
STATUTORY INSTRUMENTS

2019 No. 1214

**EXITING THE EUROPEAN UNION
VALUE ADDED TAX
CUSTOMS**

**The Value Added Tax (Miscellaneous Amendments and
Transitional Provisions) (EU Exit) Regulations 2019**

Made - - - - 4th September 2019

Laid before the House of

Commons - - - - 5th September 2019

Coming into force in accordance with regulation 1

The Treasury make the following regulations in exercise of the powers conferred by sections 51(1) (a) and (b), 52(2) and 56(1) of the Taxation (Cross-border Trade) Act 2018 ^{F1} and section 31(2) of the Value Added Tax Act 1994 ^{F2}.

The Treasury consider it appropriate in consequence of, or otherwise in connection with, the withdrawal of the United Kingdom from the EU to make provision in relation to value added tax and customs and to make provision, including transitional provision, in consequence of the Taxation (Cross-border Trade) Act 2018.

In accordance with section 52(2) of that Act, the Treasury consider it appropriate in consequence of, or otherwise in connection with, the withdrawal of the United Kingdom from the EU for the following Regulations to come into force on such day or days as the Treasury may by regulations under that section appoint.

F1 2018 c. 22; section 51(1)(a) and (b) permits “the appropriate Minister” to make such provision relating to value added tax and any duty of customs as the appropriate Minister considers appropriate in consequence of, or otherwise in connection with, the withdrawal of the United Kingdom from the EU and under section 51(4)(b) “the appropriate Minister” means the Treasury. Section 56(1) permits “the appropriate Minister” to make such provision as the appropriate Minister considers appropriate in consequence of the Act and under section 56(5)(b) “the appropriate Minister” means the Treasury.

F2 1994 c. 23; the heading for section 31 is amended by paragraph 30(3) of Schedule 8 to the [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#) but the amendment is not yet in force.

PART 1

Preliminary

Citation and commencement

1. These Regulations may be cited as the Value Added Tax (Miscellaneous Amendments and Transitional Provisions) (EU Exit) Regulations 2019 and come into force on such day or days as the Treasury may by regulations under section 52 of the Taxation (Cross-border Trade) Act 2018 appoint.

Commencement Information

I1 Reg. 1 in force at 31.12.2020 by [S.I. 2020/1641](#), reg. 2, [Sch.](#)

PART 2

Amendment of primary legislation relating to value added tax

Amendment of Schedule 9 to the Value Added Tax Act 1994 (exemptions)

2.—(1) Group 5 of Schedule 9 to the Value Added Tax Act 1994 ^{F3} (finance) is amended as follows.

- (2) In item 9 omit paragraphs (i) and (j).
- (3) In Note (6) omit—
 - (a) paragraph (b) of the definition of “Gibraltar collective investment scheme” (together with the “or” before it); and
 - (b) the definition of “recognised collective investment scheme constituted in another EEA state”.
- (4) In Note (6A), for “to (j)” substitute “to (f) ”.

F3 [1994 c. 23](#); Group 5 of Schedule 9 was relevantly amended by [S.I. 2008/2547](#). It is further amended by paragraph 95 of Schedule 8 to the [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#) but paragraph 95 is not yet in force.

Commencement Information

I2 Reg. 2 in force at 31.12.2020 by [S.I. 2020/1641](#), reg. 2, [Sch.](#)

PART 3

Amendment of secondary legislation relating to value added tax

Amendment of the Value Added Tax (Miscellaneous Amendments, Revocation and Transitional Provisions) (EU Exit) Regulations 2019

3.—(1) The Value Added Tax (Miscellaneous Amendments, Revocation and Transitional Provisions) (EU Exit) Regulations 2019 ^{F4} are amended as follows.

(2) Omit regulation 6 (transitional provisions in relation to Part 20 of the Value Added Tax Regulations 1995).

(3) Omit Part 3 (amendment of the Fulfilment Businesses Regulations 2018 and transitional provisions for legislation relating to fulfilment businesses).

F4 [S.I. 2019/513](#); these Regulations are not yet in force.

Commencement Information

I3 Reg. 3 in force at 31.12.2020 by [S.I. 2020/1641](#), reg. 2, [Sch.](#)

^{F5}PART 4

Transitional provisions in relation to value added tax

F5 Pt. 4 omitted (31.12.2020) by virtue of [The Value Added Tax \(Miscellaneous and Transitional Provisions, Amendment and Revocation\) \(EU Exit\) Regulations 2020](#) (S.I. 2020/1495), regs. 1(2), [23\(2\)](#); [S.I. 2020/1641](#), reg. 2, [Sch.](#)

Transitional provision for electronic, telecommunication and broadcasting services; non-union and union schemes

4.

Transitional provision for repayments to Community traders

5.

PART 5

Fulfilment Businesses

CHAPTER 1

Preliminary

Interpretation and effect

6.—(1) In this Part—

“the 2017 Act” means the Finance (No. 2) Act 2017 ^{F6};

“the 2018 Regulations” means the Fulfilment Businesses Regulations 2018 ^{F7};

“the Commissioners” means the Commissioners for Her Majesty's Revenue and Customs;

“imported goods fulfilment business” has the meaning given by section 48 of the 2017 Act, as it has effect on and after [^{F8}IP completion day];

“third country goods fulfilment business” has the meaning given by section 48 of the 2017 Act as it had effect immediately before [^{F8}IP completion day].

(2) The changes effected by regulation 7(3) in relation to regulation 4 of the 2018 Regulations do not have effect in relation to a person who was carrying on a third country goods fulfilment business before [F8IP completion day]^{F9}.

- F6** 2017 c. 32; see **S.I.** 2018/298 for commencement of Part 3 (fulfilment businesses). Part 3 and Schedule 13 were amended by section 43 of, and paragraphs 122 to 130 of Schedule 8 to, the **Taxation (Cross-border Trade) Act 2018 (c. 22)** on a day yet to be appointed by the Treasury.
- F7** **S.I.** 2018/326; previously amended by Part 3 of **S.I.** 2019/513 but Part 3 is not in force and is omitted by regulation 3(3) of these Regulations.
- F8** Words in Pt. 5 substituted (31.12.2020) by **The Value Added Tax (Miscellaneous and Transitional Provisions, Amendment and Revocation) (EU Exit) Regulations 2020 (S.I. 2020/1495)**, regs. 1(2), **23(3)**; **S.I.** 2020/1641, reg. 2, **Sch.**
- F9** The effect of this is to ensure that the time limits set out in regulation 4 of the Fulfilment Businesses Regulations 2018 as it had effect before exit day remain applicable to a person who was already carrying on a third country goods fulfilment business before exit day.

Commencement Information

- I4** Reg. 6 in force at 31.12.2020 by **S.I.** 2020/1641, reg. 2, **Sch.**

CHAPTER 2

Amendments

Amendment of the 2018 Regulations

7.—(1) The 2018 Regulations are amended as follows.

(2) In regulation 2, in the definition of “customer”, for “a third country goods” substitute “an imported goods”.

(3) In regulation 4—

- (a) in paragraph (1)(a), for “a third country goods” substitute “an imported goods”;
- (b) for paragraph (2) substitute—

“(2) An application under paragraph (1)(a) must be made on or before the day on which a person commences carrying on an imported goods fulfilment business.”.

(4) In regulation 6(1)(c), for “third country goods” substitute “imported goods”.

(5) In regulation 8—

- (a) in paragraphs (3) and (4), in each place it occurs, for “a third country goods” substitute “an imported goods”;
- (b) in paragraph (5), for “third country goods” substitute “imported goods”.

(6) In regulation 9—

- (a) in paragraph (1), in sub-paragraphs (c) and (d), in each place it occurs, for “a third country goods” substitute “an imported goods”;
- (b) in paragraph (2)(c), for “a third country goods” substitute “an imported goods”.

(7) In regulation 10(1), in sub-paragraphs (c), (d), (e) and (g), in each place it occurs, for “third country goods” substitute “imported goods”.

(8) In regulation 11(2)(a)(iii), for “a third country goods” substitute “an imported goods”.

(9) In regulation 13, and in the heading for it, for “a third country goods” substitute “an imported goods”.

Commencement Information

I5 Reg. 7 in force at 31.12.2020 by [S.I. 2020/1641](#), reg. 2, [Sch.](#)

CHAPTER 3

Approval to carry on third country goods fulfilment business deemed to be approval to carry on imported goods fulfilment business

Approvals accepted before [^{F8}IP completion day]

8. Where before [^{F8}IP completion day] the Commissioners have accepted an application for an approval to carry on a third country goods fulfilment business, that approval is deemed on and after [^{F8}IP completion day] to be an approval to carry on an imported goods fulfilment business.

F8 Words in Pt. 5 substituted (31.12.2020) by [The Value Added Tax \(Miscellaneous and Transitional Provisions, Amendment and Revocation\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1495\)](#), regs. 1(2), [23\(3\)](#); [S.I. 2020/1641](#), reg. 2, [Sch.](#)

Commencement Information

I6 Reg. 8 in force at 31.12.2020 by [S.I. 2020/1641](#), reg. 2, [Sch.](#)

Applications in process at [^{F8}IP completion day]

9. Where before [^{F8}IP completion day] a person has made an application for an approval to carry on a third country goods fulfilment business, or to vary any condition or restriction to which an approval is subject, that application is deemed on and after [^{F8}IP completion day] to be an application for an approval to carry on an imported goods fulfilment business or to vary any condition or restriction to which an approval to carry on such a business is subject.

F8 Words in Pt. 5 substituted (31.12.2020) by [The Value Added Tax \(Miscellaneous and Transitional Provisions, Amendment and Revocation\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1495\)](#), regs. 1(2), [23\(3\)](#); [S.I. 2020/1641](#), reg. 2, [Sch.](#)

Commencement Information

I7 Reg. 9 in force at 31.12.2020 by [S.I. 2020/1641](#), reg. 2, [Sch.](#)

CHAPTER 4

^{F10}Transitional provisions for persons who before [^{F8}IP completion day] were not carrying on a “third country goods fulfilment business” but who, as a result of amendments made by paragraph 123 of Schedule 8 to the Taxation (Cross-border Trade) Act 2018 to section 48 of the 2017 Act, are carrying on “an imported goods fulfilment business” at [^{F8}IP completion day] or commence doing so during the 9 month period following [^{F8}IP completion day]

F10 [2018 c. 22.](#)

Interpretation of this Chapter

10. In this Chapter—

“the first period” means the period of 6 months beginning with the day on which [F8IP completion day] falls;

“the second period” means the period of 3 months immediately following the expiry of the first period.

Commencement Information

I8 Reg. 10 in force at 31.12.2020 by [S.I. 2020/1641](#), reg. 2, [Sch.](#)

Application

11.—(1) This Chapter applies where a person meets the conditions in paragraph (2).

(2) The conditions are that the person—

- (a) was not carrying on a third country goods fulfilment business before [F8IP completion day],
- (b) is carrying on an imported goods fulfilment business at [F8IP completion day] or commences carrying on an imported goods fulfilment business within the period of 9 months beginning with the day on which [F8IP completion day] falls, and
- (c) the imported goods fulfilment business referred to in sub-paragraph (b) would not have qualified as a “third country goods fulfilment business” before [F8IP completion day].

Commencement Information

I9 Reg. 11 in force at 31.12.2020 by [S.I. 2020/1641](#), reg. 2, [Sch.](#)

Modification of regulation 4 of the 2018 Regulations (applications for approval and to vary an approval)

12.—(1) Where this Chapter applies, a person making an application for an approval under regulation 4(1)(a) of the 2018 Regulations must do so in accordance with the time limits in this regulation and regulation 4 of the 2018 Regulations is modified in accordance with paragraphs (2) and (3).

(2) Where the person is carrying on an imported goods fulfilment business at [F8IP completion day] or commences doing so during the first period, the application for an approval must be made before the expiry of the first period.

(3) Where the person commences carrying on an imported goods fulfilment business during the second period, the application for an approval must be made before the expiry of the second period.

Commencement Information

I10 Reg. 12 in force at 31.12.2020 by [S.I. 2020/1641](#), reg. 2, [Sch.](#)

Penalty assessment for failure to comply with the time limits in regulation 12 above

13. The Commissioners may assess a penalty where a person fails to comply with the requirements set out in regulation 4(2) of the 2018 Regulations as modified by regulation 12.

Commencement Information

I11 Reg. 13 in force at 31.12.2020 by [S.I. 2020/1641](#), reg. 2, [Sch.](#)

Suspension of Commissioners' power to assess penalties under regulation 14(1)(b) and (c), (2) and (3) of the 2018 Regulations until on or after the expiry of the second period

14. Where this Chapter applies, the Commissioners' power to assess a penalty under regulation 14(1)(b) and (c), (2) and (3) of the 2018 Regulations may only be exercised in respect of contraventions taking place after the expiry of the second period.

Commencement Information

I12 Reg. 14 in force at 31.12.2020 by [S.I. 2020/1641](#), reg. 2, [Sch.](#)

Transitional provision in relation to sections 53 to 55 of, and Schedule 13 to, the 2017 Act

15. Where this Chapter applies, the provisions of sections 53 to 55 of, and Schedule 13 to, the 2017 Act apply only in relation to contraventions taking place after the expiry of the second period.

Commencement Information

I13 Reg. 15 in force at 31.12.2020 by [S.I. 2020/1641](#), reg. 2, [Sch.](#)

Mike Freer
David Rutley
Two of the Lord Commissioners of Her
Majesty's Treasury

Status: Point in time view as at 31/12/2020.

Changes to legislation: There are currently no known outstanding effects for the The Value Added Tax (Miscellaneous Amendments and Transitional Provisions) (EU Exit) Regulations 2019. (See end of Document for details)

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in consequence of, or otherwise in connection with, the withdrawal of the United Kingdom from the EU.

Regulation 1 provides that the Regulations are to come into force on such day or days as the Treasury may appoint.

Regulation 2 makes consequential amendments to Group 5 of Schedule 9 to the Value Added Tax Act 1994 (c. 23) as a consequence of amendments made by other exit legislation affecting collective investment schemes, including the Collective Investment Schemes (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/325) and the Financial Services (Gibraltar) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/589).

Regulation 3 omits regulation 6 and Part 3 from the Value Added Tax (Miscellaneous Amendments, Revocation and Transitional Provisions) (EU Exit) Regulations 2019 (“S.I. 2019/513”).

Regulation 4 makes transitional provision in relation to the VAT MOSS (mini one stop shop) system to allow Her Majesty's Revenue and Customs to prescribe the form or manner for making claims and corrections in respect of supplies that took place before exit day, so that such claims and corrections can continue to be made in the event that there is no longer access to the MOSS system.

Regulation 5 makes transitional provision in relation to Part 20 of the Value Added Tax Regulations 1995 (S.I. 1995/2518) (repayments to Community traders).

Part 5 (regulations 6 to 15) makes consequential amendments to the Fulfilment Businesses Regulations 2018 (S.I. 2018/326) (“the 2018 Regulations”) in line with changes made by the Taxation (Cross-border Trade) Act 2018 (c. 22) to Part 3 of the Finance (No. 2) Act 2017 (c. 32). It also makes transitional provisions in relation to secondary and primary legislation relating to fulfilment businesses.

This instrument will be covered by an overarching HMRC impact assessment (third 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>.

Status:

Point in time view as at 31/12/2020.

Changes to legislation:

There are currently no known outstanding effects for the The Value Added Tax (Miscellaneous Amendments and Transitional Provisions) (EU Exit) Regulations 2019.