

STATUTORY INSTRUMENTS

2020 No. 1605

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

PART 2

Importation of goods and goods potentially for export

[^{F1}CHAPTER 5

Reliefs and repayment

[^{F1}SECTION 4

Errors and breaches

Textual Amendments

- F1** Pt. 2 Ch. 5 inserted (31.12.2020 for specified purposes, 4.9.2021 for specified purposes) by [The Customs \(Modification and Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1629\)](#), regs. 1(4)(5), 6(8); S.I. 2021/983, reg. 2

Section 4 – interpretation

16L. In this Section “error” does not include an error that results in the claimant being granted relief despite not meeting the eligibility criterion in regulation 16E(1)(b).

Commencement Information

- I1** Reg. 16L in force at 31.12.2020 for specified purposes by [S.I. 2020/1629](#), **reg. 1(4)**
- I2** Reg. 16L in force at 4.9.2021 for specified purposes by [S.I. 2021/983](#), **reg. 2** (see [S.I. 2020/1629](#), reg. 1(4)(5))
- I3** Reg. 16L in force at 2.10.2023 in so far as not already in force by [S.I. 2023/1050](#), **reg. 2(a)** (see [S.I. 2020/1629](#), reg. 1(4)(5))

Notification of limit breach or error

16M.—(1) Paragraph (2) applies where—

- (a) a claim for relief is granted; and
- (b) any of the following occurs—
- (i) the claimant [^{F2}or undertaking lead] becomes aware that the eligibility criterion in regulation 16E(1)(b) was not met at the time of the grant of the claim;
- (ii) the claimant [^{F2}or undertaking lead] becomes aware of an error in the claim for relief;
- or

(iii) the claimant [^{F2}or undertaking lead] becomes aware that relief has been granted in error.

(2) The claimant [^{F3}or undertaking lead] must—

(a) notify HMRC as soon as practicable of details of, as the case may be—

(i) the circumstances in which relief was granted despite the eligibility criterion in regulation 16E(1)(b) not being met, including when that first came to the claimant's [^{F4}or undertaking lead's] attention; or

(ii) the error, including when it first came to the claimant's [^{F4}or undertaking lead's] attention; and

(b) make the notification in such form, and accompany it with such additional information or documentation, as HMRC may provide by notice.

(3) If required to do so by an HMRC officer by notice, the claimant [^{F5}or undertaking lead] must provide to the officer such additional information regarding the matters referred to in paragraph (1) (b) as the officer requires.

(4) Where a relief agent made the claim on behalf of a principal and paragraph (1)(b)(i) applies, the references in paragraphs (2) and (3) to the claimant are to be read as referring to the principal.

(5) Where—

(a) a relief agent made the claim on behalf of a principal; and

(b) the principal becomes aware of a matter described in paragraph (1)(b)(ii) or (iii),

paragraphs (2) and (3) apply to the principal as if the references to the claimant were to the principal.

Textual Amendments

F2 Words in [reg. 16M\(1\)\(b\)](#) inserted (30.9.2023 for specified purposes, 2.10.2023 in so far as not already in force) by [The Customs \(Northern Ireland\) \(EU Exit\) \(Amendment\) Regulations 2023 \(S.I. 2023/958\)](#), regs. 1(3), [13\(a\)](#); [S.I. 2023/1050](#), reg. 2(b)

F3 Words in [reg. 16M\(2\)](#) inserted (30.9.2023 for specified purposes, 2.10.2023 in so far as not already in force) by [The Customs \(Northern Ireland\) \(EU Exit\) \(Amendment\) Regulations 2023 \(S.I. 2023/958\)](#), regs. 1(3), [13\(a\)](#); [S.I. 2023/1050](#), reg. 2(b)

F4 Words in [reg. 16M\(2\)\(a\)](#) inserted (30.9.2023 for specified purposes, 2.10.2023 in so far as not already in force) by [The Customs \(Northern Ireland\) \(EU Exit\) \(Amendment\) Regulations 2023 \(S.I. 2023/958\)](#), regs. 1(3), [13\(b\)](#); [S.I. 2023/1050](#), reg. 2(b)

F5 Words in [reg. 16M\(3\)](#) inserted (30.9.2023 for specified purposes, 2.10.2023 in so far as not already in force) by [The Customs \(Northern Ireland\) \(EU Exit\) \(Amendment\) Regulations 2023 \(S.I. 2023/958\)](#), regs. 1(3), [13\(a\)](#); [S.I. 2023/1050](#), reg. 2(b)

Commencement Information

I4 Reg. 16M in force at 31.12.2020 for specified purposes by [S.I. 2020/1629](#), [reg. 1\(4\)](#)

I5 Reg. 16M in force at 4.9.2021 for specified purposes by [S.I. 2021/983](#), [reg. 2](#) (see [S.I. 2020/1629](#), [reg. 1\(4\)\(5\)](#))

I6 Reg. 16M in force at 2.10.2023 in so far as not already in force by [S.I. 2023/1050](#), [reg. 2\(a\)](#) (see [S.I. 2020/1629](#), [reg. 1\(4\)\(5\)](#))

Rectification of errors in claim for relief

16N. Where a notification of an error in a claim for relief is received by HMRC before the claim for relief is granted or repayment made—

- (a) an HMRC officer must correct the claim, or direct the claimant to make the necessary corrections; and
- (b) any liability to duty under section 30A(3) or 40A(1) of the Act is determined on the basis of the information contained in the claim for relief as corrected (or required to be corrected) under this regulation.

Commencement Information

- I7** Reg. 16N in force at 31.12.2020 for specified purposes by [S.I. 2020/1629](#), **reg. 1(4)**
- I8** Reg. 16N in force at 4.9.2021 for specified purposes by [S.I. 2021/983](#), **reg. 2** (see [S.I. 2020/1629](#), **reg. 1(4)(5)**)
- I9** Reg. 16N in force at 2.10.2023 in so far as not already in force by [S.I. 2023/1050](#), **reg. 2(a)** (see [S.I. 2020/1629](#), **reg. 1(4)(5)**)

Liability to duty due to error

16O.—(1) Where—

- (a) a claim for relief is granted in respect of goods; and
- (b) an HMRC officer becomes aware of an error in the claim for relief which resulted in a grant of an amount of relief to which the claimant was not entitled, whether by way of a notification under regulation 16M or otherwise,

the claimant is liable to duty under section 30A(3) or 40A(1) in respect of the goods, as the case may be.

(2) Where paragraph (1) applies, the liability referred to in that paragraph is the amount of duty corresponding to the relief to which the claimant was not entitled.

(3) Paragraph (4) applies for the purposes of determining the date (“the relevant date”) on which the liability arises.

(4) The relevant date is—

- (a) the date stated in the notification required to be made under regulation 16M(2) as the date on which the error first came to the attention of the person making the notification; or
- (b) where—
 - (i) details of the error are not notified to HMRC as required; or
 - (ii) HMRC are not satisfied with the details notified,the date the claim was granted.

(5) It is to be presumed that the claimant is notified of the liability on the relevant date.

(6) Where the claim for relief is made by a relief agent on behalf of a principal the references to “the claimant” in this regulation are to the principal.

Commencement Information

- I10** Reg. 16O in force at 31.12.2020 for specified purposes by [S.I. 2020/1629](#), **reg. 1(4)**
- I11** Reg. 16O in force at 4.9.2021 for specified purposes by [S.I. 2021/983](#), **reg. 2** (see [S.I. 2020/1629](#), **reg. 1(4)(5)**)
- I12** Reg. 16O in force at 2.10.2023 in so far as not already in force by [S.I. 2023/1050](#), **reg. 2(a)** (see [S.I. 2020/1629](#), **reg. 1(4)(5)**)

Liability to duty on limit breach

16P.—(1) Where—

- (a) a claim for relief is granted in respect of goods; and
- (b) an HMRC officer becomes aware that the eligibility criterion in regulation 16E(1)(b) was not met at the time of the grant of the claim, whether by way of a notification under regulation 16M or otherwise,

the claimant is liable to duty under section 30A(3) or 40A(1), as the case may be.

(2) Where paragraph (1) applies, the liability referred to in that paragraph—

- (a) is the amount of duty corresponding to the relief granted in relation to the claim; and
- (b) is to be treated as arising on the date the claim was granted.

(3) Where a notification is given under regulation 16M(2)(a)(i), it is to be presumed that the claimant is notified of the liability on the date stated in the notification as the date on which the fact that the eligibility criterion was not met first came to the attention of the person making the notification.

(4) Where—

- (a) no notification is given under regulation 16M(2)(a)(i); or
- (b) HMRC are not satisfied with the details notified,

HMRC must notify the claimant of the liability.

(5) Where a liability is incurred under this regulation, the claimant must pay interest at the applicable rate on the liability for the period—

- [beginning with the later of—
 - ^{F6}(a) (i) the date on which the claim for relief is granted; and
 - (ii) the date on which duty is repaid under regulation 16K; and]
- (b) ending with the date on which the liability is paid in full.

(6) In this regulation “the applicable rate” means the State aid recovery interest rate fixed in accordance with Article 9 of [^{F7}Commission Regulation (EC) No 794/2004 of 21 April 2004 implementing Council Regulation (EU) 2015/1589 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union] and applied in accordance with Article 11 of that Regulation.

(7) A notification of liability required by paragraph (4) may be withdrawn if an HMRC officer considers there to be sufficient evidence to demonstrate that the eligibility criterion in regulation 16E(1)(b) was met at the time of the grant of the claim.

(8) Where the claim for relief is made by a relief agent on behalf of a principal the references to “the claimant” in this regulation are to the principal.

Textual Amendments

- F6** Reg. 16P(5)(a) substituted (30.9.2023 for specified purposes, 2.10.2023 in so far as not already in force) by [The Customs \(Northern Ireland\) \(EU Exit\) \(Amendment\) Regulations 2023 \(S.I. 2023/958\)](#), regs. 1(3), **14(a)** (with reg. 1(4)); S.I. 2023/1050, reg. 2(b)
- F7** Words in reg. 16P(6) substituted (30.9.2023 for specified purposes, 2.10.2023 in so far as not already in force) by [The Customs \(Northern Ireland\) \(EU Exit\) \(Amendment\) Regulations 2023 \(S.I. 2023/958\)](#), regs. 1(3), **14(b)**; S.I. 2023/1050, reg. 2(b)

Commencement Information

- I13** Reg. 16P in force at 31.12.2020 for specified purposes by [S.I. 2020/1629, reg. 1\(4\)](#)
- I14** Reg. 16P in force at 4.9.2021 for specified purposes by [S.I. 2021/983, reg. 2](#) (see [S.I. 2020/1629, reg. 1\(4\)\(5\)](#))
- I15** Reg. 16P in force at 2.10.2023 in so far as not already in force by [S.I. 2023/1050, reg. 2\(a\)](#) (see [S.I. 2020/1629, reg. 1\(4\)\(5\)](#))

[^{F8}Further liability to duty

16PA.—(1) Where regulation 16O or 16P applies and an aid beneficiary other than the claimant benefitted from the relief to which the claimant was not entitled, those regulations apply to that aid beneficiary and, subject to paragraph (2), references in those regulations to the claimant are treated as references to that aid beneficiary.

(2) Paragraph (1) does not apply to the references to the claimant in regulation 16O(1)(b), (2) and (6) and regulation 16P(8).

(3) In paragraph (1), “aid beneficiary” means a person who would be identified under the Commission Notice on the recovery of unlawful and incompatible State aid (C/2019/5396) as a person from whom recovery of incompatible aid may be made.]

Textual Amendments

- F8** [Reg. 16PA](#) inserted (30.9.2023 for specified purposes, 2.10.2023 in so far as not already in force) by [The Customs \(Northern Ireland\) \(EU Exit\) \(Amendment\) Regulations 2023 \(S.I. 2023/958\)](#), regs. 1(3), 15; [S.I. 2023/1050, reg. 2\(b\)](#)

Recovery of duty

16Q.—(1) Paragraph 12 of Schedule 6 to the Act applies to an amount due by way of duty incurred under regulation 16P as if it were an amount due by way of import duty.

(2) The power to recover by virtue of paragraph (1) is subject to the limitation period specified in Article 17 of [Council Regulation \(EU\) 2015/1589](#) of 13 July 2015 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union.

(3) This regulation does not restrict any other way in which duty may be recovered.

Commencement Information

- I16** Reg. 16Q in force at 31.12.2020 for specified purposes by [S.I. 2020/1629, reg. 1\(4\)](#)
- I17** Reg. 16Q in force at 4.9.2021 for specified purposes by [S.I. 2021/983, reg. 2](#) (see [S.I. 2020/1629, reg. 1\(4\)\(5\)](#))
- I18** Reg. 16Q in force at 2.10.2023 in so far as not already in force by [S.I. 2023/1050, reg. 2\(a\)](#) (see [S.I. 2020/1629, reg. 1\(4\)\(5\)](#))

Agents' liability

16R. If a relief agent makes a claim for relief on behalf of a principal, the agent is also liable to duty chargeable under section 30A(3) or 40A(1) arising under regulation 16O in relation to the claim if—

- (a) the agent acts at a time when the appointment has not been disclosed to HMRC as mentioned in regulation 16C(3);

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- (b) the agent purports to act on behalf of the principal when the agent has no authority to do so; or
- (c) the agent provides false information in connection with a claim for relief and the agent knew, or ought reasonably to have known, that the information was false.]

Commencement Information

- I19** Reg. 16R in force at 31.12.2020 for specified purposes by [S.I. 2020/1629](#), **reg. 1(4)**
- I20** Reg. 16R in force at 4.9.2021 for specified purposes by [S.I. 2021/983](#), **reg. 2** (see [S.I. 2020/1629](#), **reg. 1(4)(5)**)
- I21** Reg. 16R in force at 2.10.2023 in so far as not already in force by [S.I. 2023/1050](#), **reg. 2(a)** (see [S.I. 2020/1629](#), **reg. 1(4)(5)**)

Changes to legislation:

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