



Taxation (Cross-border Trade) Act 2018

2018 CHAPTER 22

PART 2 U.K.

EXPORT DUTY

39 Charge to export duty U.K.

- (1) The Treasury may by regulations make provision for, and in connection with, the charging of a duty of customs (to be known as “export duty”) by reference to the export of goods from the United Kingdom.
- (2) The regulations may provide for export duty to be chargeable by reference to the export of—
 - (a) all goods, or
 - (b) goods of a description specified in the regulations.
- (3) The regulations—
 - (a) may provide for export duty to be chargeable in accordance with a tariff specified in the regulations (“the export tariff”),
 - (b) may provide for export duty to be chargeable by reference to value, weight or volume or other measure of quantity or size, and
 - (c) may provide for the value of the goods and the other matters mentioned in paragraph (b) to be determined in accordance with the regulations.
- (4) In considering whether to impose export duty, and, if so, the rate of duty that ought to apply to any goods, the Treasury must have regard to—
 - (a) the interests of consumers in the United Kingdom,
 - (b) the interests of producers in the United Kingdom of the goods concerned,
 - (c) the desirability of maintaining and promoting the external trade of the United Kingdom,
 - (d) the desirability of maintaining and promoting productivity in the United Kingdom, and
 - (e) the extent to which the goods concerned are subject to competition.

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- (5) In considering whether to impose export duty, and, if so, the rate of duty that ought to apply to any goods, the Treasury must also have regard to any recommendation about the rate made to them by the Secretary of State.
- (6) In considering what recommendation to make, the Secretary of State must have regard to the matters set out in subsection (4)(a) to (e).
- (7) The provision that may be made by regulations under this section includes provision replicating or applying, with or without modifications, any provision made by or under—
 - (a) Part 1, or
 - (b) any other enactment relating to import duty.
- (8) Paragraph 1 of Schedule 7 (replacement of EU customs duties) applies in relation to this Part as it applies in relation to Part 1 (reading any reference to import duty as a reference to export duty).
- (9) In this section “specified” means specified in, or determined in accordance with, the regulations.

40 Regulations under section 39: supplementary U.K.

- (1) Regulations under section 39 are to be made by statutory instrument.
- (2) A statutory instrument containing—
 - (a) the first regulations under that section, or
 - (b) any other regulations under that section the effect of which is an increase in the amount of export duty payable,
 must be laid before the House of Commons, and, unless approved by that House before the end of the period of 28 days beginning with the date on which the instrument is made, ceases to have effect at the end of that period.
- (3) The fact that a statutory instrument ceases to have effect as a result of subsection (2) does not affect—
 - (a) anything previously done under the instrument, or
 - (b) the making of a new statutory instrument.
- (4) In calculating the period for the purposes of subsection (2), no account is to be taken of any time—
 - (a) during which Parliament is dissolved or prorogued, or
 - (b) during which the House of Commons is adjourned for more than 4 days.
- (5) A statutory instrument containing regulations under section 39 other than regulations to which subsection (2) applies is subject to annulment in pursuance of a resolution of the House of Commons.
- (6) Any power to make regulations under section 39 may be exercised—
 - (a) either in relation to all cases to which the power extends, or in relation to those cases subject to specified exceptions, or in relation to any specified case or description of case, or
 - (b) so as to make different provision for different purposes or areas.
- (7) Any power to make regulations under section 39 includes—

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- (a) power conferring a discretion on any specified person to do anything under, or for the purposes of, the regulations,
- (b) power to make provision by reference to things specified in a notice published in accordance with the regulations,
- (c) power to make supplementary, incidental and consequential provision, and
- (d) power to make transitional or transitory provision and savings.

[^{F1}40A Removal to Northern Ireland of at risk goods etc U.K.]

- (1) A duty of customs is charged on the removal of goods to Northern Ireland from Great Britain if the goods—
 - (a) are not domestic goods, or
 - (b) are at risk of subsequently being moved into the European Union.
- (2) For the purposes of this section “at risk of subsequently being moved into the European Union” has the meaning given by regulations made by the Treasury.
- (3) Duty under this section is charged in accordance with Union customs legislation as if the goods subject to the charge were brought into the customs territory of the European Union.

Textual Amendments

F1 Ss. 40A, 40B inserted (17.12.2020 for specified purposes, 31.12.2020 in so far as not already in force) by Taxation (Post-transition Period) Act 2020 (c. 26), ss. 1, 11(1)(e) (with Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 9

40B Duty under section 40A: supplementary U.K.

- (1) The Treasury may by regulations provide that, in relation to goods of a specified description, the following matters are to be determined in accordance with provision made by or under this Act (instead of in accordance with Union customs legislation)—
 - (a) whether goods in particular circumstances are chargeable to duty under section 40A;
 - (b) the amount of duty charged under that section;
 - (c) such other matters relating to the charging of duty under section 40A as may be specified.
- (2) The Treasury may by regulations make provision generally for the purposes of duty under section 40A.
- (3) The following are examples of provision that regulations under subsection (2) may make for the purposes of that duty—
 - (a) that section 40A(1) does not apply to goods of a specified description;
 - (b) provision about reliefs, repayment and remission (including provision for the recovery of amounts where any condition in connection with any relief, repayment or remission is not met);
 - (c) provision about (including provision modifying) the application of provision made by or under the customs and excise Acts (including provision made by or under this Act) to duty under section 40A or to goods removed to Northern Ireland from Great Britain;

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- (d) provision supplementing or modifying provisions of Union customs legislation that apply to that duty or to those goods;
 - (e) provision imposing checks, controls or administrative processes in connection with the removal of goods to Northern Ireland from Great Britain;
 - (f) provision regulating the unloading, landing, movement and removal of goods on their removal to Northern Ireland from Great Britain (including provision restricting the places in which such goods may enter Northern Ireland).
- (4) Regulations under this section that specify a description of goods may do so by reference to any matter or circumstance (including, for example, any matter or circumstance relating to any person concerned with the removal of such goods).
- (5) Section 40 (regulations) applies to regulations under this section and section 40A as it applies to regulations under section 39 other than the first regulations under that section.
- (6) In this section and in section 40A, reference to “Great Britain” is to be treated as including the territorial sea of the United Kingdom.
- (7) Expressions used in provision made by or under this section or section 40A that are defined for the purposes of Part 1 have the same meaning they have in that Part.]

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