

Draft Regulations laid before Parliament under paragraph 1(3) of Schedule 7 to the European Union (Withdrawal) Act 2018, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2019 No.

**EXITING THE EUROPEAN UNION
CUSTOMS**

The Cash Controls (Amendment) (EU Exit) Regulations 2019

Made - - - - *******

Coming into force in accordance with regulation 1

The Treasury make these Regulations in exercise of the powers conferred by section 8(1) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018(1).

In accordance with paragraph 1(3) of Schedule 7 to that Act, a draft of this instrument has been laid before Parliament and approved by a resolution of each House of Parliament.

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Cash Controls (Amendment) (EU Exit) Regulations 2019 and come into force on the later of exit day or the day after the day on which they are made.

(2) The amendments made by these Regulations do not have effect in relation to any person entering Northern Ireland from the Republic of Ireland or exiting Northern Ireland to the Republic of Ireland.

Amendment of Regulation (EC) No 1889/2005

2.—(1) Regulation (EC) No 1889/2005 of the European Parliament and of the Council of 26 October 2005 on controls of cash entering or leaving the Community is amended as follows.

(2) Omit Article 1.

(3) In Article 2, for paragraph 1 (definition of competent authorities) substitute—

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

(4) In Article 3—

(a) for paragraph 1 substitute—

“1. A person who enters or exits the United Kingdom and who is carrying a sum of cash to a value of £10,000 or more must make a declaration of that sum to HMRC in accordance with paragraphs 2 and 3. The obligation to declare shall not have been fulfilled if the information provided is incorrect or incomplete at the time of entry to, or exit from, the United Kingdom.”; and

(b) for paragraph 3 substitute—

“3. The declaration referred to in paragraph 1 must be made in such form or manner as HMRC specify by written notice which is made publicly available. Such notice may make different provision for different cases or different purposes.”.

(5) In Article 4—

(a) omit paragraph 1(2); and

(b) for paragraph 2 substitute—

“2. Where a person has failed to comply with Article 3, an officer of Revenue and Customs(3) may detain cash which that person is found to be carrying. Cash may be detained until the time a decision has been made whether or not to impose a penalty under regulation 3(1) of the Control of Cash (Penalties) Regulations 2007(4). Where a penalty has been imposed, regulation 8 of those Regulations applies.”.

(6) In Article 5—

(a) omit paragraph 1; and

(b) for paragraph 2 substitute—

“2. Where, by virtue of the making of a declaration referred to in Article 3(1), an officer of Revenue and Customs has cause to believe that a person is carrying a sum of cash in relation to an illegal activity, the officer may disclose to the relevant customs or law enforcement authorities of another territory such information in relation to the person as the officer considers necessary for the detection or prevention of the illegal activity or to enable proceedings to be taken against any person in relation to the illegal activity.”.

(7) Omit Articles 6 to 11.

(8) After Article 11, omit the words “This Regulation shall be binding in its entirety and directly applicable in all Member States.”.

Date _____
Two of the Lords Commissioners of Her Majesty’s Treasury
Name
Name

(2) See section 164A of the Customs and Excise Management Act 1979 (c. 2) in relation to powers to search for cash for the purposes of Regulation (EC) No 1889/2005.
(3) See section 3 of the Borders, Citizenship and Immigration Act 2009 (c. 11) in relation to certain functions of an officer of Revenue and Customs also being exercisable by a general customs official and references to an officer of Revenue and Customs being construed as including references to a general customs official.
(4) S.I. 2007/1509, amended by S.I. 2009/56.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in exercise of the powers conferred by section 8(1) of the European Union (Withdrawal) Act 2018 (c. 16) in order to address failures of retained EU law to operate effectively and other deficiencies (in particular under paragraphs (a), (b) and (c) of section 8(2) of that Act) arising from the withdrawal of the UK from the European Union.

These Regulations amend Regulation (EC) No 1889/2005 of the European Parliament and of the Council of 26 October 2005 on controls of cash entering or leaving the Community, save that regulation 1 provides that those amendments do not have effect in relation to any person entering Northern Ireland from the Republic of Ireland or exiting Northern Ireland to the Republic of Ireland. Regulation 1 also provides that these Regulations come into force on the later of exit day or the day after the day on which they are made.

Regulation 2 provides that the obligation to make a declaration arises upon entering or leaving the United Kingdom and for declarations to be made to HMRC. The threshold for making a declaration is restated in sterling. That regulation also revokes provisions which are no longer relevant after exit day. It also restates the provisions allowing detention of cash in the event of failing to declare and allowing disclosure of information on illegal activity to other territories without reference to EU Member States or third countries.

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