



## CUSTOMS AND EXCISE ACTS (APPLICATION) (AMENDMENT) ORDER 2019

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Statutory Document No. 2019/0083



*Customs and Excise Act 1993*

## **CUSTOMS AND EXCISE ACTS (APPLICATION) (AMENDMENT) ORDER 2019**

*Approved by Tynwald: 9<sup>th</sup> April 2019*  
*Coming into Operation: in accordance with Article 2*

The Treasury makes the following Order under sections 1 and 3 of the Customs and Excise Act 1993.

### **1 Title**

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

### **2 Commencement**

This Order comes into operation on exit day<sup>1</sup>.

### **3 Interpretation**

In this Order —

“**the principal Order**” means the Customs and Excise Acts (Application) Order 1979<sup>2</sup>; and

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

### **4 Application**

(1) The applied legislation applies in the Island, as part of the law of the Island, subject to the exceptions, adaptations and modifications contained in the Schedule to this Order.

(2) In this Order, “**the applied legislation**” means Part 3 of Schedule 7, Part 2 of Schedule 8 and paragraph 9 of Schedule 9 to, the Taxation (Cross-border Trade) Act 2018 (an Act of Parliament)<sup>3</sup>.

<sup>1</sup> Section 3(1) of the Customs and Excise Act 1993 provides that an order made under section 1 or 2 of that Act shall be laid before Tynwald as soon as practicable after it is made and if at the sitting at which it is laid Tynwald fails to approve the order it shall cease to have effect.

<sup>2</sup> GC 38/79.

## 5 Amendment of the principal Order

- (1) As a consequence of Article 4, the principal Order is amended as follows.
- (2) In Part IIIA (post-1979 Acts of Parliament applied to the Island) of Schedule 1 (UK legislation applied by the order) —
- (a) in the entry relating to the Finance Act 1994 (c.9), for the third column substitute —
- ~~22~~ Sections 7 to 44, paragraphs 1 to 5 and 8 to 10 of Schedule 5 and Schedule 6, as amended by —
- Finance Act 2008 (c.9);
- Finance Act 2009 (c.10);
- Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56);
- Finance Act 2012 (c.14);
- Gambling Duty Act 2012 (Gambling Duty Assessments and Appeals) Order 2013 (SD 0301/13);
- Finance Act 2014 (c.26);
- Revenue and Customs (Amendment of Appeal Provisions for Out of Time Reviews) Order 2014 (S.I. 2014/1264);
- Finance Act 2015 (c.11);
- section 46 of Finance Act 2018 (c.3);
- Schedule 7 to the Taxation (Cross-border Trade) Act 2018 (c.22) ~~22~~;
- (b) in the entry relating to the Finance Act 2003 (c.14), for the third column substitute —
- ~~22~~ Sections 24 to 39 and 41, as amended by —
- Finance Act 2009 (c.10);
- Revenue and Customs (Amendment of Appeal Provisions for Out of Time Reviews) Order 2014 (S.I. 2014/1264);
- Finance Act 2003, Part 3 (Amendment) Order 2018 (S.I. 2018/461);
- Schedule 7 to the Taxation (Cross-border Trade) Act 2018 (c.22) ~~22~~;
- and
- (c) in the entry relating to the Finance Act 2008 (c.9), for the third column substitute —
- ~~22~~ Sections 124, 130, 131, 133 and 160, and Schedules 36 and 41, as amended by —
- Finance Act 2009 (c.10);

<sup>3</sup> 2018 c.22 (of Parliament).

Finance Act 2012 (c.14);

Gambling Duty Act 2012 (Gambling Duty Assessments and Appeals) Order 2013 (SD 0301/13);

Finance Act 2016 (c.24)

Part 2 of Schedule 8 to the Taxation (Cross-border Trade) Act 2018 (c.22))<sup>22</sup>.

- (3) In Schedule 15 (exceptions, adaptations and modifications subject to which the Finance Act 1994 (c.9) shall have effect in the Island)<sup>4</sup>, in the entry relating to section 16, in the third column, omit subsections (11) and (12).
- (4) In Schedule 15 (exceptions, adaptations and modifications subject to which the Finance Act 1994 (c.9) shall have effect in the Island), in the entry relating to section 17 (interpretation)<sup>5</sup>, for the third column substitute —
- (a) in the definition of “appeal tribunal”, for “shall be construed in accordance with section 7(3) above”, substitute “means VAT and duties tribunal”<sup>22</sup>;
- (b) omit the definition of “Community Customs Code”;
- (c) in the definition of “the Management Act”, for “1979”, substitute “1986”<sup>22</sup>; and
- (d) in the definition of “relevant duty”, for “means any EU customs duty”, substitute “means any customs duty”<sup>22</sup>.
- (5) In Schedule 15 (exceptions, adaptations and modifications subject to which the Finance Act 1994 (c.9) shall have effect in the Island), in the entry relating to Schedule 5, paragraph 1<sup>6</sup>, for the third column substitute —
- (a) For the italic heading before paragraph 1, substitute “Taxation (Cross-border Trade) Act 2018”<sup>22</sup>.
- (b) For “Commissioners”, wherever occurring, substitute “Treasury”<sup>22</sup>.
- (c) In the opening words, from “, so far as” to “implementing the Code”, substitute “so far as they are made under any provision made by or under Part 1 of the Taxation (Cross-border Trade) Act 2018, as it has effect in the Island,”<sup>22</sup>.
- (d) In paragraph (a), for “transhipment”, substitute “transit”<sup>22</sup>.

<sup>4</sup> Schedule 15 was inserted into GC 38/79 by SD 369/94. Section 16 of the Finance Act 1994, as it has effect in the Island has been subsequently amended by SD 217/09, SD 2014/0216 and SD 2016/0272.

<sup>5</sup> Section 17 of the Finance Act 1994 was applied in the Island by SD 369/94.

<sup>6</sup> Paragraph 1 of Schedule 5 to the Finance Act 1994 was applied in the Island by SD 369/94.

- (e) After paragraph (a), insert —
- (aa)** any decision as to whether or not consent to the amendment or withdrawal of any Customs or other declaration is to be given; **(2)**.
- (f) For paragraph (e), substitute —
- (e)** any decision, in any particular case, as to whether or not any licence, authorisation or approval is to be granted to any person (whether in respect of any premises, place or area or anything else); **(2)**.
- (g) For paragraph (j), substitute —
- (j)** any decision, in any particular case, as to whether or not a fee is to be charged to any person under regulations made under section 27 of the Taxation (Cross-border Trade) Act 2018, as it has effect in the Island, or as to the amount of any such fee; **(2)**.
- (h) For sub-paragraph (k), substitute —
- (k)** any decision as to whether or not collection of interest on arrears of customs duty or agricultural levy is to be waived. **(2)**.
- (i) In paragraph (m), for “security”, in both places, substitute **(2)** security or other guarantee **(2)**.
- (j) In paragraph (n) —
- (i) omit “customs duty or”; and
- (ii) omit the words from “or to do any other thing” to the end.
- (k) After paragraph (n), insert —
- (na)** any decision as to the time at which or the period within which any obligation to pay any customs duty or to do any other thing required or authorised as a result of provision made by or under Part 1 of the Taxation (Cross-border Trade) Act 2018, as it has effect in the Island, is to be complied with; **(2)**.
- (l) In paragraph (o) —
- (i) for “varied or revoked”, substitute **(2)** varied, suspended or revoked **(2)**; and
- (ii) at the end insert **(2)**, and a decision as to whether or not a licence, authorisation or approval is to be suspended or revoked or the terms of a licence, authorisation or approval are to be varied **(2)**, **(2)**.
- (6) In Schedule 15 (exceptions, adaptations and modifications subject to which the Finance Act 1994 (c.9) shall have effect in the Island), in the

entry relating to Schedule 5, paragraph 27, for paragraph (a) in the third column, substitute —

(a) In sub-paragraph (1) —

(i) for paragraph (a), substitute —

(a) any decision made under any regulations under section 13, 15 or 18 (approved wharf, examination station or temporary storage facility) —

(i) as to whether or not a mandatory condition is met; or

(ii) as to whether or not a discretionary condition is to be imposed, the terms of a discretionary condition or whether or not a discretionary condition is met;

and any reference to a mandatory condition is to a condition within subsection (1A)(a) of section 13, 15 or 18 and any reference to a discretionary condition is to a condition within subsection (1A)(b) of that section;

(ii) in paragraph (b), for “21”, substitute 14;

(iii) in paragraph (c), for “24”, substitute 17;

(iv) in paragraph (d), for “Commissioners”, substitute Treasury and for “29(3)”, substitute 21(3);

(v) in paragraph (e), for “30(1)”, substitute 22(1);

(vi) in paragraph (f), for “subsection (2A) of section 31”, substitute section 23(3);

(vii) in paragraph (g), for “subsection (3) of section 33”, substitute section 25(3);

(viii) after paragraph (g), insert —

(ga) any decision consisting in the imposition of a requirement by virtue of section 25(3A) or as to what is or is not to be approved for the purposes of paragraph (a) of that subsection;

(ix) in paragraph (h), for “39”, substitute 36;

(x) in paragraph (i), for “40”, substitute 37;

(xi) omit paragraphs (j) and (k);

(xii) in paragraph (l), for “63”, substitute 64;

(xiii) in paragraph (m), for “77, 79 or 80”, substitute 78, 80 or 81;

<sup>7</sup> Paragraph 2 of Schedule 5 to the Finance Act 1994 was applied in the Island by SD 369/94, and amended by SD 2015/0191.

- (xiv) in paragraph (n), for “92”, substitute **93**;
  - (xv) in paragraph (o), for “Commissioners”, substitute **Treasury** and for “99” substitute **93**;
  - (xvi) in paragraph (p), for “100G”, substitute **107A**;
  - (xvii) in paragraph (q), for “132 or 134”, substitute **139 or 141**;
  - (xviii) in paragraph (r), for “152(b)”, substitute **159(b)**;
  - (xix) in paragraph (s), for “157”, substitute **164**; and
  - (xx) in paragraph (t), for “158”, substitute **165**.
- (7) In Schedule 20 (exceptions, adaptations and modifications subject to which sections 24 to 39 of the Finance Act 2003 (c.14 of Parliament) shall apply in the Island)<sup>8</sup>, in the entry relating to section 24 (introductory) for the third column, substitute –
- (a)** in subsection (2), omit paragraphs (b), (c) and (e);
  - (b)** omit the definitions of “the Commissioners”, “the Community Customs Code”, “Community export duty”, “Community import duty”, “customs duty of a preferential tariff country”, “preferential tariff country”, “Union Customs Code”, “Union export duty” and “Union import duty”;
  - (c)** in the definition of “import VAT”, for “1994 (c.23)”, substitute **1996** and for “from places outside the member States”, substitute **into the Island**; and
  - (d)** omit subsections (4) to (7).
- (8) In Schedule 20 (exceptions, adaptations and modifications subject to which sections 24 to 39 of the Finance Act 2003 (c.14 of Parliament) shall apply in the Island), after the entry relating to section 24 (introductory), insert –
- |           |                     |                      |
|-----------|---------------------|----------------------|
| <b>25</b> | Penalty for evasion | Omit subsection (3). |
|-----------|---------------------|----------------------|
- (9) In Schedule 20 (exceptions, adaptations and modifications subject to which sections 24 to 39 of the Finance Act 2003 (c.14 of Parliament) shall apply in the Island), in the entry relating to entry 26 (penalty for contravention of a relevant rule) for the third column, substitute –
- (a)** after subsection (5), insert –
    - (5A)** Where the conduct constituting a contravention of a relevant rule is a contravention of a condition imposed under regulations under section 13(1A), 15(1A) or 18(1A) of the Customs and Excise Management Act 1986 –

<sup>8</sup> Schedule 20 was inserted into GC 38/79 by means of SD 843/03, and subsequently amended by means of SD 217/09, SD 906/09, SD 2014/0216 and SD 2018/0200.



- (a) the Treasury may, by regulations, provide that, in prescribed circumstances, there are to be deemed for the purposes of subsection (1) of this section to be further separate contraventions of the rule; and
      - (b) the provision that may be made by the regulations includes provision replicating or applying, with or without modifications, any provision made by section 13A(1A) or (1B), 15A(1A) or (1B) or 18A(1A) or (1B) of the Customs and Excise Management Act 1986. ~~22~~;
    - (b) omit subsections (6) and (7);
    - (c) in subsection (8) —
      - (i) before paragraph (a), insert —
        - ~~22~~(za) Part 1 of the Taxation (Cross-border Trade) Act 2018, as it has effect in the Island, as it applies in relation to the relevant tax or duty; ~~22~~;
      - (ii) in paragraph (a), for “1979 (c.2)”, substitute ~~22~~ 1986 ~~22~~;
      - (iii) in paragraph (b), for “instrument”, substitute ~~22~~ provision ~~22~~; and
      - (iv) omit paragraphs (c), (d) and (e); and
    - (d) in sub-section (9) —
      - (i) omit the definition of “Community customs rules”; and
      - (ii) for the definition of “relevant international rules”, substitute —
        - ~~22~~ **“relevant international rules”** means international agreements so far as applying in relation to a relevant tax or duty and having effect as part of the law of the Island by virtue of any Act or statutory provision. ~~22~~. ~~22~~
- (10) In Schedule 20 (exceptions, adaptations and modifications subject to which sections 24 to 39 of the Finance Act 2003 (c.14 of Parliament) shall apply in the Island), after the entry relating to section 31 (time limits for demands for penalties), insert —
- |                  |   |  |
|------------------|---|--|
| <del>22</del> 32 | No prosecution after demand notice for penalty under section 26 | <ul style="list-style-type: none"> <li>(a) the existing text becomes subsection (1); and</li> <li>(b) after that subsection insert -               <ul style="list-style-type: none"> <li><del>22</del> (2) Nothing in subsection (1) prevents the bringing of proceedings against a person for an offence under section 13A(1A),</li> </ul> </li> </ul> |
|------------------|---|--|

15A(1A) or 18A(1A) of the Customs and Excise Management Act 1986 in circumstances where it is alleged that the person is liable to a penalty of an enhanced amount. ~~22~~.

- (11) In Schedule 20 (exceptions, adaptations and modifications subject to which sections 24 to 39 of the Finance Act 2003 (c.14 of Parliament) shall apply in the Island), in the entry relating to section 38 (admissibility of certain statements and documents), for the third column, substitute –
- ~~66~~ (a) For “Commissioners”, in each place the word occurs, substitute ~~66~~ Treasury ~~22~~;
  - (b) in subsection (2)(b), for “Commissioners”, substitute ~~66~~ Treasury’s ~~22~~; and
  - (c) omit subsection (3). ~~22~~.
- (12) In Part 2 of Schedule 21A (application of Schedule 36 to the Finance Act 2008 (c.9) to the Island)<sup>9</sup>, in the entry relating to Schedule 36, paragraph 11 (power to inspect premises used in connection with taxable supplies etc.), for the third column, substitute –
- ~~66~~ (a) in sub-paragraph (1), omit paragraph (b) (but not the “or” at the end of that paragraph); and
  - (b) in sub-paragraph (2)(c) omit the words from “, the acquisition” to “acquisitions”. ~~22~~.
- (13) In Part 2 of Schedule 21A (application of Schedule 36 to the Finance Act 2008 (c.9) to the Island), in the entry relating to Schedule 36, paragraph 34 (supply of goods or services etc.), for the third column, substitute –
- ~~66~~ (a) in sub-paragraph (1), omit paragraph (b) (but not the “or” at the end of that paragraph);
  - (b) in sub-paragraph (c) omit “from a place outside the member States”; and
  - (c) in sub-paragraph (4), omit “, 11” and for “Schedule 4” substitute ~~66~~ Schedule 5 ~~22~~, ~~22~~.
- (14) In Part 2 of Schedule 21A (application of Schedule 36 to the Finance Act 2008 (c.9) to the Island), in the entry relating to Schedule 36, paragraph 63 (tax), for paragraph (c) in the third column, substitute –
- ~~66~~ (c) omit sub-paragraph (3), (but not the “or” at the end of that paragraph); ~~22~~.

<sup>9</sup> Part 2 of Schedule 21A was inserted by SD 0638/08, and subsequently amended by SD 239/10, SD 0579/12, SD 0665/12, SD 0301/13 and SD 2016/0272.

- (15) In Part 3 of Schedule 21A (application of Schedule 41 to the Finance Act 2008 (c.9) to the Island)<sup>10</sup>, in the entry relating to Schedule 41, paragraph 1 (penalties: failure to notify and certain VAT and excise wrongdoing), for the third column, substitute —
- (a) Omit the entries relating to —
    - Income tax and capital gains tax,
    - Corporation tax,
    - Insurance premium tax,
    - Aggregates levy,
    - Climate change levy, and
    - Landfill tax;
  - (b) in the first entry relating to value added tax, for “Schedule 1 to VATA 1994”, substitute **☐**Schedule 2 to the Value Added Tax Act 1996**☐**;
  - (c) after the first entry relating to value added tax, insert —
 

<b>☐</b> Value Added Tax	Obligations under paragraphs 5, 6 and 13(3) of Schedule 2A to the Value Added Tax Act 1996 (obligations to notify liability to register and notify material change in nature of supplies made by person exempted from registration) <b>☐</b> ;
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  - (d) omit the second entry relating to value added tax (obligation to notify under Schedule 3 to the Value Added Tax Act 1996);
  - (e) omit the third entry relating to value added tax (obligations to notify under Schedule 4 to the Value Added Tax Act 1996);
  - (f) omit the fifth entry relating to value added tax (obligation to notify under regulations made under paragraph 2(4) of Schedule 12 to the Value Added Tax Act 1996);
  - (g) in the entry relating to air passenger duty, for “FA 1994”, substitute **☐**Finance Act 1994 (as it has effect in the Island)**☐**;
  - (h) in the second entry relating to alcoholic liquor duties, for “12(1)” to “62(2)”, substitute **☐**11(1), 42(1), 50(2), 51(2) and 58(2)**☐**;
  - (i) in the third entry relating to alcoholic liquor duties, for “15(6) of ALDA 1979”, substitute **☐**14(6) of the Alcoholic Liquor Duties Act 1986**☐**;

<sup>10</sup> Part 3 of Schedule 21A was inserted by SD 0638/08, and subsequently amended by SD 239/10, SD 0579/12, SD 0665/12, SD 0301/13 and SD 2016/0272.

- (j) in the entry relating to tobacco products duty, for “7 of TPDA 1979”, substitute **6** of the Tobacco Products Duty Act 1986 **22**;
- (k) in the entry relating to hydrocarbon oil duties, for “21 of HODA 1979”, substitute **24** of the Hydrocarbon Oil Duties Act 1986 **22**;
- (l) in the first entry relating to excise duties, for “92 of CEMA 1979”, substitute **93** of the Customs and Excise Management Act 1986 **22**;
- (m) in the second entry relating to excise duties, for “100G or 100H of CEMA 1979”, substitute **107A** or **107B** of the Customs and Excise Management Act 1986 **22**;
- (n) in the final entry relating to excise duties, for “Article 79 of Council Regulation 2913/92/EEC”, substitute **Part 1** of the Taxation (Cross-border Trade) Act 2018, as it has effect in the Island **22**;
- (o) omit the entries relating to –  
 General betting duty,  
 Pool betting duty,  
 Bingo duty,  
 Lottery duty,  
 Gaming duty,  
 Remote gaming duty, and  
 Amusement machine licence duty;
- (p) after the entry relating to hydrocarbon oil duties, insert –  

<b>Machine Games Duty</b>	Obligation under paragraph 20(3) (obligation to register in respect of premises) of Schedule 24 to the Finance Act 2012 (of Parliament), as it has effect in the Island <b>22</b> ;
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- (q) following the entries relating to excise duties, insert –  

<b>Gambling duty</b>	Obligations under section 8(7) of the Gambling Duty Act 2012 (obligation to notify the Treasury not less than 7 days before commencing operations liable to gambling duty) <b>22</b> . <b>22</b> .
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- (16) In Part 3 of Schedule 21A (application of Schedule 41 to the Finance Act 2008 (c.9) to the Island), in the entry relating to Schedule 41, paragraph 7 (penalties: failure to notify and certain VAT and excise wrongdoing) for the third column, substitute –

- (a) omit sub-paragraphs (2) to (5);
- (b) in sub-paragraph (6) —
  - (i) for “any other”, substitute **“a”**; and
  - (ii) omit “, but subject to sub-paragraph (8)”;
- (c) in sub-paragraph (7)(a) —
  - (i) for “1” and “3”, substitute **“2”** and **“4”** respectively; and
  - (ii) omit “, paragraph 8(2) of Schedule 3 to that Act”;
- (d) omit sub-paragraph (8); and
- (e) in sub-paragraph (9), omit the words from “insurance” to “landfill tax or”. **“”**.

## 6 Amendment of Customs and Excise Acts (Application) Order 2011

- (1) As a consequence of Article 4, the Customs and Excise Acts (Application) Order 2011<sup>11</sup> is amended as follows.
- (2) In Schedule 1 (extent of application of Schedule 23 to the Finance Act 2011 to the Island) in the entry relating to paragraph 45 (tax), omit paragraph (3)(b) (together with the “and” before that paragraph).

**MADE 20 MARCH 2019**

**A L CANNAN**  
*Minister for the Treasury*

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<sup>11</sup> SD 0667/11.



## SCHEDULE

[Article 4(1)]

**EXCEPTIONS, ADAPTATIONS AND MODIFICATIONS SUBJECT TO WHICH PART 3 OF SCHEDULE 7, PART 2 OF SCHEDULE 8 AND PARAGRAPH 9 OF SCHEDULE 9 TO THE TAXATION (CROSS-BORDER TRADE) ACT 2018 (C.22 OF PARLIAMENT) SHALL HAVE EFFECT IN THE ISLAND**

## GENERAL MODIFICATION

References to “the Taxation (Cross-border Trade) Act 2018” shall be read as that Act has effect in the Island.<sup>12</sup>

## SCHEDULE 7 – IMPORT DUTY: CONSEQUENTIAL AMENDMENTS

## PART 3 – AMENDMENTS OF OTHER ENACTMENTS

Provision of the Act	Subject matter	Exception, adaptation or modification
Paragraphs 118 to 138	Customs and Excise Duties (General Reliefs) Act 1979	Omit.
Paragraphs 139 to 141	Isle of Man Act 1979	Omit.
Paragraph 142	Finance Act 1994	After “Finance Act 1994” insert <b>43</b> , as it has effect in the Island, <b>42</b> .
Paragraph 145		(1) In subparagraph (4)(a), for “20, 22 or 25” in both places, substitute <b>43</b> 13, 15 or 18 <b>42</b> . (2) In subparagraph (4)(b), for “subsection (3A) of section 33”, substitute <b>43</b> section 25(3A) <b>42</b> .
Paragraph 146	Terrorism Act 2000	Omit.
Paragraph 147	Finance Act 2003	After “Part 3 of the Finance Act 2003”, insert <b>43</b> , as it has effect in the Island <b>42</b> .
Paragraph 148		(1) In subparagraph (3), omit ““the European Union Customs Code”, “Community export duty”, “Community import duty”,”. (2) In subparagraph (4), for “subsections (4) to (6)”, substitute

<sup>12</sup> The Taxation (Cross-border Trade) Act 2018 was applied in the Island by SD 2019/0080.

		<p>☐ subsection (4) ☐.</p> <p>(1) In subparagraph (2), in the inserted subsection (5A), for “section 20(1A), 22(1A) or 25(1A) of the Customs and Excise Management Act 1979”, substitute ☐ section 13(1A), 15(1A) or 18(1A) of the Customs and Excise Management Act 1986 ☐.</p> <p>(2) In subparagraph (2), in the inserted subsection (5A)(b), for “section 20A(1A), or (1B), 22A(1A) or (1B) or 25A(1A) or (1B) of the Customs and Excise Management Act 1979”, substitute ☐ section 13A(1A) or (1B), 15A(1A) or (1B) or 18A(1A) or (1B) of the Customs and Excise Management Act 1986 ☐.</p>
Paragraph 150		
Paragraph 151		In subparagraph (b), in the inserted subsection (2), for “section 20(1A), 22(1A) or 25(1A) of the Customs and Excise Management Act 1979”, substitute ☐ section 13(1A), 15(1A) or 18(1A) of the Customs and Excise Management Act 1986 ☐.
Paragraphs 153 to 155	Income Tax (Trading and Other Income) Act 2005	Omit.
Paragraph 156	Borders, Citizenship and Immigration Act 2009	Omit.
Paragraph 157	Corporation Act 2009	Omit.

## SCHEDULE 8 – VAT AMENDMENTS CONNECTED WITH WITHDRAWAL FROM THE EU

### PART 2 – AMENDMENTS TO OTHER ENACTMENTS

Provision of the Act	Subject matter	Exception, adaptation or modification
Paragraph 100	Diplomatic Privileges Act 1964	Omit.
Paragraph 101	Commonwealth Secretariat Act 1966	Omit.



Paragraph 102	Consular Relations Act 1968	Omit.
Paragraph 103	International Organisations Act 1968	Omit.
Paragraph 104	Diplomatic and Other Privileges Act 1971	Omit.
Paragraph 105	Customs and Excise Duties (General Reliefs) Act 1979	Omit.
Paragraph 106	Finance Act 1994	Omit.
Paragraph 107	Vehicle Excise and Registration Act 1994	Omit.
Paragraph 108	Finance Act 2003	After “Finance Act 2003”, insert <b>66</b> , as it has effect in the Island, <b>62</b> .
Paragraph 109		For “United Kingdom”, substitute <b>63</b> Island <b>62</b> .
Paragraph 111	Finance Act 2007	Omit.
Paragraph 114	Finance Act 2008	(1) In subparagraph (2)(a), for “Schedule 2 to the Value Added Tax Act 1994”, substitute <b>64</b> Schedule 3 to the Value Added Tax Act 1996 <b>62</b> . (2) In subparagraph (2)(b), for “Schedule 3 to the Value Added Tax Act 1994”, substitute <b>64</b> Schedule 4 to the Value Added Tax Act 1996 <b>62</b> . (3) In subparagraph (2)(c), for “Schedule 11 to the Value Added Tax Act 1994”, substitute <b>64</b> Schedule 12 to the Value Added Tax Act 1996 <b>62</b> . (4) In subparagraph (3)(c), for “Schedule 3 to that Act”, substitute <b>64</b> Schedule 4 to that Act <b>62</b> .
Paragraphs 115 to 119	Finance Act 2009	Omit.
Paragraph 120	Finance Act 2011	Omit.
Paragraph 121	Finance Act 2016	Omit.
Paragraphs 122 to 131	Finance (No. 2) Act 2017	Omit.

Paragraph 132            Consequential repeals    Omit.

**SCHEDULE 9 – EXCISE DUTY AMENDMENTS CONNECTED WITH  
WITHDRAWAL FROM EU**

**PARAGRAPH 9**

Provision of the Act	Subject matter	Exception, adaptation or modification
Paragraph 9	Finance Act 2008	(1) After “Finance Act 2008”, insert <b>66</b> , as it has effect in the Island, <b>62</b> .

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

This Order amends the Customs and Excise Acts (Application) Order 1979 (“the 1979 Order”) to apply certain provisions in Island law which make amendments to other legislation already applied in Island law.

As a consequence of the decision in the United Kingdom (“UK”) on 23 June 2016 to leave the European Union (“EU”), the UK must introduce domestic customs legislation to replace EU law once the UK is no longer a member State of the EU. Most of the law governing the administration of the EU Customs Union is contained in the Union Customs Code (“UCC”) and its delegated and implementing Acts. As an EU Regulation, the UCC is directly applicable in the UK, meaning that it is automatically given legal effect in the UK, without the need for further domestic legislation.

The UCC is also directly applicable in the Island, through its relationship with the EU under Protocol 3 to the UK’s Act of Accession.

From the date the UK leaves the EU, the UK will require domestic customs legislation to ensure, amongst other things that the UK can —

- (a) charge Customs duty on goods (including on goods imported from the EU);
- (b) define how goods will be classified based on their nature, origin and any other factor relevant to their treatment for Customs purposes, which, as currently is the case, will be based upon the World Customs Organization’s Harmonised System;
- (c) establish a new Customs tariff, which sets out the applicable rate of import duty to be applied to imported goods;
- (d) set and vary rates of Customs duty; and
- (e) vary or suspend duty at import in certain circumstances.

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 laws relating to customs, excise and VAT correspondent to that in the UK.

When the UK leaves the EU, and is no longer subject to the EU laws relating to customs, the Island must also introduce domestic customs legislation which corresponds with the UK law. A separate Order<sup>13</sup> applies the main provisions of the Taxation (Cross-border Trade) Act 2018 to the Island.

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<sup>13</sup> SD 2019/0080.

This Order applies the following provisions of the Taxation (Cross-border Trade) Act 2018, subject to relevant exceptions, adaptations and modifications contained in the Schedule, to the Island, which make amendments to existing applied legislation —

- Part 3 of Schedule 7;
- Part 2 of Schedule 8; and
- paragraph 9 of Schedule 9.

The amendments are made to —

- substitute cross-references to EU legislation or EU customs duty in the applied legislation with references to the Taxation (Cross-border Trade) Act 2018, as it has effect in the Island; and
- reflect amendments made to other Acts of Tynwald, such as the Customs and Excise Management Act 1986<sup>14</sup>, and the Value Added Tax Act 1996<sup>15</sup>.

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<sup>14</sup> Amendments to the Customs and Excise Management Act 1986 are made by SD 2019/0081.

<sup>15</sup> Amendments to the Value Added Tax Act 1996 are made by SD 2019/0082.

**Annex**  
**SCHEDULE 7**

**IMPORT DUTY: CONSEQUENTIAL AMENDMENTS**

**PART 3**

**AMENDMENTS TO OTHER ENACTMENTS**

*Customs and Excise Duties (General Reliefs) Act 1979*

118 ...Omitted.

119 ...Omitted.

120 ...Omitted.

121 ...Omitted.

122 ...Omitted.

123 ...Omitted.

124 ...Omitted.

125 ...Omitted.

126 ...Omitted.

127 ...Omitted.

128 ...Omitted.

129 ...Omitted.

130 ...Omitted.

131 ...Omitted.

132 ...Omitted.

133 ...Omitted.

134 ...Omitted.

135 ...Omitted.

136 ...Omitted.

137 ...Omitted.

138 ...Omitted.

Isle of Man Act 1979

139 ...**Omitted.**

140 ...**Omitted.**

141 ...**Omitted.**

Finance Act 1994

142 The Finance Act 1994, **as it has effect in the Island**, is amended as follows.

143 In section 16 (appeals to tribunal), omit subsections (11) and (12).

144 In section 17 (interpretation), in subsection (2)—

(a) omit the definition of “the Community Customs Code”, and

(b) in the definition of “relevant duty”, for “means any EU customs duty” substitute “means any customs duty”.

145 (1) Schedule 5 (decisions subject to review and appeal) is amended as follows.

(2) For the italic heading before paragraph 1 substitute “Taxation (Cross-border Trade) Act 2018”.

(3) In paragraph 1—

(a) in the opening words, from “, so far as” to “implementing that Code,” substitute “so far as they are made under any provision made by or under Part 1 of the Taxation (Cross-border Trade) Act 2018”,

(b) in paragraph (a), for “transhipment” substitute “transit”,

(c) after paragraph (a) insert—

“(aa) any decision as to whether or not consent to the amendment or withdrawal of any Customs or other declaration is to be given;”,

(d) for paragraph (e) substitute—

“(e) any decision, in any particular case, as to whether or not any licence, authorisation or approval is to be granted to any person (whether in respect of any premises, place or area or anything else);”,

(e) for paragraph (j) substitute—

“(j) any decision, in any particular case, as to whether or not a fee is to be charged to any person under regulations made under section 27 of the Taxation (Cross-border Trade) Act 2018 or as to the amount of any such fee;”,

(f) in paragraph (m), for “security”, in both places, substitute “security or other guarantee”, and

(g) in paragraph (n)—

- (i) omit "customs duty or", and
- (ii) omit the words from "or to do any other thing" to the end,
- (h) after paragraph (n) insert—
  - "(na) any decision as to the time at which or the period within which any obligation to pay any customs duty or to do any other thing required or authorised as a result of provision made by or under Part 1 of the Taxation (Cross-border Trade) Act 2018 is to be complied with;", and
- (i) in paragraph (o)—
  - (i) for "varied or revoked" substitute "varied, suspended or revoked", and
  - (ii) at the end insert ", and a decision as to whether or not a licence, authorisation or approval is to be suspended or revoked or the terms of a licence, authorisation or approval are to be varied".
- (4) In paragraph 2(1)—
  - (a) for paragraph (a) substitute—
    - "(a) any decision made under any regulations under section ~~20, 22 or 25~~ **13, 15 or 18** (approved wharf, examination station or temporary storage facility)—
      - (i) as to whether or not a mandatory condition is met; or
      - (ii) as to whether or not a discretionary condition is to be imposed, the terms of a discretionary condition or whether or not a discretionary condition is met;

and any reference to a mandatory condition is to a condition within subsection (1A)(a) of section ~~20, 22 or 25~~ **13, 15 or 18** and any reference to a discretionary condition is to a condition within subsection (1A)(b) of that section;"
  - (b) after paragraph (g) insert—
    - "(ga) any decision consisting in the imposition of a requirement by virtue of ~~subsection (3A) of section 33~~ **section 25(3A)** or as to what is or is not to be approved for the purposes of paragraph (a) of that subsection;" , and
  - (c) omit paragraphs (j) and (k).

*Terrorism Act 2000*

146 ...**Omitted.**

Finance Act 2003

- 147 Part 3 of the Finance Act 2003, **as it has effect in the Island**, (taxes and duties on importation and exportation: penalties) is amended as follows.
- 148 (1) Section 24 (introductory) is amended as follows.
- (2) In subsection (2), omit paragraphs (b), (c) and (e).
- (3) In subsection (3), omit the definitions of ~~“the European Union Customs Code”, “Community export duty”, “Community import duty”, “customs duty of a preferential tariff country” and “preferential tariff country”.~~
- (4) Omit ~~subsections (4) to (6)~~ **subsection (4)**.
- 149 In section 25 (penalty for evasion), omit subsection (3).
- 150 (1) Section 26 (penalty for contravention of relevant rule) is amended as follows.
- (2) After subsection (5) insert—
- “(5A) Where the conduct constituting a contravention of a relevant rule is a contravention of a condition imposed under regulations under ~~section 20(1A), 22(1A) or 25(1A) of the Customs and Excise Management Act 1979~~ **section 13(1A), 15(1A) or 18(1A) of the Customs and Excise Management Act 1986—**
- (a) the Treasury may by regulations provide that, in prescribed circumstances, there are to be deemed for the purposes of subsection (1) of this section to be further separate contraventions of the rule, and
- (b) the provision that may be made by the regulations includes provision replicating or applying, with or without modifications, any provision made by ~~section 20A(1A) or (1B), 22A(1A) or (1B) or 25A(1A) or (1B) of the Customs and Excise Management Act 1979~~ **section 13A(1A) or (1B), 15A(1A) or (1B) or 18A(1A) or (1B) of the Customs and Excise Management Act 1986.”**
- (3) In subsection (8)—
- (a) before paragraph (a) insert—
- “(za) Part 1 of the Taxation (Cross-border Trade) Act 2018, as it applies in relation to the relevant tax or duty;”, and
- (b) omit paragraphs (c) and (e).
- (4) In subsection (9)—
- (a) omit the definition of “Community customs rules”, and
- (b) in the definition of “relevant international rules”, omit paragraph (b) (together with the “or” before it).
- 151 In section 32 (no prosecution after demand notice for penalty under section 26)—
- (a) the existing text becomes subsection (1), and



(b) after that subsection insert—

“(2) Nothing in subsection (1) prevents the bringing of proceedings against a person for an offence under ~~section 20A(1A), 22A(1A) or 25A(1A) of the Customs and Excise Management Act 1979~~ **section 13(1A), 15(1A) or 18(1A) of the Customs and Excise Management Act 1986** in circumstances where it is alleged that the person is liable to a penalty of an enhanced amount.”

152 In section 38 (admissibility of certain statements and documents), omit subsection (3).

*Income Tax (Trading and Other Income) Act 2005*

153 ...**Omitted.**

154 ...**Omitted.**

155 ...**Omitted.**

*Borders, Citizenship and Immigration Act 2009*

156 ...**Omitted.**

*Corporation Tax Act 2009*

157 ...**Omitted.**

## SCHEDULE 8

### VAT AMENDMENTS CONNECTED WITH WITHDRAWAL FROM EU

#### PART 2

#### AMENDMENTS TO OTHER ENACTMENTS

*Diplomatic Privileges Act 1964*

100 ...**Omitted.**

*Commonwealth Secretariat Act 1966*

101 ...**Omitted.**

*Consular Relations Act 1968*

102 ...**Omitted.**

*International Organisations Act 1968*

103 ...**Omitted.**

*Diplomatic and other Privileges Act 1971*

104 ...**Omitted.**

*Customs and Excise Duties (General Reliefs) Act 1979*

105 ...**Omitted.**

*Finance Act 1994*

106 ...**Omitted.**

*Vehicle Excise and Registration Act 1994*

107 ...**Omitted.**

*Finance Act 2003*

108 The Finance Act 2003, **as it has effect in the Island**, is amended as follows.

109 In section 24 (taxes and duties on importation and exportation: penalties), in subsection (3), in the definition of "import VAT", for "from places outside the member States" substitute "into the ~~United Kingdom~~ **Island**".

110 In section 26 (penalty for contravention of relevant rule), in subsection (8), omit paragraph (d).

*Finance Act 2007*

111 ...**Omitted.**

*Finance Act 2008*

112 The Finance Act 2008 is amended as follows.

113 (1) Schedule 36 (information and inspection powers) is amended as follows.

(2) In paragraph 11—

(a) in sub-paragraph (1), omit paragraph (b) (but not the "or" at the end of that paragraph), and

(b) in sub-paragraph (2), in paragraph (c), omit the words from ", the acquisition" to "acquisitions".

(3) In paragraph 34—

(a) in sub-paragraph (1)—

(i) omit paragraph (b) (but not the "or" at the end of that paragraph), and

(ii) in paragraph (c), omit "from a place outside the member States", and

(b) in sub-paragraph (4), omit ", 11".

(4) In paragraph 63, in sub-paragraph (3), omit paragraph (b) (but not the "and" at the end of that paragraph).

114 (1) Schedule 41 (penalties: failure to notify and certain VAT and excise wrongdoing) is amended as follows.

- (2) In paragraph 1, in the table—
- (a) omit the second entry relating to Value Added Tax (obligation to notify under ~~Schedule 2 to the Value Added Tax Act 1994~~ **Schedule 3 to the Value Added Tax Act 1996**),
  - (b) omit the third entry relating to Value Added Tax (obligations to notify under ~~Schedule 3 to the Value Added Tax Act 1994~~ **Schedule 4 to the Value Added Tax Act 1996**), and
  - (c) omit the fifth entry relating to Value Added Tax (obligation to notify under regulations made under paragraph 2(4) of ~~Schedule 11 to the Value Added Tax Act 1994~~ **Schedule 12 to the Value Added Tax Act 1996**).
- (3) In paragraph 7—
- (a) omit sub-paragraph (5),
  - (b) in sub-paragraph (6)—
    - (i) for “any other” substitute “a”, and
    - (ii) omit “, but subject to sub-paragraph (8)”,
  - (c) in sub-paragraph (7), in paragraph (a), omit “, paragraph 8(2) of ~~Schedule 3 to that Act~~ **Schedule 4 to that Act**”, and
  - (d) omit sub-paragraph (8).

*Finance Act 2009*

115 ...**Omitted.**

116 ...**Omitted.**

117 ...**Omitted.**

118 ...**Omitted.**

119 ...**Omitted.**

*Finance Act 2011*

120 ...**Omitted.**

*Finance Act 2016*

121 ...**Omitted.**

*Finance (No. 2) Act 2017*

122 ...**Omitted.**

123 ...**Omitted.**

124 ...**Omitted.**

125 ...Omitted.

126 ...Omitted.

127 ...Omitted.

128 ...Omitted.

129 ...Omitted.

130 ...Omitted.

131 ...Omitted.

*Consequential repeals*

132 ...Omitted.

## SCHEDULE 9

### EXCISE DUTY AMENDMENTS CONNECTED WITH WITHDRAWAL FROM EU

#### PARAGRAPH 9

*Finance Act 2008*

9 In Schedule 41 to the Finance Act 2008, **as it has effect in the Island**, (penalties: failure to notify and certain VAT and excise wrongdoing), in the table in paragraph 1, in the final entry relating to excise duties, for "Article 79 of Council Regulation 2913/92/EEC" substitute "Part 1 of the Taxation (Cross-border Trade) Act 2018".