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STATUTORY INSTRUMENTS

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**2020 No. 967**

**The Customs (Bulk Customs Declaration and  
Miscellaneous Amendments) (EU Exit) Regulations 2020**

**Part 3**

**Amendments**

**Amendment of the Customs (Temporary Storage Facilities Approval Conditions and Miscellaneous Amendments) (EU Exit) Regulations 2018**

6.—(1) The Customs (Temporary Storage Facilities Approval Conditions and Miscellaneous Amendments) (EU Exit) Regulations 2018(1) are amended as follows.

(2) In regulation 1(3) (interpretation), in paragraph (b)(ii) of the definition of “established in the United Kingdom”, after “activities” insert “for which the person is constituted to perform”.

**Amendment of the Customs (Import Duty) (EU Exit) Regulations 2018**

7.—(1) The Customs (Import Duty) (EU Exit) Regulations 2018(2) are amended as follows.

(2) In regulation 2 (interpretation) after the definition of “EU customs procedure”(3) insert—

“guaranteeing association” has the same meaning as in the Article 1 of the ATA Convention, Article 1 of Annex A to the Istanbul Convention or Article 1(q) of the TIR Convention, as the case may be;”.

(3) In regulation 6 (no requirement to present on import) after “vessel” in each place it occurs insert “, train”.

(4) In regulation 31(2) (persons authorised to use the simplified Customs declaration process) for “regulation 93(1)(b) and (c)” substitute “regulation 93(1)(c) and (d)”.

(5) In regulation 40 (notification of liability by release to certain Customs procedures) after paragraph (2) insert—

“(3) Paragraph (1) does not apply if—

(a) the person making the declaration, or the person in whose name the declaration is made, is approved to defer payment of liability to import duty under regulation 43(5) or (8);

(b) HMRC has been notified by, or on behalf of, the person so approved that that person intends to defer liability in respect of the chargeable goods to which the declaration relates; and

(c) that deferral would be in accordance with regulation 43(4).”.

(6) After regulation 40 insert—

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(1) [S.I. 2018/1247](#). There are amending instruments, but none are relevant.

(2) [S.I. 2018/1248](#). Relevant amending instruments are [S.I. 2019/326](#), [2019/486](#), [2019/1215](#), and [2019/1346](#).

(3) The definition of “EU Customs Procedure” was inserted by regulation 11 of [S.I. 2019/1215](#).

**“Notification of a liability to pay import duty where declaration made by carnet**

**40A.**—(1) Where a Customs declaration is made by means of an ATA carnet a claim by HMRC for the sum undertaken to be paid by the guaranteeing association is to be taken to be notification of the liability to pay the import duty stated in the claim.

(2) Where a Customs declaration is made by means of a CPD carnet notification by HMRC to the guaranteeing association of non-discharge of the carnet is to be taken to be notification of the liability to pay the import duty stated in the notification of non-discharge.

(3) In this regulation “ATA carnet” and “CPD carnet” have the same meanings as in regulation 22.(4)

(7) For regulation 43 (payment of import duty) substitute—

**“43.**—(1) A person who is liable to pay import duty must pay the duty before the end of the period of 10 days beginning with the date following the date on which the person is notified of the liability.

This is subject to paragraphs (2) to (13).

(2) If—

(a) a person who is liable to pay import duty is approved by HMRC to defer payment of any liability to import duty; and

(b) a single guarantee is given in relation to the payment of the liability to import duty, the person must pay the duty before the end of the period of 30 days beginning with the date on which the person is notified of the liability.

(3) If—

(a) a person who is liable to pay import duty is approved by HMRC to defer payment of any liability to import duty; and

(b) a comprehensive guarantee<sup>(5)</sup> is given in relation to the payment of the liability to import duty,

the person must pay the duty before the end of the period of 15 days beginning with the date following the date on which the person is notified of the liability.

(4) A person approved under paragraph (5) or paragraph (8) to defer payment of liability to import duty must pay the duty for which the person is liable, to which the approval relates, before the end of the period of 15 days beginning with the date following the date on which the person is notified of the liability.

(5) HMRC may approve a person to defer payment of liability to import duty under paragraph (4) only if—

(a) the person is an authorised economic operator; or

(b) the following eligibility criteria (in addition to that in paragraph (10)) are met—

(i) the person meets the criteria which apply to be approved as an authorised economic operator as provided by regulation 93(1)(c) and (d), as if reference to suitability to be an authorised economic operator were a reference to suitability to defer payment of liability under paragraph (4); and

(ii) HMRC is satisfied that the person is solvent.

(6) An approval under paragraph (5) is subject to the condition that it does not permit the approved person to defer payment of any liability to import duty notified within a calendar

(4) Regulation 22(5) was substituted by [S.I. 2019/1346](#).

(5) “Comprehensive guarantee” is defined in paragraph 8(1)(b) of Schedule 6 to the Act.

month that is above the specified limit unless the approval is amended in accordance with paragraph (7).

(7) Where a person is approved under paragraph (5) HMRC may on application by the approved person amend the approval to replace the condition imposed by paragraph (6) with a condition that the approval does not permit the approved person to defer payment of any liability to import duty notified within a calendar month that is above a different limit specified in the amended approval (“the amended limit”) if—

- (a) the person is an authorised economic operator; or
- (b) HMRC is satisfied that the person has sufficient resources to be able to pay any liability up to the amended limit.

(8) HMRC may approve a person to defer payment of liability to import duty above the specified limit, up to a limit specified in the approval (“the higher limit”), under paragraph (4) only if—

- (a) the person is an authorised economic operator; or
- (b) the following eligibility criteria (in addition to that in paragraph (10)) are met—
  - (i) the person meets the eligibility criteria in paragraph (5)(b); and
  - (ii) HMRC is satisfied that the person has sufficient resources to be able to pay any liability up to the higher limit.

(9) An approval to defer payment of liability to import duty under paragraph (5) or (8) is granted subject to such conditions as may be specified in the approval notification issued in relation to the approval.

(10) A person is only eligible for approval to defer payment of liability to import duty if the person is established in the United Kingdom.

(11) If a liability to import duty is determined on the basis of information contained in a Customs declaration corrected (or required to be corrected) under paragraph 14 of Schedule 1 to the Act, a person who is liable to pay the import duty, who is not approved to defer payment of liability to import duty under paragraph (5) or paragraph (8), must pay the duty before the end of—

- (a) a period of 10 days beginning with the date following the date on which the person is notified of the liability; or
- (b) if a guarantee is given in relation to the payment of the liability, such longer period as is notified to the person liable which an HMRC officer considers reasonable in the circumstances but not longer than a period of 6 months beginning with the date following the date on which the person is notified of the liability.

(12) In a case within paragraph (11), if the inaccuracy in the Customs declaration is discovered after the date on which the person was notified of the liability to pay import duty determined on the basis of the information contained in the Customs declaration before the correction, paragraph (11) only applies in relation to any additional import duty arising as a result of the correction.

(13) If the duty to notify a liability to pay import duty is taken to be met under regulation 40A (notification of liability where declaration made by carnet) payment must be made in accordance with Article 7 of the ATA Convention or Article 9 of Annex A to the Istanbul Convention as the case may be.

(14) In this regulation—

“duty deferment arrangement” has the meaning given in regulation 3 of the Excise Goods (Holding, Movement and Duty Point) Regulations 2010<sup>(6)</sup>;

“excise duty” has the meaning given by section 49 of the Act;

“import VAT” means value added tax chargeable by virtue of section 1(1)(c) of the Value Added Tax Act 1994<sup>(7)</sup>;

“relevant duties and taxes” means—

- (a) any liability to import duty notified to a person within a calendar month, which—
  - (i) has not been discharged in accordance with regulation 41;
  - (ii) is not suspended in relation to that person under regulation 44;
  - (iii) has not been remitted in accordance with Part 7 of these Regulations;
- (b) any liability to excise duty arising from an excise duty point provided for in regulation 5 of the Excise Goods (Holding, Movement and Duty Point) Regulations 2010 that occurs within the same calendar month, where the liability is subject to a duty deferment arrangement; and
- (c) any liability to import VAT incurred on the importation of goods in relation to which liability to import duty is notified in the same calendar month except to the extent that the obligation to pay that VAT is deferred or postponed without a requirement for a guarantee by virtue of regulations modifying the effect of section 16(2) of the Value Added Tax Act 1994<sup>(8)</sup>;

“specified limit” in relation to a calendar month means where the combined value of the liability to the relevant duties and taxes is an amount set out in a notice published by HMRC Commissioners.

(15) In this regulation—

- (a) a liability to import duty is above the specified limit, the amended limit or the higher limit, if—
  - (i) it is notified to a person who has, in the same calendar month, been notified of, or otherwise incurred, liability to relevant duties and taxes of, or exceeding, the specified limit, the amended limit or the higher limit as the case may be; or
  - (ii) it is the part of a notified liability to import duty that, when added to other liability to relevant duties and taxes notified or otherwise incurred in the calendar month, exceeds the specified limit, the amended limit or the higher limit as the case may be;
- (b) reference to duty to which the approval relates means duty which is not above the higher of—
  - (i) the specified limit; and
  - (ii) any higher limit specified in a notification of approval issued in relation to an amendment of an approval under paragraph (7) or an approval under paragraph (8).”

(8) In regulation 94 (interpretation) omit the definition of “guaranteeing association”.

(9) In regulation 97 (single and comprehensive guarantees) in paragraph (6) for “43(3)(b)(ii)” substitute “43(3)(b)”.

(10) In regulation 98 (specified amount)—

<sup>(6)</sup> S.I. 2010/593. There are amending instruments, but none are relevant.

<sup>(7)</sup> 1994 c. 23. Section 1(1)(c) is substituted by section 41(2)(b) of the Taxation (Cross-border Trade) Act 2018 (c.22) (“the Act”).

<sup>(8)</sup> Section 16 is prospectively substituted by paragraph 13 of Schedule 8 to the Act.

- (a) in paragraph (1) at the beginning insert “Subject to paragraph (1A)”;
- (b) after paragraph (1) insert—

“(1A) Where a person is approved to defer payment of liability to import duty under regulation 43(5) or (8) the specified amount is reduced by the amount of liability to import duty to which the approval relates.

(1B) In paragraph (1A) reference to duty to which the approval relates has the same meaning as in regulation 43(15)(b).”

#### **Amendment of the Customs (Export) (EU Exit) Regulations 2019**

**8.**—(1) The Customs (Export) (EU Exit) Regulations 2019<sup>(9)</sup> are amended as follows.

(2) In regulation 32(2)(a) (persons authorised to use the simplified export declaration process) after “to be approved as an authorised economic operator” insert “in regulation 93(1)(c) and (d) of CIDEER 2018”.

(3) In regulation 37(3) (authorisations to use the EIDR export process) after “to be approved as an authorised economic operator” insert “in regulation 93(1)(c), (d), (e) and (g) of CIDEER 2018”.

#### **Amendment of the Customs (Crown Dependencies Customs Union) (EU Exit) Regulations 2019**

**9.**—(1) The Customs (Crown Dependencies Customs Union) (EU Exit) Regulations 2019<sup>(10)</sup> are amended as follows.

(2) In regulation 5(9) (amendment of regulation 43 of the import duty regulations) for “(3A)” substitute “(10)”.

#### **Amendment of the Taxation (Cross-border Trade) (Miscellaneous Provisions) (EU Exit) Regulations 2019**

**10.**—(1) The Taxation (Cross-border Trade) (Miscellaneous Provisions) (EU Exit) Regulations 2019<sup>(11)</sup> are amended as follows.

(2) In regulation 6 (declarations, trade remedies, cessation of EU customs law) omit paragraph (23).

#### **Amendment of the Taxation (Cross-border Trade) (Miscellaneous Provisions) (EU Exit) (No. 2) Regulations 2019**

**11.**—(1) The Taxation (Cross-border Trade) (Miscellaneous Provisions) (EU Exit) (No. 2) Regulations 2019<sup>(12)</sup> are amended as follows.

(2) In regulation 2(4), in the text inserted as regulation 6A of the Customs (Import Duty) (EU Exit) Regulations 2018, after “vessel” insert “, train”.

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<sup>(9)</sup> [S.I. 2019/108](#). Relevant amending instrument is [S.I. 2019/486](#).

<sup>(10)</sup> [S.I. 2019/385](#).

<sup>(11)</sup> [S.I. 2019/486](#). There are amending instruments, but none are relevant.

<sup>(12)</sup> [S.I. 2019/1346](#).