

Explanatory Memorandum to Tynwald Members

Issued by the Department of the Treasury

To the Hon Laurence Skelly MLC, President of Tynwald and the Hon Council and Keys in Tynwald assembled

1. Title of measure

Customs (Miscellaneous Amendments) (No. 2) Regulations 2021

2. Changes in policy

None. Under the Customs and Excise Agreement the Island is obliged to maintain its customs law so that it corresponds to that in the UK.

3. Effects of the measure

Regulation 3 amends the Customs (Import Duty) Regulations 2019. Paragraph (2) removes the staged customs controls and makes a consequential amendment. Paragraph (3) treats approval to be given by an officer for movements of goods from their place of importation, an approved wharf or an examination station to a temporary storage facility in the specified circumstances. Paragraph (4) makes provision so that if the requirements for the movement are breached the temporary storage declaration will be treated as withdrawn. Paragraphs (5) to (8) provide that Customs declarations must be pre-lodged both at "RoRo listed locations" and "other listed" locations. Paragraph (9) inserts a new Part 13B which provides for a requirement to notify the Treasury when chargeable goods headed for a RoRo or other listed location have been loaded and left for the Isle of Man. The Treasury is given a new power to set out details of this notification of embarkation in a notice.

Regulation 4 amends the Customs (Export) Regulations 2020). In addition to "RoRo listed locations" a new category of "specified export locations" is created and the Treasury is given the power to list such locations in a notice. New regulation 61(2A) sets out the criteria for listing a specified export location and other consequential amendments are made. A new requirement is introduced obliging certain persons to produce evidence that an export declaration has been made in respect of goods which are being transported to a RoRo listed or specified export location. The Treasury is given a power enabling them to set out the types of evidence that they will accept as demonstrating compliance with the obligation. Paragraph (8) inserts new regulations 62A and 62B. New regulation 62A enables an officer to issue a notice (a P2P notice) to a person who has made an export declaration in respect of goods being transported or which have arrived at, a RoRo listed or specified export

location stating that the goods have permission to proceed to the export location. A new obligation is placed on the operator of the ship, aircraft or railway vehicle to take reasonable steps to ensure that P2P notices have been issued in respect of the goods and the Treasury is given a power to specify details of how an operator may demonstrate compliance with the obligation in a public notice. New regulation 62B enables the Treasury to specify in a notice that certain modified procedures regarding export declarations that apply to RoRo listed locations may be extended to other locations where the Treasury considers that common export procedures would otherwise be significantly impeded.

Regulation 5 makes consequential amendments to the Customs (Special Procedures and Outward Processing) Regulations 2019.

4. Reasons for the measure

These Regulations make amendment to requirements for import and export customs controls which were introduced to replace previously applicable EU customs legislation following the UK's exit from the EU. The amendments in these regulations provide for the removal of the staged customs controls which were put into place on a temporary basis following the end of the transition period and replace those controls with the new procedures which will provide for full customs controls.

The governments of the Isle of Man and the UK have a long-standing commitment, the Customs and Excise Agreement 1979 ("the Agreement"), establishing a Customs Union, which allows for the free movement of goods (subject to certain restrictions and prohibitions) between the 2 territories. The Agreement imposes obligations on the Isle of Man Government to keep the laws relating to customs, excise and VAT correspondent to that in the UK.

5. Resource implications

It is not expected that this measure would involve any resource or revenue implications.

6. Tynwald procedure

These Regulations are subject to the negative Tynwald procedure under section 32(6) of the Taxation (Cross-border Trade) Act 2018, as it has effect in the Island.