
STATUTORY INSTRUMENTS

2020 No. 1434

The Customs (Tariff-free Access for Goods from British Overseas Territories) (EU Exit) Regulations 2020

PART 2

Tariff-free access: British Overseas Territories

4.—(1) Subject to meeting the conditions set out in regulation 5, where—

- (a) the importer or the importer’s representative makes a Customs declaration under section 3(1) of the Act (obligation to declare goods for a customs procedure on import) claiming tariff-free access for originating goods to which these Regulations apply; and
- (b) that declaration is accepted by HMRC under section 4(1) of the Act (when liability to import duty incurred),

the rate of import duty that is to apply in respect of those goods is 0%.

(2) In paragraph (1)—

- (a) in sub-paragraph (a), the reference to a Customs declaration under section 3(1) of the Act is to be read as including a reference to any such declaration made to HMRC under equivalent provisions of direct EU legislation that have effect in Northern Ireland in respect of goods that are imported into the United Kingdom as a result of their entry into Northern Ireland; and
- (b) in sub-paragraph (b), the reference to the acceptance of a declaration by HMRC under section 4(1) of the Act is to be read as including the acceptance of any such declaration under equivalent provisions of direct EU legislation that have effect in Northern Ireland in respect of goods that are imported into the United Kingdom as a result of their entry into Northern Ireland.

(3) The rate of import duty that, by virtue of paragraph (1), applies to originating goods to which these Regulations apply is without prejudice to the application of any other rate of import duty that may exist in relation to the same classification of goods by virtue of provision in regulations made under sections 8, 11, 12 or 19 of the Act.

The conditions

5.—(1) For the purposes of regulation 4(1), the conditions set out in this regulation are that—

- (a) the goods qualify as originating products under Annex 2 of the Arrangement; and
- (b) except as otherwise provided by paragraph (2), the importer or the importer’s representative provide, on request from HMRC—
 - (i) a valid proof of origin, in accordance with Annex 2 of the Arrangement, in respect of those goods, and
 - (ii) the documents required under Annex 2 of the Arrangement.

(2) It is not necessary to provide a valid proof of origin under paragraph (1)(b)(i) in respect of any originating goods presented to HMRC that are exempt under the terms of the Arrangement from the requirement to provide such a proof of origin.

Backdated claims for the preferential rate

6.—(1) If, at the time of importation of any originating goods to which these Regulations apply, the importer or the importer’s representative—

- (a) does not have the proof of origin as required by regulation 5(1)(b)(i); and
- (b) pays the standard rate of import duty in respect of those goods,

the importer, or the person who paid the standard rate of import duty, may make a claim for partial repayment of the import duty on presentation to HMRC of a valid proof of origin relating to the goods after their importation.

(2) The amount of import duty that may be repaid in respect of a claim under paragraph (1) is the difference between the amount of that duty which the importer, or other person, paid at the time of the importation of the goods (which is the standard rate of import duty under the Customs Tariff (Establishment) (EU Exit) Regulations 2020) and the rate of import duty rate that applied at that time under of paragraph 3 of the Arrangement.

(3) A repayment of import duty under this regulation must only be granted if HMRC is satisfied that—

- (a) the claim for repayment has been made within a period of three years from the date of importation;
- (b) the declaration presented to HMRC after importation of the goods is genuine; and
- (c) the originating status of the goods to which the declaration relates can still be verified.

(4) For the purposes of this regulation, “the date of importation” is the date of acceptance by HMRC under section 4(1) of the Act of the declaration for free circulation or authorised use that relates to the relevant goods.