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STATUTORY INSTRUMENTS

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**2019 No. 1219**

**EXITING THE EUROPEAN UNION  
CUSTOMS**

**The Customs Safety and Security Procedures  
(EU Exit) (No. 2) Regulations 2019**

*Approved by both Houses of Parliament*

*Made - - - - 4th September 2019*

*Laid before Parliament 5th September 2019*

*Coming into force in accordance with regulation 1(2)*

The Commissioners for Her Majesty's Revenue and Customs make these Regulations exercising their powers in section 8(1) of the European Union (Withdrawal) Act 2018<sup>(1)</sup>.

They consider these Regulations appropriate to prevent, remedy or mitigate (a) any failure of retained EU law to operate effectively, or (b) any other deficiency in retained EU law, in either case arising from the withdrawal of the United Kingdom from the EU.

They declare that they are of the opinion that, by reason of urgency, it is necessary to make these Regulations without a draft of the instrument being laid before, and approved by a resolution of, each House of Parliament.

**Citation, commencement and effect**

1.—(1) These Regulations may be cited as the Customs Safety and Security Procedures (EU Exit) (No. 2) Regulations 2019.

(2) They come into force on exit day<sup>(2)</sup>.

(3) They do not have effect in relation to the movement of goods between Northern Ireland and the Republic of Ireland or the reverse.

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(1) 2018 c. 16. Section 20(1) provides that in the Act the Commissioners for Her Majesty's Revenue and Customs are included in the expression "Minister of the Crown".

(2) The meaning of "exit day" is assigned by the Interpretation Act 1978 (c. 30), Schedule 1 as amended by the European Union (Withdrawal) Act 2018, Schedule 8, paragraphs 18 and 22(e) and S.I. 2018/808, and assigned by section 20(1) to (5) of the latter Act and S.I. 2019/859.

**Modification of Regulation (EU) No 952/2013 laying down the Union Customs Code**

2.—(1) Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code(3) is amended as follows.

(2) Insert after Article 263(4)—

“5. For the purposes of paragraph 3(a), a “customs declaration” includes an export declaration pursuant to regulations under the Taxation (Cross-border Trade) Act 2018(4), section 35.”.

**Modification of Commission Delegated Regulation (EU) 2015/2446 supplementing certain provisions of the Union Customs Code**

3.—(1) Commission Delegated Regulation (EU) 2015/2446 of 28 July 2015(5) 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 is amended as follows.

(2) Insert after Article 104(5)—

“6. The waiver arising from the combination of paragraph 1(e) and Article 136(1)(a) has effect for the goods in Articles 208, 209, 210(1), 211, 212(1), 212(3) and 213 irrespective of provision made in those latter Articles about total relief from import duty, temporary import, re-export, or the conditions or provisos for total relief from import duty.”.

(3) Insert after Article 244(4)—

“5. The time-limits referred to in paragraphs 1, 2 and 3 shall be extended to not later than 1 November 2020 as stipulated in a public notice published by the Commissioners for Her Majesty’s Revenue and Customs(6) for one or more of the following:

- (a) exporters of a particular class, description or status;
- (b) goods of a particular class, description or status;
- (c) goods to be removed from within the United Kingdom directly from a place that is so stipulated;
- (d) goods destined for a place so stipulated outside the United Kingdom;
- (e) goods to be removed from the United Kingdom using a means of transport that is so stipulated.

6. A public notice published under paragraph 5 may:

- (a) stipulate different extensions for different exporters, goods, places or means of transport, or any combination of these; and
- (b) be varied, replaced or withdrawn by a further such notice.

7. A public notice published under paragraph 5 must, for each extension, stipulate a time-limit for the carrying out of the risk analysis required by Article 264 of the Code, and this time-limit displaces any other that would apply but for provision made by any one or more of paragraphs 5 and 6.

(3) The Union Customs Code and its Delegated and Implementing Regulations constitute direct EU legislation forming part of the law of the United Kingdom under the European Union (Withdrawal) Act 2018, section 3 except so far as imposing or otherwise applying in relation to any EU customs duty as mentioned in the Taxation (Cross-border Trade) Act 2018 (c. 22), Schedule 7, paragraph 1(1). It was modified by S.I. 2019/715.

(4) 2018 c. 22. The regulations in question are S.I. 2019/108.

(5) See footnote (a) on this page.

(6) The public notice will be published at <https://www.gov.uk/government/collections/customs-vat-and-excise-regulations-leaving-the-cu-with-no-deal>. A hard copy may be inspected free of charge by arrangement with HM Revenue and Customs at 100 Parliament Street, London, SW1A 2BQ.

8. Paragraphs 5 to 7 do not apply after 1 November 2020 or such earlier date as stipulated in a public notice published by the Commissioners for Her Majesty's Revenue and Customs(7).”.

(4) Insert after Article 245(2)—

“3. Until 1 May 2020, the lodging of a pre-departure declaration shall be waived for:

- (a) goods that would benefit from the waiver having effect in the manner provided for by Article 104(6)(8) if those goods were brought into the customs territory of the Union;
- (b) goods that would so benefit if Article 104(1)(e) applied to goods carried under a transport contract.

4. Paragraph 3 applies only if:

- (a) the goods are to be taken out of the customs territory of the Union to a place where, in relation to that territory, such a declaration was not required before exit day; and
- (b) the goods are not being exported in the course of being sold or leased to another person.”.

#### **Amendment of the Customs Safety and Security Procedures (EU Exit) Regulations 2019**

4. In the Customs Safety and Security Procedures (EU Exit) Regulations 2019(9), regulation 3(3) (f) for “1 October 2019” substitute “1 November 2020”.

*Jim Harra*

*Ruth Stanier*

Two of the Commissioners for Her Majesty's  
Revenue and Customs

4th September 2019

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(7) See footnote (d) on page 2.

(8) Article 104(6) is inserted by regulation 3(2) of these Regulations.

(9) [S.I. 2019/715](#).

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

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations are made in exercise of the powers conferred by section 8(1) of the European Union (Withdrawal) Act 2018 (c. 16) in order to address failures of retained EU law to operate effectively and other deficiencies (in particular under sections 8(2)(a), 8(2)(b), 8(2)(g) and 8(3)(a)) arising from the withdrawal of the United Kingdom from the European Union.

These Regulations make amendments to legislation in the field of customs safety and security procedures to ensure that those procedures continue to operate effectively in the context of the United Kingdom no longer being a member of the European Union. The Regulations make provision in relation to waivers and time-limits during a transitional period and in relation to combining declarations.

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>.