

**2011 No. 2512**

**CUSTOMS**

**The Export (Penalty) (Amendment) Regulations 2011**

*Made* - - - - *20th October 2011*

*Laid before Parliament* *21st October 2011*

*Coming into force* - - *11th November 2011*

The Commissioners for Her Majesty's Revenue and Customs, being a Department designated for the purposes of section 2(2) of the European Communities Act 1972(a) in relation to customs matters of the European Communities(b), in exercise of the powers conferred by that section, make the following Regulations.

**Citation and Commencement**

1. These Regulations may be cited as the Export (Penalty) (Amendment) Regulations 2011 and come into force on 11th November 2011.

**Amendment of the Export (Penalty) Regulations 2003**

2. The Export (Penalty) Regulations 2003(c) are amended as follows.
3. In regulation 2, omit the definition of "the Act".
4. In regulation 2, omit the definition of "the Commissioners".
5. In regulations 4, 5, 6 and 7, for "the Commissioners", substitute "HMRC".
6. For the contents of the Schedule, substitute the following—

<i>"Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Relevant Export Rule</i>	<i>Description of Person liable</i>	<i>Maximum Penalty</i>
<b>Article 161(2) of the Code(d)</b> With the exception of goods placed under the outward processing or transit	The exporter.	£1,000.

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- (a) 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).
- (b) 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.
- (c) S.I. 2003/3102, to which there are amendments not relevant to these Regulations.
- (d) "The Code" is defined in regulation 2 of S.I. 2003/3113 to mean Council Regulation (EEC) No 2913/92 (OJ No L 302, 19.10.92, p1).

procedure, all Community goods intended for export to be placed under the export procedure.

**Article 59(1) of the Code**

All goods intended to be placed under a customs procedure to be covered by a declaration for that procedure.

The exporter. £1,000.

**Article 62 of the Code**

Declarations to:  
 (a) be made on a form corresponding to the official specimen;  
 (b) be signed and contain all the necessary particulars;  
 (c) be accompanied by all the requisite documents.

The declarant. £2,500.

**Article 161(5) of the Code and Articles 789 and 790 of the Implementing Regulation(a)**

Export declaration to be lodged at the customs office responsible for supervising:  
 (a) the place where the exporter is established; or  
 (b) the place where the sub-contractor is established (when so permitted by article 789);  
 (c) when permitted by article 790, any competent office.

The declarant. £1,000.

**Article 182b of the Code(b) and Articles 592b and 592f of the Implementing Regulation(c)**

Customs declaration to:  
 (a) contain at least the particulars necessary for the summary declaration referred to in Article 182d(1);  
 (b) be lodged within the time-limits laid down in articles 592b and 592f of the Implementing Regulation.

The declarant. £1,000.

**Article 795 of the Implementing Regulation(d)**

Where goods requiring an

The exporter. £1,000.

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(a) "The Implementing Regulation" is defined in regulation 2 of S.I. 2003/3113 to mean Commission Regulation (EC) No 2454/93 (OJ No L 253, 11.10.93, p1).  
 (b) Articles 182b to 182d of the Code were inserted by Article 1.16 of European Parliament and Council Regulation (EC) No 648/2005 (OJ No L 117, 04.05.2005, p13).  
 (c) Articles 592b to 592g were inserted by Article 1.47 of Commission Regulation (EC) No 1875/2006 (OJ No L 360, 19.12.2006, p64).  
 (d) Article 795 was inserted by Article 1.55 of Commission Regulation (EC) No 1875/2006.

export declaration leave the customs territory of the Community without an export declaration, declaration to be lodged retrospectively at the customs office competent for the place where the exporter is established.

**Article 182c of the Code**

Where customs declaration not required for goods leaving the customs territory, summary declaration to be lodged at the customs office of exit before goods are brought out of the customs territory.

The person who brings the goods out of the customs territory or who assumes responsibility for the carriage of the goods out of the customs territory. £1,000.

**Articles 253(6) and 253(7) of the Implementing Regulation(a)**

A person authorised for the simplified or local clearance procedure must:  
 (a) comply with the relevant conditions, meet the relevant criteria and comply with the relevant obligations;  
 (b) inform the authorising authorities of all factors arising after authorisation has been granted which may influence its continuation or content.

The authorised person. £2,500.

**Article 793 of the Implementing Regulation(b), the Customs (Presentation of Goods for Export) Regulations 2003(c) and Article 183 of the Code**

Goods released for export to:  
 (a) be presented to customs at the customs office of exit;  
 (b) leave the customs territory using the route prescribed by the customs authorities (if any) and in accordance with the procedures laid down by those authorities.

The declarant. £2,500

The person who brings the goods out of the customs territory or who assumes responsibility for the carriage of the goods out of the customs territory. £2,500.

**Article 796d(1) of the Implementing Regulation(d)**

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(a) Articles 253(4)-253(8) of the Implementing Regulation were inserted by Article 1.5 of Commission Regulation (EC) No 1192/2008 (OJ No L 329 6.12.2008 p1).  
 (b) Article 793 was inserted by Article 1.53 of Commission Regulation (EC) No 1875/2006. It was amended by Article 1.20 of Commission Regulation (EU) No 430/2010 (OJ No L 125, 21.5.2010, p10).  
 (c) S.I. 2003/467, to which there are amendments not relevant to these Regulations.  
 (d) Article 796d was inserted by Article 1.57 of Commission Regulation (EC) No 1875/2006. It was amended by Article 1.24 of Commission Regulation (EU) No 430/2010.

<p>A carrier may not load goods for carriage out of the customs territory unless the information referred to under point (a) has been provided to the carrier. The carrier shall notify the exit of the goods to the customs office of exit by providing the information referred to under point (a) unless that information is available to the customs authorities through existing commercial, port or transport systems or processes.</p>	<p>The carrier.</p>	<p>£2,500.</p>
<p><b>Article 796d(4) of the Implementing Regulation</b> Where goods declared for export are no longer destined to be brought out of the customs territory, the person who removes the goods from the customs office of exit for carriage to a place within that territory shall provide to the customs office of exit the information required under point (a) of Article 796d(1).</p>	<p>The person who removes the goods from the customs office of exit for carriage to a place within the customs territory.</p>	<p>£1,000.</p>
<p><b>Article 798 of the Implementing Regulation</b> 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 37 shall be presented to the customs office of export.</p>	<p>The exporter.</p>	<p>£1,000.</p>
<p><b>Article 841a of the Implementing Regulation(a)</b> When re-exportation is not subject to a customs declaration, an exit summary declaration shall be lodged in accordance with Articles 842a to 842e(b) or, where Article 841a(2) applies, a notification of re-exportation in the prescribed form.</p>	<p>The person who brings the goods out of the customs territory or who assumes responsibility for the carriage of the goods out of the customs territory.</p>	<p>£1,000.</p>

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(a) Article 841a was inserted by Article 1.63 of Commission Regulation (EC) No 1875/2006. It was substituted by Article 1.27 of Commission Regulation (EU) No 430/2010.  
(b) Articles 842a to 842e were inserted by Article 1.65 of Commission Regulation (EC) No 1875/2006. Article 842a was substituted by Article 1.28 of Commission Regulation (EU) No 430/2010.

**Article 14 of the Code and section 23 of the Finance Act 1994(a)**

To provide to the customs authorities, upon request and within the prescribed time-limits, such documents, information and assistance as are needed for the purposes of applying customs legislation or which, in the case of a customs trader, relate to that person's business.

The person of whom the request is made. £1,000.

**Article 16 of the Code and Regulations 3 to 5 and 9 of the Customs Traders (Accounts and Records Regulations) 1995(b)**

To keep the prescribed documents and records in the prescribed manner for the prescribed period.

In a case falling within article 16 of the Code, any person involved in the operation concerned. £1,000.

In the case of a customs trader, that customs trader. £1,000."

*Dave Hartnett  
Mike Eland*

20th October 2011

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 that, where a person of a prescribed description contravenes one of the rules listed in the Schedule, that person is liable to a penalty in the prescribed amount.

Regulation 3 removes the definition of "the Act" from regulation 2 of the 2003 Regulations, since that expression no longer appears in the remainder of the 2003 Regulations.

Regulation 4 removes the definition of "the Commissioners" from regulation 2 of the 2003 Regulations.

Regulation 5 substitutes "HMRC" for "the Commissioners" wherever that expression occurs in the 2003 Regulations, in order to produce consistency with the balance of the 2003 Regulations.

Regulation 6 substitutes the contents of the Schedule to the 2003 Regulations, disposing of those items which are redundant and amending the remainder so that they make more accurate reference to the relevant provisions. It also adds items concerning the requirements to provide and preserve relevant documents, together with such items as are rendered necessary by amendments to Council

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(a) 1994 c. 9.

(b) S.I. 1995/1203.

Regulation 2913/92/EEC (OJ No L 302, 19.10.92, p1) and Commission Regulation 2454/93/EEC (OJ No L 253, 11.10.93, p1).

A Tax Information and Impact Note covering this instrument has been published on the HMRC website at <http://www.hmrc.gov.uk/thelibrary/tiins.htm>.

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STATUTORY INSTRUMENTS

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