
STATUTORY INSTRUMENTS

2019 No. 326

**The Customs (Import Duty, Transit and Miscellaneous
Amendments) (EU Exit) Regulations 2019**

PART 3

Amendment of the Customs (Import Duty) (EU Exit) Regulations 2018

Amendment of the Customs (Import Duty) (EU Exit) Regulations 2018

6. The Customs (Import Duty) (EU Exit) Regulations 2018 are amended in accordance with this Part.

Amendment of Table of Contents

7. In the Table of Contents, after the entry for regulation 37 insert—

“SECTION 3

Simplified Customs declarations – transitional provisions

37A Persons authorised to use the simplified Customs declaration process and EIDR procedure – transitional authorisations”.

Amendment of Part 2

8. In regulation 4 (notification of importation)—

- (a) in paragraph (1) for “paragraph (2)” substitute “paragraphs (2) and (3A)”;
- (b) in paragraph (2) after “applies,” insert “and the goods are of a type specified in a notice published by HMRC.”;
- (c) after paragraph (3) insert—

“(3A) Where—

- (a) paragraph (2) does not apply;
- (b) regulation 131 (chargeable goods carried by RoRo vehicles destined for RoRo listed locations: making of declarations) applies; and
- (c) the goods have been declared in accordance with that regulation,

the person who made the Customs declaration in respect of the goods is deemed to have notified HMRC in accordance with paragraphs (1) to (3) at the time the goods are imported into the United Kingdom for the purposes of CEMA 1979⁽¹⁾.

⁽¹⁾ “CEMA 1979” is defined in section 37(1) of the Act as the Customs and Excise Management Act 1979 (c. 2).

(3B) Where paragraph (3A) applies, the person who made the declaration is to be treated as having been notified under paragraph 11 of Schedule 1 to the Act immediately after the person is deemed to have notified HMRC under paragraph (3A).

(3C) Where—

- (a) a person is deemed to have notified HMRC under paragraph (3A); and
- (b) the Customs declaration in respect of the goods was not made using the EIDR procedure,

the person must give a notification to HMRC that the goods have arrived in the United Kingdom.

(3D) A notification under paragraph (3C) must—

- (a) contain the matters specified, and be accompanied by the documents specified, in a notice published by HMRC Commissioners;
- (b) be made in the form and manner specified in that notice; and
- (c) be given by the end of the working day after the day on which the goods arrived in the United Kingdom.”.

Amendment of Part 4

9.—(1) In regulation 14 (interpretation) after the definition of “simplified Customs declaration process” insert—

““transitional authorised declarant” has the meaning given by regulation 37A(1).”.

(2) In regulation 31 (persons authorised to use the simplified Customs declaration process)—

(a) in paragraph (2)—

- (i) for “paragraph (4)” substitute “paragraphs (4) and (4A) and regulation 37A”;
- (ii) in sub-paragraph (b), after the semi-colon omit “and”;
- (iii) at the end of sub-paragraph (c) insert “; and”;
- (iv) after sub-paragraph (c) insert—

“(d) is approved to defer payment of a liability to import duty in accordance with regulation 43.”;

(b) after paragraph (4) insert—

“(4A) A person may be authorised as an authorised declarant on or before 30th June 2019 even if the person does not meet the eligibility criterion in paragraph (2)(c).”;

(c) in paragraph (7)(a) after “an authorised declarant” insert “or a transitional authorised declarant”;

(d) after paragraph (7) insert—

“(8) A Customs agent may use the simplified Customs declaration process if—

- (a) the agent is an authorised declarant; and
- (b) the agent intends to act as a direct agent on behalf of the principal of the agent in making the Customs declaration.”.

(3) In regulation 32 (simplified Customs declaration process) after “authorised declarant” in each place it occurs insert “or transitional authorised declarant”.

(4) In regulation 37 (persons authorised to use the EIDR procedure)—

(a) in paragraph (1)—

- (i) after “a person” insert “(“an authorised EIDR declarant”);

- (ii) omit “only”;
- (b) omit paragraph (2);
- (c) in paragraph (3)—
 - (i) in the words before paragraph (a), before “The eligibility criteria” insert “Subject to paragraph (3A) and regulation 37A,”;
 - (ii) at the end of paragraph (a), after the semi-colon omit “and”;
 - (iii) at the end of paragraph (b) insert “; and”;
 - (iv) after paragraph (b) insert—
 - “(c) is approved to defer payment of a liability to import duty in accordance with regulation 43”;
- (d) after paragraph (3) insert—
 - “(3A) A person may be authorised as an authorised EIDR declarant on or before 30th June 2019 even if the person does not meet the eligibility criterion in paragraph (3)(b).”;
- (e) after paragraph (6) insert—
 - “(7) A Customs agent may use the EIDR procedure if—
 - (a) the agent is an authorised EIDR declarant; and
 - (b) the agent intends to act as a direct agent on behalf of the principal of the agent in making the Customs declaration.”.
- (5) After regulation 37 insert—

“SECTION 3

Simplified Customs declarations – transitional provisions

Persons authorised to use the simplified Customs declaration process and EIDR procedure – transitional authorisations

- 37A.**—(1) If authorised to do so by HMRC under this regulation, a person (“a transitional authorised declarant”) may—
- (a) use the simplified Customs declaration process; and
 - (b) use the EIDR procedure.
- (2) The eligibility criteria to be so authorised are that—
- (a) the person—
 - (i) is registered as an economic operator under Article 9 of the UCC; and
 - (ii) is established in the United Kingdom; and
 - (b) the person, and any directors or senior employees of that person, have not been involved in a breach of an obligation relating to tax or 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 that person to be a transitional authorised declarant.
- (3) The transitional authorised declarant must use the simplified Customs declaration process and EIDR procedure in compliance with any conditions contained in the authorisation.
- (4) The authorisation must identify any conditions which apply—

- (a) in respect of using the simplified Customs declaration process; and
 - (b) in respect of using the EIDR procedure, which may include whether or not notification to HMRC is required when a Customs declaration has been made using the procedure.
- (5) An authorisation granted under this regulation is subject to the following conditions—
- (a) the transitional authorised declarant may only use the simplified Customs declaration process to declare goods—
 - (i) for the free-circulation procedure; and
 - (ii) which were subject to an EU customs procedure in an EU member State immediately before they were imported into the United Kingdom; and
 - (b) the transitional authorised declarant may only use the simplified Customs declaration process to declare goods in relation to which a liability to import duty may be incurred if the transitional authorised declarant is approved to defer payment of any such liability to import duty in accordance with regulation 43;
 - (c) the transitional authorised declarant must not use the simplified Customs declaration process to declare goods of such type as may be specified in a notice published by HMRC as goods the import of which presents a high risk of non-compliance with an obligation relating to tax or a Customs obligation;
 - (d) the transitional authorised declarant must not use the EIDR procedure to declare such controlled goods as are specified in a notice published by HMRC (“controlled goods”); and
 - (e) if the transitional authorised declarant does not intend to import controlled goods the transitional authorised declarant must use the EIDR procedure to make any simplified Customs declaration.
- (6) If HMRC publish a notice under paragraph (7)(b) a transitional authorised declarant may only use the simplified Customs declaration process to declare goods imported at a location listed in that notice.
- (7) HMRC—
- (a) must publish a notice specifying controlled goods for the purposes of paragraph (5)(d); and
 - (b) may publish a notice listing locations for the purposes of paragraph (6).
- (8) A transitional authorised declarant must, when required to do so by an HMRC officer—
- (a) allow access by the officer to any EIDR electronic system operated by the declarant; or
 - (b) provide to the officer from that system such information,
- as the officer reasonably requires in order to verify EIDR records or records showing whether or not any goods have been imported which are subject to a prohibition or restriction on import imposed under an enactment.
- (9) Where paragraph (8) applies, the chargeable goods to which the records relate are not discharged from the Customs procedure until—
- (a) the verification has occurred to the officer’s satisfaction; or
 - (b) the officer confirms the goods are discharged notwithstanding that such verification has not occurred.
- (10) In this regulation “EU customs procedure” has the meaning given to “customs procedure” by Article 5(16) of the UCC. ”.

Amendment of Part 5

10. In regulation 40 (notification of liability to pay import duty by release to the free-circulation, temporary admission or authorised use procedure) for paragraph (2) substitute—

“(2) Paragraph (1) does not apply if—

- (a) a comprehensive guarantee is given in relation to the goods declared for a Customs procedure;
- (b) on or before 30th June 2019 the person was—
 - (i) authorised as an authorised declarant within the meaning given in regulation 31(1);
 - (ii) authorised as an authorised EIDR declarant within the meaning given in regulation 37(2); or
 - (iii) approved, in accordance with regulation 43, to defer payment of any liability to import duty; or
- (c) the person was authorised as a transitional authorised declarant within the meaning given in regulation 37A(1).”.

Amendment of Part 6

11.—(1) Regulation 43 (payment of import duty) is amended as follows.

(2) For paragraph (2) substitute—

“(2) If—

- (a) a person who is liable to pay import duty is approved by HMRC to defer payment of any liability to import duty; and
- (b) a single guarantee is given in relation to the payment of the liability to import duty, the person must pay the duty before the end of the period of 30 days beginning with the date on which the person is notified of the liability.”.

(3) For paragraph (3) substitute—

“(3) If—

- (a) a person who is liable to pay import duty is approved by HMRC to defer payment of any liability to import duty; and
- (b) either—
 - (i) paragraph (2) does not apply and the approval was given on or before 30th June 2019; or
 - (ii) a comprehensive guarantee is given in relation to the payment of the liability to import duty,

the person must pay the duty for which the person is liable before the end of the period of 15 days beginning with the date following the date on which the person is notified of the liability.”.

(4) After paragraph (3) insert—

“(3A) A person is only eligible for approval to defer payment of liability to import duty if the person is established in the United Kingdom.”.

Amendment of Part 10

12.—(1) In regulation 97 (single and comprehensive guarantees)—

- (a) in paragraph (4), in the words before paragraph (a) before “A person may” insert “Subject to paragraph (6)”;
- (b) after paragraph (5) insert—
 - “(6) A person may be authorised to give a comprehensive guarantee, even if the person does not meet the eligibility criteria in paragraph (4)(b) to (d), if the person only intends to give a comprehensive guarantee for the purposes of regulation 31(2)(c), 37(3)(b) or 43(3)(b)(ii), or paragraph 15(5) of Schedule 4 to the Act.
 - (7) An authorisation given under paragraph (6) is subject to the condition that the person may only give a comprehensive guarantee for the purposes specified in paragraph (6).”.
- (2) In regulation 98 (specified amount)—
 - (a) in paragraph (2) before “If the amount” insert “Subject to paragraph (2A)”;
 - (b) after paragraph (2) insert—
 - “(2A) If the amount of the liability or potential liability to import duty exceeds the specified amount of the guarantee before 1 July 2019 the person liable or potentially liable to that import duty must notify HMRC on 1 July 2019 or as soon as practicable after that date.”;
 - (c) in paragraph (3) before “HMRC may by notice” insert “Subject to paragraph (4)”;
 - (d) after paragraph (3) insert—
 - “(4) Where paragraph (2A) applies, HMRC may only amend the specified amount with effect from a date after 30th June 2019.”.
- (3) In regulation 99 (specified amount: reduced amounts and waivers in relation to comprehensive guarantees)—
 - (a) in paragraph (1), before “HMRC must approve” insert “Subject to paragraph (1A)”;
 - (b) after paragraph (1) insert—
 - “(1A) HMRC must not approve a reduction in the specified amount under paragraph (1) unless—
 - (a) the person, and any directors or senior employees of that person, have not been involved in a breach of an obligation relating to tax or a Customs obligation, which in the opinion of an HMRC officer is—
 - (i) a serious breach having regard to the circumstances, nature and number of breaches; and
 - (ii) relevant to the suitability of that person to give a reduced comprehensive guarantee;
 - (b) the person, and any directors or senior employees of that person, have no 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 that person to give a reduced comprehensive guarantee; and
 - (c) the person is—
 - (i) a regular user of the Customs procedure in relation to which the comprehensive guarantee will be used;
 - (ii) in the opinion of an HMRC officer, a suitable person to give a reduced comprehensive guarantee taking account of that person’s financial standing and practical experience; or
 - (iii) approved as an operator of a temporary storage facility.

(1B) For the purposes of paragraph (1A)(c)(i), a person is a regular user of a Customs procedure if that person has used that procedure on at least three occasions in the 12 month period preceding the application for authorisation.”;

(c) for paragraph (2)(a) substitute—

“(a) meets the conditions in—

(i) paragraph (1); and

(ii) paragraph (1A); and”;

(d) for paragraph (3)(a) substitute—

“(a) meets the conditions in—

(i) paragraphs (1) and (2)(b); and

(ii) paragraph (1A);”;

(e) in paragraph (4) for “paragraphs (2) and (3)” substitute “paragraphs (2)(a)(i) and (b) and (3)(a)(i) and (b) to (f)”.

Amendment of Part 13

13. In regulation 131 (chargeable goods carried by RoRo vehicles destined for RoRo listed locations: making of declarations)—

(a) in paragraph (2)—

(i) in sub-paragraph (a), omit “or”;

(ii) at the end of sub-paragraph (b) insert “; or”;

(iii) after sub-paragraph (b) insert—

“(c) if earlier than the time specified in sub-paragraph (a) or (b), by the time the goods are imported into the United Kingdom for the purposes of CEMA 1979.”;

(b) in paragraph (6) for “every RoRo vehicle carrying goods” substitute “all goods to which paragraph (2) applies”.