

*This Statutory Instrument has been made in consequence of defects in S.I. 2018/1248, S.I. 2018/1249, S.I. 2018/1258, S.I. 2018/1264, S.I. 2019/108, S.I. 2019/326 S.I., S.I. 2019/450 and 2019/486 and is being issued free of charge to all known recipients of those Statutory Instruments.*

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STATUTORY INSTRUMENTS

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**2019 No. 1346**

**EXITING THE EUROPEAN UNION**

**CUSTOMS**

**VALUE ADDED TAX**

**The Taxation (Cross-border Trade) (Miscellaneous Provisions)  
(EU Exit) (No. 2) Regulations 2019**

*Made* - - - - *14th October 2019*

*Laid before the House of Commons* *15th October 2019*

*Coming into force in accordance with regulation 1*

The Treasury, in exercise of the powers conferred by sections 24(3) and 26(1) of the Finance Act 2003<sup>(a)</sup> and sections 23(3) and (7), 32(7), (8), (10) and (13), 33(4), (5) and (8), 34(5), 35(2) to (4), 36(8) and (9), 51(1) and (3), 52(2) and (5), and 56 (1) and (4) of, and paragraphs 1(7) and (8), 3(1) and (5), 5(1) and (2), 6(1) and (2), and 9(1) of Schedule 1, paragraphs 5(1)(b), 6(1), 7 and 23(1) of Schedule 2, and paragraphs 10 and 11 of Schedule 6, and paragraph 1(3)(c) of Schedule 7 to, the Taxation (Cross-border Trade) Act 2018<sup>(b)</sup>, make the following regulations.

In accordance with section 52(2) of the Taxation (Cross-border Trade) Act 2018, the Treasury consider it appropriate in consequence of, or otherwise in connection with, the withdrawal of the United Kingdom from the EU, that provisions of these Regulations come into force on such day as the Treasury may appoint by regulations under section 52 of that Act.

In accordance with section 56(1) of the Taxation (Cross-border Trade) Act 2018, the Treasury consider it appropriate to make regulation 11 in consequence of that Act.

In accordance with section 51(1) and 52(5) of the Taxation (Cross-border Trade) Act 2018, The Treasury consider regulations 2, 4, 5 and 10 appropriate in consequence of, or otherwise in connection with, the withdrawal of the United Kingdom from the EU.

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(a) 2003 c. 14. Section 24 is cited for the meaning of “prescribed” and “relevant tax or duty”.

(b) 2018 c. 22. The Treasury is the appropriate Minister for the purposes of sections 51(1) and 56(1) by virtue of section 51(4)(b) and section 56(5)(b) respectively.

## Citation and commencement

1.—(1) These Regulations may be cited as the Taxation (Cross-border Trade) (Miscellaneous Provisions) (EU Exit) (No. 2) Regulations 2019.

(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 regulations come into force on 31st October 2019—

- (a) regulation 2(9);
- (b) regulations 9; and
- (c) regulation 10(1) and (3).

(4) This regulation and regulation 2(1) and (16) to (18) come into force on 16th October 2019.

## Amendment of the Customs (Import Duty) (EU Exit) Regulations 2018

2.—(1) The Customs (Import Duty) (EU Exit) Regulations 2018(a) are amended as follows.

(2) In regulation 2 (interpretation) after the definition of “the UCC”, insert—

““universal service provider” means either—

(a) a “designated operator” within the meaning given in the Constitution of the Universal Postal Union done at Vienna on 10 July 1964, as amended by the Additional Protocols(b), but limited to the circumstances where those designated operators are acting—

- (i) within the member country that designated them as such; and
- (ii) in accordance with the UP Convention; or

(b) an operator designated by HMRC in a public notice made under paragraph 1(1) of Schedule 5 to the Customs Transit Procedures (EU Exit) Regulations 2018(c).

“UP Convention” means the Universal Postal Convention, as most recently done at Istanbul on 6 October 2016 and in Addis Ababa on 7 September 2018, and any Regulations made under it(d).”.

(3) In regulation 4 (notification of importation)—

(a) in paragraph (1), in the words before sub-paragraph (a)

- (i) omit the first “and”;
- (ii) after “(3AA)” insert “ and (3AB)”;

(b) after paragraph (3AA)(e) insert—

“(3AB) Where—

- (a) regulation 131C (unaccompanied goods: making of declarations) applies; and
- (b) a Customs declaration has been made in respect of the goods in accordance with that regulation,

the person who made the Customs declaration in respect of the goods is deemed to have notified HMRC in accordance with paragraphs (1) and (3) at the time the goods are treated

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(a) S.I. 2018/1248. Relevant amending instruments are S.I. 2019/108, 2019/326, 2019/486 and 2019/1215.

(b) Available from: <http://www.upu.int/en/the-upu/acts-of-the-union-and-other-decisions/permanent-acts.html>. A hard copy is available for inspection free of charge by arrangement at the offices of HMRC at 100 Parliament Street, London, SW1A 2BQ. The definition of “designated operator” was inserted by Article II of the Ninth Additional Protocol done at Istanbul on 6 October 2016.

(c) S.I. 2018/1258, relevant amending instruments are S.I. 2019/326, 2019/486 and 2019/1215. Schedule 5 is inserted by regulation 5(5) of these regulations.

(d) Available from: <http://www.upu.int/en/the-upu/acts-of-the-union-and-other-decisions/acts-of-current-cycle.html>. A hard copy is available for inspection free of charge by arrangement at the offices of HMRC at 100 Parliament Street, London, SW1A 2BQ.

(e) Paragraph (3AA) will be inserted by regulation 11(3)(c) of S.I. 2019/1215.

as being imported into the United Kingdom under article 5(2)(c) of the Channel Tunnel (Customs and Excise) Order 1990(a).”;

- (c) in paragraph (3B)(b) for “(3A) or (3AA)”, in both places it occurs, substitute “(3A), (3AA) or (3AB)”;
  - (d) in paragraph (3C)(a)(c) for “(3A) or (3AA)” substitute “(3A), (3AA) or (3AB)”.
- (4) After regulation 6 (no requirement to present on import: temporary unloading) insert—

**“No requirement to present goods on import: goods that are not unloaded**

**6A.** There is no requirement to present goods to Customs on import where the goods are not unloaded from the vessel or aircraft on which they are imported.”.

- (5) In regulation 16(c) (goods excluded from sections 2 to 4) after “22(4)” insert “or 22(4A)”.
- (6) In regulation 22 (Customs declarations made in paper form)—
- (a) in paragraph (4)—
    - (i) in the opening words omit “or a temporary admission procedure”;
    - (ii) in sub-paragraph (a) before “carnet” insert “TIR”;
  - (b) after paragraph (4) insert –

“(4A) Subject to paragraph (4B), a person may make a Customs declaration for a free-circulation procedure, a transit procedure or a temporary admission procedure by means of—

    - (a) an ATA Carnet; or
    - (b) a CPD carnet.

(4B) An ATA carnet must not be used to declare goods submitted to a universal service provider.”;
  - (c) for paragraph (5) substitute—

“(5) In this regulation—

    - (a) “ATA carnet” means a document so described in—
      - (i) the ATA Convention; or
      - (ii) the Istanbul Convention,where the form of the carnet corresponds to that provided by the version of the relevant convention which is current at the time the declaration is made;
    - (b) “consignment note” means a document as so described in Appendix B (Uniform Rules concerning the Contract of International Carriage of Goods by Rail) to the Convention concerning International Carriage by Rail of 9 May 1980 in the versions of the Modification Protocol of 3 June 1999 (d);
    - (c) “CPD carnet” means a document so described in the Istanbul Convention where the form of the carnet corresponds to that provided by the version of the relevant convention which is current at the time the declaration is made;
    - (d) “manifest” has the meaning in paragraph 42 of Schedule 1 to the Customs Transit Procedures (EU Exit) Regulations 2018;
    - (e) “TIR Carnet” means a document so described in the TIR Convention where the form of the carnet conforms to the model provided by the version of the relevant convention which is current at the time the declaration is made.”.

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(a) S.I. 1990/2167. Relevant amending instruments are S.I. 1993/1813 and 1994/1405.

(b) Paragraph (3B) will be inserted by regulation 8(c) of S.I. 2019/326 and amended by regulation 11(3)(d) of S.I. 2019/1215.

(c) Paragraph (3C) will be inserted by regulation 8(c) of S.I. 2019/326 and amended by regulation 11(3)(e) of S.I. 2019/1215.

(d) Available electronically from [https://otif.org/fileadmin/user\\_upload/otif\\_verlinkte\\_files/07\\_veroeff/01\\_COTIF\\_80/cotif-cim-1980-e.PDF](https://otif.org/fileadmin/user_upload/otif_verlinkte_files/07_veroeff/01_COTIF_80/cotif-cim-1980-e.PDF). A hard copy is available for inspection by arrangement at the offices of HMRC at 100 Parliament Street, London, SW1A 2BQ.

- (7) In regulation 26 (free-circulation procedure: posted goods)—
- (a) in paragraph (1) for “the postal system” substitute “a universal service provider”;
  - (b) in paragraph (2) for “the postal system” substitute “the universal service provider”;
  - (c) in paragraph (3) for “the postal system” substitute “the universal service provider”.
- (8) In regulation 29 (Customs declarations made by conduct: notification, acceptance and discharge) in paragraph (3)—
- (a) for “the postal system” substitute “a universal service provider”;
  - (b) omit sub-paragraph (a).
- (9) In regulation 36 (EIDR procedure) for paragraph (2)(c)(a) substitute—
- “(c) a declaration for the free-circulation procedure or an authorised use procedure where, were the declaration made and accepted, the goods would be subject to the suspension of excise duty; or”.
- (10) In regulation 37A (persons authorised to use the simplified Customs declaration process and EIDR procedure – transitional authorisations)—
- (a) in paragraph (5)(b) for “is approved to defer payment of any such liability to import duty in accordance with regulation 43” substitute “has a satisfactory payment arrangement in place”;
  - (b) after paragraph (5)(b) insert—
    - “(ba) the transitional authorised declarant may only use the simplified Customs declaration process to declare goods which are subject to excise duty if the transitional authorised declarant has an excise duty payment arrangement in place that is specified in a notice published by HMRC Commissioners;”;
  - (c) for paragraph (10) substitute—

“(10) In this regulation a “satisfactory payment arrangement” is in place if the transitional authorised declarant has—

    - (a) an approved guarantee for the payment of import duty in relation to the goods; or
    - (b) a payment arrangement that is specified in a public notice published under paragraph 17 of Schedule 1 to the Act.
- (11) In this regulation—
- “excise duty” has the same meaning as in section 49 of the Act;
  - “transit procedure” has the same meaning as it does for the purposes of the UCC.”.
- (11) In regulation 61(3)(b) (inspection of goods) after “inward processing” insert “, transit”.
- (12) In regulation 62(6)(c) (determination to grant applications) after “inward processing” insert “, transit”.
- (13) In regulation 65(3) (where rejection or refusal is required) after “inward processing” insert “, transit”.
- (14) In regulation 67(2)(a)(iii) (defective and non-compliant chargeable goods: required conditions)—
- (a) for “placed under” substitute “declared for”;
  - (b) after “inward processing” insert “, transit”.
- (15) After regulation 67 (defective and non-compliant chargeable goods: required conditions) insert—

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(a) The relevant amendment in S.I. 2019/486 will be omitted by regulation 9(2)(b) of these Regulations.

### **“Goods which cease to be chargeable goods**

**67A.**—(1) Subject to paragraph (3), goods are to be regarded as chargeable goods from the date of the determination to grant an application (in whole or in part) where—

- (a) it is a condition of the determination that the goods be declared for an inward processing, transit or storage procedure; and
- (b) the goods stated in the application have ceased to be chargeable goods.

(2) Subject to paragraph (4), goods are to be regarded as chargeable goods from the date any consent is given by HMRC under regulation 62(6)(c) where—

- (a) a request has been made under regulation 62(6)(c); and
- (b) the goods stated in the application have ceased to be chargeable goods.

(3) Paragraph (1) does not apply where—

- (a) a notification under regulation 64(4)(a) is issued; or
- (b) the determination is treated as null and void in accordance with regulation 69(2).

(4) Paragraph (2) does not apply where—

- (a) HMRC rejects the application under regulation 63;
- (b) HMRC determines to refuse the application under regulation 64; or
- (c) the determination is treated as null and void in accordance with regulation 69(2).”.

(16) In regulation 85 (application for approval)—

- (a) at the beginning of paragraph (1) for “Any” substitute “Subject to paragraph (3), any”;
- (b) after paragraph (2) insert—

“(3) Paragraph (1) does not apply in relation to any case of a type specified in a notice published by HMRC.

(4) In a case of a type specified in a notice under paragraph (3) a person may make an application for approval in accordance with this Part unless prohibited by regulation 86.”.

(17) In regulation 89 (grant or refusal of an application for approval)—

- (a) after paragraph (3) insert—

“(3A) Where—

- (a) an application is not required by virtue of regulation 85(3); and
- (b) HMRC has granted an approval in relation to a person who has not made an application,

HMRC must notify the person of the approval.”;

- (b) in paragraph (4), in the words before sub-paragraph (a), omit “application for”.

(18) In regulation 90 (notification of HMRC of change of circumstances relating to an approval)—

- (a) at the end of paragraph (b) omit “or”;
- (b) after paragraph (b) insert—

“(ba) in a case where HMRC has granted an approval in relation to a person who has not made an application, there are any material changes since the approval was granted concerning any matter specified in a notice published by HMRC Commissioners; or”;

- (c) at the beginning of paragraph (c) insert “in any other case,”.

(19) In regulation 101(2) (cases where no guarantee is required) omit the definition of “universal service provider”.

(20) In regulation 102(1), for sub-paragraph (b) substitute—

“(b) are itemised in a travel document issued in the United Kingdom which specifies the destination of the goods, and”.

(21) In regulation 131(1)(b)(ii) (chargeable goods carried by RoRo vehicles destined for RoRo listed locations: making of declarations) omit the words “an entity designated as” and “under section 35(1) of the Postal Services Act 2011”.

(22) After regulation 131A (chargeable goods subject to an EU customs procedure: making of declarations)(a) insert—

## “PART 13B

### Unaccompanied goods

#### **Unaccompanied goods**

**131B.**—(1) Regulation 131C applies to goods which are—

- (a) unaccompanied goods;
- (b) chargeable goods to be imported;
- (c) not intended to be offered for sale on board the train; and
- (d) to be imported on a through train which has St Pancras International train station as its ultimate destination.

(2) In this Part—

“through train” has the meaning given in Schedule 1 to the Channel Tunnel (International Arrangements) Order 1993**(b)**; and

“unaccompanied goods” means goods which will not accompany an individual when arriving in the United Kingdom, but does not include goods—

- (a) which will be carried on the same train as the individual; and
- (b) of which the operator of the train will have possession or control.

#### **Unaccompanied goods: making of declarations**

**131C.**—(1) A Customs declaration or a temporary storage declaration must be made in respect of the goods by the time the goods are loaded on to the through train.

(2) The Customs declaration or temporary storage declaration must not be amended or withdrawn by the declarant after that time without the consent of an HMRC officer.

(3) Paragraph (4) applies to a person who is responsible for providing the service of operating a through train onto which the goods are loaded.

(4) When required to do so by an HMRC officer, the person must produce to the officer evidence that the person took reasonable steps to ensure that paragraph (1) had been, or would be, complied with in respect of the goods.

(5) A requirement referred to in paragraph (4) to produce evidence may be made, and evidence may be required to be provided, before the goods are treated as being imported into the United Kingdom under article 5(2)(c) of the Channel Tunnel (Customs and Excise) Order 1990.

(6) The evidence provided must be of a type, and in a form, as specified in a notice published by HMRC.”.

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(a) Regulation 131A was inserted by regulation 11(23) of S.I. 2019/1215.

(b) S.I. 1993/1813, to which there are amending instruments, but none is relevant.

### **Amendment of the Customs (Special Procedures and Outward Processing) (EU Exit) Regulations 2018**

**3.**—(1) The Customs (Special Procedures and Outward Processing) (EU Exit) Regulations 2018(a) are amended as follows.

(2) In regulation 47 (treatment of equivalent goods)—

(a) in paragraph (4) for “Paragraph (5) applies” substitute “Paragraphs (5) and (6) apply”;

(b) in paragraph (6) for “paragraph (5)” substitute “this paragraph”;

(c) after paragraph (6) insert—

“(7) Paragraph (8) applies where—

(a) there is a declaration of goods for a temporary admission procedure; and

(b) the requirements in relation to the procedure are to be met by reference to equivalent domestic goods in accordance with these Regulations.

(8) Where this paragraph applies, the goods are to be regarded as domestic goods from the date on which the goods are treated as discharged from the temporary admission procedure under paragraph (5) or (6).”.

### **Amendments of the Wharves and Temporary Storage Facilities (Approval Condition and Transitional Provision) (EU Exit) Regulations 2018**

**4.**—(1) The Wharves and Temporary Storage Facilities (Approval Condition and Transitional Provision) (EU Exit) Regulations 2018(b) are amended as follows.

(2) In regulation 3 (transitional provision for wharves and temporary storage facilities) revoke paragraphs (4) and (5).

### **Amendment of the Customs Transit Procedures (EU Exit) Regulations 2018**

**5.**—(1) The Customs Transit Procedures (EU Exit) Regulations 2018(c) are amended as follows.

(2) For regulation 4 (United Kingdom transit procedure) substitute—

“**4.**—(1) Schedule 3 has effect and makes provision for a United Kingdom transit procedure.

(2) Where Part 4 of Schedule 3 applies, that Schedule has effect for the purpose of the United Kingdom giving effect to—

(a) the Customs Convention on the “A.T.A. Carnet” for the temporary admission of goods done at Brussels on 6 December 1961(d); and

(b) the Convention on Temporary Admission done at Istanbul on 26 June 1990(e).

(3) Part 4 of Schedule 3 must be interpreted and applied consistently with, and so as to give proper effect to, those Conventions in relation to goods declared for a United Kingdom transit procedure.”.

(3) After regulation 5 (North Atlantic Treaty procedure), insert—

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(a) S.I. 2018/1249. The relevant amending instrument is S.I. 2019/1215.

(b) S.I. 2018/1264.

(c) S.I. 2018/1258. Relevant amending instruments are S.I. 2019/486 and 2019/1215.

(d) Available electronically from: [http://www.wcoomd.org/-/media/wco/public/global/pdf/about-us/legal-instruments/conventions-and-agreements/ata/pf\\_ata\\_conv\\_text.pdf?la=en](http://www.wcoomd.org/-/media/wco/public/global/pdf/about-us/legal-instruments/conventions-and-agreements/ata/pf_ata_conv_text.pdf?la=en). A hard copy is available for inspection free of charge by arrangement at the offices of HMRC at 100 Parliament Street, London, SW1A 2BQ.

(e) Available electronically from [http://www.wcoomd.org/-/media/wco/public/global/pdf/about-us/legal-instruments/conventions-and-agreements/istanbul/istanbul\\_legal\\_text\\_eng.pdf?la=en](http://www.wcoomd.org/-/media/wco/public/global/pdf/about-us/legal-instruments/conventions-and-agreements/istanbul/istanbul_legal_text_eng.pdf?la=en). A hard copy is available for inspection free of charge at the offices of HMRC at 100 Parliament Street, London, SW1A 2BQ.

## “Postal transit procedure

6.—(1) Schedule 5 has effect and makes provision for a postal transit procedure in relation to goods moving to, from or within the United Kingdom in accordance with the Universal Postal Convention, as most recently done at Istanbul on 6 October 2016 and in Addis Ababa on 7 September 2018, and any Regulations made under it.

(2) That Schedule must be interpreted and applied consistently with, and so as to give proper effect to, that Convention in relation to goods moving to, from or within the United Kingdom subject to the postal transit procedure.”

(4) In Schedule 3 (the United Kingdom transit procedure)—

(a) for paragraph 2(e) (general) substitute—

“(e) the holder of the UK transit procedure is—

- (i) the person who declares the goods in question for that procedure;
- (ii) the person on whose behalf the declaration is made; or
- (iii) the holder of the carnet where a declaration is made in accordance with regulation 22(4A)(a) (Customs declarations made in paper form) of the Customs (Import Duty) (EU Exit) Regulations 2018(b).”;

(b) in paragraph 3(b) (general) replace “.” with “;”;

(c) after paragraph 3(b) (general) insert—

“(c) “the ATA Convention” means the Customs Convention on the “A.T.A. Carnet” for the temporary admission of goods done at Brussels on 6 December 1961;

(d) “the Istanbul Convention” means the Convention on Temporary Admission done at Istanbul on 26 June 1990;

(e) a “carnet” is a document so described in—

- (i) the ATA Convention and
- (ii) the Istanbul Convention,

where the form of the carnet corresponds to that provided by the version of the relevant convention which is current at the time the declaration is made.”;

(d) in paragraph 4 (formalities for a UK transit procedure)—

(i) for sub-paragraph (2) substitute—

“(2) Subject to sub-paragraph (2A), the goods covered by the declaration must be presented to HMRC at the Customs office of departure.

(2A) Sub-paragraph (2) does not apply where—

- (a) the declarant is an authorised consignor; and
- (b) the declaration is not made by means of a carnet under regulation 22(4A) (customs declarations made in paper form) of the Customs (Import Duty) (EU Exit) Regulations 2018 (c).”;

(ii) in sub-paragraph (4) for “Provision” substitute “Subject to sub-paragraph (4A), provision”;

(iii) after sub-paragraph (4) insert—

“(4A) Sub-paragraph (4) does not apply where the declaration is made by means of a carnet under regulation 22(4A) (customs declarations made in paper form) of the Customs (Import Duty) (EU Exit) Regulations 2018.”;

(e) after Part 3 (general provision for the purposes of this Schedule) insert—

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(a) Regulation 22(4A) will be inserted by regulation 2(6)(b) of these Regulations.

(b) S.I. 2018/1248. Relevant amending instruments are S.I. 2019/108, 2019/326, 2019/486 and 2019/1215.

(c) S.I. 2018/1248.



## “PART 4

### Modification where declaration made by carnet

**14.** This Part applies where a Customs declaration for the UK transit procedure is made by means of a carnet under regulation 22(4A) (customs declarations made in paper form) of the Customs (Import Duty) (EU Exit) Regulations 2018.

**15.** Where this Part applies paragraphs 5 to 13 do not apply.

**16.** For the purposes of this Part—

- (a) Schedule 1, paragraph 58(1)(d) and (f) applies;
- (b) a transit operation ends—
  - (i) on the completion of the certificate of discharge contained in the carnet by the relevant Customs authority at the customs office of destination; or
  - (ii) when the goods are exported from the United Kingdom or the Isle of Man;
- (c) “Customs obligation” has the meaning in regulation 2 of the Customs (Import Duty) (EU Exit) Regulations 2018.

### Requirements of the UK transit procedure – carnets

**17.** The holder of the procedure and any representative named in the carnet must comply with—

- (a) the conditions set out in the carnet; and
- (b) any Customs obligation imposed in relation to the goods.

**18.** Where it is a condition of the carnet that the transit operation ends within a certain time-limit and the transit operation ends after the expiry of that time-limit the condition is deemed to be met where the holder of the procedure or the representative named in the carnet proves to the satisfaction of HMRC that the delay is not attributable to the holder or the representative.

**19.** The carnet must be valid during the period from when the goods are declared to the UK transit procedure until the transit operation ends.

**20.** If a transit operation ends under paragraph 16(b)(i) the goods must be, without delay—

- (a) exported; or
- (b) declared for another Customs procedure.

### Discharge of the UK transit procedure – carnets

**21.** The UK transit procedure is discharged when the goods are exported from the United Kingdom or the Isle of Man where the procedure has not already been discharged under paragraph 18(2) of Schedule 2 to the TCTA.”.

(5) After Schedule 4, insert—

## “SCHEDULE 5

Regulation 6

### The postal transit procedure

#### General

**1.**—(1) In this Schedule—

“public notice” refers to one that may be published for the purposes in question by the Commissioners for Her Majesty’s Revenue and Customs having regard to those purposes, and in such manner as they consider appropriate for those purposes;

“universal service provider” means either—

- (a) a “designated operator” within the meaning given in the Constitution of the Universal Postal Union done at Vienna on 10 July 1964, as amended by the Additional Protocols, but limited to the circumstances where those designated operators are acting—
  - (i) within the member country that designated them as such; and
  - (ii) in accordance with the UP Convention; or
- (b) an operator so designated by HMRC in a public notice;

“UP Convention” means the Universal Postal Convention, as most recently done at Istanbul on 6 October 2016 and in Addis Ababa on 7 September 2018, and any Regulations made under it.

(2) A public notice in sub-paragraph (1) may be amended, revoked or replaced by a further public notice.

(3) Stipulations in the public notice have effect as if made in these Regulations.

**2.** Chargeable goods that are submitted to a universal service provider are deemed to be declared for a transit procedure<sup>(a)</sup> (“the postal transit procedure”) if—

- (a) the goods are presented to Customs on import<sup>(b)</sup>; and
- (b) the conditions set out in paragraph 3 are fulfilled.

**3.** The conditions are—

- (a) the goods are addressed to a recipient outside the United Kingdom; and
- (b) the goods will merely pass through places within the United Kingdom before arriving at their ultimate destination outside the United Kingdom.

### **Requirements of the postal transit procedure**

**4.** Where goods are deemed to be declared for the postal transit procedure under paragraph 2, the following requirements apply—

- (a) the goods must only pass through places within the United Kingdom before arriving at their ultimate destination outside the United Kingdom;
- (b) the goods must be transported by or on behalf of a universal service provider;
- (c) the goods must be transported in compliance with any relevant conditions imposed by the UP Convention; and
- (d) the goods must be transported in compliance with any conditions imposed by a public notice.

### **Discharge of the postal transit procedure**

**5.** The postal transit procedure is discharged when the goods leave the United Kingdom where the procedure has not already been discharged under TCTA Schedule 2, paragraph 18(2).”.

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(a) The meaning of “goods declared for “a transit procedure”” is given in paragraph 5(1) of Schedule 2 to the Taxation (Cross-Border Trade) Act 2018 (c. 22) (“the Act”).

(b) Section 34(1) of the Act defines “presented to Customs on import”.

## **Amendment of the Customs (Contravention of a Relevant Rule) (Amendment) (EU Exit) Regulations 2018**

6.—(1) The Customs (Contravention of a Relevant Rule) (Amendment) (EU Exit) Regulations 2018(a) are amended as follows.

(2) In regulation 5(17), under the heading “**Authorisations and Approvals**”, in the entry for regulation 90 of the Customs (Import Duty) (EU Exit) Regulations 2018, after “changes to the information” insert “specified in a notice published by HMRC under paragraph (ba) of regulation 90 or”.

(3) In regulation 5(24), under the heading “**RoRo Vehicles**”, after the entry for CTC, TIR and UK Transit insert—

### **“Unaccompanied Goods**

The Customs (Import Duty) (EU Exit) Regulations 2018

|   |  |           |
|---|--|-----------|
| Regulation 131C(1)(b)<br>Where unaccompanied goods are to be imported on a through train destined for St Pancras International, a declaration in respect of the goods must be made in accordance with regulation 131C(1).   | The person responsible for making the declaration. | £1,000.   |
| Regulation 131C(2)<br>The Customs declaration or temporary storage declaration must not be amended or withdrawn save as provided for in the paragraph.  | The declarant.                                     | £1,000.   |
| Regulation 131C(4)<br>When required to do so by an HMRC officer, the person who is responsible for providing the service of operating a through train onto which the goods are loaded must produce to the officer evidence that the person took reasonable steps to ensure that paragraph (1) of the regulation had been, or would be, complied with in respect of the goods. | The responsible person.                            | £1,000.”. |

## **Amendment of the Customs (Export) (EU Exit) Regulations 2019**

7.—(1) The Customs (Export) (EU Exit) Regulations 2019(c) are amended as follows.

(2) In regulation 2 (general interpretative provisions)—

(a) after the definitions of “acceptance”, “accept” and “notification of acceptance” insert—

““accompanied baggage on departure” means baggage which—

(a) accompanies an individual when departing from the United Kingdom, or

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(a) S.I. 2018/1260. Relevant amending instruments are S.I. 2019/148, 2019/486 and 2019/1215.

(b) Regulation 131C is inserted by regulation 2(22) of these Regulations.

(c) S.I. 2019/108. Relevant amending instruments are S.I. 2019/486 and 2019/1215.

- (b) would have accompanied the individual had the baggage not been delayed in transit from the United Kingdom;”;
- (b) after the definition of “onward export notification”(a) insert—
- ““personal gifts on export” means goods contained within accompanied baggage on departure of a qualifying departing traveller which—
- (a) are intended for an individual’s personal use,
- (b) are not exported for commercial purposes, and
- (c) do not form part of a series of consignments of goods exported by the qualifying departing traveller;
- “qualifying departing traveller” means an individual who—
- (a) is resident in the United Kingdom and is departing for a temporary stay outside the United Kingdom, or
- (b) is not resident in the United Kingdom and is departing after a temporary stay in the United Kingdom;”;
- (c) after the definition of “the UCC”—
- (i) omit “and”;
- (ii) insert—
- ““universal service provider” means either—
- (a) a “designated operator” within the meaning given in the Constitution of the Universal Postal Union done at Vienna on 10 July 1964, as amended by the Additional Protocols, but limited to the circumstances where those designated operators are acting—
- (i) within the member country that designated them as such; and
- (ii) in accordance with the UP Convention; or
- (b) an operator so designated by HMRC in a public notice made under paragraph 4(2)(b) of Schedule 5 to the Customs Transit Procedures (EU Exit) Regulations 2018;
- “UP Convention” means the Universal Postal Convention, as most recently done at Istanbul on 6 October 2016 and in Addis Ababa on 7 September 2018, and any Regulations made under it; and”.
- (3) In regulation 8 (goods not required to be exported in accordance with the applicable export provisions) —
- (a) for paragraph (3)(c) substitute—
- “(c) non-commercial goods or personal gifts on export which—
- (i) are carried as part of the baggage which accompanies an individual when departing from the United Kingdom; and
- (ii) are not goods which were supplied without payment of excise duty in an export shop in the United Kingdom in accordance with the Excise Goods (Export Shops) Regulations 2000(b).”;
- (b) after paragraph (7A) insert—
- “(7B) Goods declared for a UK transit procedure by means of a carnet under regulation 22(4A) CIDEER 2018.
- (7C) Goods which—
- (a) are submitted to a universal service provider within the United Kingdom before export from the United Kingdom; and

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(a) The definition of “onward export notification” is inserted by S.I. 2019/486.

(b) S.I. 2000/645. Relevant amending instruments are S.I. 2010/593 and 2004/1003.

- (b) will merely pass through places outside the United Kingdom before arriving at their ultimate destination in the United Kingdom.
- (7D) Goods that are subject to the postal transit procedure under regulation 6 of, and Schedule 5 to, the Customs Transit Procedures (EU Exit) Regulations 2018(a).”;
- (c) after paragraph (10) insert—
  - “(11) In paragraph (7B) —
    - (a) “UK transit procedure” has the same meaning as in paragraph 1 of Schedule 3 to the Customs Transit Procedures (EU Exit) Regulations 2018;
    - (b) a “carnet” is a document so described in—
      - (i) the Customs Convention on the “A.T.A. Carnet” for the temporary admission of goods done at Brussels on 6 December 1961(b); and
      - (ii) the Convention on Temporary Admission done at Istanbul on 26 June 1990(c).

where the form of the carnet corresponds to that provided by the version of the relevant convention which is current at the time the declaration is made.”.
- (4) In regulation 9 (interpretation of Part)—
  - (a) omit the definition of “accompanied baggage on departure”;
  - (b) omit the definition of “personal gifts on export”;
  - (c) omit the definition of “qualifying departing traveller”.
- (5) In regulation 23 (export declarations by conduct: posted goods)—
  - (a) in paragraph (2) for “the postal system” substitute “a universal service provider”;
  - (b) in paragraph (3) for “the postal system” substitute “the universal service provider”.
- (6) In regulation 26 (export declarations made in paper form)—
  - (a) in the title omit “: goods subject to a temporary admission procedure”;
  - (b) for paragraph (1) substitute—
    - “(1) Subject to paragraph (1A), a person may make an export declaration by means of a carnet.”;
  - (c) after paragraph (1) insert—
    - “(1A) A carnet may not be used to make an export declaration for—
      - (a) goods submitted to a universal service provider;
      - (b) domestic goods for which the exportation will give rise to—
        - (i) repayment or remission of import duty under Part 7 CIDEER 2018;
        - (ii) an export refund under Articles 196 to 204 of Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products;
      - (c) domestic goods subject to Article 16 of Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products; or
      - (d) domestic goods subject to a duty suspension arrangement.”;
  - (d) after paragraph (2) insert—

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(a) Regulation 6 and Schedule 5 are inserted by regulation 5 of these Regulations.

(b) Available electronically from: [http://www.wcoomd.org/-/media/wco/public/global/pdf/about-us/legal-instruments/conventions-and-agreements/ata/pf\\_ata\\_conv\\_text.pdf?la=en](http://www.wcoomd.org/-/media/wco/public/global/pdf/about-us/legal-instruments/conventions-and-agreements/ata/pf_ata_conv_text.pdf?la=en). A hard copy is available for inspection free of charge at the offices of HMRC at 100 Parliament Street, London, SW1A 2BQ.

(c) Available electronically from [http://www.wcoomd.org/-/media/wco/public/global/pdf/about-us/legal-instruments/conventions-and-agreements/istanbul/istanbul\\_legal\\_text\\_eng.pdf?la=en](http://www.wcoomd.org/-/media/wco/public/global/pdf/about-us/legal-instruments/conventions-and-agreements/istanbul/istanbul_legal_text_eng.pdf?la=en). A hard copy is available for inspection free of charge at the offices of HMRC at 100 Parliament Street, London, SW1A 2BQ.

“(3) A “duty suspension arrangement” has the meaning in regulation 3(1) of the Excise (Holding, Movement and Duty Point) Regulations 2010(a).”.

(7) In regulation 29(3) (export declarations by conduct: consequential provision), for “the postal system” substitute “a universal service provider”.

(8) In regulation 50 (discharging goods from a common export procedure), for paragraph (5) substitute—

“(5) Paragraphs (1)(c), (3) and (4) do not apply in cases specified in a notice given by HMRC.

(5A) The cases that may be specified in that notice may include some or all goods in respect of which these Regulations apply.”.

(9) In regulation 54 (modifications for goods carried by RoRo vehicles) omit paragraphs (8) and (9).

(10) After regulation 54 insert—

## “Part 6A

### Unaccompanied goods

#### **Unaccompanied goods**

**54A.**—(1) Regulation 54B applies to goods exported on a through train from St Pancras International train station which—

- (a) are unaccompanied goods; and
- (b) are not goods intended to be offered for sale on board the train.

(2) In this regulation—

“through train” has the meaning given in Schedule 1 to the Channel Tunnel (International Arrangements) Order 1993; and

“unaccompanied goods” means goods which do not accompany an individual when departing from the United Kingdom, but does not include goods—

- (a) which are on the same train as the individual; and
- (b) of which the operator of the train has possession or control.

#### **Unaccompanied goods: modifications in relation to export declarations**

**54B.**—(1) There is no requirement to make the goods available for examination except—

- (a) in cases specified in a notice which may be given by HMRC; or
- (b) if an HMRC officer requires that the goods are made available for examination.

(2) Even if there is no requirement to make goods available for examination, regulation 12(2)(a) (eligibility of persons to make export declarations) applies as if there is that requirement.

(3) Even if goods are required to be made available for examination by or under paragraph (1), a notification for the purposes of regulation 40(5) (obligation to make goods available for examination) is not required except in circumstances which may be specified in a notice given by HMRC.

(4) A notification of export of goods is deemed to have been given in respect of the goods.

(5) But paragraph (4) does not apply—

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(a) S.I. 2010/593. There are amending instruments, of which none is relevant.

- (a) in cases specified in a notice which may be given by HMRC; or
- (b) if an HMRC officer requires that a notification of export of goods is given in respect of the goods.”.

**Amendment of the Customs (Contravention of a Relevant Rule) (Amendment) (EU Exit) Regulations 2019**

**8.**—(1) The Customs (Contravention of a Relevant Rule) (Amendment) (EU Exit) Regulations 2019(a) are amended as follows.

(2) In regulation 2(4)—

- (a) in the entry under the heading “Goods exported from RoRo listed locations” omit “at a place specified in a notice by HMRC”;
- (b) after the entry under the heading “Goods exported from RoRo listed locations” insert—

**“Unaccompanied goods**

The Customs (Export) (EU Exit) Regulations 2019

|   |   |                  |
|---|---|------------------|
| <p>Regulation 54B(1)(b)<br/>Where goods are exported on a through train from St Pancras International goods must be made available for examination—<br/>(a) in cases specified in a notice which may be given by HMRC; or<br/>(b) if an HMRC officer requires that the goods are available for examination.</p> | <p>The person who made the export declaration (E) or (where applicable) a person who has been secured by E to make the goods available for examination on E’s behalf.</p> | <p>£2,500.”.</p> |
|---|---|------------------|

**Amendment of the Taxation (Cross-border Trade) (Miscellaneous Provisions) (EU Exit) Regulations 2019**

**9.**—(1) The Taxation (Cross-border Trade) (Miscellaneous Provisions) (EU Exit) Regulations 2019(c) are amended as follows.

(2) In regulation 6 (declarations, trade remedies, cessation of EU customs law)—

- (a) in paragraph (13) in the text inserted as regulation 33(2C) and 33(2D), for “April” in each place it occurs substitute “November”;
- (b) omit paragraph (16);
- (c) in paragraph (20) for paragraph (3) of new regulation 53A substitute—

“(3) For the purposes of this regulation—

- (a) an “importation period” is any continuous six month period commencing on—
  - (i) the day after the date on which the Trade Remedies (Dumping and Subsidisation) (EU Exit) Regulations 2019(d) commence;
  - (ii) the day after the period in paragraph (i) terminates;
  - (iii) the anniversary of the day in paragraphs (i) or (ii);

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(a) S.I. 2019/148. The relevant amending instrument is S.I. 2019/486.  
 (b) Regulation 54B is inserted by regulation 7(10) of these Regulations.  
 (c) S.I. 2019/486. The relevant amending instrument is S.I. 2019/1215.  
 (d) S.I. 2019/450. The relevant amending instrument is S.I. 2019/1076.

- (b) a “notice made by the Secretary of State under section 13 of the Act” includes a notice made by the Secretary of State under—
  - (i) regulation 96A(1) of the Trade Remedies (Dumping and Subsidisation) (EU Exit) Regulations 2019;
  - (ii) regulation 101C(2)(a) of the Trade Remedies (Dumping and Subsidisation) (EU Exit) Regulations 2019.”.
- (3) In regulation 8(3)(d) in the text inserted after paragraph 4(1) omit “(but not the guarantee)”.
- (4) For regulation 9(5) substitute—
  - “(5) In regulation 8(1) for “(7)” substitute “(7D)”.

**Amendment of Trade Remedies (Dumping and Subsidisation) (EU Exit) Regulations 2019**

**10.**—(1) The Trade Remedies (Dumping and Subsidisation) (EU Exit) Regulations 2019 are amended as follows.

(2) After regulation 94C (scope review of trade remedies measure transitioned under this Part), insert—

**“Suspension of trade remedies measure transitioned under this Part**

- 94D.**—(1) This regulation applies if the same goods are subject to—
- (a) a trade remedies measure; and
  - (b) a safeguarding measure.
- (2) The Secretary of State must by public notice suspend the application of—
- (a) the full trade remedies measure if the trade remedies measure is equal to, or less than, the safeguarding measure;
  - (b) the portion of the trade remedies measure equal to the safeguarding measure if the trade remedies measure is more than the safeguarding measure.
- (3) The Secretary of State must by public notice revoke the suspension of the trade remedies measure if the goods are no longer subject to the safeguarding measure.
- (4) A suspension under paragraph (2) does not suspend the period specified in accordance with—
- (a) regulation 96A(2)(c)(iii) in a public notice made under regulation 96A(1);
  - (b) regulation 101C(3)(b)(iii) in a public notice made under regulation 101C(2)(a).
- (5) In this regulation—
- (a) “trade remedies measure” means an anti-dumping amount or a countervailing amount applied by public notice under regulation 96A(1) or 101C(2)(a) but for the effect of any suspension under this regulation;
  - (b) “safeguarding measure” means an additional amount of import duty applied by public notice under regulation 47(2) or 52(4)(a) of the Trade Remedies (Increase in Imports Causing Serious Injury to UK Producers) (EU Exit) Regulations 2019(a).”
- ..
- (3) In regulation 96A(3) for “as it applies immediately before replacement of EU trade duty” substitute “specified in the determination notice”.

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(a) S.I. 2019/449. The relevant amending instrument is S.I. 2019/1076.



## **Amendment of the Value Added Tax (Section 55A) (Specified Services) Order 2019**

**11.**—(1) The Value Added Tax (Section 55A) (Specified Services) Order 2019<sup>(a)</sup> is amended as follows.

(2) In article 3 omit “intra-community”.

*Mike Freer  
Michelle Donelan*

14th October 2019

Two of the Lords Commissioners of Her Majesty’s Treasury

### **EXPLANATORY NOTE**

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

The Regulations are made by the Treasury further to Part 1 of the Taxation (Cross-border Trade) Act 2018 (c. 22) (“the Act”). This is an EU Exit statutory instrument.

Regulation 1 provides for citation and commencement. The Regulations will largely be brought into force by way of a separate statutory instrument made under section 52 of the Act, but certain provisions will be brought into force on 31 October in order to be in force on exit day and provision relating to auto enrolment for Transitional Simplified Procedures will be brought into force immediately following the instrument being made.

Regulation 2 makes miscellaneous amendments to the Customs (Import Duty) (EU Exit) Regulations 2018 (S.I. 2018/1248) relating to a range of issues including: to ensure the UK can comply with its obligations under various international agreements; treating goods as chargeable goods where repayment or remission is granted subject to specific conditions; removing the presentation requirement for goods that are not unloaded in the UK; provision in relation to unaccompanied goods to be imported on a train destined for St Pancras International train station; to provide for cases where an application is not required in order for an authorisation to be granted; and the use of the simplified customs procedure in the form through the entry in the declarant’s records ( EIDR) procedure.

Regulation 3 amends regulation 47 of the Customs (Special Procedures and Outward Processing) (EU Exit) Regulations 2018 (S.I. 2018/1249) to correct a number of errors.

Regulation 4 amends the Wharves and Temporary Storage Facilities (Approval Condition and Transitional Provision) (EU Exit) Regulations 2018 (S.I. 2018/1264) to remove the sun-setting provisions in relation to transitioned authorisations.

Regulations 5 and 7 make various amendments to Customs Transit Procedures (EU Exit) Regulations 2018 (S.I. 2018/1258) and the Customs (Export) (EU Exit) Regulations 2019 (S.I. 2019/108) to ensure the UK can comply with its obligations under the Customs Convention on the “A.T.A. Carnet” for the temporary admission of goods done at Brussels on 6 December 1961, the Convention on Temporary Admission done at Istanbul on 26 June 1990 and the Universal Postal Convention, as most recently done at Istanbul on 6 October 2016 and amended in Addis Ababa on 7 September 2018. Regulation 7 also amends the Customs (Export) (EU Exit) Regulations 2019 to make provision in relation to declaration of unaccompanied goods exported by train from St Pancras International train station and to make provision in relation to goods not required to be exported in accordance with the applicable export provisions.

Regulations 6 and 8 make amendments to penalties in consequence of the amendments in regulations 2 and 7.

Regulation 9 makes minor and consequential amendments to the Taxation (Cross-border Trade) (Miscellaneous Provisions) (EU Exit) Regulations 2019 (S.I. 2019/486).

Regulation 10 amends the Trade Remedies (Dumping and Subsidisation) (EU Exit) Regulations 2019 (S.I. 2019/450) to provide for the Secretary of State to suspend the application of trade

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(a) S.I. 2019/1015.

remedies measures in the manner set out in Commission Implementing Regulation (EU) 2019/1382 of 2 September 2019 amending certain Regulations imposing anti-dumping or anti-subsidy measures on certain steel products subject to safeguard measures.

Regulation 11 amends the Value Added Tax (Section 55A) (Specified Services) Order 2019 (S.I. 2019/1015) to reflect the fact that the United Kingdom will no longer be a member State of the European Union.

The Regulations will be covered by an overarching HMRC impact assessment (third edition) which will be published and available on the website at <https://www.gov.uk/government/collections/customs-vat-and-excise-regulations-leaving-the-eu-with-no-deal>.

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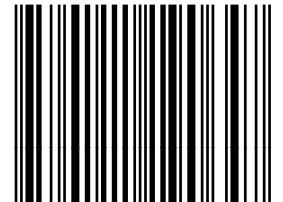


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