

Statutory Document No. 2018/0200



Customs and Excise Act 1993

CUSTOMS AND EXCISE ACTS (EXPORT (PENALTY) (AMENDMENT) REGULATIONS 2018) (APPLICATION) ORDER 2018

Approved by Tynwald: 16th October 2018
Coming into Operation: 9 July 2018

The Treasury makes the following Order under sections 1 and 3 of the Customs and Excise Act 1993.

1 Title

This Order is the Customs and Excise Acts (Export (Penalty) (Amendment) Regulations 2018) (Application) Order 2018.

2 Commencement

If approved by Tynwald, this Order comes into operation on 9 July 2018.¹

3 Interpretation

In this Order, “the principal Order” means the Customs and Excise Acts (Application) Order 1979².

4 Application of the Finance Act 2003, Part 3 (Amendment) Order 2018

- (1) The Finance Act 2003, Part 3 (Amendment) Order 2018³ is applied to the Island with the following modifications.
- (2) In article 1, omit the words “and comes” to the end.
- (3) In article 2, after “Finance Act 2003” insert **23**(of Parliament), as it has effect in the Island **24**.

¹ Section 3(2) of the Customs and Excise Act 1993 provides that an order made under sections 1 or 2 of that Act may be made retrospective and be deemed to have come into operation from such day or days as may be specified in the order, not being earlier than the date on which the corresponding provision had effect in the United Kingdom.

² GC 38/79

³ SI 2018/461

- (4) In article 4(d), for “in subsections (4) and (5)(a)”, substitute **63** in subsection (4) **62**.
- (5) The text of the Order as applied to the Island is found in Annex 1 to this Order.

5 Application of the Export (Penalty) (Amendment) Regulations 2018

- (1) The Export (Penalty) (Amendment) Regulations 2018⁵ are applied to the Island with the following modifications.
- (2) In regulation (1), omit the words “and come” to the end.
- (3) In regulation (2), after “The Export (Penalty) Regulations 2003”, insert **64**, as they have effect in the Island, **62**.
- (4) The text of the Order as applied to the Island is found in Annex 2 to this Order.

6 Amendment to the principal Order

- (1) As a consequence of Articles 4 and 5, the principal Order is amended as follows.
- (2) In Part IIIA of Schedule 1⁶, in the entry relating to the Finance Act 2003 (c.14), after “Sections 24 to 29 and 41” insert **64**(as amended by the Finance Act 2003, Part 3 (Amendment) Order 2018) **62**.
- (3) In Schedule 20 (exceptions, adaptations and modifications subject to which sections 24 to 39 of the Finance Act 2003 (c.14 of Parliament) shall apply in the Island) in the entry relating to section 24, for the third column substitute –
 - 64**(a) in subsection (2)(b) and (c), for “Community” substitute **64** Union **62**.
 - (b) in subsection (3) –
 - (i) omit the definition of “the Commissioners”;
 - (ii) omit the entries for “the Community Customs Code”, “Community export duty” and “Community import duty”;
 - (iii) in the definition of “import VAT”, for “1994 (c.23)”, substitute **64** 1996 **62**;

⁴ Sections 24 to 39 of the Finance Act 2003 (of Parliament) were applied in the Island by SD 843/03. Section 41 of the Finance Act 2003 (of Parliament) was applied in the Island by SD 906/09. Other relevant amendments have been made by SD 217/09 and 2014/0216.

⁵ SI 2018/507

⁶ Part IIIA of Schedule 1 was inserted by GC 242/85, repealed by GC 44/87, and re-inserted by SD 275/94.

- (iv) in the entry for “preferential tariff country”, for “Article 20(3)(d) of the Community Customs Code” substitute **“Article 56(2)(d) of the Union Customs Code”**; and
 - (v) omit subsection (5) to (7).
 - (c) at the end of that subsection insert –
 - “Union Customs Code”** means Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code;
 - “Union export duty” means export duty, as defined in Article 5(21) of the Union Customs Code;
 - “Union import duty” means import duty, as defined in Article 5(20) of the Union Customs Code;
 - (d) in subsection (4), for “Community Customs Code” substitute **“Union Customs Code”**.
- (4) In Schedule 20 (exceptions, adaptations and modifications subject to which sections 24 to 39 of the Finance Act 2003 (c.14 of Parliament) shall apply in the Island) in the entry relating to section 26, for the third column substitute –
- (a)** Omit subsections (6) and (7);
 - (b)** In subsection (8) –
 - (i) in paragraph (a), for “1979 (c.2)” substitute **“1986”**;
 - (ii) in paragraph (b), for “instrument” substitute **“provision”**;
 - (iii) for paragraph (c) substitute –
 - “in the case of customs duty, Union export duty or Union import duty, Union customs legislation”**; and
 - (iv) in paragraph (d), for “Community customs rules as they apply” substitute **“Union customs legislation as it applies”**;
 - (c)** in paragraph (9) –
 - (i) omit the definition of “Community customs rules”;
 - (ii) in the definition of “relevant international rules”, for “any part of the United Kingdom” substitute **“Island”**;
 - (iii) in paragraph (a), for “instrument” substitute **“provision”**; and
 - (iv) at the end insert –
 - “Union customs legislation”** means customs legislation, as defined in Article 5(2) of the Union Customs Code.

- (5) In Schedule 31A⁷ (exceptions, adaptations and modifications subject to which the Export (Penalty) Regulations 2003 (S.I. 2003 No. 3102) shall have effect in the Island), in the entry relating to regulation (2), for the third column substitute –
- (a) in the definition of “the Act” for “1979”, substitute 1986;
 - (b) omit the definition of “the Commissioners”;
 - (c) in the definition of “the Code”, for “Council Regulation 2913/92/EEC” substitute Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code;
 - (d) omit the definitions of “Community customs rules” and “Community export duty”;
 - (e) for the definition of “declaration”, substitute “definition” means a customs declaration, as defined in Article 5(12) of the Code;
 - (f) for the definition of “export”, substitute “export” means that “customs procedure” within the meaning as given by Article 5(16)(c) of the Code;
 - (g) in the definition of “the Implementing Regulation”, for “Commission Regulation 2454/93/EEC” substitute 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 Code;
 - (h) in the definition of “relevant export rule” –
 - (i) for “Community imposed” substitute EU-imposed;
 - (ii) for “Community export duty” substitute Union export duty;
 - (iii) in paragraphs (a), (b), (c) and (d), for “Community customs rules” substitute Union customs legislation;
 - (iv) in paragraph (c) for “Act, or statutory instrument” substitute enactment;
 - (i) in the definition of “relevant international rule” –
 - (i) For “United Kingdom” substitute Island; and
 - (ii) In paragraph (b) for “Act or statutory instrument” substitute enactment;
 - (j) after the definition of “contravene” insert –

⁷ Schedule 31A to the principal Order was inserted by SD 882/03, and has been amended by SD 217/09, SD 0953/11 and SD 2014/0216.

- “Delegated Regulation” means Commission Delegated Regulation (EU) 2015/2446 of 28 July 2015 supplementing the Code as regards certain provisions of the Code;
- (k) after the definition of “representative” insert –
- “Union customs legislation” means customs legislation, as defined in Article 5(2) of the Code;
- “Union export duty” means export duty, as defined in Article 5(21) of the Code.
- (6) In Schedule 31A (exceptions, adaptations and modifications subject to which the Export (Penalty) Regulations 2003 (S.I. 2003 No. 3102) shall have effect in the Island), after the entry relating to regulation (13) insert the table included in the Schedule to this Order.

MADE 2ND JULY 2018

A L CANNAN
Minister for the Treasury

SCHEDULE

SCHEDULE 31A AMENDMENTS

[ARTICLE 6(6)]

<p>☒ Schedule</p>	<p>Amendment of the Schedule</p>	<p>In the Schedule –</p> <p>(a) in the entry headed “Article 161(2) of the Code”, for the first column substitute –</p> <table border="1" data-bbox="742 683 1444 1142"> <tr> <td data-bbox="742 683 1077 1142"> <p>☒ Article 269 of the Code</p> <p>With the exception of Union goods specified in Article 269(2) of the Code, all Union goods to be taken out of the customs territory of the Union must be placed under the export procedure. ☒;</p> </td> <td data-bbox="1077 683 1260 1142"></td> <td data-bbox="1260 683 1444 1142"></td> </tr> </table> <p>(b) in the entry headed “Article 59(1) of the Code”, for the first column substitute –</p> <table border="1" data-bbox="742 1232 1444 1724"> <tr> <td data-bbox="742 1232 1077 1724"> <p>☒ Article 158 of the Code</p> <p>All goods intended to be placed under a customs procedure (other than the free zone procedure) must be covered by a customs declaration appropriate for the particular procedure. ☒;</p> </td> <td data-bbox="1077 1232 1260 1724"></td> <td data-bbox="1260 1232 1444 1724"></td> </tr> </table> <p>(c) in the entry headed “Article 62 of the Code”, for the first column substitute –</p> <table border="1" data-bbox="742 1814 1444 2033"> <tr> <td data-bbox="742 1814 1077 2033"> <p>☒ Article 162 of the Code</p> <p>Standard customs declarations must contain all the</p> </td> <td data-bbox="1077 1814 1260 2033"></td> <td data-bbox="1260 1814 1444 2033"></td> </tr> </table>	<p>☒ Article 269 of the Code</p> <p>With the exception of Union goods specified in Article 269(2) of the Code, all Union goods to be taken out of the customs territory of the Union must be placed under the export procedure. ☒;</p>			<p>☒ Article 158 of the Code</p> <p>All goods intended to be placed under a customs procedure (other than the free zone procedure) must be covered by a customs declaration appropriate for the particular procedure. ☒;</p>			<p>☒ Article 162 of the Code</p> <p>Standard customs declarations must contain all the</p>		
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<p>☒ Article 162 of the Code</p> <p>Standard customs declarations must contain all the</p>											

		<p>particulars necessary for application of the provisions governing the customs procedure for which the goods are declared. 22;</p>		
(d) after that entry insert –				
<p>23 Article 163 of the Code The supporting documents required for the application of the provisions governing the customs procedure for which the goods are declared must be in the declarant’s possession and at the disposal of Customs at the time when the customs declaration is lodged.</p>		<p>The declarant.</p>	<p>£1,000 24;</p>	
(e) in the entry headed “Article 161(5) of the Code and Articles 789 and 790 of the Implementing Regulation”, for the first column substitute –				
<p>25 Article 221 of the Implementing Regulation Export declarations must be lodged at the competent customs office for placing the goods under the export procedure. 26;</p>				
(f) in the entry headed “Article 182b of the Code and Articles 592b and 592f of the Implementing Regulation”, for the first column substitute –				
<p>27 Article 263 of the Code and Article 244 of the Delegated Regulation Pre-departure declarations must be</p>				



		<p>lodged within the time limits specified in Article 244 of the Delegated Regulation, containing the particulars necessary for risk analysis for security and safety purposes. 22;</p>								
<p>(g) in the entry headed “Article 795 of the Implementing Regulation”, for the first column substitute –</p>										
<table border="1"> <tr> <td data-bbox="722 712 1082 1413"> <p>23 Article 162 and 267 of the Code and Article 337 of the Delegated Regulation</p> <p>Where an export or re-export declaration was required but the goods have been taken out of the customs territory of the Union without one, a retrospective declaration must be lodged at the customs office competent for the place where the exporter is established. 24;</p> </td> <td data-bbox="1082 712 1262 1413"></td> <td data-bbox="1262 712 1457 1413"></td> </tr> </table>					<p>23 Article 162 and 267 of the Code and Article 337 of the Delegated Regulation</p> <p>Where an export or re-export declaration was required but the goods have been taken out of the customs territory of the Union without one, a retrospective declaration must be lodged at the customs office competent for the place where the exporter is established. 24;</p>					
<p>23 Article 162 and 267 of the Code and Article 337 of the Delegated Regulation</p> <p>Where an export or re-export declaration was required but the goods have been taken out of the customs territory of the Union without one, a retrospective declaration must be lodged at the customs office competent for the place where the exporter is established. 24;</p>										
<p>(h) for the entry headed “Article 182c of the Code”, substitute –</p>										
<table border="1"> <tr> <td data-bbox="722 1496 1082 2045"> <p>25 Articles 263, 267 and 271 of the Code and Article 337 of the Implementing Regulation</p> <p>Where goods are taken out of the customs territory of the Union and a customs declaration or a re-export declaration is not lodged as a pre-</p> </td> <td data-bbox="1082 1496 1262 1749"> <p>The person who takes the goods out of the customs territory.</p> </td> <td data-bbox="1262 1496 1457 1749"> <p>£1,000</p> </td> </tr> <tr> <td data-bbox="722 1749 1082 2045"> <p>lodged as a pre-</p> </td> <td data-bbox="1082 1749 1262 2045"> <p>The person in whose name or on whose behalf the person who takes the goods out</p> </td> <td data-bbox="1262 1749 1457 2045"> <p>£1,000</p> </td> </tr> </table>					<p>25 Articles 263, 267 and 271 of the Code and Article 337 of the Implementing Regulation</p> <p>Where goods are taken out of the customs territory of the Union and a customs declaration or a re-export declaration is not lodged as a pre-</p>	<p>The person who takes the goods out of the customs territory.</p>	<p>£1,000</p>	<p>lodged as a pre-</p>	<p>The person in whose name or on whose behalf the person who takes the goods out</p>	<p>£1,000</p>
<p>25 Articles 263, 267 and 271 of the Code and Article 337 of the Implementing Regulation</p> <p>Where goods are taken out of the customs territory of the Union and a customs declaration or a re-export declaration is not lodged as a pre-</p>	<p>The person who takes the goods out of the customs territory.</p>	<p>£1,000</p>								
<p>lodged as a pre-</p>	<p>The person in whose name or on whose behalf the person who takes the goods out</p>	<p>£1,000</p>								

		<p>departure declaration, an exit summary declaration must be lodged at the customs office of exit.</p>	<p>of that territory acts. The person who assumes responsibility for carriage of the goods before their exit from that territory.</p>	<p>£1,000²²;</p>			
<p>(i) in the entry headed “Article 253(6) and 253(7) of the Implementing Regulation”, for the first column substitute –</p>							
<table border="1"> <tr> <td data-bbox="587 768 930 2027"> <p>23 Articles 166, 167 and 182 of the Code, Articles 145 and 150 of the Delegated Regulation and Articles 234 and 235 of the Implementing Regulation</p> <p>A person authorised under Article 166(2) of the Code for the regular use of a simplified declaration, or under Article 182(1) of the Code for lodging a declaration in the form of an entry in the declarant’s records must:</p> <p>(a) comply with the relevant conditions, meet the relevant criteria and comply with the relevant obligations;</p> <p>(b) inform the authorising authorities of all factors arising</p> </td> <td data-bbox="930 768 1115 2027"></td> <td data-bbox="1115 768 1294 2027"></td> </tr> </table>					<p>23 Articles 166, 167 and 182 of the Code, Articles 145 and 150 of the Delegated Regulation and Articles 234 and 235 of the Implementing Regulation</p> <p>A person authorised under Article 166(2) of the Code for the regular use of a simplified declaration, or under Article 182(1) of the Code for lodging a declaration in the form of an entry in the declarant’s records must:</p> <p>(a) comply with the relevant conditions, meet the relevant criteria and comply with the relevant obligations;</p> <p>(b) inform the authorising authorities of all factors arising</p>		
<p>23 Articles 166, 167 and 182 of the Code, Articles 145 and 150 of the Delegated Regulation and Articles 234 and 235 of the Implementing Regulation</p> <p>A person authorised under Article 166(2) of the Code for the regular use of a simplified declaration, or under Article 182(1) of the Code for lodging a declaration in the form of an entry in the declarant’s records must:</p> <p>(a) comply with the relevant conditions, meet the relevant criteria and comply with the relevant obligations;</p> <p>(b) inform the authorising authorities of all factors arising</p>							



		<p>after authorisation has been granted which may influence its continuation or content. 22;</p>											
		<p>(j) for the entry headed “Article 793 of the Implementing Regulation, the Customs (Presentation of Goods for Export) Regulations 2003 and Article 183 of the Code”, substitute –</p>	<table border="1"> <tr> <td> <p>22 Article 267 of the Code</p> <p>Goods to be taken out of the customs territory of the Union must be presented to Customs on exit.</p> </td> <td> <p>The person who takes the goods out of the customs territory.</p> </td> <td>£2,500</td> </tr> <tr> <td></td> <td> <p>The person in whose name of on whose behalf the person who takes the goods out of that territory acts.</p> </td> <td>£2,500</td> </tr> <tr> <td></td> <td> <p>The person who assumes responsibility for carriage of the goods before their exit from that territory.</p> </td> <td>£2,500 22;</td> </tr> </table>	<p>22 Article 267 of the Code</p> <p>Goods to be taken out of the customs territory of the Union must be presented to Customs on exit.</p>	<p>The person who takes the goods out of the customs territory.</p>	£2,500		<p>The person in whose name of on whose behalf the person who takes the goods out of that territory acts.</p>	£2,500		<p>The person who assumes responsibility for carriage of the goods before their exit from that territory.</p>	£2,500 22 ;	
<p>22 Article 267 of the Code</p> <p>Goods to be taken out of the customs territory of the Union must be presented to Customs on exit.</p>	<p>The person who takes the goods out of the customs territory.</p>	£2,500											
	<p>The person in whose name of on whose behalf the person who takes the goods out of that territory acts.</p>	£2,500											
	<p>The person who assumes responsibility for carriage of the goods before their exit from that territory.</p>	£2,500 22 ;											
		<p>(k) for the entry headed “Article 796d(1) of the Implementing Regulation”, for the first column substitute –</p>	<table border="1"> <tr> <td> <p>22 Article 267 of the Code and Article 332 of the Implementing Regulation</p> </td> <td></td> <td></td> </tr> </table>	<p>22 Article 267 of the Code and Article 332 of the Implementing Regulation</p>									
<p>22 Article 267 of the Code and Article 332 of the Implementing Regulation</p>													

		<p>A carrier may not load goods for carriage out of the customs territory unless the information referred to in Article 332(5) of the Implementing Regulation has been provided to the carrier.</p> <p>The carrier shall notify the exit of the goods to the customs office of exit by providing that information unless it is available to the customs authorities through existing commercial, port or transport systems or processes. ⁽²⁾;</p>		
<p>(l) for the entry headed "Article 796d(4) of the Implementing Regulation" substitute –</p>				
<p>⁽²⁾ Article 267 of the Code and Article 340 of the Implementing Regulation</p> <p>(a) Where goods released for export or re-export are no longer intended to be taken out of the customs territory of the Union, the customs office of export must be informed immediately.</p> <p>(b) Where the goods have already been presented to the customs office of exit,</p>			<p>The declarant</p> <p>The person who removes the goods from the custom</p>	<p>£1,000</p> <p>£1,000 ⁽²⁾;</p>



		<p>that office must be informed that the goods will not be taken out of the customs territory of the Union and must be informed of the MRN of the export or re-export declaration.</p>	<p>office of exit to a place within the customs territory.</p>	
<p>(m) for the entry headed “Article 798 of the Implementing Regulation” substitute –</p>				
		<p>Articles 162 and 267 of the Code and Article 337(2) of the Delegated Regulation Where goods which left the customs territory under cover of an ATA carnet are no longer intended to be reimported, an export declaration containing the particulars referred to in Annex B to the Delegated Regulation shall be presented to the customs office of export.</p>	<p>The exporter.</p>	<p>£1,000;</p>
<p>(n) after that entry insert –</p>				
		<p>Article 274 of the Code and Article 336 of the Implementing Regulation A re-export notification must be lodged where – (a) non-Union goods are removed from temporary storage and</p>	<p>The person who takes the goods out of the</p>	<p>£1,000</p>

		<p>taken out of the customs territory of the Union, and</p> <p>(b) the obligation to lodge an exit summary declaration for the goods is waived.</p>	<p>customs territory.</p> <p>The person in whose name or on whose behalf the person who takes the goods out of that territory acts.</p> <p>The person who assumes responsibility for carriage of the goods before their exit from that territory.</p>	<p>£1,000</p> <p>£1,000 22;</p>
		<p>(o) omit the entry headed “Article 841a of the Implementing Regulation”</p> <p>(p) in the entry headed “Article 14 of the Code and section 23 of the Finance Act 1994”, in the heading, for “Article 14” substitute 63 Article 15 22;</p> <p>(q) in the entry headed “Article 16 of the Code and Regulations 3 to 5 and 9 of the Customs Traders (Accounts and Records) Regulations 1995” –</p> <p>(i) in the heading, for “Article 16” substitute 63 Article 51 22, and</p> <p>(ii) in the second column, for “article 16” substitute 63 Article 51 22, 22.</p>		

EXPLANATORY NOTE

(This note is not part of the Order)

This Order applies in Island law the Finance Act 2003, Part 3 (Amendment) Order 2018⁸ and the Export (Penalty) (Amendment) Regulations 2018⁹ by amending the Customs and Excise Acts (Application) Order 1979¹⁰ (“the principal Order”).

The Finance Act 2003, Part 3 (Amendment) Order 2018, as it has effect in the Island, updates references to the current EU provisions, replacing references to the Community Customs Code and associated legislation which have lapsed with references to the Union Customs Code and associated legislation that are currently in operation and have effect in the Island. Part 3 of the Finance Act 2003, as it applies to the Island, makes provision for, and in connection with, a penalty scheme in relation to taxes and duties on importation and exportation.

The Export (Penalty) (Amendment) Regulations 2018 amend the Export (Penalty) Regulations 2003¹¹ (“the 2003 Regulations”), as they have effect in the Island by means of Schedule 31A to the principal Order, to replace references to the Community Customs Code and associated legislation which have lapsed with references to the Union Customs Code and associated legislation that are currently in operation and have effect in the Island. The 2003 Regulations make provision for the imposition of civil financial penalties where there has been a failure to comply with a duty, obligation, requirement or condition in the case of specific taxes or duties relating to exports.

⁸ SI 2018/461

⁹ SI 2018/507

¹⁰ GC 38/79

¹¹ SI 2003/3102

Annex 1

STATUTORY INSTRUMENTS

2018 No. 461

CUSTOMS

The Finance Act 2003, Part 3 (Amendment) Order 2018

Made - - - -

29th March 2018

Coming into force in accordance with article 1

The Treasury, in exercise of the powers conferred by sections 24(5) and 41(1) of the Finance Act 2003¹², make the following Order:

Citation and commencement

1. This Order may be cited as the Finance Act 2003, Part 3 (Amendment) Order 2018 ~~and comes into force on the day after the day on which it is made.~~

Interpretation

2. In this Order “the Act” means the Finance Act 2003 *(of Parliament), as it has effect in the Island.*

Amendment of Part 3 of the Act

3. Part 3 of the Act is amended as follows.

4. In section 24 (introductory)¹³—

(a) in subsection (2)(b) and (c), for “Community” substitute “Union”;

(b) in subsection (3)—

(i) omit the entries for “the Community Customs Code”, “Community export duty” and

“Community import duty”;

(ii) in the entry for “preferential tariff country”, for “Article 20(3)(d) of the Community

¹² 2003 c.14.

¹³ Section 24 was amended by article 4(1) of the Treaty of Lisbon (Changes in Terminology) Order S.I. 2011/1043.

Customs Code" substitute "Article 56(2)(d) of the Union Customs Code";

(c) at the end of that subsection insert—

““Union Customs Code” means Regulation (EU) No 952/2013¹⁴ of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code;

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

“Union import duty” means import duty, as defined in Article 5(20) of the Union Customs Code.”;

(d) ~~in subsections (4) and (5)(a)~~ **in subsection (4)**, for “Community Customs Code” substitute “Union Customs Code”.

5. In section 26 (penalty for contravention of relevant rule)¹⁵—

(a) in subsection (8), for paragraph (c) substitute—

“(c) in the case of customs duty, Union export duty or Union import duty, Union customs legislation;”;

(b) in subsection (8)(d), for “Community customs rules as they apply” substitute “Union customs legislation as it applies”;

(c) in subsection (9)—

(i) omit the definition of “Community customs rules”;

(ii) at the end insert—

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

Effect

6. This Order has effect in respect of conduct which begins on or after the day upon which this Order comes into force.

Craig Whittaker
Andrew Stephenson

29th March 2018

Two of the Lords Commissioners of Her Majesty's Treasury

¹⁴ OJ No L269, 10.10.2013, p.1.

¹⁵ Section 26 was amended by article 6(2)(b) of Part 2 of the Treaty of Lisbon (Changes in Terminology) Order S.I. 2011/1043.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends Part 3 of the Finance Act 2003 (c.14) ("FA2003"). Part 3 makes provision for and in connection with a penalty scheme in relation to taxes and duties on importation and exportation.

This Order makes amendments to Part 3 that are consequential on the repeal of the Community Customs Code ("CCC") and Commission Regulation (EEC) No 2454/93 and their replacement by the Union Customs Code ("UCC") and Commission Implementing Regulation (EU) 2015/2447.

Article 1 provides for the coming into force of the Order.

Articles 4 and 5 amend sections 24 and 26 FA2003 respectively to replace references to the CCC with the relevant corresponding reference to the UCC.

Article 6 provides that the Order has effect in respect of conduct beginning on or after the day this Order comes into force.

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

Annex 2

STATUTORY INSTRUMENTS

2018 No. 507

CUSTOMS AND EXCISE

The Export (Penalty) (Amendment) Regulations 2018

Made - - - - - 20th April 2018

Laid before Parliament 23rd April 2018

Coming into force - - 14th May 2018

The Commissioners for Her Majesty's Revenue and Customs make the following Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972¹⁶ having been designated¹⁷ for the purposes of that section in relation to customs matters of the EU.

Citation and commencement

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

Amendment of the Export (Penalty) Regulations 2003

2. The Export (Penalty) Regulations 2003¹⁸, *as they have effect in the Island*, are amended in accordance with regulations 3 and 4.

Amendment of regulation 2

3. In regulation 2—

- (a) in the definition of “the Code”, for “Council Regulation 2913/92/EEC” substitute “Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code”¹⁹;

¹⁶ 1972 c.68; section 2(2) was amended by the European Union (Amendment) Act 2008 (c.7), the Schedule, Part 1 and by the Legislative and Regulatory Reform Act 2006 (c.51, section 27(1)(a).

¹⁷ S.I. 1977/980; the Schedule designates the Commissioners of Customs and Excise to exercise powers to make regulations conferred by section 2(2) of the European Communities Act 1972, in relation to customs matters arising under the Community Treaties. The functions of those Commissioners were transferred to the Commissioners for Her Majesty's Revenue and Customs by section 5(2) of the Commissioners for Revenue and Customs Act 2005 (c.11). Section 50(1) of that Act provides that a reference to the Commissioners of Customs and Excise shall be taken as a reference to the Commissioners for Her Majesty's Revenue and Customs.

¹⁸ S.I. 2003/3102, amended by S.I. 2009/56, 2011/2512 and 2014/1264.

¹⁹ OJ No L269, 10.10.2013, p.1.

(b) omit the definitions of “Community customs rules” and “Community export duty”;

(c) for the definition of “declaration”, substitute—

““declaration” means a customs declaration, as defined in Article 5(12) of the Code.”;

(d) for the definition of “export”, substitute—

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

(e) in the definition of “the Implementing Regulation”, for “Commission Regulation 2454/93/EEC” substitute “Commission Implementing Regulation (EU) 2015/2447²⁰ of 24 November 2015 laying down detailed rules for implementing certain provisions of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Code”;

(f) in the definition of “relevant export rule”—

(i) for “Community imposed” substitute “EU-imposed”;

(ii) for “Community export duty” substitute “Union export duty”;

(iii) in paragraphs (a), (b), (c) and (d), for “Community customs rules” substitute “Union customs legislation”;

(g) after the definition of “contravene” insert—

““Delegated Regulation” means Commission Delegated Regulation (EU) 2015/2446²¹ of 28 July 2015 supplementing the Code as regards certain provisions of the Code;”;

(h) after the definition of “representative” insert—

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

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

Amendment of the Schedule

4. In the Schedule²²—

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

“Article 269 of the Code		
With the exception of		

²⁰ OJ No L343, 29.12.2015, p.558.

²¹ OJ No L343, 29.12.2015, p.1.

²² The Schedule was substituted by regulation 6 of S.I. 2011/2512.

Union goods specified in Article 269(2) of the Code, all Union goods to be taken out of the customs territory of the Union must be placed under the export procedure.”;		
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- (b) in the entry headed “Article 59(1) of the Code”, for the first column substitute—

<p>“Article 158 of the Code All goods intended to be placed under a customs procedure (other than the free zone procedure) must be covered by a customs declaration appropriate for the particular procedure.”;</p>		
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- (c) in the entry headed “Article 62 of the Code”, for the first column substitute—

<p>“Article 162 of the Code Standard customs declarations must contain all the particulars necessary for application of the provisions governing the customs procedure for which the goods are declared.”;</p>		
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- (d) after that entry insert—

<p>“Article 163 of the Code The supporting documents required for the application of the provisions governing the customs procedure for which the goods are declared must be in the declarant’s possession and at the disposal of Customs at the time when the customs declaration is lodged.</p>	The declarant.	£1,000”;
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- (e) in the entry headed “Article 161(5) of the Code and Articles 789 and 790 of the Implementing Regulation”, for the first column substitute—

<p>“Article 221 of the Implementing Regulation Export declarations must be</p>		
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lodged at the competent customs office for placing the goods under the export procedure.”;		
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- (f) in the entry headed “Article 182b of the Code and Articles 592b and 592f of the Implementing Regulation”, for the first column substitute—

<p>“Article 263 of the Code and Article 244 of the Delegated Regulation Pre-departure declarations must be lodged within the time limits specified in Article 244 of the Delegated Regulation, containing the particulars necessary for risk analysis for security and safety purposes.”;</p>		
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- (g) in the entry headed “Article 795 of the Implementing Regulation”, for the first column substitute—

<p>“Articles 162 and 267 of the Code and Article 337 of the Delegated Regulation Where an export or re-export declaration was required but the goods have been taken out of the customs territory of the Union without one, a retrospective declaration must be lodged at the customs office competent for the place where the exporter is established.”;</p>		
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- (h) for the entry headed “Article 182c of the Code” substitute—

<p>“Articles 263, 267 and 271 of the Code and Article 337 of the Implementing Regulation Where goods are taken out of the customs territory of the Union and a customs declaration or a re-export declaration is not lodged as a pre-departure declaration, an exit</p>	<p>The person who takes the goods out of the customs territory.</p>	<p>£1,000</p>
<p>declaration, an exit</p>	<p>The person in</p>	<p>£1,000</p>

summary declaration must be lodged at the customs office of exit.	<p>whose name or on whose behalf the person who takes the goods out of that territory acts.</p> <p>The person who assumes responsibility for carriage of the goods before their exit from that territory.</p>	£1,000”;
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- (i) in the entry headed “Articles 253(6) and 253(7) of the Implementing Regulation”, for the first column substitute—

<p>“Articles 166, 167 and 182 of the Code, Articles 145 and 150 of the Delegated Regulation and Articles 234 and 235 of the Implementing Regulation</p> <p>A person authorised under Article 166(2) of the Code for the regular use of a simplified declaration, or under Article 182(1) of the Code for lodging a declaration in the form of an entry in the declarant’s records must:</p> <p>(a) comply with the relevant conditions, meet the relevant criteria and comply with the relevant obligations;</p> <p>(b) inform the authorising authorities of all factors arising after authorisation has been granted which may influence its continuation or content.”;</p>		
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- (j) for the entry headed “Article 793 of the Implementing Regulation, the Customs (Presentation of Goods for Export) Regulations 2003 and Article 183 of the Code” substitute—

<p>“Article 267 of the Code Goods to be taken out of the customs territory of the Union must be presented to Customs on exit.</p>	<p>The person who takes the goods out of the customs territory.</p>	<p>£2,500</p>
	<p>The person in whose name or on whose behalf the person who takes the goods out of that territory acts.</p>	<p>£2,500</p>
	<p>The person who assumes responsibility for carriage of the goods before their exit from that territory.</p>	<p>£2,500”;</p>

- (k) for the entry headed “Article 796d(1) of the Implementing Regulation”, for the first column substitute—

<p>“Article 267 of the Code and Article 332 of the Implementing Regulation A carrier may not load goods for carriage out of the customs territory unless the information referred to in Article 332(5) of the Implementing Regulation has been provided to the carrier.</p> <p>The carrier shall notify the exit of the goods to the customs office of exit by providing that information unless it is available to the customs authorities through existing commercial, port or transport systems or processes.”;</p>		
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- (l) for the entry headed “Article 796d(4) of the Implementing Regulation” substitute—

<p>“Article 267 of the Code and Article 340</p>		
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<p>of the Implementing Regulation</p> <p>(a) Where goods released for export or re-export are no longer intended to be taken out of the customs territory of the Union, the customs office of export must be informed immediately.</p> <p>(b) Where the goods have already been presented to the customs office of exit, that office must be informed that the goods will not be taken out of the customs territory of the Union and must be informed of the MRN of the export or re-export declaration.</p>	<p>The declarant.</p> <p>The person who removes the goods from the customs office of exit to a place within the customs territory.</p>	<p>£1,000</p> <p>£1,000”;</p>
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- (m) for the entry headed “Article 798 of the Implementing Regulation”, substitute—

<p>“Articles 162 and 267 of the Code and Article 337(2) of the Delegated Regulation</p> <p>Where goods which left the customs territory under cover of an ATA carnet are no longer intended to be reimported, an export declaration containing the particulars referred to in Annex B to the Delegated Regulation shall be presented to the customs office of export.</p>	<p>The exporter.</p>	<p>£1000”;</p>
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- (n) after that entry insert—

<p>“Article 274 of the Code and Article 336 of</p>		
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the Implementing Regulation		
A re-export notification must be lodged where—		
(a) non-Union goods are removed from temporary storage and taken out of the customs territory of the Union, and	The person who takes the goods out of the customs territory.	£1,000
(b) the obligation to lodge an exit summary declaration for the goods is waived.	The person in whose name or on whose behalf the person who takes the goods out of that territory acts.	£1,000
	The person who assumes responsibility for carriage of the goods before their exit from that territory.	£1,000”;

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

Justin Holliday
Melissa Tatton

20th April 2018

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

EXPLANATORY NOTE

(This note is not part of the Regulations)

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

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

Regulation 2 provides that the 2003 Regulations are amended.

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

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

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