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STATUTORY INSTRUMENTS

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**2003 No. 3102**

**CUSTOMS AND EXCISE**

**The Export (Penalty) Regulations 2003**

*Made* - - - - *2nd December 2003*  
*Laid before Parliament* *2nd December 2003*  
*Coming into force* - - *23rd December 2003*

The Commissioners of Customs and Excise, being a Department designated for the purposes of section 2(2) of the European Communities Act 1972<sup>M1</sup> in relation to customs matters of the European Communities<sup>M2</sup>, in exercise of the powers conferred upon them by the said section 2(2) and of all other powers enabling them in that behalf, hereby make the following Regulations:

**Marginal Citations**

**M1** [1972 c. 68](#)  
**M2** [S.I.1977/980](#)

**Citation and Commencement**

1. These regulations may be cited as the Export (Penalty) Regulations 2003 and shall come into force on 23 December 2003.

**Interpretation**

2. In these regulations—

F1  
...

“appeal tribunal” means [F2the First-tier Tribunal or, where determined by or under Tribunal Procedure Rules, the Upper Tribunal];

F3  
...

“the Code” means [F4Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code”];

F5  
...

F5  
...

“contravene” includes fail to comply with;

[<sup>F6</sup>“Delegated Regulation” means Commission Delegated Regulation (EU) 2015/2446 of 28 July 2015 supplementing the Code as regards certain provisions of the Code;]

[<sup>F7</sup>“declaration” means a customs declaration, as defined in Article 5(12) of the Code.]

“demand notice” means a demand notice within the meaning of regulation 6;

[<sup>F8</sup>“export” means that “customs procedure” within the meaning as given by Article 5(16)(c) of the Code;]

“exporter” has the meaning assigned to it by Article 788 of the Implementing Regulation;

[<sup>F9</sup>“HMRC” means Her Majesty’s Revenue and Customs.]

“the Implementing Regulation” means [<sup>F10</sup>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 Code];

“notice” means notice in writing;

“person” means a person, of a description specified in Column 2 of the Schedule to these Regulations to whom that provision referred to in Column 1 applies;

“penalty” shall mean a penalty up to the maximum amount specified in Column 3 of the schedule to these Regulations;

“relevant export rule” shall mean any [<sup>F11</sup>EU-imposed] duty, obligation, requirement, or condition in relation to export imposed or implemented by or under any of the following provisions or combination of provisions in any case where [<sup>F12</sup>Union export duty] is not chargeable or payable in application of the rule—

- (a) [<sup>F13</sup>Union customs legislation] in relation to export;
- (b) the Act, as it applies in implementation of [<sup>F13</sup>Union customs legislation] in relation to export from the [<sup>F14</sup>European Union];
- (c) any other Act, or statutory instrument, as it applies in implementation of [<sup>F13</sup>Union customs legislation] in relation to export from the [<sup>F14</sup>European Union];
- (d) any directly applicable [<sup>F14</sup>EU] legislation as it applies in application of [<sup>F13</sup>Union customs legislation] in relation to export;
- (e) any relevant international rules applying in relation to export; specified in Column 1 of the Schedule to these Regulations;

“relevant international rules” means international agreements so far as applying in relation to export from the [<sup>F14</sup>European Union] and having effect as part of the law of the United Kingdom by virtue of—

- (a) any directly applicable [<sup>F14</sup>EU] legislation, or
- (b) any Act or statutory instrument implementing such agreement.

“representative”, in relation to any person, means—

- (a) his personal representative,
- (b) his trustee in bankruptcy or interim or permanent trustee,
- (c) any receiver or liquidator appointed in relation to that person or any of his property, or any other person acting in a representative capacity in relation to that person.

[<sup>F15</sup>“Union customs legislation” means customs legislation, as defined in Article 5(2) of the Code;]

[<sup>F15</sup>“Union export duty” means export duty, as defined in Article 5(21) of the Code;]

#### Textual Amendments

- F1** Words in reg. 2 omitted (11.11.2011) by virtue of [The Export \(Penalty\) \(Amendment\) Regulations 2011 \(S.I. 2011/2512\)](#), regs. 1, **3**
- F2** Words in reg. 2 substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 2 para. 121(2)**
- F3** Words in reg. 2 omitted (11.11.2011) by virtue of [The Export \(Penalty\) \(Amendment\) Regulations 2011 \(S.I. 2011/2512\)](#), regs. 1, **4**
- F4** Words in reg. 2 substituted (14.5.2018) by [The Export \(Penalty\) \(Amendment\) Regulations 2018 \(S.I. 2018/507\)](#), regs. 1, **3(a)**
- F5** Words in reg. 2 omitted (14.5.2018) by virtue of [The Export \(Penalty\) \(Amendment\) Regulations 2018 \(S.I. 2018/507\)](#), regs. 1, **3(b)**
- F6** Words in reg. 2 inserted (14.5.2018) by [The Export \(Penalty\) \(Amendment\) Regulations 2018 \(S.I. 2018/507\)](#), regs. 1, **3(g)**
- F7** Words in reg. 2 substituted (14.5.2018) by [The Export \(Penalty\) \(Amendment\) Regulations 2018 \(S.I. 2018/507\)](#), regs. 1, **3(c)**
- F8** Words in reg. 2 substituted (14.5.2018) by [The Export \(Penalty\) \(Amendment\) Regulations 2018 \(S.I. 2018/507\)](#), regs. 1, **3(d)**
- F9** Words in reg. 2 inserted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 2 para. 121(3)**
- F10** Words in reg. 2 substituted (14.5.2018) by [The Export \(Penalty\) \(Amendment\) Regulations 2018 \(S.I. 2018/507\)](#), regs. 1, **3(e)**
- F11** Words in reg. 2 substituted (14.5.2018) by [The Export \(Penalty\) \(Amendment\) Regulations 2018 \(S.I. 2018/507\)](#), regs. 1, **3(f)(i)**
- F12** Words in reg. 2 substituted (14.5.2018) by [The Export \(Penalty\) \(Amendment\) Regulations 2018 \(S.I. 2018/507\)](#), regs. 1, **3(f)(ii)**
- F13** Words in reg. 2 substituted (14.5.2018) by [The Export \(Penalty\) \(Amendment\) Regulations 2018 \(S.I. 2018/507\)](#), regs. 1, **3(f)(iii)**
- F14** Words in reg. 2 substituted (22.4.2011) by [The Treaty of Lisbon \(Changes in Terminology\) Order 2011 \(S.I. 2011/1043\)](#), **arts. 2, 3-6**
- F15** Words in reg. 2 inserted (14.5.2018) by [The Export \(Penalty\) \(Amendment\) Regulations 2018 \(S.I. 2018/507\)](#), regs. 1, **3(h)**

#### Penalty for contravention of a relevant export rule

**3.—(1)** If a person engages in any conduct by which he contravenes a relevant export rule specified he shall be liable to a penalty under this regulation.

(2) The Schedule to these regulations shall have effect.

(3) Column 1 of the Schedule specifies a relevant export rule a contravention of which gives rise to a penalty under paragraph (1) above.

(4) Column 2 of the Schedule specifies the person whose conduct in contravening a relevant export rule gives rise to liability under paragraph (1) above.

(5) Column 3 of the Schedule specifies the maximum penalty for contravention of a relevant export rule for which a person is liable under paragraph (1) above.

#### Exceptions from regulation 3

**4.—(1)** A person is not liable to a penalty under regulation 3 if he satisfies—

- (a) [F16HMRC], or
  - (b) on appeal, an appeal tribunal,
- that there is a reasonable excuse for his conduct.
- (2) For the purposes of paragraph (1) above none of the following is a reasonable excuse—
- (a) An insufficiency of funds available to any person for paying any penalty due;
  - (b) That reliance was placed by any person on another to perform any task;
  - (c) That the contravention is attributable, in whole or in part, to the conduct of a person on whom reliance to perform any task was so placed.
- (3) Where, by reason of conduct falling within regulation 3(1) a person is prosecuted for an offence that conduct does not also give rise to liability to a penalty.

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**Textual Amendments**

**F16** Word in [reg. 4](#) substituted (11.11.2011) by [The Export \(Penalty\) \(Amendment\) Regulations 2011 \(S.I. 2011/2512\)](#), [regs. 1, 5](#)

**Reduction of penalty under regulation 3**

- 5.—(1) Where a person is liable to a penalty under regulation 3—
- (a) [F17HMRC] (whether originally or on review) or, on appeal, an appeal tribunal may reduce the penalty to such amount (including nil) as they think proper; and
  - (b) [F17HMRC] on a review, or an appeal tribunal on an appeal, relating to a penalty reduced by [F17HMRC] under this regulation may cancel the whole or any part of the reduction previously made by [F17HMRC].
- (2) In exercising their powers under paragraph (1) above, neither [F17HMRC] nor an appeal tribunal are entitled to take into account any of the matters specified in paragraph (3) below.
- (3) Those matters are—
- (a) The insufficiency of the funds available to any person for paying the amount of the penalty,
  - (b) The fact that the person liable to the penalty, or a person acting on his behalf, has acted in good faith.

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**Textual Amendments**

**F17** Word in [reg. 5](#) substituted (11.11.2011) by [The Export \(Penalty\) \(Amendment\) Regulations 2011 \(S.I. 2011/2512\)](#), [regs. 1, 5](#)

**Demands for penalties**

- 6.—(1) Where a person is liable to a penalty under regulation 3, [F18HMRC] may give to that person or his representative a notice in writing (a “demand notice”) demanding payment of the amount due by way of penalty.
- (2) An amount demanded as due from a person or his representative in accordance with subsection (1) is recoverable as if it were an amount due from the person or, as the case may be, the representative as an amount of customs duty.
- This paragraph is subject to—

- (a) any appeal under regulation [F19] (appeals to tribunal); and
- (b) paragraph (3) below.
  - (3) An amount so demanded is not recoverable if or to the extent that—
    - (a) The demand has subsequently been withdrawn; or
    - (b) The amount has been reduced under regulation 5.

**Textual Amendments**

- F18** Word in reg. 6 substituted (11.11.2011) by [The Export \(Penalty\) \(Amendment\) Regulations 2011 \(S.I. 2011/2512\)](#), regs. 1, 5
- F19** Word in reg. 6(2)(a) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 2 para. 122**

**Time limits for demands for penalties**

7.—(1) A demand notice may not be given in relation to a penalty under regulation 3 more than 3 years after the conduct giving rise to the penalty ceased.

(2) A demand notice may not be given more than 2 years after there has come to the knowledge of [F20HMRC] evidence of facts sufficient in the opinion of [F20HMRC] to justify the giving of the demand notice.

(3) A demand notice may be given in respect of a penalty under regulation 3 to which a person was liable immediately before his death.

**Textual Amendments**

- F20** Word in reg. 7 substituted (11.11.2011) by [The Export \(Penalty\) \(Amendment\) Regulations 2011 \(S.I. 2011/2512\)](#), regs. 1, 5

**No prosecution after demand notice for penalty under regulation 3**

8.—(1) Where a demand notice is given demanding payment of an amount due by way of penalty under regulation 3 in respect of any conduct of a person, no proceedings may be brought against that person for any offence constituted by that conduct (whether or not the demand notice is subsequently withdrawn).

**[F21] Right to appeal against certain decisions**

- 9.—(1) If [F22HMRC] give a person or his representative a notice informing him—
- (a) that [F23HMRC] have decided that the person has engaged in conduct by which he contravenes a relevant export rule, and
  - (b) that the person is, in consequence, liable to a penalty under regulation 3, but
  - (c) that [F24HMRC] do not propose to give a demand notice in respect of the penalty,

the person or his representative may [F25] make an appeal to the appeal tribunal in respect of] the decision mentioned in sub-paragraph(a) above.

(2) Where [F26HMRC] give a demand notice to a person or his representative, the person or his representative may [F27] make an appeal to the appeal tribunal in respect of]—

- (a) their decision that the person is liable to a penalty under regulation 3, or
  - (b) their decision as to the amount of the liability.
- [<sup>F28</sup>(3) The powers of the appeal tribunal on an appeal under this regulation include—
- (a) power to quash or vary a decision; and
  - (b) power to substitute the tribunal’s own decision for any decision so quashed.
- (4) On an appeal under this regulation—
- (a) the burden of proof as to the matters mentioned in regulation 3(1) lies on HMRC; but
  - (b) it is otherwise for the appellant to show that the grounds on which any such appeal is brought have been established.]

#### Textual Amendments

- F21** Reg. 9 heading substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 2 para. 123(2)** (with Sch. 3 paras. 2-4)
- F22** Word in reg. 9(1) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 2 para. 123(3)(a)** (with Sch. 3 paras. 2-4)
- F23** Word in reg. 9(1)(a) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 2 para. 123(3)(b)** (with Sch. 3 paras. 2-4)
- F24** Word in reg. 9(1)(c) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 2 para. 123(3)(b)** (with Sch. 3 paras. 2-4)
- F25** Words in reg. 9(1) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 2 para. 123(3)(c)** (with Sch. 3 paras. 2-4)
- F26** Word in reg. 9(2) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 2 para. 123(4)(a)** (with Sch. 3 paras. 2-4)
- F27** Words in reg. 9(2) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 2 para. 123(4)(b)** (with Sch. 3 paras. 2-4)
- F28** Reg. 9(3)(4) substituted for reg. 9(3) (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 2 para. 123(5)** (with Sch. 3 paras. 2-4)

#### [<sup>F29</sup>Offer of review

**9A.**—(1) HMRC must offer a person (P) a review of a decision that has been notified to P if an appeal lies under regulation 9 in respect of the decision.

(2) The offer of the review must be made by notice given to P at the same time as the decision is notified to P.

(3) This regulation does not apply to the notification of the conclusions of a review.]

#### Textual Amendments

- F29** Regs. 9A-9F inserted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 2 para. 124** (with Sch. 3 paras. 2-4)

#### [<sup>F29</sup>Review by HMRC

**9B.**—(1) HMRC must review a decision if—

(a) they have offered a review of the decision under regulation 9A, and

- (b) P notifies HMRC accepting the offer within 30 days from the date of the document containing the notification of the offer.
- (2) But P may not notify acceptance of the offer if P has already appealed to the appeal tribunal under regulation 9F.
- (3) HMRC shall not review a decision if P has appealed to the appeal tribunal under regulation 9F in respect of the decision.]

**Textual Amendments**

**F29** Regs. 9A-9F inserted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 2 para. 124** (with Sch. 3 paras. 2-4)

**[<sup>F29</sup>Extensions of time**

- 9C.**—(1) If under regulation 9A, HMRC have offered P a review of a decision, HMRC may within the relevant period notify P that the relevant period is extended.
- (2) If notice is given the relevant period is extended to the end of 30 days from—
    - (a) the date of the notice, or
    - (b) any other date set out in the notice or a further notice.
  - (3) In this regulation “relevant period” means—
    - (a) the period of 30 days referred to in regulation 9B(1)(b), or
    - (b) if notice has been given under paragraph (1) that period as extended (or as most recently extended) in accordance with paragraph (2).]

**Textual Amendments**

**F29** Regs. 9A-9F inserted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 2 para. 124** (with Sch. 3 paras. 2-4)

**[<sup>F29</sup>Review out of time**

- 9D.**—(1) This regulation applies if—
  - (a) HMRC have offered a review of a decision under regulation 9A, and
  - (b) P does not accept the offer within the time allowed under regulation 9B(1)(b) or 9C(2).
- (2) HMRC must review the decision under regulation 9B if—
  - (a) after the time allowed, P notifies HMRC in writing requesting a review out of time,
  - (b) HMRC are satisfied that P had a reasonable excuse for not accepting the offer or requiring review within the time allowed, and
  - (c) HMRC are satisfied that P made the request without unreasonable delay after the excuse had ceased to apply.
- (3) HMRC shall not review a decision if P has appealed to the appeal tribunal under regulation 9F in respect of the decision.]

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**Textual Amendments**

**F29** Regs. 9A-9F inserted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 2 para. 124** (with Sch. 3 paras. 2-4)

**[<sup>F29</sup>Nature of review etc**

**9E.**—(1) This regulation applies if HMRC are required to undertake a review under regulation 9B or 9D.

(2) The nature and extent of the review are to be such as appear appropriate to HMRC in the circumstances.

(3) For the purpose of paragraph (2), HMRC must, in particular, have regard to steps taken before the beginning of the review—

- (a) by HMRC in reaching the decision, and
- (b) by any person in seeking to resolve disagreement about the decision.

(4) The review must take account of any representations made by P at a stage which gives HMRC a reasonable opportunity to consider them.

(5) The review may conclude that the decision is to be—

- (a) upheld,
- (b) varied, or
- (c) cancelled.

(6) HMRC must give P notice of the conclusions of the review and their reasoning within—

- (a) a period of 45 days beginning with the relevant date, or
- (b) such other period as HMRC and P may agree.

(7) In paragraph (6) “relevant date” means—

- (a) the date HMRC received P’s notification accepting the offer of a review (in a case falling within regulation 9A), or
- (b) the date on which HMRC decided to undertake the review (in a case falling within regulation 9D).

(8) Where HMRC are required to undertake a review but do not give notice of the conclusions within the time period specified in paragraph (6), the review is to be treated as having concluded that the decision is upheld.

(9) If paragraph (8) applies HMRC must notify P of the conclusion which the review is treated as having reached.]

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**Textual Amendments**

**F29** Regs. 9A-9F inserted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 2 para. 124** (with Sch. 3 paras. 2-4)

**[<sup>F29</sup>Bringing of appeals**

**9F.**—(1) An appeal under regulation 9 is to be made to the appeal tribunal before—

- (a) the end of the period of 30 days beginning with the date of the document notifying the decision to which the appeal relates, or



- (b) if later, the end of the relevant period (within the meaning of regulation 9C).
- (2) But that is subject to paragraphs (3) to (5).
- (3) In a case where HMRC are required to undertake a review under regulation 9B—
  - (a) an appeal may not be made until the conclusion date, and
  - (b) any appeal is to be made within the period of 30 days beginning with the conclusion date.
- [<sup>F30</sup>(4) In a case where HMRC are requested to undertake a review in accordance with regulation 9D—
  - (a) an appeal may not be made to an appeal tribunal—
    - (i) unless HMRC have notified P as to whether or not a review will be undertaken, and
    - (ii) if HMRC have notified P that a review will be undertaken, until the conclusion date;
  - (b) any appeal where sub-paragraph (a)(ii) applies is to be made within the period of 30 days beginning with the conclusion date;
  - (c) if HMRC have notified P that a review will not be undertaken, an appeal may be made only if the appeal tribunal gives permission to do so.]
- (5) In a case where regulation 9E(8) applies, an appeal may be made at any time from the end of the period specified in regulation 9E(6) to the date 30 days after the conclusion date.
- (6) An appeal may be made after the end of the period specified in paragraph (1), (3)(b), (4)(b) or (5) if the appeal tribunal gives permission to do so.
- (7) In this regulation “conclusion date” means the date of the document notifying the conclusions of the review.]

**Textual Amendments**

- F29** Regs. 9A-9F inserted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 2 para. 124** (with Sch. 3 paras. 2-4)
- F30** Reg. 9F(4) substituted (1.6.2014) by [The Revenue and Customs \(Amendment of Appeal Provisions for Out of Time Reviews\) Order 2014 \(S.I. 2014/1264\)](#), arts. 1(2), **9** (with art. 1(3))

**Time limit and right to further review**

<sup>F31</sup>**10.** . . . . .

**Textual Amendments**

- F31** Regs. 10-12 omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 2 para. 125** (with Sch. 3 paras. 2-4)

**Powers of the Commissioners on a review**

<sup>F31</sup>**11.** . . . . .

**Textual Amendments**

- F31** Regs. 10-12 omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 2 para. 125** (with Sch. 3 paras. 2-4)

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*Changes to legislation:* There are currently no known outstanding effects for the *The Export (Penalty) Regulations 2003*. (See end of Document for details)

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## Appeals to a tribunal

<sup>F31</sup>12. ....

### Textual Amendments

**F31** Regs. 10-12 omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 2 para. 125** (with Sch. 3 paras. 2-4)

## Appeal Tribunals

[<sup>F32</sup>13. Section 85 of the Value Added Tax Act 1994 (c. 23) (settling of appeals by agreement) has effect as if the reference to section 83 of that Act included a reference to regulation 9 above.]

### Textual Amendments

**F32** Reg. 13 substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 2 para. 126**

## Service of notices

14. Any notice to be given to any person for the purposes of these Regulations may be given by sending it by post in a letter addressed to that person or his representative at the last or usual residence or place of business of that person or representative.

*Ray McAfee*  
Commissioner of Customs and Excise

## SCHEDULE

<sup>F33</sup> Column 1	Column 2	Column 3
Relevant Export Rule	Description of Person liable	Maximum Penalty
<b>[<sup>F34</sup>Article 269 of the Code</b>		
With the exception of Union goods specified in Article 269(2) of the Code, all Union goods to be taken out of the customs territory of the Union must be placed under the export procedure.]	The exporter.	£1,000.
<b>[<sup>F35</sup>Article 158 of the Code</b>		
All goods intended to be placed under a customs procedure (other than the free zone procedure) must be covered by a customs declaration appropriate for the particular procedure.]	The exporter.	£1,000.
<b>[<sup>F36</sup>Article 162 of the Code</b>		
Standard customs declarations must contain all the particulars necessary for application of the provisions governing the customs procedure for which the goods are declared.]	The declarant.	£2,500.
<b>[<sup>F37</sup>Article 163 of the Code</b>		
The supporting documents required for the application of the provisions governing the customs procedure for which the goods are declared must be in the declarant's possession and at the disposal of Customs at the time when the customs declaration is lodged.	The declarant.	£1,000]
<b>[<sup>F38</sup>Article 221 of the Implementing Regulation</b>		
Export declarations must be lodged at the competent customs office for placing the goods under the export procedure.]	The declarant.	£1,000.

**Changes to legislation:** There are currently no known outstanding effects for the The Export (Penalty) Regulations 2003. (See end of Document for details)

<sup>F33</sup> Column 1	Column 2	Column 3
Relevant Export Rule	Description of Person liable	Maximum Penalty
<b>[<sup>F39</sup> Article 263 of the Code and Article 244 of the Delegated Regulation</b>		
Pre-departure declarations must be lodged within the time limits specified in Article 244 of the Delegated Regulation, containing the particulars necessary for risk analysis for security and safety purposes.]	The declarant.	£1,000.
<b>[<sup>F40</sup> Articles 162 and 267 of the Code and Article 337 of the Delegated Regulation</b>		
Where an export or re-export declaration was required but the goods have been taken out of the customs territory of the Union without one, a retrospective declaration must be lodged at the customs office competent for the place where the exporter is established.]	The exporter.	£1,000.
<b>[<sup>F41</sup> Articles 263, 267 and 271 of the Code and Article 337 of the Implementing Regulation</b>		
Where goods are taken out of the customs territory of the Union and a customs declaration or a re-export declaration is not lodged as a pre-departure declaration, an exit summary declaration must be lodged at the customs office of exit.	The person who takes the goods out of the customs territory.	£1,000
	The person in whose name or on whose behalf the person who takes the goods out of that territory acts.	£1,000
	The person who assumes responsibility for carriage of the goods before their exit from that territory.	£1,000]
<b>[<sup>F42</sup> Articles 166, 167 and 182 of the Code, Articles 145 and 150 of the Delegated</b>		

<sup>F33</sup> Column 1	Column 2	Column 3
<i>Relevant Export Rule</i>	<i>Description of Person liable</i>	<i>Maximum Penalty</i>
<b>Regulation and Articles 234 and 235 of the Implementing Regulation</b>		
A person authorised under Article 166(2) of the Code for the regular use of a simplified declaration, or under Article 182(1) of the Code for lodging a declaration in the form of an entry in the declarant's records must:	The authorised person.	£2,500.
(a) comply with the relevant conditions, meet the relevant criteria and comply with the relevant obligations;		
(b) inform the authorising authorities of all factors arising after authorisation has been granted which may influence its continuation or content.]		
<b>[<sup>F43</sup>Article 267 of the Code ,</b>		
Goods to be taken out of the customs territory of the Union must be presented to Customs on exit.	The person who takes the goods out of the customs territory.	£2,500
	The person in whose name or on whose behalf the person who takes the goods out of that territory acts.	£2,500
	The person who assumes responsibility for carriage of the goods before their exit from that territory.	£2,500]
<b>[<sup>F44</sup>Article 267 of the Code and Article 332 of the Implementing Regulation</b>		
A carrier may not load goods for carriage out of the customs territory unless the information referred to in Article 332(5) of the Implementing Regulation has been provided to the carrier.	The carrier.	£2,500.
The carrier shall notify the exit of the goods to the customs		

**Changes to legislation:** There are currently no known outstanding effects for the The Export (Penalty) Regulations 2003. (See end of Document for details)

<sup>F33</sup> Column 1	Column 2	Column 3
<i>Relevant Export Rule</i>	<i>Description of Person liable</i>	<i>Maximum Penalty</i>
office of exit by providing that information unless it is available to the customs authorities through existing commercial, port or transport systems or processes.]		
<b>[<sup>F45</sup>Article 267 of the Code and Article 340 of the Implementing Regulation</b>		
(a) Where goods released for export or re-export are no longer intended to be taken out of the customs territory of the Union, the customs office of export must be informed immediately.	The declarant.	£1,000
(b) Where the goods have already been presented to the customs office of exit, that office must be informed that the goods will not be taken out of the customs territory of the Union and must be informed of the MRN of the export or re-export declaration.	The person who removes the goods from the customs office of exit to a place within the customs territory.	£1,000]
<b>[<sup>F46</sup>Articles 162 and 267 of the Code and Article 337(2) of the Delegated Regulation</b>		
Where goods which left the customs territory under cover of an ATA carnet are no longer intended to be reimported, an export declaration containing the particulars referred to in Annex B to the Delegated Regulation shall be presented to the customs office of export.	The exporter.	£1000]
<b>[<sup>F47</sup>Article 274 of the Code and Article 336 of the Implementing Regulation</b>		
A re-export notification must be lodged where— (a) non-Union goods are removed from temporary storage and taken out of the customs territory of the Union, and (b) the obligation	The person who takes the goods out of the customs territory.	£1,000

**Changes to legislation:** There are currently no known outstanding effects for the *The Export (Penalty) Regulations 2003*. (See end of Document for details)

<sup>F33</sup> Column 1	Column 2	Column 3
<i>Relevant Export Rule</i>	<i>Description of Person liable</i>	<i>Maximum Penalty</i>
to lodge an exit summary declaration for the goods is waived.	The person in whose name or on whose behalf the person who takes the goods out of that territory acts.	£1,000
	The person who assumes responsibility for carriage of the goods before their exit from that territory.	£1,000]
F48 ...		
<b>[<sup>F49</sup> Article 15] of the Code and section 23 of the Finance Act 1994</b>	The person of whom the request is made.	£1,000.
To provide to the customs authorities, upon request and within the prescribed time-limits, such documents, information and assistance as are needed for the purposes of applying customs legislation or which, in the case of a customs trader, relate to that person's business.		
<b>[<sup>F50</sup> Article 51] of the Code and Regulations 3 to 5 and 9 of the Customs Traders (Accounts and Records Regulations) 1995</b>	In a case falling within [ <sup>F51</sup> Article 51] of the Code, any person involved in the operation concerned.	£1,000.
To keep the prescribed documents and records in the prescribed manner for the prescribed period.	In the case of a customs trader, that customs trader.	£1,000.]

**Textual Amendments**

**F33** Sch. substituted (11.11.2011) by [The Export \(Penalty\) \(Amendment\) Regulations 2011 \(S.I. 2011/2512\)](#), regs. 1, 6

**Changes to legislation:** There are currently no known outstanding effects for the The Export (Penalty) Regulations 2003. (See end of Document for details)

- F34** Words in Sch. substituted (14.5.2018) by The Export (Penalty) (Amendment) Regulations 2018 (S.I. 2018/507), regs. 1, **4(a)**
- F35** Words in Sch. substituted (14.5.2018) by The Export (Penalty) (Amendment) Regulations 2018 (S.I. 2018/507), regs. 1, **4(b)**
- F36** Words in Sch. substituted (14.5.2018) by The Export (Penalty) (Amendment) Regulations 2018 (S.I. 2018/507), regs. 1, **4(c)**
- F37** Words in Sch. inserted (14.5.2018) by The Export (Penalty) (Amendment) Regulations 2018 (S.I. 2018/507), regs. 1, **4(d)**
- F38** Words in Sch. substituted (14.5.2018) by The Export (Penalty) (Amendment) Regulations 2018 (S.I. 2018/507), regs. 1, **4(e)**
- F39** Words in Sch. substituted (14.5.2018) by The Export (Penalty) (Amendment) Regulations 2018 (S.I. 2018/507), regs. 1, **4(f)**
- F40** Words in Sch. substituted (14.5.2018) by The Export (Penalty) (Amendment) Regulations 2018 (S.I. 2018/507), regs. 1, **4(g)**
- F41** Words in Sch. substituted (14.5.2018) by The Export (Penalty) (Amendment) Regulations 2018 (S.I. 2018/507), regs. 1, **4(h)**
- F42** Words in Sch. substituted (14.5.2018) by The Export (Penalty) (Amendment) Regulations 2018 (S.I. 2018/507), regs. 1, **4(i)**
- F43** Words in Sch. substituted (14.5.2018) by The Export (Penalty) (Amendment) Regulations 2018 (S.I. 2018/507), regs. 1, **4(j)**
- F44** Words in Sch. substituted (14.5.2018) by The Export (Penalty) (Amendment) Regulations 2018 (S.I. 2018/507), regs. 1, **4(k)**
- F45** Words in Sch. substituted (14.5.2018) by The Export (Penalty) (Amendment) Regulations 2018 (S.I. 2018/507), regs. 1, **4(l)**
- F46** Words in Sch. substituted (14.5.2018) by The Export (Penalty) (Amendment) Regulations 2018 (S.I. 2018/507), regs. 1, **4(m)**
- F47** Words in Sch. inserted (14.5.2018) by The Export (Penalty) (Amendment) Regulations 2018 (S.I. 2018/507), regs. 1, **4(n)**
- F48** Words in Sch. omitted (14.5.2018) by virtue of The Export (Penalty) (Amendment) Regulations 2018 (S.I. 2018/507), regs. 1, **4(o)**
- F49** Words in Sch. substituted (14.5.2018) by The Export (Penalty) (Amendment) Regulations 2018 (S.I. 2018/507), regs. 1, **4(p)**
- F50** Words in Sch. substituted (14.5.2018) by The Export (Penalty) (Amendment) Regulations 2018 (S.I. 2018/507), regs. 1, **4(q)(i)**
- F51** Words in Sch. substituted (14.5.2018) by The Export (Penalty) (Amendment) Regulations 2018 (S.I. 2018/507), regs. 1, **4(q)(ii)**

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations, which come into effect on 23rd December 2003, are made under section 2(2) of the European Communities Act 1972. They enable Customs to charge civil penalties for contraventions of customs rules relating to exports.

Regulation 3 gives effect to the schedule. In that schedule;

Column 1 specifies the customs rules where contravention incurs liability to a penalty,



Column 2 specifies for each specified customs rule the person or persons who may be liable to a penalty,

Column 3 specifies the maximum penalty that may be incurred for the contravention of each specified rule.

Regulation 4 provides that there is no liability to penalty where a person has a reasonable excuse.

Regulation 5 gives power to the Commissioners, or on appeal an appeal tribunal, to reduce a penalty.

Regulation 6 provides for the issue of a demand notice and that the amount of penalty so demanded may be recovered as customs duty.

Regulation 7 imposes a time bar of 3 years on the issue of a demand notice, or 2 years from the time when sufficient evidence came to the knowledge of the Commissioners.

Regulation 8 provides that where a demand notice has been given, that person may not also be prosecuted in respect of the same conduct.

Regulations 9 to 13 set out the arrangements for reviewing decisions and for appeals to tribunals.

Regulation 14 sets out the arrangements for the service of notice.

**Changes to legislation:**

There are currently no known outstanding effects for the The Export (Penalty) Regulations 2003.