

EXPLANATORY MEMORANDUM TO
THE EXCISE GOODS (HOLDING, MOVEMENT AND DUTY POINT)
(AMENDMENT) REGULATIONS 2019

2019 No. 1510

1. Introduction

- 1.1 This explanatory memorandum has been prepared by Her Majesty's Revenue and Customs and is laid before Parliament by Command of Her Majesty.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

- 2.1 This instrument amends the definition of "Member State" and "territory of a Member State" in the Excise Goods (Holding, Movement and Duty Point) Regulations 2010 (the "Excise Regulations") to include the Italian municipality of Campione d'Italia and the Italian waters of Lake Lugano in those definitions. The effect of this will be that the rules for the movement of excise goods between the United Kingdom (UK) and European Union (EU) Member States will apply to the movement of excise goods between Campione d'Italia and the UK and the Italian waters of Lake Lugano and the UK.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 It is regretted that this instrument is in breach of the rule requiring the laying of an instrument at least 21 days before its provisions take effect. It was originally intended to lay the instrument on 2 December 2020 to comply with the rule. In the event it was not possible to lay on that date due to Parliament being dissolved. In order to comply with the UK's obligation to transpose Council Directive (EU) 2019/475 it is necessary for the amendments to the regulations to take effect on 1 January 2020.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

- 3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is the United Kingdom.
- 4.2 The territorial application of this instrument is the United Kingdom.

5. European Convention on Human Rights

- 5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation no statement is required.

6. Legislative Context

- 6.1 The Excise Regulations set out the general arrangements for the holding and movement of excise goods. This instrument amends the definition of “Member State” and “territory of a Member State” in regulation 3(1) of the Excise Regulations, removing the territories of Campione d’Italia and the Italian waters of Lake Lugano from those territories treated as excluded from the territory of the relevant Member State. The Excise Regulations implemented the requirements of Council Directive 2008/118/EC. This instrument is being made to reflect the changes being made to Article 5 of Council Directive 2008/118/EC by Article 2 of Council Directive (EU) 2019/475.
- 6.2 The resources required to prepare a transposition note in relation to the minor amendments made by this instrument implementing Council Directive (EU) 2019/475 adopted on 18 February 2019 as regards Campione d’Italia and the Italian waters of Lake Lugano are disproportionate to the potential benefit to the reader and so a transposition note has not been prepared for that Directive.
- 6.3 The measures in Council Directive (EU) 2019/475 should be adopted by Member States by 31 December 2019 to be applied from 1 January 2020.

7. Policy background

What is being done and why?

- 7.1 This instrument updates excise duty legislation following the amendments made in European law to the territorial scope of Council Directive 2008/118/EC in relation to the Italian municipality of Campione d’Italia and the Italian waters of Lake Lugano. The Italian government requested the inclusion of the Italian municipality of Campione d’Italia, an Italian enclave in the territory of Switzerland, and the Italian waters of Lake Lugano because the historical reasons justifying the exclusion of those territories, such as their isolation and economic disadvantages, no longer apply.
- 7.2 The change to Council Directive 2008/118/EC means that Campione d’Italia and the Italian waters of Lake Lugano are included in the territory of Italy for excise purposes and consequently the movements of excise goods to and from those places will be subject to the same rules as those for movements of excise goods to and from all other Member States.
- 7.3 It is therefore necessary to amend the Excise Regulations so that Campione d’Italia and the Italian waters of Lake Lugano are included in the definition of “Member State” and “territory of a Member State” for the movement of excise goods to and from the UK.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

- 8.1 This instrument does not relate to withdrawal from the European Union.

9. Consolidation

- 9.1 This instrument is not a consolidation measure.

10. Consultation outcome

- 10.1 There has been no public consultation on this instrument as it makes minor amendments to domestic legislation to comply with and reflect changes in EU law. It introduces no changes in policy or impact on businesses or the public that would make consultation appropriate.

11. Guidance

- 11.1 This instrument does not introduce any procedural changes requiring guidance.
- 11.2 Guidance on moving excise goods between the UK and the EU is available on the [GOV.UK](https://www.gov.uk) website.

12. Impact

- 12.1 There is no, or no significant, impact on business, charities or voluntary bodies.
- 12.2 There is no, or no significant, impact on the public sector.
- 12.3 A Tax Information and Impact Note has not been prepared for this instrument because it contains no substantive changes to tax policy.

13. Regulating small business

- 13.1 The legislation applies to activities that are undertaken by small businesses.
- 13.2 No specific action is proposed to minimise the impact of the requirements on small businesses (employing up to 50 people).
- 13.3 The basis for the final decision on what action to take to assist small businesses is the fact that this legislation will not have a disproportionate impact on small businesses. This instrument does not introduce new requirements for the movement of excise goods between the UK and EU, it just extends those requirements to include movements to and from two additional territories of an EU Member State.

14. Monitoring & review

- 14.1 The approach to monitoring of this legislation is that the changes it makes will be kept under review through communication with key stakeholder groups.
- 14.2 The regulations do not include a statutory review clause and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015 under section 28(3)(a) a review clause is not required as the regulations amend provisions relating to excise duty.

15. Contact

- 15.1 Sharon McDermott at HM Revenue and Customs Telephone: 03000 588073 or email: sharon.mcdermott@hmrc.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Annie Purkis, Deputy Director for Excise and Environmental Taxes, at HM Revenue and Customs can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 The Exchequer Secretary to the Treasury, Simon Clarke MP can confirm that this Explanatory Memorandum meets the required standard.