
STATUTORY INSTRUMENTS

2019 No. 13

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

PART 2

Amendments to the Excise Goods (Holding, Movement and Duty Point) Regulations 2010

General provisions

3. The Principal Regulations are amended in accordance with regulations 4 to 40.
4. Omit “UK” from before “registered consignor” or “registered consignors” in these places—
 - (a) regulation 9(1)(b)(ii);
 - (b) regulation 19(7)(b);
 - (c) the heading of Part 4;
 - (d) regulation 30(2);
 - (e) regulation 31, in each place where it occurs in paragraphs (1) to (5);
 - (f) regulation 32, in each place where it occurs in sub-paragraphs (a) to (c);
 - (g) regulation 33;
 - (h) regulation 37(b);
 - (i) regulation 86(c).
5. For “Article 79 of Council Regulation 2913/92/EEC” substitute “Part 1 of the TCTA 2018” in these places—
 - (a) regulation 9(1)(b)(ii);
 - (b) regulation 30(1).

Amendments to Part 1

6. After regulation 2 insert—
 - “2A. On the day that the Excise Goods (Holding, Movement and Duty Point) (Amendment etc.) (EU Exit) Regulations 2019 come into force—
 - (a) regulation 2(a) and (b) ceases to have effect in relation to “UK registered consignors” but continues to have effect in relation to “registered consignees”, and
 - (b) regulation 2(c) ceases to have effect in relation to the procedures in part 6.”.
- 7.—(1) Regulation 3 (interpretation) is amended as follows.
 - (2) In paragraph (1)—

- (a) omit the following definitions—
- (i) “accompanying document”;
 - (ii) “customs office of exit”;
 - (iii) “the Directive”;
 - (iv) “distance selling arrangement”;
 - (v) “EU” and “territory of the EU”;
 - (vi) “EU requirements”;
 - (vii) “exempt consignee”;
 - (viii) “exemption certificate”;
 - (ix) “fallback report of export”;
 - (x) “Member State”, “territory of a Member State” and “another Member State”;
 - (xi) “own use”;
 - (xii) “place of direct delivery”;
 - (xiii) “registered commercial importer”;
 - (xiv) “registered consignee”;
 - (xv) “tax representative”;
 - (xvi) “temporary registered consignee”;
 - (xvii) “UK registered consignee”;
 - (xviii) “UK registered consignor”;
 - (xix) “vendor”;
- (b) in the definition of “authorised warehousekeeper”—
- (i) omit the introductory words of (a);
 - (ii) omit everything from “and” at the end of (v) to the end of the definition;
- (c) after the definition of “CEMA 1979” insert—
- ““change of destination message” means the message submitted by the consignor of excise goods using the computerised system notifying the Commissioners of a change of destination of those goods;”;
- (d) in the definition of “computerised system” before the words “the system” insert “the United Kingdom components of”;
- (e) for the definition of “customs suspensive procedure or arrangement” substitute—
- ““customs suspensive procedure or arrangement” means—
- (a) any one of the special Customs procedures provided for in Part 1 of the TCTA 2018; and
 - (b) the situation between the goods being presented to the Commissioners upon their entry into the United Kingdom in accordance with paragraph 1(1) of Schedule 1 to the TCTA 2018 and the earlier of—
 - (i) the end of the period of 90 days beginning with the day on which the goods are so presented, and
 - (ii) a Customs declaration under Schedule 1 to that Act being accepted in respect of the goods;”;
- (f) for the definition of “electronic administrative document” substitute—

““electronic administrative document” means the message submitted by the consignor to the Commissioners using the computerised system under cover of which a movement of excise goods takes place under a duty suspension arrangement;”;

(g) after the definition of “electronic administrative document” insert—

““EMCS requirements” means the requirements specified in the notice published by the Commissioners in accordance with regulation 56(2) and—

- (a) in the case of a draft electronic administrative document and an electronic administrative document, the respective requirements set out in paragraphs (2A) and (9) of regulation 57;
- (b) in the case of a fallback accompanying document, the requirements set out in paragraphs (2)(b) and (2A) of regulation 60;
- (c) in the case of a fallback report of receipt, the requirements set out in paragraphs (1) and (1A) of regulation 61;
- (d) in the case of a report of receipt, the requirements set out in regulation 59(1);
- (e) in the case of a report of export, the requirements set out in regulation 59A(3);”;

(h) for the definition of “energy products” substitute—

““energy products” means hydrocarbon oil, biodiesel, bioethanol, aqua methanol, road fuel gas, fuel substitute or any mixture of such products charged to excise duty or treated as such under sections 6 to 8, 20AAA, 20AAD and 23C of the Hydrocarbon Oil Duties Act 1979(1), or pursuant to an order made under section 10 of the Finance Act 1993(2);”;

(i) for the definition of “excise duty” substitute—

““excise duty” has the meaning given to it in section 49 of the TCTA 2018;”;

(j) for the definition of “excise goods” substitute—

““excise goods” means goods which are chargeable with excise duty and goods which are treated as chargeable with excise duty under section 23C of the Hydrocarbon Oil Duties Act 1979(3);”;

(k) in the definition of “fallback accompanying document” for “Article 26(1)(a) of the Directive” substitute “regulation 60(2)(b)”;

(l) in the definition of “fallback report of receipt” for “Article 27(1) of the Directive” substitute “regulation 61(1)”;

(m) after the definition of “fallback report of receipt” insert—

““irregularity” means a situation occurring in the course of a movement of excise goods under a duty suspension arrangement, other than a relevant event referred to in regulation 21, as a result of which the movement, or a part of that movement, has not ended in accordance with regulation 3(3)(b);”;

(1) 1979 c. 5; relevant amendments made by the Finance Act 1981 (c. 35), section 4; the Finance Act 1993 (c. 34), section 11; the Finance Act 2000 (c. 17), section 11; the Finance Act 2002 (c. 23), section 5; the Finance Act 2004 (c. 12), sections 9 to 13 and Schedule 42, Part 1 (1); the Finance Act 2008 (c. 9), Schedule 5, paragraphs 1 and 6 and Schedule 6 paragraphs 24 and 29; the Finance Act 2016 (c. 24), Schedule 17, paragraphs 1, 4 to 6 and 8.

(2) 1993 c. 34; amended by the Finance Act 2002 (c. 23) section 7 and the Finance Act 2004 (c. 12), section 14.

(3) 1979 c. 5; section 23C was inserted by section 13 of the Finance Act 2004 (c. 12) and amended by paragraphs 1 and 8 of Schedule 17 to the Finance Act 2016 (c. 24) and paragraph 4 of Schedule 2 to S.I. 2010/593 and article 6(1)(d) of S.I. 2011/1043.

- (n) in the definition of “place of importation” for the words from “released” to the end substitute “discharged from the free-circulation procedure in accordance with Schedule 1 to the TCTA 2018”;
- (o) for the definition of “registered consignor” substitute—
 - ““registered consignor” has the meaning given by regulation 30(2);”;
- (p) in the definition of “report of export”—
 - (i) for the words from “competent authorities” to “is situated” substitute “Commissioners”; and
 - (ii) for “EU” substitute “United Kingdom”;
- (q) in the definition of “report of receipt” for “competent authorities of the Member State of destination” substitute “Commissioners”;
- (r) in the definition of “tax warehouse”—
 - (i) omit the introductory words at (a); and
 - (ii) omit everything from “and” at the end of (v) to the end of the definition;
- (s) after the definition of “tax warehouse” insert—
 - ““TCTA 2018” means the Taxation (Cross-border Trade) Act 2018;”.
- (3) Omit paragraph (2).
- (4) In paragraph (3)—
 - (a) for sub-paragraph (a)(ii) substitute—
 - “(ii) are discharged from the free-circulation procedure in accordance with Schedule 1 to the TCTA 2018, and”
 - (b) in sub-paragraph (b)(ii) for “EU” substitute “United Kingdom”.
- (5) Omit paragraph (4).
- 8.** Omit regulation 4.

Amendments to Part 2

- 9.**—(1) Regulation 6 is amended as follows.
 - (2) In paragraph (1)(b) omit “UK”.
 - (3) In paragraph (2)—
 - (a) in sub-paragraph (a) omit “other than EU excise goods”; and
 - (b) for sub-paragraph (b) substitute—
 - “(b) the discharge, or irregular departure, in the United Kingdom of excise goods from a customs suspensive procedure or arrangement.”.
 - (4) Omit paragraph (3).
- 10.**—(1) Regulation 7 is amended as follows.
 - (2) In paragraph (1)—
 - (a) in sub-paragraph (a)(i) for “regulation 35(a)” substitute “regulation 37(a)”;
 - (b) omit sub-paragraphs (c), (d) and (f);
 - (c) in sub-paragraph (g)(i) for “regulation 35(a)” substitute “regulation 37(a)”;
 - (d) in sub-paragraph (h) omit “, in the United Kingdom”.
 - (3) Omit paragraphs (3) and (4).

11. In regulation 8(1) omit “, the UK registered consignee”.

12.—(1) Regulation 9 is amended as follows—

(2) In the introductory wording to paragraph (1) omit “in the United Kingdom”.

(3) In paragraph (1)(b)(i) omit “in the United Kingdom”.

(4) Omit paragraph (3).

13. In regulation 12(1) omit the words “that have not” to “EU”.

14. Omit regulations 13 to 17.

15.—(1) Regulation 19 is amended as follows.

(2) Omit paragraphs (2) and (5).

(3) In paragraph (6) omit —

(a) sub-paragraph (a); and

(b) everything from the semi-colon at the end of sub-paragraph (b) to the end of the paragraph, but not the full-stop.

(4) In paragraph (7)—

(a) omit sub-paragraphs (a) and (c); and

(b) at the end of sub-paragraph (b) for the semi-colon substitute a full-stop.

16.—(1) Regulation 21 is amended as follows.

(2) For paragraph (1) substitute—

“(1) This regulation applies where the occurrence of a relevant event is proven to the satisfaction of the Commissioners.”.

(3) In paragraph (2)(d) for “competent authorities of a Member State” substitute “Commissioners”.

(4) For paragraph (3) substitute—

“(3) If at the time of the relevant event, the excise goods were under a duty suspension arrangement, the occurrence of the event shall not be considered as a release for consumption.”.

Revocation of Part 3

17. Omit Part 3.

Amendments to Part 5

18. Omit regulations 35 and 36.

19. In regulation 37(a)(ii) for “EU” substitute “United Kingdom”.

20. In regulation 39(1)(b) omit “Part 6, Part 7”.

Revocation of Parts 6 and 7

21. Omit Parts 6 and 7.

Amendments to Part 8

22.—(1) Regulation 56 is amended as follows.

(2) The existing text becomes paragraph (1).

(3) In that paragraph—

(a) for “Subject to regulation 58(3), this” substitute “This”; and

(b) in sub-paragraph (a) omit “after 31st December 2010”.

(4) After that paragraph insert—

(a) “(2) The Commissioners must publish a notice specifying the requirements for the electronic messages to be sent using the computerised system, namely—

(i) the electronic administrative document;

(ii) the cancellation message referred to in regulation 58(2);

(iii) the change of destination message;

(iv) the notification of change of destination message referred to in regulation 58(9); and

(v) the report of receipt and report of export; and

(b) for each message, the notice must specify the data elements required structured in data groups and, where applicable, data subgroups.”.

23.—(1) Regulation 57 is amended as follows.

(2) In paragraph (2) for “EU requirements” substitute “requirements set out in paragraphs (2A) and (9)”.

(3) After paragraph (2) insert—

“(2A) The draft electronic administrative document must be submitted no earlier than 7 days before the date indicated on that document as the date of dispatch of the excise goods concerned.”.

(4) After regulation (8) insert—

“(9) The draft electronic administrative document referred to in paragraph (2) and the electronic administrative document to which a unique administrative reference code has been assigned in accordance with paragraph (5) must comply with the requirements for those documents specified in the notice published by the Commissioners in accordance with regulation 56(2).”.

24.—(1) Regulation 58 is amended as follows.

(2) In paragraph (2) for the words from “comply” to the end substitute “complete a draft cancellation message and send it to the Commissioners using the computerised system.”.

(3) Insert the following paragraphs immediately after paragraph (2)—

“(2A) The draft cancellation message must comply with the requirements for that message specified in the notice published by the Commissioners in accordance with regulation 56(2).

(2B) The Commissioners must carry out an electronic verification of the data in the draft cancellation message.

(2C) Where the data in the document are invalid, the Commissioners must, using the computerised system, inform the consignor of that fact without delay.

(2D) Where the data in the document are valid, the Commissioners must—

- (a) add the date and time of validation to the cancellation message and communicate that information to the consignor;
 - (b) where the consignee is an authorised warehousekeeper, forward the cancellation message to the consignee.”.
- (4) In paragraph (4)—
 - (a) insert “or” at the end of sub-paragraph (a);
 - (b) omit sub-paragraph (b);
 - (c) in sub-paragraph (c) for “EU” substitute “United Kingdom”; and
 - (d) omit everything from the semi-colon at the end of sub-paragraph (c) to the end of the paragraph, but not the full-stop.
- (5) In paragraph (5) for the words from “comply” to the end substitute “complete a draft change of destination message and send it to the Commissioners using the computerised system.”.
- (6) For paragraph (6) substitute—
 - “(6) The draft change of destination message must comply with the requirements for that message specified in the notice published by the Commissioners in accordance with regulation 56(2).”.
- (7) After paragraph (6) insert—
 - “(7) The Commissioners must carry out an electronic verification of the data in the draft change of destination message.
 - (8) Where the data in the message are invalid, the Commissioners must, using the computerised system, inform the consignor of that fact without delay.
 - (9) Where the data in the message are valid, the Commissioners must:
 - (a) add the date and time of validation and a sequence number to the change of destination message and inform the consignor of that number;
 - (b) update the original electronic administrative document in accordance with the information in the change of destination message; and
 - (c) inform the consignee mentioned in the original electronic administrative document of the change of destination in accordance with the requirements for the notification of change of destination message specified in the notice published by the Commissioners in accordance with regulation 56(2).”.
- 25. In regulation 59(1) for “EU requirements” substitute “requirements for that message specified in the notice published by the Commissioners in accordance with regulation 56(2)”.
- 26. After regulation 59 insert—

“Report of export from the territory of the United Kingdom

59A.—(1) This regulation applies where excise goods have been dispatched from a place in the United Kingdom to a place from where they will leave the territory of the United Kingdom.

(2) Upon notification being sent by the Commissioners in accordance with regulations made under Part 1 of the TCTA 2018 confirming the excise goods have left the territory of the United Kingdom, the Commissioners must send a report of export to the consignor using the computerised system.

(3) The report of export must comply with the requirements for that message specified in the notice published by the Commissioners in accordance with regulation 56(2).

(4) A report of export shall constitute proof that the movement of the excise goods referred to in the report has ended.”.

27.—(1) Regulation 60 is amended as follows.

(2) In paragraph (2)(b) for the words from “fallback” to the end substitute “paper document that complies with the requirements set out in paragraph (2A).”.

(3) After paragraph (2) insert—

“(2A) The paper document referred to in paragraph (2)(b) must—

- (a) carry the title ‘Fallback Accompanying Document for movements of excise goods under suspension of excise duty’; and
- (b) contain the same data displayed in the form of data elements and expressed in the same manner as the draft electronic administrative document referred to in regulation 57(2).”.

28. For regulation 60A(3) substitute—

“(3) The consignor must ensure that the information notified to the Commissioners in accordance with paragraph (1) is in the form of data elements, expressed in the same manner as the change of destination message referred to in regulation 58(5).”.

29.—(1) Regulation 61 is amended as follows.

(2) In paragraph (1) for the words from “fallback” to the end substitute “paper document that complies with the requirements set out in paragraph (1A) and contains the same data as the report of receipt referred to in regulation 59(1).”.

(3) After paragraph (1) insert—

“(1A) The paper document referred to in paragraph (1) must—

- (a) carry the title ‘Fallback Report of Receipt for movements of excise goods under suspension of excise duty’; and
- (b) display the required data in the form of data elements, expressed in the same manner as in the report of receipt.”.

Amendment to Part 9

30.—(1) Regulation 63A is amended as follows.

(2) In paragraph (1)—

- (a) omit “in the United Kingdom”; and
- (b) for “EU” substitute “United Kingdom”.

(3) In paragraph (2)(a) for the words “the local clearance procedure” substitute “a simplified customs procedure in respect of the premises and that authorisation has not been suspended or revoked”.

(4) In paragraph (3)—

(a) for the definition of “authorisation to use the local clearance procedure” substitute—

““authorisation to use a simplified customs procedure” means—

- (a) where authorisation was granted before 1st May 2016, the authorisation referred to in Article 283 of Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code;

- (b) where authorisation was granted on or after 1 May 2016, a customs authorisation which permits goods to be made available for examination at those premises;” and
- (b) in the definition of “full customs declaration” for “Annex 37 of that Regulation” substitute “the Single Administrative Document provided for in a public notice made under Part 1 of the TCTA 2018”.

Revocation of Parts 10 to 12

- 31.** Omit Parts 10 to 12.

Amendments to Part 13

- 32.** Omit regulation 79.

33.—(1) Regulation 80 is amended as follows.

- (2) For the heading substitute “Irregularities”.
- (3) In paragraph (1)(b) omit “which occurs or is detected in the United Kingdom”.
- (4) In paragraph (2) omit “in the United Kingdom” in both places where it occurs.
- (5) Omit paragraphs (3) and (4).

34.—(1) Regulation 81 is amended as follows.

- (2) In paragraph (1) omit sub-paragraph (b).
- (3) In paragraph (2) omit “in the United Kingdom”.
- (4) In paragraph (3) omit everything from the semi-colon at the end of the second sub-paragraph (a) to the end of the paragraph, but not the full-stop.
- (5) In paragraph (4) omit everything from the semi-colon at the end of sub-paragraph (a) to the end of the paragraph, but not the full-stop.
- (6) In paragraph (6)—
 - (a) in sub-paragraph (i) for “fallback electronic administrative document” substitute “fallback accompanying document”;
 - (b) insert “or” at the end of sub-paragraph (ii); and
 - (c) omit everything from the semi-colon at the end of sub-paragraph (iii) to the end of the paragraph, but not the full-stop.
- (7) Omit paragraph (7).

- 35.** Omit regulation 82.

Revocation of Part 14

- 36.** Omit Part 14.

Amendments to Part 15

37.—(1) Regulation 86 is amended as follows.

- (2) In sub-paragraph (a) omit “in the United Kingdom”.
- (3) Omit sub-paragraph (b).
- (4) In sub-paragraph (c) omit “UK” before “excise duty”.

38. In regulation 87 for “EU requirements” substitute “EMCS requirements”.

Amendments to Part 16

39. In regulation 89 for “EU requirement” substitute “EMCS requirement” in paragraphs (1) and (3).

40. In Schedule 1 omit the following from the list of regulations—

- (a) 41(2) (completion of draft electronic administrative document for exports of excise goods under duty suspension arrangements);
- (b) 42(2) and (5) (electronic administrative document for exports of excise goods under duty suspension arrangements — supplementary provisions);
- (c) 43 (exemption certificates);
- (d) 44(3) (export of energy products by sea-notification of consignee);
- (e) 45(4) (splitting a movement of energy products);
- (f) 50(2) and (4) (procedure for exports of excise goods under duty suspension arrangements when computerised system unavailable);
- (g) 51 (procedure for exports of excise goods under duty suspension arrangements when computerised system unavailable — supplementary provisions);
- (h) 53 (electronic administrative documents for imports of excise goods under duty suspension arrangements);
- (i) 54(1) (report of receipt of goods imported under duty suspension arrangements);
- (j) 55(1) and (3) (report of receipt of excise goods imported under duty suspension arrangements when computerised system unavailable);
- (k) 65 (accompanying document for exports of excise goods after release for consumption);
- (l) 66 (additional requirements relating to exports of excise goods after release for consumption);
- (m) 68 (imports of excise goods after release for consumption);
- (n) 69 (requirements relating to imports of excise goods after release for consumption); and
- (o) 77(2) (tax representative-procedure).