

This Statutory Instrument has, in part, been printed to correct errors in S.I. 2020/1432, S.I. 2020/1434 and S.I. 2020/1457, and is being issued free of charge to all known recipients of those Statutory Instruments.

S T A T U T O R Y I N S T R U M E N T S

2021 No. 1192

CUSTOMS

The Customs Tariff (Preferential Trade Arrangements and Tariff Quotas) (EU Exit) (Amendment) (No. 4) Regulations 2021

Made - - - - 26th October 2021

Laid before the House of Commons 28th October 2021

Coming into force in accordance with regulation 1

These Regulations are made by the Treasury, in exercise of the powers conferred by sections 9(1), 11(1), (3) and (4), 17(6) and (7), 19(1) and (4), 31(6) and (7) and 32(7), (8) and (13) of the Taxation (Cross-border Trade) Act 2018(a) (“the Act”) and by the Secretary of State in exercise of the powers conferred by sections 11(3), (4) and (6) and 32(7) and (8) of the Act.

Further to section 28 of the Act, the Treasury, in exercising the function of making the following Regulations, has had regard to international arrangements to which Her Majesty’s Government in the United Kingdom is a party that are relevant to the exercise of that function.

Further to sections 9(3) and 17(8) of the Act, the Secretary of State recommends that these Regulations be made.

In accordance with section 11(7) of the Act, in considering what provision to include in regulations made under section 11(1) and (3) of the Act, the Treasury has had regard to recommendations made by the Secretary of State.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Customs Tariff (Preferential Trade Arrangements and Tariff Quotas) (EU Exit) (Amendment) (No. 4) Regulations 2021.

(2) Except as provided in paragraph (3), they come into force on 17th November 2021.

(3) The amendments made by paragraphs (3) and (4) of regulation 4 come into force on 1st December 2021.

(4) These Regulations extend to the United Kingdom.

(a) 2018 c. 22. Any power of HMRC Commissioners to make regulations under Part 1 of the Taxation (Cross-border Trade) Act 2018 (“the Act”) is exercisable concurrently by the Treasury by virtue of section 32(13) of that Act. Part 1 of the Act is amended by the Taxation (Post-transition Period) Act 2020 (c. 26), sections 1 and 2 and Schedule 1. Section 9 of the Act is modified by S.I. 2020/1439 and S.I. 2020/1457.

Interpretation

2. In these Regulations—

“the Preferential Trade Arrangements Regulations” means the Customs Tariff (Preferential Trade Arrangements) (EU Exit) Regulations 2020(a).

Amendment of regulation 16 of the Preferential Trade Arrangements Regulations

3. In regulation 16(1) of the Preferential Trade Arrangements Regulations, in sub-paragraph (a)(ii), for “regulation 18” substitute “regulation 19”.

Amendment of Schedule 1 to the Preferential Trade Arrangements Regulations

4.—(1) The table in Schedule 1 to the Preferential Trade Arrangements Regulations is amended as follows.

(2) In the row relating to the Trade Continuity Agreement between the United Kingdom of Great Britain and Northern Ireland and Canada, signed by Canada on 9th December 2020, for the entry in the second column substitute—

“The Canada Preferential Tariff, version 1.2, dated 25th October 2021.”.

(3) In the row relating to the Agreement on Trade in Goods between Iceland and the Kingdom of Norway and the United Kingdom of Great Britain and Northern Ireland signed on 8th December 2020 —

(a) for the entry in the second column substitute—

“The Iceland Preferential Tariff, version 1.0, dated 25th October 2021.”;

(b) for the entry in the third column substitute—

“The Iceland Origin Reference Document, version 1.0, dated 25th October 2021.”.

(4) In a new row to be inserted immediately above the row containing the entry in respect of the Trade and Partnership Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the State of Israel, signed on 18th February 2019 (“the Israel Agreement”)—

(a) in the first column, above the entry in respect of the Israel Agreement, insert—

“Free Trade Agreement between Iceland, the Principality of Liechtenstein and the Kingdom of Norway and the United Kingdom of Great Britain and Northern Ireland signed on 8th July 2021.”;

(b) in the second column, above the entry in respect of the Israel Preferential Tariff, version 2.1., dated 8th June 2021, insert—

“The Norway Preferential Tariff, version 1.0, dated 25th October 2021.”;

(c) in the third column, above the entry in respect of the Israel Origin Reference Document, version 1.0, dated 7th December 2020, insert—

“The Norway Preferential Tariff, version 1.0, dated 25th October 2021.”.

(5) In the row relating to the Agreement Establishing an Association between the United Kingdom of Great Britain and Northern Ireland and the Hashemite Kingdom of Jordan, signed on 5th November 2019, for the entry in the second column substitute—

“The Jordan Preferential Tariff, version 1.1, dated 25th October 2021.”.

(6) In the row relating to the Additional Agreement between the United Kingdom of Great Britain and Northern Ireland, the Swiss Confederation and the Principality of Liechtenstein extending to the Principality of Liechtenstein certain provisions of the Trade Agreement between the United Kingdom of Great Britain and Northern Ireland and the Swiss Confederation (“the

(a) S.I. 2020/1457, as amended by S.I. 2020/1657 and S.I. 2021/241, 382, 527, 693 and 871.

Liechtenstein Agreement”), signed on 11th February 2019, for the entry in the second column substitute—

“The Switzerland Preferential Tariff, version 2.1, dated 25th October 2021 (applied by the Liechtenstein Agreement by extension)(a).”.

(7) In the row relating to the Interim Economic Partnership Agreement between the United Kingdom of Great Britain and Northern Ireland, of the one part, and the Pacific States, of the other part, signed by the Republic of Fiji and the Independent State of Papua New Guinea on 14th March 2019, for the entry in the third column substitute —

“The Pacific States Origin Reference Document, version 2.1, dated 25th October 2021.”.

(8) In the row relating to the Free Trade Agreement establishing an Association between the United Kingdom of Great Britain and Northern Ireland and the Socialist Republic of Viet Nam, signed on 29th December 2020, for the entry in the second column substitute—

“The Viet Nam Preferential Tariff, version 1.1, dated 25th October 2021.”.

Amendment of the Customs (Tariff-free Access for Goods from British Overseas Territories) (EU Exit) Regulations 2020

5. In regulation 6 of the Customs (Tariff-free Access for Goods from British Overseas Territories) (EU Exit) Regulations 2020(b), in paragraph (2), for “rate of import duty rate that applied at that time under of” substitute “rate of import duty that applied at that time under”.

Amendment of the Customs (Tariff Quotas) (EU Exit) Regulations 2020

6.—(1) The Customs (Tariff Quotas) (EU Exit) Regulations 2020(c) are amended as follows.

(2) In regulation 2(1), in the definition of “Quota Table”(d), for the words from “entitled” to the end substitute “entitled “Tariff Quotas, version 2.2” dated 25th October 2021”.

(3) In regulation 6(2A)(a)(e), for the words from “until” to the end substitute “within the period ending with the day of the next quota close date marking the expiry of the quota period for the quota concerned”.

(4) In regulation 23—

(a) in paragraph (3)—

(i) omit “and” at the end of sub-paragraph (a);

(ii) omit sub-paragraph (b);

(b) in paragraph (5)—

(i) omit “and” at the end of sub-paragraph (a);

(ii) omit sub-paragraph (b).

(5) After regulation 28(3) insert—

“(4) For the purposes of the requirement to show proof of trade in accordance with regulation 29(1)(a)(f) for a quota to which regulation 27 applies, regulation 27 is deemed to apply irrespective of whether reference quantity is suspended under this regulation in respect of the quota concerned.”.

(6) After regulation 29 insert—

(a) The Liechtenstein Agreement applies the Preferential Tariff in respect of the Switzerland Trade Agreement.

(b) S.I. 2020/1434, as amended by S.I. 2021/527.

(c) S.I. 2020/1432, as amended by S.I. 2020/1657 and S.I. 2021/382, 527, 693.

(d) The definition of “Quota Table” in regulation 2 was amended by S.I. 2020/1657 and S.I. 2021/693.

(e) Paragraph (2A) was inserted by regulation 2 of S.I. 2021/693.

(f) Regulation 29(1)(a) was amended by regulation 4 of S.I. 2021/382.

“Suspension of proof of trade

29A—(1) The Secretary of State may publish a notice suspending the requirement to show proof of trade in accordance with regulation 29 in respect of any quota specified in the notice.

(2) The notice may be given if, in the opinion of the Secretary of State, due to the occurrence of abnormal and unforeseeable circumstances, the number of licence applications likely to be submitted in respect of the quota concerned is fewer than the equivalent number of such applications received in the preceding quota period.

(3) The period of any suspension must be specified in the notice and may not exceed the end of the quota period.”.

(7) In regulation 36(6) at the beginning insert “Unless the additional allocation procedure under regulation 36A applies,”.

(8) After regulation 36 insert—

“Allocation of quota 05.4105

36A.—(1) The additional allocation procedure under this regulation applies where—

- (a) the grant of the licence concerned is for an application received in respect of the quota identified by the quota number 05.4105—
 - (i) within the period of seven days beginning with 1st February 2022, or
 - (ii) within the period of seven days beginning with 1st February 2023; and
- (b) the total sum of the figures resulting from the application of the allocation coefficient under regulation 36(6) is less than the available quantity for the goods concerned.

(2) Each applicant which applied to import the goods concerned is to be allocated an additional quantity of goods (“additional quantity”) which is to be calculated as follows—

- (a) the remaining available quantity is to be divided into equal shares for allocation amongst the applicants to import the goods concerned; and
- (b) the resulting figure, rounded down to the nearest kilogram, is the figure equating to the additional quantity to be allocated to each applicant.

(3) The additional quantity must be notified to each applicant by the Secretary of State as the quantity of goods offered to be imported as quota goods under the licence above that applicant’s original application quantity.

(4) Any acceptance by the applicant of the offer of additional quantity must be received by the Secretary of State within seven days of the notification made under paragraph (3).

(5) On acceptance of the offer of additional quantity by the applicant—

- (a) a further security, calculated in accordance with the formula in regulation 26(2), is payable in connection with the additional quantity; and
- (b) any security payable must be lodged with the Secretary of State within the same period as the period for accepting the offer of additional quantity under paragraph (4).

(6) The quantity of quota goods to be imported under the licence is—

- (a) where the offer of additional quantity is not accepted in accordance with paragraphs (4) and (5), the figure resulting from the application of the allocation coefficient under regulation 36(6), or
- (b) where the offer of additional quantity is accepted in accordance with paragraphs (4) and (5), the figure equating to that quantity, combined with the figure resulting from the application of the allocation coefficient under regulation 36(6).”

(9) In Schedule 2(a), in the table headed “Part A: quotas listed in the Quota Table” insert below the final row—

“05.4521	£8 per 100kg			Yes			Yes ⁽⁵⁾			
05.4522	£8 per 100 kg			Yes			Yes ⁽⁵⁾ ”			

(10) In Schedule 3, in column (2) of the table headed “Proof of Trade Table”, in the sector for milk and milk products, for “4050 90” substitute “0405 90”.

Alan Mak
Michael Tomlinson

26th October 2021

Two of the Lord’s Commissioners of Her Majesty’s Treasury

Penny Mordaunt
Minister of State

26th October 2021

Department for International Trade

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made under the Taxation (Cross-border Trade) Act 2018 (c. 22) (“the Act”). They make amendments to the Customs Tariff (Preferential Trade Arrangements) (EU Exit) Regulations (S.I. 2020/1457) (“the Preferential Trade Arrangements Regulations”) to implement preferential customs import duty rates agreed under free trade arrangements entered into between Her Majesty’s Government in the United Kingdom and the governments of other countries or territories. They also amend the Customs (Tariff-free Access for Goods from British Overseas Territories) (EU Exit) Regulations 2020 (S.I. 2020/1434) (“the Tariff-free Access for Goods from British Overseas Territories Regulations”) and the Customs (Tariff Quotas) (EU Exit) Regulations 2020 (S.I. 2020/1432) (“the Tariff Quotas Regulations”).

Regulation 3 corrects a cross-referencing error in the Preferential Trade Arrangements Regulations. In regulation 16(1)(a)(ii) of that Regulation, the reference to “regulation 18” is replaced with a reference to “regulation 19”.

Regulation 4 amends the table in Schedule 1 to the Preferential Trade Arrangements Regulations (which sets out the list of arrangements between Her Majesty’s Government in the United Kingdom and the governments of other countries or territories) to update the Preferential Tariff Reference Documents (“PTRD”) applicable in respect of the arrangements with: Canada; Jordan; Liechtenstein; and Viet Nam and the Origin Reference Document (“ORD”) applicable in respect of the arrangement with the Pacific States.

In addition, regulation 4 amends the table in Schedule 1 to the Preferential Trade Arrangements Regulations to reflect the partial provisional application, as between the United Kingdom and Norway on 1st December 2021, of a new arrangement between Her Majesty’s Government in the United Kingdom and the governments of Iceland, Liechtenstein, and Norway. It also updates the PTRD and ORD related to the previous arrangement with Iceland and Norway, which will, as of 1st December 2021, apply to Iceland only.

(a) Schedule 2 to S.I. 2020/1432 was substituted by regulation 9 of, and Schedule 2 to, S.I. 2020/1657; and was amended by regulation 4 of, and the Schedule to, S.I. 2021/382 and by regulation 2 of S.I. 2021/527.

The arrangements and associated reference documents referred to in regulation 4 are available electronically at: <https://www.gov.uk/government/collections/customs-vat-and-excise-uk-transition-legislation-from-1-january-2021>. Hard copies are held and available to view free of charge at the Department for International Trade, Old Admiralty Building, London SW1A 2DY. A person unable to access these arrangements or Reference Documents electronically can arrange access to a hard copy, while government advice on social distancing and travel applies, by telephoning the Department for International Trade on 0203 987 7277.

Regulation 5 corrects a minor grammatical error in regulation 6(2) of the Tariff-free Access for Goods from British Overseas Territories Regulations.

Regulation 6 amends the Tariff Quotas Regulations. The definition of “Quota Table” in regulation 2 of those Regulations is amended to refer to an updated version of that Table. Amended quota volumes relating to Australian imports are included in the Table and these will take effect in each case on the commencement of the new quota year for the goods concerned (regulation 6(3)). The Table is published separately and available at <https://www.gov.uk/government/collections/customs-vat-and-excise-uk-transition-legislation-from-1-january-2021>. Hard copies are held and available to view free of charge at the Department for Environment, Food and Rural Affairs, Seacole Building, 2 Marsham Street, London SW1P 4DF. 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 Environment, Food and Rural Affairs on 03459 33 55 77.

Regulation 6(4) clarifies that requirements relating to reference quantity and proof of trade respectively apply in respect of applications made throughout the quota period. Regulation 6(5) clarifies that proof of trade arrangements continue to apply for the purposes of regulation 29(1)(a) irrespective of whether reference quantity has been suspended in respect of the quota concerned. Regulation 6(6) provides that the Secretary of State may serve a notice suspending the requirement to show proof of trade. Regulation 6(7) and (8) set out alternative arrangements for allocation of quota 05.4105 which will apply for licence applications received in February 2022 or February 2023. Regulation 6(9) adds two new quotas in Part A of the Licensing Table in Schedule 2 to the Tariff Quotas Regulations. Regulation 6(10) amends a commodity code listed in the table in Schedule 3.

A full impact assessment has not been produced for this instrument as no, or no significant impact on business, charities or voluntary bodies is foreseen.

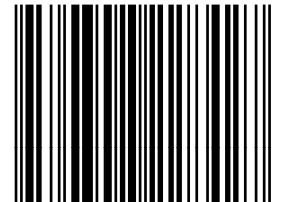
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