

2018 No. 507

CUSTOMS AND EXCISE

The Export (Penalty) (Amendment) Regulations 2018

<i>Made</i> - - - -	<i>20th April 2018</i>
<i>Laid before Parliament</i>	<i>23rd April 2018</i>
<i>Coming into force</i> - -	<i>14th May 2018</i>

The Commissioners for Her Majesty's Revenue and Customs make the following Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(a) having been designated(b) for the purposes of that section in relation to customs matters of the EU.

Citation and commencement

1. These Regulations may be cited as the Export (Penalty) (Amendment) Regulations 2018 and come into force on 14th May 2018.

Amendment of the Export (Penalty) Regulations 2003

2. The Export (Penalty) Regulations 2003(c) are amended in accordance with regulations 3 and 4.

Amendment of regulation 2

3. In regulation 2—

- (a) in the definition of “the Code”, for “Council Regulation 2913/92/EEC” substitute “Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code”(d);
- (b) omit the definitions of “Community customs rules” and “Community export duty”;
- (c) for the definition of “declaration”, substitute—
““declaration” means a customs declaration, as defined in Article 5(12) of the Code.”;
- (d) for the definition of “export”, substitute—

(a) 1972 c. 68; section 2(2) was amended by the European Union (Amendment) Act 2008 (c. 7), the Schedule, Part 1 and by the Legislative and Regulatory Reform Act 2006 (c. 51), section 27(1)(a).
(b) S.I. 1977/980; the Schedule designates the Commissioners of Customs and Excise to exercise powers to make regulations conferred by section 2(2) of the European Communities Act 1972, in relation to customs matters arising under the Community Treaties. The functions of those Commissioners were transferred to the Commissioners for Her Majesty's Revenue and Customs by section 5(2) of the Commissioners for Revenue and Customs Act 2005 (c. 11). Section 50(1) of that Act provides that a reference to the Commissioners of Customs and Excise shall be taken as a reference to the Commissioners for Her Majesty's Revenue and Customs.
(c) S.I. 2003/3102, amended by S.I. 2009/56, 2011/2512 and 2014/1264.
(d) OJ No L269, 10.10.2013, p 1.

““export” means that “customs procedure” within the meaning as given by Article 5(16) (c) of the Code;”;

- (e) in the definition of “the Implementing Regulation”, for “Commission Regulation 2454/93/EEC” substitute “Commission Implementing Regulation (EU) 2015/2447(a) 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”;
- (f) in the definition of “relevant export rule”—
 - (i) for “Community imposed” substitute “EU-imposed”;
 - (ii) for “Community export duty” substitute “Union export duty”;
 - (iii) in paragraphs (a), (b), (c) and (d), for “Community customs rules” substitute “Union customs legislation”;
- (g) after the definition of “contravene” insert—

““Delegated Regulation” means Commission Delegated Regulation (EU) 2015/2446(b) of 28 July 2015 supplementing the Code as regards certain provisions of the Code;”;
- (h) after the definition of “representative” insert—

““Union customs legislation” means customs legislation, as defined in Article 5(2) of the Code;;

““Union export duty” means export duty, as defined in Article 5(21) of the Code;”.

Amendment of the Schedule

4. In the Schedule(c)—

- (a) in the entry headed “Article 161(2) of the Code”, for the first column substitute—

<p>“Article 269 of the Code 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.”;</p>		
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- (b) in the entry headed “Article 59(1) of the Code”, for the first column substitute—

<p>“Article 158 of the Code 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.”;</p>		
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(a) OJ No L 343, 29.12.2015, p.558.
(b) OJ No L 343, 29.12.2015, p1.
(c) The Schedule was substituted by regulation 6 of S.I. 2011/2512.

<p>(c) in the entry headed “Article 62 of the Code”, for the first column substitute—</p> <p>“Article 162 of the Code Standard customs declarations must contain all the particulars necessary for application of the provisions governing the customs procedure for which the goods are declared.”;</p>		
<p>(d) after that entry insert—</p> <p>“Article 163 of the Code 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.</p>	The declarant.	£1,000”;
<p>(e) in the entry headed “Article 161(5) of the Code and Articles 789 and 790 of the Implementing Regulation”, for the first column substitute—</p> <p>“Article 221 of the Implementing Regulation Export declarations must be lodged at the competent customs office for placing the goods under the export procedure.”;</p>		
<p>(f) in the entry headed “Article 182b of the Code and Articles 592b and 592f of the Implementing Regulation”, for the first column substitute—</p> <p>“Article 263 of the Code and Article 244 of the Delegated Regulation 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.”;</p>		
<p>(g) in the entry headed “Article 795 of the Implementing Regulation”, for the first column substitute—</p> <p>“Articles 162 and 267 of the Code and Article 337 of the Delegated Regulation 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.”;</p>		

(h) for the entry headed “Article 182c of the Code” substitute—		
“Articles 263, 267 and 271 of the Code and Article 337 of the Implementing Regulation		
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”;
(i) in the entry headed “Articles 253(6) and 253(7) of the Implementing Regulation”, for the first column substitute—		
“Articles 166, 167 and 182 of the Code, Articles 145 and 150 of the Delegated Regulation and Articles 234 and 235 of the Implementing Regulation		
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:		
(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.”;		

- (j) for the entry headed “Article 793 of the Implementing Regulation, the Customs (Presentation of Goods for Export) Regulations 2003 and Article 183 of the Code” substitute—

<p>“Article 267 of the Code Goods to be taken out of the customs territory of the Union must be presented to Customs on exit.</p>	<p>The person who takes the goods out of the customs territory.</p> <p>The person in whose name or on whose behalf the person who takes the goods out of that territory acts.</p> <p>The person who assumes responsibility for carriage of the goods before their exit from that territory.</p>	<p>£2,500</p> <p>£2,500</p> <p>£2,500”;</p>
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- (k) for the entry headed “Article 796d(1) of the Implementing Regulation”, for the first column substitute—

<p>“Article 267 of the Code and Article 332 of the Implementing Regulation 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 shall notify the exit of the goods to the customs office of exit by providing that information unless it is available to the customs authorities through existing commercial, port or transport systems or processes.”;</p>		
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(l) for the entry headed “Article 796d(4) of the Implementing Regulation” substitute—

“Article 267 of the Code and Article 340 of the Implementing Regulation

(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.

(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 declarant.

£1,000

The person who removes the goods from the customs office of exit to a place within the customs territory.

£1,000”;

(m) for the entry headed “Article 798 of the Implementing Regulation”, substitute—

“Articles 162 and 267 of the Code and Article 337(2) of the Delegated Regulation

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”;

(n) after that entry insert—

“Article 274 of the Code and Article 336 of the Implementing Regulation

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 to lodge an exit summary declaration for the goods is waived.

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”;

- (o) omit the entry headed “Article 841a of the Implementing Regulation”;
- (p) in the entry headed “Article 14 of the Code and section 23 of the Finance Act 1994”, in the heading, for “Article 14” substitute “Article 15”;
- (q) in the entry headed “Article 16 of the Code and Regulations 3 to 5 and 9 of the Customs Traders (Accounts and Records) Regulations 1995”—
 - (i) in the heading, for “Article 16” substitute “Article 51”, and
 - (ii) in the second column, for “Article 16” substitute “Article 51”.

Justin Holliday
Melissa Tatton

20th April 2018

Two of the Commissioners for Her Majesty’s Revenue and Customs

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Export (Penalty) Regulations 2003 (S.I. 2003/3102) ('the 2003 Regulations'). The 2003 Regulations provide in part for penalties for contravention of rules on exports set out in EU legislation. These Regulations replace references to the Community Customs Code and associated legislation which have lapsed with references to the Union Customs Code and associated legislation that are currently in force.

Regulation 1 introduces these Regulations and sets out when they come into force.

Regulation 2 provides that the 2003 Regulations are amended.

Regulation 3 amends Regulation 2 of the 2003 Regulations so that they make accurate reference to the current provisions.

Regulation 4 amends the Schedule to the 2003 Regulations so that they make reference to the current provisions as well as make any consequential amendments necessary as a result of the changes in the relevant EU legislation.

A Tax Information and Impact Note (TIIN) covering this instrument will be published on the gov.uk website at the following link <https://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins>.

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