
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made by the Treasury in connection with the withdrawal of the United Kingdom from the European Union.

Regulation 1 provides for citation, commencement and effect. Paragraph (2) provides that the Regulations come into force on a day to be appointed by Treasury Regulations pursuant to the power to make such provision contained in section 52(2) of the Taxation (Cross-border Trade) Act 2018 (c. 22) (“the Act”). Paragraph (3) provides that the Regulations cease to have effect 12 months after they come into force unless the Treasury make regulations under paragraph (4) providing for the Regulations to cease to have effect before that date. Paragraph (5) provides that the Treasury may by regulations make transitional, transitory or saving provision in connection with the Regulations ceasing to have effect. Paragraphs (6) and (7) make provision in relation to regulations made under paragraphs (4) and (5).

Regulation 2 provides for the Regulations to be read as if they were contained in Part 1 of the Act and provides a definition of “the Act”.

Part 2 of the Regulations provides for HMRC to specify in a public notice the circumstances in which certain traders (“eligible persons”) importing goods at specified locations will be allowed to make a declaration by conduct of the goods for the free-circulation procedure and then submit further information after the goods have left the specified location.

Regulation 3 provides the power for HMRC Commissioners to specify relevant matters, including which traders are permitted to make declarations by conduct as described in Part 2 and which goods may not be declared in this way, in a public notice. Paragraphs (3) to (7) make provision in relation to notices which may be given to persons considered not to be fit and proper who are excluded from making a declaration by conduct as described in Part 2, including the right of review or appeal.

Regulation 4 provides that where the eligible person, or a person acting on their behalf, meets the relevant conduct requirements, which will be set out in a public notice, the person will be treated as having presented the goods and declared them for the free-circulation procedure. The declaration is treated as having been accepted by HMRC and the goods are to be treated as having been released to the procedure and to have become domestic goods.

Regulation 5 provides that where goods are declared under regulation 4 further information must be provided to HMRC. The further information required and the time in which it must be provided will be set out in a public notice. If the requirements of regulation 5 are not complied with the declaration is to be regarded as containing an inaccuracy under the Act.

Regulation 6 provides that the goods cease to be subject to the control of any HMRC officer once they have been declared under regulation 4 and leave the specified place.

Regulation 7 provides that the treatment of the goods in Part 2 does not prevent subsequent verification of the goods.

Part 3 of the Regulations makes provision equivalent to that in Part 2 in relation to goods to be exported from the United Kingdom at locations specified in a public notice. An eligible person may make a declaration for a common export procedure at a location specified in a public notice, in relation to goods which are not excepted goods, by conduct specified in a public notice and must complete the declaration by the provision of further information.

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

Regulation 12 (Part 4 of the Regulations) contains amendments to the Schedule to the Customs (Contravention of a Relevant Rule) Regulations 2003 (S.I. 2003/3113). Civil penalties are imposed for breaches of regulations 5 and 10 of the Regulations.

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>.