

2018 No. 1260

EXITING THE EUROPEAN UNION

CUSTOMS

**The Customs (Contravention of a Relevant Rule) (Amendment)
(EU Exit) Regulations 2018**

Made - - - - - *29th November 2018*

Laid before the House of Commons *30th November 2018*

Coming into force in accordance with regulation 1(2)

The Treasury make these Regulations in exercise of their powers in section 26(1)(a) and (b) and (5A) of the Finance Act 2003(a).

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 appoint under section 52(2) of the Taxation (Cross-border Trade) Act 2018(b).

Citation and commencement

1.—(1) These Regulations may be cited as the Customs (Contravention of a Relevant Rule) (Amendment) (EU Exit) Regulations 2018.

(2) These Regulations come into force on such day as the Treasury may appoint.

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

2.—(1) The Customs (Contravention of a Relevant Rule) Regulations 2003(c) are amended as follows.

3. Regulation 2 (interpretation) is amended as follows.

(a) omit the following definitions—

“the Code”;

“customs territory”;

“Delegated Regulation”;

“the Implementing Regulation”;

“the Importation Regulation”, and

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

(b) 2018 c. 22.

(c) S.I. 2003/3113 amended by S.I. 2009/3164, 2011/2524, 2015/636 and 2018/483.

(b) after the definition of “the 1994 Act” insert—

“the 2018 Act” means the Taxation (Cross-border Trade) Act 2018;”.

4. In regulation 3 (relevant rule and amount of penalty), omit paragraphs (5) and (6).

5.—(1) The Schedule is amended as follows.

(2) In the entries under the heading “Report”, for the entry headed “sections 20, 22 and 25 of the Act(a)” substitute—

“Section 20(1A) and 22(1A) of the Act		
Any pre-approval conditions specified in regulations made under section 20(1) or 22(1A) of the Act.	The approved person.	£2,500.
Section 20(1B), 22(1B) and 25(1B) of the Act		
Any conditions or restrictions attaching to any approval given under the provisions of section 20(1B), 22(1B) or 25(1B) of the Act.	The approved person.	£1,000.
The Customs (Temporary Storage Facilities Approval Conditions and Miscellaneous Amendments) (EU Exit) Regulations 2018(b)		
Any pre-approval conditions contained in Schedule 1 to the Regulations or specified by an officer of HMRC under Schedule 2 to the Regulations.	The approved person.	£2,500.”.

(3) In the entry headed “section 21(2) of the Act”, in column 1, omit “from within the customs territory”.

(4) In the entry headed “section 33(1) of the Act”—

(a) in column 1, for “an aircraft”, substitute “a vehicle which is an aircraft or railway vehicle”, and

(b) in column 2, for “commander of the aircraft”, substitute “vehicle operator”.

(5) In the entry headed “section 33(2) of the Act”—

(a) in column 1 after “an aerodrome” insert “or railway customs area and all buildings and goods thereon”, and

(b) in column 2 after “the aerodrome” insert “or railway customs area”.

(6) In the entry headed “section 33(3) of the Act”, for column 1 substitute “Obligation to comply with any record keeping requirements contained in section 33(3)(a), (b) and (c) of the Act.”.

(7) After the entry headed “section 33(3) of the Act” insert—

“Section 33(3A) of the Act

(a) “The Act” is defined in S.I. 2003/3113 as the Customs and Excise Management Act 1979 (c. 2). Sections 20(1B), 22(1A) and (1B), 25(1B), 33(3A), 34(1A), 35A and 64(1A) of the Act were inserted by paragraphs 1, 10, 12, 16, 24, 25, 28 and 66 of Schedule 7 to the Taxation (Cross-border Trade) Act 2018.

(b) S.I. 2018/1247.

Obligation to comply with any record keeping requirements contained in section 33(3A)(a), (b) and (c) of the Act.	The person in control of the railway customs area.	£2,500.”.
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(8) After the entry headed “section 34(1) of the Act”, insert—

“Section 34(1A) of the Act		
Obligation to comply with any instructions given under section 34(1A) of the Act.	The railway vehicle operator, or the owner of the railway customs area.	£2,500.”.

(9) In the entry headed “section 35(1) of the Act” for the entries in columns 2 and 3 substitute—

“The vehicle operator.	£1,000.”.
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(10) In the entry headed “section 35(6) of the Act”—

- (a) In paragraph (a) in column 1, for “ship or aircraft” substitute “vehicle”,
- (b) in paragraph (d) in column 1, for “or flight” substitute “, flight or rail journey”,
- (c) for the entries in column 2 and 3, substitute—

“The vehicle operator.	£1,000.”.
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(11) In the entry headed “section 35(7) of the Act”, for the entries in columns 2 and 3 substitute—

“The vehicle operator.	£1,000.”.
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(12) After the entry headed “section 35(7) of the Act” insert—

“Section 35A of the Act		
To provide confirmation of a Customs declaration as required in accordance with regulations made under section 35A.	The vehicle operator.	£1,000.”.

(13) For the entry headed “section 64(1) the Act” substitute—

“Section 64(1) and (1A) of the Act		
Except as otherwise provided for in regulations made under section 64(1A), no vehicle other than a road vehicle is to depart from the United Kingdom until clearance for departure has been obtained from the proper officer.	The vehicle operator.	£1,000.”.

(14) In the entry headed “section 78(1) of the Act”, in column 1, at the end of both paragraphs (a) and (b), insert “or any regulations made under section 19(1) of the Taxation (Cross-border Trade) Act 2018”.

(15) Omit the heading “Goods brought into the customs territory (United Kingdom)” and the entries listed under that heading up to and including the entry headed “Article 137 of the Code(a)”.

(16) Under the heading “Presentation of Goods to Customs”—

- (a) omit the entries from the entry headed “Regulation 3 of the Implementing Regulations” up to and including the entry headed “Article 139(7) of the Code(b)”, and
- (b) after the entry headed “directions made on 2 August 2011 under section 30 of the Act” insert—

“The Customs (Import Duty) (EU Exit) Regulations 2018(c)		
Regulation 4(1) and (2)		
Obligation to give notification to HMRC of the importation of goods into the United Kingdom.	The person responsible for giving the notification.	£2,500.
Regulation 4(3)		
Notification of importation: Obligation to comply with any of the requirements in regulation 4(3)(a), (b) or (c).	The person giving the notification.	£1,000.”.

- (c) omit the headings “Articles 48 and 49 and 59 of the Code and Regulation 5 of the Importation Regulation”, “Articles 149 of the Code”, Article 51 of the Code” and “Article 147 of the Code” and the entries listed under those headings.

(17) For the headings “Customs Declarations”, “Authorised economic operators”, “Simplified and Local Procedures”, “Customs Procedure with Economic Impact”, “End Use” and “Free Zones” and the entries listed under those headings substitute—

“Authorisations and Approvals		
The Customs (Import Duty) (EU Exit) Regulations 2018		
Regulation 89(5)	The approved person.	£2,500.

- (a) The entry for “article 137” was inserted by regulation 4(10) of S.I. 2018/483.
- (b) The entry for “article 139(7)” was inserted by regulation 4(13) of S.I. 2018/483.
- (c) S.I. 2018/1248.

The approved person must comply with any conditions specified in or under the Regulations relating to the approval or the notification of the approval.		
Regulation 90	The approved person.	£2,500.
The approved person must notify HMRC if they cease to satisfy eligibility criteria for approval or they fail to meet any condition to which their approval is subject or there are material changes to the information given in their application.		
Customs Declarations		
Section 3(1) of the 2018 Act and paragraph 1(1) of Schedule 1 to the 2018 Act	The person responsible for making the Customs declaration.	£2,500.
Chargeable goods which are presented to Customs on import must be declared for a Customs procedure by the making of a Customs declaration.		
Section 6(4)(a) of the 2018 Act	The person providing the false information.	£2,500.
Persons providing false information in connection with a chargeable Customs declaration where the person knew or ought reasonably to have known that the information was false.		
The Customs (Import Duty) (EU Exit) Regulations 2018		
Regulation 8(2)	The person who notifies the importation of the goods.	£1,000.
Requirement to make a temporary storage declaration in accordance with paragraph (5).		
Regulation 12(1)	The approved person.	£1,000.
Carrying out activity in relation to goods in temporary storage other than that described in paragraph (2).		
Regulation 12(3) and (4)	The approved person.	£1,000.
Requirement to keep a record. The approved person must keep a record, in the specified form and for a period of 3 years beginning with the date of		

any handling whilst the goods are in temporary storage.

Regulation 32(1) Requirement to comply with the simplified customs declaration process as required by regulation 32(1).	The authorised declarant.	£2,500.
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Regulation 32(2) An authorised declarant must make available for inspection by an HMRC officer by the end of the applicable period, any documents required to accompany the Customs declaration in question.	The authorised declarant.	£2,500.
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Regulation 37(5) Requirement to allow access to EIDR electronic system(a) or provide information. An authorised EIDR declarant(b) must, when required to do so by an HMRC officer— (a) allow access by the officer to the EIDR electronic system operated by the declarant; or (b) provide to the officer from that system such information, as the officer reasonably requires in order to verify EIDR records or records showing whether or not any goods have been imported which are subject to a prohibition or restriction on import imposed under an enactment.	The authorised EIDR declarant.	£2,500.”.
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(18) Omit the heading “Transit, Customs status of goods and Community transit” and the entries under it.

(19) Omit the heading “Provisions concerning bananas” and the entry under it.

(20) In the entries under the heading “Information and records”—

- (a) in column 1 of the entry headed “Article 15 of the Code and section 23 of the 1994 Act”, omit “Article 15 of the Code and” and for “section 23” substitute “Section 23”, and
- (b) in column 1 of the entry headed “Article 51 of the Code, the Customs Traders (Accounts and Records) Regulations 1995”—
 - (i) in the heading omit “Article 51 of the Code, ”,

(a) “EIDR records”, “EIDR electronic system” and “EIDR procedure” are defined in regulation 36 of S.I 2018/1248.

(b) “an authorised EIDR declarant” is defined in regulation 37 of S.I. 2018/1248.

(ii) in the heading for “the Customs” substitute “The Customs”, and

(iii) omit “Article 51(1) of the Code and by”.

(21) In the entries under the heading “Assistance in examination of goods”, omit the entry headed “articles 239 and 240 of the Implementing Regulation”.

(22) In the entries under the heading “Preference”, omit the entries commencing with the entry headed “articles 64 and 56(2)(d) of the Code” up to and including the entry headed “articles 52, 65 and 80 of the Council Regulation 1168/2009”.

(23) Before the entry headed “The Customs and Excise (Personal Reliefs for Special Visitors) Order 1992 insert the heading—

“Reliefs”

(24) After the entry headed “The Customs and Excise (Personal Reliefs for Special Visitors) Order 1992 insert—

“RoRo Vehicles(a)

The Customs (Import Duty)
(EU Exit) Regulations 2018
Chargeable goods destined
for RoRo listed locations

Regulation 131(1) and (2)
Where chargeable goods to
be imported are carried by a
RoRo vehicle which is
boarded onto a train or
vessel destined for a RoRo
listed destination, a
declaration in respect of the
goods must be made in
accordance with regulation
131(2).

The person responsible for
making the declaration. £1,000.

Regulation 131(3)
The Customs declaration or
temporary storage
declaration must not be
amended or withdrawn save
as provided for in the
paragraph.

The declarant. £1,000

Regulation 131(4)
Evidence of compliance
with regulation 131(2) must
be produced to an HMRC
officer when required.

The person in possession or
control of the RoRo vehicle. £1,000.

Regulation 131(6)
When required to do so by
an HMRC officer, the
person who is responsible
for providing the service of
operating a train or vessel
destined for a RoRo listed
location on to which a RoRo
vehicle carrying goods is
boarded (“the responsible

The responsible person. £1,000.

(a) “RoRo vehicle” is defined in regulation 2 of S.I. 2018/1248.

person”) must produce to the officer evidence that the person reasonably believed that paragraph (2) of the regulation had been complied with in respect of every RoRo vehicle carrying goods on board the train or vessel.

Special Procedures

The Customs (Special Procedures and Outward Processing) (EU Exit) Regulations 2018(a).

Regulation 8 Declarations treated as application for authorisation. Requirement to comply with any conditions set out in a notice published by HMRC under paragraph (4) of regulation 8.	The authorised person.	£2,500.
Regulation 42(7) Requirement to comply with an obligation that has been transferred as specified in an approval notification under paragraph (7) of regulation 42.	Any person to whom rights and obligations in relation to a relevant non-transit Part 1 procedure are transferred under regulation 42.	£2,500.
Regulation 44 Requirement to keep and preserve records in a form specified in a notice by HMRC and update such records within a specified period after the occurrence of a specified event if required to do so by a notice published under paragraph (3) of regulation 44.	The person specified in paragraph (2) of regulation 44.	£1,000.
Regulation 17 Goods not to be removed from a customs warehouse save as permitted under the Regulations.	The person who removed the goods in contravention of regulation 17. The holder of the procedure(b).	£2,500. £2,500.
	The person approved by HMRC to operate premises as a place to keep goods declared for a storage procedure.	£2,500.

CTC, TIR and UK Transit

The Customs (Transit

(a) S.I. 2018/1249.

(b) The holder of the procedure is defined in regulation 2 of S.I. 2018/1249.

Procedures) (EU Exit) Regulations 2018(a) Paragraphs 4(1)(c), 29(1)(c) of Schedule 1 and paragraph 4(1) of Schedule 3. Requirement to provide a guarantee.	The holder of the procedure(b).	£2,500.
Paragraphs 4(1)(a) and 29(1)(a) of Schedule 1 and paragraph (8)(1) of Schedule 3. Requirement to present the goods intact and with the required information at the HMRC customs office of destination in the United Kingdom within the applicable time-limit and in compliance with the measures taken by HMRC and other customs authorities to ensure their identification.	The holder of the procedure.	£2,500.
Paragraphs 6(1) and 18(1) of Schedule 2. Where are goods moved under a TIR transit procedure, requirement to present on arrival at the HMRC customs office of destination: the goods together with the road vehicle, the combination of vehicles or the container; the TIR Carnet; any information required by HMRC.	The carrier.	£2,500.
Paragraphs 3(2), 4(1) and 14(1) of Schedule 2. The TIR Carnet holder is required to submit without delay, goods and the TIR Carnet for the TIR transit procedure at the HMRC customs office of entry or customs office departure, as the case may be.	The TIR carnet holder(c).	£2,500
Paragraphs 4(4) and 29(3) of Schedule 1 and paragraph 8(1) of Schedule 3.	The TIR carnet holder.	£2,500.
	A carrier or recipient of goods who accepts the goods knowing they are	£2,500.

(a) S.I.2018/11250.

(b) "The holder of the procedure" is defined in paragraph 3(5) of S.I. 2018/1250.

(c) "TIR Carnet holder" is defined in article 1(o) of the TIR Convention as defined in paragraph 1 of Schedule 2 to S.I. 2018/1250.

<p>A carrier or recipient of goods who accepts goods knowing that they are moving under a common or UK transit procedure is also responsible for presentation of the goods intact at the customs office of destination within the time-limit set by the HMRC customs office of departure and in compliance with the measures taken by HMRC and other customs authorities to ensure their identification</p>	<p>moving under a common or UK transit procedure.</p>	
<p>Paragraphs 4(1)(b) and 29(1)(b) of Schedule 1 and paragraph 8(1) of Schedule 3. Requirement to observe the customs provisions relating to the procedure.</p>	<p>The holder of the procedure.</p>	<p>£2,500.</p>
<p>Paragraph 61(6) of Schedule 1 and any notice published under paragraph 63. Requirement to meet the obligation that T2L or T2LF data drawn up in accordance with paragraph 61 must contain the endorsement: "signature waived" in place of the authorised issuer's signature.</p>	<p>The authorised issuer.</p>	<p>£2,500.</p>
<p>Paragraphs 4(8) and 29(7) of Schedule 1 and paragraph 8(1) of Schedule 3. Requirement to notify all offences and irregularities related to the common or UK transit procedure to the HMRC customs office of destination.</p>	<p>The holder of the procedure</p>	<p>£2,500.</p>
<p>Paragraphs 2(1) and 27(1) of Schedule 1. Requirement to present the goods together with the Master Reference Number (MRN) of the declaration at each HMRC customs office of transit.</p>	<p>The carrier.</p>	<p>£2,500.</p>
<p>Paragraphs 3(1) and 28(1) of Schedule 1 and paragraph 7 of Schedule 3. Other than where this requirement is waived or not required under these</p>	<p>The carrier.</p>	<p>£2,500.</p>

regulations, the carrier must present goods together with the MRN to HMRC under the circumstances described in paragraph 3(1) or 28(1) of Schedule 1 or paragraph 7 of Schedule 3.

Paragraphs 6(1) and 18(1) of Schedule 2. The carrier. £2,500.

In the circumstances described in paragraph 8(1) or paragraph 18(1) of Schedule 2, requirement to present to the HMRC customs office within official opening hours unless otherwise agreed by HMRC: the goods together with the road vehicle, the combination of vehicles or the container, the TIR Carnet and any information required by HMRC.

Paragraphs 5(1), 30(1) of Schedule 1 and paragraph 8(2) of Schedule 3. The carrier. £2,500.

Requirement to present the goods, the MRN of the declaration and any information required by HMRC or other customs authority at the HMRC office of destination during the official opening hours; or, where allowed by the office of destination and at the request of the person concerned, outside the official opening hours or at any other place. The holder of the procedure. £2,500.

Paragraphs 7(1), 31(1) of Schedule 1, paragraphs 8(1) and 20(1) of Schedule 2 and paragraph 8(3) of Schedule 3. The authorised consignee. £2,500

Requirement to: immediately notify the HMRC customs office of destination of the arrival of the goods and inform them of any irregularities or incidents that occurred during transport; wait for permission from the

HMRC customs office of destination before unloading the goods; enter, after unloading, the results of the inspection and any other relevant information relating to the unloading into the authorised consignee's records without delay; notify HMRC at that HMRC customs office of destination of the results of the inspection of the goods and inform them of any irregularities no later than the third day following the day on which permission was received to unload the goods.

Paragraphs 8(2) and 20(2) of Schedule 2. The authorised consignee. £2,500.

The authorised consignee must ensure that the TIR Carnet for the TIR transit procedure is presented, within the time-limit laid down in the authorisation, at the HMRC customs office of destination for the purposes of terminating the TIR transit procedure in accordance with paragraph 7(1) of Schedule 2.

Paragraph 63 of Schedule 1. Requirement to comply with business continuity procedure in a public notice made under paragraph 63 of Schedule 1. The holder of the procedure, the authorised consignee, or the consignee.” £2,500.

Revocation of the Customs (Contravention of a Relevant Rule) (Amendment) Regulations 2018

6. The Customs (Contravention of a Relevant Rule) (Amendment) Regulations 2018(a) are revoked.

29th November 2018

Rebecca Harris
Craig Whittaker
Two of the Commissioners for Her Majesty's Treasury

(a) S.I. 2018/483.

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 (“UK”) from the European Union (“EU”). They make amendments to the secondary legislation imposing civil penalties on those who contravene Customs rules relating to the import of goods into the UK in order to ensure that there is a functioning penalty regime following exit day in the event that the UK leaves the EU with no deal. The Regulations will come into force on a day to be appointed by the Treasury in Regulations pursuant to the power to make such provision contained in section 52(2) of the Taxation (Cross-border Trade) Act 2018 (c.22).

Regulation 1 provides for citation and commencement. Paragraph (2) provides that the Regulations shall come into force on a day to be appointed by Treasury Regulations.

Regulations 2 to 5 amend the Customs (Contravention of a Relevant Rule) Regulations 2003 (S. I 2003/3113). Redundant references to EU legislation and rules provided for under that legislation are removed and replaced with references to new rules contained in the Customs (Import Duty) (EU Exit) Regulations 2018 (S.I. 2018/1248), the Customs (Special Procedures and Outward Processing) (EU Exit) Regulations 2018 (S.I. 2018/1249), the Temporary Storage Facilities Approval Conditions and Miscellaneous Amendments) (EU Exit) Regulation 2018 (S.I. 2018/1247) and the Customs (Transit Procedures) (EU Exit) Regulations 2018 (S.I.2018/1250).

Regulation 6 revokes the Customs (Contravention of a Relevant Rule) (Amendment) Regulations 2018 (S.I. 2018/483) which updated certain EU references. The updated references are removed by these Regulations so the instrument is no longer needed.

This instrument is one of a group of instruments covered by a single overarching HMRC impact assessment which will be published on 4th December 2018 and will be 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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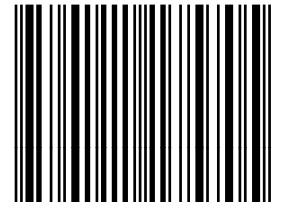
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