

STATUTORY INSTRUMENTS

2019 No. 113

**EXITING THE EUROPEAN UNION
CUSTOMS**

The Customs (Records) (EU Exit) Regulations 2019

*Made - - - - 29th January 2019
Laid before the House of
Commons - - - - 31st January 2019
Coming into force in accordance with regulation 1*

The Treasury make the following Regulations in exercise of the powers conferred by sections 30 and 32(8)(b) and (d) of the Taxation (Cross-border Trade) Act 2018 ^{M1}.

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 of that Act appoint.

Marginal Citations

M1 2018 c. 22. Section 37(1) of the Taxation (Cross-border Trade) Act 2018 (“the Act”) defines “CEMA 1979” and “HMRC” for the purposes of Part 1 of the Act as meaning the [Customs and Excise Management Act 1979 \(c. 2\)](#) and Her Majesty's Revenue and Customs respectively.

Citation and commencement

1. These Regulations may be cited as the Customs (Records) (EU Exit) Regulations 2019 and come into force on such day as the Treasury may by regulations under section 52 of the Taxation (Cross-border Trade) Act 2018 appoint.

Commencement Information

I1 Reg. 1 not in force at made date, see [reg. 1](#)
I2 [Reg. 1](#) in force at 31.12.2020 by [S.I. 2020/1643](#), [reg. 2](#), [Sch.](#)

Interpretation

2. In these Regulations—
“Customs obligation” means any obligation or requirement imposed by or under—

- (a) ^{F1}...the Taxation (Cross-border Trade) Act 2018 [^{F2}in relation to a duty of customs];
- (b) CEMA 1979;
- (c) the EU Customs Code [^{F3}as it has effect in Great Britain,] except the EUCL; ^{F4}...
- (d) the EUCL insofar as it continues to have effect as provided for by Part 15 of the Customs (Import Duty) (EU Exit) Regulations 2018 ^{M2}[^{F5}, or the Customs (Transitional) (EU Exit) Regulations 2020; or]
- (e) [^{F6}the EU Customs Code to the extent that it has effect in Great Britain as a result of the EU withdrawal agreement;]

“EUCL” means the direct EU legislation referred to in paragraph 1(1) of Schedule 7 to the Taxation (Cross-border) Trade Act 2018;

“EU Customs Code” means—

- (a) the UCC;
- (b) the Commission Delegated Regulation (EU) 2015/2446 of 28 July 2015 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards detailed rules concerning provisions of the Union Customs Code;^{F7}...
- (c) Commission Implementing Regulation (EU) 2015/2447 of 24 November 2015 laying down detailed rules for implementing certain provisions of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code^{F8}; and]
- (d) [^{F9}Commission Delegated Regulation (EU) 2016/341 of 17 December 2015 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards transitional rules for certain provisions of the Union Customs Code where the relevant electronic systems are not yet operational and amending Delegated Regulation (EU) 2015/2446;]

“the UCC” means Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code.

Textual Amendments

- F1** Words in reg. 2 omitted (31.12.2020) by virtue of [The Taxation Cross-border Trade \(Special Procedures Supplementary and General Provision etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1439\)](#), regs. 1(4), **7(2)(a)(i)(aa)**
- F2** Words in reg. 2 inserted (31.12.2020) by [The Taxation Cross-border Trade \(Special Procedures Supplementary and General Provision etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1439\)](#), regs. 1(4), **7(2)(a)(i)(bb)**
- F3** Words in reg. 2 inserted (31.12.2020) by [The Taxation Cross-border Trade \(Special Procedures Supplementary and General Provision etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1439\)](#), regs. 1(4), **7(2)(a)(ii)(aa)**
- F4** Word in reg. 2 omitted (31.12.2020) by virtue of [The Taxation Cross-border Trade \(Special Procedures Supplementary and General Provision etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1439\)](#), regs. 1(4), **7(2)(a)(ii)(bb)**
- F5** Words in reg. 2 inserted (31.12.2020) by [The Taxation Cross-border Trade \(Special Procedures Supplementary and General Provision etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1439\)](#), regs. 1(4), **7(2)(a)(iii)**
- F6** Words in reg. 2 inserted (31.12.2020) by [The Taxation Cross-border Trade \(Special Procedures Supplementary and General Provision etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1439\)](#), regs. 1(4), **7(2)(a)(iv)**

- F7** Word in reg. 2 omitted (31.12.2020) by virtue of [The Taxation Cross-border Trade \(Special Procedures Supplementary and General Provision etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1439\)](#), regs. 1(4), [7\(2\)\(b\)\(i\)](#)
- F8** Words in reg. 2 inserted (31.12.2020) by [The Taxation Cross-border Trade \(Special Procedures Supplementary and General Provision etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1439\)](#), regs. 1(4), [7\(2\)\(b\)\(ii\)](#)
- F9** Words in reg. 2 inserted (31.12.2020) by [The Taxation Cross-border Trade \(Special Procedures Supplementary and General Provision etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1439\)](#), regs. 1(4), [7\(2\)\(b\)\(iii\)](#)

Commencement Information

- I3** Reg. 2 not in force at made date, see reg. 1
- I4** Reg. 2 in force at 31.12.2020 by [S.I. 2020/1643](#), reg. 2, [Sch.](#)

Marginal Citations

- M2** [S.I. 2018/1248](#).

Records to be kept and preserved

3.—(1) [^{F10}Where regulation 4 does not apply,] a person who is subject to a Customs obligation, or who carries out an act in pursuance of a Customs obligation, must keep and preserve such records, in such form, and for such period, as specified in a notice published by HMRC.

(2) HMRC must publish a notice specifying—

- (a) the records to be kept and preserved under paragraph (1);
- (b) the form in which they are to be kept; and
- (c) the period for which they must be kept and preserved.

(3) A notice published under paragraph (2) may make different provision for different cases.

Textual Amendments

- F10** Words in [reg. 3\(1\)](#) inserted (31.12.2020) by [The Taxation Cross-border Trade \(Special Procedures Supplementary and General Provision etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1439\)](#), regs. 1(4), [7\(3\)](#)

Commencement Information

- I5** Reg. 3 not in force at made date, see reg. 1
- I6** Reg. 3 in force at 31.12.2020 by [S.I. 2020/1643](#), reg. 2, [Sch.](#)

Transitional and saving provision

4.—(1) This [^{F11}paragraph] applies in relation to any person who was, immediately before [^{F12}IP completion day], subject to an obligation under Article 51 of the UCC to keep documents and information.

(2) Where [^{F13}paragraph (1)] applies, Article 51 of the UCC continues to have effect on and after [^{F14}IP completion day] in relation to a person referred to in paragraph (1) until the expiry of the period for which the documents and information must be kept under that Article.

[^{F15}(3) This paragraph applies in relation to any person who on or after IP completion day is, as a result of the EU withdrawal agreement, subject to an obligation under Article 51 of the UCC to keep documents and information.

(4) Where paragraph (3) applies, Article 51 of the UCC continues to have effect after the cessation of the effect of the UCC as a result of the EU withdrawal agreement, in relation to a person referred to in paragraph (3), until the expiry of the period for which documents and information must be kept under that Article.]

Textual Amendments

- F11** Word in [reg. 4\(1\)](#) substituted (31.12.2020) by [The Taxation Cross-border Trade \(Special Procedures Supplementary and General Provision etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1439\)](#), [regs. 1\(4\), 7\(4\)\(a\)\(i\)](#)
- F12** Words in [reg. 4\(1\)](#) substituted (31.12.2020) by [The Taxation Cross-border Trade \(Special Procedures Supplementary and General Provision etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1439\)](#), [regs. 1\(4\), 7\(4\)\(a\)\(ii\)](#)
- F13** Words in [reg. 4\(2\)](#) substituted (31.12.2020) by [The Taxation Cross-border Trade \(Special Procedures Supplementary and General Provision etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1439\)](#), [regs. 1\(4\), 7\(4\)\(b\)\(i\)](#)
- F14** Words in [reg. 4\(2\)](#) substituted (31.12.2020) by [The Taxation Cross-border Trade \(Special Procedures Supplementary and General Provision etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1439\)](#), [regs. 1\(4\), 7\(4\)\(b\)\(ii\)](#)
- F15** [Reg. 4\(3\)\(4\)](#) inserted (31.12.2020) by [The Taxation Cross-border Trade \(Special Procedures Supplementary and General Provision etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1439\)](#), [regs. 1\(4\), 7\(4\)\(c\)](#)

Commencement Information

- I7** [Reg. 4](#) not in force at made date, see [reg. 1](#)
- I8** [Reg. 4](#) in force at 31.12.2020 by [S.I. 2020/1643](#), [reg. 2](#), [Sch.](#)

Mike Freer
Jeremy Quin
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 and make provision supplementing provision made in relation to import duty by and under Part 1 of the Taxation (Cross-border Trade) Act 2018 (c. 22) (“the Act”). This is an EU Exit statutory instrument.

Regulation 3 imposes a duty on a person who is subject to a Customs obligation (as defined in regulation 2) to keep and preserve records specified in a notice published by HMRC. The notice must set out the form in which such records are to be kept and the period for which they must be kept and preserved.

Regulation 4 makes transitional and saving provision in relation to an obligation to keep documents and information under EU legislation which ceases to have effect as a result of paragraph 1(1) of Schedule 7 to the Act.

This instrument will be covered by an overarching HMRC impact assessment (second 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>.

Changes to legislation:

There are currently no known outstanding effects for the The Customs (Records) (EU Exit) Regulations 2019.