
STATUTORY INSTRUMENTS

2019 No. 1215

**The Customs and Excise (Miscellaneous Provisions
and Amendments) (EU Exit) Regulations 2019**

PART 5

Miscellaneous amendments

Amendment of the Customs (Special Procedures and Outward Processing) (EU Exit) Regulations 2018

12.—(1) The Customs (Special Procedures and Outward Processing) (EU Exit) Regulations 2018⁽¹⁾ are amended as follows.

(2) In regulation 4 (treatment of a declaration as an application for authorisation)—

(a) in paragraph (1)(a), omit “either”;

(b) for sub-paragraph (a)(i) and (ii) of paragraph (1), substitute—

“(i) subject to paragraph (ii), where there is any liability, or potential liability, to pay import duty, in respect of the goods—

(aa) that person gives a single guarantee in accordance with Part 10 of the import duty regulations; or

(bb) there is no requirement for a person to give a guarantee by virtue of regulation 101 of the import duty regulations; or

(ii) where there is any liability, or potential liability, to pay both import duty and excise duty in respect of goods, and the goods are declared for a temporary admission procedure or inward processing procedure—

(aa) that person gives a single guarantee in accordance with Part 10 of the import duty regulations as modified by paragraph (3); or

(bb) there is no requirement for a person to give a guarantee by virtue of regulation 101 of the import duty regulations as modified by paragraph (3); and”;

(c) in paragraph (1)(b)(iii)(bb) for “regulation 13” substitute “regulation 13A”;

(d) omit paragraph (2)(c)(i);

(e) after paragraph (2), insert—

“(3) For the purposes of paragraph (1)(a)(ii)—

(a) Part 10 of the import duty regulations is modified as follows—

(i) other than in regulation 97(2), for “import duty”, wherever it appears, regard as substituted “import duty and excise duty”;

⁽¹⁾ S.I. 2018/1249, amended by S.I. 2019/108 and S.I. 2019/486, there are other amending instruments which are not relevant.

- (ii) in regulation 95(1)(a), for “discharge of the liability” regard as substituted “discharge of the liability to pay import duty”;
- (iii) after regulation 100(1)(b), regard as inserted—
 - “(ba) where the goods have been placed under a duty suspension arrangement and—
 - (i) all the liability to import duty to which the guarantee relates and, where regulation 95(2) (guarantee in relation to charges) applies, any charges in relation to that liability have been paid in full; or
 - (ii) the potential liability to import duty to which the guarantee relates has been extinguished on the discharge of a special Customs procedure.”;
 - (iv) in regulation 100(1)(c)—
 - (aa) in paragraphs (i) and (ii), for “the duty” regard as substituted “the import duty”;
 - (bb) at the end of paragraph (ii), regard “and” as omitted;
 - (cc) at the end of paragraph (iii), for “or” regard as substituted “and” and regard as inserted—
 - “(iv) the part of the specified amount which is equivalent to the amount of the liability, or potential liability, to excise duty is paid in full or the goods to which that part relates have been placed in a duty suspension arrangement; or”;
 - and
- (b) a reference to a “guarantee” in the import duty regulations, wherever it appears, should be construed in accordance with the modifications made by subparagraph (a).
- (4) In this regulation—
 - “duty suspension arrangement” has the meaning given in regulation 3(1) of the Excise Goods (Holding, Movement and Duty Point) Regulations 2010;
 - “excise duty” has the meaning given by section 53 of the Taxation (Cross-border Trade) Act 2018.”.
- (3) In regulation 6(4)(a)(ii) (cases where a declaration is not to be treated as an application for authorisation) for “regulation 27” substitute “regulation 27 or 27A”.
- (4) In regulation 8 (determination of a declaration treated as an application for authorisation)—
 - (a) in paragraph (1) omit “or by regulation 5 as an application for amendment of an authorisation.”;
 - (b) in paragraph (3)—
 - (i) in the words before paragraph (a) after “authorises” insert “the making of that declaration.”;
 - (ii) omit sub-paragraphs (a) and (b) and the preceding dash.
- (5) After regulation 8 (determination of a declaration treated as an application for authorisation) insert—

“Determination of a declaration treated as an application for amendment

8A.—(1) Where a declaration is to be treated by regulation 5 as an application for amendment of an authorisation, the application is to be determined in accordance with this regulation.

(2) Where the conditions in regulation 29(1) are met, acceptance of a declaration for the free-circulation procedure is to be treated as a grant of the application for amendment.

(3) An authorisation amended under paragraph (2) only authorises the use of the standard exchange system in relation to the import of the goods declared for the free-circulation procedure in that declaration.

(4) An authorisation amended under paragraph (2) is subject to such other conditions as may be specified in a notice published by HMRC, which may make different provision for different cases.

(5) If the declaration for the free-circulation procedure is not accepted the application is to be treated as refused.”

(6) In regulation 11 (retrospective authorisation)—

(a) in paragraph (3)(a)—

(i) for paragraph (ii) substitute—

“(ii) the application is not made for the purposes of—

(aa) avoiding, or enabling any other person to avoid, any Customs obligation;

(bb) preventing a liability to import duty or charges being incurred by any person; or

(cc) preventing the application of any non-tariff trade policy measure or agricultural policy measure,

that would have applied had the application been made before the time from which the authorisation is to have effect;”;

(ii) omit paragraph (iii);

(b) for paragraphs (4) to (7) substitute—

“(4) Subject to paragraph (6), where the application is for renewal of an authorisation for the same kind of goods and operation the approval notification may provide that the authorisation has effect from the date on which the authorisation for which renewal is sought expired.

(5) Subject to paragraph (6), where the application is not for a renewal of an authorisation for the same kind of goods and operation—

(a) if the application for authorisation does not relate to sensitive goods the approval notification may provide that the authorisation has effect from a date within the period of a year before the date on which the application for authorisation is received by HMRC;

(b) if the application for authorisation relates to sensitive goods, the approval notification may provide that the authorisation has effect from a date up to three months before the date on which the application was received by HMRC,

where, in the opinion of an HMRC officer, there are exceptional circumstances justifying that earlier date.

(6) In all cases, the approval notification must not provide that the authorisation has effect from a date earlier than exit day.”.

(7) In regulation 15(6)(b) (approval to operate a customs warehouse) after “goods” insert “declared for a storage procedure”.

(8) In regulation 21 (authorisation to declare goods for an inward processing procedure)—

(a) in paragraph (1)(a) for “the type of goods” substitute “the goods, or type of goods,”;

(b) omit paragraph (7).

(9) In regulation 22(1)(b) (authorisation to declare goods for an inward processing procedure – conditions and requirements) in the words before paragraph (i) for “is satisfied, on the basis of an examination of the available evidence, that the essential interests of producers of goods in the United Kingdom would not be” substitute “has not notified the authorised person that the HMRC officer is of the opinion, on the basis of an examination of the available evidence, that the essential interests of producers of goods in the United Kingdom would be”.

(10) In regulation 28 (authorisation to declare goods for an outward processing procedure)—

(a) for paragraph (1) substitute—

“(1) An approval notification issued in relation to an authorisation to declare goods for an outward processing procedure must specify—

(a) the goods, or the type of goods, to which the authorisation applies; and

(b) the processing to which the goods are to be subject.”;

(b) in paragraph (2)(b), in the words before paragraph (i), for “is satisfied, on the basis of an examination of the available evidence, that the essential interests of producers of goods in the United Kingdom would not be” substitute “has not notified the authorised person that the HMRC officer is of the opinion, on the basis of an examination of the available evidence, that the essential interests of producers of goods in the United Kingdom would be”;

(c) in paragraph (6)—

(i) in sub-paragraph (a) for “to be used in a process” substitute “to be processed outside the United Kingdom”;

(ii) in sub-paragraph (c) for “process” substitute “processing”;

(iii) in sub-paragraph (d) omit “processed”.

(11) In regulation 29 (standard exchange system)—

(a) in paragraph (1)(b)—

(i) omit paragraph (i);

(ii) in paragraph (ii)—

(aa) at the end of sub-paragraph (aa) omit “or”;

(bb) after sub-paragraph (bb) insert—

“(cc) a measure provided for under Council Regulation (EU) No 1370/2013 of 16 December 2013 determining measures on fixing certain aids and refunds related to the common organisation of the markets in agricultural products;

(dd) a measure provided for under Regulation (EU) No 1305/2013 of the European Parliament and of the Council of 17 December 2013 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) and repealing Council Regulation (EC) 1698/2005; or

(ee) a measure provided for under Regulation (EU) No 1307/2013 of the European Parliament and of the Council of 17 December 2013 establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy and repealing Council Regulation (EC) No 637/2008 and Council Regulation (EC) No 73/2009.”;

(b) in paragraph (3) for “paragraph (1)(c)” substitute “paragraph (1)(d)”.

(12) In regulation 35(2)(b) (application for authorisation to declare goods for a temporary admission procedure) for “regulation 27” substitute “regulation 27, 27A, 27B or 27C”.

(13) In regulation 37(1) (authorisation to declare goods for a temporary admission procedure) for sub-paragraph (a) substitute—

“(a) the goods, or the type of goods, to which the authorisation applies;”.

(14) In regulation 38 (requirements relating to a temporary admission procedure)—

(a) in paragraph (1)(c) omit “identified in the declaration of the goods for the procedure”;

(b) in paragraph (2)—

(i) in sub-paragraph (a) omit “identified in the declaration of the goods”;

(ii) in sub-paragraph (b) omit “identified in the declaration of the goods”;

(c) after paragraph (3) insert—

“(4) For the purposes of this regulation an intended use of the goods means any use identified in—

(a) the declaration of the goods for a temporary admission procedure; or

(b) the approval notification issued in relation to an authorisation to declare goods for the procedure.”.

(15) In regulation 42 (transfer of rights and obligations)—

(a) in paragraph (2)(a)—

(i) for paragraph (i) substitute—

“(i) an application—

(aa) for authorisation or approval to carry out an activity specified in regulation 3(2) that includes an approval to transfer to the transferee some or all of the rights and obligations that relate to relevant declared goods; or

(bb) under regulation 91(2)(a) of the import duty regulations to amend an authorisation or approval to carry out an activity specified in regulation 3(2) in order to approve such a transfer; or”;

(ii) in paragraph (ii) for “one of the applications specified in paragraph (3)(a)” substitute “an application specified in paragraph (3)(a)”;

(b) in paragraph (3)(a)—

(i) at the end of paragraph (i) substitute “and” for “or”;

(ii) omit paragraph (3)(a)(ii).

(16) In regulation 43(4)(b) (discharge of a special Customs procedure – supplementary provision)

(a) in paragraph (iii) after “Customs procedure” insert “and HMRC accept the declaration”;

- (b) in paragraph (iv)—
 - (i) omit “are.”;
 - (ii) for “, subject to an authorised use” substitute “or a temporary admission procedure, are goods in respect of which the requirements of the relevant procedure are met; or”;
 - (c) after paragraph (iv) insert—
 - “(v) the goods are liable to forfeiture.”.
- (17) In regulation 47(2) (treatment of equivalent goods) for paragraph (a) substitute—
- “(a) on the date on which the declaration of the goods for the procedure is accepted by HMRC—
 - (i) the goods are to be treated for the purposes of Part 1 of the Act as if they had been simultaneously released to, and discharged from, the procedure; and
 - (ii) the goods are to be regarded as domestic goods;”.