
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in order to deal with an error in the Customs and Excise Border Procedures (Miscellaneous Amendments) (EU Exit) Regulations 2021 (S.I. 2021/830) (“the first Regulations”). The first Regulations contained provisions providing for penalties but the correct vires (section 26 of the Finance Act 2003 (c. 14)) were not cited in the preamble. The text of the first Regulations is replicated in these Regulations subject to correction of four minor errors noted below. In addition, three new related penalties are introduced.

Regulation 1 provides for citation and commencement. All the regulations in this instrument will come into force on 1 January 2022 apart from regulation 2 (revocation of the first Regulations), regulation 3(6) (amendment to regulations 130(5) and 131E(5) of the Customs (Import Duty) (EU Exit) Regulations 2018) (S.I. 2018/1248) (“the Import Regulations”) and regulation 4(2) to (6) (amendments to regulations 40, 52, and 53 of the Customs (Export) (EU Exit) Regulations 2019 (S.I. 2019/108)) which will come into force on 22 December 2021.

Regulation 2 revokes the first Regulations.

Regulations 3 to 10 replicate the provisions of the first Regulations with the following changes:

- (a) in regulation 3(3)(c) (previously regulation 2(3)(c) of the first Regulations), the inserted paragraph (2A)(b) is amended to add the words “: making of declarations” to the description of regulation 131 of the Import Regulations;
- (b) in regulation 3(3)(e) (previously regulation 2(3)(e) of the first Regulations) the definition of “approved wharf” in the inserted paragraph (6) is amended so it refers to section “20A” of CEMA rather than section “20(A)” which was incorrect;
- (c) regulations 5(a) inserts the three new penalties into the Customs (Contravention of a Relevant Rule) Regulations 2003 (S.I. 2003/3113). The penalties are for removing goods from an approved wharf or from the Cheriton Channel Tunnel location without being discharged from a free-circulation procedure or approval having been given by an HMRC officer and failing to comply with instructions given by an HMRC officer;
- (d) in regulation 5(e) (previously regulation 4(d) in the first Regulations) the incorrect reference to “subparagraph (b)” is changed to subparagraph (d). This will not affect any of the inserted text but the error was picked up by the Select Committee on Statutory Instruments so the opportunity is being taken to correct it;
- (e) in regulation 8 (previously regulation 7 of the first Regulations), the consequential amendment to regulation 32 of the Customs (Northern Ireland) (EU Exit) Regulations 2020 (S.I. 2020/1605) is corrected so it will now read “13C” rather than “3C” which was incorrect. A stray comma is also removed after the inserted “13E”.

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 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>.