

2019 No. 487

EXITING THE EUROPEAN UNION
CUSTOMS

**The Customs (Managed Transition Procedure) (EU Exit)
Regulations 2019**

Made - - - - *6th March 2019*

Laid before the House of Commons *7th March 2019*

Coming into force in accordance with regulation 1(2)

The Treasury make the following Regulations in exercise of the powers conferred by sections 51(1) and (3) and 52(2) of the Taxation (Cross-border Trade) Act 2018^(a) and section 26(1)(a) and (b) and (5A) of the Finance Act 2003^(b).

In accordance with section 52(2) of the Taxation (Cross-border Trade) Act 2018, the Treasury consider it appropriate in consequence of, or otherwise in connection with, the withdrawal of the United Kingdom from the European Union, that provisions of the following Regulations come into force on such day as the Treasury may by regulations under section 52 of that Act appoint.

PART 1

Introductory provisions

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Customs (Managed Transition Procedure) (EU Exit) Regulations 2019.

(2) These Regulations come into force on such day (“the appointed day”) as the Treasury may by regulations under section 52 of the Act appoint.

(3) These Regulations cease to have effect at the end of the period of 12 months beginning with the appointed day (subject to their ceasing to have effect at an earlier time under paragraph (4)).

(4) The Treasury may, by regulations made by statutory instrument, provide for these Regulations to cease to have effect from a specified day that falls before the end of that 12 month period.

(a) 2018 c. 22. Section 51(4)(b) defines the “appropriate Minister” as meaning the Treasury.

(b) 2003 c. 14. Section 26 was amended by paragraph 150 of Schedule 7 to the Taxation (Cross-border Trade) Act 2018 (c. 22).

(5) The Treasury may, by regulations made by statutory instrument, make such transitional, transitory or saving provision as they consider appropriate in connection with these Regulations ceasing to have effect.

(6) Regulations made under paragraph (4) or (5) may make different provision for different purposes.

(7) In this regulation “specified” means specified in, or determined in accordance with, regulations made under paragraph (4).

Interpretation etc.

2.—(1) Parts 2 and 3 of these Regulations are to be read as if they were contained in Part 1 of the Act.

(2) In these Regulations “the Act” means the Taxation (Cross-border Trade) Act 2018.

PART 2

Importations

Application of Part 2

3.—(1) This Part applies in any case where—

- (a) an eligible person imports goods into the United Kingdom;
- (b) the goods are not excepted goods; and
- (c) the importation occurs—
 - (i) at a place specified in a public notice given by HMRC Commissioners^(a); and
 - (ii) in circumstances which are so specified.

(2) A person is an “eligible person” for the purposes of this Part if—

- (a) the person is of a description specified in a public notice given by HMRC Commissioners; and
- (b) the person is not subject to a notice given by an HMRC officer under paragraph (3) in relation to the importation.

(3) An HMRC officer^(b) may give a notice to a person if, in the opinion of the officer, the person ought not to be regarded as a fit and proper person for the purposes of this Part.

(4) A person is subject to a notice given by an HMRC officer under paragraph (3) from the time and date specified in the notice in relation to any importation of goods after that time.

(5) The time and date specified for the purposes of paragraph (4) must not be—

- (a) in a case where an HMRC officer is satisfied that the notice is received by the eligible person at the time it is given, earlier than the time the notice is given; or
- (b) in all other cases, less than 72 hours after the notice is given.

(6) An HMRC officer may, by notice, withdraw a notice given to a person under paragraph (3), and the person ceases to be subject to the notice under paragraph (3) from the time and date specified in the notice of withdrawal, in relation to any importation of goods after that time.

(7) A decision by an HMRC officer that a person ought not to be regarded as a fit and proper person for the purposes of this Part is to be treated—

^(a) Section 37(4) of the Taxation (Cross-border Trade) Act 2018 (c 22) (“the Act”) provides that a reference in any provision of Part 1 of the Act to a public notice is to a notice published by the Secretary of State, or (as the case may be) HMRC Commissioners, in such manner as the person giving the notice considers appropriate for the purposes of that provision.

^(b) Section 37(1) of the Act defines “HMRC officer” as meaning an officer of Revenue and Customs.

- (a) as a relevant decision for the purposes of Chapter 2 of Part 1 of the Finance Act 1994^(a) (reviews and appeals); and
 - (b) as an ancillary matter for the purposes of section 16 of that Act (powers of appeal tribunal).
- (8) In this regulation—
- (a) any reference to the time a notice is given means the time at which the HMRC officer issues the notice;
 - (b) “excepted goods” means goods of a description specified in a public notice given by HMRC Commissioners.

Making of a Customs declaration for the free-circulation procedure

4.—(1) The eligible person may, by conduct of a description specified in a public notice given by HMRC Commissioners, declare the goods for the free-circulation procedure^(b).

(2) An individual may make such a declaration, by such conduct, on behalf of the eligible person in any case specified in the public notice.

(3) The declaration is treated as constituting notification of the importation of the goods into the United Kingdom for the purposes of section 34(1)(b) of the Act.

(4) The person who made the declaration is to be treated as having been notified under paragraph 11 of Schedule 1 to the Act at the time that the conduct occurs.

(5) Once the conduct occurs, the goods—

- (a) are to be treated as having been released to the free-circulation procedure;
- (b) cease to be chargeable goods; and
- (c) become domestic goods.

Completion of the Customs declaration

5.—(1) This regulation applies where goods are declared for the free-circulation procedure by conduct as provided for by regulation 4.

(2) Despite the declaration being treated as accepted by HMRC, the declaration must be completed by the provision to HMRC of further information in respect of the importation of the goods that is specified in a public notice given by HMRC Commissioners.

(3) The information must be provided in the manner specified in, and otherwise in accordance with provision made by, a public notice given by HMRC Commissioners.

(4) The information must be provided before the end of—

- (a) the period specified in a public notice given by HMRC Commissioners; or
- (b) such longer period as an HMRC officer may, in any particular case or any particular description of case, allow.

(5) If a Customs declaration is not completed under this regulation, it is to be regarded as containing an inaccuracy for the purposes of Schedule 1 to the Act (and references in that Schedule to correcting a Customs declaration are to be read accordingly).

Imported goods not to be subject to the control of any HMRC officer

6.—(1) This regulation applies where—

- (a) goods are declared for the free-circulation procedure by conduct as provided for by regulation 4; and

^(a) 1994 c. 9; Chapter 2 of Part 1 was relevantly amended by S.I. 2009/56 and 2014/1264.

^(b) “The free-circulation procedure” is defined in section 3 of the Act.

(b) the goods have left the place specified in a public notice given under regulation 3(1)(c)(i).

(2) As soon as the goods leave that place, they are no longer subject to the control of any HMRC officer (and accordingly, nothing in paragraph 17 of Schedule 1 to the Act applies in relation to the goods).

Verification

7. Nothing in this Part prevents the subsequent exercise of a power to verify a declaration under paragraph 13 of Schedule 1 to the Act.

PART 3

Exports

Application of Part 3

8.—(1) This Part applies in any case where—

- (a) an eligible person undertakes to export, and exports, goods from the United Kingdom;
- (b) the goods are not excepted goods; and
- (c) the export is to occur, and occurs—
 - (i) at a place specified in a public notice given by HMRC Commissioners; and
 - (ii) in circumstances which are so specified.

(2) A person is an “eligible person” for the purposes of this Part if—

- (a) the person is of a description specified in a public notice given by HMRC Commissioners; and
- (b) the person is not subject to a notice given by an HMRC officer under paragraph (3) in relation to the export.

(3) An HMRC officer may give a notice to a person if, in the opinion of the officer, the person ought not to be regarded as a fit and proper person for the purposes of this Part.

(4) A person is subject to a notice given by an HMRC officer under paragraph (3) from the time and date specified in the notice in relation to any export of goods after that time.

(5) The time and date specified for the purposes of paragraph (4) must not be—

- (a) in a case where an HMRC officer is satisfied that the notice is received by the eligible person at the time it is given, earlier than the time the notice is given; or
- (b) in all other cases, less than 72 hours after the notice is given.

(6) An HMRC officer may, by notice, withdraw a notice given to a person under paragraph (3), and the person ceases to be subject to the notice under paragraph (3) from the day specified in the notice of withdrawal in relation to any export of goods on or after that day.

(7) A decision by an HMRC officer that a person ought not to be regarded as a fit and proper person for the purposes of this Part is to be treated—

- (a) as a relevant decision for the purposes of Chapter 2 of Part 1 of the Finance Act 1994 (reviews and appeals); and
- (b) as an ancillary matter for the purposes of section 16 of that Act (powers of appeal tribunal).

(8) In this regulation—

- (a) any reference to the time a notice is given means the time at which the HMRC officer issues the notice;
- (b) “excepted goods” means goods of a description specified in a public notice given by HMRC Commissioners.

Making of a declaration for a common export procedure

9.—(1) The eligible person may, by conduct of a description specified in a public notice given by HMRC Commissioners, declare the goods for a common export procedure for the purposes of regulation 5(a) of the Customs (Export) (EU Exit) Regulations 2019(a).

(2) An individual may make such a declaration, by such conduct, on behalf of the eligible person in any case specified in the public notice.

(3) The declaration—

- (a) is treated as constituting a notification of export of the goods from the United Kingdom for the purposes of regulation 51 of the Customs (Export) (EU Exit) Regulations 2019(b);
- (b) is treated for the purposes of Chapter 10 of Part 4 of those Regulations as if it had been accepted by HMRC at the time that the conduct occurs; and
- (c) no notification of acceptance of the export declaration is required to be made to the declarant under regulation 43(1) of those Regulations.

(4) Once the conduct occurs—

- (a) the goods are treated for the purposes of those Regulations as if they had been released to, and then immediately discharged from, the procedure;
- (b) the obligation to make goods available for examination under regulation 40 of those Regulations does not apply; and
- (c) no notification of discharge from the procedure is required to be made to the declarant under regulation 50(1) of those Regulations.

Completion of the export declaration

10.—(1) This regulation applies where goods are declared for a common export procedure by conduct as provided for by regulation 9.

(2) Despite the declaration being treated as accepted by HMRC and the discharge of the goods from the procedure, the declaration must be completed by the provision to HMRC of further information in respect of the export of the goods that is specified in a public notice given by HMRC Commissioners.

(3) The information must be provided—

- (a) in the manner specified in, and otherwise in accordance with, provision made by a public notice given by HMRC Commissioners; and
- (b) before the end of the period specified in a public notice given by HMRC Commissioners.

(4) If an export declaration is not completed under this regulation, it is to be regarded as containing an inaccuracy for the purposes of regulation 46 of the Customs (Export) (EU Exit) Regulations 2019 (and references in that regulation to correcting an export declaration are to be read accordingly).

Verification

11. Nothing in this Part prevents the subsequent exercise of a power to verify an export declaration under the Customs (Export) (EU Exit) Regulations 2019.

(a) S.I. 2019/108. Regulation 5(a) provides that declaring goods for a common export procedure is one method by which an export of goods can be made in accordance with a procedure for the purposes of the applicable export provisions for the purposes of section 35(2) of the Act.

(b) Regulation 51 sets out the requirement of a notification of exportation of goods from the United Kingdom for the purposes of section 33(4) of the Act, which sets out when goods are presented to Customs on export.

PART 4

Contravention

Amendment of the Customs (Contravention of a Relevant Rule) Regulations 2003

12.—(1) The Schedule to the Customs (Contravention of a Relevant Rule) Regulations 2003^(a) is amended as follows.

(2) At the end of the Schedule after the entries under the heading “Customs agents”^(b), insert—

“The Customs (Managed
Transition Procedure) (EU
Exit) Regulations 2019

Regulation 5	The eligible person.	£2,500.
Completion of the Customs declaration.		
Where goods are declared for the free-circulation procedure, the declaration must be completed by the provision to HMRC of further information in respect of the importation of the goods that is specified in a public notice given by HMRC Commissioners, in the manner specified in and otherwise in accordance with provision made in a public notice given by HMRC Commissioners and within the time limit specified in paragraph (4).		
Regulation 10	The eligible person.	£2,500.”.
Completion of the export declaration.		
Where goods are declared for a common export procedure, the declaration must be completed by the provision to HMRC of further information in respect of the export of the goods that is specified in a public notice given by HMRC Commissioners, in the manner specified in and otherwise in accordance with provision made in a public notice given by HMRC Commissioners and before the end of the period specified in a public notice given by HMRC		

^(a) S.I. 2003/3113 amended by S.I. 2009/3164, 2011/2534, 2015/636, 2018/483, 2018/1260, 2019/148 and 2019/326.

^(b) As inserted by regulation 2(3) of S.I. 2019/148.

Craig Whittaker
Paul Maynard

6th March 2019

Two of the Lords Commissioners of Her Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made by the Treasury in connection with the withdrawal of the United Kingdom from the European Union.

Regulation 1 provides for citation, commencement and effect. Paragraph (2) provides that the Regulations come into force on a day to be appointed by Treasury Regulations pursuant to the power to make such provision contained in section 52(2) of the Taxation (Cross-border Trade) Act 2018 (c. 22) ("the Act"). Paragraph (3) provides that the Regulations cease to have effect 12 months after they come into force unless the Treasury make regulations under paragraph (4) providing for the Regulations to cease to have effect before that date. Paragraph (5) provides that the Treasury may by regulations make transitional, transitory or saving provision in connection with the Regulations ceasing to have effect. Paragraphs (6) and (7) make provision in relation to regulations made under paragraphs (4) and (5).

Regulation 2 provides for the Regulations to be read as if they were contained in Part 1 of the Act and provides a definition of "the Act".

Part 2 of the Regulations provides for HMRC to specify in a public notice the circumstances in which certain traders ("eligible persons") importing goods at specified locations will be allowed to make a declaration by conduct of the goods for the free-circulation procedure and then submit further information after the goods have left the specified location.

Regulation 3 provides the power for HMRC Commissioners to specify relevant matters, including which traders are permitted to make declarations by conduct as described in Part 2 and which goods may not be declared in this way, in a public notice. Paragraphs (3) to (7) make provision in relation to notices which may be given to persons considered not to be fit and proper who are excluded from making a declaration by conduct as described in Part 2, including the right of review or appeal.

Regulation 4 provides that where the eligible person, or a person acting on their behalf, meets the relevant conduct requirements, which will be set out in a public notice, the person will be treated as having presented the goods and declared them for the free-circulation procedure. The declaration is treated as having been accepted by HMRC and the goods are to be treated as having been released to the procedure and to have become domestic goods.

Regulation 5 provides that where goods are declared under regulation 4 further information must be provided to HMRC. The further information required and the time in which it must be provided will be set out in a public notice. If the requirements of regulation 5 are not complied with the declaration is to be regarded as containing an inaccuracy under the Act.

Regulation 6 provides that the goods cease to be subject to the control of any HMRC officer once they have been declared under regulation 4 and leave the specified place.

Regulation 7 provides that the treatment of the goods in Part 2 does not prevent subsequent verification of the goods.

Part 3 of the Regulations makes provision equivalent to that in Part 2 in relation to goods to be exported from the United Kingdom at locations specified in a public notice. An eligible person may make a declaration for a common export procedure at a location specified in a public notice,

in relation to goods which are not excepted goods, by conduct specified in a public notice and must complete the declaration by the provision of further information.

Regulation 12 (Part 4 of the Regulations) contains amendments to the Schedule to the Customs (Contravention of a Relevant Rule) Regulations 2003 (S.I. 2003/3113). Civil penalties are imposed for breaches of regulations 5 and 10 of the Regulations.

This instrument will be covered by an overarching HMRC impact assessment (third edition) which will be published and available on the website at <https://www.gov.uk/government/collections/customs-vat-and-excise-regulations-leaving-the-eu-with-no-deal>.

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