

Draft Regulations laid before Parliament under Schedule 7, paragraph 1(3) of 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 Safety and Security
Procedures (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 exercising their powers in section 8(1) of the European Union (Withdrawal) Act 2018⁽¹⁾.

They consider these Regulations appropriate to prevent, remedy or mitigate (a) any failure of retained EU law to operate effectively, or (b) any other deficiency in retained EU law, in either case arising from the withdrawal of the United Kingdom from the EU.

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

PART 1

INTRODUCTION

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Customs Safety and Security Procedures (EU Exit) Regulations 2019.

(2) They come into force on the later of exit day⁽²⁾ or the day after the day on which they are made.

⁽¹⁾ 2018 c. 16. Section 20(1) provides that in the Act the Commissioners for Her Majesty's Revenue and Customs are included in the expression "Minister of the Crown".

⁽²⁾ The meaning of "exit day" is assigned by the Interpretation Act 1978 (c. 30), Schedule 1 as amended by the European Union (Withdrawal) Act 2018 (c. 16), Schedule 8, paragraphs 18 and 22(e) and S.I. 2018/808, and assigned by section 20(1) to (5) of the latter Act.

(3) They do not have effect in relation to the movement of goods between Northern Ireland and the Republic of Ireland or the reverse.

PART 2

THE UNION CUSTOMS CODE

Modification of Regulation (EU) No 952/2013 laying down the Union Customs Code

2.—(1) Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code⁽³⁾ is amended as follows.

(2) Revoke: Article 1(1) second sub-paragraph; Article 1(3); Articles 2 and 3; Article 4 except for the opening words of paragraph (1), the expression “— the territory of the United Kingdom of Great Britain and Northern Ireland”, and the full-stop at the end of paragraph (1); Article 16(2); point (a) of Article 38(2) and the word “or” immediately following it; Articles 38(3) to (5); point (d) of Article 39, but not “and” immediately following it; Article 47(2).

(3) In Article—

(a) 5—

- (i) paragraph (1), for the words after “means the” substitute “Commissioners for Her Majesty’s Revenue and Customs”,
- (ii) paragraph (2)(a), omit “adopted at Union or national level”,
- (iii) paragraph (2) omit points (b) and (c),
- (iv) paragraph (2)(d) for “Union” substitute “United Kingdom”,
- (v) paragraph (4) omit “Union or national”,
- (vi) paragraph (7)(a) omit “Union or”;
- (vii) paragraph (7)(b), for “Union and its Member States” substitute “United Kingdom”,
- (viii) paragraph (7)(c), for “Union” substitute “United Kingdom”,
- (ix) paragraph (11), for everything after “means” substitute “such a declaration for the purposes of the Customs and Excise Management Act 1979⁽⁴⁾”;
- (x) paragraph (12), for everything after “means” substitute “a Customs declaration for the purposes of the Taxation (Cross-border) Trade Act 2018”;
- (xi) paragraph (16) for “Code” substitute “Taxation (Cross-border Trade) Act 2018⁽⁵⁾”;
- (xii) paragraph (23), for everything after “means” substitute “goods within the Taxation (Cross-border Trade) Act 2018, section 33”;
- (xiii) paragraph (24), for everything after “means” substitute “chargeable goods within the Taxation (Cross-border Trade) Act 2018, section 2”;

(b) 16(1)—

- (i) for “Member States shall cooperate with the Commission to”, substitute “The customs authorities must”;

(3) The Union Customs Code and its Delegated and Implementing Regulations constitute direct EU legislation forming part of the law of the United Kingdom under the European Union (Withdrawal) Act 2018, section 3 except so far as imposing or otherwise applying in relation to any EU customs duty as mentioned in the Taxation (Cross-border Trade) Act 2018 (c. 22), Schedule 7, paragraph 1(1).

(4) 1979 c. 2; relevant amendments made by the Taxation (Cross-border Trade) Act 2018, Schedule 7, Part 2.

(5) 2018 c. 22.

- (ii) omit “for the exchange of information between customs authorities and with the Commission and”;
 - (iii) omit “such”;
 - (c) 38—
 - (i) paragraph (2), opening words omit “types of”;
 - (ii) paragraph (2), opening words: for “authorisations” substitute “authorisation”;
 - (iii) paragraph (6), omit “according to the type of authorisation granted”;
 - (iv) paragraph (7), for second and fourth use of “Union”, substitute “United Kingdom”;
 - (v) paragraph (7), omit “or Union legislation in the area of the common commercial policy”;
 - (d) 46—
 - (i) paragraphs (2) and (4) omit “, Union”;
 - (ii) paragraph (5)(b) omit “in the Union”;
 - (iii) paragraph (6)(c) for “Member States” substitute “countries”;
 - (e) 136—
 - (i) paragraph (2), omit “pursuant to Article 153(2)”;
 - (ii) paragraph (3), omit “in accordance with Article 155(2)”;
 - (f) 145(2), omit “Union”;
 - (g) 263—
 - (i) paragraph (1), omit “competent”;
 - (ii) in paragraph (3)(b) omit “, in accordance with Article 270”;
 - (h) 264 omit “primarily”.
- (4) After Article 288, omit “This Regulation shall be binding in its entirety and directly applicable in all Member States.”.

PART 3

THE COMMISSION DELEGATED REGULATION

Modification of Commission Delegated Regulation (EU) 2015/2446 supplementing certain provisions of the Union Customs Code

3.—(1) 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 is amended as follows.

(2) Revoke: point (iv) of point (a) of Article 5(1); Article 5(2), (4), (5) and (6); Article 104(2); Article 112; Article 113; point (p) of Article 245(1).

(3) In Article or Articles—

- (a) 1(20) for “a country” substitute “the United Kingdom”;
- (b) 1(25)—
 - (i) for “and” substitute “the United Kingdom where it is”;
 - (ii) omit “by a Member State”;

- (c) 5(1)(a)(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 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”;
- (d) 25 omit “Union”;
- (e) 104—
- (i) paragraph (1)(d), for “household effects as defined in Article 2(1)(d) of Council Regulation (EC) No 1186/2009 of 16 November 2009 setting up a Community system of reliefs from customs duty”, substitute “personal effects, household linen, furnishings and equipment intended for the personal use of the persons concerned or for meeting their household needs”;
 - (ii) paragraph (1)(i) and (o), for “a Member State” substitute “the United Kingdom”;
 - (iii) paragraph (1)(m), for the words after “from”, substitute “the Isle of Man or the Channel Islands”;
 - (iv) paragraph (1)(n) for the second “Union” substitute “United Kingdom”;
 - (v) paragraph (3), for “Until the dates of the upgrading of the Import Control System referred to in the Annex to Implementing Decision 2014/255/EU, paragraph 2 of this Article shall not apply and the”, substitute “The”;
 - (vi) paragraph (4), for “Until the date of upgrading of the Import Control System referred to in the Annex to Implementing Decision 2014/255/EU, the”, substitute “The”;
 - (vii) paragraph (4) for “EUR 22” substitute “£19”;
- (f) 104, insert as paragraph 5—
- “5. Until 1 October 2019, the lodging of an entry summary declaration shall be waived in respect of goods which before then are in transit to or are brought into the customs territory of the Union from a place where, in relation to that territory, such a declaration was not required before exit day.”;
- (g) 106(3) omit “until the date of upgrading of the Import Control System referred to in the Annex to Implementing Decision 2014/255/EU,”;
- (h) 107—
- (i) point (a) omit “at the place for which that customs office is competent”;
 - (ii) point (b) omit “at the place for which the customs office of first entry is competent”;
- (i) 108 and 109 omit “at the place for which the customs office of first entry is competent”;
- (j) 244(2)—
- (i) for “a” substitute “an agricultural export”;
 - (ii) omit “in accordance with Commission Regulation (EC) No 612/2009”;
 - (iii) omit “in accordance with Article 5(7) of that Regulation”;
- (k) 245(1)—
- (i) in the opening words, for everything starting with “Without” and ending with “of the Code, the”, substitute “The”;
 - (ii) for point (e), substitute—
 - “(e) the goods in Article 104(1)(d) provided that they are not carried under a transport contract.”;
 - (iii) in point (g), for “referred to in Article 140(1)”, substitute “deemed to be declared for export by or under the Taxation (Cross-border) Trade Act 2018”;

- (iv) in point (l), for “a Member State” substitute “the United Kingdom”;
 - (l) 245, insert as paragraph 1A—
 - “1A. The lodging of a pre-departure declaration shall be waived for goods dispatched from the customs territory of the Union to the Isle of Man or the Channel Islands.”;
 - (m) 245(2) in point (e)(i), for “Articles 144 or 245 of the Code”, substitute “provision made by or under the Taxation (Cross-border Trade) Act 2018”.
- (4) After Article 256, omit “This Regulation shall be binding in its entirety and directly applicable in all Member States.”.
4. So far as Annex B of the Delegated Regulation mentioned in regulation 3(1) applies in relation to Article 127(5) or 263(4) of Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code, it must as necessary be interpreted and applied on the basis that—
- (a) references to anything in or under that Code are references to corresponding provision made by or under the Taxation (Cross-border Trade) Act 2018; and
 - (b) it is applicable to the United Kingdom only.

PART 4

THE COMMISSION IMPLEMENTING REGULATION

Modification of Commission Implementing Regulation (EU) 2015/2447 laying down detailed rules for implementing certain provisions of the Union Customs Code

5.—(1) 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 is amended as follows.

(2) Revoke: Article 1(2)(1), (3), (6) and (10); Article 30(3); Articles 37 to 47; Article 182, second paragraph; Article 183; Article 184; Article 185(2) and (4); point (b) of paragraph (3) of Article 185; Article 186; Article 187(1); Article 188(1) and (3); Article 189(2); Annex 12-03.

(3) In Article—

- (a) 13—
 - (i) for “customs authority competent to take a decision”, substitute “Commissioners for Her Majesty’s Revenue and Customs”,
 - (ii) for “taking the” substitute “taking a”;
- (b) 24(2) after “take the decision” insert “(namely, in this Regulation, the Commissioners for Her Majesty’s Revenue and Customs)”;
- (c) 25(1)(a) for “Member State where the accounts are held”, substitute “United Kingdom”;
- (d) 25(2) after “(AEOS),” insert “as distinct from pursuant to provision made by or under the Taxation (Cross-border Trade) Act 2018, ”;
- (e) 29(2) omit “Union”;
- (f) 30(2) omit—
 - (i) “Union”,
 - (ii) “competent”,
 - (iii) and in both places, “national”;

- (g) 187(4)(a) and (b), for “Union” substitute “United Kingdom”;
- (h) 189(1)—
 - (i) omit “located in a Member State”,
 - (ii) omit “as a country of routing”,
 - (iii) for “Article 141 of the Code” substitute “provision made by or under the Taxation (Cross-border Trade) Act 2018”.

(4) After Article 350 omit “This Regulation shall be binding in its entirety and directly applicable in all Member States.”.

6. So far as Annex B of the Implementing Regulation mentioned in regulation 5(1) applies in relation to Article 127(5) or 263(4) of Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code, it must as necessary be interpreted and applied on the basis that—

- (a) references to anything in or under that Code are references to corresponding provision made by or under the Taxation (Cross-border Trade) Act 2018; and
- (b) it is applicable to the United Kingdom only.

PART 5

MISCELLANEOUS PROVISION

Miscellaneous modifications to amending Regulations, etc.

7.—(1) Omit “This Regulation shall be binding in its entirety and directly applicable in all Member States.” in the following Regulations—

- (a) Commission Delegated Regulation (EU) 2016/341 of 17 December 2015 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards transitional rules for certain provisions of the Union Customs Code where the relevant electronic systems are not yet operational and amending Delegated Regulation (EU) 2015/2446;
- (b) 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;
- (c) Commission Implementing Regulation (EU) 2017/989 of 8 June 2017 correcting and amending Implementing Regulation (EU) 2015/2447 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.

(2) In the Customs Safety and Security (Penalty) Regulations 2019(6), Column 1 of the Schedule, entry for “Article 189 of the Implementing Regulation.”: omit “in a Member State”.

Date

Name 1
Name 2
Two of the Commissioners for Her Majesty's
Revenue and Customs

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in exercise of the powers conferred by section 8(1) of the European Union (Withdrawal) Act 2018 (c. 16) in order to address failures of retained EU law to operate effectively and other deficiencies (in particular under sections 8(2)(a), 8(2)(b), 8(2)(g) and 8(3)(a)) arising from the withdrawal of the UK from the European Union.

These Regulations make amendments to legislation in the field of customs safety and security procedures to ensure that they continue to operate as before, but in the context of the United Kingdom no longer being a member of the European Union.

This instrument is covered by an overarching HMRC impact assessment (third edition) published and available on the website at:

<https://www.gov.uk/government/collections/customs-vat-and-excise-regulations-leaving-the-eu-with-no-deal>.