

SCHEDULE 2

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)(1)”;
 - (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)(2),””
 - (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(3);”;

(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

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

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

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

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status of non-Union goods, as provided for by Article 5(24) of the Union Customs Code Regulation(4)”;

(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;
- (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(5) and Commission Implementing Regulation (EU) 2022/1637 of 5 July 2022(6), 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;

(4) 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).

(5) 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.

(6) 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.

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- (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)—
 - (aa) for “another” substitute “an EU”;
 - (bb) for “Article 4(9)” substitute “Article 3(9)”;
- (k) in paragraph (l), 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—

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- “(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(7); 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(8); 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
 - (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—

(7) 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.

(8) 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.

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- (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.””.