
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make various provisions in relation to excise duty for excise goods in Northern Ireland following the UK's exit from the EU and the end of the transitional arrangements provided for in the Withdrawal Agreement.

Part 1 contains provisions implementing Article 8 of the Northern Ireland Protocol.

Regulation 2 preserves the Excise Duties (Holding, Movement and Duty Point) Regulations 2010 (S.I. 2010/593) ("the HMDP Regulations") as they were before any Brexit related amendments take effect ("the Northern Ireland Regulations"). The Northern Ireland Regulations will apply in relation to the holding, movement and taxation of excise goods in Northern Ireland subject to the modifications provided for in these Regulations.

Regulation 3 grandfathers the positions of revenue traders (as defined in section 1 of the Customs and Excise Management Act 1979) who were registered as "UK registered consignees", "UK consignors", "registered commercial importers" and "tax representatives" under the Northern Ireland Regulations. These traders will automatically become NI registered consignees, NI registered consignors, NI registered commercial importers and NI tax representatives respectively on IP completion day under the modified Northern Ireland Regulations.

Regulations 4 to 80 modify the Northern Ireland Regulations so that they continue to work in respect of Northern Ireland once the remainder of the United Kingdom is subject to the amended version of the HMDP Regulations upon IP completion day. References to "the United Kingdom" are replaced with references to "Northern Ireland" and regulation 6(1)(d) of the Northern Ireland Regulations is modified so that there will be an excise duty point when excise goods enter Northern Ireland from Great Britain.

Regulations 81 to 92 make amendments to HMDP Regulations by way of amendments to the Excise Goods (Holding, Movement and Duty Point) (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/13) ("the Amendment Regulations"). The Amendment Regulations will be brought into force by way of Treasury commencement Regulations. The further amendments reflect that the excise duty regime for Northern Ireland will differ in some aspects to that in Great Britain.

Regulations 82 and 83 change the reference to "computerised system" to "UK computerised system" to distinguish it from the "EU computerised system" which will be used in Northern Ireland to record movements of excise goods between Northern Ireland and the EU.

Regulation 84 provides that the modified Northern Ireland Regulations shall take precedence over the amended HMDP Regulations in respect of goods in Northern Ireland.

Regulations 85 makes some consequential amendments to definitions in the HMDP Regulations.

Regulation 86 makes a consequential amendment to regulation 5 of the HMDP Regulations.

Regulation 87 inserts a new definition of "importation" into regulation 6(2) of the HMDP Regulations so that an excise duty point will arise when goods enter Great Britain from Northern Ireland which have been exported from an EU Member State.

Regulation 88 insert references to a new regulation 7A which prevents an excise duty point arising on importation where excise goods enter Great Britain from the Republic of Ireland and it is shown to the satisfaction of the Commissioners that excise duty has already been paid in Northern Ireland. Regulation 7A(2) enables the Commissioners to set out evidential requirements in a public notice.

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

Regulation 89 amends regulation 37 of the HMDP Regulations so it works as intended alongside the modifications made to that regulation in regulation 37 which will apply in Northern Ireland.

Regulations 90 and 91 insert new regulation 56A into the HMDP Regulations. New regulation 56A stops Parts 8 and 9 of the HMDP Regulations applying when excise goods in duty suspension have been dispatched from an EU Member State to a tax warehouse in Northern Ireland travelling via Great Britain. New Regulation 56A also provides that there must be a NI registered consignor (under the modified Northern Ireland Regulations) in respect of movements of goods between Great Britain and Northern Ireland which are subject to the procedures in Part 8 and 9.

Regulation 92 provides for an amendment to regulation 57 of the HMDP Regulations. New paragraph (1A) provides that only one electronic administrative document needs to be used to record the movement of goods in duty suspension between Great Britain and Northern Ireland even though there are two movements under the HMDP Regulations (as provided for in the amendments to regulation 37 of the HMDP Regulations made by regulation 87 of these Regulations).

Part 2 contains other provisions and amendments in relation to excise duty in Northern Ireland.

Regulation 93 provides that the Commissioners may offset UK excise duty that becomes due as a result of the removal of goods from Great Britain to Northern Ireland against any other UK excise duty that has already been paid in respect of the same goods. Paragraph (3) contains a power for the Commissioners to set out conditions and evidence they may require in a public notice.

Regulation 94 contains a power for the Commissioners to remit any excise duty on application that remains payable after the offset provided for in regulation 91 has been given in respect of excise goods transported from Great Britain to Northern Ireland for non-commercial purposes which are (a) carried in a person's luggage or (b) in any other circumstances provided for in a public notice.

Regulation 95 makes amendments to the Duty Stamps Regulations 2006 (S.I. 2006/202) ("the Duty Stamps Regulations"). The amendments provide that retail containers of alcoholic liquor that are going to be transported from Great Britain or vice versa via the Republic of Ireland can remain stamped. An amendment is also made to regulation 33 of the Duty Stamps Regulations which will allow claims to drawback under the Excise Goods (Drawback) Regulations 1995 (S.I. 1995/1046) ("the Drawback Regulations") to be made in respect of such alcoholic liquor retail containers.

Regulation 96 amends the Drawback Regulations by way of an amendment to the Excise Duties (Miscellaneous Amendments) (EU Exit) Regulations 2019 (S.I. 2019/14). The amendments enable drawback claims to be made in respect of excise goods chargeable with excise duty that have been transported from Great Britain to Northern Ireland on presentation of such documentary evidence of payment of excise duty as specified in a public notice.

Part 3 provides for the saving (with modifications where appropriate) of a number of excise Regulations in the form they were in immediately before IP completion day so they can continue to apply in Northern Ireland with respect to excise goods. These provisions will help to ensure compliance with the UK's obligations under the Northern Ireland Protocol.

Regulation 97 saves the Duty Stamps Regulations 2006. Modifications are made so the instrument works as intended and in particular a modification is made to mirror the amendment made by regulation 95 of these Regulations so that retail containers of alcoholic liquor can remain stamped if they are going to be transported from Northern Ireland to Great Britain via the Republic of Ireland.

Regulation 98 saves the Tobacco Products Regulations 2001 with some minor modifications so they work as intended in Northern Ireland.

Regulation 99 saves the Excise Goods (Drawback) Regulations 1995. Modifications are made so that claims for drawback can be made in respect of goods that have been transported from Great Britain to Northern Ireland via the EU on presentation of evidence of previous payment of excise duty. The Commissioners are given the power to set out such evidential requirements in a public notice. In addition the Commissioners are given the power to specify the documentation required in respect of claims for drawback after export in a public notice.

Regulation 100 saves the following Regulations:

The Denatured Alcohol Regulations 2005 (S.I. 2005/1524);

The Excise Warehousing (Etc.) Regulations 1988 (S.I. 1988/809);

The Warehousekeepers and Owners of Warehoused Goods Regulations 1999 (S.I. 1999/1278);

The Excise Duty Point (External and Internal Community Transit Procedure) Regulations 1998 (S.I. 1998/202);

The Excise Warehousing (Energy Products) Regulations 2004 (S.I. 2004/2064).

Any public notices referred to in these regulations will be published at: <https://www.gov.uk/government/collections/customs-vat-and-excise-uk-transition-legislation-from-1-january-2021>. A person unable to access the notices 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 HMRC, 100 Parliament Street, London SW1A 2BQ.

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