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STATUTORY INSTRUMENTS

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**2020 No. 1624**

**EXITING THE EUROPEAN UNION  
CUSTOMS**

**The Customs Miscellaneous Non-fiscal Provisions  
and Amendments etc. (EU Exit) Regulations 2020**

*Approved by both Houses of Parliament*

*Made - - - - 21st December 2020  
22nd December  
Laid before Parliament 2020  
Coming into force in accordance with regulation 1*

The Commissioners for Her Majesty's Revenue and Customs make these Regulations in exercise of the powers conferred by section 8(1) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018<sup>(1)</sup>.

They consider these Regulations appropriate to prevent, remedy or mitigate (a) any failure of retained EU law to operate effectively, or (b) any other deficiency in retained EU law, in either case arising from the withdrawal of the United Kingdom from the EU.

They declare that they are of the opinion that, by reason of urgency, it is necessary to make these Regulations without a draft of the instrument being laid before, and approved by a resolution of, each House of Parliament.

**Citation and commencement**

1.—(1) These Regulations may be cited as the Customs Miscellaneous Non-fiscal Provisions and Amendments etc. (EU Exit) Regulations 2020.

(2) Subject to paragraph (3) these Regulations come into force on IP completion day.

(3) This paragraph, paragraph (1) and regulation 8 come into force on 31 December 2020.

**Interpretation**

2. In these Regulations—

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(1) 2018 c. 16. Section 20(1) provides that in the Act the Commissioners for Her Majesty's Revenue and Customs are included in the expression "Minister of the Crown". Section 8 was amended by the European Union (Withdrawal Agreement) Act 2020 (c. 1), section 27.

“CEMA 1979” means the Customs and Excise Management Act 1979(2);

“Delegated Regulation” means [Commission Delegated Regulation \(EU\) 2015/2446](#) of 28 July 2015 supplementing [Regulation \(EU\) No 952/2013](#) of the European Parliament and of the Council as regards detailed rules concerning certain provisions of the Union Customs Code(3);

“EU Customs Code” means—

- (a) the UCC,
- (b) the Delegated Regulation, and
- (c) [Commission Implementing Regulation \(EU\) 2015/2447](#) of 24 November 2015 laying down detailed rules for implementing certain provisions of [Regulation \(EU\) No 952/2013](#) of the European Parliament and of the Council laying down the Union Customs Code(4);

“TCTA 2018” means the Taxation (Cross-border Trade) Act 2018(5);

“UCC” means [Regulation \(EU\) No 952/2013](#) of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code(6); and

“vehicle” includes a ship, an aircraft and a railway vehicle.

### Entry summary declarations

3.—(1) This regulation has effect in relation to the movement of goods from Northern Ireland to Great Britain that are subject to a duty of customs under section 30C of TCTA 2018(7).

(2) In relation to anything required to be done under Article 127 of the UCC (entry summary declarations), the EU Customs Code is to be read as if—

- (a) the words “the United Kingdom of” and “and Northern Ireland” were omitted from Article 4(1) of the UCC (customs territory), and
- (b) Article 105(c)(i) of the Delegated Regulation (time-limits for lodging the entry summary declaration in case of transport by sea) included a reference to Northern Ireland.

### Economic operator registration and identification

4.—(1) This regulation has effect in relation to economic operators so far as they are involved in activities that relate to the movement of goods in relation to which regulation 3 has effect.

(2) In relation to anything required to be done under Article 9 of the UCC (registration of economic operators), the EU Customs Code is to be read as if the reference to the Code in the definition of “customs legislation” at Article 5(2)(a) of the UCC were to the Code as modified by these Regulations.

(3) In this regulation “economic operator” has the meaning given by Article 5 of the UCC.

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- (2) [1979 c. 2](#). Relevant amending enactments are the Isle of Man Act [1979 \(c. 58\)](#), section 13 and Schedule 1; Finance Act [1981 \(c. 35\)](#), s10(2) and (4) and Part 1 of Schedule 7; Finance (No. 2) Act [1987 \(c. 51\)](#), section 103(3); Finance (No. 2) Act [1992 \(c. 48\)](#), section 5; and Finance Act [2000 \(c. 17\)](#), section 27. Relevant amending instruments are [S.I. 1991/2724](#), [1992/2095](#), [SI 1992/3095](#), [S.I. 2010/593](#), and [S.I. 2011/1043](#).
  - (3) [EUR 2015/2446](#), as prospectively amended by [S.I. 2019/715](#) and [S.I. 2019/1219](#). Both [S.I. 2019/715](#) and [S.I. 2019/1219](#) are amended prior to their coming into force by [S.I. 2020/1379](#).
  - (4) [EUR 2015/2447](#), as prospectively amended by [S.I. 2019/715](#). [S.I. 2019/715](#) is amended prior to its coming into force by [S.I. 2020/1379](#).
  - (5) [2018 c. 22](#).
  - (6) [EUR 2013/952](#), as prospectively amended by [S.I. 2019/715](#) and [S.I. 2019/1219](#). Both [S.I. 2019/715](#) and [S.I. 2019/1219](#) are amended prior to their coming into force by [S.I. 2020/1379](#).
  - (7) Section 30C is inserted by section 2 of the Taxation (Post-transition Period) Act [2020 \(c. 26\)](#).

## **Application of the Customs Safety and Security (Penalty) Regulations 2019**

5. The Customs Safety and Security (Penalty) Regulations 2019<sup>(8)</sup> apply in relation to anything required to be done by virtue of regulation 3 or 4 as if references to provisions of the EU Customs Code were to those provisions as modified by these Regulations.

## **Application of CEMA 1979**

6.—(1) Where CEMA 1979 applies for a relevant import purpose in relation to goods, it applies in connection with the removal of those goods to Great Britain from Northern Ireland as if—

- (a) references to an importation of goods (however framed) included the entry of goods in Great Britain in the course of a removal of those goods to Great Britain from Northern Ireland,
- (b) references to the arrival of any goods, person or vehicle from a place outside the United Kingdom (however framed) included the arrival of those goods or that person or vehicle in Great Britain,
- (c) references to an exportation of goods (however framed) included the exit of goods from Great Britain that are being removed to Northern Ireland, and
- (d) references to the departure (however framed) of any goods, person or vehicle from the United Kingdom included a departure of those goods or that person or vehicle from Great Britain that is not also a departure from the United Kingdom.

(2) Where CEMA 1979 would have applied for a relevant import purpose in relation to goods before its amendment by Part 2 of Schedule 7 to TCTA 2018<sup>(9)</sup>, it applies in connection with the removal of those goods to Northern Ireland from Great Britain as if—

- (a) it were not amended by that Part of that Schedule,
- (b) references to an importation of goods (however framed) included the entry of goods in Northern Ireland in the course of a removal of those goods to Northern Ireland from Great Britain,
- (c) references to the arrival of any goods, person or vehicle from a place outside the United Kingdom (however framed) included the arrival of those goods or that person or vehicle in Northern Ireland,
- (d) references to an exportation of goods (however framed) included the exit of goods from Northern Ireland that are being removed to Great Britain,
- (e) references to the departure (however framed) of any goods, person or vehicle from the United Kingdom included a departure of those goods or that person or vehicle from Northern Ireland that is not also a departure from the United Kingdom,
- (f) references to “the customs territory of the European Union” were to “Northern Ireland or the customs territory of the European Union”,
- (g) in section 63(1) and (2), after “place outside” there were inserted “Northern Ireland and” (and the reference to “those States” in section 63(1) included Northern Ireland),
- (h) in section 78(1B)—
  - (i) in the words before paragraph (a), for “another” there were substituted “a”, and
  - (ii) in paragraphs (a) and (b)(ii), after “place outside” there were inserted “Northern Ireland and”,

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<sup>(8)</sup> [S.I. 2019/121](#), as amended by [S.I. 2019/715](#).

<sup>(9)</sup> Part 2 of Schedule 7 is amended by the Taxation (Post-transition Period) Act 2020 (c. 26).

- (i) in section 92(4)(a) and (b), before “member States” there were inserted “Northern Ireland or the”,
- (j) in section 157(1A) and (2)(a), the words “other than the United Kingdom” were omitted,
- (k) the following references to the United Kingdom were to Northern Ireland—
  - (i) the references in the definitions of “Community transit goods” and “transit or transhipment” in section 1(1),
  - (ii) the references in sections 36(1), 55(4)(a), 63(2) to (4), 74, 78(1)(a) and (b), 96(4) and 134(2),
  - (iii) the reference in the words after paragraph (b) of section 58C(3),
  - (iv) the second reference in sections 67(1) and 78(2A),
  - (v) the first reference in sections 69(1) and 70(3), and
- (l) the following were omitted—
  - (i) sections 21(8), 35(9), 61(9), 63(7), 70(5), 74(5) and 78(1A),
  - (ii) the words after paragraph (b) of the definition of “Community transit goods” in section 1,
  - (iii) the words “and the Isle of Man” in sections 34(1), 36(1), 53(1), 64(1) and 66(1)(a) and (d),
  - (iv) the words “or the Isle of Man” in section 43(5),
  - (v) the words “or between a place in the United Kingdom and a place in the Isle of Man” in section 69(1) and (3), and
  - (vi) the words “Subject to subsection (1A) above,” in section 78(2A).
- (3) Where CEMA 1979 applies for a relevant export purpose in relation to goods, it applies in connection with the removal of those goods to Northern Ireland from Great Britain as if—
  - (a) references to an exportation of goods (however framed) included the exit of goods from Great Britain that are being removed to Northern Ireland,
  - (b) references to the departure (however framed) of any goods, person or vehicle from the United Kingdom included a departure of those goods or that person or vehicle from Great Britain that is not also a departure from the United Kingdom,
  - (c) references to an importation of goods (however framed) included the entry of goods in Great Britain in the course of a removal of those goods to Great Britain from Northern Ireland, and
  - (d) references to the arrival of any goods, person or vehicle from a place outside the United Kingdom (however framed) included the arrival of those goods or that person or vehicle in Great Britain.
- (4) Where CEMA 1979 would have applied for a relevant export purpose in relation to goods before its amendment by Part 2 of Schedule 7 to TCTA 2018, it applies in connection with the removal of those goods to Great Britain from Northern Ireland as if—
  - (a) it were not amended by that Part of that Schedule,
  - (b) references to an exportation of goods (however framed) included the exit of goods from Northern Ireland that are being removed to Great Britain,
  - (c) references to the departure (however framed) of any goods, person or vehicle from the United Kingdom included a departure of those goods or that person or vehicle from Northern Ireland that is not also a departure from the United Kingdom,

- (d) references to an importation of goods (however framed) included the entry of goods in Northern Ireland in the course of a removal of those goods to Northern Ireland from Great Britain,
- (e) references to “the customs territory of the European Union”, other than the reference in section 21(2), were to “Northern Ireland or the customs territory of the European Union”,
- (f) in section 63(1) and (2), after “place outside” there were inserted “Northern Ireland and” (and the reference to “those States” in section 63(1) included Northern Ireland,
- (g) in section 78(1B)—
  - (i) in the words before paragraph (a), for “another” there were substituted “a”, and
  - (ii) in paragraphs (a) and (b)(ii), after “place outside” there were inserted “Northern Ireland and”,
- (h) in section 92(4)(a) and (b), before “member States” there were inserted “Northern Ireland or the”,
- (i) in section 157(1A) and (2)(a), the words “other than the United Kingdom” were omitted,
- (j) the following references to the United Kingdom were to Northern Ireland—
  - (i) the references in the definitions of “Community transit goods” and “transit or transshipment” in section 1(1),
  - (ii) the references in sections 36(1), 55(4)(a), 63(2) to (4), 74, 78(1)(a) and (b), 96(4) and 134(2),
  - (iii) the reference in the words after paragraph (b) of section 58C(3),
  - (iv) the second reference in sections 67(1) and 78(2A),
  - (v) the first reference in sections 69(1) and 70(3), and
- (k) the following were omitted—
  - (i) sections 21(8), 35(9), 61(9), 63(7), 70(5), 74(5) and 78(1A),
  - (ii) the words after paragraph (b) of the definition of “Community transit goods” in section 1,
  - (iii) the words “and the Isle of Man” in sections 34(1), 36(1), 53(1), 64(1) and 66(1)(a) and (d),
  - (iv) the words “or the Isle of Man” in section 43(5),
  - (v) the words “or between a place in the United Kingdom and a place in the Isle of Man” in section 69(1) and (3), and
  - (vi) the words “Subject to subsection (1A) above,” in section 78(2A).
- (5) In this regulation—
  - “relevant import purpose”, in relation to goods, means the purpose of the enforcement of any prohibition or restriction, other than a prohibition or restriction connected with any duty of customs or excise or value added tax, for the time being in force under or by virtue of any enactment with respect to the importation of those goods;
  - “relevant export purpose”, in relation to goods, means the purpose of the enforcement of any prohibition or restriction, other than a prohibition or restriction connected with any duty of customs or excise or value added tax, for the time being in force under or by virtue of any enactment with respect to the exportation of those goods.

### **Application of Part 1 of the Finance Act 1994**

7.—(1) Where Part 1 of the Finance Act 1994<sup>(10)</sup> would have applied for a relevant export purpose in relation to goods before its amendment by Part 3 of Schedule 7 to TCTA 2018, it applies in connection with the removal of those goods to Great Britain from Northern Ireland as if—

- (a) the amendments made by that Part of that Schedule, other than the amendments made by paragraphs 144(b) and 145(3)(d), (f) and (i), were not made,
- (b) references to an exportation of goods (however framed) included the exit of goods from Northern Ireland that are being removed to Great Britain, and
- (c) any reference to the Community Customs Code were to provisions contained in “customs legislation” within the meaning of [Regulation \(EU\) No 952/2013](#) of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (see Article 5(2) of that Regulation), as they have effect as a result of section 7A of the European Union (Withdrawal) Act 2018<sup>(11)</sup>.

(2) In this regulation “relevant export purpose” has the meaning given by regulation 6(5).

### **Amendment of the Statistics of Trade (Amendment etc.) (EU Exit) Regulations 2019**

8.—(1) The Statistics of Trade (Amendment etc.) (EU Exit) Regulations 2019<sup>(12)</sup> are amended as follows.

- (2) In regulation 2(1), after “3330/91” insert “(“the establishing Regulation”)”.
- (3) After regulation 3(2)(e) insert—
  - “(f) in paragraph 8, omit each “the statistical territory of””.
- (4) In regulation 5(1)(n), before “of arrival and dispatch” insert “Member States”.
- (5) After regulation 6(10) insert—
  - “(11) In relation to a dispatch from, or an arrival to, a place in Northern Ireland—
    - (a) the amendments made by paragraphs (2), (3), (4), (5)(a) and (b) and (8) do not apply; and
    - (b) in regulation 2(2)(c), omit “other”.”.
- (6) Omit regulation 12(1)(r).

### **Miscellaneous**

9. Regulation 1(3) of the Customs Safety and Security Procedures (EU Exit) Regulations 2019<sup>(13)</sup> is revoked.

10. Regulation 1(4) of the Customs Safety, Security and Economic Operators Registration and Identification (Amendment etc.) (EU Exit) Regulations 2020<sup>(14)</sup> is revoked.

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<sup>(10)</sup> 1994 c. 9, as variously amended since its enactment.

<sup>(11)</sup> 2018 c. 16. Section 7A was inserted by section 5 of the European Union (Withdrawal Agreement) Act 2020 (c. 1).

<sup>(12)</sup> S.I. 2019/47.

<sup>(13)</sup> S.I. 2019/715, which is amended prior to coming into force by S.I. 2020/1379.

<sup>(14)</sup> S.I. 2020/1379.

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

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21st December 2020

*Justin Holliday*  
*Jim Harra*  
Two of the Commissioners for Her Majesty's  
Revenue and Customs

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations are made in exercise of the powers conferred by section 8(1) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018 (c. 16) in order to address failures of retained EU law to operate effectively and other deficiencies arising from the withdrawal of the United Kingdom from the European Union.

Regulations 3 and 4 make modifications to the application of legislation in the field of customs safety and security procedures, including about the registration of businesses, to ensure that the legislation continues to operate much as before in the context of the United Kingdom no longer being a member of the European Union, taking account of the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement.

Regulation 5 ensures that the appropriate penalties attach to breaches of the legislation applied by regulations 3 and 4.

Regulation 6 makes provision about how the Customs and Excise Management Act 1979 (c. 2) is to apply to the movement of goods, people and vehicles from Northern Ireland to Great Britain and from Great Britain to Northern Ireland for the purposes of the enforcement of any prohibition or restriction in force relating to the goods being moved.

Regulation 7 makes similar provision in relation to Part 1 of the Finance Act 1994 (c. 9) to ensure that this legislation can operate effectively in relation to goods being moved from Northern Ireland to Great Britain.

Regulation 8 makes amendments to legislation in the field of trade statistics. It amends legislation about the Intrastat system (trade in goods between the United Kingdom and members of the EU). This enables HM Revenue and Customs to collect and process trade statistics on the same basis as before the United Kingdom exited the EU, taking account of the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement.

Regulations 9 and 10 revoke provisions of the Customs Safety and Security Procedures (EU Exit) Regulations 2019 (S.I. 2019/715) and the Customs Safety, Security and Economic Operators Registration and Identification (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1379) relating to movements of goods between Ireland and Northern Ireland as these are no longer required under the Protocol.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.