
STATUTORY INSTRUMENTS

2019 No. 108

The Customs (Export) (EU Exit) Regulations 2019

PART 11

Transitional and savings provisions

CHAPTER 1

Preliminary

Interpretation of Part

63.—(1) In this Part—

“the Delegated Regulation” means the Commission Delegated Regulation (EU) 2015/2446 of 28 July 2015 supplementing Regulation (EU) no 952/2013 of the European Parliament and of the Council as regards details rules concerning provisions of the Union Customs Code; and

“EUCL” means the direct EU legislation referred to in paragraph 1(1) of Schedule 7 to the Act.

(2) And in this Part the following expressions⁽¹⁾ have the same meaning as they do for the purposes of the UCC—

“customs declaration”;

“customs formalities”;

“decision taken upon application”;

“export procedure”⁽²⁾;

“non-Union goods”;

“re-export declaration”;

“Union goods”;

“verification”⁽³⁾.

CHAPTER 2

Continued effect and cessation of effect of the EUCL, evidence and verification

Continued effect and cessation of effect of the EUCL

64.—(1) Where, as provided by this Part, the EUCL continues to have effect in relation to goods on and after exit day, paragraph (2) applies to the following matters—

- (a) any approval or authorisation granted by, or on behalf of, HMRC or the equivalent competent authority of a member State under the EUCL or treated as valid immediately before exit day under Article 251 of the Delegated Regulation; or

⁽¹⁾ The expressions are found in Article 5 of the UCC except where otherwise indicated.

⁽²⁾ See Article 5(16) of the UCC.

⁽³⁾ See Article 188 of the UCC.

(b) a decision given by HMRC which is a decision taken upon application.

(2) If a matter listed in paragraph (1) applies in relation to the goods immediately before exit day, it continues to apply for so long as the EUCL continues to have effect in relation to the goods, unless and until HMRC amends or revokes the same in any particular case.

(3) The continuation of, or cessation of, the effect of the EUCL in relation to goods as provided by this Part does not—

- (a) affect the operation of the EUCL or anything duly done or suffered under it,
- (b) affect any right, privilege, obligation or liability acquired, accrued or incurred under the EUCL or any enactment in relation to the EUCL,
- (c) affect any penalty, forfeiture or punishment incurred in respect of any offence under an enactment in relation to the EUCL, or
- (d) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment.

(4) Notwithstanding that the EUCL ceases to have effect in relation to goods, any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed, as if the EUCL had not ceased to have effect in relation to the goods.

(5) When the EUCL ceases to have effect in relation to goods as provided by this Part at a time when the goods are located in the United Kingdom, the Act, for the purposes of these Regulations, and paragraph (6) then apply in relation to the goods.

(6) Where a requirement of the EUCL has been met or not met in relation to the goods, any equivalent requirement imposed by or under—

- (a) these Regulations, or
- (b) the Act, for the purposes of these Regulations,

is also to be treated as having been met or not met, as the case may be, in relation to the goods.

(7) Where the EUCL continues to have effect in relation to goods on or after exit day by virtue of this Part, the cessation of effect of the EUCL provided by paragraph 1(1) of Schedule 7 to the Act which would otherwise apply in relation to the goods does not apply.

Evidence required by notice

65.—(1) HMRC may notify a person to provide evidence to HMRC concerning any of the following in relation to goods to which this Part applies—

- (a) whether or not the goods are non-Union goods;
- (b) which of the following the goods are subject to—
 - (i) the export procedure;
 - (ii) a re-export declaration;
 - (iii) an exit summary declaration; or
 - (iv) a re-export notification;
- (c) the customs formalities which have been completed in respect of the goods immediately before exit day; or
- (d) any other matter which enables HMRC to determine whether or not the EUCL continues or ceases to have effect in relation to the goods on or after exit day.

(2) HMRC must in, or with, the notification state by when compliance is required.

(3) HMRC may publish a notice specifying—

- (a) the type of evidence which may be required when a notification is given, and
- (b) the form and manner in which evidence is to be provided to HMRC.

Verification

66.—(1) Where before exit day—

- (a) Union goods intended to be taken out of the customs territory of the Union, or
- (b) non-Union goods,

have been exported from the United Kingdom but verification in relation to the goods has not been completed, the EUCL continues to have effect in relation to the goods on and after exit day.

(2) The EUCL ceases to have effect in relation to the goods on the earliest to occur of the following—

- (a) when a person fails to comply with regulation 65 in relation to the goods,
- (b) on completion of the verification, or
- (c) on 29th March 2020.

(3) Where paragraph (2)(a) or (c) applies, Chapter 11 (verification of export declarations etc) applies in relation to the goods.

CHAPTER 3

Export procedure and re-export

Union goods declared to the export procedure; re-export declaration lodged in respect of Non-Union goods

67.—(1) Paragraph (2) applies where before exit day—

- (a) a customs declaration is made to HMRC in respect of Union goods to the export procedure, or
- (b) a re-export declaration has been lodged with HMRC in respect of non-Union goods, and

the goods have not been exported from the United Kingdom.

(2) The EUCL continues to have effect in relation to the goods on and after exit day.

Cessation of the EUCL

68. The continued effect of the EUCL in relation to goods as provided by this Chapter ceases to have effect in relation to the goods as provided by Chapter 4.

CHAPTER 4

Cessation of effect of the EUCL

Cessation of effect of the EUCL

69.—(1) Paragraph (2) applies where, as provided by Chapter 3, the EUCL continues to have effect in relation to goods on and after exit day.

(2) The EUCL ceases to have effect in relation to the goods on the earliest to occur of the following—

- (a) the goods leaving the United Kingdom,
- (b) where regulation 67(1)(a) applies, the 151st day after the goods were released to the export procedure,

- (c) where regulation 67(1)(b) applies, the 151st day after the re-export declaration was lodged.

CHAPTER 5

Union goods moving out of the United Kingdom

Union goods moving out of the United Kingdom

70.—(1) This Chapter applies to goods which immediately before exit day are Union goods and where—

- (a) before exit day, the goods are located in the United Kingdom;
- (b) the person (“P”) who owns, controls or possesses the goods intends the goods to be moved out of the United Kingdom—
 - (i) to another territory within the customs territory of the Union as the final place of destination of the goods; or
 - (ii) through another territory within the customs territory of the Union to a place of destination elsewhere; and
- (c) before exit day P causes the goods to commence their movement from the United Kingdom to the customs territory of the Union.

(2) Except in relation to goods to which paragraph (4) applies, the goods commence their movement from the United Kingdom—

- (a) in a case where P, or another person on behalf of P, takes the goods out of the United Kingdom, when P or that person collects the goods in order to take them out of the United Kingdom; or
- (b) in any other case, when P despatches the goods.

(3) Paragraph (4) applies—

- (a) to goods which are non-commercial goods or personal gifts on export; and
- (b) where an individual takes the goods out of the United Kingdom contained in the individual’s accompanied baggage on departure or by the goods being worn by the individual.

(4) The goods commence their movement from the United Kingdom when the aircraft, train or vessel on which P is to take the goods out of the United Kingdom is scheduled to depart.

(5) For the purposes of this regulation, it does not matter that in the course of the movement of goods to the customs territory of the Union that the goods may move temporarily elsewhere outside the customs territory of the Union before their arrival in that customs territory, so long as that movement occurs without the goods being required to be subject to a customs procedure.

(6) In this Chapter, “accompanied baggage on departure” and “personal gifts on export” have the same meaning as in Part 4(4).

Continued effect of the EUCL

71. The EUCL continues to have effect on and after exit day in relation to goods to which this Chapter applies.

(4) See regulation 9.

CHAPTER 6

Customs agents

Declarations made by customs representatives before exit day

72.—(1) Paragraphs (2) and (3) apply where—

- (a) goods are subject to a common export procedure on or after exit day and before exit day a customs declaration was lodged in respect of the goods under Article 171 of the UCC,
- (b) that declaration was lodged by a person (“A”) acting in the capacity of a customs representative as described by Article 5(6) of the UCC on behalf of another person (“B”),
- (c) on or after exit day, the goods are presented to Customs on export, and
- (d) no notification was received by HMRC before exit day that A’s appointment as the customs representative was withdrawn.

(2) Where this paragraph applies—

- (a) the disclosure of the appointment to HMRC of A as a customs representative of B is to be treated as the disclosure to HMRC on exit day of A as a Customs agent of B in respect of the goods, and
- (b) the extent of A’s authority to act as a customs representative of B, so far as relevant to the export of the goods, is to be treated as the extent of A’s authority to act as a Customs agent of B in relation to those goods until those goods have been exported from the United Kingdom.

(3) Where this paragraph applies, regulation 56(1) (Customs agents, residence or establishment) does not apply to A to the extent that A acts as a Customs agent concerning a common export procedure in relation to the goods.