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 1972(**1**) having been designated(**2**) for the purposes of that section in relation to customs matters of the EU.

Citation and commencement

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

Amendment of the Export (Penalty) Regulations 2003

2. The Export (Penalty) Regulations 2003(**3**) 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"(**4**);

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

(c) for the definition of "declaration", substitute—

(**1**) 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).

(**2**) 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.

(**3**) S.I. 2003/3102, amended by S.I. 2009/56, 2011/2512 and 2014/1264.

(**4**) OJ No L269, 10.10.2013, p 1.

""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) 2015/2447(**5**) of 24 November 2015 laying down detailed rules for implementing certain provisions of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Code";

(f) in the definition of "relevant export rule"—

(i) for "Community imposed" substitute "EU-imposed";

(ii) for "Community export duty" substitute "Union export duty";

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

(g) after the definition of "contravene" insert—

""Delegated Regulation" means Commission Delegated Regulation (EU) 2015/2446(**6**) of 28 July 2015 supplementing the Code as regards certain provisions of the Code;";

(h) after the definition of "representative" insert—

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

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

Amendment of the Schedule

4. In the Schedule(**7**)—

(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 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.";		

(b) in the entry headed "Article 59(1) of the Code", for the first column substitute—

"**Article 158 of the Code** All goods intended to be placed under a customs		

(**5**) OJ No L 343, 29.12.2015, p.558.
(**6**) OJ No L 343, 29.12.2015, p1.
(**7**) The Schedule was substituted by regulation 6 of S.I. 2011/2512.

procedure (other than the free zone procedure) must be covered by a customs declaration appropriate for the particular procedure.”;		

(c) in the entry headed “Article 62 of the Code”, for the first column substitute—

“**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.”;		

(d) after that entry insert—

“**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.	The declarant.	£1,000”;

(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—

“**Article 221 of the Implementing Regulation** Export declarations must be lodged at the competent customs office for placing the goods under the export procedure.”;		

(f) in the entry headed “Article 182b of the Code and Articles 592b and 592f of the Implementing Regulation”, for the first column substitute—

“**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.”;		

(g) in the entry headed “Article 795 of the Implementing Regulation”, for the first column substitute—

“**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.”;		

(h) for the entry headed “Article 182c of the Code” substitute—

“**Articles 263, 267 and 271 of the Code and Article 337 of the Implementing Regulation**		
Where goods are taken out of the customs territory of the Union and a customs declaration or a re-export declaration is not lodged as a pre-departure declaration, an exit summary declaration must be lodged at the customs office of exit.	The person who takes the goods out of the customs territory.	£1,000
	The person in whose name or on whose behalf the person who takes the goods out of that territory acts.	£1,000
	The person who assumes responsibility for carriage of the goods before their exit from that territory.	£1,000”;

(i) in the entry headed “Articles 253(6) and 253(7) of the Implementing Regulation”, for the first column substitute—

“**Articles 166, 167 and 182 of the Code, Articles 145 and 150 of the Delegated**		