STATUTORY INSTRUMENTS

1979 No. 555

CUSTOMS AND EXCISE

The Outward Processing Relief Regulations 1979

Made - - - -	18*th May* 1979
Laid before Parliament	21*st May* 1979
Coming into Operation	11*th June* 1979

The Secretary of State, in exercise of the powers conferred on him by section 2 of the Customs and Excise Duties (General Reliefs) Act 1979**(a)** (as regards relief from customs duties) and of all other powers enabling him in that behalf, and the Minister of Agriculture, Fisheries and Food and the Secretary of State, being Ministers designated**(b)** for the purposes of section 2(2) of the European Communities Act 1972**(c)** (as regards relief from agricultural levies) acting jointly, in exercise of the powers conferred on them by the said section 2(2) and of all other powers enabling them in that behalf, hereby make the following Regulations:—

Citation, operation, interpretation

1.—(1) These Regulations may be cited as the Outward Processing Relief Regulations 1979 and shall come into operation on 11th June 1979.

(2) In these Regulations "compensating products" means goods produced or manufactured by one or more of the following operations—

(*a*) working of goods, including fitting or assembling them or adjusting them to other goods;

(*b*) processing of goods;

(*c*) repair of goods, including restoring them to their original condition and putting them in order.

(3) In these Regulations, unless the context otherwise requires—

"agricultural levy" means any tax or charge, not being a customs duty, chargeable under Community arrangements on agricultural products or on products which are processed from agricultural products and are the subject of arrangements under Article 235 of the EEC Treaty;

"agricultural products" means the products listed in Annex II to the EEC Treaty, as amended**(d)**;

"authorisation" means a general or special authorisation granted by the competent authorities authorising compensating products to be relieved wholly or partly of customs duties or of charges having equivalent effect or of agricultural levies payable on their importation into a member State;

(a) 1979 c. 3. **(b)** S.I. 1976/897. **(c)** 1972 c. 68.

(d) Council Regulation 7a, 18.12.59 (O.J. No. 7, 30.1.61, p. 71/61; O.J./SE 1959-1962 p. 68).

"Commissioners" means the Commissioners of Customs and Excise;

"competent authorities" means the Commissioners in the case of goods exported from the United Kingdom or the corresponding authorities of another member State in the case of goods exported from that member State;

"intermediate products" means goods produced or manufactured after goods have undergone outward processing but not to the extent provided for in the authorisation;

"outside the Community" means outside the Customs territory of the European Economic Community**(a)**, or, in the case of goods covered by the ECSC Treaty or the Euratom Treaty, outside the territories to which the Treaty constituting the Community in question applies**(b)**, as the case may be, and "within the Community" shall be interpreted accordingly;

"standard exchange relief authorisation" means an authorisation within the meaning of the Customs Duties (Standard Exchange Relief) Regulations 1979**(c)**.

(4) References in these Regulations to goods having undergone outward processing are references to goods which have been temporarily exported from the United Kingdom or another member State to a destination outside the Community with a view to the importation of the goods in question into the United Kingdom or another member State in the form of compensating products wholly or partly free of customs duties or charges having equivalent effect or of agricultural levies payable on their importation and which have undergone outside the Community one or more of the operations specified in Regulation 1(2).

(5) References in these Regulations to goods being held under inward processing arrangements are references to goods in respect of which an application has been made to the competent authorities for relief from customs duties or charges having equivalent effect or from agricultural levies in accordance with the provisions of Council Directive 69/73/EEC**(d)** (relating to inward processing) and relief has not been refused.

2. These Regulations shall apply only if the goods in question, when temporarily exported,

(i) satisfied the conditions in Articles 9(2) and 10(1) of the EEC Treaty without this temporary exportation having given, or giving, rise to any remission or repayment of agricultural levies or of customs duties or charges having equivalent effect or any payment of Community export refunds; or

(ii) were held under inward processing arrangements.

Authorisation of Relief

3.—(1) In the case of goods to be exported from the United Kingdom with a view to undergoing outward processing, any person established within the Community who is to have the processing carried out may make a written application to the Commissioners for an authorisation.

(a) *See* Regulation (EEC) 1496/68 (O.J. No. L238, 28.9.68, p. 1; O.J./SE 1968 (II), p. 436) and Annex I to the Treaty concerning United Kingdom accession to the Community as adjusted by Council Decision of 1.1.73 (O.J. No. L2, 1.1.73, p.1).

(b) *See* Article 79 (ECSC Treaty) and 198 (Euratom Treaty).

(c) S.I. 1979/554

(d) O.J. No. L58, 8.3.1969, p.1 (O.J./SE 1969 (I) p. 75).

(2) Where a person to whom a standard exchange relief authorisation has been granted intends to import into the United Kingdom goods, the subject of that authorisation, in the form of compensating products after they have been repaired and not replaced, he may make a written application to the Commissioners to have the standard exchange relief authorisation wholly or partly replaced by an authorisation under these Regulations and the provisions of these Regulations shall apply accordingly.

(3) Applications under paragraph (1) above shall be made before exportation, and applications under paragraph (2) shall be made before importation of the compensating products; and applications shall be in such form, and verified in such manner, as may be required by the Commissioners, and the applicant shall furnish such information as may be so required for the purpose of the application.

(4) Subject to paragraph (5), the Commissioners after receiving any such application may specify in an authorisation such conditions as they think expedient to secure the object or prevent abuse of the relief from customs duties or from agricultural levies, and in particular there shall be specified in the authorisation—

(*a*) the rates of yield namely the quantity of compensating products to be produced from a given quantity of the exported goods;

(*b*) the arrangements for identifying the exported goods in the compensating products to be imported;

(*c*) the time limit for the importation of the compensating products.

(5) The Commissioners shall not grant the authorisation unless they are satisfied that to do so would not be likely to cause serious damage to the essential interests of processors of goods within the Community and unless they have consulted as regards that matter in the case of relief from customs duties with the Secretary of State, except as may be agreed between the Commissioners and the Secretary of State, and in the case of relief from agricultural levies with the Minister of Agriculture, Fisheries and Food and the Secretary of State, except as may be agreed between the Commissioners on the one hand and the Minister of Agriculture, Fisheries and Food and the Secretary of State on the other.

(6) The Commissioners shall have power in the case of goods imported into the United Kingdom to vary any condition specified in any authorisation given by the competent authorities when such a variation is necessary to ensure that the goods shall qualify for relief under these Regulations and they are satisfied that there are special reasons why the condition should be varied.

(7) The Commissioners shall in particular have power in the case of goods exported from, or imported into, the United Kingdom

(*a*) to extend the time limit specified for the importation of the compensating products in any authorisation given by the competent authorities;

(*b*) to allow the compensating products referred to in such an authorisation to be imported in several consignments; and

(*c*) when circumstances so warrant to allow all or any of the goods included in any authorisation which have been temporarily exported with a view to undergoing outward processing to be imported into the United Kingdom still in the same state as they were in when exported or in the form of intermediate products.

Relief from Customs Duty and Agricultural Levy

4.—(1) Where goods which have undergone outward processing are imported into the United Kingdom in the form of compensating products in accordance with an authorisation granted by the competent authorities or with the permission of the Commissioners in the form of intermediate products and the goods qualify for relief under these Regulations, then subject to—

(i) the provisions of these Regulations

(ii) compliance with the conditions specified in the authorisation

(iii) the production of the authorisation to the proper officer of Customs and Excise and

(iv) the Commissioners being satisfied that they can identify the exported goods in the compensating products or in the intermediate products,

any customs duty and agricultural levy which apart from these Regulations would be chargeable on their importation into the United Kingdom shall be reduced by the amount specified in Regulation 5 or, if equal to or less than that amount, shall not be charged.

(2) Compensating products and intermediate products shall qualify for relief under these Regulations only if they are imported by the person to whom the authorisation has been granted or by another person with his written consent and on production of that consent.

5.—(1) Subject to the following provisions of this Regulation, the amount referred to in Regulation 4(1) is the amount of the customs duty and of the agricultural levy that would be chargeable on the importation of goods in the same state and in the same quantity as the goods were in when temporarily exported.

(2) For the purposes of paragraph (1) above, the amount of the customs duty and of the agricultural levy that would be chargeable shall be calculated on the basis of the value and at the rate, if any, applicable at the date of first entry of the compensating products or intermediate products, but excluding in the case of agricultural levy—

(*a*) any monetary compensatory amount that would be chargeable under Council Regulation (EEC) 974/71**(a)**, as last modified by Council Regulation (EEC) 557/76**(b)**;

(*b*) any additional amount that would be chargeable under—

(i) article 14(2) of Council Regulation (EEC) No. 2727/75**(c)**, as last modified by Council Regulation (EEC) No. 1254/78**(d)**;

(ii) article 13(1) of Council Regulation (EEC) No. 2759/75**(e)**, as last modified by Council Regulation (EEC) No. 1423/78**(f)**;

(iii) article 8(1) of Council Regulation (EEC) No. 2771/75**(g)**, as modified by Council Regulation (EEC) No. 368/76**(h)**;

(iv) article 8(1) of Council Regulation (EEC) No. 2777/75**(i)**, as modified by Council Regulation (EEC) No. 369/76**(j)**.

(a) O.J. No. L106, 12.5.71, p.1; O.J./SE 1971 (I) p. 257.
(b) O.J. No. L67, 15.3.76, p.1.
(c) O.J. No. L281, 1.11.75, p.1.
(d) O.J. No. L156, 14.6.78, p.1.
(e) O.J. No. L282, 1.11.75, p.1.
(f) O.J. No. L171, 28.6.78, p.19.
(g) O.J. No. L282, 1.11.75, p.49.
(h) O.J. No. L45, 21.2.76, p.2.
(i) O.J. No. L282, 1.11.75, p.77.
(j) O.J. No. L45, 21.2.76, p.3.

(3) For the purposes of this Regulation where the temporarily exported goods could, if imported into the United Kingdom, have been classified in a particular tariff subheading by virtue of a specified end use, then the amount of the customs duty and of the agricultural levy that would be chargeable shall be calculated at the rate applicable to goods of that subheading, in so far as the temporarily exported goods were so used in the country or territory where the outward processing took place.

(4) Where goods in the form of compensating products or intermediate products qualify for any preferential tariff treatment, the amount of the customs duty and of the agricultural levy that would be chargeable for the purpose of paragraph (1) above shall be calculated as if the goods in question qualified for corresponding preferential tariff treatment.

6. Where goods which have been temporarily exported with a view to undergoing outward processing are with the permission of the Commissioners imported into the United Kingdom still in the same state as they were in when exported the Commissioners shall grant relief from the whole or part of any customs duty and of any agricultural levy that would be chargeable on the goods as though the goods were returned goods in accordance with the provisions of Council Regulation (EEC) No. 754/76**(a)** and its implementing Regulations.

7. Where goods held under inward processing arrangements at the time of exportation undergo outward processing and are on or after importation into the United Kingdom entered for home use within the meaning of section 37 of the Customs and Excise Management Act 1979**(b)** or Regulation 13 of the Customs Warehousing Regulations 1979**(c)** then, unless the Commissioners are satisfied that any export refund or any relief from customs duties or charges having equivalent effect or from agricultural levy under those inward processing arrangements has been forgone, the goods shall not qualify for relief from customs duty or from agricultural levy under these Regulations.

8.—(1) Subject to paragraph (2) below, if it is shown to the satisfaction of the Commissioners that goods after being temporarily exported from the United Kingdom or another member State have undergone outward processing, in accordance with an authorisation granted by the competent authorities, consisting only of repair in pursuance of a guarantee or other agreement or legal requirement to effect the repair or in order to rectify manufacturing faults in the goods, and no charge is made in respect of such repair, no customs duty shall be charged on the goods on their importation into the United Kingdom subject to compliance with the conditions specified in the authorisation and the production of the authorisation to the proper officer of Customs and Excise.

(2) Paragraph (1) above shall not apply if the goods were imported into the United Kingdom or another member State and entered for home use before undergoing outward processing and duty was charged on the goods on their importation and if, in assessing their value for the purpose of that duty, the defective state of the goods was taken into account.

9. Section 124 of the Customs and Excise Management Act 1979 (which relates to forfeiture of goods for breach of certain conditions) shall apply in relation to any condition or other obligation required to be complied with in connection with relief from agricultural levy under these Regulations as if the levy were a duty of customs and the said condition or obligation were such a condition or obligation as is mentioned in that section.

(a) O.J. No. L89, 2.4.76, p.1.
(b) 1979 c. 2.
(c) S.I. 1979/207.

Revocation

10. The Import Duties (Outward Processing Relief) Regulations 1976**(a)** and the Agricultural Levies (Outward Processing Relief) Order 1976**(b)** are hereby revoked.

Cecil Parkinson,
Minister of State,
Department of Trade

18th May 1979.

In Witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 16th May 1979.

Peter Walker,
Minister of Agriculture,
Fisheries and Food

(a) S.I. 1976/838; relevant amending enactments are S.I. 1978/1148 and s. 19(3) of 1979 c. 3.
(b) S.I. 1976/901.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations, which come into operation on 11th June 1979, revoke and replace the Import Duties (Outward Processing Relief) Regulations 1976 and the Agricultural Levies (Outward Processing Relief) Order 1976. They provide for relief from customs duty and agricultural levy on compensating products and intermediate products (as defined in Regulation 1) imported into the United Kingdom which have been produced or manufactured overseas by outward processing (also defined in Regulation 1) of goods temporarily exported from the United Kingdom or any other member State of the Community.

They implement in UK law the appropriate parts of Council Directive 76/119/EEC (O.J. L24, 30.1.76, p. 58), Articles 22 and 23 of Council Directive 69/73/EEC and Commission Directive 78/206/EEC (O.J. L62, 4.3.78, p. 40).

Regulation 3 provides for application for authorisation of relief to be made to the Commissioners of Customs and Excise in the case of goods to be exported from the United Kingdom with a view to undergoing outward processing and sets out the conditions to be specified in the authorisation. It also empowers the Commissioners to relax these conditions in certain circumstances. The Commissioners are required to have regard to the interests of Community processors before deciding whether to grant an authorisation, in consultation with the Secretary of State as regards relief from customs duties and the Minister of Agriculture, Fisheries and Food and the Secretary of State as regards agricultural levies, except as may be agreed.

Regulation 4 provides for relief to be granted from customs duty and agricultural levy on importation of the compensating or intermediate products into the United Kingdom, subject to compliance with the conditions specified in the authorisation.

Regulation 5 specifies how the amount of relief is to be calculated.

Regulation 6 provides that, where with the permission of the Commissioners the temporarily exported goods are imported into the United Kingdom still in the same state as they were in when exported, the customs treatment applicable to the goods shall be determined on the same basis as for returned goods in accordance with the provisions of Council Regulation (EEC) No. 754/76.

Regulation 7 provides that, where the temporarily exported goods had qualified for inward processing relief in the member State from which they were exported, that relief must be forgone if the compensating or intermediate products are to qualify for outward processing relief on entry for home use.

Regulation 8 provides that, where it is shown that the outward processing consists only of repair free of charge under a guarantee or similar arrangement, customs duty on the repaired goods imported into the United Kingdom is waived, provided that on their first importation into the Community the defective state of the goods was not taken into account in assessing the duty then charged.

Regulation 9 renders liable to forfeiture any goods relieved from agricultural levy under these Regulations if any condition required to be complied with in connection with the relief is not observed.

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