



European Union (Future Relationship) Act 2020

2020 CHAPTER 29

PART 2

TRADE AND OTHER MATTERS

Customs and tax

20 Disclosure of information and co-operation with other customs services

(1) In the Customs and Excise Management Act 1979, after section 8 insert—

“8A Disclosure of customs information

- (1) HMRC (or anyone acting on their behalf) may disclose to any person information held by them in connection with HMRC’s customs functions if the disclosure is made for purposes that are connected with those functions.
- (2) In this section “HMRC’s customs functions” means HMRC’s functions in their capacity as a customs service and includes in particular their functions relating to—
 - (a) the movement of goods or cash into or out of the United Kingdom, and
 - (b) the imposition, enforcement or other regulation of import duty.
- (3) A person who receives information as a result of this section—
 - (a) may use it only for the purposes for which it was disclosed, and
 - (b) may not further disclose it without the consent of the Commissioners (which may be general or specific).
- (4) If—

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- (a) a person discloses information in contravention of subsection (3)(b), and
- (b) the information relates to a person whose identity is specified in, or can be deduced from, the disclosure,

section 19 of the Commissioners for Revenue and Customs Act 2005 (offence of wrongful disclosure) applies in relation to the disclosure as it applies in relation to a disclosure in contravention of section 20(9) of that Act.

- (5) Nothing in this section authorises a disclosure of information if the disclosure would contravene the data protection legislation or would be prohibited by the investigatory powers legislation (but in determining whether a disclosure would do either of those things, the power conferred by subsection (1) is to be taken into account).

- (6) In subsection (5)—

“the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act);

“the investigatory powers legislation” means Parts 1 to 7 and Chapter 1 of Part 9 of the Investigatory Powers Act 2016.

- (7) Nothing in this section—

- (a) applies to a disclosure made in the exercise of the power conferred by section 8B(1) or (2) of this Act (co-operation with other customs services);
- (b) limits the circumstances in which information may be disclosed under section 18(2) of the Commissioners for Revenue and Customs Act 2005 or under any other enactment or rule of law.

- (8) In this section—

“cash” means—

- (a) notes and coins in any currency, and
- (b) any bearer-negotiable or other monetary instrument;

“HMRC” means Her Majesty’s Revenue and Customs.

8B Co-operation with other customs services

- (1) HMRC (or anyone acting on their behalf) may co-operate with any other customs service (whether by exchanging information or otherwise) on matters of mutual concern with a view to securing—

- (a) the administration of the import duty system,
- (b) the prevention or detection of evasion or other fraud relating to import duty, and
- (c) the prevention, reduction or elimination of avoidance of a liability to import duty.

- (2) HMRC (or anyone acting on their behalf) may co-operate with any other customs service (whether by exchanging information or otherwise) for the purposes of implementing any international obligation of the United Kingdom.

- (3) A person who receives information as a result of this section—

Status: This is the original version (as it was originally enacted).

- (a) may use it only for the purposes of HMRC’s customs functions or the functions of the other customs service in question, and
 - (b) may not further disclose it without the consent of the Commissioners (which may be general or specific).
- (4) If—
 - (a) a person discloses information in contravention of subsection (3)(b), and
 - (b) the information relates to a person whose identity is specified in, or can be deduced from, the disclosure,section 19 of the Commissioners for Revenue and Customs Act 2005 (offence of wrongful disclosure) applies in relation to the disclosure as it applies in relation to a disclosure in contravention of section 20(9) of that Act.
- (5) Nothing in this section authorises a disclosure of information if the disclosure would contravene the data protection legislation or would be prohibited by the investigatory powers legislation (but in determining whether a disclosure would do either of those things, the powers conferred by subsections (1) and (2) are to be taken into account).
- (6) In subsection (5)—
 - “the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act);
 - “the investigatory powers legislation” means Parts 1 to 7 and Chapter 1 of Part 9 of the Investigatory Powers Act 2016.
- (7) Nothing in this section limits the circumstances in which information may be disclosed under section 18(2) of the Commissioners for Revenue and Customs Act 2005 or under any other enactment or rule of law.
- (8) In this section—
 - “HMRC’s customs functions” and “HMRC” have the same meaning as in section 8A;
 - “international obligation of the United Kingdom” includes any obligation of the United Kingdom that arises under an international agreement or arrangement to which the United Kingdom is a party (whenever the United Kingdom becomes a party to it).”
- (2) In section 10 of that Act (disclosure by Commissioners of certain information as to imported goods), omit subsection (A1).
- (3) In the Taxation (Cross-border Trade) Act 2018—
 - (a) omit section 25 (disclosure of information);
 - (b) omit section 26 (co-operation with other customs services);
 - (c) (in consequence of the amendment made by subsection (2)), in Schedule 7 (consequential amendments) omit paragraph 8(2).

21 Powers to make regulations about movement of goods

- (1) The Customs and Excise Management Act 1979 is amended as follows.
- (2) After section 166 insert—

“Powers to make regulations about movement of goods

166A Regulations about movement of goods

- (1) The Commissioners may by regulations make provision for the purpose of monitoring, or controlling, the movement of goods that pose, or might pose, a risk to—
 - (a) public health or public safety,
 - (b) national security, or
 - (c) the environment (including the health of animals or plants).
- (2) The Commissioners may by regulations make provision for the purpose of implementing any international obligation of the United Kingdom relating to the movement of goods.
- (3) Regulations under subsection (1) or (2) may, in particular, include provision—
 - (a) requiring records to be kept or information to be provided,
 - (b) requiring declarations to be made,
 - (c) requiring or authorising persons or vehicles to be searched,
 - (d) requiring or authorising samples of goods to be taken,
 - (e) requiring or authorising goods to be examined, sealed, locked, marked, seized, detained or disposed of, or
 - (f) otherwise imposing restrictions or prohibitions with respect to the movement of goods.
- (4) A reference in this section to the movement of goods is to their movement into or out of the United Kingdom or within the United Kingdom, and includes a reference to their loading or unloading.
- (5) In this section “international obligation of the United Kingdom” includes any obligation of the United Kingdom that arises under an international agreement or arrangement to which the United Kingdom is a party (whenever the United Kingdom becomes a party to it).
- (6) The power to make regulations under subsection (2) in relation to an international obligation arising under an international agreement or arrangement is capable of being exercised before the international agreement or arrangement comes into effect.

166B Authorised economic operators

- (1) Regulations under section 166A may include provision—
 - (a) disapplying or simplifying specified requirements imposed by the relevant legislation in relation to things required or authorised to be done by authorised economic operators, or
 - (b) requiring the Commissioners or the Treasury to have regard to the status of a person as an authorised economic operator when considering whether or not, or how, to exercise any power or other function for the purposes of the relevant legislation.
- (2) In this section—

Status: This is the original version (as it was originally enacted).

“authorised economic operators” means persons authorised as such in accordance with provision made by the relevant legislation;

“the relevant legislation” means—

- (a) this Act and subordinate legislation made under it, and
 - (b) 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).
- (3) Regulations made by virtue of this section may, in particular—
- (a) specify the criteria to be applied in determining whether or not any person should be an authorised economic operator;
 - (b) specify those criteria by reference to professional standards of competence (as set by any specified person) or by reference to anything else (including the judgment of any person as to suitability);
 - (c) make provision for a person’s status as an authorised economic operator to be subject to compliance with conditions specified in the regulations or in the authorisation;
 - (d) establish different classes of authorised economic operator.

166C Regulations under sections 166A: further provision

- (1) Regulations under section 166A may—
- (a) confer a discretion;
 - (b) authorise fees to be charged in respect of the exercise of a function of the Commissioners, the Treasury or another public body;
 - (c) make provision for enforcement, including provision about civil sanctions;
 - (d) make provision for reviews or appeals in relation to decisions made in the exercise of a function of the Commissioners, the Treasury or another public body;
 - (e) make different provision for different cases or circumstances or for different areas;
 - (f) make supplementary, incidental, consequential, transitional, transitory or saving provision.
- (2) Regulations under section 166A may provide for requirements of an administrative nature relating to—
- (a) any requirement or condition imposed by the regulations, or
 - (b) any declaration or application for which provision is made by the regulations,
- to be specified by a public notice.
- (3) The requirements that may be specified by virtue of subsection (2) include—
- (a) requirements about keeping records and other evidence;
 - (b) requirements about the submission of evidence;
 - (c) requirements about the form and content of anything that must or may be provided;
 - (d) requirements about the manner in which, and the time within which, any such thing is to be provided.

Status: This is the original version (as it was originally enacted).

- (4) Regulations under section 166A may not—
- (a) impose or vary the amount of any duty or other form of taxation, or
 - (b) establish a public authority.
- (5) Regulations under section 166A may not include—
- (a) provision that would be within the legislative competence of the Scottish Parliament if it were included in an Act of that Parliament,
 - (b) provision that would be within the legislative competence of Senedd Cymru if it were included in an Act of Senedd Cymru, or
 - (c) provision that would be within the legislative competence of the Northern Ireland Assembly if it were included in an Act of that Assembly,
- unless the provision is merely incidental to, or consequential on, provision that would be outside that legislative competence.
- (6) A power to make regulations under section 166A may be exercised by modifying any enactment.
- (7) In this section—
- “enactment” has the same meaning as in the European Union (Future Relationship) Act 2020;
- “modify” includes amend, repeal or revoke (and related expressions are to be read accordingly);
- “public authority” means a public authority within the meaning of section 6 of the Human Rights Act 1998.”

- (3) In section 172 (regulations)—
- (a) in subsection (2), for “subsection (3)” substitute “subsections (3) and (4)”; and
 - (b) after subsection (3) insert—
- “(4) A statutory instrument containing (whether alone or with other provision) regulations under section 166A that amend (or repeal or revoke)—
- (a) an Act of Parliament,
 - (b) an Act of the Scottish Parliament,
 - (c) an Act or Measure of Senedd Cymru, or
 - (d) Northern Ireland legislation,
- may not be made unless a draft of the instrument has been laid before each House of Parliament and approved by a resolution of each House.”

22 Administrative co-operation on VAT and mutual assistance on tax debts

- (1) The arrangements contained in the Protocol have effect (and do so in spite of anything in any enactment).
- (2) The Commissioners for Her Majesty’s Revenue and Customs are the competent authority in the United Kingdom responsible for the application of the Protocol.
- (3) A reference in any enactment to arrangements having effect by virtue of, or by virtue of an Order in Council under, section 173 of the Finance Act 2006 (international

tax enforcement arrangements) includes a reference to arrangements having effect by virtue of this section.

- (4) In this section “the Protocol” means—
- (a) the protocol, contained in the Trade and Cooperation Agreement, on administrative co-operation and combating fraud in the field of Value Added Tax and on mutual assistance for the recovery of claims relating to taxes and duties, and
 - (b) any decision or recommendation adopted by the Specialised Committee in accordance with that protocol.
- (5) In subsection (4)—
- (a) a reference to the Trade and Cooperation Agreement or to any provision of it is to that agreement or provision as it has effect at the relevant time;
 - (b) a reference to a decision or recommendation adopted by the Specialised Committee in accordance with any provision is to a decision or recommendation so adopted at or before the relevant time.
- (6) In subsection (5) “the relevant time” means the time at which the protocol mentioned in subsection (4)(a) comes into effect (or, if it comes into effect at different times for different purposes, the earliest such time).
- (7) The Commissioners for Her Majesty’s Revenue and Customs may by regulations amend subsection (6) so as to substitute a later time for that for the time being specified there.