Draft Regulations laid before Parliament under paragraph 1(3) of Schedule 7 to the European Union (Withdrawal) Act 2018, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2020 No. ***

EXITING THE EUROPEAN UNION

CUSTOMS

The Customs Safety and Security Procedures (EU Exit) Regulations 2020

Made - - - - ***

Coming into force in accordance with regulation 1(2)

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(**a**).

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.

In accordance with paragraph 1(3) of Schedule 7 to that Act, a draft of this instrument has been 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 Safety and Security Procedures (EU Exit) Regulations 2020.

(2) They come into force on IP completion day(**b**).

(**a**) 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.

(**b**) The meaning of "IP completion day" is assigned by the Interpretation Act 1978 (c. 30), Schedule 1 as amended by the European Union (Withdrawal Agreement) Act 2020, Schedule 5, paragraph 12, and as assigned by section 39(1) to (5) of the latter Act.

Pre-departure declarations

2.—(1) The Commissioners for Her Majesty's Revenue and Customs may publish a public notice ("notice")(**a**) containing provision that stipulates in relation to the removal of goods directly from a place in Great Britain—

(a) the time limit for lodging a pre-departure declaration; or

(b) a waiver from the requirement to lodge a pre-departure declaration.

(2) They may only publish such a notice where they are of the opinion that it is necessary to do so in order to relieve disruption at or near places from which goods are directly removed from Great Britain.

(3) A notice may—

(a) stipulate that it is to have effect for one or more of the following—

(i) exporters of a particular class, description or status;

(ii) goods of a particular class, description or status;

(iii) goods to be removed from Great Britain directly from a place that is stipulated;

(iv) goods destined for a place outside Great Britain that is stipulated; and

(b) make different provision for different exporters, goods, places or means of transport, data elements of the pre-departure declaration, or any combination of these.

(4) A notice containing provision under paragraph (1)(a)—

(a) may state different time limits in relation to different cases;

(b) must stipulate a date that is on or before 1 July 2021 for each time limit; and

(c) must also stipulate in each case a time limit for the carrying out of the risk analysis required by Article 264 of Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code(**b**) ("the UCC").

(5) A notice containing provision under paragraph (1)(b)—

(a) must state a date or dates on or before 1 July 2021 on which the provision will cease to have effect; and

(b) may state different dates for different cases.

(6) The notice may be varied, replaced or withdrawn by a further notice.

(7) Provision made in a notice displaces any contrary provision contained in—

(a) Article 244 or 245 of 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(**c**) ("the Delegated Regulation"); or

(b) Article 328 of 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(**d**).

(**a**) The public notice will be published at https://www.gov.uk/government/collections/customs-vat-and-excise-uk-transition-legislation-from-1-january-2021. A hard copy may be obtained by writing to HM Revenue and Customs at 100 Parliament Street, London, SW1A 2BQ.

(**b**) 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 the Customs Safety, Security and Economic Operators Registration and Identification (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/***).

(**c**) 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 the Customs Safety, Security and Economic Operators Registration and Identification (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/***).

(**d**) EUR/2015/2447, 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 the Customs Safety, Security and Economic Operators Registration and Identification (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/***).

(8) A breach of any provision made by a notice is for all purposes a breach of the provision that would otherwise apply in relation to the case in question under either Article 244 or 245 of the Delegated Regulation.

(9) In this regulation, "pre-departure declaration" means a pre-departure declaration as referred to in Article 263 of the UCC.

Amendment of the Customs Safety and Security Procedures (EU Exit) (No. 2) Regulations 2019

3. Regulations 3(1) and 3(4) of the Customs Safety and Security Procedures (EU Exit) (No. 2) Regulations(**a**) are revoked.

Name 1
Name 2
Date Two of the Commissioners for Her Majesty's Revenue and Customs

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.

These Regulations make modifications to legislation in the field of customs safety and security procedures relating to pre-departure declarations to ensure that those procedures continue to operate effectively in the context of the United Kingdom no longer being a member of the European Union. The Regulations make temporary provision in relation to waivers and time limits.

The impact on businesses, charities and voluntary bodies is expected to vary depending on their level of trade with the EU, level of border disruption and any use of this contingency as a result. These temporary powers can only be used where necessary to mitigate border disruption up to 1 July 2021. Any use of public notices to waive or modify pre-departure safety and security requirements on exports will assist business by removing or reducing the administrative burden of making a declaration for whichever movements are in scope. From 1 July 2021, this contingency option will no longer be available in the event of any border disruption caused by the requirement for pre-departure declarations. The Better Regulation Framework reporting requirements do not apply to anything in force for less than 12 months so a Regulatory Impact Assessment (RIA) has not been produced for this provision.

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(**a**) S.I. 2019/1219. The remainder of regulation 3 of S.I. 2019/1219 is revoked by the Customs Safety, Security and Economic Operators Registration and Identification (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/***).

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