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STATUTORY INSTRUMENTS

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**2019 No. 13**

**The Excise Goods (Holding, Movement and Duty Point) (Amendment etc.) (EU Exit) Regulations 2019**

**PART 4**

**Transitional and saving provisions**

**CHAPTER 1**

Excise goods imported into the United Kingdom from outside the territory of the EU

**Saving and transitional provisions**

**43.**—(1) In this regulation “EUCL” has the meaning given to it in the Customs (Import Duty) (EU Exit) Regulations 2018.

(2) Paragraph (3) applies to the extent the EUCL continues to have effect in relation to excise goods in accordance with Part 15 of the Customs (Import Duty) (EU Exit) Regulations 2018.

(3) In relation to the provisions of the Principal Regulations set out in column 1 of the table below—

- (a) the amendments made by these Regulations have no effect; and
- (b) the modifications set out in column 2 (if any) have effect.

<i>Column 1: Provision</i>	<i>Column 2: Modification</i>
Definition of “customs suspensive procedure or arrangement” in regulation 3(1)	There is none.
Definition of “place of importation” in regulation 3(1)	For the words “Article 79 of Council Regulation 2913/92/EEC” treat as substituted “Article 201 of Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code”
Regulation 3(3)(a)(ii)	For the words “Article 79 of Regulation (EEC) 2913/92” treat as substituted “Article 201 of Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code”
Regulation 9(1)(b)(ii)	For the words “Article 79 of Council Regulation 2913/92/EEC” treat as substituted “Article 201 of Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9

<i>Column 1: Provision</i>	<i>Column 2: Modification</i>
Regulation 30(1)	October 2013 laying down the Union Customs Code”  For the words “Article 79 of Council Regulation 2913/92/EEC” treat as substituted “Article 201 of Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code”

## CHAPTER 2

### United Kingdom-EU movements

#### Interpretation

**44.**—(1) Words and phrases defined in the Principal Regulations as they have effect immediately before commencement of these Regulations, have the same meaning in this Chapter.

(2) In this Chapter excise goods are “in the course of a movement on exit day” if they are—

- (a) being imported into the United Kingdom from a member state and they fall within Chapter 7 of Part 15 of the Customs (Import Duty) (EU Exit) Regulations 2018; or
- (b) being exported from the United Kingdom to a member state and they are dispatched before exit day.

#### General transitional provisions

**45.**—(1) Paragraphs (2) and (3) apply where, in this Chapter—

- (a) provisions of the Principal Regulations are stated as continuing to have effect; or
- (b) amendments to provisions in the Principal Regulations are stated as having no effect.

(2) Those provisions of the Principal Regulations are to be read as if—

- (a) the amendments to regulation 3 (interpretation) have no effect, unless provided otherwise; and
- (b) regulation 4 (application to energy products) continues to have effect.

(3) References to “Article 79 of Regulation (EEC) 2913/92” or “Article 79 of Council Regulation 2913/92/EEC” in those provisions of the Principal Regulations are to be read as references to “Article 201 of Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code”.

#### Excise duty points and payment of the duty

**46.** The duty point of excise goods in the course of a movement on exit day and the person liable to pay the excise duty in relation to those goods is determined in accordance with Part 2 of the Principal Regulations as if the amendments made by these Regulations have no effect.

#### UK registered consignees

**47.** Part 3 of the Principal Regulations and anything done by the Commissioners under that Part continues to have effect in relation to UK Registered Consignees to whom excise goods are dispatched, where those goods are in the course of a movement on exit day, until UK excise duty due in respect of those goods has been accounted for and paid.

### **Holding and movement of excise goods under duty suspension arrangements**

**48.** The amendments made to Part 5 of the Principal Regulations have no effect in relation to excise goods in the course of a movement on exit day until that movement ends in accordance with regulation 3(3)(b) of the Principal Regulations.

### **Exports of excise goods under duty suspension arrangements**

**49.**—(1) Part 6 of the Principal Regulations continues to have effect, with the modifications set out in this regulation, in relation to excise goods in the course of a movement on exit day until one of the following occurs—

- (a) the Commissioners complete a report of export or notify the consignor that they are satisfied that the goods have left the territory of the United Kingdom;
- (b) the Commissioners send a report of receipt to the consignor or notify the consignor that they are satisfied that the goods have arrived at their stated destination;
- (c) the Commissioners update the original electronic administrative document following receipt of a change of destination message notifying them that the destination has changed to a place in the United Kingdom.

(2) Part 6 is to be read as if “computerised system” and “EMCS requirements” have the meanings given in the Principal Regulations as amended by these Regulations.

(3) In regulation 41, treat paragraphs (6) and (7) as omitted.

(4) In regulation 42—

- (a) in paragraph (3) treat as omitted “, using the computerised system,”;
- (b) treat paragraph (5) as substituted by—

“(5) A consignor wishing to amend the destination to a destination in the United Kingdom must complete a draft change of destination message and send it to the Commissioners using the computerised system.”;

(c) treat paragraph (6) as substituted by—

“(6) The draft change of destination message must comply with the requirements for that message specified in the notice published by the Commissioners in accordance with regulation 56(2).”;

(d) after paragraph (6) treat as inserted—

“(7) The Commissioners must carry out an electronic verification of the data in the draft change of destination message.

(8) Where the data in the message are invalid the Commissioners must, using the computerised system, inform the consignor of that fact without delay.

(9) Where the data in the message are valid, the Commissioners must—

- (a) add the date and time of validation and a sequence number to the change of destination message and inform the consignor of that number; and
- (b) update the original electronic administrative document in accordance with the information in the change of destination message.

(10) A consignor wishing to amend the destination to a destination in another Member State must notify the Commissioners of the new destination and ensure that the information is displayed in the form of data elements, expressed in the same manner as in the change of destination message referred to in regulation 58(5).”

(5) In regulation 44—

- (a) in paragraph (3) omit the words “using the computerised system”;

- (b) after paragraph (3) insert—
  - “(4) The information to be notified to the Commissioners in accordance with paragraph (3) must be displayed in the form of data elements, expressed in the same manner as in the change of destination message referred to in regulation 58(5).”
- (6) Treat regulation 45 as omitted.
- (7) In regulation 46—
  - (a) treat paragraphs (2) and (3) as substituted by—
    - “(2) If the customs office of exit is in another Member State the consignor must provide evidence satisfactory to the Commissioners that excise goods have left the territory of the United Kingdom.
    - (2A) The Commissioners must publish a notice specifying the form and type of evidence they will accept as satisfactory for the purpose of paragraph (2).
    - (3) If satisfied that the goods have left the territory of the United Kingdom, the Commissioners must notify the consignor using the computerised system.”;
  - (b) treat paragraph (4) as omitted;
  - (c) in paragraph (5) for “EU” treat as substituted “United Kingdom”;
  - (d) in paragraph (7)—
    - (i) for “Without prejudice to paragraph (6)” treat as substituted “For the purposes of paragraph (2)”;
    - (ii) for “the movement of those goods has ended” substitute “the excise goods have left the territory of the United Kingdom”.
- (8) In regulation 47(2)—
  - (a) for “EU requirements” treat as substituted “EMCS requirements”; and
  - (b) treat as omitted the words from “and, using” to the end.
- (9) Treat regulation 48 as omitted.
- (10) In regulation 49—
  - (a) after paragraph (4) treat as inserted—
    - “(4A) In the absence of a report of receipt or an endorsement referred to in paragraph (3), the consignor must provide evidence satisfactory to the Commissioners that the goods have reached their stated destination.
    - (4B) The Commissioners must publish a notice specifying the form and type of evidence they will accept as satisfactory for the purpose of paragraph (4A).
    - (4C) If satisfied that the goods have reached their stated destination, the Commissioners shall notify the consignor using the computerised system.”;
  - (b) in paragraph (6) for “paragraph (4)” treat as substituted “paragraphs (4) to (4C)”.
- (11) In regulation 50(6) for “regulation 41(5) to (9)” treat as substituted “regulation 41(5), (8) and (9)”.
- (12) In regulation 51—
  - (a) at the start of paragraph (2) for “As” treat as substituted “Where the new destination is in the United Kingdom, as”;
  - (b) treat paragraphs (3) and (4) as omitted;
  - (c) treat paragraph (5) as substituted by—

“(5) Where paragraph (1) applies, the consignor must ensure that the information notified to the Commissioners is displayed in the form of data elements, expressed in the same manner as in the change of destination message referred to in regulation 58(5).”;

- (d) treat paragraphs (6) and (7) as omitted.

### **Imports of excise goods under duty suspension arrangements**

**50.**—(1) Part 7 of the Principal Regulations continues to have effect, with the following modifications, in relation to excise goods in the course of a movement on exit day until the consignee of those goods has notified the Commissioners of their receipt in accordance with regulation 54 of the Principal Regulations (as modified by this regulation).

(2) Part 7 is to be read as if “computerised system” and “EMCS requirements” have the meanings given in the Principal Regulations as amended by these Regulations.

- (3) In regulation 54—

- (a) treat paragraph (1) as substituted by—

“(1) On receipt of any excise goods to which this Part applies the consignee of those goods must send to the Commissioners without delay, and in any event no later than five business days after their receipt by the consignee or, as the case may be, their arrival at a place of direct delivery (or within such other period as the Commissioners may allow), a paper document that complies with paragraph (1A).

(1A) The paper document referred to in paragraph (1) must contain the same data displayed in the form of data elements, expressed in the same manner as the report of receipt referred to in regulation 59(1).”;

- (b) treat paragraph (3) as omitted;

- (c) in paragraph (4)—

(i) for “report of receipt” treat as substituted “paper document”;

(ii) treat as omitted “, using the computerised system.”;

- (d) treat paragraph (5) as substituted by—

“(5) Where the data in the paper document are valid, the Commissioners must notify the consignee that it has been registered.”.

- (4) Treat regulation 55 as omitted.

### **Exports of excise goods after release for consumption**

**51.** Part 10 of the Principal Regulations continues to have effect in relation to excise goods in the course of a movement on exit day until those goods reach their ultimate destination.

### **Imports of excise goods after release for consumption**

**52.**—(1) Part 11 of the Principal Regulations and anything done by the Commissioners under that Part continues to have effect, with the modification set out in paragraph (2), in relation to—

- (a) excise goods in the course of a movement on exit day; and

- (b) registered commercial importers and unregistered commercial importers delivering excise goods, holding excise goods intended for delivery or receiving excise goods, where those goods are in the course of a movement on exit day,

until the recipient of those goods has complied with the obligations in regulation 74 of the Principal Regulations in respect of that movement.

(2) In regulation 73(3) at the end treat as inserted “(as in effect immediately before exit day)”.

#### **Distance sales of excise goods from another member state**

**53.**—(1) Part 12 of the Principal Regulations and anything done by the Commissioners under that Part continues to have effect, with the modification set out in paragraph (2), in relation to tax representatives acting as agents of vendors who dispatched excise goods before exit day where those goods are in the course of a movement on exit day until the excise duty due in respect those goods has been accounted for and paid.

(2) In regulation 78(3) at the end treat as inserted “(as in effect immediately before exit day)”.

#### **Irregularities in the course of a movement of excise goods under a duty suspension arrangement**

**54.**—(1) The amendments made to Part 13 of the Principal Regulations have no effect in relation to an irregularity occurring or detected in relation to excise goods in the course of a movement on exit day with the following exception.

(2) In regulation 80 of the Principal Regulations treat paragraph (4) as omitted.

(3) In this regulation “irregularity” has the meaning given by regulation 79 of the Principal Regulations as in effect immediately before exit day.

#### **Irregularities in the course of a movement of excise goods already released for consumption**

**55.**—(1) Part 14 of the Principal Regulations continues to have effect in relation to an irregularity occurring or detected in relation to excise goods in the course of a movement on exit day.

(2) In this regulation “irregularity” has the meaning given by regulation 83 of the Principal Regulations as in effect immediately before exit day.

#### **Obligations, conditions and restrictions**

**56.**—(1) Regulation 86(b) of the Principal Regulations continues to have effect to the extent Part 3 of the Principal Regulations continues to have effect in accordance with regulation 47 of these Regulations.

(2) In relation to excise goods in the course of a movement on exit day, in regulation 87(1) of the Principal Regulations after “EU requirements” treat as inserted “or the EMCS requirements (as appropriate)”.

#### **Forfeiture and civil penalties**

**57.**—(1) To the extent the regulations listed in Schedule 1 to the Principal Regulations continue to have effect in accordance with this Part, those regulations continue to be relevant regulations for the purposes of regulation 89 of the Principal Regulations.

(2) In relation to excise goods in the course of a movement on exit day, in regulation 89 of the Principal Regulations in both places where it occurs, after “EU requirement” treat as inserted “or EMCS requirement (as appropriate)”.