
STATUTORY INSTRUMENTS

2019 No. 1307

**EXITING THE EUROPEAN UNION
CUSTOMS AND EXCISE
VALUE ADDED TAX**

**The Cross-border Trade (Public
Notices) (EU Exit) Regulations 2019**

Made - - - - 4th October 2019
Laid before the House of
Commons - - - - 7th October 2019
Coming into force in accordance with regulation 1(2)

The Treasury make the following Regulations in exercise of the powers conferred by section 51(1) and (3) of the Taxation (Cross-border Trade) Act 2018⁽¹⁾.

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Cross-border Trade (Public Notices) (EU Exit) Regulations 2019.

(2) These Regulations come into force on exit day and have effect for a period of six months beginning with that day.

(3) The fact that these Regulations cease to have effect at the end of that period does not affect—

- (a) anything previously done under these Regulations; or
- (b) the making, before the end of that period, of transitional or transitory provision or savings, in accordance with these Regulations, in connection with a public notice ceasing to have effect.

Interpretation etc.

2.—(1) In these Regulations—

“the Act” means the Taxation (Cross-border Trade) Act 2018;

“HMRC” means Her Majesty’s Revenue and Customs;

(1) 2018 c. 22. Section 51(4)(b) defines the “appropriate Minister” as meaning the Treasury.

“HMRC Commissioners” means the Commissioners for Her Majesty’s Revenue and Customs;
“public notice” means a notice published by the Treasury in such manner as they consider appropriate.

(2) Section 32(7) to (9) of the Act (which authorise the making of particular kinds of provisions by regulations under Part 1 of the Act) apply in relation to any public notice given under these Regulations.

Power to make temporary provision by public notice

3.—(1) The Treasury may give a public notice containing provision which—

- (a) relates to value added tax, any duty of customs or any excise duty⁽²⁾; and
- (b) is authorised by this regulation.

(2) They may do so only if, in consequence of, or otherwise in connection with, the withdrawal of the United Kingdom from the EU, they consider it appropriate in the public interest to give the notice.

(3) The power to give a public notice under this regulation is exercisable only on the recommendation of HMRC Commissioners.

(4) Provision is authorised by this regulation if it has the effect of—

- (a) disapplying any obligation imposed by or under any enactment;
- (b) extending the period for complying with any such obligation;
- (c) extending the period during which a person is authorised or approved to do anything;
- (d) suspending any power or duty of HMRC to impose a penalty or other sanction on any person;
- (e) authorising HMRC to give any approvals or authorisations subject to their being subsequently satisfied that any requirements are met; or
- (f) otherwise conferring a benefit of any kind on any person other than provision—
 - (i) reducing the amount of import duty applicable to any goods equivalent to provision that may be made under the sections referred to in section 7 of the Act; or
 - (ii) reducing the rate of value added tax or excise duty.

(5) Provision (“modifying provision”) is also authorised by this regulation if—

- (a) it modifies the operation of any provision made by or under any enactment; and
- (b) the Treasury consider the modifying provision appropriate in consequence of, or otherwise in connection with, the making of provision that has an effect specified in paragraph (4) (whether or not the provision is made by a public notice under this regulation).

(6) The modifying provision authorised by paragraph (5) includes provision imposing obligations, or penalties for failure to comply with an obligation, on any person.

(7) The period for which a public notice given under this regulation has effect must not be longer than a period of 60 days beginning with the day on which the notice is given (and none of that period may fall after the end of the period specified in regulation 1(2)).

(8) This does not affect—

- (a) anything previously done under the notice;
- (b) the making by that or another public notice of transitional or transitory provision or savings in connection with its ceasing to have effect; or

(2) Section 53 of the Taxation (Cross-border Trade) Act 2018 (“the Act”) defines “excise duty” for the purposes of Part 5 of the Act.

- (c) the making of a new public notice.

Supplementary provision

4.—(1) The power of HMRC Commissioners to give a recommendation under these Regulations is to be treated as if it were a non-delegable function specified in sections 13(3) and 14(2) of the Commissioners for Revenue and Customs Act 2005⁽³⁾.

(2) The Treasury must lay before the House of Commons a report setting out—

- (a) whether the power to give a public notice under these Regulations was exercised in the month preceding the date the report is laid; and
- (b) if the power was so exercised, what provisions any notice so given contained.

(3) The first report must be laid before the House of Commons before the end of the period of one month beginning with exit day.

(4) Later reports must be laid before the House of Commons before the end of the period of one month beginning with the day after the day on which the previous report was so laid.

4th October 2019

Rebecca Harris
Michelle Donelan
Two of the Lords Commissioners of Her
Majesty's Treasury

(3) 2005 c. 11. There are amendments to sections 13(3) and 14(2), but none are relevant.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made by the Treasury in connection with the withdrawal of the United Kingdom from the European Union.

Regulation 1 provides for citation, commencement and effect. The Regulations have effect for a period of six months beginning with exit day.

Regulation 2 sets out definitions of terms used in the Regulations and provides that provisions of the Taxation (Cross-border Trade) Act 2018 (c. 22) (“the Act”) authorising the making of particular kinds of provision by regulations under Part 1 of the Act apply in relation to any public notice given under these Regulations.

Regulation 3 provides a power for the Treasury to make, in a public notice, such provision in relation to value added tax, any duty of customs or any excise duty as they consider appropriate in the public interest in consequence of, or otherwise in connection with, the withdrawal of the United Kingdom from the European Union. This power may only be exercised on the recommendation of the Commissioners for Her Majesty’s Revenue and Customs (“HMRC Commissioners”). Paragraph (4) limits the effect that such provision may have to those conferring a benefit of any kind on any person. Paragraph (5) provides that a public notice may contain consequential provision modifying the operation of any provision made by or under any enactment, which may include imposing obligations (paragraph (6)), in limited circumstances. Any public notice given under regulation 3 may not have effect for longer than 60 days (paragraph (7)), but at the end of that period a new public notice may be made containing the same provision (paragraph (8)).

Regulation 4(1) provides that the power to make a recommendation to give a public notice is to be treated as if it were a non-delegable function for the purposes of the Commissioners for Revenue and Customs Act 2005 (c. 11). This means that the power to make such a recommendation may not be exercised by fewer than two HMRC Commissioners. Regulation 4(2) to (4) requires the Treasury to lay before the House of Commons monthly reports setting out whether the power to give a public notice has been used in the preceding month and if so how.

This instrument will be covered by an overarching HMRC impact assessment (third edition) which will be published and available on the website at <https://www.gov.uk/government/collections/customs-vat-and-excise-regulations-leaving-the-eu-with-no-deal>.