
STATUTORY INSTRUMENTS

2020 No. 1439

**EXITING THE EUROPEAN UNION
CUSTOMS
EXCISE**

**The Taxation Cross-border Trade (Special
Procedures Supplementary and General
Provision etc.) (EU Exit) Regulations 2020**

Approved by the House of Commons

*Made - - - - at 12.32 p.m. on
15th December 2020
Laid before the House of
Commons - - - - 16th December 2020
Coming into force in accordance with regulation 1(2),
(3) and (4)*

The Treasury make the following Regulations in exercise of the powers conferred by sections 30, 32(8)(b) and (d), 51(1)(b) and (c) and (3) and 52(2) of the Taxation (Cross-border Trade) Act 2018⁽¹⁾. The Treasury consider it appropriate in consequence of, or otherwise in connection with, the withdrawal of the United Kingdom from the European Union, that provisions of the following Regulations come into force on such day as the Treasury may by regulations under section 52 of that Act appoint.

Citation and commencement

1.—(1) These Regulations may be cited as the Taxation Cross-border Trade (Special Procedures Supplementary and General Provision etc.) (EU Exit) Regulations 2020.

(2) Subject to paragraphs (3) and (4), these Regulations come into force on such day as the Treasury may by regulations under section 52 of the Taxation (Cross-border Trade) Act 2018 appoint.

(3) The following provisions come into force on the day after the day on which these Regulations are made—

- (a) this regulation;
- (b) regulation 2 (interpretation);
- (c) regulation 5 (amendment of the Taxation (Cross-border Trade) Act 2018);

⁽¹⁾ 2018 c. 22 (“the Act”). The Treasury is the appropriate Minister for the purposes of section 51(1) by virtue of section 51(4)(b).

(d) regulation 6 (modification of the Taxation (Cross-border Trade) Act 2018).

(4) Regulation 7 (amendment of the Customs (Records) (EU Exit) Regulations 2019) comes into force on 31st December 2020.

Interpretation

2. In these Regulations—

“the Act” means the Taxation (Cross-border Trade) Act 2018;

“the special procedures regulations” means the Customs (Special Procedures and Outward Processing) (EU Exit) Regulations 2018(2);

“agricultural policy measure” means a provision made by or under any enactment relating to the import and export of the goods specified at points 1, 2 and 3 of the document entitled “Sensitive Goods” published on 27 November 2018(3);

“holder of the procedure” means—

(a) the person in whose name, or on whose behalf, goods have been declared for—

- (i) an inward processing procedure(4); or
- (ii) a temporary admission procedure(5); or

(b) the person to whom rights and obligations in relation to goods declared for such a procedure have been transferred under regulation 42 of the special procedures regulations;

“non-tariff trade policy measure” means a provision made by or under any enactment relating to government policy in respect of international trade in goods, other than provisions relating to the amount of import duty;

“processed goods” means goods which have been released to an inward processing procedure and processed in accordance with that procedure;

“the temporary admission document” means the document entitled “Temporary Admission: Eligible Goods and Conditions for Relief”, version 2.4, published on 10th December 2020(6).

Discharge of an inward processing procedure

3.—(1) This regulation applies to processed goods where the processing was carried out under an inward processing procedure, but does not apply where—

(a) the processing takes place using equivalent domestic goods(7) in place of goods intended to be declared for the procedure (“intended imported goods”) and the processed goods are exported before the intended imported goods are imported;

(b) if the goods as they stood when the declaration for the procedure was made were declared for the free-circulation procedure(8) and that declaration were accepted—

(i) the goods would be subject to—

(aa) an additional amount of import duty under section 13, 14 or 15 of the Act;

(2) S.I. 2018/1249, amended by S.I. 2019/486 and 2019/1215; there are other amending instruments, but none is relevant.

(3) The document entitled “Sensitive Goods” is available at <https://www.gov.uk/government/publications/sensitive-goods> and a hard copy is available for inspection, free of charge, at the offices of HMRC at 100 Parliament Street, London, SW1A 2BQ.

(4) The meaning of “an inward processing procedure” is given in paragraphs 8, 9 and 11 of Schedule 2 to the Act.

(5) The meaning of “a temporary admission procedure” is given in paragraph 15 of Schedule 2 to the Act.

(6) The document entitled “Temporary Admission: Eligible Goods and Conditions for Relief” is available at <https://www.gov.uk/government/publications/temporary-admission-eligible-goods-and-conditions-for-relief> and a hard copy is available for inspection, free of charge, at the offices of HMRC at 100 Parliament Street, London, SW1A 2BQ.

(7) The meaning of “equivalent domestic goods” is given in paragraph 23(2) of Schedule 2 to the Act.

(8) The meaning of “the free-circulation procedure” is given in section 3(3)(a) of the Act.

- (bb) a non-tariff trade policy measure; or
 - (cc) an agricultural policy measure; or
 - (ii) the importer of the goods would be required to give a guarantee under paragraph 15(5) of Schedule 4 to the Act; or
 - (c) export of the goods would breach the requirement of the procedure set out in regulation 22(3)(c) of the special procedures regulations.
- (2) This paragraph applies where—
- (a) the processed goods are—
 - (i) a necessary result of the processing; and
 - (ii) not goods whose production or manufacture was the purpose of the processing;
 - (b) the processed goods are disposed of in accordance with—
 - (i) the authorisation to declare the goods for an inward processing procedure; or
 - (ii) all applicable provisions in any enactment relating to disposal of the goods;
 - (c) destruction of the goods is prohibited under an enactment on the grounds that destruction could not take place without harming the environment; and
 - (d) the holder of the procedure can demonstrate to the satisfaction of an HMRC officer⁽⁹⁾ that discharge of the procedure in accordance with the rules relating to discharge in paragraphs 18 and 19 of Schedule 2 to the Act is either impossible or not economically viable given the nature of the goods.
- (3) Where paragraph (2) applies and paragraph (6) does not apply, the processed goods are to be treated for the purposes of Part 1 of the Act as if, on the date the processed goods are disposed of—
- (a) the processed goods were declared for the free-circulation procedure;
 - (b) HMRC⁽¹⁰⁾ accepted that declaration; and
 - (c) the free-circulation procedure was discharged.
- (4) This paragraph applies where the processed goods are delivered to persons who are eligible for relief from import duty pursuant to—
- (a) the Vienna Convention on Diplomatic Relations (Vienna, April 18, 1961)⁽¹¹⁾;
 - (b) the Vienna Convention on Consular Relations (Vienna, April 24, 1963)⁽¹²⁾; or
 - (c) the Convention on Special Missions (December 8, 1969)⁽¹³⁾; or
 - (d) section 36 (visiting forces and headquarters) of the UK Reliefs document.
- (5) Where paragraph (4) applies, the processed goods are to be treated for the purposes of Part 1 of the Act as if, on the date the processed goods are delivered—
- (a) the processed goods were declared for the free-circulation procedure;
 - (b) HMRC accepted that declaration; and
 - (c) the free-circulation procedure was discharged.
- (6) Subject to paragraph (7), this paragraph applies where—

⁽⁹⁾ “HMRC officer” is defined in section 37(1) of the Act for the purposes of Part 1 of the Act.

⁽¹⁰⁾ “HMRC” is defined in section 37(1) of the Act.

⁽¹¹⁾ Cmnd. 2565. Available electronically from: http://legal.un.org/ilc/texts/instruments/english/conventions/9_1_1961.pdf. A hard copy is available for inspection free of charge at the offices of HMRC at 100 Parliament Street, London, SW1A 2BQ.

⁽¹²⁾ Cmnd. 5219. Available electronically from: http://legal.un.org/ilc/texts/instruments/english/conventions/9_2_1963.pdf. A hard copy is available for inspection free of charge at the offices of HMRC at 100 Parliament Street, London, SW1A 2BQ.

⁽¹³⁾ Cmnd. 4300. Available electronically from: http://legal.un.org/ilc/texts/instruments/english/conventions/9_3_1969.pdf. A hard copy is available for inspection free of charge at the offices of HMRC at 100 Parliament Street, London, SW1A 2BQ.

- (a) the processed goods are aircraft, or parts thereof, that are delivered to a person who will use the processed goods, where an HMRC officer is satisfied that—
 - (i) the goods released to an inward processing procedure have been used for the first time for the manufacture, modification, conversion, or repair, including maintenance, of the aircraft, or parts thereof; and
 - (ii) the records of the holder of the procedure are sufficient to enable HMRC to verify that the procedure has been correctly applied and operated;
 - (b) the processed goods are spacecraft or related equipment, or parts thereof, that are delivered to a person who will use the processed goods, where an HMRC officer is satisfied that—
 - (i) the goods released to an inward processing procedure have been used for the first time for the manufacture, modification, conversion or repair, including maintenance, of satellites, their launch vehicles and ground station equipment, or integral parts thereof; and
 - (ii) the records of the holder of the procedure are sufficient to enable HMRC to verify that the procedure has been correctly applied and operated;
 - (c) the processed goods are goods other than those referred to in paragraph (2)(a), where—
 - (i) either—
 - (aa) the import duty applicable in a standard case to which paragraph 1 of Part 4 of the Tariff of the United Kingdom applies is 0%; or
 - (bb) an authorised release certificate CAA Form 1(14) has been issued in relation to those processed goods, or an equivalent certificate has been issued in relation to those processed goods in accordance with the law of another country;
 - (ii) the processed goods are delivered to a person who will use them; and
 - (iii) an HMRC officer is satisfied that—
 - (aa) the goods released to the inward processing procedure have been used for the first time in the processing relating to the processed goods or parts thereof; and
 - (bb) the records of the holder of the procedure are sufficient to enable HMRC to verify that the procedure has been correctly applied and operated.
- (7) Paragraph (6) does not apply where the processing consists solely of repair of the goods, including maintenance thereof.
- (8) Where paragraph (6) applies, the processed goods and any processed goods referred to in paragraph (2)(a) that result from the same processing are to be treated for the purposes of Part 1 of the Act as if, on the date of the completion of the first use of the goods released to an inward processing procedure—
- (a) the processed goods were declared for the free-circulation procedure;
 - (b) HMRC accepted that declaration; and
 - (c) the free-circulation procedure was discharged.
- (9) For the purposes of paragraphs (6) and (8) whether the goods released to the procedure have been used for the first time is to be determined in accordance with the terms of the authorisation to declare goods for an inward processing procedure and the date of the completion of the first use is to be determined accordingly.
- (10) In this regulation—

(14) A sample form can be found at <https://info.caa.co.uk/media/1033/caa-form-1.pdf>.

“a standard case” means a case other than one to which any of sections 9 to 15 or 19(4) of the Act apply (preferential rates, quotas, tariff suspension, safeguarding, etc);

“Tariff of the United Kingdom” has the same meaning as it has in the Customs Tariff (Establishment) (EU Exit) Regulations 2020⁽¹⁵⁾;

“UK Reliefs document” has the same meaning as it has in the Customs (Reliefs from a Liability to Import Duty and Miscellaneous Amendments) (EU Exit) Regulations 2020⁽¹⁶⁾.

Discharge of a temporary admission procedure

4.—(1) This regulation applies where goods (“the declared goods”) have been declared for a temporary admission procedure.

(2) This paragraph applies where—

(a) the declared goods—

(i) fall within a description given in one of the following sections of the temporary admission document—

(aa) section 1 (pallets); or

(bb) paragraph (a) of section 7 (means of transport – full relief for persons established in the United Kingdom); or

(ii) are containers subject to arrangements set out in the Convention on Customs Treatment of Pool Containers used in International Transport (Geneva, January 21, 1994)⁽¹⁷⁾; and

(b) goods of the same type, or of the same description and value, as the declared goods are exported by—

(i) the holder of the procedure; or

(ii) a person acting on behalf of, or with the agreement of, the holder of the procedure.

(3) Where paragraph (2) applies, for the purposes of Part 1 of the Act, the declared goods are to be treated as if, on the date the export referred to in paragraph (2)(b) took place—

(a) the declared goods were declared for the free-circulation procedure;

(b) HMRC accepted that declaration; and

(c) the procedure was discharged.

(4) This paragraph applies where—

(a) the declared goods are not goods subject to excise duty within the meaning given in section 53 of the Act;

(b) the declared goods fall within a description in the first two paragraphs of section 25 of the temporary admission document (goods for events or for sale in certain situations);

(c) the declared goods are distributed free of charge to members of the public at an event described in those paragraphs of that section; and

(d) an HMRC officer is satisfied that the quantity of goods distributed is reasonable, taking into consideration—

(i) the nature of the event described in that section of the temporary admission document;

⁽¹⁵⁾ S.I. 2020/1430.

⁽¹⁶⁾ S.I. 2020/1431.

⁽¹⁷⁾ Cm. 6151. Available electronically from: <https://www.unece.org/fileadmin/DAM/trans/conventn/poolcon.pdf>. A hard copy is available for inspection free of charge at the offices of HMRC at 100 Parliament Street, London, SW1A 2BQ.

- (ii) the number of visitors at the event; and
 - (iii) the extent of the participation of the holder of the procedure in the event.
- (5) Where paragraph (4) applies, for the purposes of Part 1 of the Act, the declared goods are to be treated as if, on the date they were distributed—
- (a) the declared goods were declared for the free-circulation procedure;
 - (b) HMRC accepted that declaration; and
 - (c) the procedure was discharged.
- (6) This paragraph applies where—
- (a) the declared goods are not goods subject to excise duty within the meaning given in section 53 of the Act;
 - (b) the declared goods fall within a description in the first two paragraphs of section 25 of the temporary admission document (goods for events or for sale in certain situations);
 - (c) part of the declared goods (“the remaining section 25 goods”) remains following the consumption or destruction of declared goods at an event described in those paragraphs of that section;
 - (d) the remaining section 25 goods are rendered unusable for the purpose for which they were imported; and
 - (e) an HMRC officer is satisfied that the quantity of goods consumed or destroyed is reasonable, taking into consideration—
 - (i) the nature of the event described in those paragraphs of that section;
 - (ii) the number of visitors at the event; and
 - (iii) the extent of the participation of the holder of the procedure in the event.
- (7) This paragraph applies where—
- (a) the declared goods fall within a description in the first two paragraphs of section 29 of the temporary admission document (goods covered by NATO form 302);
 - (b) part of the declared goods (“the remaining section 29 goods”) remains following the consumption or destruction of declared goods in the course of the military activity described in that section;
 - (c) the remaining section 29 goods are rendered unusable for the purpose for which they were imported; and
 - (d) an HMRC officer is satisfied that the quantity of goods consumed or destroyed corresponds to the nature of the military activity described in that section.
- (8) Where paragraph (6) or (7) applies, for the purposes of Part 1 of the Act, the remaining goods are to be treated as if on the date of the consumption or destruction—
- (a) the remaining goods were declared for the free-circulation procedure;
 - (b) HMRC accepted that declaration; and
 - (c) the procedure was discharged.
- (9) In paragraph (8) “the remaining goods” means goods which are “remaining section 25 goods” or “remaining section 29 goods”, as the case may be.

Amendment of the Taxation (Cross-border Trade) Act 2018

- 5.—(1) The Act is amended as follows.
- (2) In Schedule 1 (customs declarations), after paragraph 16 insert—

“**16A.** Paragraphs 15 and 16 are subject to provision contained in regulations made under paragraph 3(5) about customs declarations that are made before goods are imported into the United Kingdom (for example, provision that in certain cases such declarations may only be amended or withdrawn with the consent of an HMRC officer).”.

(3) For paragraph 33 of Part 2 of Schedule 7 (amendments of the Customs and Excise Management Act 1979)(**18**) substitute—

“**33.** In section 39 (entry of surplus stores)(**19**)—

(a) before subsection (1) insert—

“(A1) This section applies only for excise duty purposes.”, and

(b) in subsection (1), for “ship or aircraft”, in both places it occurs, substitute “ship, aircraft or railway vehicle”.

Modification of the Taxation (Cross-border Trade) Act 2018

6.—(1) This regulation applies where the arrangements mentioned in section 9(1)(a) of the Act are continuity arrangements.

(2) Section 9(1)(b) of the Act has effect as if the reference to provision for the rate of import duty applicable to goods, or any description of goods, to be lower than the applicable rate in the customs tariff in its standard form includes provision—

(a) that is expressed by reference to a method of calculation that is different from that used to determine the applicable rate in the customs tariff in its standard form; and

(b) as a result of which, the amount of import duty applicable to particular goods, or goods of a particular description, may in some cases be more than the amount of import duty applicable under the customs tariff in its standard form.

(3) For the purposes of this regulation, arrangements mentioned in section 9(1)(a) of the Act are continuity arrangements if, immediately before IP completion day, the country or territory outside the United Kingdom with the government of which the arrangements were made and the European Union were signatories to an international trade agreement.

(4) In this regulation—

“international trade agreement” means—

(a) an agreement that is or was notifiable under paragraph 7(a) of Article XXIV of the General Agreement on Tariffs and Trade 1994, part of Annex 1A to the WTO Agreement (as modified from time to time), or

(b) an international agreement that relates to trade in goods, other than an agreement falling within sub-paragraph (a);

“the WTO Agreement” means the agreement establishing the WTO signed at Marrakesh on 15 April 1994(**20**).

Amendment of the Customs (Records) (EU Exit) Regulations 2019

7.—(1) The Customs (Records) (EU Exit) Regulations 2019(**21**) are amended as follows.

(2) In regulation 2 (interpretation)—

(a) in the entry for “Customs obligation”—

(18) Paragraph 33 has not yet been brought into force.

(19) Section 39(1) of the Customs and Excise Management Act 1979 (c. 2) was substituted by paragraph 2 of Schedule 21 to the Finance Act 2014 (c. 26).

(20) Available from: https://www.wto.org/english/docs_e/legal_e/legal_e.htm.

(21) S.I. 2019/113.

- (i) in paragraph (a)—
 - (aa) omit “Part 1 of”;
 - (bb) after “2018” insert “in relation to a duty of customs”;
- (ii) in paragraph (c)—
 - (aa) after “EU Customs Code” insert “as it has effect in Great Britain,”;
 - (bb) omit “or”;
- (iii) in paragraph (d) at the end insert “, or the Customs (Transitional) (EU Exit) Regulations 2020(22); or”;
- (iv) after paragraph (d) insert—
 - “(e) the EU Customs Code to the extent that it has effect in Great Britain as a result of the EU withdrawal agreement;”;
- (b) in the entry for “EU Customs Code”—
 - (i) in paragraph (b), after the semi-colon, omit “and”;
 - (ii) in paragraph (c) at the end insert “; and”;
 - (iii) after paragraph (c) insert—
 - “(d) [Commission Delegated Regulation \(EU\) 2016/341](#) of 17 December 2015 supplementing [Regulation \(EU\) No 952/2013](#) of the European Parliament and of the Council as regards transitional rules for certain provisions of the Union Customs Code where the relevant electronic systems are not yet operational and amending [Delegated Regulation \(EU\) 2015/2446](#).”.
- (3) In regulation 3(1) (records to be kept and preserved), at the beginning insert “Where regulation 4 does not apply,”.
- (4) In regulation 4 (transitional and saving provision)—
 - (a) in paragraph (1)—
 - (i) for “regulation” substitute “paragraph”;
 - (ii) for “exit day” substitute “IP completion day”;
 - (b) in paragraph (2)—
 - (i) for “this regulation” substitute “paragraph (1)”;
 - (ii) for “exit day” substitute “IP completion day”;
 - (c) after paragraph (2) insert—
 - “(3) This paragraph applies in relation to any person who on or after IP completion day is, as a result of the EU withdrawal agreement, subject to an obligation under Article 51 of the UCC to keep documents and information.
 - (4) Where paragraph (3) applies, Article 51 of the UCC continues to have effect after the cessation of the effect of the UCC as a result of the EU withdrawal agreement, in relation to a person referred to in paragraph (3), until the expiry of the period for which documents and information must be kept under that Article.”.

At 12.32 p.m. on 15th December 2020

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

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made by the Treasury. They make provision supplementing provision made in relation to import duty by and under Part 1 of the Taxation (Cross-border Trade) Act 2018 (c. 22) (“the Act”) and make provision generally for the purposes of import duty. This is an EU Exit statutory instrument.

Part 1 of the Act, and the Customs (Special Procedures and Outward Processing) (EU Exit) Regulations 2018 (S.I. 2018/1249), make provision in relation to outward processing and special Customs procedures, other than transit. These procedures are defined in section 36 of, and Schedule 2 to, the Act.

Regulations 3 and 4 make provision in relation to circumstances in which goods declared for an inward processing procedure or a temporary admission procedure are to be treated as if they were declared for the free-circulation procedure, that declaration had been accepted and the free-circulation procedure had been discharged. The result of this treatment is that the goods are discharged from the relevant procedure and are domestic goods.

Regulation 5(2) amends Schedule 1 to the Act to provide that the entitlement to amend or withdraw a Customs declaration, without the consent of an HMRC officer, before a relevant event occurs may be limited by regulations made under paragraph 3(5) of Schedule 1.

Regulation 5(3) amends paragraph 33 of Schedule 7 to the Act so that the paragraph amends section 39 of the Customs and Excise Management Act 1979 (c. 2) to include in subsection (1) reference to railway vehicles.

Regulation 6 modifies the effect of section 9(1)(b) of the Act where the relevant arrangements are continuity arrangements (as provided for in paragraph (3) of that regulation).

Regulation 7 makes amendments to the Customs (Records) (EU Exit) Regulations 2019 (S.I. 2019/113) in consequence of the European Union (Withdrawal) Act 2018 (c. 16) as amended by the European Union (Withdrawal Agreement) Act 2020 (c. 1).

A person unable to access electronically the relevant part of the WTO agreement referred to in regulation 6 may access it, while government advice on social distancing and unnecessary travel applies, in hard copy by post free of charge on application to 0207 215 8316, and otherwise by inspection, free of charge, at the offices of the Department for International Trade, 3 Whitehall Place, London SW1A 2AW.

Copies of the other documents referred to in this instrument are available at <https://www.gov.uk/government/collections/customs-vat-and-excise-uk-transition-legislation-from-1-january-2021>. A person unable to access the documents electronically may access them, while government advice on social distancing and unnecessary travel applies, in hard copy by post free of charge on application to 07741835049, and otherwise by inspection, free of charge, at the offices of HMRC at 100 Parliament Street, London, SW1A 2BQ.

A Tax Information and Impact Note (TIIN) covering this instrument will be published on the GOV.UK website at <https://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins>.