
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Excise Goods (Holding, Movement and Duty Point) Regulations 2010 (S.I. 2010/593) (the “holding and movement Regulations”) and are made to ensure the effective operation of the holding and movement Regulations after the withdrawal of the United Kingdom from the European Union.

Part 1 – Preliminary

This Part is concerned with citation, commencement and interpretation. Regulation 2 provides that the Regulations shall come into force on a day to be appointed by the Treasury pursuant to regulations made under section 52(2) of the Taxation (Cross-border Trade) Act 2018 (c.22) (the “Act”).

Part 2 – Amendment of the holding and movement Regulations

Provisions specific to movements of excise goods to and from the European Union are revoked, namely provisions relating to:

- UK registered consignees (Part 3);
 - the export of excise goods to the European Union under duty suspension arrangements (Part 6);
 - the import of excise goods from the European Union under duty suspension arrangements (Part 7);
 - exports of excise goods to the European Union after release for consumption (Part 10);
 - imports of excise goods from the European Union after release for consumption (Part 11);
- and
- distance sales of excise goods from the European Union (Part 12).

Provisions of Commission Regulation 684/2009/EC implementing Council Directive [2008/118/EC](#) as regards the computerised procedures for the movement of excise goods under suspension of excise duty (OJ No. L 197, 29.7.2009, p.24) (the “EMCS Regulation”) that are necessary to ensure the functioning of the United Kingdom components of the computerised system after exit day are transposed into Part 8 of the Regulations (movements of excise goods wholly within the United Kingdom under duty suspension arrangements). Regulation 56 of the holding and movement Regulations is amended to provide that the Commissioners must publish a notice specifying the requirements of the messages to be sent using the computerised system.

Provisions relating to reports of export which are currently in Part 6 are moved to Part 8 and amended to apply only to the situation where excise good are moved to a place from where they will leave the United Kingdom.

“Excise duty” is now defined by reference to the definition in Part 4 of the Act and “excise goods” are defined as goods chargeable, or treated as chargeable, with excise duty. Consequently, provisions relating to chewing tobacco are revoked as chewing tobacco will be treated in the same way as other excise goods. “Energy products” are defined by reference to the Hydrocarbon Oil Duties Act 1979 (c. 5).

Other references to European Union legislation that are no longer apt are amended and references to European Union customs legislation are amended to refer to the United Kingdom's new standalone customs regime legislated for in the Act and regulations made under the Act.

Changes to legislation: There are currently no known outstanding effects for the The Excise Goods (Holding, Movement and Duty Point) (Amendment etc.) (EU Exit) Regulations 2019. (See end of Document for details)

Part 3 – Consequential amendments

The Tobacco Products Regulations 2001 (S.I. 2001/1712) are amended to remove provisions relating to deferred payment for UK registered consignees. The provisions are saved in respect of UK registered consignees to whom goods are dispatched where those goods are in the course of a movement on exit day until the excise duty in respect of those goods has been accounted for and paid.

Part 4 – Transitional and saving provisions

Chapter 1 of Part 4 deals with excise goods being imported into the United Kingdom from outside the territory of the EU on exit day. Where goods are in the course of a movement on exit day the amendments made by these Regulations have no effect. Certain modifications to the unamended text are made to update references to repealed EU Customs legislation. Goods are “in the course of a movement on exit day” for the purposes of this Chapter, to the extent existing EU Customs legislation continues to have effect in accordance with Part 15 of the Customs (Import Duty) (EU Exit) Regulations 2018 (S.I. 2018/1248).

Chapter 2 of Part 4 deals with excise goods moving between the EU and the UK on exit day. Regulation 44(2) defines where goods are “in the course of a movement on exit day” into the UK by reference to the Customs (Import Duty) (EU Exit) Regulations 2018. Goods are in the course of a movement on exit day to the EU where those goods are dispatched before exit day.

In accordance with regulation 46 the duty point and the person liable to pay duty in respect of the goods in the course of a movement on exit day are determined in accordance with Part 2 of the holding and movement Regulations as if these regulations have no effect.

Provisions relating to UK registered consignees, registered and unregistered commercial importers and tax representatives continue in relation to goods in the course of a movement on exit day as if these regulations have no effect until all excise duty due in respect of those goods is accounted for and paid.

Other provisions relating to movements of excise goods to and from the EU continue as if these Regulations have no effect with certain modifications. The modifications take account of the fact the United Kingdom components of the computerised system will no longer be connected to the European Union components or the national components of the other Member States after exit day.

Splitting of a movement of energy products as provided for in Article 23 of Directive [2008/118/EC](#) (OJ No. L9, 14.01.2009, p.12) will not be permitted for goods in the course of a movement on exit day.

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 Excise Goods (Holding, Movement and Duty Point) (Amendment etc.) (EU Exit) Regulations 2019.