

2019 No. 14

EXITING THE EUROPEAN UNION

EXCISE

**The Excise Duties (Miscellaneous Amendments) (EU Exit)
Regulations 2019**

Made - - - - at 9.15 a.m. on 14th January 2019

Laid before the House of Commons at 9.30 a.m. on 15th January 2019

Coming into force in accordance with regulation 1

The Commissioners for Her Majesty's Revenue and Customs^(a) make the following Regulations in exercise of the powers conferred by—

- (a) section 93(1)(b), (c), (d), (2)(a) and (3) of the Customs and Excise Management Act 1979^(b);
- (b) section 13(1), (3)(a) and (c) of the Customs and Excise Duties (General Reliefs) Act 1979^(c);
- (c) section 2(1)(a), (2)(a) and (c) of the Finance (No. 2) Act 1992^(d); and
- (d) section 45(1), (2)(d), 48(11)(a), (b), (c) and (d) and 52(2) of the Taxation (Cross-border Trade) Act 2018^(e).

The Commissioners for Her Majesty's Revenue and Customs 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(2) of the Taxation (Cross-border Trade) Act 2018 appoint.

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- (a) Section 1(1) of the Customs and Excise Management Act 1979 (c. 2), as amended by paragraph 22(b) of Schedule 4 to the Commissioners for Revenue and Customs Act 2005 (c. 11), provides that “the Commissioners” means the Commissioners for Her Majesty's Revenue and Customs. Section 18(2) of the Customs and Excise Duties (General Reliefs) Act 1979 (c. 3) has the effect that, where section 13 refers to “the Commissioners”, those words bear the same meaning as in the Customs and Excise Management Act 1979. Section 2(5) of the Finance (No. 2) Act 1992 (c. 48) defines “the Commissioners” as the Commissioners of Customs and Excise. The functions of the Commissioners of Customs and Excise were transferred to the Commissioners for Her Majesty's Revenue and Customs by section 5(2) of the Commissioners for Revenue and Customs Act 2005. Section 50(1) of that Act provides that, in so far as is appropriate in consequence of section 5, a reference in an enactment to the Commissioners of Customs and Excise shall be taken as a reference to the Commissioners for Her Majesty's Revenue and Customs. Section 49 of the Taxation (Cross-border Trade) Act 2018 (c. 22) defines “HMRC Commissioners” as the Commissioners for Her Majesty's Revenue and Customs for the purposes of sections 45 and 48.
 - (b) 1979 c. 2. Section 93(1) was substituted by paragraph 2(1) of Schedule 2 to, the Finance (No. 2) Act 1992. Section 93(2)(a) was relevantly amended by paragraph 2(a) of Schedule 8, Part 1, to the Finance Act 1981 (c. 35).
 - (c) 1979 c. 3. Section 13(3) was relevantly amended by paragraph 8(1) of Schedule 1 to the Finance (No. 2) Act 1992.
 - (d) 1992 c. 48. Section 2 was relevantly amended by section 11 of the Finance Act 1999 (c. 16).
 - (e) 2018 c. 22.

PART 1

Introductory provision

Citation and commencement

1. These Regulations may be cited as the Excise Duties (Miscellaneous Amendments) (EU Exit) Regulations 2019 and come into force on such day as the Treasury may by regulations under section 52(2) of the Taxation (Cross-border Trade) Act 2018 appoint.

PART 2

Amendments to, and revocations of, miscellaneous regulations relating to excise duties

Amendment of the Excise Duties (Personal Reliefs) (Fuel and Lubricants Imported in Vehicles) Order 1989

2.—(1) The Excise Duties (Personal Reliefs) (Fuel and Lubricants Imported in Vehicles) Order 1989(a) is amended as follows.

(2) Omit article 1A (application).

(3) In article 2, for the definition of “standard fuel tank” substitute—

““standard fuel tank”, in relation to any vehicle, has the same meaning as “standard tanks” in Article 24(2) of Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity;”.

Amendment of the Excise Goods (Drawback) Regulations 1995

3.—(1) The Excise Goods (Drawback) Regulations 1995(b) are amended as follows.

(2) In regulation 4 (interpretation)—

(a) omit the definitions of “accompanying document”, “dispatch” and “single administrative document”;

(b) for the definition of “certificate of receipt”, substitute—

““certificate of receipt” means a certificate of receipt under regulation 11(4) of the Excise Warehousing (Etc.) Regulations 1988(c);”.

(3) In regulation 5 (eligible goods), omit paragraph (4).

(4) In regulation 8 (conditions to be complied with before export)—

(a) omit paragraph (2)(b);

(b) in paragraph (2)(c)—

(i) omit the words “if the export is not a dispatch”;

(ii) for “a single administrative document”, substitute “any customs declaration or other pre-export requirements specified by the Commissioners(d) in a notice published by them (and not withdrawn)”; and

(a) S.I. 1989/1898, relevantly amended by S.I. 1995/1777.

(b) S.I. 1995/1046, amended by S.I. 2010/593; there are other amending instruments, but none is relevant.

(c) S.I. 1988/809. Regulation 11(4) was relevantly amended by S.I. 2010/593.

(d) In S.I. 1988/809, “the Commissioners” means “the Commissioners for Her Majesty’s Revenue and Customs” under section 1(1) of the Customs and Excise Management Act 1979 and under section 2(5) of the Finance (No. 2) Act 1992, read in accordance with section 5(2) and 50(1) of the Commissioners for Revenue and Customs Act 2005.

- (c) in paragraph (2)(d), for “the accompanying document or single administrative document”, substitute “any document specified by the Commissioners in a notice published by them (and not withdrawn)”.
- (5) For regulation 10, substitute—

“Conditions to be complied with after export

10. Where an eligible claimant(a) claims drawback after export, the eligible claimant must include with the claim such documentary evidence of export as is specified by the Commissioners in a notice published by them (and not withdrawn).”.

Revocation of the Travellers’ Reliefs (Fuel and Lubricants) Order 1995

- 4.** The Travellers’ Reliefs (Fuel and Lubricants) Order 1995(b) is revoked.

PART 3

Transitional and saving provisions

The Excise Goods (Drawback) Regulations 1995

5.—(1) Subject to paragraph (2), the Principal Regulations continue to apply to eligible goods where an eligible claimant intends to claim drawback after export and either of the following events occur before exit day—

- (a) a notice relating to the goods is delivered to the Commissioners under regulation 8(2)(a) of those Regulations; or
- (b) the goods are exported.

(2) Where paragraph (1) applies, the references to—

- (a) “accompanying document” in regulation 8(2)(b);
- (b) “single administrative document” in regulation 8(2)(c);
- (c) “accompanying document” and “single administrative document” in regulation 8(2)(d);
- (d) “the document evidencing payment of duty in that place” in regulation 10(a)(i);
- (e) “accompanying document” and “certificate of receipt” in regulation 10(a)(ii); and
- (f) “copy 3 of the single administrative document endorsed as described in Article 793 of Commission Regulation (EEC) No 2454/93” in regulation 10(b);

in the Principal Regulations are to be read as if, in each case, the words “or, in specified circumstances and on specified conditions, the specified documents” were inserted.

(3) In this regulation—

- (a) “the Commissioners” means the Commissioners for Her Majesty’s Revenue and Customs;
- (b) “eligible claimant” has the meaning given by regulation 6 of the Principal Regulations;
- (c) “eligible goods” has the meaning given by regulation 5 of the Principal Regulations;
- (d) “the Principal Regulations” means the Excise Goods (Drawback) Regulations 1995 as they have effect prior to the amendments made by regulation 3 of these Regulations;
- (e) “specified” means specified by the Commissioners in a notice published by them (and not withdrawn).

(a) “Eligible claimant” has the meaning given by regulation 6 of S.I. 1995/1046.
(b) S.I. 1995/1777.

Melissa Tatton
Jim Harra

At 9.15 a.m. on 14th January 2019 Two of the Commissioners for Her Majesty's Revenue and
Customs

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make miscellaneous amendments to secondary legislation relating to excise duty to address failures of retained EU law to operate effectively and other deficiencies arising on the withdrawal of the United Kingdom (the “UK”) from the European Union (the “EU”). “Excise duty” has the same meaning in this context as it has in Parts 4 and 5 of the Taxation (Cross-border Trade) Act 2018 (c. 22).

First, these Regulations omit article 1A of the Excise Duties (Personal Reliefs) (Fuels and Lubricants Imported in Vehicles) Order 1989 (S.I. 1989/1898) (“the 1989 Order”) and revoke the Travellers’ Reliefs (Fuel and Lubricants) Order 1995 (S.I. 1995/1777) (“the 1995 Order”), with the effect that the same rules on reliefs from fuel duty apply to all travellers entering the UK (regulations 2 and 4).

The 1989 Order granted relief from excise duties on fuels (on conditions) for persons travelling to the UK from both EU member States and the rest of the world, implementing EU law and fulfilling international obligations. The 1995 Order, also implementing EU law, created an alternative relief applicable only to persons travelling from member States of the EU with a commercial vehicle.

Second, these Regulations make amendments to the Excise Goods (Drawback) Regulations 1995 (S.I. 1995/1046).

Finally, the Regulations make transitional and saving provision for cases where an eligible claimant intends to claim drawback on excise duty paid on export, and either gives notice of that intention or the goods are exported before exit day (Part 3).

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>.

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£4.90

UK201901141003 01/2019 19585

<http://www.legislation.gov.uk/id/uksi/2019/14>

ISBN 978-0-11-117838-6



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