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## STATUTORY INSTRUMENTS

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# 2020 No. 1605

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

### PART 2

#### Importation of goods and goods potentially for export

#### CHAPTER 1

#### Preliminary

#### Part 2 interpretation

#### 3. In this Part—

“British ship” has the meaning given in section 1 of the Merchant Shipping Act 1995<sup>M1</sup> (British ships and United Kingdom ships);

“catch” means fish or any other aquatic life which is commonly fished or obtained in maritime waters or on the seabed;

[<sup>F1</sup>“Delegated Regulation” means [Commission Delegated Regulation \(EU\) 2015/2446](#) of 28 July 2015 supplementing [Regulation \(EU\) No 952/2013](#) of the European Parliament and of the Council as regards detailed rules concerning provisions of the Union Customs Code;]

[<sup>F2</sup>“domestic steel safeguarding measure” means an additional rate of duty payable as a result of the steel safeguards notice (and goods are subject to that measure if that additional rate is payable in respect of the goods);]

[<sup>F2</sup>“EU steel safeguarding measure” means an additional rate of duty payable as a result of Article 1 of the EU steel regulation (and goods are subject to that measure if that additional rate is payable in respect of the goods);]

[<sup>F2</sup>“EU steel regulation” means [Commission Implementing Regulation \(EU\) 2019/159](#) as it may be amended, or replaced, from time to time;]

“goods for the internal market” has the meaning given in regulation 4.

[<sup>F2</sup>“steel notice” means the notice on movements of steel into Northern Ireland published by HMRC on 3 March 2021;]

[<sup>F2</sup>“steel safeguards notice” means [Taxation Notice 2020/06: safeguard measures on certain steel products – application of tariff rate quotas](#) published on 30 September 2020 by the Secretary of State, as that notice may be amended, or replaced, from time to time;]

[<sup>F3</sup>“Tariff of the United Kingdom” has the same meaning as it has in the [Customs Tariff \(Establishment\) \(EU Exit\) Regulations 2020](#).]

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#### Textual Amendments

- F1** Words in reg. 3 inserted (31.12.2020) by [The Customs \(Modification and Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1629\)](#), regs. 1(2), **6(2)(a)**

**Status:** Point in time view as at 12/06/2024.

**Changes to legislation:** There are currently no known outstanding effects for the The Customs (Northern Ireland) (EU Exit) Regulations 2020, PART 2. (See end of Document for details)

- F2** Words in reg. 3 inserted (with effect in accordance with Sch. 20 para. 6(2) of the amending Act) by Finance Act 2021 (c. 26), Sch. 20 para. 6(1)
- F3** Words in reg. 3 inserted (31.12.2020) by The Customs (Modification and Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1629), regs. 1(2), 6(2)(b)

#### Commencement Information

- I1** Reg. 3 not in force at made date, see reg. 1(1)
- I2** Reg. 3 in force at 31.12.2020 by S.I. 2020/1643, reg. 2, Sch.

#### Marginal Citations

- M1** 1995 c. 21.

## CHAPTER 2

### Goods not at risk

#### Goods for the internal market

- 4.—(1) Goods are “goods for the internal market” if the goods —
- are not to be considered at risk of subsequently being moved into the Union by virtue of [<sup>F4</sup>Joint Committee Decision No 1/2023]; and
  - do not enter Northern Ireland for the purposes of commercial processing.
- (2) In this regulation—
- “commercial processing” means processing which is not considered not to be commercial processing by virtue of Article 5(2) of the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement and [<sup>F5</sup>Joint Committee Decision No 1/2023];
- [<sup>F6</sup>“Joint Committee Decision No 1/2023” means Decision No 1/2023 of the Joint Committee established under the EU withdrawal agreement of 24th March 2023.]

#### Textual Amendments

- F4** Words in reg. 4(1)(a) substituted (coming into force in accordance with reg. 1(2) of the amending S.I.) by The Customs (Northern Ireland) (EU Exit) (Amendment) Regulations 2023 (S.I. 2023/958), reg. 3(a)
- F5** Words in reg. 4(2) substituted (coming into force in accordance with reg. 1(2) of the amending S.I.) by The Customs (Northern Ireland) (EU Exit) (Amendment) Regulations 2023 (S.I. 2023/958), reg. 3(a)
- F6** Words in reg. 4(2) substituted (coming into force in accordance with reg. 1(2) of the amending S.I.) by The Customs (Northern Ireland) (EU Exit) (Amendment) Regulations 2023 (S.I. 2023/958), reg. 3(b)

#### Commencement Information

- I3** Reg. 4 not in force at made date, see reg. 1(1)
- I4** Reg. 4 in force at 31.12.2020 by S.I. 2020/1643, reg. 2, Sch.

## CHAPTER 3

### Importation of goods entering Northern Ireland

#### Goods not chargeable under section 30A

- 5.—(1) Goods to which this regulation applies are not chargeable to duty under section 30A(3) of the Act.

(2) This regulation applies to goods for the internal market that are imported into the United Kingdom as a result of their entry into Northern Ireland if the goods—

- (a) enter Northern Ireland from the Bailiwick of Jersey or the Bailiwick of Guernsey;
- (b) enter Northern Ireland from the Isle of Man, unless they are goods of a description in section 8(2)(a), (b) or (c) of the Isle of Man Act 1979 <sup>M2</sup> (removal of goods from the Isle of Man to United Kingdom); or
- (c) are goods to which paragraph (3) or (4) applies.

(3) This paragraph applies to a catch which is caught by a non-NI British ship whilst fishing in international waters and brought to Northern Ireland—

- (a) directly by that or another ship; or
- (b) after merely landing at a port outside the United Kingdom and the catch are itemised in a travel document issued at that port by the person responsible for the carriage of the catch which specifies the destination and recipients of the catch.

(4) This paragraph applies to goods which are products of a catch which is—

- (a) caught by a British ship whilst fishing in international waters and processed on a factory ship which is a non-NI British ship operating in international waters; or
- (b) caught by a non-NI British ship whilst fishing in international waters and processed on a factory ship which is a British ship operating in international waters,

if the goods are brought to Northern Ireland in accordance with paragraph (5).

(5) Goods are brought to Northern Ireland in accordance with this paragraph if they are brought—

- (a) directly by the ship that caught them or another ship; or
- (b) after merely landing at a port outside the United Kingdom and the goods are itemised in a travel document issued at that port by the person responsible for the carriage of the goods which specifies the destination and recipients of the goods in Northern Ireland.

(6) In this regulation—

- (a) “factory ship” means a vessel providing processing services for the fishing industry;
- (b) “international waters” means any part of the sea outside the seaward limits of the territorial sea of any country or territory;
- (c) “non-NI British ship” means a British ship which has as its port of registration a port outside Northern Ireland.

#### Commencement Information

**I5** Reg. 5 not in force at made date, see [reg. 1\(1\)](#)

**I6** Reg. 5 in force at 31.12.2020 by [S.I. 2020/1643](#), [reg. 2](#), [Sch.](#)

#### Marginal Citations

**M2** [1979 c.58](#). Section 8(2)(c) was substituted by [S.I. 2014/1638](#). Section 8(3) and (3A), which provide for goods to be excluded from the description in section 8(2)(a), were substituted for subsection (3) by paragraph 140 of Schedule 7 to the [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#) (“the Act”).

### Goods entering Northern Ireland - relevant goods

6.—(1) Goods are “relevant goods” for the purposes of this Chapter if—

- (a) they are not goods to which regulation 5 applies;
- (b) they are not Union goods;

*Status: Point in time view as at 12/06/2024.*

**Changes to legislation:** There are currently no known outstanding effects for the The Customs (Northern Ireland) (EU Exit) Regulations 2020, PART 2. (See end of Document for details)

- (c) they are imported into the United Kingdom as a result of their entry into Northern Ireland;
- (d) they are moved by direct transport into Northern Ireland, other than from the European Union; and
- (e) they are goods for the internal market.

(2) In paragraph (1)(d) “moved by direct transport” has the same meaning as it has in Article 5(1) of the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement.

#### Commencement Information

- I7** Reg. 6 not in force at made date, see [reg. 1\(1\)](#)  
**I8** Reg. 6 in force at 31.12.2020 by [S.I. 2020/1643](#), [reg. 2](#), [Sch.](#)

#### Application of provisions made by or under the Act

7.—(1) The relevant tariff provisions apply for the purposes of duty charged under section 30A(3) in respect of relevant goods.

- (2) A provision is a “relevant tariff provision” if it is—
- (a) section 7(1) of the Act (amount of import duty: introduction);
  - (b) provision made by or under any of—
    - (i) sections 9 to 15 of the Act (preferences, safeguarding etc.), including as modified by any provision made by or under section 31 (territories forming part of a customs union with UK) or 51 (power to make provision in relation to VAT or duties of customs or excise) of the Act;
    - (ii) section 17 of the Act (place of origin of chargeable goods); or
  - (c) provision relating to relief contained in any of—
    - (i) the Customs (Tariff Quotas) (EU Exit) Regulations 2020 <sup>M3</sup>;
    - (ii) the Customs (Tariff-free Access for Goods from British Overseas Territories) (EU Exit) Regulations 2020 <sup>M4</sup>;
    - (iii) the Customs Tariff (Preferential Trade Arrangements) (EU Exit) Regulations 2020 <sup>M5</sup>.

[<sup>F7</sup>(3) Section 7(1) of the Act applies as if in the Tariff of the United Kingdom—

- (a) where a term used corresponds to a term used in the Union customs legislation, the term were a reference to the corresponding term in the Union customs legislation, as the context requires;
- (b) in Part Two, in Section 1, in paragraph 9, for “Part 12 of the Customs (Import Duty) (EU Exit) Regulations 2018” there were substituted “Articles 71 to 76 of the Union Customs Code”; and
- (c) in Part Four—
  - (i) in paragraph 3, for “Part 12 of the Customs (Import Duty) (EU Exit) Regulations 2018” there were substituted “Articles 71 to 76 of the Union Customs Code”;
  - (ii) in paragraph 17—
    - (aa) for “regulations 18 and 23 of the Customs (Special Procedures and Outward Processing) (EU Exit) Regulations 2018” there were substituted “Article 86(4) of the Union Customs Code and Article 76 of the Delegated Regulation”;

- (bb) “United Kingdom” were omitted;
- (iii) in paragraph 18, for the words from “the value of the processed goods” the first time it occurs to the end there were substituted “Article 75 of the Delegated Regulation”; and
- (iv) in paragraph 19, for the words from “(as defined in” to the end there were substituted “any amount of duty applicable shall be calculated on the basis of Article 75 of the Delegated Regulation”.]

#### Textual Amendments

- F7** Reg. 7(3) inserted (31.12.2020) by [The Customs \(Modification and Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1629\)](#), regs. 1(2), **6(3)**

#### Commencement Information

- I9** Reg. 7 not in force at made date, see [reg. 1\(1\)](#)
- I10** Reg. 7 in force at 31.12.2020 by [S.I. 2020/1643](#), [reg. 2](#), [Sch.](#)

#### Marginal Citations

- M3** [S.I. 2020/1432](#).
- M4** [S.I. 2020/1434](#).
- M5** [S.I. 2020/1457](#).

### [<sup>F8</sup> Amount of section 30A(3) duty for certain steel products

**7A.—(1)** This regulation applies to goods if—

- (a) they are imported into the United Kingdom as a result of their entry into Northern Ireland,
- (b) they are not relevant goods,
- (c) they are not Union goods,
- (d) the origin of the goods (as determined in accordance with the provisions of Union customs legislation in force relating to non-preferential origin) is neither in the United Kingdom nor in the European Union,
- (e) they are declared, in accordance with Union customs legislation, for a procedure corresponding to the free-circulation procedure or the authorised use procedure,
- (f) they would (ignoring this regulation) have been subject to the EU steel safeguarding measure, and
- (g) if they had instead been imported into a member State they would have benefitted from tariff-rate quota in relation to that measure.

(2) For the purpose of determining the amount of duty charged under section 30A(3) of the Act in respect of goods to which this regulation applies—

- (a) the EU steel regulation does not apply, and
- (b) the steel safeguards notice applies as if references to import duty were to duty charged under section 30A(3).]

#### Textual Amendments

- F8** Reg. 7A inserted (with effect in accordance with [Sch. 20 para. 2\(4\)](#) of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [Sch. 20 para. 2\(1\)](#)

*Status: Point in time view as at 12/06/2024.*

*Changes to legislation: There are currently no known outstanding effects for the The Customs (Northern Ireland) (EU Exit) Regulations 2020, PART 2. (See end of Document for details)*

## [<sup>F9</sup>Amount of section 30A(3) duty for certain steel products before 3 March 2021

**7B.**—(1) This regulation applies to goods if—

- (a) they are imported into the United Kingdom as a result of their entry into Northern Ireland,
- (b) they are declared before 3 March 2021, in accordance with Union customs legislation, for a procedure corresponding to the free-circulation procedure or the authorised use procedure,
- (c) they are not relevant goods,
- (d) they are not Union goods,
- (e) the origin of the goods (as determined in accordance with the provisions of Union customs legislation in force relating to non-preferential origin) is neither in the United Kingdom nor in the European Union,
- (f) they would (ignoring this regulation) have been subject to an EU steel safeguarding measure,
- (g) if they had instead been imported into a member State they would have benefitted from tariff-rate quota in relation to that measure, and
- (h) they would not have been subject to a domestic steel safeguarding measure (whether they would have benefitted from a quota or were otherwise not subject to the measure) if—
  - (i) the goods had been declared for the free-circulation procedure or the authorised use procedure in Great Britain, and
  - (ii) that declaration had been accepted at the same time as the actual declaration was accepted.

(2) Where the person declaring the goods makes a relevant claim that is accepted by HMRC, the EU steel regulation does not apply for the purpose of determining the amount of duty charged under section 30A(3) of the Act in respect of the goods.

(3) In this regulation “relevant claim” means a claim made in accordance with the procedure set out in the steel notice provided all conditions in that notice are complied with.]

### Textual Amendments

- F9** Reg. 7B inserted (with effect in accordance with [Sch. 20 para. 3\(3\)](#) of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [Sch. 20 para. 3\(1\)](#)

### Determination of section 30A charge

**8.** Regulations 7 [<sup>F10</sup>, 7A][<sup>F11</sup>, 7B] and 9 apply for the purpose of determining the amount of duty charged under section 30A(3) of the Act.

### Textual Amendments

- F10** Word in reg. 8 inserted (with effect in accordance with [Sch. 20 para. 2\(4\)](#) of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [Sch. 20 para. 2\(2\)](#)
- F11** Word in reg. 8 inserted (with effect in accordance with [Sch. 20 para. 3\(3\)](#) of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [Sch. 20 para. 3\(2\)](#)

### Commencement Information

- I11** Reg. 8 not in force at made date, see [reg. 1\(1\)](#)
- I12** Reg. 8 in force at 31.12.2020 by [S.I. 2020/1643](#), [reg. 2](#), [Sch.](#)

## Relief from section 30A duty

9. Relief from duty charged under section 30A(3) of the Act is to be given in accordance with—
- (a) Union customs legislation (as applied to that duty by section 30A(3) of the Act);
  - (b) provision made by or under the Customs and Excise Duties (General Reliefs) Act 1979<sup>M6, F12</sup> ...
  - (c) [<sup>F13</sup>regulations] 7 [<sup>F14</sup>and 7A][<sup>F15</sup>; and]
  - [<sup>F16</sup>(d) Chapter 5 (reliefs and repayment)].

### Textual Amendments

- F12** Word in reg. 9(b) omitted (31.12.2020) by virtue of [The Customs \(Modification and Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1629\)](#), regs. 1(2), **6(4)(a)**
- F13** Word in reg. 9(c) substituted (with effect in accordance with [Sch. 20 para. 2\(4\)](#) of the amending Act) by [Finance Act 2021 \(c. 26\)](#), **Sch. 20 para. 2(3)(a)**
- F14** Words in reg. 9(c) inserted (with effect in accordance with [Sch. 20 para. 2\(4\)](#) of the amending Act) by [Finance Act 2021 \(c. 26\)](#), **Sch. 20 para. 2(3)(b)**
- F15** Word in reg. 9 inserted (31.12.2020) by [The Customs \(Modification and Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1629\)](#), regs. 1(2), **6(4)(b)**
- F16** Reg. 9(d) inserted (31.12.2020) by [The Customs \(Modification and Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1629\)](#), regs. 1(2), **6(4)(c)**

### Commencement Information

- I13** Reg. 9 not in force at made date, see [reg. 1\(1\)](#)
- I14** Reg. 9 in force at 31.12.2020 by [S.I. 2020/1643](#), [reg. 2](#), **Sch.**

### Marginal Citations

- M6** [1979 c. 3](#). The Customs and Excise Duties (General Reliefs) Act 1979 (“the 1979 Act”) is amended by Part 3 of Schedule 7 to the Act. Part 4 of that Schedule, inserted by Schedule 1 to the 2020 Act, makes savings and modifications of the 1979 Act in relation to Northern Ireland.

## CHAPTER 4

### Goods potentially for export from Northern Ireland

#### “At risk of subsequently being moved into the European Union” – definition

10. For the purposes of section 40A of the Act “at risk of subsequently being moved into the European Union” in relation to goods means that they are not goods for the internal market.

### Commencement Information

- I15** Reg. 10 not in force at made date, see [reg. 1\(1\)](#)
- I16** Reg. 10 in force at 31.12.2020 by [S.I. 2020/1643](#), [reg. 2](#), **Sch.**

#### Goods not chargeable under section 40A

11.—(1) Goods to which this regulation applies are not chargeable to duty under section 40A(1) of the Act.

- (2) This regulation applies to goods that are not domestic goods if they are—

**Status:** Point in time view as at 12/06/2024.

**Changes to legislation:** There are currently no known outstanding effects for the The Customs (Northern Ireland) (EU Exit) Regulations 2020, PART 2. (See end of Document for details)

- (a) goods for the internal market; and
- (b) subject to an inward processing procedure that was not discharged in accordance with paragraph 9(5) of Schedule 2 to the Act or regulation 26 of the special procedures regulations (temporary export of goods released to an inward processing procedure) when the goods were removed to Northern Ireland.

#### Commencement Information

- I17** Reg. 11 not in force at made date, see [reg. 1\(1\)](#)  
**I18** Reg. 11 in force at 31.12.2020 by [S.I. 2020/1643](#), [reg. 2](#), [Sch.](#)

#### Goods potentially for export – relevant goods

**12.—**(1) Goods are “relevant goods” for the purposes of this Chapter if they—

- (a) are removed to Northern Ireland from Great Britain by direct transport;
- (b) are not goods to which regulation 11 applies;
- (c) are not domestic goods; and
- (d) are goods for the internal market.

(2) In paragraph (1)(a) “moved by direct transport” has the same meaning as it has in Article 5(1) of the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement.

#### Commencement Information

- I19** Reg. 12 not in force at made date, see [reg. 1\(1\)](#)  
**I20** Reg. 12 in force at 31.12.2020 by [S.I. 2020/1643](#), [reg. 2](#), [Sch.](#)

#### Application of provisions made by or under the Act

**13.—**(1) The relevant tariff provisions apply for the purposes of duty charged under section 40A in respect of relevant goods as if any reference to the importation of goods were to their removal to Northern Ireland from Great Britain [<sup>F17</sup>and with the modifications in paragraph (3)].

(2) A provision is a “relevant tariff provision” if it is—

- (a) section 7(1) of the Act;
- (b) provision made by or under any of—
  - (i) sections 9 to 15 of the Act, including as modified by any provision made by or under section 31 or 51 of the Act;
  - (ii) section 17 of the Act; or
- (c) provision relating to relief contained in any of—
  - (i) the Customs (Tariff Quotas) (EU Exit) Regulations 2020;
  - (ii) the Customs (Tariff-free Access for Goods from British Overseas Territories) (EU Exit) Regulations 2020;
  - (iii) the Customs Tariff (Preferential Trade Arrangements) (EU Exit) Regulations 2020.

[<sup>F18</sup>(3) Section 7(1) of the Act applies as if, in the Tariff of the United Kingdom—

- (a) where a term used corresponds to a term used in the Union customs legislation, the term were a reference to the corresponding term in the Union customs legislation, as the context requires;

- (b) in Part Two, in Section 1, in paragraph 9, for “Part 12 of the Customs (Import Duty) (EU Exit) Regulations 2018” there were substituted “Articles 71 to 76 of the Union Customs Code”;
- (c) in Part Four—
  - (i) in paragraph 3, for “Part 12 of the Customs (Import Duty) (EU Exit) Regulations 2018” there were substituted “Articles 71 to 76 of the Union Customs Code”;
  - (ii) in paragraph 17—
    - (aa) for “regulations 18 and 23 of the Customs (Special Procedures and Outward Processing) (EU Exit) Regulations 2018” there were substituted “Article 86(4) of the Union Customs Code and Article 76 of the Delegated Regulation”;
    - (bb) “United Kingdom” were omitted; and
  - (iii) in paragraph 18, for the words from “the value of the processed goods” the first time they occur to the end there were substituted “Article 75 of the Delegated Regulation”;
  - (iv) in paragraph 19, for the words from “(as defined in” to the end there were substituted “any amount of duty applicable shall be calculated on the basis of Article 75 of the Delegated Regulation”.]

#### Textual Amendments

- F17** Words in reg. 13(1) inserted (31.12.2020) by [The Customs \(Modification and Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1629\)](#), regs. 1(2), **6(5)(a)**
- F18** Reg. 13(3) inserted (31.12.2020) by [The Customs \(Modification and Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1629\)](#), regs. 1(2), **6(5)(b)**

#### Commencement Information

- I21** Reg. 13 not in force at made date, see [reg. 1\(1\)](#)
- I22** Reg. 13 in force at 31.12.2020 by [S.I. 2020/1643](#), [reg. 2](#), [Sch.](#)

### [<sup>F19</sup>Amount of section 40A(1) duty for certain steel products

- 13A.**—(1) This regulation applies to goods if—
- (a) they are removed to Northern Ireland from Great Britain,
  - (b) they are declared, in accordance with Union customs legislation, for a procedure corresponding to the free-circulation procedure or the authorised use procedure,
  - (c) they are not relevant goods,
  - (d) they are not Union goods,
  - (e) they are not domestic goods,
  - (f) they are not goods to which regulation 11 applies,
  - (g) the origin of the goods (as determined in accordance with the provisions of Union customs legislation in force relating to non-preferential origin) is neither in the United Kingdom nor in the European Union,
  - (h) they would (ignoring this regulation) have been subject to an EU steel safeguarding measure, and
  - (i) if they had instead been imported into a member State they would have benefitted from tariff-rate quota in relation to that measure.

*Status: Point in time view as at 12/06/2024.*

**Changes to legislation:** There are currently no known outstanding effects for the The Customs (Northern Ireland) (EU Exit) Regulations 2020, PART 2. (See end of Document for details)

(2) For the purpose of determining the amount of duty charged under section 40A(1) of the Act in respect of goods to which this regulation applies—

- (a) the EU steel regulation does not apply, and
- (b) the steel safeguards notice applies as if references to import duty were to duty charged under section 40A(1).]

#### Textual Amendments

**F19** Reg. 13A inserted (with effect in accordance with [Sch. 20 para. 4\(4\)](#) of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [Sch. 20 para. 4\(1\)](#)

#### [<sup>F20</sup>Amount of section 40A(1) duty for certain domestic steel products

**13B.**—(1) This regulation applies to goods if—

- (a) they are removed to Northern Ireland from Great Britain,
- (b) they are declared, in accordance with Union customs legislation, for a procedure corresponding to the free-circulation procedure or the authorised use procedure,
- (c) they are domestic goods,
- (d) they are not relevant goods,
- (e) they are not Union goods,
- (f) they are not goods to which regulation 11 applies,
- (g) the origin of the goods (as determined in accordance with the provisions of Union customs legislation in force relating to non-preferential origin) is neither in the United Kingdom nor in the European Union,
- (h) they would (ignoring this regulation) have been subject to an EU steel safeguarding measure, and
- (i) if they had instead been imported into a member State they would have benefitted from tariff-rate quota in relation to that measure.

(2) Where the person declaring the goods makes a relevant claim that is accepted by HMRC, the EU steel regulation does not apply for the purpose of determining the amount of duty charged under section 40A(1) of the Act in respect of the goods.

(3) In this regulation “relevant claim” means a claim—

- (a) made in accordance with a procedure specified in a notice given by HMRC Commissioners, or
- (b) if no such notice is in force, made in accordance with the procedure set out in the steel notice provided all conditions in that notice are complied with.

(4) HMRC Commissioners may by notice provide that a person who makes a relevant claim of the type mentioned in paragraph (3)(a) must notify the Secretary of State of the making of the claim.

(5) The notice may provide—

- (a) that specified information must be included in the notification to the Secretary of State;
- (b) for the form and manner in which such a notification must be given;
- (c) that such a notification must be given within such period as is specified in the notice.

(6) A notice under paragraph (3)(a) or (4)—

- (a) must be published;

- (b) may be withdrawn;
- (c) may be amended from time to time.]

**Textual Amendments**

**F20** Regs. 13B, 13C inserted (with effect in accordance with [Sch. 20 para. 5\(3\)](#) of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [Sch. 20 para. 5\(1\)](#)

**[<sup>F20</sup>Amount of section 40A(1) duty for certain steel products before 3 March 2021**

**13C.**—(1) This regulation applies to goods if—

- (a) they are removed to Northern Ireland from Great Britain,
- (b) they are declared before 3 March 2021, in accordance with Union customs legislation, for a procedure corresponding to the free-circulation procedure or the authorised use procedure,
- (c) they are not domestic goods,
- (d) they are not relevant goods,
- (e) they are not Union goods,
- (f) they are not goods to which regulation 11 applies,
- (g) the origin of the goods (as determined in accordance with the provisions of Union customs legislation in force relating to non-preferential origin) is neither in the United Kingdom nor in the European Union,
- (h) they would (ignoring this regulation) have been subject to an EU steel safeguarding measure,
- (i) if they had instead been imported into a member State they would have benefitted from tariff-rate quota in relation to that measure, and
- (j) they would not have been subject to a domestic steel safeguarding measure (whether they would have benefitted from a quota or were otherwise not subject to the measure) if—
  - (i) the goods had been declared for the free-circulation procedure or the authorised use procedure in Great Britain, and
  - (ii) that declaration had been accepted at the same time as the actual declaration was accepted.

(2) Where the person declaring the goods makes a relevant claim that is accepted by HMRC, the EU steel regulation does not apply for the purpose of determining the amount of duty charged under section 40A(1) of the Act in respect of the goods.

(3) In this regulation “relevant claim” means a claim made in accordance with the procedure set out in the steel notice provided all conditions in that notice are complied with.]

**Textual Amendments**

**F20** Regs. 13B, 13C inserted (with effect in accordance with [Sch. 20 para. 5\(3\)](#) of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [Sch. 20 para. 5\(1\)](#)

**Determination of section 40A charge**

**14.** Regulations 13, [<sup>F21</sup>13A,][<sup>F22</sup>13B, 13C,] 15 and 16 apply for the purpose of determining the amount of duty charged under section 40A of the Act.

**Status:** Point in time view as at 12/06/2024.

**Changes to legislation:** There are currently no known outstanding effects for the The Customs (Northern Ireland) (EU Exit) Regulations 2020, PART 2. (See end of Document for details)

#### Textual Amendments

- F21** Word in reg. 14 inserted (with effect in accordance with [Sch. 20 para. 4\(4\)](#) of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [Sch. 20 para. 4\(2\)](#)
- F22** Words in reg. 14 inserted (with effect in accordance with [Sch. 20 para. 5\(3\)](#) of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [Sch. 20 para. 5\(2\)](#)

#### Commencement Information

- I23** Reg. 14 not in force at made date, see [reg. 1\(1\)](#)
- I24** Reg. 14 in force at 31.12.2020 by [S.I. 2020/1643](#), [reg. 2](#), [Sch.](#)

#### Amount of section 40A charge

**15.—**(1) Paragraph (2) applies for the purposes of determining the amount of duty applicable to any relevant goods chargeable to duty under section 40A of the Act.

(2) Where—

- (a) a liability to import duty was incurred in respect of the goods in accordance with Part 1 of the Act or the EU Customs Code <sup>M7</sup> as a result of their importation into the United Kingdom;
- (b) that duty was paid; and
- (c) after IP completion day, the goods subsequently moved from Great Britain to Northern Ireland without leaving the United Kingdom,

the amount of duty applicable to the goods under section 40A(1)(a) of the Act is to be reduced by the amount of duty paid in respect of the goods in accordance with Part 1 of the Act or the EU Customs Code.

(3) In this regulation “EU Customs Code” means—

- (a) the UCC;
- <sup>F23</sup>(b) the Delegated Regulation;
- (c) 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 Union Customs Code <sup>M8</sup>; and
- (d) Commission Delegated Regulation (EU) 2016/341 of 17 December 2015 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards transitional rules for certain provisions of the Union Customs Code where the relevant electronic systems are not yet operational and amending Delegated Regulation (EU) 2015/2446 <sup>M9</sup>.

#### Textual Amendments

- F23** Reg. 15(3)(b) substituted (31.12.2020) by [The Customs \(Modification and Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1629\)](#), [regs. 1\(2\)](#), [6\(6\)](#)

#### Commencement Information

- I25** Reg. 15 not in force at made date, see [reg. 1\(1\)](#)
- I26** Reg. 15 in force at 31.12.2020 by [S.I. 2020/1643](#), [reg. 2](#), [Sch.](#)

### Marginal Citations

- M7** The legislation which constitutes the EU Customs Code has effect before IP completion day as a result of section 1A of the European Union (Withdrawal) Act 2018 (c. 16) and to a limited extent after IP completion day as a result of section 7A of that Act.
- M8** OJ L 343, 29.12.2015, p. 558.
- M9** OJ L 69, 15.3.2016, p. 1.

### Relief from section 40A duty

**16.**—(1) Relief from duty charged under section 40A of the Act is to be given in accordance with—

- (a) Union customs legislation (as applied to that duty by section 40A(4) of the Act);
- (b) provision made by or under the Customs and Excise Duties (General Reliefs) Act 1979<sup>M10, F24</sup> ...
- (c) [<sup>F25</sup>regulations] 13 [<sup>F26</sup>and 13A][<sup>F27</sup>; and]
- [<sup>F28</sup>(d) Chapter 5 (reliefs and repayment).]

(2) For the purposes of paragraph (1)(a) relief given in accordance with Union customs legislation is to include relief in respect of cases described in the Personal Property Relief document.

(3) In this regulation “the Personal Property Relief document” means the document entitled “Personal Property Relief”, version 1.0 dated 17th December 2020<sup>M11</sup> which describes cases where a claim for relief may apply, expressed by reference to—

- (a) the goods to which the relief applies;
- (b) the persons who may be a claimant or consignee for the purposes of the relief; and
- (c) the eligibility criteria which apply for the purposes of the relief.

### Textual Amendments

- F24** Word in reg. 16(1)(b) omitted (31.12.2020) by virtue of The Customs (Modification and Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1629), regs. 1(2), 6(7)(a)
- F25** Word in reg. 16(1)(c) substituted (with effect in accordance with Sch. 20 para. 4(4) of the amending Act) by Finance Act 2021 (c. 26), Sch. 20 para. 4(3)(a)
- F26** Words in reg. 16(1)(c) inserted (with effect in accordance with Sch. 20 para. 4(4) of the amending Act) by Finance Act 2021 (c. 26), Sch. 20 para. 4(3)(b)
- F27** Word in reg. 16(1)(c) inserted (31.12.2020) by The Customs (Modification and Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1629), regs. 1(2), 6(7)(b)
- F28** Reg. 16(1)(d) inserted (31.12.2020) by The Customs (Modification and Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1629), regs. 1(2), 6(7)(c)

### Commencement Information

- I27** Reg. 16 not in force at made date, see reg. 1(1)
- I28** Reg. 16 in force at 31.12.2020 by S.I. 2020/1643, reg. 2, Sch.

### Marginal Citations

- M10** 1979 c. 3.
- M11** Available electronically from <https://www.gov.uk/government/publications/reference-document-for-northern-ireland-personal-property-relief>. A person unable to access the document electronically may access it while government advice on social distancing and unnecessary travel applies, in hard copy

*Status: Point in time view as at 12/06/2024.*

**Changes to legislation:** There are currently no known outstanding effects for the The Customs (Northern Ireland) (EU Exit) Regulations 2020, PART 2. (See end of Document for details)

free of charge on application to 07741835049, and otherwise by inspection free of charge at HMRC, 100 Parliament Street, London SW1A 2BQ.

## [<sup>F29</sup>CHAPTER 5

### Reliefs and repayment

#### Textual Amendments

**F29** 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 1

##### Introduction

#### Reliefs etc. – interpretation

**16A.** In this Chapter—

“applicable de minimis state aid limit” has the meaning given in regulation 16E(2);

“claim for relief” means a claim made in accordance with Section 2 that relief be granted in respect of goods;

“claimant” means a person who makes a claim for relief;

“customs declaration” has the meaning given in Article 5(12) of the UCC;

“eligibility criteria” means the criteria described in regulation 16E(1);

<sup>F30</sup>  
...

“principal” has the meaning given in regulation 16C(1);

“relief” means relief, calculated in accordance with regulation 16I, from a liability to duty under section 30A(3) or 40A(1);

“relief agent” has the meaning given in regulation 16C(1);

[<sup>F31</sup>“single undertaking”, in relation to a person, has the meaning in the legislation referred to in the sub-paragraph of regulation 16E(2) which applies in relation to that person;]

[<sup>F32</sup>“undertaking lead” has the meaning given in regulation 16CA.]

#### Textual Amendments

**F30** Words in [reg. 16A](#) omitted (12.6.2024) by virtue of [The Customs \(Miscellaneous Amendments\) \(No. 2\) Regulations 2024 \(S.I. 2024/672\)](#), regs. 1, 7(2)(a)

**F31** Words in [reg. 16A](#) substituted (12.6.2024) by [The Customs \(Miscellaneous Amendments\) \(No. 2\) Regulations 2024 \(S.I. 2024/672\)](#), regs. 1, 7(2)(b)

**F32** Words in [reg. 16A](#) 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), 4; S.I. 2023/1050, reg. 2(b)

#### Commencement Information

**I29** [Reg. 16A](#) in force at 31.12.2020 for specified purposes by [S.I. 2020/1629](#), [reg. 1\(4\)](#)

- I30** Reg. 16A 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))
- I31** Reg. 16A 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))

## Establishment

**16B.** In this Chapter, a person is established in the United Kingdom—

- (a) in the case of an individual, where the individual is resident in the United Kingdom; and
- (b) in any other case, where the person—
  - (i) has a registered office in the United Kingdom; or
  - (ii) has a permanent place in the United Kingdom from which the person carries out activities for which the person is constituted to perform.

### Commencement Information

- I32** Reg. 16B in force at 31.12.2020 for specified purposes by S.I. 2020/1629, **reg. 1(4)**
- I33** Reg. 16B 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))
- I34** Reg. 16B 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))

## Relief agents

**16C.—(1)** A person (a “principal”) may appoint any other person (a “relief agent”) to act on the principal’s behalf for the purposes of this Chapter.

- (2) A person may not act as a relief agent unless the person—
- (a) is appointed to act in the capacity of a customs representative as described by Article 5(6) of the UCC on behalf of the principal; or
  - (b) is established in the United Kingdom.

(3) The relief agent must disclose their appointment to HMRC in each claim for relief which is made as agent on behalf of the principal.

(4) Where a claim for relief is made in a customs declaration, a statement made to HMRC for the purposes of Article 19(1) of the UCC is to be treated as a disclosure of the appointment as a relief agent for the purposes of paragraph (3).

(5) The effect of an appointment of a person as a relief agent is that anything done under, or otherwise for the purposes of, this Chapter by, or in relation to, the agent is regarded as done under, or otherwise for the purposes of, this Chapter by, or in relation to, the principal (and not by the agent).

### Commencement Information

- I35** Reg. 16C in force at 31.12.2020 for specified purposes by S.I. 2020/1629, **reg. 1(4)**
- I36** Reg. 16C 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))
- I37** Reg. 16C 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))

**[<sup>F33</sup>Undertaking lead**

**16CA.**—(1) For the purposes of this Chapter, an undertaking lead is a person in a single undertaking appointed as the undertaking lead for the single undertaking and notified to HMRC.

(2) The person appointed must be established in the UK.

(3) The appointment must be in accordance with rules specified in a notice published by HMRC.

(4) The notification must be in the form and manner and include such information and evidence as specified in a notice published by HMRC.

(5) The appointment has effect until—

(a) it is substituted by a new appointment made in accordance with this regulation;

(b) it is resigned by the undertaking lead in the form and manner specified in a notice published by HMRC;

(c) it is cancelled by HMRC under paragraph (6);

(d) the undertaking lead ceases to be established in the UK; or

(e) the undertaking lead ceases to be part of the single undertaking.

(6) Where an undertaking lead fails to comply with any obligation under this Chapter, HMRC may cancel the appointment in the form and manner specified in a notice published by HMRC.

(7) A person whose appointment as an undertaking lead has been cancelled under paragraph (6) may not be appointed again for one year following the cancellation unless HMRC consents to the appointment.

(8) HMRC must publish a notice specifying the matters referred to in paragraphs (3) to (6).]

**Textual Amendments**

**F33** Reg. 16CA 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), 5; S.I. 2023/1050, reg. 2(b)

**SECTION 2***Application, claims and waivers***Reliefs – application of Chapter 5**

**16D.**—(1) Subject to paragraph (2), this Chapter applies to—

[<sup>F34</sup>(a) goods in respect of which a liability to duty chargeable under section 30A(3) of the Act is incurred and which are not relevant goods for the purposes of Chapter 3 at the time that the liability is incurred; and]

(b) goods in respect of which a liability to duty chargeable under section 40A(1)(b) of the Act is incurred.

(2) This Chapter does not apply to goods where—

(a) a liability to duty in respect of the goods is incurred by virtue of Article 79 of the UCC; and

(b) the condition specified in Article 86(6) of the UCC does not apply.

### Textual Amendments

- F34** Reg. 16D(1)(a) substituted (coming into force in accordance with reg. 1(2) of the amending S.I.) by [The Customs \(Northern Ireland\) \(EU Exit\) \(Amendment\) Regulations 2023 \(S.I. 2023/958\)](#), **reg. 6**

### Commencement Information

- I38** Reg. 16D in force at 31.12.2020 for specified purposes by [S.I. 2020/1629](#), **reg. 1(4)**
- I39** Reg. 16D 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)**)
- I40** Reg. 16D 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)**)

### Eligibility criteria

**16E.**—(1) The eligibility criteria for a claim for relief are that—

(a) the claimant—

- (i) is established in the United Kingdom;
- (ii) is registered with HMRC in accordance with Article 9 of the UCC; and
- (iii) has incurred a liability to duty under section 30A(3) or section 40A(1)(b) of the Act in the course of a commercial activity; <sup>F35</sup> ...

[ an appointment of an undertaking lead for the single undertaking of which the claimant is <sup>F36</sup>(aa) part is in effect at the time of the claim and the appointment has been notified to HMRC in accordance with regulation 16CA;

(ab) the undertaking lead has met the requirements in regulation 16SA; and]

(b) grant of the relief claimed would not result in the claimant being granted aid in excess of the applicable de minimis state aid limit or any other breach of any other EU law that has effect as a result of section 7A of the European Union (Withdrawal) Act 2018.

(2) In paragraph (1)(b), the “applicable de minimis state aid limit” means the limit on the amount of de minimis state aid which may be granted to the claimant by virtue of, as the case may be—

- (a) [<sup>F37</sup>Commission [Regulation \(EU\) 2023/2831](#) of 13 December 2023] on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid;
- (b) [<sup>F38</sup>Commission [Regulation \(EU\) 2023/2832](#) of 13 December 2023] on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid granted to undertakings providing services of general economic interest;
- (c) [Commission Regulation \(EU\) No 1408/2013](#) of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid in the agriculture sector; or
- (d) [Commission Regulation \(EU\) No 717/2014](#) of 27 June 2014 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid in the fishery and aquaculture sector.

(3) Where the claim for relief is made by a relief agent on behalf of a principal the references to “the claimant” in paragraph (1) are to the principal.

*Status: Point in time view as at 12/06/2024.*

**Changes to legislation:** There are currently no known outstanding effects for the The Customs (Northern Ireland) (EU Exit) Regulations 2020, PART 2. (See end of Document for details)

### Textual Amendments

- F35** Word in [reg. 16E\(1\)](#) omitted (30.9.2023 for specified purposes, 2.10.2023 in so far as not already in force) by virtue of [The Customs \(Northern Ireland\) \(EU Exit\) \(Amendment\) Regulations 2023 \(S.I. 2023/958\)](#), regs. 1(3), [7\(a\)](#); S.I. 2023/1050, reg. 2(b)
- F36** [Reg. 16E\(1\)\(aa\)\(ab\)](#) 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), [7\(b\)](#); S.I. 2023/1050, reg. 2(b)
- F37** Words in [reg. 16E\(2\)\(a\)](#) substituted (12.6.2024) by [The Customs \(Miscellaneous Amendments\) \(No. 2\) Regulations 2024 \(S.I. 2024/672\)](#), regs. 1, [7\(3\)\(a\)](#)
- F38** Words in [reg. 16E\(2\)\(b\)](#) substituted (12.6.2024) by [The Customs \(Miscellaneous Amendments\) \(No. 2\) Regulations 2024 \(S.I. 2024/672\)](#), regs. 1, [7\(3\)\(b\)](#)

### Modifications etc. (not altering text)

- C1** [Reg. 16E\(1\)\(a\)\(i\)](#) modified (31.12.2020) by [The Customs \(Modification and Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2019/385\)](#), [reg. 7\(4\)](#) (as inserted by S.I. 2020/1629, regs. 1(2), [8\(2\)](#))

### Commencement Information

- I41** [Reg. 16E](#) in force at 31.12.2020 for specified purposes by S.I. 2020/1629, [reg. 1\(4\)](#)
- I42** [Reg. 16E](#) 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))
- I43** [Reg. 16E](#) 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))

### Waiver of [<sup>F39</sup>eligibility criteria]

**16F.**—(1) HMRC may grant a claim for relief even where [<sup>F40</sup>one or all of the eligibility criteria in regulation 16E(1)(a)(ii) or (iii) or (ab) are] not met if an HMRC officer is of the opinion that it is appropriate to approve a waiver of the criterion, taking into consideration factors specified in a notice published by HMRC.

(2) A claimant may apply to HMRC for approval of a waiver in accordance with paragraph (1).

(3) Regulations 85 to 91 of the import duty regulations apply in relation to an application under paragraph (2).

(4) Section 23(5) of the Act applies to approvals granted under this regulation, including where the approval relates to a claim for relief in relation to a liability to duty chargeable under section 40A(1) of the Act.

### Textual Amendments

- F39** Words in [reg 16F](#) heading 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), [8](#); S.I. 2023/1050, [reg. 2\(b\)](#)
- F40** Words in [reg. 16F\(1\)](#) 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), [9](#); S.I. 2023/1050, reg. 2(b)

### Commencement Information

- I44** [Reg. 16F](#) in force at 31.12.2020 for specified purposes by S.I. 2020/1629, [reg. 1\(4\)](#)
- I45** [Reg. 16F](#) 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))

**146** Reg. 16F 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))

## Making a claim

**16G.**—(1) A claim for relief in respect of goods may be made—

- (a) in the customs declaration made in respect of the goods or at the same time as that declaration is made; or
- (b) at any time before the expiry of the period of 3 years beginning with the later of—
  - (i) the date on which notification is given [<sup>F41</sup>, or treated as given,] by HMRC of the liability to duty chargeable under section 30A(3) or 40A(1)(b) of the Act in respect of the goods; and
  - (ii) the date on which this regulation comes into force.

[<sup>F42</sup>(1A) A claimant must notify the undertaking lead for the single undertaking of which it is part of a claim for relief in respect of goods before or at the time of making the claim.

(1B) Where an appeal was made in respect of the amount of duty to which the claim relates and the appeal has been determined, a period equal to the period between the commencement and determination of the appeal is to be added to the period of 3 years in paragraph (1)(b).

(1C) Where by virtue of force majeure or unforeseeable circumstances it would be unreasonable to expect a person to make a claim for relief in time, HMRC may consent to the making of a late claim.]

(2) A claim for relief in respect of goods may not be made—

- (a) where—
  - (i) more than one person is liable to duty under section 30A(3) or 40A(1)(b) in respect of the goods; and
  - (ii) one of the persons liable has made a claim for relief in respect of the [<sup>F43</sup>goods that has not been withdrawn or treated as withdrawn; unless an HMRC officer consents to the making of the further claim;]
- (b) where the goods are catch caught by a vessel which is not a British ship; <sup>F44</sup> ...
- (c) where a claim for the relief was previously made and determined unless an HMRC officer consents to the making of the further claim [<sup>F45</sup>; or
- (d) where—
  - (i) an appeal has been made in respect of the amount of liability to duty to which the claim would apply; and
  - (ii) the appeal has not been determined.]

(3) A claim must be made in the form and manner specified in a notice published by HMRC.

(4) HMRC must publish a notice specifying the form and manner referred to in paragraph (3).

## Textual Amendments

**F41** Words in reg. 16G(1)(b)(i) 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), 10(a); S.I. 2023/1050, reg. 2(b)

*Status: Point in time view as at 12/06/2024.*

**Changes to legislation:** There are currently no known outstanding effects for the The Customs (Northern Ireland) (EU Exit) Regulations 2020, PART 2. (See end of Document for details)

- F42** Reg. 16G(1A)-(1C) 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), **10(b)**; S.I. 2023/1050, reg. 2(b)
- F43** Words in reg. 16G(2)(a)(ii) 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), **10(c)(i)**; S.I. 2023/1050, reg. 2(b)
- F44** Word in reg. 16G(2) omitted (30.9.2023 for specified purposes, 2.10.2023 in so far as not already in force) by virtue of The Customs (Northern Ireland) (EU Exit) (Amendment) Regulations 2023 (S.I. 2023/958), regs. 1(3), **10(c)(ii)**; S.I. 2023/1050, reg. 2(b)
- F45** Reg. 16G(2)(d) and word 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), **10(c)(iii)**; S.I. 2023/1050, reg. 2(b)

#### Commencement Information

- I47** Reg. 16G in force at 31.12.2020 for specified purposes by S.I. 2020/1629, **reg. 1(4)**
- I48** Reg. 16G 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))
- I49** Reg. 16G 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))

#### Information and evidence in relation to claims

**16H.**—(1) A claim for relief must—

- (a) contain information of a description specified in a notice published by HMRC Commissioners;
- (b) be accompanied by such documents of a description specified in a notice published by HMRC Commissioners; and
- (c) include a declaration by the person making the claim containing statements of a description specified in a notice published by HMRC Commissioners.

(2) A claim for relief is to be treated as not made unless the claimant provides, to the satisfaction of an HMRC officer, the information, documents and declaration specified in paragraph (1).

(3) In cases specified in a notice published by HMRC Commissioners, the requirement under paragraph (1)(b) may be met by the person who has made the claim, or any other person—

- (a) making the documents available for inspection by an HMRC officer; or
- (b) making available to HMRC information of a description specified in the notice (whether electronically or otherwise).

(4) Where a claim for relief is made in the customs declaration made in respect of the goods, the person making the claim is to be treated as having made a declaration that the eligibility criterion in regulation 16E(1)(b) is met.

#### Commencement Information

- I50** Reg. 16H in force at 31.12.2020 for specified purposes by S.I. 2020/1629, **reg. 1(4)**
- I51** Reg. 16H 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))
- I52** Reg. 16H 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))

## Granting claims for relief

**16I.**—(1) A claim for relief must be granted by HMRC if—

- (a) the eligibility criteria are met; and
- (b) the relief, as determined in accordance with paragraphs (2) or (3), is a positive amount.

(2) Where a claim for relief from duty charged under section 30A(3) of the Act is granted, the relief from liability is—

- (a) where [<sup>F46</sup>, at the time the liability to duty is incurred,] the goods would not be chargeable to duty under regulation 5 if they were goods for the internal market, full relief; and
- (b) in any other case, the difference between the liability incurred under section 30A(3) Act and the amount of duty that would have been chargeable in accordance with regulation 8 if the goods were relevant goods for the purposes of Chapter 3.

(3) Where a claim for relief from duty charged under section 40A(1)(b) of the Act is granted, the relief from liability is—

- (a) where the goods are chargeable to duty under section 40A(1)(a), the difference between the liability incurred under section 40A(1)(b) and the amount of duty that would have been chargeable in accordance with regulation 14 if the goods were relevant goods for the purposes of Chapter 4; and
- (b) in any other case, full relief.

### Textual Amendments

**F46** Words in [reg. 16I\(2\)\(a\)](#) inserted (coming into force in accordance with [reg. 1\(2\)](#) of the amending S.I.) by [The Customs \(Northern Ireland\) \(EU Exit\) \(Amendment\) Regulations 2023 \(S.I. 2023/958\)](#), [reg. 11](#)

### Commencement Information

**I53** Reg. 16I in force at 31.12.2020 for specified purposes by [S.I. 2020/1629](#), [reg. 1\(4\)](#)

**I54** Reg. 16I in force at 4.9.2021 for specified purposes by [S.I. 2021/983](#), [reg. 2](#) (see [S.I. 2020/1629](#), [reg. 1\(4\)\(5\)](#))

**I55** Reg. 16I 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\(4\)\(5\)](#))

## Notifications further to a claim for relief

**16J.**—(1) Notification of receipt of the claim for relief must be given by HMRC to the claimant—

- (a) as soon as practicable after the date on which HMRC receive the claim and the evidence required in support of the claim; and
- (b) in any event, by no later than the expiry of the period of 30 days beginning with that date.

(2) Where a claim for relief is made in the customs declaration made in respect of the goods and the declaration is accepted <sup>F47</sup>... before the expiry of the period in paragraph (1)[<sup>F48</sup>(b)], the claimant is to be treated as having been notified under paragraph (1).

[<sup>F49</sup>(2A) Where a claim for relief is made in the customs declaration made in respect of the goods and the declaration is rejected before the expiry of the period in paragraph (1)(b), the claim is to be treated as if it had never been made.]

(3) Notification that HMRC have determined to grant or refuse a claim for relief must be given to the claimant, and HMRC must do so—

*Status: Point in time view as at 12/06/2024.*

*Changes to legislation: There are currently no known outstanding effects for the The Customs (Northern Ireland) (EU Exit) Regulations 2020, PART 2. (See end of Document for details)*

- (a) in relation to a claim for relief that is less than the full liability incurred, [<sup>F50</sup>where the claim is granted], with the notification of liability to duty in respect of the goods to which the claim relates, unless that notification of liability has been given before the date of the determination; and

[ as soon as practicable after the date on which notification is given under paragraph (1)<sup>F51</sup>(b) and, in any event, by no later than the expiry of—

- (i) the period of 120 days beginning with that date; or  
(ii) an extended period, not exceeding 30 days, beginning with the day when the period of 120 days expires, where HMRC reasonably require an extension in order to reach a determination.]

[<sup>F52</sup>(3A) HMRC must notify the claimant within the period of 120 days referred to in paragraph (3)(b)(i) if HMRC reasonably require an extended period within paragraph (3)(b)(ii) to reach a determination.]

<sup>F53</sup>(4) .....

(5) [<sup>F54</sup>Subject to paragraph (5A),] reasons for a refusal of a claim for relief must be given with the notification of the determination.

[<sup>F55</sup>(5A) Where a claim for relief is made in the customs declaration made in respect of the goods and the claim is refused—

- (a) the claimant is to be treated as having been notified under paragraph (3) when a notification of liability to duty in respect of the goods is given;  
(b) paragraph (5) is to be disregarded; and  
(c) the reasons for refusal of the claim must be given to the claimant on request by the claimant.]

(6) Where HMRC fail to comply with paragraph (1) or (3), the claim is to be treated as refused.

#### Textual Amendments

- F47** Words in [reg. 16J\(2\)](#) omitted (30.9.2023 for specified purposes, 2.10.2023 in so far as not already in force) by virtue of [The Customs \(Northern Ireland\) \(EU Exit\) \(Amendment\) Regulations 2023 \(S.I. 2023/958\)](#), regs. 1(3), [12\(a\)\(i\)](#); S.I. 2023/1050, reg. 2(b)
- F48** Word in [reg. 16J\(2\)](#) 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), [12\(a\)\(ii\)](#); S.I. 2023/1050, reg. 2(b)
- F49** [Reg. 16J\(2A\)](#) 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), [12\(b\)](#); S.I. 2023/1050, reg. 2(b)
- F50** Words in [reg. 16J\(3\)\(a\)](#) 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), [12\(c\)](#); S.I. 2023/1050, reg. 2(b)
- F51** [Reg. 16J\(3\)\(b\)](#) 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), [12\(d\)](#); S.I. 2023/1050, reg. 2(b)
- F52** [Reg. 16J\(3A\)](#) 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), [12\(e\)](#); S.I. 2023/1050, reg. 2(b)

- F53** Reg. 16J(4) omitted (30.9.2023 for specified purposes, 2.10.2023 in so far as not already in force) by virtue of The Customs (Northern Ireland) (EU Exit) (Amendment) Regulations 2023 (S.I. 2023/958), regs. 1(3), **12(f)**; S.I. 2023/1050, reg. 2(b)
- F54** Words in reg. 16J(5) 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), **12(g)**; S.I. 2023/1050, reg. 2(b)
- F55** Reg. 16J(5A) 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), **12(h)**; S.I. 2023/1050, reg. 2(b)

#### Commencement Information

- I56** Reg. 16J in force at 31.12.2020 for specified purposes by S.I. 2020/1629, **reg. 1(4)**
- I57** Reg. 16J 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))
- I58** Reg. 16J 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))

### SECTION 3

#### Repayment

#### Repayment of duty

**16K.—(1)** Where—

- (a) a claim for relief is granted in respect of goods; and
- (b) the claimant has paid a liability to duty chargeable under section 30A(3) or 40A(1)(b) of the Act in respect of the goods before the claim is granted,

HMRC must, when notification of the grant is given, repay the claimant the amount referred to in regulation 16I(2) or (3), as the case may be.

(2) Paragraph (3) applies where—

- (a) a period of 30 working days has expired since the date that a notification of the grant is given;
- (b) HMRC have failed to repay some or all of the duty that is due to be repaid under paragraph (1) (“the outstanding amount”); and
- (c) that failure is substantially the fault of HMRC.

(3) HMRC must pay interest at the applicable rate on the outstanding amount for the period—

- (a) beginning with the day after the date on which the period mentioned in paragraph (2)(a) expires; and
- (b) ending with the date on which the outstanding amount is paid in full.

(4) In this regulation—

- (a) “the applicable rate” means the rate of interest provided by regulations for the purposes of section 197(2)(f) of the Finance Act 1996;
- (b) “working day” means any day except—
  - (i) a Saturday or Sunday;
  - (ii) Good Friday or Christmas day; or
  - (iii) a bank holiday within the meaning of section 1 of the Banking and Financial Dealings Act 1971, including those bank holidays in part only of the United Kingdom;

*Status: Point in time view as at 12/06/2024.*

*Changes to legislation: There are currently no known outstanding effects for the The Customs (Northern Ireland) (EU Exit) Regulations 2020, PART 2. (See end of Document for details)*

- (c) where the claim for relief is made by a relief agent on behalf of a principal the references to “the claimant” are to the principal.

#### Commencement Information

- I59** Reg. 16K in force at 31.12.2020 for specified purposes by [S.I. 2020/1629, reg. 1\(4\)](#)  
**I60** Reg. 16K in force at 4.9.2021 for specified purposes by [S.I. 2021/983, reg. 2](#) (see [S.I. 2020/1629, reg. 1\(4\)\(5\)](#))  
**I61** Reg. 16K 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\(4\)\(5\)](#))

## SECTION 4

### Errors and breaches

#### 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

- I62** Reg. 16L in force at 31.12.2020 for specified purposes by [S.I. 2020/1629, reg. 1\(4\)](#)  
**I63** 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\(4\)\(5\)](#))  
**I64** 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 [<sup>F56</sup>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 [<sup>F56</sup>or undertaking lead] becomes aware of an error in the claim for relief; or
  - (iii) the claimant [<sup>F56</sup>or undertaking lead] becomes aware that relief has been granted in error.

(2) The claimant [<sup>F57</sup>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 [<sup>F58</sup>or undertaking lead’s] attention; or
  - (ii) the error, including when it first came to the claimant’s [<sup>F58</sup>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 [<sup>F59</sup>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

- F56** 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\(b\)](#)
- F57** 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\(b\)](#)
- F58** 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\(b\)](#)
- F59** 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

- I65** Reg. 16M in force at 31.12.2020 for specified purposes by [S.I. 2020/1629](#), [reg. 1\(4\)](#)
- I66** 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\(4\)\(5\)](#))
- I67** 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

- I68** Reg. 16N in force at 31.12.2020 for specified purposes by [S.I. 2020/1629](#), [reg. 1\(4\)](#)
- I69** 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\(4\)\(5\)](#))

*Status: Point in time view as at 12/06/2024.*

**Changes to legislation:** There are currently no known outstanding effects for the The Customs (Northern Ireland) (EU Exit) Regulations 2020, PART 2. (See end of Document for details)

**I70** 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

**I71** Reg. 16O in force at 31.12.2020 for specified purposes by [S.I. 2020/1629, reg. 1\(4\)](#)

**I72** 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\(4\)\(5\)](#))

**I73** 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—

- <sup>F60</sup>(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 [<sup>F61</sup>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

**F60** 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)

**F61** 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

**I74** Reg. 16P in force at 31.12.2020 for specified purposes by S.I. 2020/1629, **reg. 1(4)**

**I75** 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))

**I76** 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))

#### [<sup>F62</sup>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

**Status:** Point in time view as at 12/06/2024.

**Changes to legislation:** There are currently no known outstanding effects for the The Customs (Northern Ireland) (EU Exit) Regulations 2020, PART 2. (See end of Document for details)

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

**F62** 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

**I77** Reg. 16Q in force at 31.12.2020 for specified purposes by [S.I. 2020/1629](#), **reg. 1(4)**  
**I78** 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))  
**I79** 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);
- (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

**I80** Reg. 16R in force at 31.12.2020 for specified purposes by [S.I. 2020/1629](#), **reg. 1(4)**  
**I81** 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))

**182** 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\(4\)\(5\)](#))

## SECTION 5

### Records <sup>F63</sup>and Information]

#### Textual Amendments

**F63** Words in Pt. 2 Ch. 5 s. 5 heading 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), **16**; [S.I. 2023/1050, reg. 2\(b\)](#)

#### Record keeping

**16S.**—(1) The claimant [<sup>F64</sup>and undertaking lead] must keep and preserve such records in respect of any claim for relief made under this Chapter, and in such form [<sup>F65</sup>and for such period], as specified in a notice published by HMRC.

- (2) Where the claim for relief is made by a relief agent on behalf of a principal—
- (a) the reference to “the claimant” in paragraph (1) is to the principal; and
  - (b) the agent must provide to the claimant such documents as may be specified in a notice published by HMRC.
- (3) HMRC must publish a notice specifying—
- (a) the records to be kept and preserved under paragraph (1);
  - (b) the form in which they are to be kept; and
  - (c) the period for which they must be kept and preserved.]

#### Textual Amendments

**F64** Words in reg. 16S(1) 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), **17(a)**; [S.I. 2023/1050, reg. 2\(b\)](#)

**F65** Words in reg. 16S(1) 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), **17(b)**; [S.I. 2023/1050, reg. 2\(b\)](#)

#### Commencement Information

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

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

**185** Reg. 16S 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\(4\)\(5\)](#))

#### <sup>F63</sup><sup>F66</sup>Provision of information by undertaking lead

**16SA.**—(1) An undertaking lead must provide to HMRC such information and evidence as specified in a notice published by HMRC which may include information in relation to—

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- (a) applicable de minimis state aid limits in relation to claimants and de minimis state aid granted to persons in the single undertaking for which it is the undertaking lead; and
- (b) details of the persons in the single undertaking, the trade carried on by those persons and the relationships between those persons.
- (2) The information and evidence must be given within such time and in the form and manner specified in the notice.
- (3) If required to do so by notice in writing given by an HMRC officer, the undertaking lead must provide to the officer such information and evidence in relation to any claim for relief made by a person in the single undertaking as the officer reasonably specifies within such time and in the form and manner specified in the notice.
- (4) HMRC must publish a notice specifying the matters referred to in paragraphs (1) and (2).]

#### Textual Amendments

**F66** Reg. 16SA 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), 18; [S.I. 2023/1050](#), reg. 2(b)

## [<sup>F67</sup>CHAPTER 6

### Repayment or remission of duty on production of evidence

#### Textual Amendments

**F67** Pt. 2 Ch. 6 inserted (30.6.2023) by [The Customs \(Northern Ireland: Repayment and Remission\) \(EU Exit\) \(Amendment\) Regulations 2023 \(S.I. 2023/618\)](#), regs. 1, 2(2)

## SECTION 1

### Introduction

#### Interpretation

**16T.** In this Chapter—

“claim for repayment” means a claim in respect of goods, made in accordance with Section 2, that HMRC repay duty paid in respect of a liability incurred in respect of those goods;

“claim for remission” means a claim in respect of goods, made in accordance with Section 2, that a liability to duty incurred in respect of those goods be remitted;

“claim for repayment or remission” is to be read in accordance with these definitions;

“claimant” means a person who makes a claim for repayment or remission;

“eligibility criteria” means criteria described in the repayment and remission reference document which must be met in relation to a claim for repayment or remission;

“principal” has the meaning given in regulation 16U;

“remitted” means the discharge of a liability to duty, or part of that liability;

“repayment and remission agent” has the meaning given in regulation 16U;

“repayment and remission reference document” means the document entitled “Duty incurred in Northern Ireland – repayment and remission on production of evidence: eligibility criteria and other conditions”, [<sup>F68</sup>version 1.1 dated 17th May 2024] which—

- (a) describes the eligibility criteria which apply for the purposes of a claim for repayment or remission; and
- (b) describes cases expressed by reference to classes of goods in relation to which a claim for repayment or remission may be made.

#### Textual Amendments

**F68** Words in [reg. 16T](#) substituted (12.6.2024) by [The Customs \(Miscellaneous Amendments\) \(No. 2\) Regulations 2024 \(S.I. 2024/672\)](#), [regs. 1, 7\(4\)](#)

### Repayment and remission agents

**16U.**—(1) A person (a “principal”) may appoint any other person (a “repayment and remission agent”) to act on the principal’s behalf for the purposes of this Chapter.

- (2) A person may not act as a repayment and remission agent unless the person—
  - (a) in the case of an individual, is resident in the United Kingdom; and
  - (b) in any other case—
    - (i) has a registered office in the United Kingdom; or
    - (ii) has a permanent place in the United Kingdom from which the person carries out activities for which the person is constituted to perform.

(3) A repayment and remission agent must disclose their appointment to HMRC in each claim for repayment or remission which is made as agent on behalf of a principal.

(4) The effect of an appointment of a person as a repayment and remission agent is that anything done under, or otherwise for the purposes of, this Chapter by, or in relation to, the agent is regarded as done under, or otherwise for the purposes of, this Chapter by, or in relation to, the principal (and not by the agent).

## SECTION 2

### *Application, claims and waivers*

### Repayment or remission – application of Chapter 6

- 16V.**—(1) Subject to paragraph (2), this Chapter applies—
- (a) in relation to goods—
    - (i) in respect of which a liability to duty chargeable under section 30A(3) of the Act has been incurred and which were not relevant goods for the purposes of Chapter 3 at the time the liability was incurred; or
    - (ii) in respect of which a liability to duty chargeable under section 40A(1)(b) of the Act has been incurred;
  - (b) where—
    - (i) the duty referred to in paragraph (1)(a) has been paid; or
    - (ii) payment of the duty has been deferred under Article 110 of the UCC.
- (2) This Chapter does not apply in relation to goods where—
- (a) a liability to duty in respect of the goods has been incurred by virtue of Article 79 of the UCC; and

- (b) the condition specified in Article 86(6) of the UCC does not apply.

### **Making a claim**

**16W.**—(1) A claim for repayment or remission may only be made if—

- (a) the eligibility criteria are met or have been waived under regulation 16Z2; and
- (b) it relates to goods within a class described in the repayment and remission reference document.

(2) A claim for repayment of duty may only be made by, or on behalf of, a person who has paid some or all of the duty to which the claim relates.

(3) A claim for remission of duty may only be made by, or on behalf of, a person who—

- (a) is liable to pay the duty; and
- (b) has deferred payment of the duty.

(4) A claim must be made in the form and manner specified in a notice published by HMRC.

(5) HMRC must publish a notice specifying the matters referred to in paragraph (4).

### **Time periods for claims**

**16X.**—(1) A claim for repayment or remission may be made at any time before the expiry of the period of three years beginning with the later of—

- (a) the date on which notification is given, or treated as given, by HMRC of the liability to duty chargeable under section 30A(3) or 40A(1)(b) of the Act; and
- (b) the date on which this Chapter comes into force.

(2) Where an appeal was made in respect of the amount of duty to which the claim relates and the appeal has been determined, the period between the commencement and determination of the appeal is to be disregarded for the purposes of determining the period in paragraph (1).

(3) Where, by virtue of force majeure or unforeseeable circumstances, it would be unreasonable to expect a person to make a claim in time, HMRC may, on written request by the person which gives reasons for the request, allow the person to make the claim out of time.

### **Cases where a claim cannot be made**

**16Y.** A claim for repayment or remission may not be made in respect of goods—

- (a) where—
  - (i) more than one person incurred a liability to duty under section 30A(3) or 40A(1)(b) in respect of the goods; and
  - (ii) a claim for repayment or remission has been made by, or on behalf of, one of the persons liable in respect of the goods that has not been withdrawn or treated as withdrawn under regulation 16Z(2)(b),

unless an HMRC officer consents to the making of the further claim;

- (b) where—
  - (i) an appeal has been made in respect of the amount of liability to duty to which the claim would apply; and
  - (ii) the appeal has not been determined;
- (c) where the goods are a catch caught by a vessel which is not a British ship; or

- (d) where a claim for the repayment or remission in respect of the goods was previously made and determined unless an HMRC officer consents to the making of the further claim.

#### **Claim for remission where duty is paid**

**16Z.**—(1) Paragraph (2) applies where—

- (a) a claim for remission of duty has been made which has not been withdrawn or determined; and
- (b) a payment is made in respect of the liability which is the subject of the claim.

(2) Where—

- (a) the claimant makes the payment, the claim is to be treated as a claim for repayment of duty; or
- (b) a person other than the claimant makes the payment, the claim is to be treated as withdrawn,

and HMRC must notify the claimant of that fact as soon as practicable after the payment is made.

(3) Where a repayment and remission agent made the claim on behalf of a principal the references in paragraph (2)(a) and (b) to the claimant are to be read as referring to the principal.

#### **Information and evidence in relation to claims**

**16Z1.**—(1) A claim for repayment or remission must—

- (a) identify the case for repayment or remission described in the repayment and remission reference document relied upon;
- (b) identify the goods to which the claim relates;
- (c) identify how the eligibility criteria applicable to the claim are met or whether any eligibility criterion has been waived;
- (d) contain such information, be accompanied by such documents and evidence and include such declarations as may be specified in a notice published by HMRC.

(2) In such cases as may be specified in a notice published by HMRC, a requirement under paragraph (1)(d) for a claim to be accompanied by specified documents or evidence may be met by the person who has made the claim, or any other person—

- (a) making the documents or evidence available for inspection by an HMRC officer; or
- (b) making available to HMRC information of a description specified in the notice (whether electronically or otherwise).

(3) HMRC may publish a notice specifying the matters referred to in paragraphs (1)(d) and (2).

#### **Waiver of eligibility criteria**

**16Z2.**—(1) A claimant may apply to HMRC for approval of a waiver of an eligibility criterion if—

- (a) the criterion is described in the repayment and remission reference document as being subject to “exceptional waiver”; and
- (b) HMRC have published a notice permitting eligibility criteria to be waived.

(2) An HMRC officer may approve the waiver if the officer is of the opinion that it is appropriate to waive the criterion, taking into consideration such factors as may be specified in a notice published by HMRC.

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(3) Regulations 85 to 91 (applications for approvals etc) of the import duty regulations apply in relation to an application under paragraph (2).

(4) Section 23(5) of the Act applies to approvals granted under this regulation, including where the approval relates to a claim for repayment or remission in relation to a liability to duty chargeable under section 40A(1) of the Act.

(5) HMRC may publish a notice specifying the matters referred to in paragraphs (1)(b) and (2).

### **Notifications of receipt and determination of a claim for repayment or remission**

**16Z3.**—(1) Notification of receipt of the claim for repayment or remission must be given by HMRC to the claimant—

- (a) as soon as practicable after the date on which HMRC receive the claim; and
- (b) in any event, by no later than the expiry of the period of 30 days beginning with that date.

(2) Notification that HMRC have determined to grant or refuse a claim for repayment or remission must be given to the claimant, and HMRC must do so—

- (a) as soon as practicable after the date on which notification is given under paragraph (1) or treated as given under regulation 16Z7(2); and
- (b) in any event, by no later than the expiry of—
  - (i) the period of 120 days beginning with that date; or
  - (ii) an extended period, not exceeding 30 days, beginning with the day when the period of 120 days expires, where HMRC need an extension in order to reach a determination.

(3) HMRC must notify the claimant within the period of 120 days of any such extended period which HMRC need.

(4) Reasons for a refusal of a claim for repayment or remission must be given with the notification of the determination.

(5) Where HMRC fail to comply with paragraph (1) or (2), the claim is to be treated as refused.

### **Granting claims for repayment or remission**

**16Z4.**—(1) A claim for repayment or remission may be granted by HMRC if—

- (a) HMRC are satisfied that the claim has been made in compliance with this Section; and
- (b) the amount to be repaid or remitted, as determined in accordance with paragraph (2) or (3), is a positive amount.

(2) In relation to a claim for repayment or remission of duty charged under section 30A(3) of the Act, the amount to be repaid or remitted is—

- (a) where, at the time the liability to duty was incurred, the goods would not have been chargeable to duty under regulation 5 if they were goods for the internal market, the amount of duty notified in relation to those goods that has been paid or deferred; and
- (b) in any other case, the difference between the amount of duty paid or deferred in relation to the goods and the amount of duty that would have been chargeable in accordance with regulation 8 if those goods were relevant goods for the purposes of Chapter 3.

(3) In relation to a claim for repayment or remission of duty charged under section 40A(1)(b) of the Act, the amount to be repaid or remitted is—

- (a) where the goods are chargeable to duty under section 40A(1)(a), the difference between the amount of duty paid or deferred in relation to those goods and the amount of duty that

would have been chargeable in accordance with regulation 14 if those goods were relevant goods for the purposes of Chapter 4; and

- (b) in any other case, the amount of duty notified in relation to the goods that has been paid or deferred.

### Time of repayment

**16Z5.**—(1) Where a claim for repayment is granted, HMRC must, when notification of the grant is given, repay the claimant the amount referred to in regulation 16Z4(2) or (3), as the case may be.

(2) Paragraph (3) applies where—

- (a) a period of 30 working days has expired since the date that a notification of the grant is given;
- (b) HMRC have failed to repay some or all of the duty that is due to be repaid under paragraph (1) (“the outstanding amount”); and
- (c) that failure is substantially the fault of HMRC.

(3) HMRC must pay interest at the applicable rate on the outstanding amount for the period—

- (a) beginning with the day after the date on which the period mentioned in paragraph (2)(a) expires; and
- (b) ending with the date on which the outstanding amount is paid in full.

(4) In this regulation—

- (a) “the applicable rate” means the rate of interest provided by regulations for the purposes of section 197(2)(f) of the Finance Act 1996;
- (b) “working day” means any day except—
  - (i) a Saturday or Sunday;
  - (ii) Good Friday or Christmas day; or
  - (iii) a bank holiday within the meaning of section 1 of the Banking and Financial Dealings Act 1971, including those bank holidays in part only of the United Kingdom;
- (c) where the claim for repayment is made by a repayment or remission agent on behalf of a principal the reference to the claimant is to be read as referring to the principal.

## SECTION 3

### Errors

#### Notification of errors

**16Z6.**—(1) Paragraph (2) applies where—

- (a) the claimant becomes aware of an error in the claim for repayment or remission; or
- (b) the claimant becomes aware that repayment or remission has been granted in error.

(2) The claimant must—

- (a) notify HMRC as soon as practicable of details of the error, including when it first came to the claimant’s attention; and
- (b) make the notification in such form, and accompany it with such additional information or documentation, as HMRC may specify by notice.

(3) If requested by an HMRC officer, the claimant must provide to the officer such additional information regarding the matters referred to in paragraph (1) as the officer reasonably requires.

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- (4) Where—
- (a) a repayment and remission agent made the claim on behalf of a principal; and
  - (b) the principal becomes aware of a matter described in paragraph (1),
- paragraphs (2) and (3) apply to the principal as if the references to the claimant were to the principal.
- (5) HMRC may publish a notice specifying the matters referred to in paragraph (2)(b).

#### **Rectification of errors in claim for repayment or remission before determination of claim**

**16Z7.**—(1) Where a notification of an error in a claim for repayment or remission is received by HMRC before the claim is determined—

- (a) an HMRC officer must correct the claim, or direct the claimant to make the necessary corrections; and
- (b) the claim is to be determined on the basis of the information contained in the claim as corrected (or required to be corrected) under this regulation.

(2) For the purposes of regulation 16Z3, notification of receipt of the claim is treated as given by HMRC on the date that the claim is corrected.

#### **Repayments due to error**

**16Z8.**—(1) —(1) Paragraph (2) applies where an HMRC officer becomes aware, whether by way of notification under regulation 16Z6 or otherwise, of an error in a claim for repayment or remission which resulted in a grant of an amount of repayment or remission to which the claimant was not entitled.

(2) The grant of the claim is to be treated as null and void to the extent that the claimant was not entitled to the repayment or remission.

(3) Where paragraph (2) applies, HMRC must give notification of that fact as soon as practicable to the claimant and such other persons as HMRC consider are likely to be affected by the matter.

(4) If a repayment was made to a person to whom notification is given, that person must pay that repayment to HMRC, or such amount of the repayment to which the claimant was not entitled, together with any interest on that amount paid by HMRC under regulation 16Z5, before the expiry of the period of 10 days beginning with the date following the date on which the notification is given.

(5) Any amount payable under paragraph (4) is recoverable as if it were an amount of duty of customs.

(6) Interest is payable on the amount payable under paragraph (4) as if that amount were arrears of import duty.

(7) For the purposes of Article 114 of the UCC (interest), notification of the customs debt in respect of the amount payable under paragraph (4) is treated as made on the date that the repayment referred to in that paragraph was made by HMRC.

(8) Where the claim for repayment or remission is made by a repayment and remission agent on behalf of a principal the references to the claimant in this regulation are to be read as referring to the principal.

#### **Agents' liability**

**16Z9.**—(1) Where a repayment and remission agent makes a claim for repayment or remission on behalf of, or purportedly on behalf of, a principal, paragraph (2) applies if—

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

- (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 the claim for repayment or remission and the agent knew, or ought reasonably to have known, that the information was false.
- (2) The agent (as well as the principal) is liable to—
- (a) repay any amount referred to in regulation 16Z8(4); and
  - (b) pay any amount which is no longer treated as remitted.

#### *SECTION 4*

##### *Records*

#### **Record keeping**

**16Z10.**—(1) The claimant must keep and preserve such records in respect of any claim for repayment or remission in such form and for such period as specified in a notice published by HMRC.

(2) Where the claim for repayment or remission is made by a repayment and remission agent on behalf of a principal—

- (a) the reference in paragraph (1) to the claimant is to be read as referring to the principal; and
  - (b) the agent must provide to the claimant such documents as may be specified in a notice published by HMRC.
- (3) HMRC must publish a notice specifying the matters referred to in paragraph (1).]

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