



EXCISE GOODS (HOLDING, MOVEMENT AND DUTY POINT) (AMENDMENT ETC.) REGULATIONS 2019

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Statutory Document No. 2019/0175



Customs and Excise Management Act 1986, Alcoholic Liquor Duties Act 1986 and Tobacco Products Duty Act 1986

EXCISE GOODS (HOLDING, MOVEMENT AND DUTY POINT) (AMENDMENT ETC.) REGULATIONS 2019¹

Laid before Tynwald: 18 June 2019
Coming into Operation: in accordance with regulation 2

The Treasury makes the following Regulations under sections 94(1), (2), (4), (5) and (5A), 107A, 107B, 124A(1) and (2), 134 and 143A of the Customs and Excise Management Act 1986, sections 36A(7)(c), 52(1)(d) and (f) and 58(3)(d) and (f) of the Alcoholic Liquor Duties Act 1986 and section 6(1)(b) and (ba) Tobacco Products Duty Act 1986.

PART 1 – PRELIMINARY

1 Title

These Regulations are the Excise Goods (Holding, Movement and Duty Point) (Amendment etc.) Regulations 2019.

2 Commencement

These Regulations come into operation on exit day¹.

3 Interpretation

In these regulations –

“**Principal Regulations**” means the Excise Goods (Holding, Movement and Duty Point) Regulations 2010²; and

“**exit day**” has the same meaning as in the European Union and Trade Act 2019.

¹ Tynwald procedure - negative under section 180(1) of the Customs and Excise Management Act 1986.

² SD 198/10 amended by SD 864/11, SD716/12, SD 2014/0026 and SD 2015/0123.

PART 2 – AMENDMENTS TO THE PRINCIPAL REGULATIONS

4 General amendments

- (1) The Principal Regulations are amended in accordance with the succeeding provisions of this Part.
- (2) Omit “Island” from before “registered consignor” or “registered consignors” in these places —
 - (a) regulation (9)(1)(b)(ii);
 - (b) regulation 19(7)(b);
 - (c) the heading of Part 4;
 - (d) regulation 30(2);
 - (e) regulation 31, in each place where it occurs in paragraphs (1) to (5);
 - (f) regulation 32, in each place where it occurs in sub-paragraphs (a) to (c);
 - (g) regulation 33;
 - (h) regulation 37(b); and
 - (i) regulation 86(c).
- (3) For “Article 79 of Council Regulation 2913/92/EEC”, substitute **66** Part 1 of TCTA 2018 **62** in these places —
 - (a) regulation 9(1)(b)(ii); and
 - (b) regulation 30(1).

5 Regulation 2A inserted

- (1) After regulation 2 (commencement), insert —

66 2A. Transitional provisions

On the day that the Excise Goods (Holding, Movement and Duty Point) (Amendment etc.) Regulations 2019³ come into operation —

- (a) regulation (2)(a) and (b) ceases to have effect in relation to “Island registered consignors” but continues to have effect in relation to “registered consignees”; and
- (b) regulation 2(c) ceases to have effect in relation to the procedures in Part 6. **62**.

6 Regulation 3 amended

- (1) Regulation 3 (interpretation) is amended as follows.
- (2) In paragraph (1) —

³ SD 2019/0175.

- (a) omit the following terms and their definitions —
- (i) “accompanying document”;
 - (ii) “customs office of exit”;
 - (iii) “the Directive”;
 - (iv) “distance selling arrangement”;
 - (v) “EU” and “territory of the EU”;
 - (vi) “EU requirements”;
 - (vii) “exempt consignee”;
 - (viii) “exemption certificate”;
 - (ix) “fallback report of export”;
 - (x) “Island registered consignee”;
 - (xi) “Island registered consignor”;
 - (xii) “member State”, “territory of a member State” and “a member State”;
 - (xiii) “own use”;
 - (xiv) “place of direct delivery”;
 - (xv) “registered commercial importer”;
 - (xvi) “registered consignee”;
 - (xvii) “tax representative”;
 - (xviii) “temporary registered consignee”; and
 - (xix) “vendor”;
- (b) in the definition of “authorised warehousekeeper” —
- (i) omit the introductory words of paragraph (a); and
 - (ii) omit everything from “and” at the end of sub-paragraph (v) to the end of the definition;
- (c) after the definition of “CEMA 1986”, insert, —
- “change of destination message”** means the message submitted by the consignor of excise goods using the computerised system notifying the Treasury of a change of destination of those goods;
- (d) in the definition of “computerised system” before the words “the system”, insert **“the Island and the United Kingdom components of”**;
- (e) for the definition of “customs suspensive procedure or arrangement”, substitute —
- “customs suspensive procedure or arrangement”** means —

- (a) any one of the special Customs procedures provided for in Part 1 of the TCTA 2018 (other than an authorised use procedure⁴); and
- (b) the situation between the goods being presented to the Treasury upon their entry into the Island in accordance with paragraph 1(1) of Schedule 1 to the TCTA 2018 and the earlier of –
- (i) the end of the period of 90 days beginning with the day on which the goods are so presented; and
- (ii) a Customs declaration under Schedule 1 to that Act being accepted in respect of the goods; ~~22~~;
- (f) for the definition of “electronic administrative document”, substitute –
- ~~22~~ **“electronic administrative document”** means the message submitted by the consignor to the Treasury using the computerised system under cover of which a movement of excise goods takes place under a duty suspension arrangement; ~~22~~;
- (g) after the definition of “electronic administrative document”, insert –
- ~~22~~ **“EMCS requirements”** means the requirements specified in the notice published by the Treasury in accordance with regulation 57(2) and –
- (a) in the case of a draft electronic administrative document and an electronic administrative document, the respective requirements set out in paragraphs (2A) and (9) of regulation 57;
- (b) in the case of a fallback accompanying document, the requirements set out in paragraphs (2)(b) and (2A) of regulation 60;
- (c) in the case of a fallback report of receipt, the requirements set out in paragraphs (1) and (1A) of regulation 61;
- (d) in the case of a report of receipt, the requirements set out in regulation 59(1); and
- (e) in the case of a report of export, the requirements set out in regulation 59A(3); ~~22~~;
- (h) for the definition of “energy products”, substitute –
- ~~22~~ **“energy products”** means hydrocarbon oil, biodiesel, bioethanol, aqua methanol, road fuel gas, fuel substitute or any mixture

⁴ “Authorised use procedure” is defined in paragraph 13 of Schedule 2 to the TCTA 2018, as it has effect in the Island.

- of such products charged to excise duty or treated as such under sections 6 to 8, 23B, 23CB and 26C of the Hydrocarbon Oil Duties Act 1986, or in accordance with an order made under section 4 of that Act;⁵²
- (i) for the definition of “excise duty”, substitute —
“excise duty” has the meaning given to it in section 49 of the TCTA 2018;⁵²
- (j) for the definition of “excise goods” substitute —
“excise goods” means goods which are chargeable with excise duty and goods which are treated as chargeable with excise duty under section 26C of the Hydrocarbon Oil Duties Act 1986⁵;⁵²
- (k) in the definition of “fallback accompanying document” for “Article 26(1)(a) of the Directive”, substitute **regulation 60(2)(b)**⁵²;
- (l) in the definition of “fallback report of receipt” for “Article 27(1) of the Directive”, substitute **regulation 61(1)**⁵²;
- (m) after the definition of “fallback report of receipt”, insert —
“irregularity” means a situation occurring in the course of a movement of excise goods under a duty suspension arrangement, other than a relevant event referred to in regulation 21, as a result of which the movement, or a part of that movement, has not ended in accordance with regulation 3(3)(b);⁵²
- (n) in the definition of “place of importation”, substitute —
“place of importation” means the place where excise goods are when a declaration for the free-circulation procedure or an authorised use procedure in respect of those goods is accepted in accordance with Schedule 1 to the TCTA 2018;⁵²
- (o) for the definition of “registered consignor”, substitute —
“registered consignor” has the meaning given by regulation 30(2);⁵²
- (p) in the definition of “report of export” —
 (i) for the words from “competent authorities” to “is situated”, substitute **Treasury**⁵²; and
 (ii) for “EU” substitute **Island and the United Kingdom**⁵²;
- (q) in the definition of “report of receipt” for “competent authorities of the member State of destination” substitute **Treasury**⁵²;
- (r) in the definition of “tax warehouse” —

⁵ Section 26C of the Hydrocarbon Oil Duties Act 1986 was inserted by SD 566/04.

- (i) omit the introductory words in paragraph (a); and
- (ii) omit everything from “and” at the end of sub-paragraph (v) to the end of the definition; and
- (s) after the definition of “tax warehouse”, insert —
 - ▮ “TCTA 2018” means the Taxation (Cross-border Trade) Act 2018, as it has effect in the Island⁶; ▮.
- (3) Omit paragraph (2).
- (4) In paragraph (3) —
 - (a) for sub-paragraph (a) substitute —
 - ▮ (a) starts when —
 - (i) the goods leave a tax warehouse (where the consignor is an authorised warehousekeeper); or
 - (ii) a declaration for the free-circulation procedure or an authorised use procedure is accepted in accordance with Schedule 1 to the TCTA 2018 (where the consignor is a registered consignor; and ▮; and
 - (b) in sub-paragraph (b)(ii) for “EU” substitute ▮ Island and the United Kingdom ▮.
- (5) Omit paragraph (4).

7 Regulation 4 omitted

Omit regulation 4 (application to energy products).

8 Regulation 6 amended

- (1) Regulation 6 (goods released for consumption in the Island - excise duty point) is amended as follows.
- (2) In paragraph (1)(b), omit “Island”.
- (3) In paragraph (2) —
 - (a) in sub-paragraph (a), omit “other than EU excise goods”; and
 - (b) for sub-paragraph (b), substitute —
 - ▮ (b) the discharge, or irregular departure, in the Island of excise goods from a customs suspensive procedure or arrangement. ▮.
- (4) Omit paragraph (3).

⁶ The Taxation (Cross-border Trade) Act 2018 was applied in the Island by SD 2019/0080.

9 Regulation 7 amended

- (1) Regulation 7 (goods released for consumption in the Island - excise duty point) is amended as follows.
- (2) In paragraph (1) –
 - (a) in sub-paragraph (a)(i) for “regulation 35(a)”, substitute ~~the~~ regulation 37(a) ~~and~~;
 - (b) omit sub-paragraphs (c), (d) and (f);
 - (c) in sub-paragraph (g)(i), for “regulation 35(a)”, substitute ~~the~~ regulation 37(a) ~~and~~; and
 - (d) in sub-paragraph (h), omit “, in the Island”.
- (3) Omit paragraphs (3) and (4).

10 Regulation 8 amended

In regulation 8(1) (goods released for consumption in the Island - persons liable to pay), omit “, the Island registered consignee”.

11 Regulation 9 amended

- (1) Regulation 9 (goods released for consumption in the Island - persons liable to pay),) is amended as follows –
- (2) In the introductory wording to paragraph (1), omit “in the Island”.
- (3) In paragraph (1)(b)(i), omit “in the Island”.
- (4) Omit paragraph (3).

12 Regulation 12 amended

In regulation 12(1) (goods released for consumption in the Island - persons liable to pay), omit the words “that have not” to “EU”.

13 Regulations 13 to 17 omitted

Omit regulations 13 to 17 (goods already released for consumption in a member State - excise duty point and persons liable to pay).

14 Regulation 19 amended

- (1) Regulation 19 (contravention of conditions or requirements - duty point and persons liable to pay) is amended as follows.
- (2) In paragraph (1), for “(2) to (5)” substitute ~~the~~ (3) and (4) ~~and~~.
- (3) Omit paragraphs (2) and (5).
- (4) In paragraph (6), omit –
 - (a) sub-paragraph (a); and

- (b) everything from the semi-colon at the end of sub-paragraph (b) to the end of the paragraph, but not the full-stop.
- (5) In paragraph (7)—
 - (a) omit sub-paragraphs (a) and (c); and
 - (b) at the end of sub-paragraph (b), for the semi-colon substitute a full-stop.

15 Regulation 21 amended

- (1) Regulation 21 (destruction and loss of excise goods) is amended as follows.
- (2) For paragraph (1), substitute —
 - █(1) This regulation applies where the occurrence of a relevant event is proven to the satisfaction of the Treasury. █.
- (3) In paragraph (2)(d), for “competent authorities of a member State” substitute █ Treasury █.
- (4) For paragraph (3) substitute —
 - █(3) If at the time of the relevant event, the excise goods were under a duty suspension arrangement, the occurrence of the event shall not be considered as a release for consumption. █.

16 Part 3 omitted

Omit Part 3 (Island registered consignees).

17 Regulations 35 and 36 omitted

Omit regulations 35 and 36 (moving excise goods under duty suspension arrangements).

18 Regulation 37 amended

In regulation 37(a)(ii) (moving excise goods under duty suspension arrangements), for “EU” substitute █ Island and the United Kingdom █.

19 Regulation 39 amended

In regulation 39(1)(b) (movement conditions), omit “Part 6, Part 7,”.

20 Parts 6 and 7 omitted

Omit Parts 6 (exports of excise goods under duty suspension arrangements) and 7 (imports of excise goods under duty suspension arrangements).

21 Regulation 56 amended

- (1) Regulation 56 (application of Part 8) is amended as follows.
- (2) Number the existing text as paragraph (1).
- (3) In that paragraph –
 - (a) for “Subject to regulation 58(3), this”, substitute **“(1A) This**; and
 - (b) in sub-paragraph (a), omit “after 31st December 2010”.
- (4) After that paragraph, insert –
 - “(1A) This Part also applies to the movement of the energy products mentioned in Article 20(1) of Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity –**
 - (a) from a place of importation to a tax warehouse; and
 - (b) from a tax warehouse to a place from where the goods will leave the territory of the Island and the United Kingdom, where the conditions in paragraph (1)(c) and (d) are met.
 - (2) The Treasury must publish a notice specifying the requirements for the electronic messages to be sent using the computerised system, namely –
 - (a) the electronic administrative document;
 - (b) the cancellation message referred to in regulation 58(2);
 - (c) the change of destination message;
 - (d) the notification of change of destination message referred to in regulation 58(2); and
 - (e) the report of receipt and report of export.
 - (3) For each of the electronic messages referred to in paragraph (2), the notice must specify the data elements required. These must be structured in data groups and, where applicable, data subgroups. **”**.

22 Regulation 57 amended

- (1) Regulation 57 (electronic administrative document for movements of excise goods under duty suspension arrangement wholly within the island) is amended as follows.
- (2) In paragraph (2) for “EU requirements”, substitute **“requirements set out in paragraphs (2A) and (9) ”**.
- (3) After paragraph (2), insert –
 - “(2A) The draft electronic administrative document must be submitted no earlier than 7 days before the date indicated on that document as the date of dispatch of the excise goods concerned. ”**

- (4) After regulation (8), insert —
- ❏ (9) The draft electronic administrative document referred to in paragraph (2) and the electronic administrative document to which a unique administrative reference code has been assigned in accordance with paragraph (5) must comply with the requirements for those documents specified in the notice published by the Treasury in accordance with regulation 56(2). ❏.

23 Regulation 58 amended

- (1) Regulation 58 (electronic administrative document for movements of excise goods under duty suspension arrangements wholly within the island - supplementary provisions) is amended as follows.
- (2) In paragraph (2) for the words from “comply” to the end, substitute ❏ complete a draft cancellation message and send it to the Treasury using the computerised system. ❏.
- (3) Insert the following paragraphs immediately after paragraph (2) —
- ❏ (2A) The draft cancellation message must comply with the requirements for that message specified in the notice published by the Treasury in accordance with regulation 56(2).
 - (2B) The Treasury must carry out an electronic verification of the data in the draft cancellation message.
 - (2C) Where the data in the document are invalid, the Treasury must, using the computerised system, inform the consignor of that fact without delay.
 - (2D) Where the data in the document are valid, the Treasury must, —
 - (a) add the date and time of validation to the cancellation message and communicate that information to the consignor; and
 - (b) where the consignee is an authorised warehousekeeper, forward the cancellation message to the consignee. ❏.
- (4) In paragraph (4) —
- (a) insert ❏ or ❏ at the end of sub-paragraph (a);
 - (b) omit sub-paragraph (b);
 - (c) in sub-paragraph (c) for “EU”, substitute ❏ Island and the United Kingdom ❏; and
 - (d) omit everything from the semi-colon at the end of sub-paragraph (c) to the end of the paragraph, but not the full-stop.
- (5) In paragraph (5) for the words from “comply” to the end, substitute ❏ complete a draft change of destination message and send it to the Treasury using the computerised system. ❏.

- (6) For paragraph (6), substitute —
- ❏(6) The draft change of destination message must comply with the requirements for that message specified in the notice published by the Treasury s in accordance with regulation 56(2). ❏.
- (7) After paragraph (6), insert —
- ❏(7) The Treasury must carry out an electronic verification of the data in the draft change of destination message.
 - (8) Where the data in the message are invalid, the Treasury must, using the computerised system, inform the consignor of that fact without delay.
 - (9) Where the data in the message are valid, the Treasury must —
 - (a) add the date and time of validation and a sequence number to the change of destination message and inform the consignor of that number;
 - (b) update the original electronic administrative document in accordance with the information in the change of destination message; and
 - (c) inform the consignee mentioned in the original electronic administrative document of the change of destination in accordance with the requirements for the notification of change of destination message specified in the notice published by the Treasury in accordance with regulation 56(2). ❏.

24 Regulation 59 amended

In regulation 59(1) (report of receipt of excise goods moved under duty suspension arrangements wholly within the island), for “EU requirements”, substitute ❏requirements for that message specified in the notice published by the Treasury in accordance with regulation 56(2) ❏.

25 Regulation 59A inserted

After Regulation 59 (report of receipt of excise goods moved under duty suspension arrangements wholly within the Island), insert —

❏59A Report of export from the territory of the Island and the United Kingdom

- (1) This regulation applies where excise goods have been dispatched from a place in the Island to a place from where they will leave the territory of the Island and the United Kingdom.
- (2) Upon notification being sent by the Treasury in accordance with regulations made under Part 1 of the TCTA 2018 confirming the

excise goods have left the territory of the Island and the United Kingdom, the Treasury must send a report of export to the consignor using the computerised system.

- (3) The report of export must comply with the requirements for that message specified in the notice published by the Treasury in accordance with regulation 56(2).
- (4) A report of export shall constitute proof that the movement of the excise goods referred to in the report has ended. **22**.

26 Regulation 60 amended

- (1) Regulation 60 (procedure for movement of excise goods under duty suspension arrangements wholly within the Island when computerised system unavailable) is amended as follows.
- (2) In paragraph (2)(b) for the words from “fallback” to the end, substitute **66** paper document that complies with the requirements set out in paragraph (2A). **22**.
- (3) After paragraph (2), insert —
 - 66**(2A) The paper document referred to in paragraph (2)(b) must —
 - (a) carry the title “Fallback Accompanying Document for movements of excise goods under suspension of excise duty”; and
 - (b) contain the same data displayed in the form of data elements and expressed in the same manner as the draft electronic administrative document referred to in regulation 57(2). **22**.

27 Regulation 60A amended

In regulation 60A⁷ (procedure for amending destination when computerised system unavailable), for paragraph (3), substitute —

- 66**(3) The consignor must ensure that the information notified to the Treasury in accordance with paragraph (1) is in the form of data elements, expressed in the same manner as the change of destination message referred to in regulation 58(5). **22**.

28 Regulation 61 amended

- (1) Regulation 61 (report of receipt of excise goods moved under duty suspension arrangements wholly within the Island when computerised system unavailable) is amended as follows.

⁷ Regulation 60A was inserted by SD 0864/11.

- (2) In paragraph (1) for the words from “fallback” to the end, substitute **63** paper document that complies with the requirements set out in paragraph (1A) and contains the same data as the report of receipt referred to in regulation 59(1). **62**.
- (3) After paragraph (1), insert —
- 63**“(1A) The paper document referred to in paragraph (1) must, —
- (a) carry the title “Fallback Report of Receipt for movements of excise goods under suspension of excise duty”; and
- (b) display the required data in the form of data elements, expressed in the same manner as in the report of receipt. **62**.”

29 Regulation 63A amended

- (1) Regulation 63A⁸ (simplified procedure for direct exports of alcoholic liquors and tobacco products) is amended as follows.
- (2) In paragraph (1) —
- (a) omit “in the Island”; and
- (b) for “EU”, substitute **63** Island and the United Kingdom **62**.
- (3) In paragraph (2)(a) for the words “the local clearance procedure”, substitute **63** a simplified customs procedure in respect of the premises and that authorisation has not been suspended or revoked **62**.
- (4) In paragraph (3) —
- (a) for the definition of “authorisation to use the local clearance procedure”, substitute, —
- 63**“**authorisation to use a simplified customs procedure**” means, —
- (a) where authorisation was granted before 1st May 2016, the authorisation referred to in Article 283 of Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code; or
- (b) where authorisation was granted on or after 1 May 2016, a customs authorisation which permits goods to be made available for examination at those premises; **62**; and
- (b) in the definition of “full customs declaration” for “Annex 37 of that Regulation”, substitute **63** the Single Administrative Document provided for in a public notice made under Part 1 of the TCTA 2018 **62**.

⁸ Regulation 63A was inserted by SD 0864/11.

30 Parts 10 to 12 omitted

Omit Parts 10 (exports of excise goods after release for consumption) to 12 (distance sales of excise goods from a member state).

31 Regulation 79 omitted

Omit regulation 79 (interpretation of Part 13).

32 Regulation 80 amended

- (1) Regulation 80 (irregularity occurring or detected in the Island) is amended as follows.
- (2) For the heading, substitute **“Irregularities”**.
- (3) In paragraph (1)(b), omit “which occurs or is detected in the Island”.
- (4) In paragraph (2), omit “in the Island” wherever occurring.
- (5) Omit paragraphs (3) and (4).

33 Regulation 81 amended

- (1) Regulation 81 (failure of excise goods to arrive at their destination) is amended as follows.
- (2) In paragraph (1), omit sub-paragraph (b).
- (3) In paragraph (2), omit “in the Island”.
- (4) In paragraph (3), omit the second sub-paragraph (b).
- (5) In paragraph (4), omit sub-paragraph (b).
- (6) In paragraph (6) —
 - (a) in sub-paragraph (a) for “fallback electronic administrative document”, substitute **“fallback accompanying document”**;
 - (b) insert **“or”** at the end of sub-paragraph (b); and
 - (c) omit sub-paragraph (d).
- (7) Omit paragraph (7).

34 Regulation 82 omitted

Omit regulation 82 (repayment of excise duty).

35 Part 14 omitted

Omit Part 14 (irregularities in the course of a movement of excise goods already released for consumption).

36 Regulation 86 amended

- (1) Regulation 86 (general conditions and restrictions) is amended as follows.
- (2) In paragraph (a), omit “in the Island”.
- (3) Omit paragraph (b).
- (4) In paragraph (c), omit “Island” before “excise duty”.

37 Regulation 87 amended

In regulation 87(1) (obligations of owners and transporters), for “EU requirements”, substitute **EMCS requirements**.

38 Regulation 89 amended

In regulation 89 (civil penalties), in paragraphs (1) and (3) for “EU requirement”, substitute **EMCS requirement**.

39 Schedule 1 amended

In Schedule 1 (civil penalties - relevant regulations) omit the following from the list of regulations —

- (a) 41(2) (completion of draft electronic administrative document for exports of excise goods under duty suspension arrangements);
- (b) 42(2) and (5) (electronic administrative document for exports of excise goods under duty suspension arrangements — supplementary provisions);
- (c) 43 (exemption certificates);
- (d) 44(3) (export of energy products by sea-notification of consignee);
- (e) 45(4) (splitting a movement of energy products);
- (f) 50(2) and (4) (procedure for exports of excise goods under duty suspension arrangements when computerised system unavailable);
- (g) 51 (procedure for exports of excise goods under duty suspension arrangements when computerised system unavailable — supplementary provisions);
- (h) 53 (electronic administrative documents for imports of excise goods under duty suspension arrangements);
- (i) 54(1) (report of receipt of goods imported under duty suspension arrangements);
- (j) 55(1) and (3) (report of receipt of excise goods imported under duty suspension arrangements when computerised system unavailable);
- (k) 65 (accompanying document for exports of excise goods after release for consumption);

- (l) 66 (additional requirements relating to exports of excise goods after release for consumption);
- (m) 68 (imports of excise goods after release for consumption);
- (n) 69 (requirements relating to imports of excise goods after release for consumption); and
- (o) 77(2) (tax representative-procedure).

PART 3 – CONSEQUENTIAL AMENDMENTS

40 The Tobacco Products Regulations 2001

- (1) The Tobacco Products Regulations 2001⁹ are amended or modified as follows.
- (2) In regulation 3 (interpretation), omit the definition of “Island registered consignee”.
- (3) In regulation 17 (deferred payment - payment day), omit paragraphs (2)(b), (4) and (6).
- (4) In regulation 18(1)(b) (deferred payment - approval of arrangements), regard as inserted after the words “becoming payable” the words **6a**, in such form and manner and on such conditions **6b**.
- (5) Paragraph (4) applies where an election is made on or before 30 June 2019 under regulation 17 of the Tobacco Products Duty Regulations 2001 (deferred payment – payment day) in respect of tobacco products falling within regulation 17(2)(a).

41 Limited scope of regulation 40

- (1) The amendments to the Tobacco Products Regulations 2001 have no effect in relation to Island registered consignees to whom excise goods are dispatched, where those goods are in the course of a movement on exit day, until excise duty due in respect of those goods has been accounted for and paid.
- (2) In this regulation goods are “in the course of a movement on exit day” if they are being imported into the Island from a member state and they fall within Chapter 7 of Part 15 of the Customs (Import Duty) Regulations 2019¹⁰.

⁹ SD 256/01, amended by SD 198/10; there are other amending instruments but none are relevant.

¹⁰ SD 2019/0152

PART 4 – TRANSITIONAL AND SAVING PROVISIONS

CHAPTER 1: EXCISE GOODS IMPORTED INTO THE ISLAND FROM OUTSIDE THE TERRITORY OF THE EU

42 Saving and transitional provisions

- (1) In this regulation, “EUCL” has the meaning given to it in the Customs (Import Duty) Regulations 2019¹¹.
- (2) Paragraph (3) applies to the extent the EUCL continues to have effect in relation to excise goods in accordance with Part 15 of the Customs (Import Duty) Regulations 2019.
- (3) In relation to the provisions of the Principal Regulations set out in column 1 of the table below –
 - (a) the amendments made by these Regulations have no effect; and
 - (b) the modifications set out in column 2 (if any) have effect.

<i>Column 1: Provision</i>	<i>Column 2: Modification</i>
Definition of “customs suspensive procedure or arrangement” in regulation 3(1).	There is none.
Definition of “place of importation” in regulation 3(1).	For the words “Article 79 of Council Regulation 2913/92/EEC” treat as substituted ☐ Article 201 of Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code ☐ .
Regulation 3(3)(a)(ii).	For the words “Article 79 of Regulation (EEC) 2913/92” treat as substituted ☐ Article 201 of Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code ☐ .
Regulation 9(1)(b)(ii).	For the words “Article 79 of Council Regulation 2913/92/EEC” treat as substituted ☐ Article 201 of Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code ☐ .

¹¹ SD 2019/0152.

Regulation 30(1).	For the words “Article 79 of Council Regulation 2913/92/EEC” treat as substituted 63 Article 201 of Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code 22 .
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CHAPTER 2

ISLAND-EU MOVEMENTS

43 Interpretation

- (1) Words and phrases defined in the Principal Regulations as they have effect immediately before commencement of these Regulations, have the same meaning in this Chapter.
- (2) In this Chapter, excise goods are “in the course of a movement on exit day” if they —
 - (a) are being imported into the Island from a member state and they fall within Chapter 7 of Part 15 of the Customs (Import Duty) Regulations 2019; and
 - (b) are being exported from the Island and the United Kingdom to a member state and they are dispatched before exit day.

44 General transitional provisions

- (1) Paragraphs (2) and (3) apply where, in this Chapter —
 - (a) provisions of the Principal Regulations are stated as continuing to have effect; or
 - (b) amendments to provisions in the Principal Regulations are stated as having no effect.
- (2) Those provisions of the Principal Regulations are to be read as if —
 - (a) the amendments to regulation 3 (interpretation) have no effect, unless provided otherwise; and
 - (b) regulation 4 (application to energy products) continues to have effect.
- (3) Reference to “Article 79 of Regulation (EEC) 2913/92” or “Article 79 of Council Regulation 2913/92/EEC” in those provisions of the Principal Regulations are to be read as references to ~~63~~ Article 201 of Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code ~~22~~.

45 Excise duty points and payment of the duty

The duty point of excise goods in the course of a movement on exit day and the person liable to pay the excise duty in relation to those goods are matters to be determined in accordance with Part 2 of the Principal Regulations (excise duty points and payments of the duty) as if the amendments made by these Regulations have no effect.

46 Island registered consignees

Part 3 of the Principal Regulations (Island registered consignees) and anything done by the Treasury under that Part continues to have effect in relation to Island Registered Consignees to whom excise goods are dispatched, where those goods are in the course of a movement on exit day. This will remain so until Island excise duty due in respect to those goods has been accounted for and paid.

47 Holding and movement of excise goods under duty suspension arrangements

The amendments made to Part 5 of the Principal Regulations (holding and movement of excise goods under duty suspension arrangements) have no effect in respect of excise goods in the course of a movement on exit day. However, those amendments will take effect in respect of the aforementioned excise goods when that course of movement has come to an end in accordance with regulation 3(3)(b) of the Principal Regulations.

48 Exports of excise goods under duty suspension arrangements

- (1) Part 6 of the Principal Regulations (exports of excise goods under duty suspension arrangements) continues to have effect, with the modifications set out in this regulation, in relation to excise goods in the course of a movement on exit day until one of the following occurs –
 - (a) the Treasury completes a report of export or notifies the consignor that it is satisfied that the goods have left the territory of the Island and the United Kingdom;
 - (b) the Treasury sends a report of receipt to the consignor or notifies the consignor that it is satisfied that the goods have arrived at their stated destination; or
 - (c) the Treasury updates the original electronic administrative document following receipt of a change of destination message notifying it that the destination has changed to a place in the Island or United Kingdom.
- (2) Part 6 is to be read as if “computerised system” and “ECMS requirements” have the meanings given in the Principal Regulations as amended by these Regulations.

- (3) In regulation 41 (electronic administrative document for exports of excise goods under duty suspension arrangements), treat paragraphs (6) and (7) as omitted.
- (4) In regulation 42 (electronic administrative document for exports of excise goods under duty suspension arrangements 0 supplementary provisions) —
- (a) in paragraph (3) treat as omitted “, using the computerised system,”;
- (b) treat paragraph (5) as substituted by —
- (5) A consignor wishing to amend the destination to a destination in the Island must complete a draft change of destination message and send it to the Treasury using the computerised system. **22**;
- (c) treat paragraph (6) as substituted by —
- (6) The draft change of destination message must comply with the requirements for that message specified in the notice published by the Treasury in accordance with regulation 56(2). **22**; and
- (d) after paragraph (6) treat as inserted —
- (7) The Treasury must carry out an electronic verification of the date in the draft change of destination message.
- (8) Where the data in the message are invalid the Treasury must, using the computerised system, inform the consignor of that fact without delay.
- (9) Where the data in the message are valid, the Treasury must —
- (a) add the date and time of validation and a sequence number to the change of destination message and inform the consignor of that number; and
- (b) update the original electronic administrative document in accordance with the information in the change of destination message.
- (10) A consignor wishing to amend the destination to a destination in a member State must notify the Treasury of the new destination and ensure that the information is displayed in the form of data elements, expressed in the same manner as in the change of destination message referred to in regulation 58(5). **22**.
- (5) In regulation 44 (export of energy products by sea - notification of consignee) —
- (a) in paragraph (3) omit the words “using the computerised system”; and

- (b) after paragraph (3), insert —
- ☐(4) The information to be notified to the Treasury in accordance with paragraph (3) must be displayed in the form of data elements, expressed in the same manner as in the change of destination message referred to in regulation 58(5). ☐.
- (6) Treat regulation 45 (splitting of movement of energy products) as omitted.
- (7) In regulation 46 (report of export from territory of the EU) —
- (a) treat paragraphs (2) and (3) as substituted by —
 - ☐(2) If the customs office of exit is in a member State the consignor must provide evidence satisfactory to the Treasury that excise goods have left the territory of the Island and the United Kingdom.
 - (2A) The Treasury must publish a notice specifying the form and type of evidence it will accept as satisfactory for the purpose of paragraph (2).
 - (3) If satisfied that the goods have left the territory of the Island and the United Kingdom, the Treasury must notify the consignor using the computerised system. ☐;
 - (b) treat paragraph (4) as omitted;
 - (c) in paragraph (7) —
 - (i) for “Without limiting paragraph (6)” treat as substituted ☐ For the purposes of paragraph (2) ☐; and
 - (ii) for “the movement of those goods has ended”, substitute ☐ the excise goods have left the territory of the Island and the United Kingdom ☐.
- (8) In regulation 47(2) (report of export from territory of the EU) —
- (a) for “EU requirements” treat as substituted ☐ EMCS requirements ☐; and
 - (b) treat as omitted the words from “and, using” to the end.
- (9) Treat regulation 48 (report of export from territory of the EU when computerised system unavailable) as omitted.
- (10) In regulation 49 (report of receipt of excise goods exported under duty suspension arrangements) —
- (a) after paragraph (4) treat as inserted —
 - ☐(4A) In the absence of a report of receipt or an endorsement referred to in paragraph (3), the consignor must provide evidence satisfactory to the Treasury that the goods have reached their stated destination.

- (4B) The Treasury must publish a notice specifying the form and type of evidence it will accept as satisfactory for the purpose of paragraph (4A).
- (4C) If satisfied that the goods have reached their stated destination, the Treasury shall notify the consignor using the computerised system. ~~22~~; and
- (b) in paragraph (6) for “paragraph (4)” treat as substituted ~~23~~ paragraphs (4) to (4C) ~~22~~.
- (11) In regulation 50(6) (procedure for exports of excise goods under duty suspension arrangements when computerised system unavailable), for “regulation 41(5) to (9)” treat as substituted ~~23~~ regulation 41(5), (8) and (9) ~~22~~.
- (12) In regulation 51 (procedure for exports of excise goods under duty suspension arrangements when computerised system unavailable 0 supplementary provisions) —
- (a) at the start of paragraph (2) for “As” treat as substituted ~~23~~ Where the new destination is in the Island, as ~~22~~;
- (b) treat paragraphs (3) and (4) as omitted;
- (c) treat paragraph (5) as substituted by —
- ~~23~~(5) Where paragraph (1) applies, the consignor must ensure that the information notified to the Treasury is displayed in the form of data elements, expressed in the same manner as in the change of destination message referred to in regulation 58(5). ~~22~~; and
- (d) treat paragraphs (6) and (7) as omitted.

49 Imports of excise goods under duty suspension arrangements

- (1) Part 7 of the Principal Regulations (imports of excise goods under duty suspension arrangements) continues to have effect, with the following modifications, in relation to excise goods in the course of a movement on exit day until the consignee of those goods has notified the Treasury of their receipt in accordance with regulation 54 of the Principal Regulations (as modified by this regulation).
- (2) Part 7 is to be read as if “computerised system” and “ECMS requirements” have the meanings given in the Principal Regulations as amended by these Regulations.
- (3) In regulation 54 (report of receipt of excise goods imported under duty suspension arrangements) —
- (a) treat paragraph (1) as substituted by —
- ~~23~~(1) On receipt of any excise goods to which this Part applies the consignee of those goods must send to the Treasury without

delay, and in any event no later than 5 business days after their receipt by the consignee or, as the case may be, their arrival at a place of direct delivery (or within such other period as the Treasury may allow), a paper document that complies with paragraph (1A).

(1A) The paper document referred to in paragraph (1) must contain the same data displayed in the form of data elements, expressed in the same manner as the report of receipt referred to in regulation 59(1). ~~22~~;

- (b) treat paragraph (3) as omitted;
- (c) in paragraph (4) —
 - (i) for “report of receipt” treat as substituted ~~23~~ paper document ~~22~~; and
 - (ii) treat as omitted “, using the computerised system,”; and
- (d) treat paragraph (5) as substituted by —
 - ~~23~~(5) Where the data in the paper document are valid, the Treasury must notify the consignee that it has been registered. ~~22~~.

- (4) Treat regulation 55 (report of receipt of excise goods imported under duty suspension arrangements when computerised system unavailable) as omitted.

50 Exports of excise goods after release for consumption

Part 10 of the Principal Regulations (exports of excise goods after release for consumption) continues to have effect in relation to excise goods in the course of a movement on exit day until those goods reach their ultimate destination.

51 Imports of excise goods after release for consumption

- (1) Part 11 of the Principal Regulations (imports of excise goods after release for consumption) and anything done by the Treasury under that Part continues to have effect, with the modifications set out in paragraph (2), in relation to —
 - (a) excise goods in the course of a movement on exit day; and
 - (b) registered commercial importers and unregistered commercial importers delivering excise goods, holding excise goods intended for delivery or receiving excise goods, where those goods are in the course of a movement on exit day,

until the recipient of those goods has complied with the obligations in regulation 74 of the Principal Regulations (receipt of excise goods) in respect of that movement.

- (2) In regulation 73(3) (registered commercial importers - accounting and payment) at the end treat as inserted **64** (as in effect immediately before exit day) **65**.

52 Distance sales of excise goods from a member state

- (1) Part 12 of the Principal Regulations (distance sales of excise goods from a member State) and anything done by the Treasury under that Part continues to have effect, with the modifications set out in paragraph (2), in relation to tax representatives acting as agents of vendors who dispatched excise goods before exit day where those goods are in the course of a movement on exit day until the excise duty due in respect of those goods has been accounted for and paid.
- (2) In regulation 78(3) (accounting and payment) at the end treat as inserted **66** (as in effect immediately before exit day) **67**.

53 Irregularities in the course of a movement of excise goods under a duty suspension arrangement

- (1) The amendments made to Part 13 of the Principal Regulations (irregularities in the course of a movement of excise goods under a duty suspension arrangement) have no effect in relation to an irregularity occurring or detected in relation to excise goods in the course of a movement on exit day with the following exception.
- (2) In regulation 80 of the Principal Regulations (irregularity occurring or detected in the Island) treat paragraph (4) as omitted.
- (3) In this regulation “irregularity” has the meaning given by regulation 79 of the Principal Regulations (interpretation of Part 13) as in effect immediately before exit day.

54 Irregularities in the course of a movement of excise goods already released for consumption

- (1) Part 14 of the Principal Regulations (irregularities in the course of a movement of excise goods already released for consumption) continues to have effect in relation to an irregularity occurring or detected in relation to excise goods in the course of a movement on exit day.
- (2) In this regulation “irregularity” has the meaning given by regulation 83 of the Principal Regulations (interpretation of Part 14) as in effect immediately before exit day.

55 Obligations, conditions and restrictions

- (1) Regulation 86(b) of the Principal Regulations (general conditions and restrictions) continues to have effect to the extent Part 3 of the Principal

Regulations (Island registered consignees) continues to have effect in accordance with regulation 46 of these Regulations.

- (2) In relation to excise goods in the course of a movement on exit day, in regulation 87(1) of the Principal Regulations (obligations of owners and transporters) after “EU requirements” treat as inserted ~~6~~ or the EMCS requirements (as appropriate) ~~2~~.

56 Forfeiture and civil penalties

- (1) To the extent the regulations listed in Schedule 1 to the Principal Regulations continue to have effect in accordance with this Part, those regulations continue to be relevant regulations for the purposes of regulation 89 of the Principal Regulations (civil penalties).
- (2) In relation to excise goods in the course of a movement on exit day, in regulation 89 of the Principal Regulations (civil penalties), wherever occurring, after “EU requirement” treat as inserted ~~6~~ or EMCS requirement (as appropriate) ~~2~~.

CHAPTER 3

EXCISE GOODS ARRIVING AT RORO LOCATIONS

57 Modification of the Excise Goods (Holding, Movement and Duty Point) Regulations 2010

The Excise Goods (Holding, Movement and Duty Point) Regulations 2010 apply to excise goods¹² —

- (a) to which regulation 138 (chargeable goods carried by RoRo vehicles destined for RoRo listed locations: making of declarations) of the Customs (Import Duty) Regulations 2019¹³ applies;
- (b) in respect of which a declaration for the free-circulation procedure or an authorised use procedure has been made in accordance with that regulation (and not amended or withdrawn unless in accordance with that regulation); and
- (c) in respect of which the notification referred to in paragraph 11(1) of Schedule 1 to the Taxation (Cross-border Trade) Act 2018, as it has effect in the Island, is being treated as having been made under regulation 5(5) of the Customs (Import Duty) Regulations 2019,

with the modifications set out in this chapter.

¹² “Excise goods” are defined by regulation 3(1) of SD 198/10.

¹³ SD 2019/0152.

58 Interpretation

In regulation 3(1) (interpretation) —

- (a) after the definition of “fallback report of receipt”, regard as inserted —

“import duty regulations” means the Customs (Import Duty) Regulations 2019; and

- (b) after the definition of “report of receipt” regard as inserted —

“RoRo location” means any of the RoRo listed locations referred to in regulation 137(1) of the import duty regulations;

59 Contravention of conditions or requirements – duty point and persons liable to pay

- (1) Regard regulation 19(3) (contravention of conditions or requirements - duty point and persons liable to pay) as modified as follows.

- (2) After sub-paragraph (a), regard as inserted —

(aa) a failure to comply with regulation 57(11) (completion of draft electronic administrative document for movements of excise goods under duty suspension arrangement from RoRo locations);

- (3) Regard the full stop at the end of sub-paragraph (b) as substituted by a semi-colon.

- (4) After sub-paragraph (b) regard as inserted —

(bb) a failure to comply with regulation 60AA(2) (procedure for movement of excise goods under duty suspension arrangements from RoRo locations when computerised system unavailable).

60 Time of payment of duty

In regulation 20 (time of payment of the duty) —

- (a) in paragraph (1) before sub-paragraph (a) regard as inserted —

(aa) paragraphs (3) and (4); and

- (b) after paragraph (2) regard as inserted —

(3) Paragraph (4) applies where —

- (a) excise goods are released for consumption at a RoRo location pursuant to regulation 6(1)(d); and
(b) there is no duty deferment arrangement in place in respect of the goods.

- (4) The time when the duty must be paid is the earlier of —

- (a) the latest time by which the notification required under regulation 5(6) of the import duty regulations must be given in accordance with regulation 5(7)(c) of those regulations; or
- (b) the time when that notification is in fact given. **22**.

61 Movements of excise goods from a RoRo location under duty suspension arrangements

- (1) In regulation 57 (electronic administrative document for movements of excise goods under duty suspension arrangements wholly within the Island) —
- (a) in paragraph (1), after “electronic administrative document”, regard as inserted **23**, but see paragraph (10) for an exception for the beginning of a movement from a RoRo location **22**;
 - (b) in paragraph (2), for “Before” regard as substituted **24** Except as provided for in paragraph (10) and (11), before **22**;
 - (c) in paragraph (7) —
 - (i) in sub-paragraph (a), regard “or” as omitted;
 - (ii) at the end of sub-paragraph (b) regard the full stop as substituted by **23**; or **22**; and
 - (iii) after sub-paragraph (b), regard as inserted —
 - 23**(c) if paragraph (10) applies, a printed version of the customs declaration which includes the details of the guarantee referred to in that paragraph. **22**; and
 - (d) after paragraph (9), regard as inserted —
 - 23**(10) Where —
 - (a) the excise goods are dispatched from a RoRo location; and
 - (b) details of the guarantee required in accordance with regulation 39 have been provided to the Treasury in the declaration for the free-circulation procedure or authorised use procedure made in accordance with regulation 139 of the import duty regulations,the consignor may dispatch the goods before completing a draft electronic administrative document.
 - (11) Where paragraph (10) applies, the consignor must complete the draft electronic administrative document and send it to the Treasury as soon as practicable and no later than the latest time for making the notification referred to in regulation 5(6) of the import duty regulations. **22**.
- (2) In regulation 60 (procedure for movement of excise goods under duty suspension arrangements wholly within the Island when computerised system unavailable), after paragraph (1), regard as inserted —

61(1A) This regulation does not apply where regulation 60AA applies. 62.

(3) After regulation 60, regard as inserted —

60AA Procedure for movement of excise goods under duty suspension arrangements from RoRo locations when computerised system unavailable

(1) The regulation applies where —

- (a) goods are dispatched before completion of the draft electronic administrative document in accordance with regulation 57(10); and
- (b) the computerised system is unavailable at the time the consignor is required to complete the draft electronic administrative document in accordance with regulation 57(11).

(2) Excise goods may only be moved from the place of importation under duty suspension arrangements if they are accompanied by a printed version of the customs declaration which includes the details of the guarantee required in accordance with regulation 39.

(3) At any time before the consignor completes the draft electronic administrative document in accordance with paragraph (2) the Treasury may require the consignor to —

- (a) provide a copy of the printed version of the customs declaration;
- (b) verify the data contained in that document; and
- (c) provide information on the reasons for the unavailability of the computerised system (if the consignor is responsible for that unavailability).

(4) As soon as the computerised system is restored the consignor must complete a draft electronic administrative document that complies with the requirements set out in regulation 57(9) and send it to the Treasury.

(5) The Treasury must, in accordance with regulation 57(3), carry out a verification of the data in the draft electronic administrative document.

(6) If the data are valid, regulation 57(5) to (8) shall apply and the electronic administrative document shall replace the printed version of the customs declaration.

(7) If the data are invalid, the movement shall be treated as taking place under cover of the printed version of the customs declaration.

(8) The consignor must keep a copy of the printed version of the customs declaration. 62.

62 Relevant regulations

In Schedule 1, regard the following regulations as inserted in the appropriate place —

- (a) 57(11) (completion of draft electronic administrative document for movements of excise goods under duty suspension arrangement from RoRo locations); and
- (b) 60AA(2) and (4) (procedure for movement of excise goods under duty suspension arrangements from RoRo locations when computerised system unavailable).

63 Transitional provision

- (1) This chapter has no effect in relation to goods in the course of a movement on exit day.
- (2) For the purposes of paragraph (1), the term “in the course of a movement on exit day” has the meaning provided by regulation 43(2) (interpretation).

MADE 9 MAY 2019

ENDNOTES

Table of Endnote References

¹ The format of this legislation has been changed as provided for under section 75 of, and paragraph 2 of Schedule 1 to, the Legislation Act 2015. The changes have been approved by the Attorney General after consultation with the Clerk of Tynwald as required by section 76 of the Legislation Act 2015.