



Taxation (Cross-border Trade) Act 2018

2018 CHAPTER 22

PART 1

IMPORT DUTY

Interpretation etc

33 Meaning of “domestic goods”

- (1) Goods are domestic goods for the purposes of this Part if—
 - (a) they are wholly obtained in the United Kingdom, or
 - (b) they have been subject to a chargeable Customs procedure.
- (2) For the purposes of this section goods have been “subject to a chargeable Customs procedure” if—
 - (a) the goods were declared for the free-circulation procedure and the procedure has been discharged, ^{F1}...
 - (b) the goods were declared for an authorised use procedure and the procedure has been [^{F2}discharged, or]
 - [^{F3}(c) the goods—
 - (i) are not Union goods and were removed to Northern Ireland (in the course of their importation into the United Kingdom or otherwise), and
 - (ii) were declared, in accordance with Union customs legislation, for a procedure corresponding to the free-circulation procedure or the authorised use procedure and that corresponding procedure has been discharged, while the goods were in Northern Ireland, in accordance with that legislation.]
- (3) Goods cease to be domestic goods if—
 - (a) they are exported from the United Kingdom [^{F4}as a result of the removal of the goods from Great Britain], and

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- (b) the export is one which is required to be made in accordance with the applicable export provisions,
and the goods are then [^{F5}(subject to section 30A)] chargeable goods until such time (if any) as they are next subject to a chargeable Customs procedure.
- (4) For the purposes of subsection (3), every export of goods [^{F6}resulting from the removal of the goods from Great Britain] is required to be made in accordance with the applicable export provisions unless an exception provided for by regulations made by HMRC Commissioners applies to the export.
- [^{F7}(4A) Goods also cease to be domestic goods if they—
- (a) are exported from the United Kingdom as a result of their removal from Northern Ireland, and
 - (b) are not of a description specified in regulations made by the Treasury,
- and the goods are then (subject to section 30A) chargeable goods until such time (if any) as they are next subject to a chargeable Customs procedure.
- (4B) Regulations under subsection (4A)(b) may specify a description of goods by reference to any matter or circumstance (including, for example, any matter or circumstance relating to any person concerned with the export of such goods).]
- (5) HMRC Commissioners may by regulations make provision for [^{F8}relevant exported goods] to retain their status as domestic goods if—
- (a) the goods merely pass through places outside the United Kingdom before arriving at their ultimate destination in the United Kingdom, or
 - (b) the goods otherwise remain outside the United Kingdom for a temporary period.
- [^{F9}(5A) For the purposes of subsection (5), exported goods are “relevant” if—
- (a) they were exported as a result of their removal from Northern Ireland, or
 - (b) they were exported as a result of their removal from Great Britain and were so exported in accordance with the applicable export provisions.]

(6) The provision that may be made by the regulations includes—

 - (a) provision requiring conditions to be met in relation to the goods while they are outside the United Kingdom, and
 - (b) provision requiring the making of a declaration in connection with their subsequent import into the United Kingdom.

(7) Goods that are in the United Kingdom are presumed to be domestic goods unless the contrary is shown.

(8) The Treasury may by regulations make provision—

 - (a) as to cases in which goods are, or are not, to be regarded as domestic goods for the purposes of this Part,
 - (b) for reversing the presumption that goods are domestic goods in specified cases (so that they are presumed not to be domestic goods unless the contrary is shown), and
 - (c) as to the evidence which is to be required, or is to be sufficient, for the purpose of showing that goods are domestic goods.

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Textual Amendments

- F1** Word in s. 33(2) omitted (17.12.2020 for specified purposes) by virtue of [Taxation \(Post-transition Period\) Act 2020 \(c. 26\), s. 11\(1\)\(e\), Sch. 1 para. 4\(2\)\(a\)](#) (with Sch. 2 para. 7(7)-(9))
- F2** Words in s. 33(2)(b) substituted (17.12.2020 for specified purposes) by [Taxation \(Post-transition Period\) Act 2020 \(c. 26\), s. 11\(1\)\(e\), Sch. 1 para. 4\(2\)\(b\)](#) (with Sch. 2 para. 7(7)-(9))
- F3** S. 33(2)(c) inserted (17.12.2020 for specified purposes) by [Taxation \(Post-transition Period\) Act 2020 \(c. 26\), s. 11\(1\)\(e\), Sch. 1 para. 4\(2\)\(c\)](#) (with Sch. 2 para. 7(7)-(9))
- F4** Words in s. 33(3)(a) inserted (17.12.2020 for specified purposes) by [Taxation \(Post-transition Period\) Act 2020 \(c. 26\), s. 11\(1\)\(e\), Sch. 1 para. 4\(3\)\(a\)](#) (with Sch. 2 para. 7(7)-(9))
- F5** Words in s. 33(3) inserted (17.12.2020 for specified purposes) by [Taxation \(Post-transition Period\) Act 2020 \(c. 26\), s. 11\(1\)\(e\), Sch. 1 para. 4\(3\)\(b\)](#) (with Sch. 2 para. 7(7)-(9))
- F6** Words in s. 33(4) inserted (17.12.2020 for specified purposes) by [Taxation \(Post-transition Period\) Act 2020 \(c. 26\), s. 11\(1\)\(e\), Sch. 1 para. 4\(4\)](#) (with Sch. 2 para. 7(7)-(9))
- F7** S. 33(4A)(4B) inserted (17.12.2020 for specified purposes) by [Taxation \(Post-transition Period\) Act 2020 \(c. 26\), s. 11\(1\)\(e\), Sch. 1 para. 4\(5\)](#) (with Sch. 2 para. 7(7)-(9))
- F8** Words in s. 33(5) substituted (17.12.2020 for specified purposes) by [Taxation \(Post-transition Period\) Act 2020 \(c. 26\), s. 11\(1\)\(e\), Sch. 1 para. 4\(6\)](#) (with Sch. 2 para. 7(7)-(9))
- F9** S. 33(5A) inserted (17.12.2020 for specified purposes) by [Taxation \(Post-transition Period\) Act 2020 \(c. 26\), s. 11\(1\)\(e\), Sch. 1 para. 4\(7\)](#) (with Sch. 2 para. 7(7)-(9))

Commencement Information

- I1** S. 33 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

34 Presentation of goods to Customs on import or export

- (1) For the purposes of this Part, goods are presented to Customs on import if—
 - (a) the goods are lawfully imported into the United Kingdom, and
 - (b) notification of their importation into the United Kingdom is given to HMRC in accordance with provision made by regulations made by HMRC Commissioners.
- (2) The time at which goods are presented to Customs on import is the later of—
 - (a) the time at which the notification of importation in accordance with the regulations is received by HMRC, and
 - (b) the time at which the goods are imported into the United Kingdom.
- (3) For the purposes of this Part, goods are presented to Customs on export if notification of their export from the United Kingdom is given to HMRC in accordance with provision made by regulations made by HMRC Commissioners.
- (4) The notification must be given before the export of goods unless provision is made by regulations made by HMRC Commissioners authorising the notification to be given at a later time.
- (5) Regulations made by HMRC Commissioners may make provision for the purposes of this section.
- (6) Each of the following is an example of the kind of provision that may be made by regulations under this section—

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- (a) provision requiring a notification to be accompanied by documents of a description specified in the regulations or in a public notice given by HMRC Commissioners,
- (b) provision authorising a public notice given by HMRC Commissioners to make provision about the form and contents of a notification,
- (c) provision authorising a public notice given by HMRC Commissioners to require notification to be made in accordance with provision made by the notice,
- (d) provision requiring or authorising, in specified cases, notification of an importation of goods to be given before the importation,
- (e) provision deeming a notification to have been given in specified cases, and
- (f) provision requiring a notification to disclose the location of the goods.

Commencement Information

I2 S. 34 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

35 Exports made in accordance with applicable export provisions

- (1) This section defines for the purposes of this Part what is meant by an export of goods from the United Kingdom being in accordance with the applicable export provisions.
- (2) The export of the goods is made in accordance with the applicable export provisions if—
 - (a) the goods are presented to Customs on export, and
 - (b) the export is subsequently made in accordance with a procedure provided for by regulations made by HMRC Commissioners.
- (3) The regulations may—
 - (a) provide for the procedure to involve the making of a declaration by the person making the export or any specified person,
 - (b) provide for requirements to be imposed on any person at any time while the goods are subject to the procedure,
 - (c) make provision specifying, or otherwise determining, the period during which the goods are to be regarded as subject to the procedure,
 - (d) deem, in specified cases, the export to have been made in accordance with the procedure, and
 - (e) provide for goods to be subject to the control of any HMRC officer from a specified time.
- (4) The provision which may be made as a result of subsection (3)(a) includes provision applying or replicating the effect of—
 - (a) any provision made by or under Schedule 1 (Customs declarations), or
 - (b) any other provision made by or under this Part that operates (to any extent) by reference to a Customs declaration,
 with or without modifications.

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Changes to legislation: There are currently no known outstanding effects for the Taxation (Cross-border Trade) Act 2018, Cross Heading: Interpretation etc. (See end of Document for details)

Commencement Information

I3 S. 35 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

36 Outward processing procedure

- (1) This section applies if—
 - (a) domestic goods have been presented to Customs on export, and
 - (b) the goods are declared for an outward processing procedure.
- (2) A declaration of goods for “an outward processing procedure” is a declaration—
 - (a) that the goods are to be exported from the United Kingdom [^{F10}as a result of the removal of the goods from Great Britain] in order to be processed outside the United Kingdom,
 - (b) that the processing is to take place during a temporary period at the end of which the goods are to be imported into the United Kingdom [^{F11}and removed to Great Britain (whether in the course of that importation or otherwise)], and
 - (c) that the processing is to be carried out in accordance with requirements imposed on any person by or under regulations made by HMRC Commissioners.
- (3) The temporary period during which the processing is to take place is the period specified in a notice given to the person making the declaration by an HMRC officer.
- (4) That period may be subsequently extended (or further extended) by another notice given as mentioned in subsection (3).
- (5) If goods are declared for an outward processing procedure—
 - (a) the export of the goods is not one which is required to be made in accordance with the applicable export provisions, but
 - (b) HMRC Commissioners may by regulations make provision in relation to any export under an outward processing procedure corresponding to the provision that may be made by regulations under section 35.
- (6) If the processing of the goods under an outward processing procedure consists in their repair by any person without charge, the goods continue to be regarded as domestic goods but only if, while the procedure has effect—
 - (a) there is no breach of the terms of the declaration for the procedure, and
 - (b) there is no breach of any other requirement in relation to the procedure.
- (7) If the processing of the goods under an outward processing procedure consists in anything else, the goods are to be regarded as chargeable goods, but if—
 - (a) the goods are imported in accordance with the procedure, and
 - (b) there is no breach of the terms of the declaration for the procedure, or of any other requirement in relation to the procedure, while the procedure has effect, the value of the goods is to be reduced to take account of so much of that value as can be attributed to the goods as they stood before being exported.
- (8) HMRC Commissioners may make regulations for the purposes of this section.
- (9) Each of the following is an example of the kind of provision that may be made by the regulations—

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- (a) provision specifying cases in which goods may not be declared for an outward processing procedure,
- (b) provision imposing requirements on any person in relation to an outward processing procedure,
- (c) provision for determining the reduction in the value of any goods for the purposes of subsection (7),
- (d) provision authorised or required to be made by any regulations under Schedule 2, and
- (e) other provision made by or under this Part of this Act that has effect in relation to a special Customs procedure.

Textual Amendments

F10 Words in s. 36(2)(a) inserted (17.12.2020 for specified purposes) by [Taxation \(Post-transition Period\) Act 2020 \(c. 26\)](#), s. 11(1)(e), [Sch. 1 para. 5\(a\)](#) (with [Sch. 2 para. 7\(7\)-\(9\)](#))

F11 Words in s. 36(2)(b) inserted (17.12.2020 for specified purposes) by [Taxation \(Post-transition Period\) Act 2020 \(c. 26\)](#), s. 11(1)(e), [Sch. 1 para. 5\(b\)](#) (with [Sch. 2 para. 7\(7\)-\(9\)](#))

Commencement Information

I4 S. 36 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

37 Minor definitions

(1) In this Part—

“approved guarantee”, in relation to goods declared for the free-circulation procedure, means any guarantee given in accordance with regulations made under paragraphs 6 and 7 of Schedule 6,

“arrangements” includes an understanding of any kind,

“CEMA 1979” means the Customs and Excise Management Act 1979,

[^{F12}“the customs and excise Acts” has the meaning it has in CEMA 1979 (see section 1(1) of that Act);]

“directions” means directions in electronic form or otherwise in writing,

“guarantee” includes any indemnity, surety, security and undertaking of any kind,

“HMRC” means Her Majesty's Revenue and Customs,

“HMRC Commissioners” means the Commissioners for Her Majesty's Revenue and Customs,

“HMRC officer” means an officer of Revenue and Customs,

“notice”, except in the expression “public notice”, means a notice in electronic form or otherwise in writing,

[^{F12}“qualifying Northern Ireland goods” has the meaning it has in the European Union (Withdrawal) Act 2018 (see section 8C(6) of that Act)]

“specified”, in relation to any regulations or public notice, means specified in, or determined in accordance with, the regulations or public notice,

“subordinate legislation” has the same meaning as in the Interpretation Act 1978, and

[^{F12}“Union customs legislation” means provisions contained in “customs legislation” within the meaning of [Regulation \(EU\) No 952/2013](#) of the European Parliament and of the Council of 9 October 2013 laying down the

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Union Customs Code (see Article 5(2) of that Regulation), as they have effect as a result of section 7A of the European Union (Withdrawal) Act 2018;]

[^{F12}“Union goods” has the meaning it has in that Regulation;]

“the WTO” means the World Trade Organisation.

- (2) In this Part any reference to a rate of duty includes a nil rate.
- (3) In this Part any reference to goods being wholly obtained in any country or territory includes—
 - (a) any case where the goods are grown, produced or manufactured only in the country or territory, and
 - (b) any other cases specified in regulations made by the Treasury.
- (4) In this Part any reference to the processing of any goods includes the following activities—
 - (a) the erection, assembly, fitting or other working of the goods,
 - (b) the repair of the goods,
 - (c) the use of the goods for the purpose of facilitating the production or manufacture of any other goods, and
 - (d) the destruction of the goods.
- (5) Any reference in any provision of this Part to a public notice is to a notice published by the Secretary of State, or (as the case may be) HMRC Commissioners, in such manner as the person giving the notice considers appropriate for the purposes of that provision.
- (6) In this Part—
 - (a) references to a territory outside the United Kingdom include the European Union or any other international organisation or authority comprising territories outside the United Kingdom, and
 - (b) expressions relating to a territory outside the United Kingdom (such as the government of a territory outside the United Kingdom or the law of a territory outside the United Kingdom) are to be read accordingly with the necessary modifications.
- (7) For the purposes of this Part any reference to goods being subject to the control of an HMRC officer includes control being exercised by—
 - (a) requiring the goods to be handled, or otherwise dealt with, in accordance with instructions given by an HMRC officer (whether given orally or in any other way), or
 - (b) requiring the goods to be kept in any place specified by an HMRC officer.
- (8) In the case of any reference in this Part to a person who makes a Customs declaration—
 - (a) the reference is to the person actually making the declaration even if the declaration is made on behalf of another person, and
 - (b) if a Customs declaration is made by a Customs agent in the name of the principal, the reference is to the agent despite the provision made by section 21(3).

Textual Amendments

F12 Words in s. 37(1) inserted (17.12.2020 for specified purposes) by [Taxation \(Post-transition Period\) Act 2020 \(c. 26\)](#), s. 11(1)(e), [Sch. 1 para. 6](#) (with [Sch. 2 para. 7\(7\)-\(9\)](#))

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Commencement Information

I5 S. 37 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

38 Table of definitions

The following table sets out some of the expressions used in this Part, showing where they are defined or otherwise explained—

| | |
|---|--|
| acceptance (of a Customs declaration) | paragraphs 11(2) and 13(4) of Schedule 1 |
| the applicable export provisions | section 35 |
| approved guarantee (in relation to goods declared for the free-circulation procedure) | section 37(1) |
| arrangements | section 37(1) |
| an authorised use procedure | paragraph 13 of Schedule 2 |
| CEMA 1979 | section 37(1) |
| chargeable goods | section 2 |
| control of HMRC officer | section 37(7) |
| Customs agent | section 21 |
| [^{F13} the customs and excise Acts] | section 37(1)] |
| Customs procedures | section 3 |
| customs tariff | section 8 |
| directions | section 37(1) |
| domestic goods | section 33 |
| export (time of) | section 5 of CEMA 1979 |
| the free-circulation procedure | section 3 |
| guarantee | section 37(1) |
| HMRC | section 37(1) |
| HMRC Commissioners | section 37(1) |
| HMRC officer | section 37(1) |
| import (time of) | section 5 of CEMA 1979 |
| import duty | section 1 |
| an inward processing procedure | paragraphs 9 and 11 of Schedule 2 |
| notice (except in the expression “public notice”) | section 37(1) |
| origin (of goods) | section 17 |
| person making a Customs declaration | section 37(8) |
| presented to Customs on export | section 34(3) |

Status: Point in time view as at 17/12/2020.

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|--|----------------------------|
| presented to Customs on import | section 34(1) and (2) |
| processing (of goods) | section 37(4) |
| public notice | section 37(5) |
| [^{F13} qualifying Northern Ireland goods | section 37(1)] |
| rate of duty | section 37(2) |
| special Customs procedure | section 3 |
| specified (in relation to regulations or public notices) | section 37(1) |
| a storage procedure | paragraph 2 of Schedule 2 |
| subordinate legislation | section 37(1) |
| a temporary admission procedure | paragraph 15 of Schedule 2 |
| territory outside the United Kingdom (and related expressions) | section 37(6) |
| the TRA | section 13 |
| a transit procedure | paragraph 5 of Schedule 2 |
| [^{F13} Union customs legislation | section 37(1)] |
| [^{F13} Union goods | section 37(1)] |
| value (of chargeable goods) | section 16 |
| wholly obtained (in the case of goods) | section 37(3) |
| the WTO | section 37(1) |

Textual Amendments

F13 Words in s. 38 inserted (17.12.2020 for specified purposes) by [Taxation \(Post-transition Period\) Act 2020 \(c. 26\)](#), s. 11(1)(e), [Sch. 1 para. 7](#) (with [Sch. 2 para. 7\(7\)-\(9\)](#))

Commencement Information

I6 S. 38 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

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Changes to legislation:

There are currently no known outstanding effects for the Taxation (Cross-border Trade) Act 2018, Cross Heading: Interpretation etc.