
STATUTORY INSTRUMENTS

2020 No. 1435

**EXITING THE EUROPEAN UNION
CUSTOMS**

**The Customs Tariff (Suspension of Import
Duty Rates) (EU Exit) Regulations 2020**

Made - - - - *at 12.28 p.m. on*
Laid before the House of *15th December 2020*
Commons - - - - *16th December 2020*
Coming into force in accordance with regulation 1

The Treasury, in exercise of the powers conferred by sections 12(1), 31(6) and (7) and 32(7) and (8) of the Taxation (Cross-border Trade) Act 2018⁽¹⁾, makes the following Regulations.

The Treasury considers it appropriate, in consequence of, or otherwise in connection with, the withdrawal of the United Kingdom from the European Union, that these Regulations come into force on such day as the Treasury may, by regulations under section 52(2) of that Act, appoint.

PART 1

General

Citation, commencement, extent and application

1.—(1) These Regulations may be cited as the Customs Tariff (Suspension of Import Duty Rates) (EU Exit) Regulations 2020.

(2) They come into force on the appointed day.

(3) These Regulations extend to the whole of the United Kingdom.

(4) These Regulations apply to all goods that are imported into the United Kingdom in respect of which a liability to a charge to import duty is incurred under the Act.

Interpretation

2. In these Regulations—

(1) [2018 c.22](#).

“the Act” means the Taxation (Cross-border Trade) Act 2018;

“the Tariff Establishment Regulations” means the Customs Tariff (Establishment) (EU Exit) Regulations 2020(2);

“the appointed day” means the day appointed by the Treasury by regulations under section 52(2) of the Act for the coming into force of these Regulations;

“commodity code” means the numerical code set out in the Goods Classification Table;

“duty suspension rate” has the meaning given in regulation 4(1);

“Goods Classification Table” has the meaning given in regulation 1(2) of the Tariff Establishment Regulations;

“specified goods” has the meaning given in regulation 3;

“specified period” has the meaning given in regulation 5;

“Suspensions of Import Duty Rates Document” means the Tariff Suspension Document, version 1.0, dated 10th December 2020(3);

“standard rate of import duty” means, in relation to goods falling within a commodity code set out in the Goods Classification Table in the Tariff of the United Kingdom, the rate of import duty applicable to those goods in a standard case(4);

“Tariff of the United Kingdom” has the meaning given in regulation 1(2) of the Tariff Establishment Regulations;

“United Kingdom business” means a company entered in the register of companies maintained under the Companies Act 2006(5) with a permanent establishment in the United Kingdom.

Specified goods

3. For the purposes of section 12(1) of the Act (tariff suspension) and of these Regulations, “specified goods” are goods to which, by virtue of regulation 4, a rate of import duty that is lower than the standard rate of import duty applies if —

- (a) the goods are listed by commodity code in the column headed “Commodity Code” in one of the tables in the Suspensions of Import Duty Rates Document; and
- (b) any conditions that are specified as to the use of the goods in the column headed “Notes” in the relevant table are satisfied.

Import duty rate for specified goods

4.—(1) Subject to paragraph (2), the rate of import duty applicable to goods to which these Regulations apply that are specified goods is the rate set out in the column headed “Duty Expression” of the relevant table in the Suspensions of Import Duty Rates Document (duty suspension rate) in the same row of that table as the commodity code for those goods.

(2) The rate of import duty applicable to specified goods during any period in which paragraph (3) applies is the standard rate of import duty.

(3) This paragraph applies during any period where the duty suspension rate for goods that are specified goods is higher than the standard rate of import duty for goods falling within the same commodity code.

(2) [S.I. 2020/1432](#).

(3) The Tariff Suspension Document Version 1.0, dated 10th December 2020, published by the Department for International Trade is available at: <https://www.gov.uk/government/collections/customs-vat-and-excise-uk-transition-legislation-from-1-january-2021> Copies are held and available for viewing free of charge at the Department for International Trade, 3 Whitehall Place, London SW1A 2AW.

(4) See section 8(8) of the Taxation (Cross-border Trade) Act 2018 for the meaning given to “a standard case”.

(5) [2006 c.46](#).

Specified period for specified goods

5. For the purposes of section 12(1) of the Act and of these Regulations, the “specified period” in relation to goods that are specified goods is the period—

- (a) beginning with the appointed day; and
- (b) ending with the date set out in column 3 of the relevant table in the Suspensions of Import Duty Rates Document (end date) in the same row of that table as the commodity code for those goods.

Extending the specified period

6.—(1) Subject to paragraph (2), the Treasury may, in accordance with section 12(3)(a) of the Act, extend the specified period in relation to any goods that are specified goods by publishing a notice in writing of that extension on or before the end date specified in the column headed “Expiry Date” in the relevant table in the Suspensions of Import Duty Rates Document in the same row of that table as the commodity code for those goods.

(2) Before extending the specified period in relation to any specified goods under paragraph (1), the Treasury must—

- (a) consult the Secretary of State; and
 - (b) have regard to any recommendation made to them by the Secretary of State,
- in relation to the proposed extension.

PART 2

Requests for suspensions

Requests to the Secretary of State

7.—(1) Requests to the Secretary of State for goods to be specified goods for the purposes of these Regulations may be made in writing by any person (“the applicant”) in an application the form of which is approved by the Secretary of State⁽⁶⁾.

(2) Applications containing requests under paragraph (1) must be sent to the Secretary of State by the applicant in such manner, and before the end of such period, as the Secretary of State determines for the purposes of this regulation.

(3) The Secretary of State—

- (a) must, no later than—
 - (i) two weeks after the date on which an application form was received by the Secretary of State, acknowledge receipt of the request in writing to the applicant; and
 - (ii) four weeks after the date on which the period determined by the Secretary of State in accordance with paragraph (2) expires, publish a notice providing information about all requests received and invite objections from any United Kingdom business to the goods to which the requests relate being specified goods for the purposes of these Regulations;
- (b) may require, from the applicant in relation to a request such further information in connection with, or evidence in support of, the request as the Secretary of State considers appropriate.

⁽⁶⁾ Application forms are available to download at <http://www.gov.uk/guidance/duty-suspensions-and-tariff-quotas>. Hard copies may be requested by post from the Department of International Trade, 3 Whitehall Place, London SW1A 2AW.

(4) Objections to a request made under paragraph (1) must be sent to the Secretary of State in writing before the end of such period as is specified in the notice published by the Secretary of State under paragraph (3)(a)(ii).

(5) The Secretary of State may stay consideration of a request—

- (a) until the expiry of the period for making objections specified in the notice published by the Secretary of State under paragraph (3)(a)(ii);
- (b) pending receipt of any further information or evidence requested from the applicant in relation to a request by the Secretary of State under paragraph (3)(b); or
- (c) if, and for such period as, the Secretary of State remains satisfied that a valid objection under paragraph (3)(a)(ii) exists to the goods to which a request relates being specified goods.

(6) A request made under paragraph (1) may be withdrawn by the applicant in relation to the request at any time before the date on which the Secretary of State makes a recommendation to the Treasury in relation to the request under regulation 9.

Consideration of requests

8.—(1) Except in the circumstances described in paragraph (2), and subject to regulation 7(5), the Secretary of State must promptly consider a request made under regulation 7(1) and must make a recommendation about any such request to the Treasury.

(2) The Secretary of State is not required to consider a request where—

- (a) the goods to which the request relates are goods that are—
 - (i) the same goods (falling under the same commodity code) or similar goods are otherwise available to be supplied in sufficient quantity from within the United Kingdom; or
 - (ii) traded between persons who are related parties in circumstances which would not enable other United Kingdom businesses to benefit from the suspension; or
- (b) it cannot be demonstrated by the applicant that the benefit of the requested suspension to manufacturers in the United Kingdom, in terms of the amount of import duty that would have been saved had a duty suspension rate been in place in relation to the goods concerned in the preceding calendar year, was more than £10,000.

(3) The Secretary of State may reject a request made under regulation 7(1) if—

- (a) the subject matter of the request falls within paragraph (2)(a)(i) or (ii) or (b);
- (b) the application for the request does not comply with any requirements determined by the Secretary of State under regulation 7(2); or
- (c) the applicant has not provided the further information or evidence requested by the Secretary of State under regulation 7(3)(b) in connection with the request before the end of the period of one month beginning with the date on which that information or evidence was requested.

(4) For the purposes of paragraph (2)(a)(ii), two persons are deemed to be “related parties” if —

- (a) they are—
 - (i) officers or directors of each other’s businesses;
 - (ii) legally recognised partners in a United Kingdom business; or
 - (iii) in an employer and employee relationship;
- (b) one of those persons directly or indirectly—

- (i) owns, controls or holds 5% or more of the outstanding voting stock or shares of both of them; or
- (ii) controls the other person; or
- (c) both of those persons—
 - (i) are directly or indirectly controlled by a third person; or
 - (ii) jointly directly or indirectly control a third person.

Recommendations by the Secretary of State about requests

9. The Secretary of State must make a recommendation to the Treasury about any requests made under regulation 7(1) which have not been rejected by the Secretary of State under regulation 8(2) before the end of the period of four months beginning with—

- (a) the date on which the Secretary of State published the notice in relation to the requests under regulation 7(3)(a)(ii); or
- (b) whichever is the earlier of —
 - (i) the date on which the Secretary of State received the further information and evidence requested in relation to any request under regulation 7(3)(b); or
 - (ii) in a case where the Secretary of State stayed the further consideration of the application under regulation 7(5)(c), the date on which the Secretary of State is no longer satisfied that an objection made under regulation 7(3)(a)(ii) to the goods being specified goods is valid.

PART 3

Exceptional duty suspensions

Recommendations about exceptional duty suspensions

10.—(1) The Secretary of State may—

- (a) in the absence of a request received under regulation 7(1); and
- (b) in the circumstances described in paragraph (2),

recommend to the Treasury that goods of a particular commodity code are to be specified goods for the purposes of section 12(1) of the Act and of these Regulations.

(2) The circumstances described in this paragraph are where the Secretary of State is satisfied—

- (a) that—
 - (i) the goods concerned are not produced domestically; or
 - (ii) a suitable alternative to those goods is not available on the domestic market;
- (b) that the measure is necessary to—
 - (i) maintain the supply of food or other finished products to the domestic market; or
 - (ii) mitigate price increases for consumers and United Kingdom businesses that are reliant on imports; or
- (c) that other exceptional circumstances exist in which the application of an exceptional duty suspension rate is necessary in respect of those goods.

(3) Part 2 of these Regulations does not apply for the purposes of a recommendation made by the Secretary of State under this regulation.

PART 4

Crown Dependencies

United Kingdom – Crown Dependencies Customs Union: Modifications

11. The provisions of the Act and of these Regulations that are referred to in the Schedule have effect, in respect of the customs matters to which these Regulations apply, as modified by that Schedule having regard to the existence of the United Kingdom – Crown Dependencies Customs Union.

At 12.28 p.m. on 15th December 2020

David Rutley
Maggie Throup
Two of the Lords Commissioners of Her
Majesty's Treasury

SCHEDULE

Regulation 11

Modification in respect of Crown Dependencies

General

1. The provisions of the Act and of these Regulations, as modified by the following paragraphs, have effect in respect of the customs matters covered by this Schedule.

2. In this Schedule, “the United Kingdom – Crown Dependencies Customs Union” means, collectively, the customs union arrangements which were specified in the Exchange of Letters and the Arrangements referred to in the following Orders in Council—

- (a) The Crown Dependencies Customs Union (Guernsey) (EU Exit) Order 2019⁽⁷⁾;
- (b) The Crown Dependencies Customs Union (Isle of Man) (EU Exit) Order 2019⁽⁸⁾;
- (c) The Crown Dependencies Customs Union (Jersey) (EU Exit) Order 2019⁽⁹⁾.

Modification of section 12 of the Act

3. In section 12 of the Act (tariff suspension)—

- (a) in subsection (1)—
 - (i) the reference to “specified period” in relation to goods that are specified goods is to be read as including a reference to the specified period in relation to any such goods for the purposes of equivalent provisions of customs legislation that have effect in the Bailiwick of Guernsey or, as the case may be, the Isle of Man or the Bailiwick of Jersey;
 - (ii) the reference to “goods” and “specified goods” is to be read as including a reference to goods that are specified goods for the purposes of equivalent provisions of customs legislation that have effect in the Bailiwick of Guernsey or, as the case may be, the Isle of Man or the Bailiwick of Jersey; and
 - (iii) the reference to “the customs tariff in its standard form” is to be read as including a reference to the customs tariff in its standard form as it has effect under or by virtue of equivalent provisions of customs legislation that have effect in the Bailiwick of Guernsey or, as the case may be, the Isle of Man or the Bailiwick of Jersey;
- (b) in subsection (2)(a), the reference to the Secretary of State being obliged to consider a request made by any person for goods to be specified goods for the purpose of the regulations is to be read as including a reference to any such request made by a person in the Bailiwick of Guernsey or, as the case may be, the Isle of Man or the Bailiwick of Jersey for goods to be treated as specified goods for the purposes of the regulations; and
- (c) in subsection (4), the reference to “the customs tariff in its standard form as it has effect without regard to any provision made under any of sections 9 to 11, sections 13 or 15 or section 19(4)” is to be read as including a reference to the customs tariff in its standard form as it has effect under or by virtue of equivalent provisions of customs legislation that have effect in the Bailiwick of Guernsey or, as the case may be, the Isle of Man or the Bailiwick of Jersey without regard to any provisions in that legislation which are equivalent to sections 9 to 11, sections 13 to 15 or section 19(4) of the Act.

⁽⁷⁾ [S.I. 2019/254](#).

⁽⁸⁾ [S.I. 2019/257](#).

⁽⁹⁾ [S.I. 2019/256](#).

Modification of the Regulations

4. Where goods that are specified goods by virtue of these Regulations are also specified goods under equivalent customs legislation that have effect in the Bailiwick of Guernsey or, as the case may be, the Isle of Man or the Bailiwick of Jersey, these Regulations are modified as follows—

- (a) in regulation 1(4), the reference to “goods that are imported into the United Kingdom from any country or territory outside the United Kingdom” is to be read as including a reference to goods imported into the Bailiwick of Guernsey or, as the case may be, the Isle of Man or the Bailiwick of Jersey;
- (b) in regulation 2—
 - (i) the definition of “United Kingdom business” is to be read as including a reference to a business established in the Bailiwick of Guernsey or, as the case may be, the Isle of Man or the Bailiwick of Jersey; and
 - (ii) any reference to a defined term having the meaning given in a particular provision of the Tariff Establishment Regulations is to be read as including a reference to that term having the meaning given in equivalent provisions of customs legislation that have effect in the Bailiwick of Guernsey or, as the case may be, the Isle of Man or the Bailiwick of Jersey;
- (c) in regulation 4(1), the reference to “the rate of import duty applicable to goods to which these Regulations apply that are specified goods” is to be read as including a reference to the rate of import duty applicable to specified goods under equivalent provisions of customs legislation that have effect in the Bailiwick of Guernsey or, as the case may be, the Isle of Man or the Bailiwick of Jersey; and
- (d) in regulation 8(2)—
 - (i) the references to “the United Kingdom” are to be read as including references to the Bailiwick of Guernsey or, as the case may be, the Isle of Man or the Bailiwick of Jersey;
 - (ii) the reference to “United Kingdom business” is to be read as including a reference to any business established in the Bailiwick of Guernsey or, as the case may be, the Isle of Man or the Bailiwick of Jersey; and
 - (iii) the reference to a company “entered in the register of companies maintained under the Companies Act 2006 with a permanent establishment in the United Kingdom” is to be read as including a reference to a company registered in the Bailiwick of Guernsey or, as the case may be, the Isle of Man or the Bailiwick of Jersey with a permanent establishment in the Bailiwick of Guernsey or, as the case may be, the Isle of Man or the Bailiwick of Jersey under equivalent provisions of legislation relating to the registration of companies that have effect in any of those territories.

EXPLANATORY NOTE

(This note is not part of the Regulations)

Part 1 contains general provisions.

Regulation 3 contains a description of “specified goods” for the purposes of the Regulations by reference to the Suspensions of Import Duty Rates Document which lists the goods that are subject to a suspension of the applicable import duty rate. The Tariff Suspension Document Version 1.0 dated 10th December 2020 is published by the Department for International Trade and is available at: <https://www.gov.uk/government/collections/customs-vat-and-excise-uk-transition-legislation-from-1-january-2021> and a hard copy is available to view free of charge by contacting the Department of International Trade, 3 Whitehall Place, London SW1A 2AW. A person unable to access this document electronically can arrange access to a hard copy, while government advice on social distancing and unnecessary travel applies, by telephoning the Department for International Trade on 020 7215 5000.

Regulation 4 makes provision in respect of the duty suspension rate that is to apply to specified goods the commodity codes for which are listed in the Suspensions of Import Duty Rates Document. Regulation 5 provides “specified period” is the period during which the duty suspension rate described in regulation 4 applies to specified goods. Regulation 6 makes provision for extending the specified period.

Part 2 contains provision about requests for suspensions, the consideration of such requests and recommendations made by the Secretary of State to the Treasury about such requests.

Regulation 7 makes provision for the making of requests to the Secretary of State by a person for goods to be specified goods for the purpose of the Regulations. Provision is made for acknowledging receipt of such requests, for publicising them and inviting objections to them from businesses in the United Kingdom, and for the circumstances in which consideration of requests may be stayed by the Secretary of State. Provision is also made for a request to be withdrawn by the person who made it before such time as they are considered by the Secretary of State. Regulation 8 sets out the process for considering requests made to the Secretary of State under regulation 7(1) including the applicable exceptions to the circumstances in which the Secretary of State is required to consider such requests and provision for the circumstances in which such requests may be rejected. Regulation 9 makes provision for the Secretary of State to make recommendations to the Treasury in connection with any requests made under regulation 7(1) which the Secretary of State is obliged to consider.

Part 3 makes provision for the Secretary of State to make recommendations to the Treasury about the application of a duty suspensions rate to goods of a particular commodity code in the absence of a request under regulation 7(1).

Regulation 10 provides that a duty suspension rate can only apply in relation to specified goods in the exceptional circumstances described in paragraph (2) of that regulation.

Part 4 contains modifications to section 12(1) of the Act and these Regulations in respect of the Crown Dependencies. The modifications made by regulation 11 and the Schedule are necessary having regard to the establishment of the customs union between the United Kingdom, the Bailiwick of Guernsey, the Isle of Man and the Bailiwick of Jersey.

This instrument is one of a group of instruments covered by a single overarching full Tax Information and Impact Note (TIIN). The TIIN primarily focuses on the Customs Tariff (Establishment) (EU Exit) Regulations 2020 and will be available electronically in due course at: <https://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins>. A hard copy will be held and available for viewing free of charge at the Department of International Trade, 3 Whitehall Place, London SW1A 2AW. A person unable to access this document electronically can arrange access to a hard copy, while government advice on social distancing and unnecessary travel applies, by telephoning the Department for International Trade on 020 7215 5000.

An Explanatory Memorandum is being published on the same website. There is no significant impact on business, charities or voluntary bodies as this instrument broadly replicates the effect of European Union legislation.

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