

*Regulations made by the Treasury, laid before the House of Commons under section 32(2) and (3)(c) of the Taxation (Cross-border Trade) Act 2018, for approval by resolution of that House within 60 days beginning with the first day on which any provision comes into force as a result of section 52(2) of that Act, subject to extension for periods of dissolution or prorogation of Parliament or for periods of adjournment of the House of Commons for more than four days.*

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## STATUTORY INSTRUMENTS

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### 2019 No. 113

# EXITING THE EUROPEAN UNION CUSTOMS

## The Customs (Records) (EU Exit) Regulations 2019

*Made - - - - 29th January 2019*  
*Laid before the House of*  
*Commons - - - - 31st January 2019*  
*Coming into force in accordance with regulation 1*

The Treasury make the following Regulations in exercise of the powers conferred by sections 30 and 32(8)(b) and (d) of the Taxation (Cross-border Trade) Act 2018<sup>(1)</sup>.

The Treasury consider it appropriate in consequence of, or otherwise in connection with, the withdrawal of the United Kingdom from the European Union, that the following Regulations come into force on such day as the Treasury may by regulations under section 52 of that Act appoint.

### **Citation and commencement**

1. These Regulations may be cited as the Customs (Records) (EU Exit) Regulations 2019 and come into force on such day as the Treasury may by regulations under section 52 of the Taxation (Cross-border Trade) Act 2018 appoint.

### **Interpretation**

2. In these Regulations—

“Customs obligation” means any obligation or requirement imposed by or under—

- (a) Part 1 of the Taxation (Cross-border Trade) Act 2018;
- (b) CEMA 1979;

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<sup>(1)</sup> 2018 c. 22. Section 37(1) of the Taxation (Cross-border Trade) Act 2018 (“the Act”) defines “CEMA 1979” and “HMRC” for the purposes of Part 1 of the Act as meaning the Customs and Excise Management Act 1979 (c. 2) and Her Majesty’s Revenue and Customs respectively.

- (c) the EU Customs Code except the EUCL; or
- (d) the EUCL insofar as it continues to have effect as provided for by Part 15 of the Customs (Import Duty) (EU Exit) Regulations 2018(2);

“EUCL” means the direct EU legislation referred to in paragraph 1(1) of Schedule 7 to the Taxation (Cross-border) Trade Act 2018;

“EU Customs Code” means—

- (a) the UCC;
- (b) the [Commission Delegated Regulation \(EU\) 2015/2446](#) of 28 July 2015 supplementing [Regulation \(EU\) No 952/2013](#) of the European Parliament and of the Council as regards detailed rules concerning provisions of the Union Customs Code; and
- (c) [Commission Implementing Regulation \(EU\) 2015/2447](#) of 24 November 2015 laying down detailed rules for implementing certain provisions of [Regulation \(EU\) No 952/2013](#) of the European Parliament and of the Council laying down the Union Customs Code;

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

### **Records to be kept and preserved**

3.—(1) A person who is subject to a Customs obligation, or who carries out an act in pursuance of a Customs obligation, must keep and preserve such records, in such form, and for such period, as specified in a notice published by HMRC.

(2) HMRC must publish a notice specifying—

- (a) the records to be kept and preserved under paragraph (1);
- (b) the form in which they are to be kept; and
- (c) the period for which they must be kept and preserved.

(3) A notice published under paragraph (2) may make different provision for different cases.

### **Transitional and saving provision**

4.—(1) This regulation applies in relation to any person who was, immediately before exit day, subject to an obligation under Article 51 of the UCC to keep documents and information.

(2) Where this regulation applies, Article 51 of the UCC continues to have effect on and after exit day in relation to a person referred to in paragraph (1) until the expiry of the period for which the documents and information must be kept under that Article.

*Mike Freer*  
*Jeremy Quin*

Two of the Lords Commissioners of Her  
Majesty’s Treasury

29th January 2019

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## EXPLANATORY NOTE

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

These Regulations are made by the Treasury and make provision supplementing provision made in relation to import duty by and under Part 1 of the Taxation (Cross-border Trade) Act 2018 (c. 22) (“the Act”). This is an EU Exit statutory instrument.

Regulation 3 imposes a duty on a person who is subject to a Customs obligation (as defined in regulation 2) to keep and preserve records specified in a notice published by HMRC. The notice must set out the form in which such records are to be kept and the period for which they must be kept and preserved.

Regulation 4 makes transitional and saving provision in relation to an obligation to keep documents and information under EU legislation which ceases to have effect as a result of paragraph 1(1) of Schedule 7 to the Act.

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