



TAXATION (MISCELLANEOUS PROVISIONS, TRANSITIONAL ARRANGEMENTS AND AMENDMENTS) REGULATIONS 2021

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Statutory Document No. 2021/0209



Taxation (Cross-border Trade) Act 2018

TAXATION (MISCELLANEOUS PROVISIONS, TRANSITIONAL ARRANGEMENTS AND AMENDMENTS) REGULATIONS 2021¹

Laid before Tynwald:

Coming into operation in accordance with regulation 2

The Treasury makes the following Regulations under sections 30, 30C, 32, 33(4A), (4B) and (8), 45, 48(11), 51(1) and (3) and 56 of the Taxation (Cross-border Trade) Act 2018, as it has effect in the Island¹.

PART 1 - INTRODUCTION

1 Title

These Regulations are the Taxation (Miscellaneous Provisions, Transitional Arrangements and Amendments) Regulations 2021.

2 Commencement

- (1) These Regulations come into operation immediately after they are made².
- (2) However, when they are made they shall be deemed to have come into operation on IP completion day³.

3 Interpretation

In these Regulations —

¹ The Taxation (Cross-border Trade) Act 2018 was applied to the Island by SD 2019/0080, as amended.

² Tynwald procedure - negative under sections 32(6) and 48(6) of the Taxation (Cross-border Trade) Act 2018, as it has effect in the Island.

³ Section 51(3) of the Taxation (Cross-border Trade) Act 2018, as it has effect in the Island provides that regulations made under that section may be made retrospective and be deemed to have come into operation from such day or days as may be specified in the regulations not earlier than the date on which the corresponding provision had effect in any part of the United Kingdom.

“**the Act**” means the Taxation (Cross-border Trade) Act 2018, as it has effect in the Island⁴;

“**agricultural policy measure**” means a provision made by or under any enactment relating to the import and export of the goods specified at points 1, 2 and 3 of the document entitled “Sensitive Goods”, published on 27 November 2018⁵;

“**the EU Customs Code**” means —

- (a) the UCC;
- (b) the IA; and
- (c) Commission Delegated Regulation (EU) 2015/2446⁶ 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 as it had effect immediately prior to IP completion day;

“**holder of the procedure**” means —

- (a) the person in whose name, or on whose behalf, goods have been declared for —
 - (i) an inward processing procedure; or
 - (ii) a temporary admission procedure; or
- (b) the person to whom rights and obligations in relation to goods declared for such a procedure have been transferred under regulation 46 of the special procedures regulations;

“**the IA**” means Commission Implementing Regulations (EU) 2015/2447⁷ 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 as it had effect immediately prior to IP completion day;

“**the import duty regulations**” means the Customs (Import Duty) Regulations 2019⁸;

“**officer**” has the meaning given in section 184(1) of the Customs and Excise Management Act 1986;

“**non-tariff trade policy measure**” means a provision made by or under any enactment relating to government policy in respect of international trade in goods, other than provisions relating to the amount of import duty;

⁴ The Taxation (Cross-border Trade) Act 2018 was applied to the Island by SD 2019/0080, as amended.

⁵ <https://www.gov.uk/government/publications/sensitive-goods>

⁶ OJ L343, 29.12.2015, p. 1.

⁷ OJ L343, 29.12.2015, p. 558.

⁸ SD 2019/0152, as amended by SD 2021/0033.

- “**non-Union goods**” has the same meaning as it has in Article 5(24) of the UCC;
- “**processed goods**” means goods which have been released to an inward processing procedure and processed in accordance with that procedure;
- “**the special procedures regulations**” means the Customs (Special Procedures and Outward Processing) Regulations 2019⁹;
- “**a standard case**” means a case other than one to which any of sections 9 to 15 or 19(4) of the Act apply (preferential rates, quotas, tariff suspension, safeguarding etc.);
- “**Tariff of the United Kingdom**” has the meaning given in the Customs Tariff (Establishment) (EU Exit) Regulations 2020 (of Parliament)¹⁰;
- “**temporary admission document**” means the document entitled “Temporary Admission: Eligible Goods and Conditions for Relief”, version 4.0, published on 16 April 2021¹¹;
- “**the UCC**” means Regulation (EU) No 952/2013¹² of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code as it had effect immediately prior to IP completion day;
- “**UK Reliefs document**” has the meaning given in the Customs (Relief from a Liability to Import Duty) Regulations 2021¹³;
- “**Union goods**” has the same meaning as it has in Article 5(23) of the UCC.

PART 2 - SPECIAL PROCEDURES SUPPLEMENTARY AND GENERAL PROVISION

4 Discharge of an inward processing procedure

- (1) This regulation applies to processed goods where the processing was carried out under an inward processing procedure, but does not apply where —
- (a) the processing takes place using equivalent domestic goods in place of goods intended to be declared for the procedure (“intended imported goods”) and the processed goods are exported before the intended imported goods are imported;
- (b) if the goods as they stood when the declaration for the procedure was made were declared for the free-circulation procedure and that declaration were accepted the goods would be subject to —

⁹ SD 2019/0154, as amended by SD 2021/0041.

¹⁰ SI 2020/1430.

¹¹ <https://www.gov.uk/government/publications/reference-document-for-temporary-admission-eligible-goods-and-conditions-for-relief>

¹² OJ L 269, 10.10.2013, p. 1.

¹³ SD 2021/0042.

- (i) an additional amount of import duty under section 13, 14 or 15 of the Act;
 - (ii) a non-tariff trade policy measure; or
 - (iii) an agricultural policy measure; or
 - (c) export of the goods would breach the requirement of the procedure set out in regulation 24(3)(c) of the special procedures regulations.
- (2) This paragraph applies where —
- (a) the processed goods are —
 - (i) a necessary result of the processing; and
 - (ii) not goods whose production or manufacture was the purpose of the processing;
 - (b) the processed goods are disposed of in accordance with —
 - (i) the authorisation to declare the goods for an inward processing procedure; or
 - (ii) all applicable provisions in any enactment relating to disposal of the goods;
 - (c) destruction of the goods is prohibited under an enactment on the grounds that destruction could not take place without harming the environment;
 - (d) the holder of the procedure can demonstrate to the satisfaction of an officer that discharge of the procedure in accordance with the rules relating to discharge in paragraphs 18 and 19 of Schedule 2 to the Act is either impossible or not economically viable given the nature of the goods.
- (3) Where paragraph (2) applies and paragraph (6) does not apply, the processed goods are to be treated for the purposes of Part 1 of the Act as if, on the date the processed goods are disposed of —
- (a) the processed goods were declared for the free-circulation procedure;
 - (b) the Treasury accepted that declaration; and
 - (c) the free-circulation procedure was discharged.
- (4) This paragraph applies where the processed goods are delivered to persons who are eligible for relief from import duty pursuant to —
- (a) the Vienna Convention on Diplomatic Relations (Vienna, 18 April 1961);
 - (b) the Vienna Convention on Consular Relations (Vienna, 24 April 1963);
 - (c) the Convention on Special Missions (8 December 1969); or
 - (d) section 36 (visiting forces and headquarters) of the UK Reliefs document.

- (5) Where paragraph (4) applies, the processed goods are to be treated for the purposes of Part 1 of the Act as if, on the date the processed goods are delivered —
- (a) the processed goods were declared for the free-circulation procedure;
 - (b) the Treasury accepted that declaration; and
 - (c) the free-circulation procedure was discharged.
- (6) Subject to paragraph (7), this paragraph applies where —
- (a) the processed goods are aircraft, or parts thereof, that are delivered to a person who will use the processed goods, where an officer is satisfied that —
 - (i) the goods released to an inward processing procedure have been used for the first time for the manufacture, modification, conversion, or repair, including maintenance, of the aircraft, or parts thereof; and
 - (ii) the records of the holder of the procedure are sufficient to enable the Treasury to verify that the procedure has been correctly applied and operated;
 - (b) the processed goods are spacecraft or related equipment, or parts thereof, that are delivered to a person who will use the processed goods, where an officer is satisfied that —
 - (i) the goods released to an inward processing procedure have been used for the first time for the manufacture, modification, conversion, or repair, including maintenance, of satellites, their launch vehicles and ground station equipment, or integral parts thereof; and
 - (ii) the records of the holder of the procedure are sufficient to enable the Treasury to verify that the procedure has been correctly applied and operated;
 - (c) the processed goods are goods other than those referred to in paragraph (2)(a), where —
 - (i) either —
 - (A) the import duty applicable in a standard case to which paragraph 1 of Part 4 of the Tariff of the United Kingdom applies is 0%; or
 - (B) an authorised release certificate CAA Form 1 has been issued in relation to those processed goods, or an equivalent certificate has been issued in relation to those processed goods in accordance with the law of another country;
 - (ii) the processed goods are delivered to a person who will use them; and

- (iii) an officer is satisfied that —
 - (A) the goods released to the inward processing procedure have been used for the first time in the processing relating to the processed goods or parts thereof; and
 - (B) the records of the holder of the procedure are sufficient to enable the Treasury to verify that the procedure has been correctly applied and operated.
- (7) Paragraph (6) does not apply where the processing consists solely of repair of the goods, including maintenance thereof.
- (8) Where paragraph(6) applies, the processed goods and any processed goods referred to in paragraph (2)(a) that result from the same processing are to be treated for the purposes of Part 1 of the Act as if, on the date of the completion of the first use of the goods released to an inward processing procedure —
 - (a) the processed goods were declared for the free-circulation procedure;
 - (b) the Treasury accepted that declaration; and
 - (c) the free-circulation procedure was discharged.
- (9) For the purposes of paragraphs (6) and (8) whether the goods released to the procedure have been used for the first time is to be determined in accordance with the terms of the authorisation to declare goods for an inward processing procedure and the date of the completion of the first use is to be determined accordingly.

5 Discharge of a temporary admission procedure

- (1) This regulation applies where goods (“the declared goods”) have been declared for the temporary admission procedure.
- (2) This paragraph applies where —
 - (a) the declared goods —
 - (i) fall within a description given in one of the following sections of the temporary admission document —
 - (A) section 1 (pallets); or
 - (B) paragraph (a) of section 7 (means of transport - full relief for persons established in the United Kingdom); or
 - (ii) are containers subject to arrangements set out in the Convention on Customs Treatment of Pool Containers used in International Transport (Geneva, 21 January 1994); and
 - (b) goods of the same type, or of the same description and value, as the declared goods are exported by —

- (i) the holder of the procedure; or
 - (ii) a person acting on behalf of, or with the agreement of, the holder of the procedure.
- (3) Where paragraph (2) applies, for the purposes of Part 1 of the Act, the declared goods are to be treated as if, on the date the export referred to in paragraph(2)(b) took place —
 - (a) the declared goods were declared for the free-circulation procedure;
 - (b) the Treasury accepted that declaration; and
 - (c) the free-circulation procedure was discharged.
- (4) This paragraph applies where —
 - (a) the declared goods are not goods subject to excise duty within the meaning given in section 49 of the Act;
 - (b) the declared goods fall within a description in the first 2 paragraphs of section 25 of the temporary admission document (goods for events or for sale in certain situations);
 - (c) the declared goods are distributed free of charge to members of the public at an event described in those paragraphs of that section; and
 - (d) an officer is satisfied that the quantity of goods is reasonable, taking into consideration —
 - (i) the nature of the event described in that section of the temporary admission document;
 - (ii) the number of visitors at the event; and
 - (iii) the extent of the participation of the holder of the procedure in the event.
- (5) Where paragraph (4) applies, for the purposes of Part 1 of the Act, the declared goods are to be treated as if, on the date they were distributed —
 - (a) the declared goods were declared for the free-circulation procedure;
 - (b) the Treasury accepted that declaration; and
 - (c) the free-circulation procedure was discharged.
- (6) This paragraph applies where —
 - (a) the declared goods are not goods subject to excise duty within the meaning given in section 49 of the Act;
 - (b) the declared goods fall within a description in the first 2 paragraphs of section 25 of the temporary admission document (goods for events or for sale in certain situations);

- (c) part of the declared goods (“the remaining section 25 goods”) remains following the consumption or destruction of declared goods at an event described in those paragraphs of that section;
 - (d) the remaining section 25 goods are rendered unusable for the purpose for which they were imported; and
 - (e) an officer is satisfied that the quantity of goods consumed or destroyed is reasonable, taking into consideration —
 - (i) the nature of the event described in that section of the temporary admission document;
 - (ii) the number of visitors at the event; and
 - (iii) the extent of the participation of the holder of the procedure in the event.
- (7) This paragraph applies where —
- (a) the declared goods fall within a description in the first 2 paragraphs of section 29 of the temporary admission document (goods covered by NATO form 302);
 - (b) part of the declared goods (“the remaining section 29 goods”) remains following the consumption or destruction of declared goods in the course of the military activity described in that section;
 - (c) the remaining section 29 goods are rendered unusable for the purpose for which they were imported; and
 - (d) an officer is satisfied that the quantity of goods consumed or destroyed corresponds to the nature of the military activity described in that section.
- (8) Where paragraph (6) or (7) applies, for the purposes of Part 1 of the Act, the remaining goods are to be treated as if on the date of the consumption or destruction —
- (a) the remaining goods were declared for the free-circulation procedure;
 - (b) the Treasury accepted that declaration; and
 - (c) the free-circulation procedure was discharged.
- (9) In paragraph (8) “the remaining goods” means goods which are “remaining section 25 goods” or “remaining section 29 goods”, as the case may be.

PART 3 - POTENTIALLY IMPORTED GOODS

6 Part 3 Interpretation

In this Part —

“accompanied baggage” means baggage which —

- (a) accompanies an individual when arriving in the Island; or
- (b) would have so accompanied an individual had the baggage not been delayed in transit to the Island;

“non-commercial goods” means goods —

- (a) which are provided by one individual to another;
- (b) where no payment is made, directly or indirectly, for the goods by the recipient;
- (c) which are for the personal use of the recipient; and
- (d) which do not form part of a series of consignments of goods made between the individuals;

“personal gifts” means goods contained within accompanied baggage of a qualifying traveller which —

- (a) are intended for an individual’s personal use;
- (b) are not imported for commercial purposes; and
- (c) do not form part of a series of consignments of goods imported by the qualifying traveller;

“qualifying traveller” means an individual who —

- (a) is not resident in the Island or in Great Britain and is arriving in the Island for a temporary stay; or
- (b) is resident in the Island or in Great Britain and is returning after a temporary stay outside the Island and Great Britain.

7 Goods to which section 30C(1) duty does not apply

- (1) Section 30C(1) of the Act¹⁴ does not apply to goods to which paragraph (2) or (3) applies.
- (2) This paragraph applies to goods described in regulation 111 of the import duty regulations (goods regarded as domestic goods: fish) which —
 - (a) were brought to the United Kingdom as a result of being brought to Northern Ireland; and
 - (b) were subsequently removed from Northern Ireland to the Island.
- (3) This paragraph applies to goods which —
 - (a) were declared for an outward processing procedure in the Island; and
 - (b) would, if they were subsequently imported into the Island, have continued to be regarded as domestic goods under —
 - (i) section 36(6) of the Act (outward processing procedure); or
 - (ii) regulation 31 of the special procedures regulations (outward processing - goods regarded as domestic goods).

¹⁴ Section 30C of the Act was inserted by SD 2021/0091.

- (4) The goods to which paragraph (2) or (3) applies are to be treated as “other goods” for the purposes of section 30C(2) of the Act.

8 Goods to which relevant import duty provisions do not apply

- (1) Section 30C(3) of the Act does not apply to goods which are not —
- (a) chargeable to duty under section 30C of the Act; or
 - (b) goods to which regulation 9 applies.
- (2) The Treasury must publish a notice specifying the evidence which is to be required, or is to be sufficient, for the purpose of showing whether goods removed from Northern Ireland to the Island fall within paragraph (1)(a) or (b).

9 Modification of the application of import duty provisions

- (1) This regulation applies in relation to goods which —
- (a) are subject to excise duty within the meaning given in section 49 of the Act (meaning of “excise duty”);
 - (b) are qualifying Northern Ireland goods¹⁵;
 - (c) are removed from the European Union to Northern Ireland;
 - (d) merely pass through Northern Ireland before being removed to the Island; and
 - (e) are not non-commercial goods contained within accompanied baggage or personal gifts.
- (2) Where this regulation applies no other relevant import duty provision applies except provision made by or under any of —
- (a) section 3 of the Act (obligation to declare goods for a Customs procedure on import) as if subsection (3)(b) were omitted;
 - (b) section 21(1) to (4), (7) and (8) of the Act (Customs agents);
 - (c) paragraphs 1 to 17 and 19 of Schedule 1 to the Act (Customs declarations) as if paragraph 17(2) read —
 - (2) The goods are released to the free-circulation procedure when the declaration is accepted by the Treasury. ■

10 Reduction in amount of section 30C(1) duty

Where —

- (a) goods were imported into the United Kingdom as a result of their entry into Northern Ireland;

¹⁵ “qualifying Northern Ireland goods” has the meaning given in section 37 of the Act, as amended by SD 2021/0091.

- (b) the goods were chargeable to duty in accordance with section 30A of the Taxation (Cross-border Trade) Act 2018, as it has effect in the United Kingdom;
- (c) that duty was paid; and
- (d) the goods were subsequently removed from Northern Ireland to the Island,

the amount of duty applicable to the goods under section 30C(1) of the Act is to be reduced by the amount of duty paid on the goods in accordance with section 30A of the Taxation (Cross-border Trade) Act 2018, as it has effect in the United Kingdom.

11 Application of outward processing procedure

- (1) This paragraph applies where —
 - (a) goods are declared for an outward processing procedure in the Island;
 - (b) the goods are exported from the Island in order to be processed outside the Island and the United Kingdom;
 - (c) the processing of the goods under the outward processing procedure consists in anything other than their repair by any person without charge; and
 - (d) at the end of the temporary period during which the processing takes place, the goods are imported into the United Kingdom as a result of their entry into Northern Ireland and removed to the Island.
- (2) Where —
 - (a) paragraph (1) applies; and
 - (b) there is no breach of the terms of the declaration for the procedure, or of any other requirement in relation to the procedure, while the procedure has effect,

the value of the goods is to be reduced to take account of so much of that value as can be attributed to the goods as they stood before being exported.

- (3) For the purposes of paragraph (2), the value of the goods is to be the greater of —
 - (a) zero; and
 - (b) an amount equal to “A minus B” where —
 - (i) A is the value of the processed goods at the time of acceptance of the Customs declaration of those goods for the free-circulation procedure; and
 - (ii) B is the statistical value of the goods at the time when they are released to an outward processing procedure.

- (4) Unless paragraph (5) applies, where —
- (a) goods would fall within the description of a case to which regulation 34(2) of the special procedures regulations (valuation of goods regarded as chargeable goods) applies if they were goods imported in accordance with the outward processing procedure; and
 - (b) at the end of the temporary period during which processing takes place, the goods are imported into the United Kingdom as a result of their entry into Northern Ireland and removed to the Island,
- the value of the goods is to be reduced in accordance with paragraph (3).
- (5) This paragraph applies if an officer is satisfied that the person who caused the breach referred to in regulation 34(2)(d) of the special procedures regulations did so for the purposes of preventing a liability to duty under section 30C of the Act being incurred by any person.

12 Approvals and authorisations - corresponding provision

- (1) This regulation applies to any approval granted, or treated as granted, by the Treasury under provision made by or under Part 1 of the Act (“the original approval provision”) which corresponds to an approval which may be granted in relation to goods removed from Northern Ireland to the Island under provision made by or under section 30C of the Act (“the corresponding provision”).
- (2) Subject to paragraph (3), an approval to which this regulation applies is to be treated as an approval granted by the Treasury under the corresponding provision as well as an approval under the original approval provision.
- (3) Paragraph (2) does not apply where the approval specifies that it only has effect in relation to goods arriving from a specified place.
- (4) Where an approval was granted before IP completion day¹⁶, the Treasury may amend the original conditions to which the approval is subject by notification to the person to whom the approval was granted as soon as reasonably practicable after IP completion day.
- (5) In this regulation references to an approval include an authorisation.

PART 4 -GOODS EXPORTED ON REMOVAL FROM NORTHERN IRELAND

13 Part 4 Interpretation

In this Part —

¹⁶ “IP completion day” has the same meaning as given in the Interpretation Act 2015.

“accompanied baggage on departure” means baggage which —

- (a) accompanies an individual when departing from the Island;
or
- (b) would have so accompanied the individual had the baggage not been delayed in transit from the Island;

“containers” has the same meaning as in Article 1 of the Customs Convention on Containers, done at Geneva on 2 December 1972 under the auspices of the United Nations International Maritime Organisation;

“non-commercial goods” means goods —

- (a) which are provided by one individual to another;
- (b) where no payment is made, directly or indirectly, for the goods by the recipient;
- (c) which are for the personal use of the recipient; and
- (d) which do not form part of a series of consignments of goods made between the individuals;

“personal gifts on export” means goods contained within accompanied baggage on departure of a qualifying 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 Island or in the United Kingdom and is departing for a temporary stay outside the Island and the United Kingdom; or
- (b) is not resident in the Island or in the United Kingdom and is departing after a temporary stay in the Island.

14 Goods exported on removal from Northern Ireland - establishment

In this Part a person is established in the Island or the United Kingdom —

- (a) in the case of an individual, where the individual is resident in the Island or in the United Kingdom; and
- (b) in any other case, where the person —
 - (i) has a registered office in the Island or in the United Kingdom; or
 - (ii) has a permanent place in the Island or the United Kingdom from which the person carries out activities for which the person is constituted to perform.

15 Retention of domestic goods status

- (1) Goods do not cease to be domestic goods when exported from the United Kingdom as a result of their removal from Northern Ireland if they are goods mentioned in paragraphs (2) to (5).
- (2) Goods which remain outside the Island and the United Kingdom for a temporary period and are —
 - (a) motor road vehicles registered in the Island or the United Kingdom;
 - (b) packaging, pallets and similar equipment, excluding containers, used for transportation and owned by a person established in the Island or the United Kingdom; or
 - (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 Island, in accordance with the Excise Goods (Export Shops) Regulations 2000¹⁷, or in the United Kingdom, in accordance with equivalent legislation which is in force in the United Kingdom.
- (3) Goods in respect of which regulation 4 (duty free stores) of the Excise Goods (Aircraft and Ship's Stores) Regulations 2015¹⁸ applies.
- (4) Goods which are zero-rated for value added tax in accordance with section 30 of, and Group 8 (transport) of Schedule 9 (zero-rating) to, the Value Added Tax Act 1996, and are stores within the meaning of section 184(1) (interpretation) of the Customs and Excise Management Act 1986.
- (5) Goods which are —
 - (a) qualifying Northern Ireland goods;
 - (b) removed from Northern Ireland to the Republic of Ireland and merely pass through the Republic of Ireland before arriving in the Island;
 - (c) itemised in a travel document issued in the United Kingdom which specifies the destination of the goods; and
 - (d) immediately before their removal from Northern Ireland were not moved in the manner described in paragraph (6).
- (6) For the purposes of paragraph (5)(d), the manner of movement is that the goods —
 - (a) are loaded for export outside Northern Ireland; and

¹⁷ SD 172/00, as amended by SD 198/10.

¹⁸ SD 2015/0123.

- (b) enter Northern Ireland and are either not unloaded there or are unloaded there but for an avoidance purpose.
- (7) For the purposes of paragraph (6)(b), goods are unloaded in Northern Ireland for an avoidance purpose if it is reasonable to conclude that the main purpose, or one of the main purposes, of unloading the goods there was to secure the application of paragraph (5).

16 Retention of domestic goods status - declarations

- (1) This regulation applies to goods mentioned in regulation 15(5).
- (2) Provision made by or under the following provisions apply to the goods to which this regulation applies with the modifications described –
 - (a) section 3 of the Act (obligation to declare goods for a Customs procedure on import) as if subsection (3)(b) were omitted;
 - (b) section 21(1) to (4), (7) and (8) of the Act (Customs agents); and
 - (c) paragraphs 1 to 17 and 19 of Schedule 1 to the Act (Customs declarations) as if paragraph 17(2) read –
 - (2) The goods are released to the free-circulation procedure when the declaration is accepted by the Treasury. ■.

PART 5 - APPLICATION OF PROVISION MADE BY OR UNDER THE CUSTOMS AND EXCISE ACTS¹⁹

17 Application of the Customs and Excise (Transit) Regulations 1994

The Customs and Excise (Transit) Regulations 1994²⁰ apply for any purpose in connection with duty under section 30C of the Act.

18 Application of the Customs Traders (Accounts and Records) Regulations 1995 (Application) Order 1995

The Customs Traders (Accounts and Records) Regulations 1995 (Application) Order 1995²¹ applies for any purpose in connection with duty under section 30C of the Act as if references to an importation of goods (however framed) included the entry of goods into the Island in the course of a removal of those goods from Northern Ireland to the Island.

¹⁹ “the customs and excise Acts” has the meaning given in section 184(1) of the Customs and Excise Management Act 1986.

²⁰ SD 212/94, as amended by SD 606/12 and SD 2019/0217.

²¹ SD 316/95, as amended by SD 2019/0140.

19 Application of the Customs (Contravention of a Relevant Rule) Regulations 2009

The Customs (Contravention of a Relevant Rule) Regulations 2009²² apply for any purpose in connection with duty under section 30C of the Act as if any reference to a relevant rule which has effect with modifications for any such purpose were to that rule as it so has effect.

20 Application of the import duty regulations

Parts 1 to 10, 12, 13 and 14 of the import duty regulations apply for the purposes of duty charged under section 30C of the Act as if —

- (a) any reference to chargeable goods were to goods removed from Northern Ireland to the Island;
- (b) any reference to the importation of goods were to their removal from Northern Ireland to the Island;
- (c) any reference to import duty were to duty charged under section 30C of the Act;
- (d) any reference to the United Kingdom were to Great Britain, except in the following places, were the references remain to the United Kingdom unless otherwise specified —
 - (i) regulation 21(2)(b), which is to be read as if for “outside of the Island or the United Kingdom”, there were substituted “in Northern Ireland”, and for these purposes whether a person is established in Northern Ireland is to be determined in accordance with regulation 4(1) of the import duty regulations, as if the references in that regulation to the Island were to Northern Ireland;
 - (ii) regulation 21(2)(c);
 - (iii) regulation 29(1)(b);
 - (iv) regulation 67(3)(a);
 - (v) regulation 68(6)(b) and (7);
 - (vi) regulation 71(2)(b) and (3);
 - (vii) regulation 73(2)(a)(ii);
 - (viii) regulation 82(1)(c)(ii);
 - (ix) regulation 86;
 - (x) regulation 102(2);
 - (xi) regulation 103(4)(a);

²² SD 907/09, as amended by SD 0989/11, SD 2015/0129, SD 2018/0203, SD 2019/0083 and SD 2021/0079.

- (xii) regulation 114(2), which is to be read as if for “for export to the Island or United Kingdom”, there were substituted **“for removal to the Island or Great Britain”**;
- (xiii) regulation 127(2)(a), which is to be read as if for “for export to the Island or United Kingdom”, there were substituted **“for removal to the Island or Great Britain”**;
- (xiv) regulation 128(2)(a), which is to be read as if for “for export to the Island or United Kingdom”, there were substituted **“for removal to the Island or Great Britain”**;
- (xv) regulation 129(1), which is to be read as if for “for export to the Island or United Kingdom”, there were substituted **“for removal to the Island or Great Britain”**; and
- (xvi) regulation 131(4);
- (e) in regulation 3 (interpretation), for the definition of “qualifying traveller”, there were substituted —
 - “qualifying traveller” means an individual who —**
 - (a) is not resident in the Island or Great Britain and is arriving in the Island for a temporary stay; or
 - (b) is resident in the Island or Great Britain and is returning after a temporary stay outside the Island and Great Britain;
- (f) in regulation 21(2)(a)(i) —
 - (i) for “export”, there were substituted **“removal to Northern Ireland”** and
 - (ii) the words “in accordance with the applicable export provisions” were omitted; and
- (g) in regulation 132(2)(a)(iv) and (v), for “the place of export of the goods”, there were substituted **“Northern Ireland”**.

21 Application of the special procedures regulations

Parts 1 to 3, Chapters 1, 2, 4 and 5 of Part 4 and Part 5 of the special procedures regulations apply for the purposes of duty charged under section 30C of the Act as if —

- (a) any reference to chargeable goods were to goods removed from Northern Ireland to the Island;
- (b) any reference to the importation of goods were to their removal from Northern Ireland to the Island;
- (c) any reference to import duty were to duty charged under section 30C of the Act; and
- (d) in regulation 3 (interpretation), for the definition of “qualifying traveller”, there were substituted —

“qualifying traveller” means an individual who —

- (a) is not resident in the Island or Great Britain and is arriving in the Island for a temporary stay; or
- (b) is resident in the Island or Great Britain and is returning after a temporary stay outside the Island and Great Britain; ²².

22 Application of the Customs Transit Procedures Regulations 2019

The Customs Transit Procedures Regulations 2019²³ apply for the purposes of duty charged under section 30C of the Act as if —

- (a) any reference to chargeable goods were to goods removed from Northern Ireland to the Island;
- (b) any reference to the importation of goods were to their removal from Northern Ireland to the Island;
- (c) any reference to import duty were to duty charged under section 30C of the Act; and
- (d) paragraph 2(1)(a) of Schedule 5 were omitted.

23 Application of the Taxation (Cross-border Trade) (Miscellaneous Amendments) Regulations 2021

Part 2 of these Regulations applies for the purposes of duty charged under section 30C of the Act as if —

- (a) any reference to the importation of goods were to their removal from Northern Ireland to the Island; and
- (b) any reference to an exportation of goods included the exit of goods from the Island that are being removed to Northern Ireland.

PART 6 - ONGOING CUSTOMS ARRANGEMENTS

CHAPTER 1 - UNION GOODS

24 Union goods regarded as domestic goods

Goods subject to Article 47 of the EU withdrawal agreement²⁴ are to be treated as domestic goods for the purposes of Part 1 of the Act from the end of the movement referred to in that Article where that movement ends in the Island.

²³ SD 2019/0150, as amended by SD 2019/0399 and SD 2021/0041.

²⁴ [EU Withdrawal Agreement](#)

25 Time of start of a movement of goods

- (1) For the purposes of Article 47 of the EU withdrawal agreement the following movements start at the time specified in a notice published by the Treasury –
 - (a) goods moving from the Customs territory of the Union to the Customs territory of the United Kingdom;
 - (b) goods moving from the Island to Northern Ireland; and
 - (c) goods moving from Northern Ireland to the Island.
- (2) The Treasury must publish a notice under paragraph (1)²⁵.

26 Requirement to provide evidence

- (1) An officer may notify any person who claims that goods are subject to Article 47 of the EU withdrawal agreement to provide evidence that –
 - (a) the movement of the goods to the Island started before IP completion day; and
 - (b) the goods are Union goods.
- (2) The evidence must be of the type and form provided by Article 47(2) of the EU withdrawal agreement.
- (3) The Treasury may publish a notice specifying the form in which the evidence is to be provided.
- (4) The Treasury must state within the notification when compliance is due by.
- (5) A notification given under this regulation must be in writing.
- (6) Where a person fails to provide evidence in relation to the goods as required by this regulation, the goods are to be treated as chargeable goods under Part 1 of the Act.

CHAPTER 2 - GOODS SUBJECT TO ARTICLE 49 OF THE EU WITHDRAWAL AGREEMENT

27 Cessation of the EU Customs Code: treatment as chargeable goods

- (1) Subject to regulation 28, where the EU Customs Code ceases to apply to goods in the Island in accordance with Article 49(1) of the EU Withdrawal Agreement, the goods are to be treated as chargeable goods for the purposes of Part 1 of the Act.
- (2) Where a requirement under the EU Customs Code has been met, or not been met, in relation to the goods, any equivalent requirement imposed

²⁵ <https://www.gov.uk/government/publications/notice-to-be-made-under-the-customs-transitional-eu-exit-regulations-2020>

by or under the Act is to be treated as met, or not met, as the case may be in relation to the goods.

- (3) Any approval or authorisation granted for a procedure under the EU Customs Code which existed immediately before IP completion day and applied in relation to the goods after IP completion day is to be treated as an approval or authorisation granted for the equivalent procedure by or under the Act.
- (4) An approval or authorisation treated under paragraph (3) as granted is subject to such further conditions specified in or under the special procedures regulations.
- (5) The Treasury may amend the original conditions to which an approval or authorisation treated under paragraph (3) as granted is subject, by notification to the person to whom the approval was granted as soon as reasonably practicable after Article 49(1) of the EU Withdrawal Agreement ceases to apply.
- (6) The treatment of goods under this regulation as chargeable goods does not —
 - (a) affect the application of the EU Customs Code to the goods prior to the EU Customs Code ceasing to apply in accordance with Article 49(1) or anything duly done or suffered under it;
 - (b) affect any right, privilege, obligation or liability, acquired, accrued or incurred in relation to the goods under the EU Customs Code or any enactment in relation to the EU Customs Code;
 - (c) affect any penalty, forfeiture, or punishment incurred in respect of any offence under the EU Customs Code; or
 - (d) affect or prevent any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment.

28 Cessation of the EU Customs Code: treatment as domestic goods

- (1) Where the EU Customs Code ceases to apply to non-Union goods as a result of the conditions in Article 322, 323, 323a or 324 of the IA being met, those goods are to be treated as domestic goods for the purposes of Part 1 of the Act.
- (2) Where the EU Customs Code ceases to apply to Union goods in accordance with Article 49(1) of the EU Withdrawal Agreement, those goods are to be treated as domestic goods for the purposes of Part 1 of the Act.
- (3) Paragraph (2) does not apply to Union goods that are subject to an EU end-use procedure at IP completion day.
- (4) The treatment of goods under this regulation as domestic goods does not —

- (a) affect the application of the EU Customs Code to the goods prior to the EU Customs Code ceasing to apply in accordance with Article 49(1) or anything duly done or suffered under it;
 - (b) affect any right, privilege, obligation or liability, acquired, accrued or incurred in relation to the goods under the EU Customs Code or any enactment in relation to the EU Customs Code;
 - (c) affect any penalty, forfeiture, or punishment incurred in respect of any offence under the EU Customs Code; or
 - (d) affect or prevent any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment.
- (5) For the purposes of this regulation “EU end-use procedure” has the same meaning as at Article 210(c) of the UCC.

PART 7 - MISCELLANEOUS AMENDMENTS

29 Amendment of the Duty Stamps Regulations 2006

- (1) The Duty Stamps Regulations 2006²⁶ are amended as follows.
- (2) In regulation 3 (when a retail container must be stamped or must not be stamped), after paragraph (2), insert —

(2A) A retail container of alcoholic liquor that is to be transported from the Island to Northern Ireland or vice versa, via the Republic of Ireland, shall not be treated as being exported for the purposes of paragraph (2). **(2)**.
- (3) In regulation 34 (drawback of excise duty), at the end, insert **(3)** unless the retail container of alcoholic liquor has been transported from the Island to Northern Ireland via the Republic of Ireland and has not been placed in a duty suspension arrangement **(2)**.

30 Amendment of the Excise Goods (Holding, Movement and Duty Point) Regulations 2010

- (1) The Excise Goods (Holding, Movement and Duty Point) Regulations 2010²⁷ are amended as follows.
- (2) In regulation 5 (goods released for consumption in the Island - excise duty point), for “regulation 7(2)”, substitute **(3)** regulations 7(2) and 7A **(2)**.
- (3) In regulation 6(2) (goods released for consumption in the Island - excise duty point), for subparagraph (b), substitute —

²⁶ SD 75/06, as amended by SD 249/09, SD 198/10, SD 0252/13 and SD 2019/0168.

²⁷ SD 198/10, as amended by SD 0864/11, SD 0716/12, SD 2014/0026, SD 2015/0123, SD 2019/0175 and SD 2019/0298.

- (b) the entry into the Island of excise goods from Northern Ireland where those goods have been exported from an EU member State to the Island and began their journey in an EU member State; or
 - (c) the release in the Island of excise goods from a customs suspensive procedure or arrangement. **22**.

- (4) After regulation 7 (goods released for consumption in the Island - excise duty point), insert –

7A Transit through Republic of Ireland

- (1) An excise duty point does not arise by virtue of regulation 6(1)(d) where excise goods enter the Island from the Republic of Ireland having merely passed through the Republic of Ireland and it is shown to the satisfaction of the Treasury that UK excise duty has been paid on those goods in Northern Ireland.
 - (2) The Treasury may in a notice published by it, specify details of the evidence that will be accepted as demonstrating that the conditions in paragraph (1) have been complied with. **22**.
- (5) In regulation 9(1)(b)(ii) (goods released for consumption in the Island - persons liable to pay), for “their release for free circulation in the Island”, substitute **23**a declaration for the free-circulation procedure or an authorised use procedure being accepted **22**.
- (6) In regulation 30(1) (approval and registration), for “their release for free circulation”, substitute **23**a declaration for the free-circulation procedure or an authorised use procedure being accepted **22**.
- (7) In regulation 37 (excise goods of certain class or description) –
- (a) number the existing text as paragraph (1);
 - (b) after the re-numbered paragraph (1), insert –
 - 23**(2) The modifications in paragraphs (3) and (4) apply in cases where excise goods are being transported between the Island and Northern Ireland in either direction.
 - (3) Where excise goods are sent from the Island to a place in Northern Ireland –
 - (a) the references in paragraph (1)(a)(ii) and Part 8 to a place from where the goods will leave the territory of the Island and the United Kingdom include references to a place from where the goods will leave the Island for Northern Ireland; but
 - (b) regulation 59A (report of export) does not apply to the movement.

- (4) Where excise goods are sent from a place in Northern Ireland to the Island, the references in paragraph (1)(b) and Part 8 to the place of importation include references to the place where the goods arrive in the Island from Northern Ireland. ²².
- (8) In regulation 56 (application of Part 8) –
- (a) for paragraph (1A), substitute –
- ²³(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 from a place of importation to –
- (a) a tax warehouse; or
- (b) a place from where they will leave the territory of the Island and the United Kingdom,
- where the energy products do not at any time leave the territory comprising the Island and the United Kingdom during the course of the movement. ²²; and
- (b) in paragraph (2)(d), for “58(2)”, substitute ²⁴58(9) ²².
- (9) In regulation 63A(3) (simplified procedure for direct exports of alcoholic liquors and tobacco products), for subparagraph (b), substitute –
- ²⁵(b) where authorisation was granted on or after 1 May 2016, an authorisation, granted by the Treasury, which permits the goods to be made available for examination at those premises; ²².

31 Amendment of the import duty regulations

- (1) The import duty regulations are amended as follows.
- (2) In regulation 21(2)(b) (temporary admission procedure: musical instruments, packaging, broadcast equipment and disaster relief material), for “outside of the United Kingdom”, substitute ²⁶outside of the Island and the United Kingdom ²².
- (3) In regulation 139 (fees - interpretation), for “regulation 3 of the Customs (Export) Regulations 2019”, substitute ²⁷regulation 3 of the Customs (Export) Regulations 2020²⁸ ²².

²⁸ SD 2020/0565.

32 [Revoked]²**33 Amendment of the Customs (Records) Regulations 2019**

- (1) The Customs (Records) Regulations 2019²⁹ are amended as follows.
- (2) In regulation 3 (interpretation), in the entry for “Customs obligation” —
 - (a) in paragraph (a) —
 - (i) omit “Part 1 of”; and
 - (ii) after “2018”, insert **33** in relation to a duty of customs **22**; and
 - (b) in paragraph (d), at the end insert **33**, or the Taxation (Miscellaneous Provisions, Transitional Arrangements and Amendments) Regulations 2021³⁰ **22**.
- (3) In regulation 4(1) (records to be kept and preserved), for “A person”, substitute **33** Where regulation 5 does not apply, a person **22**.
- (4) In regulation 5 (transitional and saving provision) —
 - (a) in paragraph (1), for “regulation”, substitute **33** paragraph **22**;
 - (b) in paragraph (2), for “this regulation”, substitute **33** paragraph(1) **22**; and
 - (c) after paragraph (2), insert —
 - 33**(3) This paragraph applies in relation to any person who on or after IP completion day is, as a result of the EU withdrawal agreement, subject to an obligation under Article 51 of the UCC to keep documents and information.
 - (4) Where paragraph (3) applies, Article 51 of the UCC continues to have effect after the cessation of the effect of the UCC as a result of the EU withdrawal agreement, in relation to a person referred to in paragraph (3), until the expiry of the period for which documents and information must be kept under that Article. **22**.

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²⁹ SD 2019/0182.

³⁰ SD 2021/0209.

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.

² Reg 32 revoked by SD2021/378.