

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

DRAFT STATUTORY INSTRUMENTS

2019 No.

EXITING THE EUROPEAN UNION CUSTOMS

The Customs (Economic Operators Registration and Identification) (Amendment) (EU Exit) Regulations 2019

Made - - - -

Coming into force in accordance with regulation 1(2)

The Commissioners for Her Majesty's Revenue and Customs make these Regulations in exercise of their powers in section 8(1) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018⁽¹⁾.

In accordance with paragraph 3(2) of Schedule 7 to that Act, a draft of this instrument has been laid before Parliament and approved by a resolution of each House of Parliament.

Citation, commencement, interpretation and effect

1.—(1) These Regulations may be cited as the Customs (Economic Operators Registration and Identification) (Amendment) (EU Exit) Regulations 2019.

(2) These Regulations come into force on exit day⁽²⁾.

(3) In these Regulations—

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

“the IA” means the Commission Implementing Regulation (EU) 2015/2447 of 24 November 2015 laying down detailed rules for implementing certain provisions of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code;

“the DA” means the Commission Delegated Regulation (EU) 2015/2446 of 28 July 2015 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards detailed rules concerning certain provisions of the Union Customs Code.

(1) [2018 c. 16](#). Section 20(1) of the Act defines “Minister of the Crown” as including the Commissioners for Her Majesty's Revenue and Customs.

(2) “Exit day” is defined in the European Union (Withdrawal) Act 2018 as 29 March 2019 at 11.00 pm.

(4) The amendments made by these Regulations do not have effect in relation to economic operators whose activities solely relate to trade in goods between Northern Ireland and the Republic of Ireland.

(5) In paragraph (4), “economic operator” has the meaning given by Article 5 of the UCC.

Amendment of retained direct EU legislation

2.—(1) The UCC is amended as follows.

(2) In Article 5, for paragraph (31) substitute—

“(31) “established in the United Kingdom” means—

- (a) in the case of an individual, where the individual is resident in the United Kingdom; or
- (b) in any other case, where the person has—
 - (i) a registered office in the United Kingdom, or
 - (ii) a permanent place in the United Kingdom from which the person carries out activities;”.

(3) In Article 9—

(a) in paragraph 1, for the words from “customs territory of the Union” to the end substitute “United Kingdom shall register with Her Majesty’s Revenue and Customs.”.

(b) for paragraphs 2 to 4 substitute—

“(2) Economic operators who are not established in the United Kingdom shall register with Her Majesty’s Revenue and Customs if required to do so by Article 5 of the Commission Delegated Regulation (EU) 2015/2446 of 28 July 2015 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards detailed rules concerning certain provisions of the Union Customs Code (“the DA”).

(3) Persons other than economic operators shall not be required to register with Her Majesty’s Revenue and Customs unless required to do so by Article 6 of the DA.

(4) Her Majesty’s Revenue and Customs shall invalidate the registration where required to do so by Article 7 of the DA.”.

3.—(1) The DA is amended as follows.

(2) In Article 5—

(a) in the heading, for “the customs territory of the Union” substitute “the United Kingdom”,

(b) in paragraph 1—

(i) for “the customs territory of the Union” each time it appears, substitute “the United Kingdom”, and

(ii) in point (a)—

(aa) in point (i), for “Articles 135 to 144” substitute “provision made by or under the Taxation (Cross-border Trade) Act 2018 or the Customs and Excise Management Act 1979(3) for oral declarations, deemed declarations, paper-based declarations made by travellers in respect of goods carried by them, or declarations for goods in postal consignments”, and

(bb) omit point (iv),

(c) omit paragraph 2,

- (d) before paragraph 3 insert—
 - “(2A) For the purposes of this Article and Articles 6 and 7 “economic operator” and “established in the United Kingdom” have the same meanings as provided for in Article 5 of the Union Customs Code laid down by Regulation (EU) No 2015/2446 of the European Parliament and of the Council of 9 October 2013 laying down the Customs Code.”,
 - (e) in paragraph 3, for “the customs authorities” substitute “Her Majesty’s Revenue and Customs”, and
 - (f) omit paragraphs 4 to 6.
- (3) In Article 6—
- (a) for paragraph 1 substitute—
 - “(1) Persons other than economic operators shall register with Her Majesty’s Revenue and Customs where the person engages in operations for which an EORI would have been required before exit day (as defined in section 20(1) of the European Union (Withdrawal) Act 2018) pursuant to Annex A (common data requirements for applications and decisions) and Annex B (common data requirements for declarations, notifications and proof of the customs status of Union goods) of Commission Delegated Regulation (EU) No 2015/2446(4).”, and
 - (b) in paragraph 2, for “and the customs authorities consider this to be justified, registration shall not be required” substitute “Her Majesty’s Revenue and Customs may waive the requirement for registration”.
- (4) In Article 7—
- (a) in paragraph 1—
 - (i) for “the customs authorities” substitute “Her Majesty’s Revenue and Customs”, and
 - (ii) in point (b) for “the customs authority” substitute “Her Majesty’s Revenue and Customs”, and
 - (b) in paragraph 2 for “The customs authority” substitute “Her Majesty’s Revenue and Customs”.
- (5) In Chapter 3 of Annex 12-01(5), in the Data Requirements Table, in the data element name of data element 4, for “the customs territory of the Union” substitute “the United Kingdom”.
- 4.—(1) The IA is amended as follows.
- (2) Omit Article 6.
 - (3) In Article 7, omit paragraphs 1 and 3 to 5.

Date

Commissioner 1
Commissioner 2
Two of the Commissioners for Her Majesty’s
Revenue and Customs

(4) OJ No L343, 29.12.2015, p 1.

(5) Entitled “Common data requirements for the registration of economic operators and other persons”.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make amendments to various provisions contained in the following items of direct EU legislation which will become part of UK domestic law on exit day by virtue of section 3 of the European Union (Withdrawal) Act 2018:

- Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Customs Code;
- the Commission Implementing Regulation (EU) 2015/2447 of 24 November 2015 laying down detailed rules for implementing certain provisions of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code;
- the Commission Delegated Regulation (EU) 2015/2446 of 28 July 2015 of 28 July 2015 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.

Paragraph 1 of Schedule 1 to the Taxation (Cross-border Trade) Act 2018 (“TCTA”) disapplies any direct EU legislation in relation to import duty. The Articles which are being amended by this instrument will however continue to have legal effect as they do not relate to import duty. The amendments ensure that those Articles will continue to operate as intended with regard to the registration of economic operators and the allocation of economic operator identification (EORI) numbers in the event that the UK leaves the EU without a withdrawal agreement.

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