

Statutory Document No. 2019/0077

*Customs and Excise Acts 1986*

CUSTOMS AND EXCISE ACTS 1986 (AMENDMENT) ORDER 2019

Approved by Tynwald: 9th April 2019
Coming into Operation: in accordance with article 2

The Treasury makes the following Order under section 180(3)¹ of the Customs and Excise Management Act 1986, section 28(2) of the Hydrocarbon Oil Duties Act 1986², section 8 of the Tobacco Products Duty Act 1986³ and section 14 of the Customs and Excise Duties (General Reliefs) Act 1986⁴.

1 Title

This Order is the Customs and Excise Acts 1986 (Amendment) Order 2019.

2 Commencement

If approved by Tynwald⁵, this Order comes into operation on exit day.

3 Interpretation

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

¹ Under section 180(3) of the Customs and Excise Management Act 1986 (“the Management Act”) the Treasury may by order add to, amend, vary or repeal any provision of that Act in such manner as may appear to it expedient for the purpose of making that Act correspond (subject to such modifications, exceptions or adaptations as it considers appropriate) with the like legislation from time to time operating in the United Kingdom, but no such order shall come into operation until it has been approved by Tynwald.

² Section 28(2) of the Hydrocarbon Oils Duties Act 1986 provides that section 180 of the Management Act shall have effect in relation to the Hydrocarbon Oils Duties Act 1986 as it has in effect in relation to the Management Act.

³ Section 8 of the Tobacco Products Duty Act 1986 provides that section 180 of the Management Act shall have effect in relation to the Tobacco Products Duty Act 1986 as it has in relation to the Management Act.

⁴ Section 14 of the Customs and Excise Duties (General Reliefs) Act 1986 provides that section 180 of the Management Act shall have effect in relation to the Customs and Excise Duties (General Reliefs) Act 1986 as it has in relation to the Management Act.

⁵ Tynwald approval is required by section 180(3) of the Management Act.

4 Amendment of the Customs and Excise Duties (General Reliefs) Act 1986

The Customs and Excise Duties (General Reliefs) Act 1986 is amended in accordance with the Schedule.

5 Amendment of the Hydrocarbon Oil Duties Act 1986

- (1) The Hydrocarbon Oil Duties Act 1986 is amended as follows.
- (2) In section 13AC⁶ (use of rebated kerosene for private pleasure-flying) —
 - (a) after subsection (6), insert —
 - 6A In this section “private pleasure-flying” means the use of an aircraft otherwise than for commercial purposes by —
 - (a) the owner of the aircraft; or
 - (b) any other person entitled to use it.
 - (6B) For the purposes of subsection (6A), the cases in which an aircraft is to be regarded as used for commercial purposes include any case where—
 - (a) consideration is provided by any person for the use of the aircraft (whether for the carriage of passengers or goods or for the supply of services or otherwise); or
 - (b) the aircraft is used for the purposes of any public authority.
 - (6C) Regulations may provide for other cases in which use of an aircraft is treated as being, or not being, private pleasure-flying for the purposes of this section. 7; and
 - (b) in subsection (7), omit the definition of “private pleasure-flying”.
- (3) In section 14E⁷ (rebated heavy oil and bioblend: private pleasure craft)—
 - (a) omit subsection (7A)⁸;
 - (b) after that subsection insert—
 - 7B In this section “private pleasure craft” means any aircraft or vessel used otherwise than for commercial purposes by—
 - (a) the owner of the aircraft or vessel; or
 - (b) any other person entitled to use it.

⁶ Section 13AC was inserted by SD640/08.

⁷ Section 14E was inserted by SD640/08.

⁸ Subsection (7A) was inserted by SD0198/12.

- (7C) For the purposes of subsection (7B), the cases in which an aircraft or vessel is to be regarded as used for commercial purposes include any case where—
- (a) consideration is provided by any person for the use of the aircraft or vessel (whether for the carriage of passengers or goods or for the supply of services or otherwise); or
 - (b) the aircraft or vessel is used for the purpose of any public authority.
- (7D) Regulations may provide for other cases in which aircraft or vessel is treated as being, or not being, a private pleasure craft for the purpose of this section. ~~22~~; and
- (c) in subsection (8), omit the definition of “private pleasure craft”.
- (4) In section 30, after the definition of “the Management Act” insert —
- ~~23~~ “**public authority**” has the meaning given in section 6 of the Freedom of Information Act 2015; ~~22~~.

6 Amendment of the Tobacco Products Duty Act 1986

In section 4(1A)(a) of the Tobacco Products Duty Act 1986 (retail price of cigarettes) for “a member State” substitute ~~24~~ the United Kingdom ~~22~~.

MADE 20 MARCH 2019

A L CANNAN
Minister for the Treasury

SCHEDULE

[Article 3]

AMENDMENT OF THE CUSTOMS AND EXCISE DUTIES (GENERAL RELIEFS)
ACT 1986

Provision of Act	Subject matter	Amendment
Section 1	Reliefs from customs duty for conformity with EU obligations and other international obligations, etc	Omit section 1 and the heading before it.
Section 2	Reliefs from customs duty referable to EU practices	Omit.
Section 3	Power to exempt particular importations of certain goods from customs duty	Omit.
Section 4	Administration of reliefs under section 1 and administration or implementation of similar EU reliefs	Omit.
Section 5	Power to provide reliefs from duty and value added tax in respect of imported legacies	<p>(1) In subsection (1), after “reliefs from”, insert “excise”.</p> <p>(2) In subsection (2) -</p> <p>(a) after “payment of”, insert “excise”; and</p> <p>(b) after “by way of”, insert “excise”.</p> <p>(3) Omit subsection (3).</p> <p>(4) In subsection (4)(a), omit “or any EU relief”.</p>

- (5) In subsection (5) -
- (a) omit the definition of “EU relief”; and
- (b) for the definition of “duty” substitute -
- “excise duty” means any duty of excise chargeable on goods and includes any addition to the duty by virtue of section 1 of the Excise Duties (Surcharges or Rebates) Act 1986; ~~and~~.
- (6) In the heading after “reliefs from”, insert “excise”.
- (7) In the cross heading immediately before section 5, omit “miscellaneous” and “customs and”.
- Section 6 Relief from customs or excise duty on trade samples, labels, etc
- (a) In the opening words, omit “customs or”; and
- (b) in the heading, omit “customs or”.
- Section 7 Relief from customs or excise duty on antique, prizes, etc
- (a) In the opening words, omit “customs or”; and
- (b) in the heading, omit “customs or”.
- Section 8 Relief from excise duty on certain Manx, etc goods re-imported
- Omit the cross-heading immediately before section 8.
- Section 9 Relief from excise duty on certain foreign goods re-imported
- In section 9(2), for “were entered for transit or transshipment”, substitute “were declared for a transit

procedure under Part 1 of the Taxation (Cross-border Trade) Act 2018, as it has effect in the Island⁹, ~~22~~.

Section 10	Supply of duty-free goods to Her Majesty's ships	Omit.
Section 11	Power to provide, in relation to persons entering the Island, for reliefs from duty and value added tax and for simplified computation of duty and tax	<p>(1) In subsection (1) -</p> <p style="padding-left: 20px;">(a) after "reliefs from" insert 23 excise 22;</p> <p style="padding-left: 20px;">(b) after "payment of", insert 23 excise 22; and</p> <p style="padding-left: 20px;">(c) after "by way of", insert 23 excise 22.</p> <p>(2) Omit subsection (2).</p> <p>(3) In subsection (3) -</p> <p style="padding-left: 20px;">(a) after "by way of" insert 23 excise 22; and</p> <p style="padding-left: 20px;">(b) after "elect that" insert 23 excise 22.</p> <p>(4) In subsection (4) -</p> <p style="padding-left: 20px;">(a) in paragraph (a), omit ", or any EU relief"; and</p> <p style="padding-left: 20px;">(b) in paragraph (b), after "relieved from" insert 22 excise 22.</p> <p>(5) In subsection (4B)(b) after "any" insert 23 excise 22.</p> <p>(6) In subsection (5) -</p>

⁹ SD 2019/0080.

(a) omit the definition of “EU relief”;

(b) for the definition of “duty” substitute -

“excise duty” means any duty of excise chargeable on goods and includes any addition to excise duty by virtue of section 1 of the Excise Duties (Surcharges or Rebates) Act 1986; and

(c) in the definition of “value added tax” omit the words from “from places outside” to the end.

(7) In the heading -

(a) after “reliefs from” insert “excise”; and

(b) after “computation of” insert “excise”.

Section 11B Reliefs from duties and taxes for persons enjoying certain immunities and privileges

(1) In subsection (1), for “duties of customs or excise”, substitute “any relevant levy, any duty of excise”.

(2) In subsection (3)(a), for “any duty of customs or excise,” substitute “any relevant levy, any duty of excise”.

(3) In subsection (6), for ““duty of customs” includes” substitute ““relevant levy” means”.

Section 11C	Persons to whom section 11B applies	Omit subsection (1)(c).
Section 11D	Offence where relieved goods used, etc, in breach of condition	In section 11D(1)(a) for “any duty of customs or excise”, substitute “any relevant levy, any duty of excise, ” .
Section 12	Produce of the sea, etc	Omit section 12 and the heading before it.
Section 13	False statements etc in connection with reliefs from customs duties	In subsection (1) - <ul style="list-style-type: none"> (a) in paragraph (a)¹⁰, for “customs duty under section 1 or 3 above or under an EU instrument; or” substitute “import duty under regulations made under section 19 of the Taxation (Cross-border Trade) Act 2018, as it has effect in the Island; ”; (b) omit paragraph (b); and (c) in the words after that paragraph, for “section 1, 3 or 4 or an EU instrument” substitute “Part 1 of that Act ”.

¹⁰ Section 13(1)(a) was substituted by SD0602/12.

*EXPLANATORY NOTE**(This note is not part of the Order)*

This Order amends the Customs and Excise Duties (General Reliefs) Act 1986, the Hydrocarbon Oil Duties Act 1986 and the Tobacco Products Duty Act 1986. It is necessary to amend the existing legislation as a consequence of the United Kingdom's withdrawal from the European Union to ensure that the imposition and administration of customs and excise duties works appropriately on withdrawal from the European Union.

The governments of the Isle of Man and the United Kingdom have a long-standing commitment, the Customs and Excise Agreement 1979 ("the Agreement") which establishes a Customs Union. This 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 with that of the United Kingdom.

The Order repeals a number of provisions in the Acts concerned with the imposition or administration of customs and excise duties. A large number of the amendments to the Acts are minor consequential changes to terminology. This includes replacing references to European Union legislation with references to the Taxation (Cross-border Trade) Act 2018 (of Parliament), as it has effect in the Island.