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STATUTORY INSTRUMENTS

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**2019 No. 1215**

**The Customs and Excise (Miscellaneous Provisions  
and Amendments) (EU Exit) Regulations 2019**

**PART 2**

**Banana Weight Certificates**

**Interpretation**

**2.** In this Part—

“Banana Weight Certificate” has the meaning given by regulation 3(1);

“Customs obligation” has the meaning given by regulation 2 of the import duty regulations;

“established in the United Kingdom” means—

- (a) in the case of an individual, where the individual is resident in the United Kingdom; or
- (b) in all other cases, where the person—
  - (i) has a registered office in the United Kingdom; or
  - (ii) has a permanent place in the United Kingdom from which the person carries out activities for which the person is constituted to perform;

“fresh bananas” means the goods specified in a notice published by HMRC Commissioners under regulation 6(1);

“import duty regulations” means the Customs (Import Duty) (EU Exit) Regulations 2018(1);

“simplified Customs declaration process” has meaning given by regulation 30 of the import duty regulations;

“simplified Customs declaration” has the meaning given by regulation 14 of the import duty regulations.

**Banana Weight Certificates**

**3.—(1)** A person (“an Authorised Banana Weigher”) may, if authorised to do so by HMRC, issue certificates specifying the weight of consignments of fresh bananas (“a Banana Weight Certificate”).

(2) Such certificates must be issued in compliance with any conditions contained in the authorisation.

(3) Authorisation as an Authorised Banana Weigher is to be treated for the purposes of Part 9 of the import duty regulations as a matter requiring approval under those regulations, subject to the modification in paragraph (4).

(4) For the purposes of regulation 89(1) of the import duty regulations, the specified period in relation to an application for authorisation as an Authorised Banana Weigher is 30 days after the date on which the application was received by HMRC.

**Eligibility for authorisation or approval as an Authorised Banana Weigher**

4.—(1) A person may only be an Authorised Banana Weigher if—

- (a) the person is established in the United Kingdom;
- (b) the person is involved in the import, carriage, storage or handling of fresh bananas;
- (c) in the opinion of an HMRC officer, the person has access to and control over the appropriate weighing equipment required to provide an accurate weight for fresh bananas;
- (d) an HMRC officer is satisfied that the person will exercise proper conduct of the operations necessary to comply with the requirements of banana weighing.

(2) For the purposes of considering whether the person will exercise proper conduct of operations necessary to comply with the requirements of banana weighing, the matters that an HMRC officer may take into account include (for example)—

- (a) whether, in the opinion of an HMRC officer, the person’s financial standing makes the applicant suitable to carry out banana weighing;
- (b) whether the person, or any directors or senior employees of the person, has or have been involved in a breach of an obligation relating to tax or of a Customs obligation, which in the opinion of an HMRC officer is—
  - (i) a serious breach having regard to the circumstances and nature of any breach and the number of any breaches; and
  - (ii) relevant to the suitability of the person to carry out banana weighing;
- (c) whether the person, or any directors or senior employees of the person, has or have any criminal conviction which in the opinion of an HMRC officer is—
  - (i) serious having regard to the type of conviction; and
  - (ii) relevant to the suitability of the applicant to carry out banana weighing;
- (d) whether the person maintains a logistical system and records that identify the movement of, and transactions in, consignments of bananas to which Banana Weight Certificates relate, and facilitates compliance with Customs obligations.

**Conditions for approval as an Authorised Banana Weigher**

5. Approval as an Authorised Banana Weigher is granted subject to the following conditions—

- (a) the person must notify HMRC in advance if that person intends to carry out the weighing of a consignment of fresh bananas for the purpose of issuing a Banana Weight Certificate;
- (b) the person must issue the relevant Banana Weight Certificates without delay after carrying out any banana weighing; and
- (c) such other conditions as may be specified in the approval notification.

**Requirement to provide a Banana Weight Certificate**

6.—(1) This regulation applies in relation to bananas of a description specified in a notice which must be published by HMRC Commissioners (“fresh bananas”).

(2) Any Customs declaration for the free-circulation procedure<sup>(2)</sup> made in respect of fresh bananas must be accompanied by a Banana Weight Certificate, except where paragraph (3) applies.

(3) Paragraph (2) does not apply where, at the time the Customs declaration for the free-circulation procedure is made in respect of fresh bananas, the person making the declaration<sup>(3)</sup> is

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(2) The free-circulation procedure is defined in section 3(3)(a) of the Taxation (Cross-border Trade) Act 2018.

(3) Section 37(8) of the Taxation (Cross-border Trade) Act 2018 explains references to a person who makes a Customs declaration.

a person authorised to use the simplified Customs declaration process<sup>(4)</sup> and makes the Customs declaration for the free-circulation procedure in respect of fresh bananas using the simplified Customs declaration process.

(4) Where paragraph (3) applies—

- (a) a provisional declaration of weight must be provided in the simplified Customs declaration; and
- (b) the person making the simplified Customs declaration must provide to HMRC a Banana Weight Certificate in respect of the fresh bananas that are the subject of that declaration within 10 days beginning with the date on which the simplified Customs declaration is accepted<sup>(5)</sup> by HMRC.

(5) In this regulation—

“a Banana Weight Certificate previously issued” includes a Banana Weight Certificate issued under the EU Customs Code prior to exit day;

“EU Customs Code” means—

- (a) Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code;
- (b) 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 certain provisions of the Union Customs Code; and
- (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<sup>(6)</sup>;

“provisional declaration of weight” means either—

- (a) the weight, as adjusted for the size of the consignment if that adjustment can be readily determined, that appears on a Banana Weight Certificate previously issued to the person making the simplified Customs declaration if the bananas that are the subject of that Banana Weight Certificate are the same as those for which the declaration is being made in respect of—
  - (i) the type of packaging used; and
  - (ii) the place of origin; or
- (b) if—
  - (i) the adjustment mentioned in sub-paragraph (a) cannot be readily determined; or
  - (ii) the person making the simplified Customs declaration is importing fresh bananas for the first time;

the weight that has been itemised in a travel document issued by the person responsible for the carriage of the fresh bananas being declared which specifies the destination and recipients of the fresh bananas.

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(4) A person is authorised to use the simplified Customs declaration process if they are an authorised declarant within the meaning of regulation 31(1) of the Customs (Import Duty) (EU Exit) Regulations 2018 (S.I. 2018/1248, “the Import Duty Regulations”).

(5) See paragraphs 10 to 12 of Schedule 1 to the Taxation (Cross-border Trade) Act 2018 on acceptance of Customs declarations. Paragraph 11(2) of Schedule 1 provides that a notification under paragraph 11(1) constitutes the acceptance of a Customs declaration by HMRC which is applied to simplified declarations by regulation 32(3) of the Import Duty Regulations.

(6) Under section 3 of the European Union (Withdrawal) Act 2018 (c. 16) the Union Customs Code, together with the Delegated and Implementing Regulation, will form part of domestic law on exit day as “retained EU law”. To the extent that retained EU law imposes, or otherwise applies, in relation to any EU customs duty it will cease to have effect in accordance with paragraph 1 of Schedule 7 to the Taxation (Cross-border Trade) Act 2018.

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**Status:** *This is the original version (as it was originally made).*

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