
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision under the Taxation (Cross-border Trade) 2018 (c. 22), the Value Added Tax Act 1994 (c. 23) and the Finance Act 2003 (c. 14) in relation to the free zone special Customs procedure. A free zone is an area in the United Kingdom designated as a special area for customs purposes under section 100A of the Customs and Excise Management Act 1979 (c. 22) (“CEMA 1979”).

Part 1 makes provision in relation to citation and commencement.

Part 2 makes provision in relation to customs.

Regulation 2 amends the Customs (Import Duty) (EU Exit) Regulations 2018 (S.I. 2018/1248) to:

- specify the circumstances in which a declaration by conduct to a free zone procedure may be made, and how that declaration is to be made; and
- make provision for goods to be presumed not to be domestic goods where they have been removed from a free zone otherwise than in accordance with provision made by these Regulations.

Regulation 3 amends the Customs (Special Procedures and Outward Processing) (EU Exit) Regulations 2018 (S.I. 2018/1249). It makes provision in relation to:

- the authorisations required to declare goods for a free zone procedure or to carry out industrial, service or commercial activities including storing goods in a free zone;
- the requirements of the free zone procedure;
- the conditions attached to authorisations;
- requirements in relation to goods being brought into or removed from a free zone;
- the control of activities in free zones by responsible authorities;
- the determination of liability where processing of goods takes place within a free zone; and
- record keeping requirements applicable to businesses operating in free zones.

Regulation 4 amends the Customs Transit Procedures (EU Exit) Regulations 2018 (S.I. 2018/1258) to provide for goods to be treated as being declared for a free zone procedure where a transit procedure is discharged at the time when the goods are in a free zone and the other requirements set out in the Regulations are met.

Regulation 5 amends the Customs (Export) (EU Exit) Regulations 2019 (S.I. 2019/108) to provide that goods that are exported while they are subject to a free zone procedure and in relation to which an onward export notification or an exit summary declaration is made are deemed to have been made in accordance with a procedure for the purposes of the applicable export provisions.

Regulation 6 amends the Customs (Contravention of a Relevant Rule) Regulations 2003 (S.I. 2003/3113) to provide for penalties in relation to contraventions of the requirements in regulations 2 to 5.

Part 3 makes provision about excise goods in free zones.

Regulation 7 inserts new Part 14A into the Excise Goods (Holding, Movement and Duty Point) Regulations 2010 (S.I. 2010/593) (“the HMDP Regulations”).

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

New regulation 85A contains definitions and provides that Part 14A does not apply in respect of excise goods in Northern Ireland.

New regulation 85B provides that excise goods declared for a Customs free zone procedure or produced in such a procedure are to be kept in warehouses operated by authorised persons (“free zone excise warehouses”). Excise goods must not be kept for more than seventy-two hours other than the person keeping them is authorised to do so under these Regulations.

New regulation 85C provides that applications to operate free zone excise warehouses can be made only as part of an application to carry out activities in a free zone pursuant to the Customs (Special Procedures and Outward Processing) (EU Exit) Regulations 2018. The regulation makes general provisions about the making of such applications.

New regulation 85D makes general provision about the approval of revenue traders who wish to be able to store certain excise goods that they own in free zone excise warehouses and agents for such persons.

New regulation 85E provides if excise goods are deposited, kept, dealt with, removed or destroyed in contravention of the conditions imposed by the Regulations an excise duty point will arise under regulation 6(1)(d) of the HMDP Regulations and sets out who will be liable to pay the excise duty.

New regulations 85F applies Chapter 2 of Part 1 of the Finance Act 1994 (c. 9) to decisions made by HMRC under new Part 14A so that they will be treated in the same way as other decisions made under other excise legislation.

Part 4 makes provision in relation to VAT and free zones.

Regulation 8 inserts a new Group into Schedule 8 to the Value Added Tax Act 1994 to provide for a zero rate for specified supplies of goods and services in a free zone.

Regulation 9 amends regulation 14 of the Value Added Tax Regulations 1995 (S.I. 1995/2518) to provide for additional information to be included in invoices where such supplies are made.

Regulation 10 amends the Free Zone Regulations 1984 (S.I. 1984/1177) to revoke regulation 27, which is obsolete. Insofar as they applied in relation to customs and excise, the remainder of the Free Zones Regulations 1984 have ceased to have effect by virtue of the revocation of the powers under which they were made (sections 100B to 100D and 125 of CEMA 1979).

Any notices that are made under powers created or amended by 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 07824178624, 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>.