

**Draft Notices to be Made Under
The Customs (Records) (EU Exit) Regulations 2019**

This document provides the draft text for the notice that will be made under The Customs (Records) (EU Exit) Regulations 2019.

The proposed text is a draft of the notice that HMRC will make using the powers provided by this SI. The content is, at this stage, indicative, as the text may need to be updated to reflect further policy development and updates to other publications. However, the notices will be made before exit and come into force at the same time as the SI is commenced.

The following text has force of law by virtue of regulation 3(2) of the Customs (Records) (EU Exit) Regulations 2019

This notice sets out for the purposes of regulation 3(2) of the Customs (Records) (EU Exit) Regulations 2019:

- the records a person who is subject to a Customs obligation, or who carries out an act in pursuance of a Customs obligation, must keep and preserve
- the form in which these records are to be kept; and
- the period for which these records must be kept and preserved.

The requirements set out in this Notice apply in addition to any other requirements in relation to the keeping and preserving records set out elsewhere.

In particular, in relation to customs duty, the requirements set out in this Notice are in addition to those set out in or under:

- the Customs Traders (Accounts and Records) Regulations 1995 (SI 1995/1203) (“the 1995 Regulations”); and
- the Customs (Special Procedures and Outward Processing) (EU Exit) Regulations 2018 (SI 2018/1249).

Where, therefore:

- (a) a person subject to the requirements of this Notice is a ‘customs trader’ within the meaning provided in Regulation 2 of the 1995 Regulations;
- (b) the person is required under the 1995 Regulations to keep and preserve a record that is also required to be kept and preserved by this Notice; and
- (c) the period of preservation of the record under Regulation 9 of the 1995 Regulations is longer than the period specified in this Notice,

that record must be kept for the period specified in Regulation 9 of the 1995 Regulations.

HMRC may waive any of the requirements set out in this notice in particular cases.

The records to be kept and preserved

A person subject to the requirements of this Notice must keep and preserve all documents and information relevant to any customs obligations to which they are subject, or have acted under. This will include, but is not limited to:

- Documents and information concerning the import or export of goods by or on behalf of the person;
- Customs declarations and accompanying documentation, information and reference numbers;
- Other documents and information concerning declaration of goods for a Customs procedure, the common export procedure or an outward processing procedure;
- Documents and information concerning the discharge of a Customs procedure;
- Commercial documentation, including records identifying goods and any movement of those goods, where these are relevant to a Customs obligation;
- Documents and information relating to any calculation, remission or repayment of customs duty, or any relief from customs duty.

In the case of temporary admission, records shall be kept only if a person is notified of this requirement by HMRC.

The form in which these records are to be kept

A person subject to the requirements of this Notice may keep and preserve records in written or electronic form, or in any other form accessible by and acceptable to HMRC, which enables any HMRC officer to examine that person's compliance with Customs obligations.

The period for which these records must be kept and preserved

Records must be preserved from the date the record is created to the end of the relevant period specified below.

Where mentioned below, a 'year' refers to a calendar year.

- (a) Where goods have been declared to and discharged from the free-circulation procedure, the relevant period ends three years after the last day of the year in

which the declaration for the free-circulation procedure was accepted by HMRC, other than where sub-paragraph (b) applies.

- (b) Where goods have been declared to and discharged from the free-circulation procedure and the amount of import duty applicable is nil, the relevant period ends three years after the last day of the year in which the free-circulation procedure was discharged.
- (c) Where goods have been declared for the common export procedure the relevant period ends three years after the last day of the year in which the declaration for the common export procedure was accepted by HMRC.
- (d) Where goods have been declared for a customs special procedure, the relevant period ends three years after the last day of the year in which the Customs procedure concerned was discharged.
- (e) Where goods have been declared for an outward processing procedure, the relevant period ends three years after the last day of the year in which processed goods or replacement goods are imported in accordance with the outward processing procedure.
- (f) Where goods have been imported and have not been immediately declared to a Customs procedure, the relevant period ends three years after the last day of the year in which the goods are declared to a Customs procedure, or in which the requirement to declare these goods to a Customs procedure was extinguished.
- (g) If not covered by any of the above, the relevant period ends three years after the last day of the year in which the record was created.

Where a record relates to a case in which:

- Paragraph 14 of Schedule 1 to the Taxation (Cross-border Trade) Act 2018 applies in relation to an inaccuracy in a Customs declaration; or
- Regulation 69 of the Customs (Import Duty) (EU Exit) Regulations 2018 (S.I. 2018/1248) applies in relation to a remission or repayment of duty made in error.

the relevant period for keeping and preserving that record is extended by a further three years starting from the end of the relevant period specified above.

Where an appeal against a HMRC decision has been made or where Court or tribunal proceedings have begun, any records relating to the appeal or proceedings must be kept and preserved until that appeal or court or tribunal proceedings have concluded, if that is after the expiry of the relevant period specified above.