

*This Statutory Instrument has been made partially in consequence of a defect in S.I. 2018/1260 and is being issued free of charge to all known recipients of that Statutory Instrument*

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STATUTORY INSTRUMENTS

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**2019 No. 148**

**EXITING THE EUROPEAN UNION**

**CUSTOMS**

**The Customs (Contravention of a Relevant Rule) (Amendment)  
(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(2) and (3)*

The Treasury make these Regulations in exercise of their powers in section 26(1)(a) and (b) and (5A) of the Finance Act 2003(a).

The Treasury consider it appropriate in consequence of, or otherwise in connection with, the withdrawal of the United Kingdom from the European Union, that regulation 2 of these Regulations come into force on such day as the Treasury may appoint under section 52(2) of the Taxation (Cross-border Trade) Act 2018(b).

**Citation and commencement**

**1.**—(1) These Regulations may be cited as the Customs (Contravention of a Relevant Rule) (Amendment) (EU Exit) Regulations 2019.

(2) Regulations 1 and 3 come into force 21 days after the day on which these Regulations are made.

(3) Regulation 2 comes into force on such day as the Treasury may appoint.

**Amendment of the Customs (Contravention of a Relevant Rule) Regulations 2003**

**2.**—(1) The Customs (Contravention of a Relevant Rule) Regulations 2003(c) are amended as follows.

(2) The Schedule to those Regulations is amended as follows.

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(a) 2003 c. 14. Section 26 was amended by paragraph 150 of Schedule 7 to the Taxation (Cross-border Trade) Act 2018 (c. 22) (“TCBA”).

(b) 2018 c. 22.

(c) S.I. 2003/3113 amended by S.I. 2009/3164, 2011/2534, 2015/636, 2018/483 and 2018/1260.

(3) Under the heading “Information and Records”(a), after the entry for “The Customs Traders (Accounts and Records) Regulations 1995” insert—

“The Customs (Records) (EU Exit) Regulations 2019(b)		
Regulation 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.	The person required to keep and preserve records.	£1,000.
Regulation 4(2) Where the regulation applies, a person referred to in regulation 4(1) must keep documents and information in accordance with Article 51 of Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying the Union Customs Code (“the UCC”) as saved by regulation 4(2).	The person who was immediately before exit day, subject to an obligation under Article 51 of the UCC to keep documents and information.	£1,000.”.

(4) At the end of the Schedule, after the entries under the heading “CTC, TIR and UK Transit”(c) insert—

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**“Export declarations**

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The Customs (Export) (EU Exit) Regulations 2019(d)

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Regulation 10 For goods intended to be exported in accordance with a procedure for the purposes of the applicable export provisions, an export declaration must be made in accordance with Part 4 of those Regulations.	The person responsible for making the export declaration.	£ 2,500.
Regulation 11 Where the requirement to make an export declaration under regulation 10 is not met before exportation of the goods, a declaration in accordance with Part 4 of the Regulations must be made as soon the person who exported the goods becomes aware or is notified of the requirement.	The person who exported the goods.	£1,000.

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(a) As amended by regulation 5(20) of S.I. 2018/1260.

(b) S.I. 2019/113.

(c) The entries under “CTC, TIR and UK Transit” were inserted by S.I. 2018/1260.

(d) S.I. 2019/108.

Regulation 30 An export declaration must meet the requirements set out in regulation 30.	The person responsible for making the export declaration.	£2,500.
<b>Simplified export declaration process</b>		
The Customs (Export) (EU Exit) Regulations 2019		
Regulation 32(6) The simplified declaration process(a) must be used in compliance with any condition contained in the authorisation as required by regulation 32(6).	The authorised declarant.	£2,500.
Regulation 33(1), (5) and (6) To comply with the simplified export declaration process an authorised declarant must make the export declaration, in respect of the goods in two parts, comprising— (a) a simplified export declaration, and (b) a supplementary export declaration. Each part must be made within the applicable timescale set out in regulation (5) and (6) as the case may be.	The authorised declarant	£2,500.
Regulation 33(8) An authorised declarant by the end of the period which applies to each respective part must make available for inspection by an HMRC officer any documents required to accompany each respective part.	The authorised declarant.	£2,500.
Regulation 38(1) Requirement to allow access to EIDR electronic system or provide information. An authorised EIDR export declarant must, when required to do so by an HMRC officer: (a) allow an officer access to the EIDR electronic system operated by the declarant; or (b) provide to the officer, from that system, information which the officer reasonably requires	The authorised EIDR export declarant.	£2,500.

(a) “Simplified export declaration process” is defined in regulation 31(1) of S.I. 2019/XXXX [Export Regs].

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in order to verify EIDR records, or other records showing whether or not any goods have been exported which are subject to a prohibition or restriction on export imposed under an enactment.

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Regulation 40(1), (3), (4) and (5)      A or (where applicable) B.      £2,500.

Save where regulation 40(1) is disapplied by regulation 40(2), goods, in respect of which an export declaration has been made, must be made available, by the person specified in regulation 40(3) (“A”) or (where applicable) the person required to do so in regulation 40(4) (“B”), for examination at an appropriate place within a period of 30 days beginning with the day on which the declaration was made and A or (where applicable) B, must give HMRC a notification setting out when and where the goods are to be made so available.

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Regulation 41(3)      The person required by an HMRC officer to comply with the requirement.      £1,000.

To comply immediately or at a specified time with the requirements to:  
 (a) provide information (and documents) to the officer as specified by the officer;  
 (b) handle goods, or otherwise deal with them, in accordance with instructions given by the officer (whether given orally or in any other way), or  
 (c) keep the goods in any place specified by the officer.

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**Presentation of goods on export**

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The Customs (Export) (EU Exit) Regulations 2019

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Regulation 51(1), (2) and (3)      A person mentioned in regulation 51(2) who is required to give the notification.      £2,500.

A person mentioned in regulation 51(2) must give a notification of export of goods to HMRC, except where another person mentioned in regulation 51(2) has given it, or is deemed to have given it, prior to the export of the goods

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and in compliance with regulation 51(4) to (6).

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**Goods exported from RoRo listed locations**

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The Customs (Export) (EU Exit) Regulations 2019

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Regulation 54(2) Where goods are carried by RoRo vehicles to, and are exported on RoRo vehicles from, RoRo listed locations goods must be made available for examination— (a) in cases specified in a notice which may be given by HMRC; or (b) if an HMRC officer requires that the goods are available for examination at a place specified in a notice by HMRC.	The person who made the export declaration (E) or (where applicable) a person who has been secured by E to make the goods available for examination on E’s behalf.	£2,500.
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**Customs agents**

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The Customs (Export) (EU Exit) Regulations 2019

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Regulation 57(1) Save where regulation 57(1) is disapplied by regulation 57(2), where a person (“P”) appoints another person (“A”) to act on P’s behalf as a Customs agent(a), A must disclose that agency in each export declaration which is made by A as agent for P.	A.	£2,500.
Regulation 58(2) Where a person’s appointment as a Customs agent is required to be disclosed in an export declaration by regulation 57(1) and the appointment is withdrawn, the principal must disclose the withdrawal by amending each export declaration in which disclosure of the appointment was required to be given.	The principal who was required to disclose the withdrawal of the appointment.	£1,000.
Regulation 58(4) Where an appointment in respect of an export declaration is withdrawn and the principal appoints another person (“C”) as a Customs agent in respect of the export	C	£1,000.

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(a) “Customs agent” is defined in section 21 of the TCBA.

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declaration, C must comply with regulation 58(2) instead of the principal and disclose with the amendment to the export declaration that C is acting as a Customs agent in respect of the export declaration.

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Regulation 58(6) Where a Customs agent originally acting in the capacity of— (a) a direct agent becomes an agent acting in the capacity of an indirect agent, or (b) an indirect agent becomes an agent acting in the capacity of a direct agent, the Customs agent must comply with regulation 58(2) instead of the principal and disclose with the amendment to the export declaration the agent’s new capacity.	The customs agent to whom regulation 58(6) applies.	£1,000.”.
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### **Amendment of the Customs (Contravention of a Relevant Rule) (Amendment) (EU Exit) Regulations 2018**

**3.—(1)** The Customs (Contravention of a Relevant Rule) (Amendment) (EU Exit) Regulations<sup>(a)</sup> are amended as follows.

(2) Renumber regulation 2(1) as regulation 2.

(3) In regulation 5—

(a) in paragraph (10)(b) omit “rail”,

(b) in paragraph (16)(a) for “Implementing” substitute “Importation”,

(c) in paragraph (16)(c)—

(i) omit ““Articles 48 and 49 and 59 of the Code and Regulation 5 of the Importation Regulation<sup>(b)</sup>,”” and

(ii) for “Articles 149” substitute “Article 149”, and

(d) in paragraph (22) after “56(2)(d)” insert “and (e)”.

(4) In paragraph (24), in the inserted table—

(a) under the heading “CTC, TIR and UK Transit” for “The Customs (Transit Procedures) (EU Exit) Regulations” substitute “The Customs Transit Procedures (EU Exit) Regulations”,

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(a) S.I. 2018/1260.

(b) These entries were previously omitted by S.I. 2018/483.

- (b) under the entry “Paragraphs 6(1) and 18(1) of Schedule 2” for “Where are goods moved” substitute, “Where goods are moved”, and
- (c) in the entry “Paragraph 61(6) of Schedule 1” omit “and any notice published under paragraph 63”.

*Mike Freer*  
*Jeremy Quin*

29th January 2019

Two of the Lords Commissioners for Her Majesty’s Treasury

### **EXPLANATORY NOTE**

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

These Regulations are made by the Treasury in connection with the withdrawal of the United Kingdom (“UK”) from the European Union (“EU”). They make amendments to the secondary legislation imposing civil penalties on those who contravene Customs rules relating to the import and export of goods into the UK in order to ensure that there is a functioning penalty regime following exit day in the event that the UK leaves the EU with no deal.

Regulation 1 provides for citation and commencement. Paragraph (2) provides that regulations 1 and 3 come into force 21 days after the instrument is made. Paragraph (3) provides that regulation 2 comes into force on a day to be appointed by Treasury Regulations pursuant to the power to make such provision contained in section 52(2) of the Taxation (Cross-border Trade) Act 2018 (c.22).

Regulation 2 makes further amendments to the Customs (Contravention of a Relevant Rule) Regulations 2003 (S.I. 2003/3113) (“the 2003 Regulations”). The 2003 Regulations were previously amended by the Customs (Contravention of a Relevant Rule) (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1260) (“the 2018 Regulations”). Provision is made for the imposition of civil penalties relating to—

- breaches of export rules which are contained in the Customs (Export) (EU Exit) Regulations 2019 (S.I. 2019/108);
- breaches of record keeping rules which are contained in the Customs (Records) (EU Exit) Regulations 2019 (S.I. 2019/113).

Regulation 3 contains amendments to the 2018 Regulations. The amendments correct errors which have been identified in that instrument.

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>.

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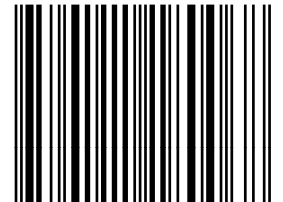
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