

Statutory Document No. 2019/0106



*Customs and Excise Management Act 1986*

## **CUSTOMS (TEMPORARY STORAGE FACILITIES APPROVAL CONDITIONS) REGULATIONS 2019**

*Laid before Tynwald: 21<sup>st</sup> May 2019*  
*Coming into Operation: in accordance with regulation 2*

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The Treasury makes the following Regulations under sections 18(1A) and 180(1) of the Customs and Excise Management Act 1986<sup>1</sup>.

### **1 Title**

These Regulations are the Customs (Temporary Storage Facilities Approval Conditions) Regulations 2019.

### **2 Commencement**

These Regulations come into operation on exit day<sup>2</sup>.

### **3 Interpretation**

In these Regulations —

“**the Act**” means the Taxation (Cross-border Trade) Act 2018, as it has effect in the Island<sup>3</sup>;

“**chargeable goods**” has the same meaning as it has in section 2 of the Act;

“**domestic goods**” has the same meaning as it has in section 33 of the Act;

“**established in the Island**” means —

(a) in the case of an individual, where the individual is resident in the Island; or

(b) in any other case, where the person has —

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<sup>1</sup> Section 18(1A) was inserted into the Act by the Customs and Excise Management Act 1986 (Amendment) Order 2019 [SD 2019/0081].

<sup>2</sup> Tynwald procedure - negative under section 180(1) of the Customs and Excise Management Act 1986.

<sup>3</sup> The Taxation (Cross-border Trade) Act 2018 was applied in the Island by SD 2019/0080, subject to the exceptions, modifications and adaptations specified in that Order .

- (i) a registered office in the Island or the United Kingdom; or
- (ii) a permanent place in the Island from which the person carries out activities;

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

“**officer**” has the meaning given in section 184(1) of the Customs and Excise Management Act 1986;

“**TSF**” means a temporary storage facility as described in regulation 4(1).

#### **4 Approval conditions**

- (1) The conditions in Schedule 1 to these Regulations must be met in relation to a place which is being used for the deposit of imported goods which are subject to the control of any officer as a result of Part 1 of the Act (“a temporary storage facility”) before the Treasury may approve a temporary storage facility under section 18(1) of the Customs and Excise Management Act 1986.
- (2) An officer may, in any particular case, require that any one or more of the conditions in Schedule 2 to these Regulations are met in relation to a temporary storage facility before the Treasury may approve that temporary storage facility.

**MADE 28/03/2019**

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

**SCHEDULE 1**

[Regulation 4(1)]

- 1** The person who is responsible for operating the TSF (“the operator”) must —
  - (a) be established in the Island;
  - (b) save where the operator is an authorised economic operator approved in accordance with regulations made under sections 22 and 23 of the Act, provide an undertaking that the TSF will be operated in accordance with the conditions in these Regulations and any other conditions or restrictions that may be attached to the grant of approval of the TSF;
  - (c) ensure that there are effective systems in place to prevent goods stored in the TSF from being removed from control without having been released for a Customs procedure under section 3 of the Act;
  - (d) ensure that there are adequate real time information sharing arrangements in place between the TSF and any TSF to which goods are intended to be transferred to (“the transferee TSF”); and
  - (e) take reasonable steps to ensure that prior to the movement of any goods to a transferee TSF, the transferee TSF has —
    - (i) agreed to the transfer;
    - (ii) acknowledged that the goods are in the transferee TSF’s possession or control for the purposes of section 6(2) of the Act (liability for the payment of any import duty in respect of the goods being transferred); and
    - (iii) entered details of the movement of the goods transferred into the transferee TSF’s record keeping system.
- 2** The TSF must not be used for the purposes of retail sale.
- 3** Where it is intended to store goods in the TSF which are likely to present a danger, to spoil other goods or to require special facilities for other reasons, the TSF must be adequately equipped to store those goods safely.
- 4** The operator, and any directors or senior employees of the operator —
  - (a) must not have been involved in a breach of an obligation relating to tax or a Customs obligation, which in the opinion of an officer is —
    - (i) a serious breach having regard to the circumstances, nature and number of breaches; and
    - (ii) relevant to the suitability of the operator to operate a TSF; and

- (b) must not have a criminal conviction which in the opinion of an officer is —
- (i) serious having regard to the type of conviction; and
  - (ii) relevant to the suitability of the operator to operate a TSF.

5 In this Schedule —

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

- (a) Part 1 of the Act;
- (b) the Customs and Excise Management Act 1986;
- (c) the EU Customs Code as it had effect immediately before exit day;  
or
- (d) after exit day —
  - (i) the EU Customs Code except the EUCL; or
  - (ii) the EUCL insofar as it continues to have effect as provided for by Part 15 of the Customs (Import Duty) Regulations 2019<sup>4</sup>;

**“EUCL”** means the direct EU legislation referred to in paragraph 1(1) of Schedule 7 to the Act;

**“EU Customs Code”** means —

- (a) Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code;
- (b) 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.

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<sup>4</sup> SD 2019/0152.



**SCHEDULE 2**

[Regulation 4(2)]

- 1 The conditions related to the record keeping system in place for the TSF are that the system records details of —
  - (a) all goods stored in the TSF including identifying numbers, number and kind of packages, quantity, the commercial or technical description and, where relevant, the identification marks of the container necessary to identify the goods and whether the goods are domestic or chargeable goods;
  - (b) any accompanying documentation relating to the goods;
  - (c) the location of the goods including their storage position inside the TSF;
  - (d) any handling of the goods whilst the goods are in the TSF including details of any form of handling necessary to preserve the goods in the state they were in at the time of their import;
  - (e) any movement of the goods into or out of the TSF, including the times and dates of the arrival and departure of such goods, the name and address of the person to whom the goods are sent (“the recipient”) and the time and date the recipient receives the goods;
  - (f) the temporary storage declarations for any goods stored in the TSF;
  - (g) the Customs procedure into which any goods stored in the TSF are released.
- 2 Where there is more than one record keeping system in place for the TSF, the operator must ensure that any records relating to Customs matters are cross referenced on each system.
- 3 Domestic goods must not be stored in the TSF.
- 4 The person who is responsible for operating the TSF must give the Treasury a comprehensive guarantee covering any liability or potential liability to pay import duty in respect of the import of goods which are or have been stored in the TSF, in accordance with Part 10 of the Customs (Import Duty) Regulations 2019.

*EXPLANATORY NOTE*

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

These Regulations provide for conditions that must, or may be required to be, met in relation to temporary storage facilities (“TSFs”) before they can be approved for the deposit of imported goods that are subject to the control of an officer under paragraph 1 of Schedule 1 to the Taxation (Cross-border Trade) Act 2018 (c.22), as it has effect in the Island.

Regulation 4(1) provides that the mandatory conditions that must be met in relation to all TSFs before they are approved under section 18A of the Customs and Excise Management Act 1986 are set out in Schedule 1 to the Regulations. Regulation 4(2) provides that an officer may in a particular case, require that one or more of the conditions set out in Schedule 2 must be met in relation to a TSF prior to such approval being granted.