

STATUTORY INSTRUMENTS

2020 No. 1605

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

PART 2

Importation of goods and goods potentially for export

[^{F1}CHAPTER 5

Reliefs and repayment

[^{F1}SECTION 2

Application, claims and waivers

Textual Amendments

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

Reliefs – application of Chapter 5

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

[^{F2}(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

- F2** [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

- I1** Reg. 16D in force at 31.12.2020 for specified purposes by [S.I. 2020/1629](#), [reg. 1\(4\)](#)
I2 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))

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

I3 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; ^{F3}...

[an appointment of an undertaking lead for the single undertaking of which the claimant is
^{F4}(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) [Commission Regulation \(EU\) No 1407/2013](#) 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;

(b) [Commission Regulation \(EU\) No 360/2012](#) of 25 April 2012 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.

Textual Amendments

F3 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\(b\)](#)

F4 [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\(b\)](#)

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

- I4** Reg. 16E in force at 31.12.2020 for specified purposes by [S.I. 2020/1629, reg. 1\(4\)](#)
- I5** 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\(4\)\(5\)](#))
- I6** 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 [^{F5}eligibility criteria]

16F.—(1) HMRC may grant a claim for relief even where [^{F6}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

- F5** 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\(b\)](#)
- F6** 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

- I7** Reg. 16F in force at 31.12.2020 for specified purposes by [S.I. 2020/1629, reg. 1\(4\)](#)
- I8** 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\(4\)\(5\)](#))
- I9** 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 [^{F7}, 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.

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^{F8}(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 [^{F9}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; ^{F10}...

(c) where a claim for the relief was previously made and determined unless an HMRC officer consents to the making of the further claim [^{F11}; 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

F7 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)

F8 [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)

F9 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)

F10 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)

F11 [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

I10 [Reg. 16G](#) in force at 31.12.2020 for specified purposes by [S.I. 2020/1629](#), **reg. 1(4)**

I11 [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)**)

I12 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

I13 Reg. 16H in force at 31.12.2020 for specified purposes by [S.I. 2020/1629, reg. 1\(4\)](#)

I14 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\(4\)\(5\)](#))

I15 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 [^{F12}, 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

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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

F12 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

I16 Reg. 16I in force at 31.12.2020 for specified purposes by [S.I. 2020/1629](#), [reg. 1\(4\)](#)

I17 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\(4\)\(5\)](#))

I18 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 ^{F13}... before the expiry of the period in paragraph (1)^[F14(b)], the claimant is to be treated as having been notified under paragraph (1).

[^{F15}(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—

- (a) in relation to a claim for relief that is less than the full liability incurred, [^{F16}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) ^{F17}(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.]

[^{F18}(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)(i) to reach a determination.]

^{F19}(4)

(5) [^{F20}Subject to paragraph (5A),] reasons for a refusal of a claim for relief must be given with the notification of the determination.

[^{F21}(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

- F13** 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\(b\)](#)
- F14** 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\(b\)](#)
- F15** [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\(b\)](#)
- F16** 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\(b\)](#)
- F17** [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\(b\)](#)
- F18** [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\(b\)](#)
- F19** [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\(b\)](#)
- F20** 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\(b\)](#)
- F21** [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

- I19** [Reg. 16J](#) in force at 31.12.2020 for specified purposes by [S.I. 2020/1629](#), [reg. 1\(4\)](#)
- I20** [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\(4\)\(5\)](#))
- I21** [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\(4\)\(5\)](#))

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