

Statutory Document No. 2019/0138



*European Union and Trade Act 2019*

# **EUROPEAN UNION AND TRADE ACT 2019 (RETAINED DIRECT EU LEGISLATION) (CUSTOMS) (NO. 2) REGULATIONS 2019**

*Approved by Tynwald:*

*9<sup>th</sup> April 2019*

*Coming into Operation: in accordance with Regulation 2*

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The Council of Ministers makes the following Regulations under sections 7, 12 and 15 of, and paragraph 7 of Schedule 4 to, the European Union and Trade Act 2019. The Council of Ministers is of the opinion that, by reason of urgency, it is necessary to make these Regulations subject to the affirmative Tynwald procedure set out in section 31 of the Legislation Act 2015.

## **1 Title**

These Regulations are the European Union and Trade Act 2019 (Retained Direct EU Legislation) (Customs) (No. 2) Regulations 2019.

## **2 Commencement**

These Regulations come into operation on exit day<sup>1</sup>.

## **3 Interpretation**

In these Regulations —

“**the EU regulation**” means Council Regulation (EU) 2019/125<sup>2</sup> of 16 January 2019 concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment, as it has effect in EU law immediately before exit day; and

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

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<sup>1</sup> Tynwald procedure – affirmative under paragraph 7 of Schedule 4 to the European Union and Trade Act 2019.

<sup>2</sup> OJ L30, 31.1.2019, p.1.

#### 4 EU regulation prescribed

- (1) The EU regulation is prescribed for the purposes of section 7(1) of the European Union and Trade Act 2019
- (2) To avoid doubt, the EU regulation prescribed under paragraph (1) includes any adaptations made to that EU regulation under the EEA agreement and which have effect immediately before exit day.

#### 5 Interpretation of prescribed EU regulation

- (1) Throughout the EU regulation prescribed under regulation 3(1) and unless the context otherwise requires —
  - (a) references to “Member State”, “Member States”, “the Community”, the “European Union”, the “EU” and “the Union” are to be construed as including the United Kingdom, the Channel Islands and the Island;
  - (b) references to “national” and “nationality of a Member State” (where used as an adjective) are to be construed as including the United Kingdom, the Channel Islands and the Island;
  - (c) references to the “United Kingdom” are to be construed as including the Channel Islands and the Island;
  - (d) references to “competent authority” or “relevant authority” are to be construed as references to the Treasury; and
  - (e) references to a “third country” are to be construed as references to a country or state other than the Island, the United Kingdom and the Channel Islands.
- (2) The EU regulation is to be construed and has effect subject to any contrary provision contained in or having effect under the customs arrangements between the United Kingdom and the Island.
- (3) Despite any provisions to the contrary in the EU regulation, the EU does not impose any obligation on the Treasury to provide —
  - (a) any funding to any person, body or organisation; and
  - (b) any information to any person, body or organisation, unless the Treasury decides otherwise.
- (4) References to an Annex in the EU regulation are references to that Annex as amended from time to time by EU law on or after exit day.

#### 6 Construction

To avoid doubt, the EU regulation is to be construed and has effect subject to these Regulations.

**MADE**

**W GREENHOW**  
*Chief Secretary*

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

These Regulations are the European Union and Trade Act 2019 (Retained Direct EU Legislation) (Customs) (No. 2) Regulations 2019. These Regulations come into operation on exit day. They incorporate into Manx law Council Regulation (EU) 2019/125<sup>3</sup> of 16 January 2019 concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment.

In the ordinary course of events, regulations made under section 7(1), 12(1) or 15(1) of the European Union and Trade Act 2019 are required to be approved by Tynwald before coming into operation. The Council of Ministers is of the opinion that, by reason of urgency, it is necessary to make these Regulations under paragraph 7 of Schedule 4 to the Act, and therefore subject to the affirmative Tynwald procedure set out in section 31 of the Legislation Act 2015, rather than the procedure to which section 30 of the Legislation Act 2015 (“approval required”) applies. This ensures that the EU Regulation which is retained can operate effectively on exit day.

Regulation 4 of these Regulations prescribes the EU regulation which forms part of Manx law on and after exit day in relation to customs.

Regulation 5 of these Regulations specifies the interpretation provisions to be applied when interpreting the prescribed EU regulation after exit day. These interpretation provisions may be enhanced or superseded by regulations made under section 12 of the European Union and Trade Act 2019.

Regulation 5 also includes an ambulatory provision which provides that references to an Annex to the prescribed EU regulation are to be read as those Annexes as amended from time to time.

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<sup>3</sup> OJ L30, 31.1.2019, p.1.