

2023 No. 64

EXCISE

VALUE ADDED TAX

**The Excise Duties and Value Added Tax (Northern Ireland)
(Miscellaneous Modifications and Amendments) Regulations
2023**

<i>Made</i> - - - -	<i>19th January 2023</i>
<i>Laid before the House of Commons</i>	<i>23rd January 2023</i>
<i>Coming into force</i> - -	<i>13th February 2023</i>

The Commissioners for His Majesty's Revenue and Customs make these Regulations in exercise of the powers conferred by sections 100G and 100H of the Customs and Excise Management Act 1979(a), section 13A of the Customs and Excise Duties (General Reliefs) Act 1979(b) and sections 45(1) and (2) and 48(10) and (11) of the Taxation (Cross-border Trade) Act 2018(c).

Citation and commencement

1.—(1) These Regulations may be cited as the Excise Duties and Value Added Tax (Northern Ireland) (Miscellaneous Modifications and Amendments) Regulations 2023.

(2) These Regulations come into force on 13th February 2023.

Amendment of the Customs and Excise (Personal Reliefs for Special Visitors) Order 1992

2. The Customs and Excise (Personal Reliefs for Special Visitors) Order 1992(d) is amended as set out in Schedule 1 to these Regulations.

(a) 1979 c. 2. Section 1(1) defines “the Commissioners”; the definition of “the Commissioners” was substituted by the paragraph 22(b) of Schedule 4 to the Commissioners for Revenue and Customs Act 2005 (c. 11). Sections 100G and 100H were inserted by Schedule 4 to the Finance Act 1991 (c. 31). Section 100H was amended by paragraph 6 of Schedule 1, paragraph 4 of Schedule 2 and paragraph 1 of Part 1 of Schedule 18 to the Finance (No. 2) Act 1992 (c. 48) and by paragraph 2 of Part 1 of Schedule 3 to the Finance Act 2002 (c. 23).

(b) 1979 c. 3. Section 13A was inserted by s28(1) of the Finance Act 1989 (c. 26); section 18(2) of the Customs and Excise Duties (General Reliefs) Act 1979 as read with section 1(1) of the Customs and Excise Management Act 1979 (see also footnote (a)), defines “the Commissioners”. Section 13A has been amended by paragraph 132 of Schedule 7(3) to the Taxation (Cross-border Trade) Act 2018 (c. 22).

(c) 2018 c. 22.

(d) S.I. 1992/3156, amended by S.I. 2005/2114, 2007/5, 2019/91 and 2020/1545.

Amendment of the Excise Duties (Northern Ireland Miscellaneous Modifications and Amendments) (EU Exit) Regulations 2020

3. The Excise Duties (Northern Ireland Miscellaneous Modifications and Amendments) (EU Exit) Regulations 2020(a) are amended as set out in Schedule 2 to these Regulations(b).

Jim Harra
Myrtle Lloyd

19th January 2023

Two of the Commissioners for His Majesty's Revenue and Customs

(a) S.I. 2020/1559, relevantly amended by S.I. 2021/1282.

(b) Schedule 2 to these Regulations provides for the amendment of the Excise Duties (Northern Ireland Miscellaneous Modifications and Amendments) (EU Exit) Regulations 2020 ("NIMMA") and is structured into three parts. Part 1 of Schedule 2 amends Part 1 of NIMMA. Part 1 of NIMMA applies the Excise Goods (Holding, Movement and Duty Point) Regulations 2010 (S.I. 2010/593) ("the Northern Ireland Regulations") as they had effect immediately before IP completion day, in respect of the holding, movement and taxation of excise goods in Northern Ireland, subject to the savings and modifications in that Part. Part 2 of Schedule 2 to these Regulations amends regulation 97(2) of NIMMA. Regulation 97(1) of NIMMA applies the Duty Stamps Regulation 2006 (S.I. 2006/202) ("the Duty Stamps Regulations") as they had effect immediately before IP completion day in Northern Ireland with respect to excise goods. The application of the Duty Stamps Regulations is subject to the modifications set out in regulations 97(2) of NIMMA. Part 3 of Schedule 2 to these Regulations amends regulation 99(2) of NIMMA. Regulation 99(1) of NIMMA applies the Excise Goods (Drawback) Regulations 1995 (S.I. 1995/1046) ("the Drawback Regulations") as they had effect immediately before IP completion day in Northern Ireland with respect to excise. The application of the Drawback Regulations is subject to the modifications set out in regulations 99(2) of NIMMA. The Explanatory Note to these Regulations sets out how to access copies of the Northern Ireland Regulations, the Duty Stamps Regulations and the Drawback Regulations, as they all had effect immediately before IP completion day.

SCHEDULE 1

Regulation 2

Amendment of the Customs and Excise (Personal Reliefs for Special Visitors) Order 1992

1. In article 18, for paragraph (a) substitute—
 - “(a) for the purposes of any provision of the Visiting Forces Act 1952(a), a serving member of a visiting force—
 - (i) of a country, other than the United Kingdom, which is a party to the North Atlantic Treaty, or
 - (ii) of a member State of the European Union stationed in Northern Ireland to take part in a defence effort carried out under the common security and defence policy established under Article 42(1) of the Treaty on European Union(b) (provisions on the common security and defence policy),
 - or a person recognised by the Secretary of State as a member of a civilian component of such a force, or”.
2. In articles 20 and 21, for “article 22” substitute “articles 22 and 23”.
3. After article 22 insert—

“**23.** Relief under articles 20 and 21 does not extend to payment of any duty of customs in respect of a person who is an entitled person in relation to a visiting force referred to in article 18(a)(ii).”.

SCHEDULE 2

Regulation 3

Amendment of the Excise Duties (Northern Ireland Miscellaneous Modifications and Amendments) (EU Exit) Regulations 2020

PART 1

Amendments relating to the Northern Ireland Modifications of the Excise Goods (Holding, Movement and Duty Point) Regulations 2010

1. In regulation 5—
 - (a) before paragraph (a) insert—

“(za) omit the definition of “accompanying document””;
 - (b) for paragraph (b) substitute—

“(b) in the definition of “computerised system”—
 - (i) before “computerised”, insert “EU”;
 - (ii) for “Article 1 of Decision No. 1152/2003/EC” to the end, substitute “Article 1 of Decision (EU) 2020/263 of the European Parliament and of the Council of 15 January 2020 on computerising the movement and surveillance of excise goods (recast)(c)” ”;

(a) 1952 c. 67, to which there are amendments not relevant to these Regulations.

(b) OJ No. C 326, 26.10.2012, p13.

(c) OJ No. L 58, 27.2.2020, p. 43.

- (c) in paragraph (c), in the substituted definition of “customs office of exit” for “Article 41(16)” substitute “Article 1(16)”;
- (d) after paragraph (c) insert—
 - “(ca) omit the definition of “customs suspensive procedure or arrangement”;
 - (cb) for the definition of “the Directive” substitute—
 - ““the Directive” means Council Directive (EU) 2020/262 of 19 December 2019 laying down the arrangements for excise duty (recast)(a)”;
- (e) for paragraph (d) substitute—
 - “(d) for the definition of “distance selling arrangement” substitute—
 - ““distance selling arrangement” means an arrangement where—
 - (a) a person (“the consignor”), in an EU Member State, sells or agrees to sell excise goods that have been released for consumption in that State, to a person (“the purchaser”) in Northern Ireland;
 - (b) those goods are dispatched by or to the order of the consignor to the purchaser or a person nominated by the purchaser and consigned to an address in Northern Ireland;
 - (c) those goods will be charged with duty on their importation into Northern Ireland; and
 - (d) the purchaser is not a revenue trader(b)”;
 - (da) in the definition of “duty suspension arrangement”, for “not covered by a customs suspensive procedure or arrangement” substitute “that do not have the customs status of non-Union goods, as provided for by Article 5(24) of the Union Customs Code Regulation(c)”;
 - (db) in the definition of “electronic administrative document”, for “Article 21(2)” substitute “Article 20(2)”;
 - (dc) for the definition of “EU requirements” substitute—
 - ““EU requirements” means—
 - (a) in the case of—
 - (i) a draft electronic administrative document and an electronic administrative document;
 - (ii) a cancellation of, or an amendment to, an electronic administrative document allowed under regulation 42(1) and (3), respectively;
 - (iii) a fallback accompanying document;
 - (iv) a fallback report of receipt and a fallback report of export, where the fallback report relates to a movement of excise goods under duty suspension arrangements;
 - (v) a report of receipt and a report of export, where the report relates to a movement of excise goods under duty suspension arrangements;

(a) OJ No. L 058, 27.2.2020, p. 4; as corrected by Corrigendum OJ No. L 409, 4.12.2020, p. 38.

(b) “Revenue trader” is defined by regulation 3(3) of NIMMA.

(c) Paragraph 1(m) of this Schedule inserts new regulation 9(v) into NIMMA, with the effect that a definition of the “Union Customs Code Regulation” is treated as inserted into regulation 3(1) (interpretation) of the Northern Ireland Regulations. “Union Customs Code Regulation” means the Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code: OJ No. L 269, 10.10.2013, p. 1; as corrected by Corrigendum OJ No. L 287, 29.10.2013, p. 90 and Corrigendum OJ No. L 267, 30.9.2016, p. 2 (952/2013). Amending instruments are Regulation (EU) 2016/2339 of the European Parliament and of the Council of 14 December 2016 amending Regulation (EU) No 952/2013 laying down the Union Customs Code, as regards goods that have temporarily left the customs territory of the Union by sea or air (OJ No. L 354, 23.12.2016, p. 32); Regulation (EU) 2019/474 of the European Parliament and of the Council of 19 March 2019 amending Regulation (EU) No 952/2013 laying down the Union Customs Code (OJ No. L 83, 25.3.2019, p. 3) and Regulation (EU) 2019/632 of the European Parliament and of the Council of 17 April 2019 amending Regulation (EU) No 952/2013 to prolong the transitional use of means other than the electronic data-processing techniques provided for in the Union Customs Code (OJ No. L 111, 25.4.2019, p. 54).

- (vi) a notification required to be given under regulation 51(1);
- (vii) a requirement to inform of split movement under regulation 45(3)(c);
the requirements set out in Commission Delegated Regulation (EU) 2022/1636 of 5 July 2022(a) and Commission Implementing Regulation (EU) 2022/1637 of 5 July 2022(b), as those Regulations apply to the structure and content of, or the rules and procedures for the exchange of, the items listed in paragraphs (i) to (vii);
- (b) in the case of—
 - (i) a draft electronic simplified administrative document and an electronic simplified administrative document;
 - (ii) an amendment to an electronic simplified administrative document allowed under regulation 63F(1);
 - (iii) a fallback simplified accompanying document;
 - (iv) a fallback report of receipt and a fallback report of export, where the fallback report relates to a movement of excise goods released for consumption;
 - (v) a report of receipt, where the report relates to a movement of excise goods released for consumption;
 - (vi) a notification required to be given under regulation 63I(1);
the requirements set out in Commission Delegated Regulation (EU) 2022/1636 of 5 July 2022 and Commission Implementing Regulation (EU) 2022/1637 of 5 July 2022, as those Regulations apply to the structure and content of, or the rules and procedures for the exchange of, those documents and reports;
- (c) in the case of an exemption certificate, the requirements set out in Commission Implementing Regulation (EU) 2022/1637 of 5 July 2022;”;
- (f) after paragraph (f) insert—
 - “(fa)in the definition of “exempt consignee”, for “Article 12(1)” substitute “Article 11(1)”;
 - (fb) in the definition of “exemption certificate”, for “set out in Annex to Commission Regulation” to the end, substitute “referred to in Article 12(1) of the Directive”;
 - (fc) for the definition of “fallback report of receipt” substitute—
““fallback report of receipt” means, in the case of movement of excise goods under duty suspension arrangements, the document referred to in Article 27(1) of the Directive and, in the case of movements of excise goods after release for consumption, the document referred to in Article 39(1) of the Directive;”;
- (g) in paragraph (h)(iii), for “in subparagraph (b)” substitute “in subparagraphs (a) and (b)”;
- (h) in paragraph (i) for “Article 201 of Regulation (EU) 952/2013” substitute “Article 201 of the Union Customs Code Regulation”;
- (i) for paragraph (j) substitute—
“(j) omit the definition of “registered commercial importer”;
- (j) in paragraph (k), for sub-paragraph (ii) substitute—
“(ii) in subparagraph (b)—

(a) OJ No. L 247, 23.9.2022, p. 2-56. Commission Delegated Regulation (EU) 2022/1636 of 5 July 2022 supplementing Council Directive (EU) 2020/262 by establishing the structure and content of the documents exchanged in the context of movement of excise goods, and establishing a threshold for the losses due to the nature of the goods.

(b) OJ No. L 247, 23.9.2022, p. 57-66. Commission Implementing Regulation (EU) 2022/1637 of 5 July 2022 laying down the rules for the application of Council Directive (EU) 2020/262 as regards the use of documents in the context of movement of excise goods under a duty suspension arrangement and of movement of excise goods after release for consumption, and establishing the form to be used for the exemption certificate.

- (aa) for “another” substitute “an EU”;
- (bb) for “Article 4(9)” substitute “Article 3(9)”;
- (k) in paragraph (1), for sub-paragraph (ii) substitute—
 - “(ii) in subparagraph (b)—
 - (aa) for “another” substitute “an EU”;
 - (bb) for “Article 4(10)” substitute “Article 3(10)”;
- (l) in paragraph (m), for sub-paragraph (ii) substitute—
 - “(ii) for “a Member State” substitute “an EU Member State”;
- (m) after paragraph (t) insert—
 - “(u) omit the definition of “vendor”;
 - (v) in the appropriate places insert the following definitions—
 - ““certified consignee”—
 - (a) in relation to a consignee in Northern Ireland, means a person who is approved and registered in accordance with Part 4A of these Regulations^(a); and
 - (b) in relation to a consignee in an EU Member State, has the meaning given by Article 3(13) of the Directive;
 - “certified consignor”—
 - (a) in relation to a consignor in Northern Ireland, means a person who is approved and registered in accordance with Part 4B of these Regulations^(b); and
 - (b) in relation to a consignor in an EU Member State, has the meaning given by Article 3(12) of the Directive;”;
 - ““consignor” in relation to a distance selling arrangement, means the consignor in that arrangement;”;
 - ““customs declaration” has the meaning given by Article 5(12) of the Union Customs Code Regulation;”;
 - ““declarant”, in relation to excise goods, means the person required to declare those goods for export in a customs declaration;”;
 - ““electronic simplified administrative document” means the electronic simplified administrative document referred to in Article 35(1) of the Directive;”;
 - ““export declaration”, in relation to excise goods, means a customs declaration in which those excise goods are declared for export for the purposes of the Union Customs Code Regulation;”;
 - ““external transit procedure” means the procedure referred to in Article 226(2) of the Union Customs Code Regulation;”;
 - ““fallback simplified accompanying document” means the document referred to in Article 38(1)(a) of the Directive;”;
 - ““NI certified consignee” has the meaning given by regulation 33A(3);
 - “NI certified consignor” has the meaning given by regulation 33H(3);”;
 - ““temporary certified consignee” means a NI certified consignee—
 - (a) who is a private individual and whose approval is limited in accordance with regulation 33A(2); or

(a) Paragraph 15 of this Schedule amends Part 1 of NIMMA, with the effect that Part 4A (which includes regulations 33A to 33G) is treated as inserted into the Northern Ireland Regulations.

(b) Paragraph 15 of this Schedule amends Part 1 of NIMMA, with the effect that Part 4B (which includes regulations 33H to 33M) is treated as inserted into the Northern Ireland Regulations.

- (b) who is a revenue trader that only occasionally imports excise goods from an EU Member State into Northern Ireland that have been released for consumption, and whose authorisation is limited to a single movement of a specified quantity of such goods from a single consignor for a specified period;

“temporary certified consignor” means a NI certified consignor—

- (a) who is a private individual and whose approval is limited in accordance with regulation 33H(2); or
- (b) who is a revenue trader that only occasionally exports excise goods from Northern Ireland to an EU Member State that have been released for consumption and whose authorisation is limited to a single movement of a specified quantity of such goods to a single consignee for a specified period;

““Union Customs Code Regulation” means Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code;”;

““unique simplified administrative reference code” means a code assigned to an electronic simplified administrative document.”.”.

2. After regulation 5 insert—

“**5A.** For regulation 3(2) substitute—

“(2) In any case where, under an exemption granted in accordance with Article 48 of the Directive, a person is entitled to use, and uses, a document specified by Commission Delegated Regulation (EU) 2018/273 of 11 December 2017 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards the scheme of authorisations for vine plantings, the vineyard register, accompanying documents and certification, the inward and outward register, compulsory declarations, notifications and publication of notified information, and supplementing Regulation (EU) No 1306/2013 of the European Parliament and of the Council as regards the relevant checks and penalties, amending Commission Regulations (EC) No 555/2008, (EC) No 606/2009 and (EC) No 607/2009 and repealing Commission Regulation (EC) No 436/2009 and Commission Delegated Regulation (EU) 2015/560(a)—

- (a) in substitute for an electronic simplified administrative document—
 - (i) references in these Regulations to an electronic simplified administrative document are to be treated as references to a document specified by that Regulation, and
 - (ii) references in these Regulations to EU requirements are to be treated as references to the requirements set out in Articles 8, 10, 13 to 16, and 19 of, and Annex V to, that Regulation;
- (b) in substitute for an electronic administrative document—
 - (i) provisions in these Regulations that relate to electronic administrative documents and the EU computerised system shall not apply, and
 - (ii) the document accompanying the goods must comply with the requirements of that Regulation.”.”.

3. For regulation 6 substitute—

“**6.** In regulation 3(3)—

(a) OJ No. L 58, 28.2.2018, p. 1; as amended by Commission Delegated Regulation (EU) 2019/840 of 12 March 2019 amending Delegated Regulation (EU) 2018/273 as regards the importation of wine originating in Canada and exempting retailers from holding an inward and outward register (OJ No. L 138, 24.5.2019, p. 74).

- (a) in sub-paragraph (a)(ii) for “Article 79 of Regulation (EEC) 2913/92” substitute “Article 201 of the Union Customs Code Regulation”;
- (b) in sub-paragraph (b)(i), after “sub-paragraph (ii)” insert “or (iii)”;
- (c) in sub-paragraph (b)(ii)—
 - (i) after “dispatched” insert “from an EU Member State or Northern Ireland”;
 - (ii) after “EU” insert “or Northern Ireland”;
- (d) at the end of sub-paragraph (b)(ii) insert—
 - “, or
 - (iii) in a case where goods are dispatched to a customs office of exit where they will be dispatched to an EU Member State or Northern Ireland, when the goods have been placed under the external transit procedure as provided for in Article 189(4) of Delegated Regulation (EU) 2015/2446(a).”.

6A. After regulation 3(3) insert—

“(3A) For the purpose of these Regulations, a movement of excise goods to which regulation 63B applies—

- (a) starts when the goods leave the certified consignor’s premises or any location in the EU Member State or Northern Ireland from where the goods are dispatched; and
- (b) ends when the certified consignee has taken delivery of the excise goods at their premises or any location in the EU Member State or Northern Ireland.”.

4. In regulation 8—

- (a) omit paragraph (b)(iii) and (iv);
- (b) for paragraph (c) substitute—
 - “(c) in paragraph (1)(c), for “are produced” substitute “are produced or processed in Northern Ireland”;
 - (d) for paragraph (1)(d) substitute—
 - “(d) are charged with duty at—
 - (i) importation into Northern Ireland unless they are placed, immediately upon importation, under a duty suspension arrangement; or
 - (ii) irregular entry into Northern Ireland, unless the customs debt in relation to those goods was extinguished in accordance with Article 124(1)(e), (f), (g) or (k) of the Union Customs Code Regulation.”;
 - (e) for paragraphs (2) and (3) substitute—
 - “(2) In paragraph (1)(d)—
 - “importation” means the release of goods for free circulation in accordance with Article 201 of the Union Customs Code Regulation;
 - “irregular entry” means the entry into Northern Ireland of goods which have not been released for free circulation in accordance with Article 201 of the Union Customs Code Regulation and for which a customs debt under Article 79(1) of that Regulation has been incurred, or would have been incurred if the goods had been subject to customs duty.”.

(a) OJ No. L 343 29.12.2015 p. 1; relevant amending instruments are Regulation (EU) 2018/1063 of 16 May 2018 amending and correcting Delegated Regulation (EU) 2015/2446 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards detailed rules concerning certain provisions of the Union Customs Code (OJ No. L 192, 30.7.2018, p. 1).

5. In regulation 9 after paragraph (b)(ii) insert—

“(c) in paragraph (4) for “Article 10(6)” substitute “Article 9(6)”.’”.

6. For regulation 12 substitute—

“12. In regulation 9—

- (a) in paragraph (1) for “the United Kingdom” (in each place it occurs) substitute “Northern Ireland”;
- (b) in paragraph (1)(b)(ii)—
 - (i) for “UK” substitute “NI”;
 - (ii) for “Article 79 of Council Regulation 2913/92 EEC” substitute “Article 201 of the Union Customs Code Regulation”;
- (c) in paragraph (3), for “Article 10(6)” substitute “Article 9(6)”.

12A. In regulation 11—

- (a) after “production”, in each place it occurs, insert “or processing”;
- (b) after “producing”, insert “or processing”.

12B. In regulation 12—

- (a) in paragraph (1), for “regulation 6(1)(d) (importation of excise goods that have not been produced or are not in free circulation in the EU)” substitute “regulation 6(1)(d)(i) (importation of excise goods)”;
- (b) in paragraph (2), for “importation” substitute “entry, as referred to in regulation 6(1)(d)(ii) (irregular entry of excise goods),”;
- (c) in paragraph (3), for “importation” substitute “entry”.’”.

7. For regulation 14 substitute—

“14. In regulation 13, for paragraphs (1) to (3) substitute—

“13.—(1) Where excise goods already released for consumption in an EU Member State are moved to Northern Ireland to be delivered to Northern Ireland for a commercial purpose, the excise duty point is the time when the movement ends in accordance with regulation 3(3A).

(2) Subject to paragraph (2A), the NI certified consignee is liable to pay the duty.

(2A) In the case of failure to comply with the registration requirements in Part 4A of these Regulations, any person involved in the movement is jointly and severally liable to pay the duty.

(3) For the purposes of paragraph (1) excise goods are delivered for a commercial purpose if they are delivered to—

- (a) a person other than a private individual; or
- (b) a private individual (“P”), except in a case where—
 - (i) the excise goods are for P’s own use and were acquired in, and transported to Northern Ireland from, an EU Member State by P, or
 - (ii) P is the purchaser of the excise goods in a distance selling arrangement.

8. For regulation 17 substitute—

“17. In regulation 16(2) and (3)—

- (a) for “the United Kingdom”, in each place it occurs, substitute “Northern Ireland”;
- (b) for “vendor”, in each place it occurs, substitute “consignor”.’”.

9. For regulation 18 substitute—

“18. In regulation 17—

- (a) in paragraph (2)(b)—
 - (i) for “the United Kingdom” substitute “Northern Ireland”;
 - (ii) for “vendor” substitute “consignor”;
 - (iii) for “vendor’s” substitute “consignor’s”;
- (b) in paragraph (5), for “article 38(4)” substitute “Article 46(4)”;
- (c) at the end of paragraph (5) insert “and includes an irregularity that is deemed to have occurred in accordance with regulation 85A(1)”.

10. In regulation 19—

- (a) before sub-paragraph (a) insert—
 - “(za) in paragraph (1) for “any of paragraphs (2) to (5)” substitute “paragraph (2)”;
- (b) for sub-paragraph (c) substitute—
 - “(c) omit paragraph (5)”;
- (c) in sub-paragraph (d)(ii), for “subparagraph (b)” substitute “subparagraphs (b) and (c)”;
- (d) omit sub-paragraph (d)(iii);
- (e) in sub-paragraph (e), after “paragraph (7)(b)” insert “and (c)”.

11. For regulation 20 substitute—

“20. In regulation 21—

- (a) in paragraph (1)—
 - (i) for “This regulation” substitute “Subject to paragraph (1A), this regulation”;
 - (ii) in sub-paragraph (a) for both occurrences of “the United Kingdom” substitute “Northern Ireland”;
- (b) for paragraph (2) substitute—
 - “(1A) But this regulation does not apply if regulation 21A applies in relation to the same excise goods.
 - (2) A “relevant event” means—
 - (a) the total destruction or irretrievable loss, total or partial, of excise goods as a result of—
 - (i) unforeseeable circumstances;
 - (ii) force majeure; or
 - (iii) authorisation by the competent authorities of an EU Member State or the Commissioners; or
 - (b) the partial loss of excise goods due to the nature of the goods.”;
- (c) in paragraph (3)(b) for “another” substitute “an EU”;
- (d) for paragraph (4) substitute—
 - “(4) For the purposes of this regulation and regulation 21A goods are considered—
 - (a) totally destroyed or irretrievably lost; or
 - (b) partially lost;when they are, or the relevant part is, rendered unusable as excise goods.”.

12. After regulation 20 insert—

“20A. After regulation 21 insert—

“Partial losses due to the nature of goods

21A.—(1) This regulation applies where—

- (a) there is a partial loss of excise goods due to the nature of those goods that—
 - (i) occurs in Northern Ireland; or
 - (ii) where it is not possible to determine where the event occurred, is detected in Northern Ireland; and
- (b) there is a common partial loss threshold in place for those excise goods.

(2) Only the loss of an amount of excise goods which falls below the common partial loss threshold—

- (a) in relation to goods under a duty suspension arrangement at the time of the loss, will not be considered as a release for consumption; and
- (b) in relation to goods already released for consumption in an EU Member State at the time of the loss, will not give rise to an excise duty point under regulation 16(1) or 17(1).

(3) In this regulation—

“common partial loss threshold” means—

- (a) in relation to manufactured tobacco products, the common partial loss threshold established by Article 1 of Commission Delegated Regulation (EU) 2022/1636 of 5 July 2022; and
- (b) in relation to other excise goods, a partial loss threshold that is specified in a notice made under regulation 21B;

“manufactured tobacco products” means products falling within the scope of Council Directive 2011/64/EU of 21 June 2011 on the structure and rates of excise duty applied to manufactured tobacco(a).

Specified partial loss threshold

21B.—(1) For the purposes of regulation 21A, the Commissioners must specify in a notice published by them a partial loss threshold for specified excise goods which corresponds with a common partial loss threshold established by a Commission delegated act made under Article 6(10) of the Directive in relation to the same excise goods.

(2) A notice under paragraph (1) must be made as soon as reasonably practicable after the Commission delegated act referred to in that paragraph has been published.”.

13. For regulation 25 substitute—

“**25.** In regulation 25 for “UK” substitute “NI”.

25A. In regulation 26—

- (a) for “UK” substitute “NI”;
- (b) for “neither hold nor” substitute “not produce, process, hold or”.

14. In regulation 29(a)(iii)—

- (a) omit “in paragraph (1)”;
- (b) for “Article 201 of Regulation 952/2013 (EU)” substitute “Article 201 of the Union Customs Code Regulation”.

15. After regulation 30 insert—

(a) OJ No. L 176, 5.7.2011, p. 24.

“30A. After regulation 33 insert—

“PART 4A
NI CERTIFIED CONSIGNEES

Approval and Registration

33A.—(1) The Commissioners may approve—

- (a) for the purposes of section 100G of CEMA 1979(a), revenue traders who wish in the course of their business to import excise goods from an EU Member State into Northern Ireland that have been released for consumption and register them as excise dealers and shippers in accordance with section 100G(2) of CEMA 1979, and
 - (b) a private individual, other than a revenue trader, who occasionally receives excise goods that—
 - (i) have been released for consumption in an EU Member State, and
 - (ii) are imported into Northern Ireland to be delivered there for a commercial purpose.
- (2) An approval under paragraph (1)(b) must be limited to—
- (a) a single movement of excise goods;
 - (b) a specified quantity of excise goods received from a single certified consignor; and
 - (c) a specified period.
- (3) A person who has been so approved and, where required under paragraph (1)(a), registered, is known as a NI certified consignee.
- (4) For the purposes of determining whether excise goods are delivered to Northern Ireland for a commercial purpose, regulation 13(3) applies.

33B.—(1) The Commissioners must provide every NI certified consignee with a certificate of registration.

(2) When a person ceases to be a NI certified consignee that person must immediately destroy the certificate of registration.

(3) A NI certified consignee must give notice in writing to the Commissioners of any change in the information contained in the consignee’s certificate of registration within seven days of the change.

(4) Where—

- (a) a NI certified consignee gives notice in accordance with paragraph (3); or
- (b) without any such notice having been given it appears to the Commissioners that a consignee’s certificate of registration requires correction,

the Commissioners must, unless in the case of a revenue trader they revoke the consignee’s approval and registration in accordance with section 100G(5) of CEMA 1979, provide the consignee with a corrected certificate of registration.

(5) Where, in accordance with paragraph (4), the Commissioners provide a NI certified consignee with a corrected certificate of registration the consignee must, upon receiving that certificate, destroy the original certificate that required correction.

(a) “CEMA 1979” is defined in regulation 3(1) of the Northern Ireland Regulations.

Certificates of Registration

33C. Every certificate of registration must contain the following particulars—

- (a) a unique reference number assigned to the NI certified consignee by the Commissioners;
- (b) the name and, in the case of a revenue trader, (if different) the trading name of the NI certified consignee;
- (c) the address of the NI certified consignee or, in the case of a revenue trader, the NI certified consignee's place of business (including any postcode) in the United Kingdom;
- (d) in the case of a revenue trader, any conditions or restrictions imposed by the Commissioners in the exercise of their discretion under section 100G(4) of CEMA 1979.

Conditions, restrictions and requirements

33D. The approval and registration of NI certified consignees, in addition to any conditions or restrictions imposed on them by the Commissioners under section 100G(4) of CEMA 1979, is subject to any conditions and restrictions that the Commissioners may prescribe or specify in a notice published by them.

33E. A NI certified consignee (other than a temporary certified consignee) who has arranged the importation of excise goods from an EU Member State after release for consumption must comply with the following requirements—

- (a) before the goods are dispatched to the NI certified consignee, provide a guarantee satisfactory to the Commissioners securing payment of the UK excise duty chargeable on those goods;
- (b) in accordance with regulation 33F, account for and pay the duty due;
- (c) consent to any checks enabling the Commissioners to satisfy themselves that the goods have been received and the duty has been paid; and
- (d) immediately after the goods have been received by the NI certified consignee, enter in a record the date of receipt of those goods and the quantity and description of those goods.

Accounting and payment

33F.—(1) A NI certified consignee (other than a temporary certified consignee) must each month make a return to the Commissioners on a form provided by them for the purpose or approved by them.

(2) The NI certified consignee must declare in the return the duty due in the month to which the return relates.

(3) The duty due is the duty the NI certified consignee is liable to pay by virtue of Part 2 of these Regulations.

(4) The return must be made and, subject to any duty deferment arrangements, the duty due must be paid no later than the end of the fourth day immediately following the end of the month to which it relates.

(5) But if one of those days is not a business day the return and, subject to any duty deferment arrangements, payment of the duty due must be made no later than the end of the third consecutive business day following the end of the month to which it relates.

Temporary certified consignee

33G. In respect of each consignment of excise goods imported by a temporary certified consignee, that consignee must—

- (a) before the goods are dispatched —
 - (i) inform the Commissioners of the expected dispatch in such form and manner as the Commissioners may specify in a notice published by them;
 - (ii) supply such further particulars about the consignment as the Commissioners may require; and
 - (iii) pay the UK excise duty chargeable on those goods or provide a guarantee satisfactory to the Commissioners securing payment of the duty;
- (b) as soon as the goods are received—
 - (i) inform the Commissioners of the arrival of the goods; and
 - (ii) pay any duty that has not been paid in such manner as the Commissioners may direct.

PART 4B

NI CERTIFIED CONSIGNORS

Approval and Registration

33H.—(1) The Commissioners may approve—

- (a) for the purposes of section 100G of CEMA 1979, revenue traders who wish in the course of their business to export excise goods from Northern Ireland to an EU Member State that have been released for consumption and register them as excise dealers and shippers in accordance with section 100G(2) of CEMA 1979, and
 - (b) a private individual, other than a revenue trader, who occasionally exports excise goods that—
 - (i) have been released for consumption in Northern Ireland, and
 - (ii) are moved to an EU Member State to be delivered there for a commercial purpose.
- (2) An approval under paragraph (1)(b) must be limited to—
- (a) a single movement of excise goods;
 - (b) a specified quantity of excise goods dispatched to a single certified consignee; and
 - (c) a specified period.
- (3) A person who has been so approved and, where required under paragraph (1)(a), registered, is known as a NI certified consignor.
- (4) For the purposes of determining whether excise goods are delivered to an EU Member State for a commercial purpose, Article 33(2) of the Directive applies.

33I.—(1) The Commissioners must provide every NI certified consignor with a certificate of registration.

(2) When a person ceases to be a NI certified consignor that person must immediately destroy the certificate of registration.

(3) A NI certified consignor must give notice in writing to the Commissioners of any change in the information contained in the consignor's certificate of registration within seven days of the change.

(4) Where—

- (a) a NI certified consignor gives notice in accordance with paragraph (3); or
- (b) without any such notice having been given it appears to the Commissioners that a consignor's certificate of registration requires correction,

the Commissioners must, unless in the case of a revenue trader they revoke the consignor's approval and registration in accordance with regulation 100G(5) of CEMA 1979, provide the consignor with a corrected certificate of registration.

(5) Where, in accordance with paragraph (4), the Commissioners provide a NI certified consignor with a corrected certificate of registration the consignor must, upon receiving that certificate, destroy the original certificate that required correction.

Certificates of Registration

33J. Every certificate of registration must contain the following particulars—

- (a) a unique reference number assigned to the NI certified consignor by the Commissioners;
- (b) the name and, in the case of a revenue trader, (if different) the trading name of the NI certified consignor;
- (c) the address of the NI certified consignor, or in the case of a revenue trader, the NI certified consignor's place of business (including any postcode) in the United Kingdom;
- (d) in the case of a revenue trader, any conditions or restrictions imposed by the Commissioners in the exercise of their discretion under section 100G(4) of CEMA 1979.

Conditions, restrictions and requirements

33K. The approval and registration of NI certified consignors, in addition to any conditions or restrictions imposed on them by the Commissioners under section 100G(4) of CEMA 1979, is subject to any conditions and restrictions that the Commissioners may prescribe or specify in a notice published by them.

33L. A NI certified consignor (other than a temporary certified consignor) who has arranged the exportation of excise goods to an EU Member State after release for consumption must comply with the following requirements—

- (a) immediately after the goods have been received by the certified consignee enter in a record the date of receipt of those goods and the quantity and description of those goods;
- (b) consent to any check enabling the Commissioners to satisfy themselves that the goods have been received.

Temporary certified consignor

33M. In respect of each consignment of excise goods dispatched by a temporary certified consignor, that consignor must—

- (a) before the goods are dispatched—
 - (i) inform the Commissioners of the expected dispatch in such form and manner as the Commissioners may specify in a notice published by them;

- (ii) supply such further particulars about the consignment as the Commissioners may require; and
- (b) as soon as the goods are received—
 - (i) inform the Commissioners of the arrival of the goods; and
 - (ii) keep a record of the supply.”.”.

16. In regulation 32—

- (a) after paragraph (c) insert—
 - “(ca) after paragraph (a)(iv) insert—
 - “(v) a customs office of exit, where provided for in Article 329(5) of Implementing Regulation (EU) 2015/2447(a), which is at the same time the customs office of departure for the external transit procedure, where provided for in Article 189(4) of Delegated Regulation (EU) 2015/2446(b), in relation to those goods;”.”;
- (b) in paragraph (e), for “Northern Ireland” substitute “NI”.

17. In regulation 35—

- (a) omit paragraph (a);
- (b) before paragraph (b) insert—
 - “(aa) for the words from “Except for movements” to “specify in a notice” substitute “Subject to paragraphs (1A) and (1B)”.”;
- (c) after paragraph (c) insert—
 - “(d) at the end of paragraph (1) insert—
 - “(1A) Paragraph (1) does not apply to movements between tax warehouses in Northern Ireland which the Commissioners may specify in a notice published by them.
 - (1B) Paragraph (1)(a) does not apply to movements of energy products by fixed pipeline, except in cases which the Commissioners may specify in a notice published by them.”.”.

18. After regulation 35 insert—

“**35A.** After regulation 39 insert—

“Movement conditions: verification against customs formalities

39A.—(1) Except in cases referred to in paragraph (2), excise goods must not be moved from a place of importation under a duty suspension arrangement unless the declarant, or any person directly or indirectly involved in the accomplishment of customs formalities relating to those goods in accordance with Article 15 of the Union Customs Code Regulation(c), provides the Commissioners with—

(a) OJ No. L 343 29.12.2015, p. 558, to which there are amendments not relevant to these Regulations.

(b) OJ No. L 343 29.12.2015 p. 1; relevant amending instruments are Regulation (EU) 2018/1063 of 16 May 2018 amending and correcting Delegated Regulation (EU) 2015/2446 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards detailed rules concerning certain provisions of the Union Customs Code (OJ No. L 192, 30.7.2018, p. 1).

(c) OJ No. L 269, 10.10.2013, p. 1; as corrected by Corrigendum OJ No. L 287, 29.10.2013, p. 90 and Corrigendum OJ No. L 267, 30.9.2016, p. 2 (952/2013). Amending instruments are Regulation (EU) 2016/2339 of the European Parliament and of the Council of 14 December 2016 amending Regulation (EU) No 952/2013 laying down the Union Customs Code, as regards goods that have temporarily left the customs territory of the Union by sea or air (OJ No. L 354, 23.12.2016, p. 32); Regulation (EU) 2019/474 of the European Parliament and of the Council of 19 March 2019 amending Regulation (EU) No 952/2013 laying down the Union Customs Code (OJ No. L 83, 25.3.2019, p. 3) and Regulation (EU) 2019/632 of the European Parliament and of the Council of 17 April 2019 amending Regulation (EU) No 952/2013 to prolong the transitional use of means other than the electronic data-processing techniques provided for in the Union Customs Code (OJ No. L 111, 25.4.2019, p. 54).

- (a) the unique excise number under point (a) of Article 19(2) of Council Regulation (EU) No 389/2012^(a) identifying the registered consignor for the movement of those goods;
 - (b) the unique excise number under point (a) of Article 19(2) of Regulation (EU) No 389/2012 identifying the consignee to whom those goods are dispatched; and
 - (c) where requested by the Commissioners, evidence that those imported goods are intended to be dispatched from Northern Ireland to an EU Member State.
- (2) The cases referred to in paragraph (1) are—
- (a) those where importation takes place inside a tax warehouse, or
 - (b) any case which the Commissioners may specify in a notice published by them.
- (3) Information referred to in paragraph (1) must be provided in such manner, and in the case of paragraph (1)(c) at such time, as the Commissioners may specify in a notice published by them.
- (4) In paragraph (2) “importation” means the release of goods for free circulation in accordance with Article 201 of the Union Customs Code Regulation.”.”.

19. For regulation 36 substitute—

“**36.** For regulation 40 substitute—

- “**40.**—(1) Subject to paragraph (2), this Part applies to the movement of excise goods dispatched to an EU Member State—
- (a) from a tax warehouse in Northern Ireland; or
 - (b) by a NI registered consignor,
- under duty suspension arrangements.
- (2) Regulation 42A^(b) also applies to the movement of excise goods dispatched from Northern Ireland where, in relation to those goods, an export declaration is lodged in Northern Ireland in accordance with Article 221(2) of Implementing Regulation (EU) 2015/2447.”.”.

20. In regulation 37—

- (a) in paragraph (a), for “and (5)” substitute “, (5) and (6)”.
- (b) after paragraph (b) insert—
 - “(c) for paragraphs (8) and (9) substitute—
 - “(8) The consignor of the excise goods must provide the person accompanying the goods during the course of the movement, or where there is no person accompanying the goods, the transporter or carrier, with the unique administrative reference code.
 - (9) The person accompanying the goods, the transporter or the carrier must, on request, provide the unique administrative reference code mentioned in paragraph (8) to the competent authorities of an EU Member State during the course of the movement.
 - (10) Where requested by the competent authorities of an EU Member State, the person accompanying the goods, the transporter or the carrier, must make one of the following documents available for presentation during the course of the movement—
 - (a) a printed version of the electronic administrative document; or

^(a) OJ No. L 121, 8.5.2012, p.1; , to which there are amendments not relevant to these Regulations.

^(b) Paragraph 22 of this Schedule amends Part 1 of NIMMA, with the effect that regulation 42A is treated as inserted into the Northern Ireland Regulations.

- (b) any other commercial document on which the unique administrative reference code is clearly stated.”.”.

21. In regulation 38—

- (a) after paragraph (a) insert—
 - “(aa) in paragraph (2) for “the requirements of Article 4(1)” to the end substitute “the EU requirements”;;
- (b) after paragraph (b)(iii) insert—
 - “(c) in paragraph (5) for “the requirements of Article 5(1)” to the end substitute “the EU requirements”;
- (d) omit paragraph (6).”.

22. After regulation 38 insert—

“**38A.** After regulation 42 insert—

“Verification of electronic administrative documents and export declarations

42A.—(1) In the case of excise goods moved in accordance with regulation 35(a)(iii) or (v)(a), a declarant must, when making an export declaration in Northern Ireland in relation to those goods, provide the Commissioners with the unique administrative reference code that has been assigned to those goods.

(2) The unique administrative reference code referred to in paragraph (1) must be provided in such manner as the Commissioners may specify in a notice published by them.

(3) The Commissioners must verify, before the release for export of the goods, whether the data in the electronic administrative document relating to those goods corresponds to the data contained in the export declaration.

(4) Where there are any inconsistencies between the electronic administrative document and the export declaration, the Commissioners must notify the competent authorities in the EU Member State of dispatch of that fact using the EU computerised system.

(5) Subject to paragraph (6), in cases where excise goods will not be exported from Northern Ireland to a destination outside of the territory of the EU, the Commissioners must, using the EU computerised system, notify the competent authorities in the EU Member State of dispatch as soon as the Commissioners become aware of that fact.

(6) The requirement to use the EU computerised system only applies to notifications required to be made on or after 14th February 2024.

(7) Where the Commissioners receive notification from an EU Member State that excise goods dispatched from Northern Ireland will not be exported from that State to a destination outside of the territory of the EU, the Commissioners must notify the consignor that dispatched those goods without delay.

(8) The consignor must, on receipt of the notification referred to in paragraph (7), cancel the electronic administrative document as provided for in regulation 42(1) or change the destination of the goods as provided for in regulation 42(3), as appropriate.

(9) If the Commissioners receive a fallback notification they must send it to the consignor or keep it available for the consignor.

(a) Paragraph 16 of this Schedule amends Part 1 of NIMMA, with the effect that regulation 35(a)(v) is treated as inserted into the Northern Ireland Regulations.

(10) In this regulation and regulation 48, “fallback notification” means a document containing the same data as required in relation to a notification under paragraph (5) which certifies that the goods will not be exported from Northern Ireland to a destination outside of the territory of the EU”.”.

23. In regulation 40, for paragraph (a) substitute—

“(a) for paragraph (1) substitute—

“(1) This regulation applies to the export from Northern Ireland of energy products by sea, other than in cases where those products are moved in accordance with regulation 35(a)(iii) or (v).”.”.

24. In regulation 41, after paragraph (c)(ii) insert—

“(d) in paragraph (4) for “the requirements of Article 6(1)” to the end, substitute “the EU requirements”;

(e) omit paragraph (5).”.

25. In regulation 43—

(a) for paragraph (c) substitute—

“(c) for paragraph (3) substitute—

“(3) When the data referred to in paragraph (2) has been verified, the Commissioners must complete a report of export that complies with the EU requirements and send that to the consignor using the EU computerised system.”.”;

(b) for paragraph (d) substitute—

“(d) in paragraph (4)—

(i) for “another” substitute “an EU”;

(ii) insert “EU” before “computerised system”.”;

(c) for paragraph (f) substitute—

“(f) for paragraph (7) substitute—

“(7) If the Commissioners receive a fallback report of export they must send it to the consignor or keep it available for the consignor.”.”.

26. In regulation 44, for paragraph (a) substitute—

“(a) for paragraph (1) substitute—

“(1) This regulation applies where—

(a) excise goods have been dispatched from an EU Member State to a place in Northern Ireland from where they will leave Northern Ireland for a non-EU destination, and

(b) in relation to those goods, an export declaration is lodged in Northern Ireland.”.”.

27. For regulation 45 substitute—

“45. For regulation 48 substitute—

“Report of export from Northern Ireland when EU computerised system unavailable

48.—(1) Where, due to the unavailability of the EU computerised system—

(a) a report of export cannot be completed in accordance with regulation 47(2), or

(b) on or after 14th February 2024, a notification cannot be given in accordance with regulation 42A(5),

the Commissioners must, except in cases which they consider are duly justified, send to the competent authorities in the EU Member State from where the excise goods were dispatched, a fallback report of export that complies with the EU requirements or a fallback notification, as the case may be.

(2) As soon as the EU computerised system is restored the Commissioners must complete—

- (a) a report of export in accordance with regulation 47(2), or
- (b) a notification in accordance with regulation 42A(5),

and send the report or notification to the competent authorities in the EU Member State from where the excise goods were dispatched.”.”.

28. In regulation 46, for paragraph (c) substitute—

“(c) omit paragraphs (4) and (6).”.

29. In regulation 47—

(a) for paragraph (b) substitute—

“(b) for paragraph (1) substitute—

“(1) This regulation and regulation 51 apply when the EU computerised system is unavailable.”.”;

(b) after paragraph (d) insert—

“(e) after paragraph (8) insert—

“(9) In the case of excise goods moved in accordance with regulation 35(a)(iii) or (v)—

- (a) the consignor must provide a copy of the fallback accompanying document to the declarant; and
- (b) the declarant must provide to the competent authorities of the Member State of export—
 - (i) a copy of the fallback accompanying document, the contents of which corresponds to the excise goods declared in the export declaration; or
 - (ii) the unique identifier of the fallback accompanying document.”.”.

30. For regulation 49 substitute—

“**49.** In regulation 51—

(a) for paragraph (1) substitute—

“(1) If a consignor wishes to amend the destination shown on the electronic simplified administrative document in accordance with regulation 42, but the EU computerised system is unavailable, the consignor must notify the Commissioners of the new destination.”;

(b) in paragraphs (2) and (4) insert “EU” before “computerised system” in each place it occurs;

(c) for paragraph (5) substitute—

“(5) Where paragraph (1) or (3) applies, the consignor must comply with the EU requirements.”;

(d) omit paragraphs (6) and (7).

49A. After regulation 51 insert—

“Alternative proof of the end of a movement of excise goods under duty suspension arrangement

51A.—(1) This regulation applies where—

- (a) a report of export referred to in regulation 46(4); or
- (b) a report of receipt referred to in regulation 49(2);

required in relation to a movement of excise goods has not been received by the Commissioners.

(2) The Commissioners—

- (a) must accept an item listed in paragraphs (3) and (4)(a), as the case may be; and
- (b) may take account of, and accept, any combination of the items listed in paragraph (4)(b);

as alternative proof that the movement of excise goods has ended.

(3) In the case of excise goods moved in accordance with regulation 35(a)(i), (ii) and (iv) and (b) and regulation 36, the item referred to in paragraph (2)(a) is an endorsement by the competent authorities of the EU Member State of destination, based on appropriate evidence, that the excise goods have reached their destination.

(4) In the case of excise goods moved in accordance with regulation 35(a)(iii) and (v)—

- (a) the item referred to in paragraph (2)(a) is an endorsement by the competent authorities of the EU Member State in which the customs office of exit is located, certifying that the excise goods have left the territory of the EU, or certifying that the excise goods have been placed under the external transit procedure;
- (b) the items referred to in paragraph (2)(b) are—
 - (i) a delivery note;
 - (ii) a document signed or authenticated by the economic operator who has taken the excise goods out of the territory of the EU certifying the exit of the goods;
 - (iii) a document in which the customs authority of an EU Member State or another country certify the delivery in accordance with the rules and procedures applicable to that certification in that State or country;
 - (iv) records of goods supplied to ships, aircraft or offshore installations kept by economic operators;
 - (v) other evidence which the Commissioners may specify in a notice published by them.

(5) Where the Commissioners accept an item of alternative proof, the Commissioners must end the movement using the EU computerised system.

(6) In paragraph (3) “appropriate evidence” includes a fallback accompanying document relating to the movement of excise goods.

(7) In paragraph (4)(b)(ii) and (iv) “economic operator” has the meaning given in Article 5(5) of the Union Customs Code Regulation.”.”.

31. After regulation 50 insert—

“50A. In regulation 53, for paragraphs (2) and (3) substitute—

“(2) Where the Commissioners receive an electronic administrative document from an EU Member State, the Commissioners must, using the EU computerised system, send the electronic administrative document to the consignee where the consignee is an authorised warehouse keeper or an NI registered consignee.

(3) The person accompanying the goods, or where there is no person accompanying the goods, the transporter or the carrier, must, on request, produce or caused to be produced to the Commissioners any of the following—

- (a) the unique administrative reference code relating to those goods; or

- (b) in circumstances which the Commissioners may specify in a notice published by them, a printed version of the electronic administrative document, the fallback accompanying document or any other commercial document on which the unique administrative reference code is clearly stated.”.”

32. After regulation 54 insert—

“54A. Before Part 10 insert—

“PART 9A

HOLDING AND MOVEMENT OF EXCISE GOODS AFTER RELEASE FOR CONSUMPTION

Moving excise goods after release for consumption

63B.—(1) This Part applies to movements of excise goods which are—

- (a) imported into Northern Ireland after release for consumption in an EU Member State; or
 - (b) exported to an EU Member State after release for consumption in Northern Ireland.
- (2) Such movements must be from a certified consignor to a certified consignee.

Movement conditions

63C.—(1) Excise goods released for consumption may not be moved unless—

- (a) the risks inherent in the movement are covered by an approved guarantee provided by the certified consignee or any other person the Commissioners may allow in accordance with paragraph (2) which secures such amount of the duty chargeable on the goods as the Commissioners may require; and
- (b) the applicable procedures in Part 9B or 9C of these Regulations are complied with.

(2) Subject to such conditions as the Commissioners may specify in a notice published by them, the Commissioners may allow the guarantee referred to in paragraph (1)(a) to be provided by—

- (a) the transporter or carrier of the excise goods;
- (b) the owner of the excise goods; or
- (c) the certified consignor of the excise goods.

(3) In paragraph (1)(a) “approved” means approved by the Commissioners.

PART 9B

EXPORTS OF EXCISE GOODS AFTER RELEASE FOR CONSUMPTION

Application of Part 9B

63D.—(1) Subject to paragraph (2), this Part applies to movements of excise goods which have been released for consumption in Northern Ireland and are exported to an EU Member State by an NI certified consignor.

(2) This Part does not apply—

- (a) to excise goods exported under a NI distance selling arrangement;
 - (b) in any case to which Part VII of the Excise Goods (Sales on Board Ships and Aircraft) Regulations 1999^(a) apply;
 - (c) to excise goods exported by a person for that person’s own use.
- (3) In paragraph (2), “NI distance selling arrangement” means an arrangement where—
- (a) a person (“the NI consignor”) in Northern Ireland sells or agrees to sell excise goods that have been released for consumption in Northern Ireland to a person (“the purchaser”) in an EU Member State;
 - (b) those goods are dispatched by or to the order of the NI consignor to the purchaser or a person nominated by the purchaser and consigned to an address in an EU Member State;
 - (c) those goods will be charged with the EU Member State’s duty on their importation into that State; and
 - (d) the purchaser is not an authorised warehousekeeper^(b) or a registered consignee or certified consignee.

Electronic simplified administrative document for exports of excise goods after release for consumption

63E.—(1) Subject to regulation 63H, a movement of excise goods to which this Part applies must take place under cover of an electronic simplified administrative document.

(2) This requirement also applies to excise goods exported to an EU Member State in the course of a movement to an ultimate destination within Northern Ireland.

(3) Before the excise goods are dispatched, the NI certified consignor must complete a draft electronic simplified administrative document that complies with the EU requirements and send it to the Commissioners using the EU computerised system.

(4) The Commissioners must carry out an electronic verification of the data in the draft electronic simplified administrative document.

(5) Where the data in the document are invalid, the Commissioners must, using the EU computerised system, inform the consignor of that fact without delay.

(6) Where the data in the document are valid, the Commissioners must assign to the document a unique simplified administrative reference code and, using the EU computerised system, inform the consignor of that code.

(7) The Commissioners must send the electronic simplified administrative document to the competent authorities of the EU Member State of destination without delay.

(8) The NI certified consignor of the excise goods must provide the person accompanying the goods during the course of the movement, or where there is no person accompanying the goods, the transporter or carrier, with the unique simplified administrative reference code.

(a) S.I. 1999/1565; relevantly amended by S.I. 2010/592. The Excise Goods (Sales on Board Ships and Aircraft) Regulations 1999 (“SOBSA”) were revoked by regulation 14 of the Travellers’ Allowances and Miscellaneous Provisions (EU Exit) Regulations 2020 (S.I. 2020/1412) on IP completion day. However, regulations 7 to 18 of the Travellers’ Allowances and Miscellaneous Provisions (Northern Ireland) (EU Exit) Regulations 2020 (S.I. 2020/1619), which also came into force on IP completion day, save and modify SOBSA so they continue to take effect in respect of Northern Ireland.

(b) “Authorised warehousekeeper” is defined in regulation 3(1) of the Northern Ireland Regulations. See footnote (b) on page 2 for the meaning of the Northern Ireland Regulations.

(9) The person accompanying the goods, the transporter or the carrier must, on request, provide that code to the Commissioners or the competent authorities of an EU Member State during the course of the movement.

Electronic simplified administrative document for exports of excise goods after release for consumption - supplementary provisions

63F.—(1) During the course of a movement the NI certified consignor may, using the EU computerised system, amend the destination shown on the electronic simplified administrative document.

(2) A destination may only be amended if the new destination is—

- (a) another place of delivery in the same EU Member State operated by the same certified consignee, or
- (b) the place of dispatch.

(3) A NI certified consignor wishing to amend the destination must comply with the EU requirements.

Report of receipt of excise goods exported after release for consumption

63G.—(1) This regulation applies where excise goods have been dispatched to a certified consignee in an EU Member State.

(2) When the Commissioners receive a report of receipt they must send it to the NI certified consignor using the EU computerised system.

(3) A report of receipt constitutes proof that—

- (a) the movement of the excise goods referred to in the report has ended, and
- (b) the certified consignee has fulfilled all the necessary formalities and has, if applicable, made any payments of excise duty due to the EU Member State of destination.

(4) In cases where a report of receipt has not been received, the Commissioners may accept an endorsement by the competent authorities of the EU Member State of destination, based on appropriate evidence, that the goods have been delivered to the certified consignee.

(5) If the Commissioners accept an endorsement mentioned in paragraph (4), the endorsement is alternative proof that—

- (a) the movement of the excise goods referred to in the endorsement has ended, and
- (b) the certified consignee has fulfilled all the necessary formalities and has, if applicable, made any payments of excise duty due to the EU Member State of destination.

(6) If the Commissioners receive a fallback report of receipt they must send it to the NI certified consignor or keep it available for them.

(7) In paragraph (4), “appropriate evidence” means the fallback report of receipt relating to the movement of excise goods.

Procedure for exports of excise goods after release for consumption when EU computerised system unavailable

63H.—(1) This regulation and regulation 63I apply when the EU computerised system is unavailable.

(2) Excise goods may only be dispatched from a NI certified consignor to an EU Member State if—

- (a) the NI certified consignor notifies the Commissioners before the goods are dispatched; and
 - (b) the goods are accompanied by a fallback simplified accompanying document that complies with the EU requirements.
- (3) Before the goods are dispatched the Commissioners may require the NI certified consignor to—
- (a) provide a copy of the fallback simplified accompanying document;
 - (b) verify the data contained in that document; and
 - (c) provide information on the reasons for the unavailability of the EU computerised system (if the consignor is responsible for that unavailability).
- (4) As soon as the EU computerised system is restored the NI certified consignor must, in accordance with regulation 63E(3), complete a draft electronic simplified administrative document and send it to the Commissioners.
- (5) The Commissioners must, in accordance with regulation 63E(4), carry out a verification of the data in the document.
- (6) If the data are valid, regulation 63E(6) to (9) apply and the electronic administrative document replaces the fallback simplified accompanying document.
- (7) If the data are invalid, the movement is treated as taking place under cover of the fallback simplified accompanying document.
- (8) The NI certified consignor must keep a copy of the fallback simplified accompanying document.

Procedure for exports of excise goods after release for consumption when EU computerised system unavailable—supplementary provisions

63I.—(1) If an NI certified consignor wishes to amend the destination shown on the electronic simplified administrative document in accordance with regulation 63F, but the EU computerised system is unavailable, the NI certified consignor must notify the Commissioners of the new destination.

(2) As soon as the EU computerised system is restored, the NI certified consignor must notify the Commissioners of the new destination using the EU computerised system.

(3) Where paragraph (1) applies, the consignor must comply with the EU requirements.

PART 9C

IMPORTS OF EXCISE GOODS AFTER RELEASE FOR CONSUMPTION

Application of Part 9C

63J.—(1) Subject to paragraph (2), this Part applies to the movement of excise goods (other than chewing tobacco and tobacco for heating^(a)) imported from an EU Member State to Northern Ireland which have been released for consumption in an EU Member State.

(2) This Part does not apply—

- (a) to excise goods imported under a distance selling arrangement;

(a) “Chewing tobacco” and “tobacco for heating” are defined by regulation 3(4) of the Northern Ireland Regulations.

- (b) other than regulation 63K, in any case to which the Excise Goods (Sales on Board Ships and Aircraft) Regulations 1999 applies; or
- (c) to excise goods imported by a person for that person's own use.

Electronic simplified administrative document for imports of excise goods after release for consumption

63K.—(1) A movement to which this Part applies must take place under cover of an electronic simplified administrative document or a fallback simplified accompanying document.

(2) Where the Commissioners receive an electronic simplified administrative document from an EU Member State, the Commissioners must, using the EU computerised system, send the electronic simplified administrative document to the NI certified consignee.

(3) The person accompanying the goods, or where there is no person accompanying the goods, the transporter or the carrier, must, on request, produce or cause to be produced to the Commissioners any of the following—

- (a) the unique simplified administrative reference code relating to those goods; or
- (b) in circumstances which the Commissioners may specify in a notice published by them, a printed version of the electronic simplified administrative document, the fallback simplified accompanying document or any other commercial document on which the unique simplified administrative reference code is clearly stated.

Report of receipt of excise goods imported after release for consumption

63L.—(1) Subject to regulation 63M, and except in cases which the Commissioners consider are duly justified, on receipt of any excise goods to which this Part applies the NI certified consignee of those goods must, using the EU computerised system, send to the Commissioners without delay, and in any event no later than five business days after their receipt by the consignee (or within such other period as the Commissioners may allow), a report of receipt that complies with the EU requirements.

(2) The Commissioners must carry out an electronic verification of the data in the report of receipt.

(3) Where the data in the report of receipt are invalid, the Commissioners must, using the EU computerised system, inform the NI certified consignee of that fact without delay.

(4) Where the data in the report of receipt are valid, the Commissioners must, using the EU computerised system—

- (a) register the report;
- (b) notify the NI certified consignee that it has been registered; and
- (c) send it to the competent authorities of the EU Member State from where the excise goods were dispatched.

Report of receipt of excise goods imported after release for consumption when EU computerised system unavailable

63M.—(1) Where, due to the unavailability of the EU computerised system, a report of receipt cannot be sent in accordance with regulation 63L(1), the NI certified consignee must, except in cases which the Commissioners consider are duly justified, send to the Commissioners a fallback report of receipt that complies with the EU requirements.

(2) Where such a fallback report of receipt is received by the Commissioners they must send a copy of it to the competent authorities of the EU Member State from where the excise goods were dispatched.

(3) As soon as the EU computerised system is restored the consignee must send a report of receipt to the Commissioners and regulation 63L(2) to (4) applies to that report.”.

54B. Omit Parts 10 (exports of excise goods after release for consumption) and 11 (imports of excise goods after release for consumption).”.

33. Omit regulations 55 to 63.

34. For regulation 66 substitute—

“**66.** In regulation 76—

- (a) in paragraph (1), for “vendors” substitute “consignors”;
- (b) in paragraphs (2), (3) and (4) insert “NI” before “tax”;
- (c) in paragraph (3), for both occurrences of “the United Kingdom” substitute “Northern Ireland”.”.

35. After regulation 69 insert—

“**69A.** In regulation 79 for “Article 10(6)” substitute “Article 9(6)”.”.

36. For regulation 74 substitute—

“**74.** In regulation 83—

- (a) for “Part 11” substitute “Part 9C”;
- (b) for “another” substitute “an EU”;
- (c) for “Article 38(4)” substitute “Article 46(4)”.”.

37. After regulation 77 insert—

“**77A.** After regulation 85 insert—

“Deemed irregularity: non-compliance with registration and electronic simplified administrative document requirements

85A.—(1) Subject to paragraph (2), where—

- (a) there is a commercial movement of excise goods from an EU Member State to Northern Ireland; and
- (b) in relation to those goods and that movement, there is non-compliance with a requirement listed in paragraph (3),

an irregularity is deemed to have occurred and regulations 84 and 85 apply accordingly.

(2) Paragraph (1) does not apply in cases where the consignee is liable to pay the excise duty in respect of those goods under regulation 16(3)(b).

(3) The requirements referred to in paragraph (1)(b) are—

- (a) any registration requirement under Part 4A (NI certified consignee);
- (b) a requirement for excise goods to be dispatched by a certified consignor under regulation 63B (moving excise goods after release for consumption);
- (c) any requirement under Part 9C (imports of excise goods after release for consumption);
- (d) any registration requirement under Part 12 (distance sales of excise goods from an EU Member State).”.

38. In regulation 80—

- (a) in sub-paragraph (b) for “and 63A(2)” substitute “, 63A(2), 65, 66, 68 and 69”;
- (b) after sub-paragraph (b) insert—

“(c) in the appropriate places in the list insert—

“33D (conditions, restrictions and requirements), to the extent this regulation applies to a temporary certified consignee whose approval is limited in accordance with regulation 33A(2);

33G (temporary certified consignee: requirements in respect of imported excise goods), to the extent this regulation applies to a temporary certified consignee whose approval is limited in accordance with regulation 33A(2);

33K (conditions, restrictions and requirements), to the extent this regulation applies to a temporary certified consignor whose approval is limited in accordance with regulation 33H(2);

33M (temporary certified consignor: requirements in respect of exported excise goods), to the extent this regulation applies to a temporary certified consignor whose approval is limited in accordance with regulation 33H(2);”

;

“63E(3) (completion of draft electronic simplified administrative document for exports of excise goods after release for consumption);

63F(3) (electronic simplified administrative document for exports of excise goods after release for consumption - supplementary provisions);

63H(2) and (4) (procedure for exports of excise goods after release for consumption when EU computerised system unavailable);

63I (procedure for exports of excise goods after release for consumption when EU computerised system unavailable—supplementary provisions);

63K (electronic simplified administrative documents for imports of excise goods after release for consumption);

63L(1) (report of receipt of excise goods imported after release for consumption);

63M(1) and (3) (report of receipt of excise goods imported after release for consumption when EU computerised system unavailable);”.

39. After regulation 80 insert—

“Saving provision in relation to excise goods released for consumption and dispatched before 13th February 2023

80A.—(1) This regulation applies to excise goods which were dispatched before 13th February 2023—

- (a) from Northern Ireland to an EU Member State and, in relation to the movement of those goods, Part 10 of the Northern Ireland Regulations, as they had effect immediately before 13th February 2023, applied, and
- (b) to Northern Ireland from an EU Member State and, in relation to the movement of those goods, Part 11 of the Northern Ireland Regulations, as they had effect immediately before 13th February 2023, applied.

(2) In relation to those goods, Parts 10 and 11 of the Northern Ireland Regulations continue in effect as if regulations 54A and 54B of these Regulations had not come into force.

(3) For the purposes of paragraph (2), regulations 5 and 55 to 63 of these Regulations continue to apply as they had effect immediately before 13th February 2023.

(4) This regulation ceases to have effect on 1st January 2024.

Transitional provision in relation to the export of excise goods released for consumption and moved after 13th February 2023

80B.—(1) For the purposes of regulations 63H and 63I of the Northern Ireland Regulations, the EU computerised system is to be treated as—

- (a) continuously unavailable until midnight at the end of 31st December 2023, or such other date as the Commissioners may specify in a notice published by them, and
- (b) restored on 1st January 2024, or such other date as the Commissioners may specify in a notice published by them.

(2) Until the date referred to in paragraph (1)(a), a NI certified consignor may amend the destination shown on a fallback simplified accompanying document(a).

(3) A destination may only be amended if the conditions set out in regulation 63F(2) of the Northern Ireland Regulations, relating to the new destination, are met.

(4) For the purposes of paragraphs (2) and (3), regulation 63I of the Northern Ireland Regulations applies in relation to the amendment as if the destination is shown on an electronic simplified administrative document(b).

Transitional provision in relation to import of excise goods released for consumption and moved after 13th February 2023

80C.—(1) This regulation applies if, on or before midnight at the end of 31st December 2023, or such other date as the Commissioners may specify in a notice published by them, the Commissioners receive an electronic simplified administrative document from an EU Member State.

(2) The requirement in regulation 63K(2) of the Northern Ireland Regulations will be treated as met if the Commissioners send the electronic simplified administrative document to the NI certified consignee otherwise than using the EU computerised system.

80D.—(1) For the purpose of regulations 63M of the Northern Ireland Regulations, the EU computerised system is to be treated as—

- (a) continuously unavailable until midnight at the end of 31st December 2023, or such other date as the Commissioners may specify in a notice published by them, and
- (b) restored on 1st January 2024, or such other date as the Commissioners may specify in a notice published by them.

(2) The requirement in regulation 63M(3) of the Northern Ireland Regulations does not apply if the receipt of excise goods has already been registered on the EU computerised system by the competent authorities in the EU Member State of dispatch.

Specified dates for the purposes of the transitional provisions

80E.—(1) A notice made under regulations 80B(1), 80C(1) or 80D(1) may specify a date earlier or later than that which is referred to in each of those regulations.

(2) If a date is specified in a notice—

- (a) the same date must be specified for the purposes of regulations 80B(1)(a), 80C(1) and 80D(1)(a), and
- (b) the day after that date must be specified for the purposes of regulations 80B(1)(b) and 80D(1)(b).”.

(a) Paragraph 1(m) of this Schedule inserts new regulation 9(v) into NIMMA with the effect that a definition of “fallback simplified accompanying document” is treated as inserted into the regulation 3(1) of the Northern Ireland Regulations. See footnote (b) on page 2 for the meaning of the Northern Ireland Regulations.

(b) Paragraph 1(m) of this Schedule inserts new regulation 9(v) into NIMMA with the effect that a definition of “electronic simplified accompanying document” is treated as inserted into the regulation 3(1) of the Northern Ireland Regulations.

PART 2

Amendments relating to the Northern Ireland Modifications of the Duty Stamps Regulations 2006

40. In regulation 97(2)(a)—

(a) for paragraph (i) of sub-paragraph (za) substitute—

“(i) in paragraph (1)—

- (aa) in the definition of “external territory”, for “another member State” substitute “a member State”;
- (bb) in the definition of “irregular stamper”, for “unregistered commercial importer” substitute “temporary certified consignee”;
- (cc) omit the definition of “registered commercial importer”;
- (dd) omit the definition of “UK registered consignee”;
- (ee) omit the definition of “unregistered commercial importer”;
- (ff) at the appropriate places insert the following definitions—

““NI certified consignee” has the meaning given by regulation 33A of the Excise Goods (Holding, Movement and Duty Point) Regulations 2010(b);

“NI registered consignee” has the meaning given by regulation 22 of the Excise Goods (Holding, Movement and Duty Point) Regulations 2010;”;

““temporary certified consignee” has the meaning given in regulation 3 of the Excise Goods (Holding, Movement and Duty Point) Regulations 2010;”;

(b) for sub-paragraph (aa) substitute—

“(aa) in regulation 5—

- (i) in paragraph (3), for “UK registered consignee” substitute “NI registered consignee”;
- (ii) in paragraph (4), for “an unregistered commercial importer” substitute “a temporary certified consignee”;
- (ab) in the following regulations, for “unregistered commercial importer” substitute “temporary certified consignee”—
 - (i) regulation 6(3);
 - (ii) regulation 15(2), in each place;
 - (iii) regulation 15(3) and (5);
 - (iv) regulation 20(1);
- (ac) in regulations 9(2)(e) for “UK registered consignee” substitute “NI registered consignee”;

(c) for paragraph (b) substitute—

“(b) in regulation 10(4)—

- (i) before “the European Union” insert “the United Kingdom or”;
- (ii) for “UK registered consignee” substitute “NI registered consignee”;
- (iii) for “registered commercial importer” substitute “NI certified consignee”;

(ba) in regulation 14—

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- (a) Regulations 97(1) of the Excise Duties (Northern Ireland Miscellaneous Modifications and Amendments) (EU Exit) Regulations 2020 (“NIMMA”) applies the Duty Stamps Regulation 2006 (S.I. 2006/202) (“the Duty Stamps Regulations”) as they had effect immediately before IP completion day in Northern Ireland with respect to excise goods. The application of the Duty Stamps Regulations is subject to the modifications set out in regulations 97(2) of NIMMA.
 - (b) Paragraph 15 of this Schedule amends NIMMA, with the effect that regulation 33A is treated as inserted into the Northern Ireland Regulations.

- (i) in paragraph (7)—
 - (aa) for “an unregistered commercial importer” substitute “a temporary certified consignee”;
 - (bb) for “regulation 69(1)(a)(i)” substitute “regulation 33G(a)(i)(a)”;
- (ii) in paragraph (8), for “unregistered commercial importer’s” substitute “temporary certified consignee’s”;
- (bb) in regulations 16(3) and 19(1)(c), for “an unregistered commercial importer” substitute “a temporary certified consignee”.

PART 3

Amendments relating to the Northern Ireland Modifications of the Excise Goods (Drawback) Regulations 1995

41. In regulation 99(2)(b)—

- (a) after sub-paragraph (a) insert—
 - “(aa) in regulation 4 (interpretation)—
 - (i) omit the definitions of “accompanying document” and “single administrative document”;
 - (ii) for the definition of “certificate of receipt” substitute—
 - ““certificate of receipt” means a certificate of receipt under regulation 11(4) of the Excise Warehousing (Etc.) Regulations 1988(c);”;
 - (iii) in the definition of “dispatch” for “2008/118/EC” substitute “(EU) 2020/262”;
 - (iv) in the appropriate place insert—
 - ““report of receipt” has the meaning given in regulation 3(1) of the Excise Goods (Holding, Movement and Duty Point) Regulations 2010;”;
 - (ab) in regulation 6 (eligible claimant)—
 - (i) in paragraph (2) for “A claimant” substitute “Subject to paragraph (4), a claimant”;
 - (ii) after paragraph (3) insert—
 - “(4) In the case of an export which is a dispatch, a person who is approved in accordance with regulation 33H(1)(b) of the Excise Goods (Holding, Movement and Duty Point) Regulations 2010 (NI certified consignors: limited approval of private individuals)(d) is to be treated as an eligible claimant in relation to the goods specified in that person’s approval.”;
- (b) for sub-paragraph (b) substitute—
 - “(b) in regulation 8(2) (conditions to be complied with before export)—
 - (i) omit subparagraph (b);
 - (ii) for subparagraph (c) substitute—

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- (a) Paragraph 15 of this Schedule amends NIMMA, with the effect that regulation 33G is treated as inserted into the Northern Ireland Regulations.
 - (b) Regulation 99(1) of NIMMA applies the Excise Goods (Drawback) Regulations 1995 (S.I. 1995/1046) (“the Drawback Regulations”) as they had effect immediately before IP completion day in Northern Ireland with respect to excise. The application of the Drawback Regulations is subject to the modifications set out in regulations 99(2) of NIMMA.
 - (c) S.I. 1988/809. Regulation 11(4) was relevantly amended by S.I. 2010/593. Regulation 100 of NIMMA applies the Excise Warehousing (Etc.) Regulations 1988 as they had effect immediately before IP completion day in Northern Ireland with respect to excise goods.
 - (d) Paragraph 15 of this Schedule amends NIMMA, with the effect that regulation 33H is treated as inserted into the Northern Ireland Regulations.

- “(c) he must complete any document specified by the Commissioners in a notice published by them (and not withdrawn); and”;
- (iii) in subparagraph (d) for “the accompanying document or single administrative document” insert “any document specified by the Commissioners in a notice published by them (and not withdrawn)”;
- (c) for sub-paragraph (c)(i) substitute—
 - “(ai) omit subparagraph (a)(i);
 - (i) in subparagraph (a)(ii) for “accompanying document which is endorsed with the certificate of receipt insert “report of receipt or any other document specified by the Commissioners in a notice published by them (and not withdrawn)”;
- (d) after sub-paragraph (c) insert—
 - “(d) after regulation 10 insert—

“Conditions to be complied with where export is a dispatch

- 10A.**—(1) This regulation applies where—
- (a) a claim for drawback is made after export of excise goods;
 - (b) the export is a dispatch; and
 - (c) duty is payable on those goods in the place to which they have been exported.
- (2) The Commissioners may, by notice, request a claimant to provide evidence verifying that duty has been paid on those goods in the place to which they have been exported.
- (3) The claimant must provide the evidence, or a reasonable explanation as to why the evidence cannot be provided, by—
- (a) the date set out in the notice, or, if later;
 - (b) the date agreed to by the Commissioners.”;
- (e) for regulation 12(1) (payment of claim) substitute—
- “(1) No drawbacks shall be payable unless it is shown to the satisfaction of the Commissioners that—
- (a) the claimant is an eligible claimant and that the goods are eligible goods; and
 - (b) in cases where regulation 10A applies, the requirement in regulation 10A(3) has been met.”.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Customs and Excise (Personal Reliefs for Special Visitors) Order 1992 (S.I. 1992/3156) (“the Special Visitors Order”) and the Excise Duties (Northern Ireland Miscellaneous Modifications and Amendments) (EU Exit) Regulations 2020 (S.I. 2020/1559) (“NIMMA”) for the purpose of the Protocol on Ireland/Northern Ireland to the Withdrawal Agreement between the United Kingdom and the European Union (“the Protocol”). These Regulations come into force on 13th February 2023.

VAT and excise provision under the Protocol

Article 8 of the Protocol provides that the EU law listed in Annex 3 to the Protocol will apply to and in the United Kingdom, in respect of Northern Ireland. The Annex includes Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (“the Principal

VAT Directive”) and Council Directive 2008/118/EC of 16 December 2008 concerning the general arrangements for excise duty and repealing Directive 92/12/EEC (“the 2008 Excise Directive”).

Article 13(4) of the Protocol provides that references in the Protocol to EU legislation shall be read as referring to that EU legislation as amended or replaced. The Principal VAT Directive has been relevantly amended by Council Directive (EU) 2019/2235 of 16 December 2019. The 2008 Excise Directive has been repealed and replaced by Council Directive (EU) 2020/262 of 19 December 2019 laying down the general arrangements for excise duty (“the 2020 Excise Directive”), with effect from 13th February 2023.

The ways in which these Regulations amends UK legislation to implement the Protocol in relation to the 2020 Excise Directive and the amended Principal VAT Directive are set out below.

Excise related amendments made by these Regulations

The 2008 Excise Directive was transposed in the UK by the Excise Duties (Holding, Movement and Duty Point) Regulations 2010 (S.I. 2010/593), along with related excise legislation including the Excise Goods (Drawback) Regulations 1995 (S.I. 1995/1046), the Duty Stamps Regulations 2006 (S.I. 2006/202) and the Customs and Excise (Personal Reliefs for Special Visitors) Order 1992 (S.I. 1992/3156).

NIMMA implements the Protocol in relation to the 2008 Excise Directive.

Regulation 2 of NIMMA preserves the Excise Duties (Holding, Movement and Duty Point) Regulations 2010 as they had effect immediately before the end of the transitional arrangements provided for by the Withdrawal Agreement (“the Northern Ireland Regulations”). The Northern Ireland Regulations are applied in relation to the holding, movement and taxation of excise goods in Northern Ireland subject to the modifications provided for in Part 1 of NIMMA.

Regulations 97(1) and 99(1) of NIMMA also preserve the Duty Stamps Regulations 2006 (“the Duty Stamps Regulations”) and the Excise Goods (Drawback) Regulations 1995 (“the Drawback Regulations”), respectively. Those Regulations are also subject to modifications set out in regulations 97(2) and 99(2) of NIMMA, respectively.

The Regulations preserved by regulation 2, 97 and 99 of NIMMA, as they had effect immediately before IP completion day, are available from the [legislation.gov.uk](https://www.legislation.gov.uk) website at:

<i>Preserved Regulations</i>	<i>Link</i>
The Northern Ireland Regulations	https://www.legislation.gov.uk/ukxi/2010/593/2020-12-30
The Duty Stamps Regulations	https://www.legislation.gov.uk/ukxi/2006/202/2020-12-30
The Drawback Regulations	https://www.legislation.gov.uk/ukxi/1995/1046/2020-12-30

These Regulations amend NIMMA and the Special Visitors Order to comply with the UK’s obligations under the Protocol in relation to the 2020 Excise Directive. The amendments are explained below under the following category headings:

- Preliminary,
- Extension of the Excise Movement and Control System (“EMCS”) to excise goods released for consumption including saving and transitional provisions,
- Partial loss of excise goods during a movement,
- Waiver of guarantee for the movement of energy products by fixed pipelines,
- Alternative proof of receipt and evidence of export,
- Compliance checks during movement – availability of unique administration reference code,

- Excise exemption relating to the EU common security and defence policy,
- Excise and customs procedure alignment.

In addition, these Regulations amend NIMMA to correct minor errors.

Preliminary

Paragraphs 1 to 3 of Schedule 2 collectively amend regulation 5 and 6 of, and insert new regulations 5A and 6A into, NIMMA. The modifications applied to the Northern Ireland Regulations update regulation 3 (interpretation).

Extension of the Excise Movement and Control System (“EMCS”) to excise goods released for consumption including saving and transitional provisions

Paragraph 15 of Schedule 2 inserts new regulation 30A into NIMMA. The modification of the Northern Ireland Regulations introduces new Parts 4A and 4B – NI certified consignees and NI certified consignors. These new Parts are linked to, and facilitate, the introduction of new computerised procedures that apply to movements of excise goods released for consumption (see the explanation to paragraph 32 of Schedule 2, below).

New Part 4A (regulations 33A to 33G) and Part 4B (regulations 33H to 33M) provide for the approval and registration of revenue traders and private individuals who either import excise goods into Northern Ireland from an EU Member State that have been released for consumption (“NI certified consignees”) or export excise goods that have been released for consumption in Northern Ireland to an EU Member State (“NI certified consignors”). It also sets out the requirements with which a NI certified consignee and consignor must comply and, in the case of imports, how the duty charged on the goods must be accounted for and paid. New regulations 33D and 33K give the Commissioners power to prescribe or specify in a published notice additional conditions and restrictions that apply to approvals.

Paragraph 32 of Schedule 2 inserts new regulation 54A into NIMMA. The modification of the Northern Ireland Regulations introduces new Parts 9A to 9C.

New Part 9A (regulations 63B and 63C) provides that excise goods may only be imported into Northern Ireland after release for consumption in an EU Member State, or exported to an EU Member State after release for consumption in Northern Ireland, if they are dispatched from a certified consignor to a certified consignee. It sets out the movement conditions that must be complied with and gives a power to the Commissioners to specify in a published notice conditions relating to the provision of a guarantee for the movement.

New Part 9B (regulations 63D to 63I) provides that movements of excise goods which have been released for consumption in Northern Ireland and are exported to an EU Member State by an NI certified consignor must take place under cover of an electronic simplified administrative document (e-SAD) and sets out the procedures which the consignor and the Commissioners must carry out in relation to such a document using the EU computerised system. It also sets out the procedures if the destination is amended. It also sets out the procedures when the Commissioners receive report of receipt (as defined in regulation 3 of the Northern Ireland Regulation) and when the computerised system is unavailable.

New Part 9C (regulations 63J to 63M) provides that movements of excise goods (other than chewing tobacco and tobacco for heating) into Northern Ireland after release for consumption in an EU Member State must take place under cover of an e-SAD. It also requires the consignee, on receipt of the goods, to send a report of receipt to the Commissioners using the EU computerised system and sets out the procedures when the Commissioners receive such a report and when the computerised system is unavailable.

Paragraph 32 of Schedule 2 also inserts new regulation 54B into NIMMA. The modification of the Northern Ireland Regulations omits Parts 10 and 11 which are replaced by Parts 9A to 9C. The omission of Parts 10 and 11 of the Northern Ireland Regulations is subject to the saving provision provided by new regulation 80A of NIMMA (see the explanation of paragraph 39 of Schedule 2, below).

Paragraph 33 of Schedule 2 omits regulations 55 to 63 of NIMMA, which deal with modifications to Parts 10 and 11.

Paragraph 37 of Schedule 2 inserts new regulation 77A into NIMMA. The modification of the Northern Ireland Regulations introduces new regulation 85A.

New regulation 85A provides that, in relation to imports of excise goods from an EU Member State into Northern Ireland after release for consumption, where there is a failure to comply with registration requirements under new Part 4A, as well as existing Part 12 (distance sales of excise goods from an EU Member State), or a failure to comply with movement requirements under new Part 9A or new Part 9C, an irregularity is deemed to have occurred. As a result, existing regulation 84 and 85 of the Northern Ireland Regulations apply – giving rise to an excise duty point in Northern Ireland in relation to the deemed irregularity. But new regulation 85A does not apply if the consignee is liable to pay the excise duty in respect of those goods under regulation 16(3)(b).

Paragraph 38 of Schedule 2 amends regulation 80 of NIMMA. The modification of the Northern Ireland Regulations adds to the list of regulations specified in Schedule 1 (civil penalties – relevant regulations) the registration and movement requirements set out in new Parts 4A and 4B and Parts 9B and 9C.

Paragraph 39 of Schedule 2 inserts new regulations 80A to 80E into NIMMA.

New regulation 80A saves Parts 10 and 11 of the Northern Ireland Regulations in relation to excise goods that are moving, in accordance with those Parts, before these Regulations come into force. The saving provisions ensures that those movements can continue to be carried out in accordance with Parts 10 and 11 of the Northern Ireland Regulations, as if the omission of those Parts under these Regulations had not come into force. The saving provision expires on 1st January 2024.

New regulation 80B makes transitional provision in relation to excise goods released for consumption and exported from Northern Ireland. The effect of the transitional provision is to allow for the movement of excise goods under the fallback procedures as if the EU computerised system is continuously unavailable between 13th February 2023 and 31st December 2023. The Commissioners are given a power to specify in a public notice any other date for the purposes of this transitional provision.

New regulations 80C and 80D makes transitional provision in relation to excise goods released for consumption and imported from Northern Ireland. The effect of the transitional provision is to allow for the movement of excise goods under the fallback procedures as if the EU computerised system is continuously unavailable between 13th February 2023 and 31st December 2023. The Commissioners are given a power to specify in a public notice any other date for the purpose of these transitional provisions.

New regulation 80E makes further provision relating the dates that the Commissioners may specify under regulations 80B(1), 80C(1) or 80D(1) of NIMMA.

Paragraph 40 of Schedule 2 amends regulation 97(2) of NIMMA. The modifications applied to the Duty Stamps Regulations update those Regulations to include reference to NI certified consignee and temporary certified consignors (as defined) under the Northern Ireland Regulations.

Paragraph 41 of Schedule 2 amends regulation 99 of NIMMA. The modifications applied to the Drawback Regulations update regulation 6 (eligible claimant), to include private individuals who are temporary certified consignors (as defined) under the Northern Ireland Regulations. The modifications introduce new regulation 10A (conditions to be complied with where export is a dispatch) which provides that the Commissioners may, by notice, request a claimant to provide evidence verifying that duty has been paid on those goods in the place to which they have been exported. Under modifications applied to regulation 12(1) (payment of claim), a drawback claim will not be paid unless the Commissioners are satisfied they have been provided with such evidence, or a reasonable explanation as to why the evidence cannot be provided.

Partial loss of excise goods during a movement

Paragraph 12 of Schedule 2 inserts new regulation 20A into NIMMA. The modification to the Northern Ireland Regulations introduces new regulations 21A and 21B.

New regulation 21A provides that a partial loss due to the nature of the goods that falls below the common partial loss threshold (as defined) in relation to excise goods (a) under a duty suspension arrangement at the time of the loss, will not be considered as a release for consumption, and (b) already released for consumption in an EU Member State at the time of the loss, will not give rise to an excise duty point.

New regulation 21A(3) defines “common partial loss threshold”. In relation to tobacco products, this means the threshold established by Article 1 of Commission Delegated Regulation (EU) 2022/1636 of 5 July 2022. For other excise goods this means a threshold set out public notice made under regulation 21B.

New regulation 21B gives the Commissioners are given a power to specify in a public notice a partial loss threshold for excise goods. The threshold must correspond with a common partial loss threshold established by legislation of the EU Commission in relation to the same excise goods.

Paragraph 11 of Schedule 2 substitutes regulation 20 of NIMMA. The modification to regulation 21 of the Northern Ireland Regulations provides that in cases where a common partial loss threshold is not set by the EU Commission, the existing rules in regulation 21 of the Northern Ireland Regulations continue to apply to the loss.

Waiver of guarantee for the movement of energy products by fixed pipelines

Paragraph 17 of Schedule 2 amends regulation 35 of NIMMA. The modification to the Northern Ireland Regulations introduces new regulation 39(1A).

New regulation 39(1A) exempts the movement of energy products into or out of Northern Ireland by fixed pipeline from the requirement of a movement guarantee. The Commissioners are given the power to exclude cases from the exemption, in a published notice.

Alternative proof of receipt and evidence of export

Paragraph 30 of Schedule 2 inserts new regulation 49A into NIMMA. The modification to the Northern Ireland Regulations introduces new regulation 51A.

New regulations 51A applies to movement of excise goods under duty suspension arrangements where a report of export, referred to in regulation 46(4), or report of receipt, referred to in regulation 49(2), have not been received by the Commissioners. It specifies the items of alternative proof that the Commissioners may, or must, accept as evidencing the end of a movement of excise goods. The Commissioners are given the power to specify, in a published notice, other items of evidence that it may take account of in the case of goods dispatched from Northern Ireland to a place from where they will leave the territory of the EU.

Compliance checks during movement – availability of unique administrative reference code

Paragraph 31 of Schedule 2 inserts new regulation 50A into NIMMA. A modification is made to regulation 53(3) of the Northern Ireland Regulations.

Regulation 53(3), as modified, provides that the person accompanying excise goods imported under duty suspension arrangements, or where there is no accompanying person, the transporter or carrier, must on request produce to the Commissioners the unique administrative reference code that relates to those goods. The Commissioners are given the power to specify in a published notice circumstances in which a printed document, showing the unique administrative reference code, must be produced instead. Corresponding provision is made by new regulation 63K in relation to excise goods released for consumption.

Excise exemption relating to the EU common security and defence policy

Paragraph 1 of Schedule 1 amends article 18 of the Special Visitors Order to extend the excise exemption provided for by Part 7 of that Order to serving and civilian members of armed forces

stationed in Northern Ireland to carry out a defence effort under the common security and defence policy (“CSDP”). This amendment also provides a corresponding exemption from VAT in relation to the CSDP (see also the heading ‘VAT legislation’ below). Paragraphs 2 and 3 make provision relating to excluding customs duty from the scope of the relief.

Paragraph 1 of Schedule 2 amends regulation 5 of NIMMA. The modifications applied to the Northern Ireland Regulations include an update to the definition in regulation 3(1) of the “exemption certificate” for the purposes of an excise exemption.

Excise and customs procedure alignment

Paragraph 16 of Schedule 2 amends regulation 32 of NIMMA. The modification to the Northern Ireland Regulations introduces new regulation 35(a)(v).

New regulation 35(a)(v) provides for a customs office of exit (as defined by this regulation) which is at the same time the customs office of departure for the external transit procedure (also defined within the regulation) as a possible excise destination.

Paragraph 18 of Schedule 2 inserts new regulation 35A into NIMMA. The modification to the Northern Ireland Regulations introduces new regulation 39A.

New regulation 39A provides that excise goods must not be moved from a place of importation under a duty suspension arrangement, until information is provided to the Commissioners on the consignor, the consignee and, where requested by the Commissioners, evidence that imported goods are intended to be dispatched from Northern Ireland to an EU Member State. The Commissioners are given the power to specify in a published notice the cases to which the requirement does not apply and the time and manner in which the information is to be provided.

Paragraph 22 of Schedule 2 inserts new regulation 38A into NIMMA. The modification to the Northern Ireland Regulations introduces new regulation 42A.

New regulation 42A applies to excise goods to be dispatched from Northern Ireland where an export declaration is lodged in Northern Ireland. It requires the declarant to provide the Commissioners with the unique administrative reference code assigned to the goods and sets out the verification procedures which Commissioners must carry out. The Commissioners are given the power to set out in a published notice the manner in which the unique administrative reference code is to be provided.

VAT related amendments made by these Regulations

The Principal VAT Directive is largely transposed in the UK by the VAT Act 1994, along with related VAT legislation including the Special Visitors Order.

These Regulations amend the Special Visitors Order to comply with the UK’s obligations under the Protocol in relation to the Principal VAT Directive, as amended by Council Directive (EU) 2019/2235 of 16 December 2019.

Paragraph 1 of Schedule 1 amends article 18 of the Special Visitors Order to extend the VAT exemption provided for by Part 7 of that Order to serving and civilian members of armed forces stationed in Northern Ireland to carry out a defence effort under the common security and defence policy.

Any published notices referred to in these Regulations will be published at: <https://www.gov.uk/government/collections/holdings-and-movement-notice>. A hard copy will be available for inspection free of charge at HMRC, 100 Parliament Street, London SW1A 2BQ.

A Tax Information and Impact Note covering this instrument will be published on the website at <https://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins>.

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