

## STATUTORY INSTRUMENTS

# 2020 No. 1435

## The Customs Tariff (Suspension of Import Duty Rates) (EU Exit) Regulations 2020

PROSPECTIVE

### PART 1

#### General

#### Citation, commencement, extent and application

- 1.—(1) These Regulations may be cited as the Customs Tariff (Suspension of Import Duty Rates) (EU Exit) Regulations 2020.
- (2) They come into force on the appointed day.
- (3) These Regulations extend to the whole of the United Kingdom.
- (4) These Regulations apply to all goods that are imported into the United Kingdom in respect of which a liability to a charge to import duty is incurred under the Act.

#### Commencement Information

- I1** Reg. 1 not in force at made date, see [reg. 1\(2\)](#)
- I2** [Reg. 1](#) in force at 31.12.2020 by [S.I. 2020/1643](#), [reg. 2](#), [Sch.](#)

#### Interpretation

2. In these Regulations—
- “the Act” means the Taxation (Cross-border Trade) Act 2018;
- “the Tariff Establishment Regulations” means the Customs Tariff (Establishment) (EU Exit) Regulations 2020 <sup>M1</sup>;
- “the appointed day” means the day appointed by the Treasury by regulations under section 52(2) of the Act for the coming into force of these Regulations;
- “commodity code” means the numerical code set out in the Goods Classification Table;
- “duty suspension rate” has the meaning given in regulation 4(1);
- “Goods Classification Table” has the meaning given in regulation 1(2) of the Tariff Establishment Regulations;
- “specified goods” has the meaning given in regulation 3;
- “specified period” has the meaning given in regulation 5;

**Status:** Point in time view as at 29/10/2021. This version of this Instrument contains provisions that are prospective.

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F1  
...

“standard rate of import duty” means, in relation to goods falling within a commodity code set out in the Goods Classification Table in the Tariff of the United Kingdom, the rate of import duty applicable to those goods in a standard case <sup>M2</sup>;

[<sup>F2</sup>“Suspensions of Import Duty Rates Document” means the Tariff Suspension Document, version [<sup>F3</sup>1.4, dated 25th October 2021]<sup>F4</sup>];

“Tariff of the United Kingdom” has the meaning given in regulation 1(2) of the Tariff Establishment Regulations;

“United Kingdom business” means a company entered in the register of companies maintained under the Companies Act 2006 <sup>M3</sup> with a permanent establishment in the United Kingdom.

#### Textual Amendments

- F1** Words in reg. 2 omitted (22.1.2021) by virtue of [The Customs Tariff \(Establishment and Suspension of Import Duty\) \(EU Exit\) \(Amendment\) Regulations 2021 \(S.I. 2021/63\)](#), regs. 1, **3(a)**
- F2** Words in reg. 2 substituted (11.8.2021) by [The Customs \(Tariff etc.\) \(Amendment\) \(No. 2\) Regulations 2021 \(S.I. 2021/870\)](#), regs. 1, **5**
- F3** Words in reg. 2 substituted (29.10.2021) by [The Customs Tariff \(Establishment and Suspension of Import Duty\) \(EU Exit\) \(Amendment\) \(No. 2\) Regulations 2021 \(S.I. 2021/1191\)](#), regs. 1(2), **2(2)**
- F4** The Tariff Suspension Document, version 1.4, dated 25th October 2021 is available electronically from: <https://www.gov.uk/government/publications/reference-documents-for-the-customs-tariff-suspension-of-import-duty-rates-eu-exit-regulations-2020> . A person unable to access this document electronically can arrange access to a hard copy, subject to government advice on social distancing and travel, by calling 0203 987 7277, and otherwise by inspection free of charge at the Department for International Trade, Old Admiralty Building, London SW1A 2AY.

#### Commencement Information

- I3** Reg. 2 not in force at made date, see reg. 1(2)
- I4** Reg. 2 in force at 31.12.2020 by [S.I. 2020/1643](#), reg. 2, **Sch.**

#### Marginal Citations

- M1** [S.I. 2020/1432](#).
- M2** See section 8(8) of the Taxation (Cross-border Trade) Act 2018 for the meaning given to “a standard case”.
- M3** [2006 c.46](#).

#### Specified goods

**3.** For the purposes of section 12(1) of the Act (tariff suspension) and of these Regulations, “specified goods” are goods to which, by virtue of regulation 4, a rate of import duty that is lower than the standard rate of import duty applies if —

- (a) the goods are listed by commodity code in the column headed “Commodity Code” in one of the tables in the Suspensions of Import Duty Rates Document; and
- (b) any conditions that are specified as to the use of the goods in the column headed “Notes” in the relevant table are satisfied.

#### Commencement Information

- I5** Reg. 3 not in force at made date, see [reg. 1\(2\)](#)

**16** Reg. 3 in force at 31.12.2020 by S.I. 2020/1643, reg. 2, Sch.

### Import duty rate for specified goods

4.—(1) Subject to paragraph (2), the rate of import duty applicable to goods to which these Regulations apply that are specified goods is the rate set out in the column headed “Duty Expression” of the relevant table in the Suspensions of Import Duty Rates Document (duty suspension rate) in the same row of that table as the commodity code for those goods.

(2) The rate of import duty applicable to specified goods during any period in which paragraph (3) applies is the standard rate of import duty.

(3) This paragraph applies during any period where the duty suspension rate for goods that are specified goods is higher than the standard rate of import duty for goods falling within the same commodity code.

#### Commencement Information

**I7** Reg. 4 not in force at made date, see **reg. 1(2)**

**I8** Reg. 4 in force at 31.12.2020 by S.I. 2020/1643, reg. 2, Sch.

### Specified period for specified goods

5. For the purposes of section 12(1) of the Act and of these Regulations, the “specified period” in relation to goods that are specified goods is the period—

- (a) beginning with the appointed day; and
- (b) ending with the date set out in [F5 column 5] of the relevant table in the Suspensions of Import Duty Rates Document (end date) in the same row of that table as the commodity code for those goods.

#### Textual Amendments

**F5** Words in **reg. 5(2)** substituted (29.10.2021) by **The Customs Tariff (Establishment and Suspension of Import Duty) (EU Exit) (Amendment) (No. 2) Regulations 2021 (S.I. 2021/1191)**, regs. 1(2), **2(3)**

#### Commencement Information

**I9** Reg. 5 not in force at made date, see **reg. 1(2)**

**I10** Reg. 5 in force at 31.12.2020 by S.I. 2020/1643, reg. 2, Sch.

### Extending the specified period

6.—(1) Subject to paragraph (2), the Treasury may, in accordance with section 12(3)(a) of the Act, extend the specified period in relation to any goods that are specified goods by publishing a notice in writing of that extension on or before the end date specified in the column headed “Expiry Date” in the relevant table in the Suspensions of Import Duty Rates Document in the same row of that table as the commodity code for those goods.

(2) Before extending the specified period in relation to any specified goods under paragraph (1), the Treasury must—

- (a) consult the Secretary of State; and
- (b) have regard to any recommendation made to them by the Secretary of State,

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in relation to the proposed extension.

#### Commencement Information

- I11** Reg. 6 not in force at made date, see [reg. 1\(2\)](#)  
**I12** [Reg. 6](#) in force at 31.12.2020 by [S.I. 2020/1643](#), [reg. 2](#), [Sch.](#)

## PART 2

### Requests for suspensions

#### Requests to the Secretary of State

7.—(1) Requests to the Secretary of State for goods to be specified goods for the purposes of these Regulations may be made in writing by any person (“the applicant”) in an application the form of which is approved by the Secretary of State<sup>M4</sup>.

(2) Applications containing requests under paragraph (1) must be sent to the Secretary of State by the applicant in such manner, and before the end of such period, as the Secretary of State determines for the purposes of this regulation.

(3) The Secretary of State—

(a) must, no later than—

(i) two weeks after the date on which an application form was received by the Secretary of State, acknowledge receipt of the request in writing to the applicant; and

(ii) four weeks after the date on which the period determined by the Secretary of State in accordance with paragraph (2) expires, publish a notice providing information about all requests received and invite objections from any United Kingdom business to the goods to which the requests relate being specified goods for the purposes of these Regulations;

(b) may require, from the applicant in relation to a request such further information in connection with, or evidence in support of, the request as the Secretary of State considers appropriate.

(4) Objections to a request made under paragraph (1) must be sent to the Secretary of State in writing before the end of such period as is specified in the notice published by the Secretary of State under paragraph (3)(a)(ii).

(5) The Secretary of State may stay consideration of a request—

(a) until the expiry of the period for making objections specified in the notice published by the Secretary of State under paragraph (3)(a)(ii);

(b) pending receipt of any further information or evidence requested from the applicant in relation to a request by the Secretary of State under paragraph (3)(b); or

(c) if, and for such period as, the Secretary of State remains satisfied that a valid objection under paragraph (3)(a)(ii) exists to the goods to which a request relates being specified goods.

(6) A request made under paragraph (1) may be withdrawn by the applicant in relation to the request at any time before the date on which the Secretary of State makes a recommendation to the Treasury in relation to the request under regulation 9.

### Commencement Information

**I13** Reg. 7 not in force at made date, see **reg. 1(2)**

**I14** **Reg. 7** in force at 31.12.2020 by **S.I. 2020/1643, reg. 2, Sch.**

### Marginal Citations

**M4** Application forms are available to download at <http://www.gov.uk/guidance/duty-suspensions-and-tariff-quotas>. Hard copies may be requested by post from the Department of International Trade, 3 Whitehall Place, London SW1A 2AW.

## Consideration of requests

**8.—(1)** Except in the circumstances described in paragraph (2), and subject to regulation 7(5), the Secretary of State must promptly consider a request made under regulation 7(1) and must make a recommendation about any such request to the Treasury.

(2) The Secretary of State is not required to consider a request where—

(a) the goods to which the request relates are goods that are—

(i) the same goods (falling under the same commodity code) or similar goods are otherwise available to be supplied in sufficient quantity from within the United Kingdom; or

(ii) traded between persons who are related parties in circumstances which would not enable other United Kingdom businesses to benefit from the suspension; or

(b) it cannot be demonstrated by the applicant that the benefit of the requested suspension to manufacturers in the United Kingdom, in terms of the amount of import duty that would have been saved had a duty suspension rate been in place in relation to the goods concerned in the preceding calendar year, was more than £10,000.

(3) The Secretary of State may reject a request made under regulation 7(1) if—

(a) the subject matter of the request falls within paragraph (2)(a)(i) or (ii) or (b);

(b) the application for the request does not comply with any requirements determined by the Secretary of State under regulation 7(2); or

(c) the applicant has not provided the further information or evidence requested by the Secretary of State under regulation 7(3)(b) in connection with the request before the end of the period of one month beginning with the date on which that information or evidence was requested.

(4) For the purposes of paragraph (2)(a)(ii), two persons are deemed to be “related parties” if—

(a) they are—

(i) officers or directors of each other's businesses;

(ii) legally recognised partners in a United Kingdom business; or

(iii) in an employer and employee relationship;

(b) one of those persons directly or indirectly—

(i) owns, controls or holds 5% or more of the outstanding voting stock or shares of both of them; or

(ii) controls the other person; or

(c) both of those persons—

(i) are directly or indirectly controlled by a third person; or

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(ii) jointly directly or indirectly control a third person.

#### Commencement Information

**I15** Reg. 8 not in force at made date, see [reg. 1\(2\)](#)

**I16** [Reg. 8](#) in force at 31.12.2020 by [S.I. 2020/1643](#), [reg. 2](#), [Sch.](#)

#### Recommendations by the Secretary of State about requests

**9.** The Secretary of State must make a recommendation to the Treasury about any requests made under regulation 7(1) which have not been rejected by the Secretary of State under regulation 8(2) before the end of the period of four months beginning with—

- (a) the date on which the Secretary of State published the notice in relation to the requests under regulation 7(3)(a)(ii); or
- (b) whichever is the earlier of —
  - (i) the date on which the Secretary of State received the further information and evidence requested in relation to any request under regulation 7(3)(b); or
  - (ii) in a case where the Secretary of State stayed the further consideration of the application under regulation 7(5)(c), the date on which the Secretary of State is no longer satisfied that an objection made under regulation 7(3)(a)(ii) to the goods being specified goods is valid.

#### Commencement Information

**I17** Reg. 9 not in force at made date, see [reg. 1\(2\)](#)

**I18** [Reg. 9](#) in force at 31.12.2020 by [S.I. 2020/1643](#), [reg. 2](#), [Sch.](#)

## PART 3

### Exceptional duty suspensions

#### Recommendations about exceptional duty suspensions

**10.—(1)** The Secretary of State may—

- (a) in the absence of a request received under regulation 7(1); and
- (b) in the circumstances described in paragraph (2),

recommend to the Treasury that goods of a particular commodity code are to be specified goods for the purposes of section 12(1) of the Act and of these Regulations.

(2) The circumstances described in this paragraph are where the Secretary of State is satisfied—

- (a) that—
  - (i) the goods concerned are not produced domestically; or
  - (ii) a suitable alternative to those goods is not available on the domestic market;
- (b) that the measure is necessary to—
  - (i) maintain the supply of food or other finished products to the domestic market; or

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- (ii) mitigate price increases for consumers and United Kingdom businesses that are reliant on imports; or
  - (c) that other exceptional circumstances exist in which the application of an exceptional duty suspension rate is necessary in respect of those goods.
- (3) Part 2 of these Regulations does not apply for the purposes of a recommendation made by the Secretary of State under this regulation.

**Commencement Information**

**I19** Reg. 10 not in force at made date, see [reg. 1\(2\)](#)

**I20** [Reg. 10](#) in force at 31.12.2020 by [S.I. 2020/1643](#), [reg. 2](#), [Sch.](#)

## PART 4

### Crown Dependencies

#### United Kingdom – Crown Dependencies Customs Union: Modifications

**11.** The provisions of the Act and of these Regulations that are referred to in the Schedule have effect, in respect of the customs matters to which these Regulations apply, as modified by that Schedule having regard to the existence of the United Kingdom – Crown Dependencies Customs Union.

**Commencement Information**

**I21** Reg. 11 not in force at made date, see [reg. 1\(2\)](#)

**I22** [Reg. 11](#) in force at 31.12.2020 by [S.I. 2020/1643](#), [reg. 2](#), [Sch.](#)

*David Rutley*  
*Maggie Throup*  
Two of the Lords Commissioners of Her  
Majesty's Treasury

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