

Regulations made by the Treasury, laid before the House of Commons under section 51(5) of the Taxation (Cross-border Trade) Act 2018, for approval by resolution of that House within 28 days beginning with the day the instrument is made, subject to extension for periods of dissolution or prorogation of Parliament or for periods of adjournment of the House of Commons for more than four days.

STATUTORY INSTRUMENTS

2022 No. 109

**EXITING THE EUROPEAN UNION
CUSTOMS**

The Customs (Amendment) (EU Exit) Regulations 2022

<i>Made</i>	- - - -	<i>at 11.30 a.m. on 7th February 2022</i>
<i>Laid before the House of Commons</i>	- - - -	<i>at 4.00 p.m. on 7th February 2022</i>
<i>Coming into force</i>	- -	<i>28th February 2022</i>

The Treasury make the following Regulations in exercise of the powers conferred by section 51(1) (b) and (c) and (3) of the Taxation (Cross-border Trade) Act 2018(1).

Citation and commencement

1. These Regulations may be cited as the Customs (Amendment) (EU Exit) Regulations 2022 and come into force on 28th February 2022.

Amendments to the Customs and Excise Management Act 1979

2.—(1) The Customs and Excise Management Act 1979(2) is amended as follows.

(2) In section 63 (entry outwards of exporting ships)—

- (a) in subsection (2), for the first “the United Kingdom” substitute “Great Britain”;
- (b) in subsection (4), for “the United Kingdom” in both places it occurs substitute “Great Britain”;
- (c) in subsection (7)—

(1) 2018 c. 22. Relevant amendments made by Taxation (Post-transition Period) Act 2020 (c. 26). The Treasury is the appropriate Minister for the purposes of section 51(1) by virtue of section 51(4)(b).

(2) 1979 c. 2. Relevant amendments made by the Isle of Man Act 1979 (c. 58), the Finance Act 1981 (c. 35), the Criminal Justice Act 1982 (c. 48), the Police and Criminal Evidence Act 1984 (c. 60), the Finance Act 1994 (c. 9), the Taxation (Cross-border Trade) Act 2018, S.I. 1992/3095, and S.I. 2015/664.

- (i) after the first “the United Kingdom” insert “or Great Britain”;
 - (ii) for “the United Kingdom” in the other two places it occurs substitute “Great Britain”.
- (3) In section 119 (delivery of imported goods on giving of security for duty)—
- (a) in the heading, for “Delivery” substitute “Discharge”;
 - (b) in subsection (1)—
 - (i) for the words from “entered for home use” to “free zone,” substitute “declared for the free-circulation procedure (within the meaning of Part 1 of the Taxation (Cross-border Trade) Act 2018)”;
 - (ii) for “allow those goods to be delivered upon” substitute “discharge those goods from the free-circulation procedure in accordance with paragraph 17(4) of Schedule 1 to the Taxation (Cross-border Trade) Act 2018 (releasing and discharging goods to and from Customs procedures) subject to”;
 - (c) omit subsection (2);
 - (d) in subsection (3), for “allowed to be delivered” substitute “discharged from the free-circulation procedure subject to the importer giving security”;
 - (e) omit subsections (5) and (6);
 - (f) at the end, insert—
 - “(7) In this section “importer”, in respect of goods, means a person liable to import duty in respect of the goods under section 6 of the Taxation (Cross-border Trade) Act 2018.”.

Amendments to the Finance Act 1981

3. In the Finance Act 1981(3), in the table in Part 1 of Schedule 19 (repeals) omit “Section 119(2)”.

Amendments to the Finance Act 1994

4. In the Finance Act 1994(4), in Schedule 5, in paragraph 2(1) (decisions under CEMA 1979 subject to review and appeal), after paragraph (p) insert—

- “(pa) any decision as to whether or not, or in what form, any amount by way of security is payable to the Commissioners under section 119 (discharge of imported goods on giving of security for duty) or as to the amount to be so paid or as to any conditions imposed in connection with a decision under that section;”.

Amendments to the Taxation (Cross-border Trade) Act 2018

5.—(1) Schedule 7 (import duty: consequential amendments) to the Taxation (Cross-border Trade) Act 2018 is amended as follows.

- (2) Omit paragraph 90 (repeal of section 119 of CEMA 1979(5)).
- (3) in paragraph 158(2) (application of CEMA 1979 in connection with duty under section 30C(6))—
 - (a) in the words before paragraph (a), after “as if” insert, “other than references in section 63”;
 - (b) omit the “and” after sub-paragraph (c);

(3) 1981 c. 35.

(4) 1994 c. 9. Schedule 5 to the Finance Act 1994 was amended by paragraph 145 of Schedule 7 to the Taxation (Cross-border Trade) Act 2018.

(5) Schedule 7 apart from paragraph 90 was commenced by S.I. 2020/1642 (C. 49).

(6) Section 30C was inserted by section 2(4) of the Taxation (Post-transition Period) Act 2020.

(c) after sub-paragraph (d) insert—

“(e) the reference in section 36(1) to the United Kingdom were to Great Britain,
and

(f) the second reference in section 67(1) to the United Kingdom were to Great
Britain.”.

At 11.30 a.m. on 7th February 2022

Craig Whittaker
Michael Tomlinson
Two of the Lords Commissioners of Her
Majesty’s Treasury

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made by the Treasury. These Regulations make provision generally for the purposes of import duty under Part 1 of the Taxation (Cross-border Trade) Act 2018 (c. 22) (“the Act”). This is an EU Exit statutory instrument.

Regulation 1 provides for citation and commencement. These Regulations come into force on the 28th February 2022.

Regulation 2 makes various amendments to the Customs and Excise Management Act 1979 (c. 2) (“CEMA”).

Paragraph (2) makes consequential amendments to section 63 CEMA following the introduction of new duties of customs in sections 30A (importation of goods: Northern Ireland), 30C (duty on potentially imported goods) and 40A (removal to Northern Ireland of at risk goods etc) of the Act. Sections 30A, 30C and 40A were inserted by the Taxation (Post-transition Period) Act 2020 (c. 26).

Paragraph (3) amends section 119 CEMA to reflect the new terminology used by the Act and clarify that this section allows for HMRC to require additional security from a person who is liable to pay import duty prior to discharging goods from the free-circulation procedure (described in section 3 of the Act) where the Customs declaration made in relation to the goods is being verified by HMRC.

Regulation 3 makes a consequential amendment to the Finance Act 1981 (c. 35) as the repeal of section 119(2) CEMA made by the Finance Act 1981 has not been commenced. Section 119(2) CEMA is repealed by regulation 2 of this instrument.

In consequence of the amendment to section 119 CEMA made by regulation 2, the Finance Act 1994 (c. 2) is amended by regulation 4 to provide for an appeal right where HMRC requires additional security under section 119 CEMA.

Regulation 5 makes consequential amendments to the Act.

Paragraph (2) omits the repeal, which has not yet been commenced, of section 119 CEMA.

Paragraph (3) amends paragraph 158 of Schedule 7 to the Act in consequence of the commencement of section 30C of the Act.

A Tax Information and Impact Note (TIIN) covering this instrument will be published on the GOV.UK website at <https://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins>.