



# Taxation (Post-transition Period) Act 2020

## 2020 CHAPTER 26

### *Northern Ireland Protocol*

#### **1 Duty on goods removed to Northern Ireland**

After section 40 of TCTA 2018 insert—

##### **“40A Removal to Northern Ireland of at risk goods etc**

- (1) A duty of customs is charged on the removal of goods to Northern Ireland from Great Britain if the goods—
  - (a) are not domestic goods, or
  - (b) are at risk of subsequently being moved into the European Union.
- (2) For the purposes of this section “at risk of subsequently being moved into the European Union” has the meaning given by regulations made by the Treasury.
- (3) Duty under this section is charged in accordance with Union customs legislation as if the goods subject to the charge were brought into the customs territory of the European Union.

##### **40B Duty under section 40A: supplementary**

- (1) The Treasury may by regulations provide that, in relation to goods of a specified description, the following matters are to be determined in accordance with provision made by or under this Act (instead of in accordance with Union customs legislation)—
  - (a) whether goods in particular circumstances are chargeable to duty under section 40A;
  - (b) the amount of duty charged under that section;
  - (c) such other matters relating to the charging of duty under section 40A as may be specified.

- (2) The Treasury may by regulations make provision generally for the purposes of duty under section 40A.
- (3) The following are examples of provision that regulations under subsection (2) may make for the purposes of that duty—
- (a) that section 40A(1) does not apply to goods of a specified description;
  - (b) provision about reliefs, repayment and remission (including provision for the recovery of amounts where any condition in connection with any relief, repayment or remission is not met);
  - (c) provision about (including provision modifying) the application of provision made by or under the customs and excise Acts (including provision made by or under this Act) to duty under section 40A or to goods removed to Northern Ireland from Great Britain;
  - (d) provision supplementing or modifying provisions of Union customs legislation that apply to that duty or to those goods;
  - (e) provision imposing checks, controls or administrative processes in connection with the removal of goods to Northern Ireland from Great Britain;
  - (f) provision regulating the unloading, landing, movement and removal of goods on their removal to Northern Ireland from Great Britain (including provision restricting the places in which such goods may enter Northern Ireland).
- (4) Regulations under this section that specify a description of goods may do so by reference to any matter or circumstance (including, for example, any matter or circumstance relating to any person concerned with the removal of such goods).
- (5) Section 40 (regulations) applies to regulations under this section and section 40A as it applies to regulations under section 39 other than the first regulations under that section.
- (6) In this section and in section 40A, reference to “Great Britain” is to be treated as including the territorial sea of the United Kingdom.
- (7) Expressions used in provision made by or under this section or section 40A that are defined for the purposes of Part 1 have the same meaning they have in that Part.”

## **2 Duty on goods imported into or removed from Northern Ireland**

- (1) Part 1 of TCTA 2018 is amended as follows.
- (2) In section 1 (charge to import duty)—
- (a) the existing text becomes subsection (1);
  - (b) after that subsection insert—
 

“(2) Sections 30A and 30B make provision about the application of this Part to goods imported into the United Kingdom as a result of their entry into Northern Ireland.”
- (3) In section 2 (chargeable goods)—
- (a) the existing text becomes subsection (1);
  - (b) after that subsection insert—

“(2) But subsection (1) is subject to section 30A(4) (importation of goods: Northern Ireland).”

(4) After section 30 insert—

*“Northern Ireland*

**30A Importation of goods: Northern Ireland**

- (1) Union goods imported into the United Kingdom as a result of their entry into Northern Ireland are to be treated for the purposes of this Part as if they were domestic goods.
- (2) Accordingly, such goods are not chargeable to import duty (but see section 30C).
- (3) Other goods imported into the United Kingdom as a result of their entry into Northern Ireland are not chargeable to import duty, but are chargeable to duty under this subsection.
- (4) Except as may be provided for by regulations made by the Treasury, such goods are not chargeable goods for the purposes of this Part.
- (5) Duty under subsection (3) is chargeable in accordance with Union customs legislation as if the goods subject to the charge were brought into the customs territory of the European Union.
- (6) Duty under subsection (3) is a duty of customs, and accordingly the revenues of that duty (as with import duty) are revenues of customs that HMRC Commissioners are responsible for collecting and managing.

**30B Duty under section 30A(3): supplementary**

- (1) The Treasury may by regulations provide that, in relation to goods of a specified description, the following matters are to be determined in accordance with provision made by or under this Act (instead of in accordance with Union customs legislation)—
  - (a) whether goods in particular circumstances are chargeable to duty under section 30A(3);
  - (b) the amount of duty charged under that subsection;
  - (c) such other matters relating to the charging of duty under that subsection as may be specified.
- (2) Regulations under subsection (1) may specify a description of goods by reference to any matter or circumstance (including, for example, any matter or circumstance relating to any person concerned with the importation of such goods).
- (3) The Treasury may by regulations make provision generally for the purposes of duty under section 30A(3).
- (4) The following are examples of provision that regulations under subsection (3) may make for the purposes of that duty—

- (a) provision about reliefs, repayment and remission in relation to duty under section 30A(3) (including provision for the recovery of amounts where any condition in connection with any relief, repayment or remission is not met);
- (b) provision about (including provision modifying) the application of provision made by or under the customs and excise Acts (including provision made by or under this Act) to duty under section 30A(3) or to goods imported into the United Kingdom as a result of their entry into the Northern Ireland;
- (c) provision supplementing or modifying provisions of Union customs legislation that apply to that duty or to those goods.

### **30C Duty on potentially imported goods**

- (1) A duty of customs is charged on the removal of goods to Great Britain from Northern Ireland if the goods are not qualifying Northern Ireland goods.
- (2) A duty of customs is charged on the removal of other goods to Great Britain from Northern Ireland if the main purpose, or one of the main purposes, of the removal is to—
  - (a) avoid any other duty chargeable as a result of this Act, or
  - (b) avoid any obligation in connection with such a duty.
- (3) The relevant import duty provisions apply for the purposes of duty charged under this section as if—
  - (a) any reference to chargeable goods were to goods removed to Great Britain from Northern Ireland,
  - (b) any reference to the importation of goods were to their removal to Great Britain from Northern Ireland,
  - (c) in section 6(2), for “the United Kingdom” there were substituted “Great Britain”, and
  - (d) in section 16(2), for “export to the United Kingdom” there were substituted “removal to Great Britain”.
- (4) A provision is a “relevant import duty provision” if it is provision made by or under any of sections 3 to 28 and 34 and Schedules 1 to 6.
- (5) The Treasury may by regulations make provision generally for the purposes of duty under this section.
- (6) The following are examples of provision that regulations under subsection (5) may make for the purposes of that duty—
  - (a) that subsection (1) does not apply to goods of a specified description (and if it does not, whether such goods are to be treated as “other goods” for the purposes of subsection (2));
  - (b) that subsection (3) does not apply, to such extent as may be specified, to goods of a specified description;
  - (c) that any reference in this Part to Great Britain is to be treated as including the territorial sea, or any specified area of the territorial sea, of the United Kingdom;
  - (d) provision about (including provision modifying) the application of provision made by or under the customs and excise Acts (including

- provision made by or under this Act) to duty under this section or to goods removed from Northern Ireland to Great Britain;
  - (e) provision imposing checks, controls or administrative processes in connection with the removal of goods to Great Britain from Northern Ireland (and such checks, controls and processes may be imposed for any purpose in connection with duty under this section despite any provision of any enactment whenever passed);
  - (f) provision regulating the unloading, landing, movement and removal of goods on their removal to Great Britain from Northern Ireland (including provision restricting the places in which such goods may enter Great Britain).
- (7) Regulations under this section that specify a description of goods may do so by reference to any matter or circumstance (including, for example, any matter or circumstance relating to any person concerned with the removal of such goods).”
- (5) Schedule 1 contains amendments to TCTA 2018 and other Acts in connection with the provisions of the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement that concern tax.

### **3 Value added tax in Northern Ireland**

- (1) In VATA 1994, before section 41 insert—

#### **“40A Northern Ireland Protocol**

- (1) Schedule 9ZA—
- (a) makes provision about a charge to VAT on acquisitions of goods in Northern Ireland from a member State, and
  - (b) contains modifications of the other provisions of this Act in connection with the movement of goods between Northern Ireland and member States.
- (2) Schedule 9ZB—
- (a) makes provision about VAT charged on goods imported into the United Kingdom as a result of their entry into Northern Ireland,
  - (b) makes provision about the treatment, for the purposes of VAT, of goods that are removed from Northern Ireland to Great Britain and goods that are removed from Great Britain to Northern Ireland, and
  - (c) contains other provision relevant to the application of this Act in Northern Ireland.”
- (2) Part 1 of Schedule 2 inserts the Schedules referred to in the amendment made by subsection (1) into VATA 1994 and contains further amendments of that Act (as amended by TCTA 2018).
- (3) Part 2 of that Schedule makes amendments to other legislation in connection with the amendments made by Part 1.
- (4) Where a provision inserted into VATA 1994 as a result of Schedule 2 re-enacts (with or without modifications) provision repealed by TCTA 2018 (or by that Schedule), unless the contrary intention appears—

- (a) any reference in any provision made by or under an enactment to the repealed provision is to be construed as a reference to the re-enacted provision;
- (b) any order or regulations that would otherwise cease to have effect as a result of the repeal continues to have effect as if made under the re-enacted provision (subject to any modifications made to that provision, and with such modifications to that order or those regulations as may be necessary).

#### **4 Excise duty on the removal of goods to Northern Ireland**

- (1) Where goods to which a relevant excise duty provision applies are removed to Northern Ireland from Great Britain, excise duty is charged on those goods under that provision.
- (2) Each of the following is a “relevant excise duty provision”—
  - (a) section 5 of ALDA 1979 (spirits);
  - (b) section 36 of that Act (beer);
  - (c) section 37 of that Act (high strength beer);
  - (d) section 54 of that Act (wine);
  - (e) section 55 of that Act (made-wine);
  - (f) section 62 of that Act (cider);
  - (g) section 6 of HODA 1979 (hydrocarbon oil);
  - (h) section 6AA of that Act (biodiesel);
  - (i) section 6AB of that Act (bioblend);
  - (j) section 6AD of that Act (bioethanol);
  - (k) section 6AE of that Act (bioethanol blend);
  - (l) section 6AG of that Act (aqua methanol);
  - (m) section 6A of that Act (fuel substitutes);
  - (n) section 8 of that Act (road fuel gas);
  - (o) section 2 of TPDA 1979 (tobacco products).
- (3) Subsection (1) does not apply to a removal of goods to which a relevant excise duty provision mentioned in paragraph (h), (j), (l) or (m) applies unless, prior to their removal, the goods were set aside for, or put to, a chargeable use (within the meaning of the relevant excise duty provision in question) by any person.
- (4) Subsection (1) does not apply to a removal of road fuel gas (within the meaning given by section 5 of HODA 1979) unless, prior to its removal from Great Britain the gas was—
  - (a) sent out from the premises of a person producing or dealing in road fuel gas, or
  - (b) set aside for use, or put to use, as fuel for a road vehicle (within the meaning of that Act) by any person.
- (5) Goods are removed to Northern Ireland when their entry in Northern Ireland would amount to an importation of excise goods within the meaning of Article 4 of the Union excise directive if—
  - (a) any reference in that Article to “excise goods” included any goods to which a relevant excise duty provision applies,
  - (b) the references in point 8 of that Article to “the territory of the Community” and “the Community” were to Northern Ireland, and

- (c) the reference in point 6 of that Article to “special procedures as provided for under Regulation (EEC) No 2913/92” were to the procedures under Union customs legislation that correspond to those procedures.
- (6) In subsection (5)—
- “the Union excise directive” means Council Directive 2008/118/EC of 16 December 2008 concerning the general arrangements for excise duty and repealing Directive 92/12/EEC;
  - “Union customs legislation” means provisions contained in “customs legislation” within the meaning of Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (see Article 5(2) of that Regulation), as they have effect as a result of section 7A of the European Union (Withdrawal) Act 2018.

## 5 Duty under section 4: supplementary

- (1) Any provision made by or under the customs and excise Acts that applies to, or in connection with, duty under a relevant excise duty provision by reference to the importation of goods applies to duty charged as a result of section 4(1) as if—
  - (a) any reference to the importation of goods (however framed) were to their removal to Northern Ireland from Great Britain, and
  - (b) any reference to the entry of any person or vehicle into the United Kingdom (however framed) were to the arrival of that person or vehicle in Northern Ireland.
- (2) The Treasury may by regulations made by statutory instrument make provision, for the purposes of duty charged as a result of section 4(1), about (including provision modifying) the application of the customs and excise Acts (including this section and section 4) to that duty or to goods that are, or may be, subject to that duty.
- (3) A statutory instrument containing regulations made under subsection (2) is subject to annulment in pursuance of a resolution of the House of Commons.
- (4) In this section—
  - “the customs and excise Acts” has the meaning it has in CEMA 1979 (see section 1(1) of that Act);
  - “relevant excise duty provision” is to be construed in accordance with section 4(2).
- (5) This section and section 4 have effect in relation to any removal of goods to Northern Ireland from Great Britain that commences on or after IP completion day.
- (6) For the purposes of subsection (5), a removal of goods commences—
  - (a) in the case of goods carried by (which for these purposes includes where the goods constitute, or are within, accompanying baggage of) a person travelling from Great Britain to Northern Ireland on an aircraft or vessel, when the aircraft or vessel is scheduled to depart from the airport or port in Great Britain from which it departs, and
  - (b) in any other case, when the goods are dispatched from the place in Great Britain from which they are removed.

**6 Rate of fuel duty on aviation gasoline**

In section 6(1A)(aa) of HODA 1979 (rate of fuel duty on aviation gasoline), for “£0.3770” substitute “£0.3820”.

*Other provision about value added tax*

**7 Online sales by overseas persons and low value importations**

Schedule 3 makes provision for the purposes of value added tax in cases involving—

- (a) supplies of goods by persons established outside the United Kingdom that are facilitated by online marketplaces;
- (b) the importation into the United Kingdom of goods of a low value.

*Insurance premium tax*

**8 Liability of insured in certain cases**

In section 65 of FA 1994 (insurance premium tax: liability of insured in certain cases), for subsections (1A) and (1B) substitute—

“(1A) The condition mentioned in subsection (1)(b) above is that there are no arrangements in relation to the country or territory relating to insurance premium tax which—

- (a) have effect by virtue of an Order in Council under section 173 of the Finance Act 2006, and
- (b) contain provision of a kind mentioned in subsection (2)(a) and (b) of that section.”

*Controlled foreign companies*

**9 Recovery of unlawful state aid**

Schedule 4 makes provision in connection with the charging of amounts under Part 9A of TIOPA 2010 (the CFC charge in relation to controlled foreign companies) as if one of the exemptions in Chapter 9 of that Part (exemptions for profits from qualifying loan relationships) had not applied, in order to comply with [Commission Decision \(EU\) 2019/1352](#) of 2 April 2019 on the state aid SA.44896 implemented by the United Kingdom concerning the CFC Group Financing Exemption (referred to in that Schedule as “the Commission Decision”).

*Final provisions*

**10 Interpretation**

In this Act the following abbreviations are references to the following Acts—

ALDA 1979

Alcoholic Liquor Duties Act 1979

CEMA 1979

Customs and Excise Management Act 1979



FA, followed by a year	Finance Act of that year
F(No.2)A, followed by a year	Finance (No.2) Act of that year
HODA 1979	Hydrocarbon Oil Duties Act 1979
TCTA 2018	Taxation (Cross-border Trade) Act 2018
TIOPA 2010	Taxation (International and Other Provisions) Act 2010
TPDA 1979	Tobacco Products Duty Act 1979
VATA 1994	Value Added Tax Act 1994

## 11 Commencement

- (1) The following provisions come into force on the day on which this Act is passed—
  - (a) section 9 and Schedule 4,
  - (b) section 10,
  - (c) this section,
  - (d) section 12, and
  - (e) the remaining provisions of this Act so far as making provision for anything to be done by regulations or order.
- (2) Section 6 comes into force on 1 January 2021.
- (3) The remaining provisions of this Act come into force on such day as the Treasury may by regulations made by statutory instrument appoint.
- (4) The power of the Treasury to appoint a day under subsection (3) includes—
  - (a) a power to appoint different days for different purposes or areas, and
  - (b) a power to appoint a time on a day if the Treasury consider it appropriate to do so (including a time that has effect by reference to the coming into force of any other enactment).
- (5) The Treasury may by regulations made by statutory instrument make such consequential, supplementary, incidental, transitional, transitory or saving provision as the Treasury consider appropriate in connection with the coming into force of any provision of this Act.
- (6) Regulations under subsection (5) may make different provision for different purposes or areas.

## 12 Short title

This Act may be cited as the Taxation (Post-transition Period) Act 2020.