at 31.12.2020 by [S.I. 2020/1643](#), [reg. 2](#), [Sch.](#)

Amount of section 40A charge

15.—(1) Paragraph (2) applies for the purposes of determining the amount of duty applicable to any relevant goods chargeable to duty under section 40A of the Act.

(2) Where—

- (a) a liability to import duty was incurred in respect of the goods in accordance with Part 1 of the Act or the EU Customs Code ^{M1} as a result of their importation into the United Kingdom;
- (b) that duty was paid; and
- (c) after IP completion day, the goods subsequently moved from Great Britain to Northern Ireland without leaving the United Kingdom,

the amount of duty applicable to the goods under section 40A(1)(a) of the Act is to be reduced by the amount of duty paid in respect of the goods in accordance with Part 1 of the Act or the EU Customs Code.

(3) In this regulation “EU Customs Code” means—

- (a) the UCC;
- [^{F7}(b) the Delegated Regulation;]
- (c) Commission Implementing Regulation (EU) 2015/2447 of 24 November 2015 laying down detailed rules for implementing certain provisions of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code ^{M2}; and
- (d) Commission Delegated Regulation (EU) 2016/341 of 17 December 2015 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards transitional rules for certain provisions of the Union Customs Code where the relevant electronic systems are not yet operational and amending Delegated Regulation (EU) 2015/2446 ^{M3}.

Textual Amendments

- F7** Reg. 15(3)(b) substituted (31.12.2020) by [The Customs \(Modification and Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1629\)](#), regs. 1(2), **6(6)**

Commencement Information

- I11** Reg. 15 not in force at made date, see [reg. 1\(1\)](#)
- I12** Reg. 15 in force at 31.12.2020 by [S.I. 2020/1643](#), [reg. 2](#), [Sch.](#)

Marginal Citations

- M1** The legislation which constitutes the EU Customs Code has effect before IP completion day as a result of section [1A of the European Union \(Withdrawal\) Act 2018 \(c. 16\)](#) and to a limited extent after IP completion day as a result of section 7A of that Act.
- M2** OJ L 343, 29.12.2015, p. 558.
- M3** OJ L 69, 15.3.2016, p. 1.

Relief from section 40A duty

16.—(1) Relief from duty charged under section 40A of the Act is to be given in accordance with—

- (a) Union customs legislation (as applied to that duty by section 40A(4) of the Act);
- (b) provision made by or under the Customs and Excise Duties (General Reliefs) Act 1979 ^{M4, F8} ...
- (c) [^{F9}regulations] 13 [^{F10}and 13A][^{F11}; and]

[^{F12}(d) Chapter 5 (reliefs and repayment).]

(2) For the purposes of paragraph (1)(a) relief given in accordance with Union customs legislation is to include relief in respect of cases described in the Personal Property Relief document.

(3) In this regulation “the Personal Property Relief document” means the document entitled “Personal Property Relief”, version 1.0 dated 17th December 2020 ^{M5} which describes cases where a claim for relief may apply, expressed by reference to—

- (a) the goods to which the relief applies;
- (b) the persons who may be a claimant or consignee for the purposes of the relief; and
- (c) the eligibility criteria which apply for the purposes of the relief.

Textual Amendments

- F8** Word in reg. 16(1)(b) omitted (31.12.2020) by virtue of [The Customs \(Modification and Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1629\)](#), regs. 1(2), **6(7)(a)**
- F9** Word in reg. 16(1)(c) substituted (with effect in accordance with [Sch. 20 para. 4\(4\)](#) of the amending Act) by [Finance Act 2021 \(c. 26\)](#), **Sch. 20 para. 4(3)(a)**
- F10** Words in reg. 16(1)(c) inserted (with effect in accordance with [Sch. 20 para. 4\(4\)](#) of the amending Act) by [Finance Act 2021 \(c. 26\)](#), **Sch. 20 para. 4(3)(b)**
- F11** Word in reg. 16(1)(c) inserted (31.12.2020) by [The Customs \(Modification and Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1629\)](#), regs. 1(2), **6(7)(b)**
- F12** Reg. 16(1)(d) inserted (31.12.2020) by [The Customs \(Modification and Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1629\)](#), regs. 1(2), **6(7)(c)**

Commencement Information

- I13** Reg. 16 not in force at made date, see [reg. 1\(1\)](#)
- I14** Reg. 16 in force at 31.12.2020 by [S.I. 2020/1643](#), [reg. 2](#), **Sch.**

Marginal Citations

- M4** [1979 c. 3](#).
- M5** Available electronically from <https://www.gov.uk/government/publications/reference-document-for-northern-ireland-personal-property-relief>. A person unable to access the document electronically may access it while government advice on social distancing and unnecessary travel applies, in hard copy free of charge on application to 07741835049, and otherwise by inspection free of charge at HMRC, 100 Parliament Street, London SW1A 2BQ.

Changes to legislation:

There are currently no known outstanding effects for the The Customs (Northern Ireland) (EU Exit) Regulations 2020, CHAPTER 4.