
STATUTORY INSTRUMENTS

2019 No. 474

**EXITING THE EUROPEAN UNION
EXCISE
CHANNEL TUNNEL**

**The Excise Duties (Miscellaneous Amendments)
(EU Exit) (No. 3) Regulations 2019**

Made - - - - 6th March 2019
Laid before the House of
Commons - - - - 7th March 2019
Coming into force in accordance with regulation 1

The Commissioners for Her Majesty's Revenue and Customs make these Regulations, except regulations 10 to 17, in exercise of the powers conferred by—

- (a) section 11(1)(d) and (e) and (2) of the Channel Tunnel Act 1987 ^{M1};
- (b) section 45(1), (2)(a), (b), (d) and (j), 48(11) and 52(2) of the Taxation (Cross-border Trade) Act 2018 ^{M2}.

The Treasury consider it appropriate, in consequence of, or otherwise in connection with, the withdrawal of the United Kingdom from the European Union to make regulations 1, and 10 to 17 of these Regulations and make them in exercise of the powers conferred by section 51(1)(c) of the Taxation (Cross-border Trade) Act 2018 ^{M3}.

The Commissioners for Her Majesty's Revenue and Customs and the Treasury consider it appropriate in consequence of, or otherwise in connection with, the withdrawal of the United Kingdom from the European Union, that the following Regulations come into force on such day as the Treasury may by regulations under section 52(2) of the Taxation (Cross-border Trade) Act 2018 appoint.

Marginal Citations

- M1** 1987 c. 53. Section 11(1) provides that an order under that section may be made by the appropriate Minister. Section 13(1) provides that the appropriate Minister means, in relation to any matter, the Minister or Ministers in charge of any Government department or departments concerned with that matter. Section 13(2) provides that, where the Commissioners of Customs and Excise are concerned with any matter, section 13(1) shall apply as though the reference to a Minister or Ministers in charge of a Government department or departments concerned included a reference to the Commissioners

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of Customs and Excise. The functions of the Commissioners of Customs and Excise were transferred to the Commissioners for Her Majesty's Revenue and Customs by section 5 of the [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#). Section 50(1) of that Act provides that a reference to the Commissioners of Customs and Excise shall be taken as a reference to the Commissioners for Her Majesty's Revenue and Customs.

- M2** [2018 c. 22](#). Section 49 of the Act 2018 defines “HMRC Commissioners” as the Commissioners for Her Majesty's Revenue and Customs for the purposes of sections 45 and 48.
- M3** [Section 51\(1\)](#) of the Taxation (Cross-border Trade) Act 2018 provides that regulations may be made by the “appropriate Minister”. Section 51(4) of that Act provides that the “appropriate Minister” includes the Treasury.

PART 1

Introductory provision

Citation and commencement

1. These Regulations may be cited as the Excise Duties (Miscellaneous Amendments) (EU Exit) (No. 3) Regulations 2019 and come into force on such day as the Treasury may by regulations under section 52(2) of the Taxation (Cross-border Trade) Act 2018 appoint.

Commencement Information

- I1** Reg. 1 in force at 31.12.2020 on IP completion day by [S.I. 2020/1640](#), [reg. 2](#), [Sch.](#)

PART 2

The Excise Duty Point (External and Internal Community Transit Procedure) Regulations 1998

Revocations

2. The Excise Duty Point (External and Internal Community Transit Procedure) Regulations 1998^{M4} and the Excise Duty Point (External and Internal Community Transit Procedure) (Amendment) Regulations 1998^{M5} are revoked.

Commencement Information

- I2** Reg. 2 in force at 31.12.2020 on IP completion day by [S.I. 2020/1640](#), [reg. 2](#), [Sch.](#)

Marginal Citations

- M4** [S.I. 1998/202](#), amended by [S.I. 1998/3110](#), 2010/593.
- M5** [S.I. 1998/3110](#).

PROSPECTIVE

Transitional and saving provision

^{F1}3.

Textual Amendments

F1 Reg. 3 omitted (31.12.2020) by virtue of [The Excise Duties \(Transitional and Miscellaneous Amendments\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1494\)](#), regs. 1, **5(2)**

PART 3

The Channel Tunnel (Alcoholic Liquor and Tobacco Products) Order 2010

Amendments to the Channel Tunnel (Alcoholic Liquor and Tobacco Products) Order 2010

4.—(1) The Channel Tunnel (Alcoholic Liquor and Tobacco Products) Order 2010^{M6} is amended as follows.

(2) After article 2, insert—

“**2A.** The modifications made by paragraphs 1(a) and (ab), 4B and 4C of the Schedule continue to apply to any movement starting in a control zone^{M7} until the end of that movement.

Liability to excise duty in a control zone

2B.—(1) Where an excise duty point occurs in a control zone, liability to excise duty is to be calculated in the same manner, and is subject to the same reliefs (on the same conditions) as if the excise duty point had occurred in the United Kingdom.

(2) So far as is necessary to give effect to paragraph (1), any reference in an enactment relating to excise duty to the “United Kingdom” is to be regarded as including a reference to a control zone.

(3) For the purposes of this article—

- (a) “excise duty” has the meaning given in section 49 of the Taxation (Cross-border Trade) Act 2018; and
- (b) “excise duty point” has the meaning given in section 1(1) of the Finance (No. 2) Act 1992^{M8}.”.

(3) In paragraph 1 of the Schedule—

(a) after paragraph (a), insert—

“(aa) in paragraph (b) of the definition of “customs suspensive procedure or arrangement”^{M9}, regard the words “United Kingdom” as being followed by “or a control zone”; and

(ab) after the meaning given for “transporter”, regard there as being—

““the tunnel” has the meaning provided in article 2(1) of the Channel Tunnel (Customs and Excise) Order 1990^{M10}.””

- (b) omit paragraphs (b) and (c).
- (4) For paragraph 4 of the Schedule, substitute—
- “4. In regulation 6 of those Regulations—
- (a) regard the words “United Kingdom” in each of paragraphs (1), (2)(a) and (2)(b) as being followed by “or a control zone”; and
- (b) in paragraph 2(a), regard the words “excise goods” as being followed by “intended to be brought into the United Kingdom through the tunnel”.
- 4A. In regulation 7(1)(g) of those Regulations, regard the words “United Kingdom” as being followed by “or a control zone”.
- 4B. In regulation 37(1) of those Regulations, regard the words “wholly within the United Kingdom” as being followed by “or under a movement referred to in regulation 56(1B)”.
- 4C. In regulation 56 of those Regulations—
- (a) in paragraph (1)(a), regard the words “United Kingdom” as being followed by “or a control zone”; and
- (b) after paragraph (1A)^{M11}, regard there as being inserted—
- “(1B) Where the movement starts in a control zone, the condition in paragraph (1)(c) shall be regarded as satisfied where the goods proceed directly from the control zone through the tunnel to the United Kingdom and, once they have entered the United Kingdom, do not at any time leave the United Kingdom during the remaining course of the movement.”.”.
- (5) Omit paragraphs 5 to 10 of the Schedule.
- (6) In the modification made by paragraph 11 of the Schedule, omit sub-paragraph (4).

Commencement Information

I3 Reg. 4 in force at 31.12.2020 on IP completion day by [S.I. 2020/1640](#), [reg. 2](#), [Sch.](#)

Marginal Citations

- M6** [S.I. 2010/594](#). That Order provides for the Excise Goods (Holding, Movement and Duty Point) Regulations 2010 (“the 2010 Regulations”) to apply in a control zone with the modifications set out in the Schedule to that Order. The 2010 Regulations are amended in the manner set out in footnote (d) on page 2 of these Regulations.
- M7** “Control zone” is defined in article 5 of the Order.
- M8** [1992 c. 48](#).
- M9** This definition is substituted by regulation 6(2)(a) of these Regulations.
- M10** [S.I. 1990/2167](#). There are amending instruments, but none is relevant.
- M11** Regulation 56(1A) is inserted by regulation 7 of these Regulations.

Transitional provisions relating to the Channel Tunnel (Alcoholic Liquor and Tobacco Products) Order 2010

5.—(1) The amendments in regulation 4 do not have effect in relation to goods in the course of a movement on [F²IP completion day].

[F³(2) For the purposes of paragraph (1), goods are in the course of a movement on IP completion day where those goods have been dispatched before that day.]

Textual Amendments

- F2** Words in reg. 5(1) substituted (31.12.2020) by [The Excise Duties \(Transitional and Miscellaneous Amendments\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1494\)](#), regs. 1, **5(3)(a)**
- F3** Reg. 5(2) substituted (31.12.2020) by [The Excise Duties \(Transitional and Miscellaneous Amendments\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1494\)](#), regs. 1, **5(3)(b)**

Commencement Information

- I4** Reg. 5 in force at 31.12.2020 on IP completion day by [S.I. 2020/1640](#), reg. 2, **Sch.**

PART 4

The Excise Goods (Holding, Movement and Duty Point) Regulations 2010

CHAPTER 1

Amendment of the Excise Goods (Holding, Movement and Duty Point) Regulations 2010

Amendment of the Excise Goods (Holding, Movement and Duty Point) Regulations 2010

6.—(1) The Excise Goods (Holding, Movement and Duty Point) Regulations 2010 are amended as follows^{M12}.

(2) In regulation 3(1)—

(a) for the definition of “customs suspensive procedure or arrangement” substitute—

““customs suspensive procedure or arrangement” means—

- (a) any one of the special Customs procedures provided for in Part 1 of the TCTA 2018^{M13} (other than an authorised use procedure^{M14}); and
- (b) the situation between the goods being presented to the Commissioners upon their entry into the United Kingdom in accordance with paragraph 1(1) of Schedule 1 to the TCTA 2018 and the earlier of—
- (i) the end of the period of 90 days beginning with the day on which the goods are so presented, and
- (ii) a Customs declaration under Schedule 1 to that Act being accepted in respect of the goods;”;

(b) for the definition of “place of importation” substitute—

““place of importation” means the place where excise goods are when a declaration for the free-circulation procedure^{M15} or an authorised use procedure in respect of those goods is accepted in accordance with Schedule 1 to the TCTA 2018;”.

(3) In regulation 3(3), for sub-paragraph (a) substitute—

“(a) starts when—

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- (i) the goods leave a tax warehouse (where the consignor is an authorised warehousekeeper); or
 - (ii) a declaration for the free-circulation procedure or an authorised use procedure is accepted in accordance with Schedule 1 to the TCTA 2018 (where the consignor is a registered consignor), and”.
- (4) In regulation 19(1), for “(2) to (5)”, substitute “ (3) and (4) ”.

Commencement Information

I5 Reg. 6 in force at 31.12.2020 on IP completion day by [S.I. 2020/1640](#), reg. 2, **Sch.**

Marginal Citations

M12 The amendments made by this regulation replace amendments made by [S.I. 2019/13](#) to the same provisions.

M13 “TCTA 2018” is defined as the Taxation (Cross-border Trade) Act 2018 in regulation 3(1) of [S.I. 2010/593](#), as amended by [S.I. 2019/13](#).

M14 “Authorised use procedure” is defined in paragraph 13 of Schedule 2 to the Taxation (Cross-border) Trade Act 2018.

M15 “Free-circulation procedure” is defined in section 3(3)(a) of the Taxation (Cross-border) Trade Act 2018.

PROSPECTIVE

Application of Part 8 to certain energy products

^{F4}7.

Textual Amendments

F4 Reg. 7 omitted (26.9.2019) by virtue of [The Excise Duties \(Miscellaneous Amendments\) \(EU Exit\) \(No. 4\) Regulations 2019](#) ([S.I. 2019/1216](#)), regs. 1(2), **6**

Consequential provisions

8. Regulations 7(2)(e) and (n) and (4)(a) of the Excise Goods (Holding, Movement and Duty Point) (Amendment etc.) (EU Exit) Regulations 2019 are revoked.

Commencement Information

I6 Reg. 8 in force at 31.12.2020 on IP completion day by [S.I. 2020/1640](#), reg. 2, **Sch.**

Transitional and saving provision

9. Part 4 of the Excise Goods (Holding, Movement and Duty Point) (Amendment etc.) (EU Exit) Regulations 2019 applies to the amendments made by [^{F5}regulation 6] as if they had been made by those Regulations.

Textual Amendments

- F5** Words in reg. 9 substituted (31.12.2020) by [The Excise Duties \(Transitional and Miscellaneous Amendments\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1494\)](#), regs. 1, **5(4)**

Commencement Information

- I7** Reg. 9 in force at 31.12.2020 on IP completion day by [S.I. 2020/1640](#), reg. 2, **Sch.**

CHAPTER 2

[^{F6}Importation – transitional provisions]

Textual Amendments

- F6** Pt. 4 Ch. 2 heading substituted (31.12.2020) by [The Customs and Excise \(Miscellaneous Provisions and Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/1215\)](#), regs. 1(2), **16(2)**; [S.I. 2020/1643](#), reg. 2, **Sch.**

Modification of the Excise Goods (Holding, Movement and Duty Point) Regulations 2010

[^{F7}**10.** The application of the Excise Goods (Holding, Movement and Duty Point) Regulations 2010 to excise goods in respect of which—

- (a) a declaration for the free-circulation procedure or an authorised use procedure has been made (and not amended or withdrawn unless in accordance with the Customs (Import Duty) (EU Exit) Regulations 2018); and
- (b) the notification referred to in paragraph 11(1) of Schedule 1 to the Taxation (Cross-border Trade) Act 2018 is treated as having been given under regulation 4(3B) of the Customs (Import Duty) (EU Exit) Regulations 2018,

is modified as set out in this chapter.]

Textual Amendments

- F7** Reg. 10 substituted (31.12.2020) by [The Customs and Excise \(Miscellaneous Provisions and Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/1215\)](#), regs. 1(2), **16(3)**; [S.I. 2020/1643](#), reg. 2, **Sch.**

Commencement Information

- I8** Reg. 10 in force at 31.12.2020 on IP completion day by [S.I. 2020/1640](#), reg. 2, **Sch.**

Interpretation

11. In regulation 3(1)—

- (a) after the definition of “fallback report of receipt”, regard as inserted—

““import duty regulations” means the Customs (Import Duty) (EU Exit) Regulations 2018;” and

[^{F8}(b) after the definition of “TPDA 1979” regard as inserted—

““transitional arrival location” means the place where excise goods are when the notification referred to in paragraph 11(1) of Schedule 1 to the Taxation (Cross-border

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Trade) Act 2018 is treated as having been given under regulation 4(3B) of the import duty regulations.”]

Textual Amendments

F8 Reg. 11(b) substituted (31.12.2020) by [The Customs and Excise \(Miscellaneous Provisions and Amendments\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/1215), regs. 1(2), **16(4)**; S.I. 2020/1643, reg. 2, Sch.

Commencement Information

I9 Reg. 11 in force at 31.12.2020 on IP completion day by [S.I. 2020/1640](#), reg. 2, [Sch.](#)

Contravention of conditions or requirements-duty point and persons liable to pay

^{F9}**12.**

Textual Amendments

F9 Reg. 12 omitted (1.1.2022) by virtue of [The Taxation \(Cross-border Trade\) \(Miscellaneous Amendments\) \(EU Exit\) \(No. 2\) Regulations 2021](#) (S.I. 2021/1444), regs. 1(3), **4**

Time of payment of the duty

13. In regulation 20—

(a) in paragraph (1) before sub-paragraph (a) regard as inserted—

“(aa) paragraphs (3) and (4);”;

(b) after paragraph (2) regard as inserted—

“(3) Paragraph (4) applies where—

(a) excise goods are released for consumption at a [^{F10}transitional arrival] location pursuant to regulation 6(1)(d); and

(b) there is no duty deferment arrangement in place in respect of the goods.

(4) The time when the duty must be paid is the earlier of—

(a) the latest time by which the notification required under regulation 4(3C) of the import duty regulations must be given in accordance with regulation 4(3D)(c) of those regulations; or

(b) the time when that notification is in fact given.”.

Textual Amendments

F10 Words in reg. 13(b) substituted (31.12.2020) by [The Customs and Excise \(Miscellaneous Provisions and Amendments\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/1215), regs. 1(2), **16(6)**; S.I. 2020/1643, reg. 2, Sch.

Commencement Information

I10 Reg. 13 in force at 31.12.2020 on IP completion day by [S.I. 2020/1640](#), reg. 2, [Sch.](#)

Movements of excise goods from a [^{F11}transitional arrival] location under duty suspension arrangements

^{F12}14.

Textual Amendments

- F11** Words in reg. 14 heading substituted (31.12.2020) by [The Customs and Excise \(Miscellaneous Provisions and Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/1215\)](#), regs. 1(2), **16(7)(a)**; [S.I. 2020/1643](#), reg. 2, Sch.
- F12** Regs. 14-16 omitted (1.1.2022) by virtue of [The Taxation \(Cross-border Trade\) \(Miscellaneous Amendments\) \(EU Exit\) \(No. 2\) Regulations 2021 \(S.I. 2021/1444\)](#), regs. 1(3), **4**

Relevant regulations

^{F12}15.

Textual Amendments

- F12** Regs. 14-16 omitted (1.1.2022) by virtue of [The Taxation \(Cross-border Trade\) \(Miscellaneous Amendments\) \(EU Exit\) \(No. 2\) Regulations 2021 \(S.I. 2021/1444\)](#), regs. 1(3), **4**

Transitional provision

^{F12}16.

Textual Amendments

- F12** Regs. 14-16 omitted (1.1.2022) by virtue of [The Taxation \(Cross-border Trade\) \(Miscellaneous Amendments\) \(EU Exit\) \(No. 2\) Regulations 2021 \(S.I. 2021/1444\)](#), regs. 1(3), **4**

PART 5

Miscellaneous modifications and amendments relating to excise duties

PROSPECTIVE

Modification of the Tobacco Products Regulations 2001

^{F13}17.

Textual Amendments

- F13** Reg. 17 omitted (26.9.2019) by virtue of [The Excise Duties \(Miscellaneous Amendments\) \(EU Exit\) \(No. 4\) Regulations 2019 \(S.I. 2019/1216\)](#), regs. 1(2), **8**

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Amendment of the Excise Duties (Miscellaneous Amendments) (EU Exit) Regulations 2019

18. In regulation 5(2) of the Excise Duties (Miscellaneous Amendments) (EU Exit) Regulations 2019 ^{M16} (transitional and savings provision: The Excise Goods (Drawback) Regulations 1995), for the words “in each case”, to the end, substitute “ after those words were inserted the words “or, in specified circumstances and on specified conditions, the specified documents” ”.

Commencement Information

I11 Reg. 18 in force at 31.12.2020 on IP completion day by [S.I. 2020/1640, reg. 2, Sch.](#)

Marginal Citations

M16 [S.I. 2019/14.](#)

Ruth Stanier
Angela MacDonald
Two of the Commissioners for Her Majesty's
Revenue and Customs

Craig Whittaker
Paul Maynard
Two of the Lords Commissioners of Her
Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make miscellaneous amendments and modifications to secondary legislation relating to excise duties and are made to ensure the effective operation of the law applying to excise duties on the withdrawal of the United Kingdom (“UK”) from the European Union (“EU”). Part 1 deals with the commencement of these Regulations, which will come into force on a day to be appointed by the Treasury by regulations under section 52(2) of the Taxation (Cross-border Trade) Act 2018 (c. 22).

Part 2 revokes the Excise Duty Point (External and Internal Community Transit Procedure) Regulations 1998 (S.I. 1998/202) and the Excise Duty Point (External and Internal Community Transit Procedure) (Amendment) Regulations 1998 (S.I. 1998/3110). The former Regulations (which are amended by the latter) establish an excise duty point on, and address the liability of persons for, irregularities in customs movements under the external and internal Community transit procedures. Those specific procedures will no longer apply on the UK's exit from the EU. The duty point and liability for breaches of customs transit procedures after exit will be addressed by the Excise Goods (Holding, Movement and Duty Point) Regulations 2010 (S.I. 2010/593), as amended on EU exit by the Excise Goods (Holding, Movement and Duty Point) (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/13) and by Part 4 of these Regulations. Transitional provision is made for applicable transit movements in progress on exit day.

Part 3 amends the Channel Tunnel (Alcoholic Liquor and Tobacco Products) Order 2010, which provides for the modified application of the Excise Goods (Holding, Movement and Duty Point) Regulations 2010 in the control zone for the Channel Tunnel (at Coquelles, the “control zone”). This Part updates those modifications to reflect changes to those Regulations on EU Exit. It also ensures that excise duty will be calculated in the same manner, and is subject to the same reliefs (on the same conditions), in the control zone as it would be at any other place of entry to the UK under any excise duty enactment. Transitional and saving provisions are made for movements in progress on exit day.

Part 4, chapter 1, further amends the Excise Goods (Holding, Movement and Duty Point) Regulations 2010, as previously amended for EU exit by S.I. 2019/13. Changes to the definitions of “place of importation”, “customs suspensive procedure or arrangement” and to the start of a movement of excise goods under a duty suspension arrangement are made in consequences of changes to customs legislation introduced under the Taxation (Cross-border) Trade Act 2018 and a minor omission in S.I. 2019/13 is corrected. The chapter also provides that the transitional and savings provisions made in Part 4 of S.I. 2019/13 apply to the amendments made in this chapter.

Part 4, chapter 2, makes modifications to the Excise Goods (Holding, Movement and Duty Point) Regulations 2010 in respect of excise goods imported into the United Kingdom on RoRo vehicles arriving at RoRo listed locations, or the control zone, to reflect changes made to customs procedures. A RoRo vehicle is a freight vehicle or trailer that is boarded onto a vessel or train. RoRo listed locations are locations where RoRo vehicles arrive in the UK and are listed in a notice published by HMRC in accordance with the Customs (Import Duty) (EU Exit) Regulations 2018 (S.I. 2018/1248).

Part 5 makes certain miscellaneous modifications and amendments to secondary legislation relating to excise duty. In particular, it makes a minor modification to the Tobacco Products Regulation 2001 (S.I. 2001/1712) for a 3 month period in the event that the UK leaves the EU without a deal on 29th March 2019. It also corrects a minor drafting error in the Excise Duties (Miscellaneous Amendments) (EU Exit) Regulations 2019 (S.I. 2019/14).

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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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