Draft Order in Council laid before the House of Commons, under section 32(11) of the Taxation (Cross-border Trade) Act 2018, for approval by resolution of that House.

DRAFT STATUTORY INSTRUMENTS

2018 No. 0000

EXITING THE EUROPEAN UNION
CUSTOMS

The Crown Dependencies Customs Union (Isle of Man) (EU Exit) Order 2018

Made - - - - ***

At the Court at Buckingham Palace, the *** day of ***

Present,

The Queen's Most Excellent Majesty in Council

A draft of this Order was laid before the House of Commons in accordance with section 32(11) of the Taxation (Cross-border Trade) Act 2018(**1**) and approved by a resolution of that House.

Accordingly, Her Majesty, in exercising the powers conferred upon Her by section 31(4) of the Taxation (Cross-border Trade) Act 2018, by and with the advice of Her Privy Council, orders as follows—

Citation

1. This Order may be cited as the Crown Dependencies Customs Union (Isle of Man) (EU Exit) Order 2018.

Customs union arrangements to have effect

2. It is declared that it is expedient that the arrangements establishing a customs union between the United Kingdom and the Isle of Man(**2**) specified in—

(a) the Exchange of Letters set out in Part 1 of the Schedule to this Order; and

(b) the Arrangement set out in Part 2 of that Schedule

(**1**) 2018 c. 22.

(**2**) The arrangements specified in the Schedule amend the Customs and Excise Agreement 1979 between the Government of the United Kingdom and the Government of the Isle of Man, to which the Isle of Man Act 1979 (c. 58) gives effect.

should have effect for the purposes of import duty.

Name
Clerk of the Privy Council

SCHEDULE Article 2

PART 1

London, 26 November 2018

Dear Hon Alfred Cannan MHK,

I have the honour to propose to you the ARRANGEMENT BETWEEN THE GOVERNMENTS OF THE UNITED KINGDOM AND THE ISLE OF MAN FURTHER AMENDING THE AGREEMENT BETWEEN THOSE GOVERNMENTS ON CUSTOMS AND EXCISE AND ASSOCIATED MATTERS DATED 15TH OCTOBER 1979 (the ARRANGEMENT), at the Appendix to this letter.

I have the further honour to propose that, if the above is acceptable to the Government of the Isle of Man, this letter and the Appendix together with your reply will constitute our mutual acceptance of the provisions of the ARRANGEMENT.

Mel Stride

London, 26 November 2018

Dear Financial Secretary,

I have the honour to acknowledge receipt of your letter of 26 November 2018, which reads as follows:

"Dear Hon Alfred Cannan MHK,

I have the honour to propose to you the ARRANGEMENT BETWEEN THE GOVERNMENTS OF THE UNITED KINGDOM AND THE ISLE OF MAN FURTHER AMENDING THE AGREEMENT BETWEEN THOSE GOVERNMENTS ON CUSTOMS AND EXCISE AND ASSOCIATED MATTERS DATED 15TH OCTOBER 1979 (the ARRANGEMENT), at the Appendix to this letter.

I have the further honour to propose that, if the above is acceptable to the Government of the Isle of Man, this letter and the Appendix together with your reply will constitute our mutual acceptance of the provisions of the ARRANGEMENT."

I am able to confirm that the contents of your letter of 26 November 2018 are acceptable to the Government of the Isle of Man, and therefore that this letter together with your letter and its Appendix constitute our mutual acceptance of the provisions of the ARRANGEMENT.

I note that, in accordance with sub-paragraph 17(2) of the ARRANGEMENT, paragraphs 5, 8, 9, 10, 13(5), 13(6) and 14 of the ARRANGEMENT will take effect upon signature of this letter.

Hon Alfred Cannan MHK

PART 2

Whereas the Governments of the United Kingdom and the Isle of Man have decided that the Agreement between them on Customs and Excise and associated matters dated 15th October 1979 ("the 1979 Agreement") should be amended:

And Whereas that amendment should reflect the desire of the Governments to enter into a customs union comprising the United Kingdom, the Isle of Man, the Bailiwick of Jersey and the Bailiwick of

Guernsey covering all trade in goods and involving the elimination between its members of customs duties on imports and exports and of any charges having equivalent effect, and the adoption of a common customs tariff in their relations with third countries:

And Whereas it is expedient to make other, minor amendments to the 1979 Agreement:

1. Amendment of the 1979 Agreement

The 1979 Agreement is amended as follows.

2. Amendment of paragraph 3

1.—(1) Paragraph 3 is amended as follows.

(2) Re-number the existing text as sub-paragraph (1) of that paragraph.

(3) After sub-paragraph (1) insert—

"(2) Compliance with the commitment in sub-paragraph (1) will require the introduction of legislation which requires Isle of Man Courts to have due regard to the relevant decisions of United Kingdom Courts when interpreting correspondent provisions of Isle of Man law relating to the management of the Customs and Excise revenues and associated control functions."

3. Amendment of paragraph 6

For paragraph 6(1)(c)(iii) substitute—

"(iii) accommodation provided by hotels and similar establishments, including the provision of holiday accommodation and the letting of camping sites and caravan parks, and such other non-exportable services as may be agreed between the two Governments"

4. Amendment of paragraph 7A

In paragraph 7A, for "be consistent with the relevant Community rules for the time being applicable in the United Kingdom and subject" substitute "be subject".

5. Amendment of paragraph 8

In paragraph 8, for "desirable to import" substitute "desirable to impose".

6. Amendment of paragraph 9

In paragraph 9, omit "and will follow the practices and procedures of the Commissioners of Customs and Excise when giving effect to legislation of the European Communities in so far as that legislation extends to the Isle of Man".

7. Amendment of paragraph 11

In paragraph 11, for "an exchange of letters" substitute "a memorandum of understanding".

8. Amendment of paragraph 12

In paragraph 12, for "judgements" substitute, in both places, "judgments".

9. Amendment of paragraph 14

(1) Paragraph 14 is amended as follows.

(2) In sub-paragraph (g), after ";" insert "and".

(3) In sub-paragraph (h), for "; and" substitute "."

(4) Omit sub-paragraph (i).

10. New paragraph 14A

Following paragraph 14, insert—

"**14A.** The Governments agree that the value added tax and duties tribunal which shall have jurisdiction in the Isle of Man shall be appointed by the Isle of Man Government and for each sitting of the tribunal the chairman shall be one of the following—

(a) the Senior President of Tribunals appointed under section 2 of the Tribunals, Courts and Enforcement Act 2007 (an Act of Parliament) (hereinafter referred to as the "TCEA");

(b) the President of the chamber, established under section 7 of the TCEA, that deals with value added tax appeals in the United Kingdom ("the Chamber President"); or

(c) a judge of either the First-tier Tribunal or the Upper Tribunal established under section 3 of the TCEA authorised by the Chamber President."

11. Amendment of paragraph 16

In paragraph 16, for "except as may be required by Community obligations (or by any other international obligations)" substitute "except as may be required by any international obligations".

12. Amendment of paragraph 21

(1) Paragraph 21 is amended as follows.

(2) For "in such form and at such intervals as may from time to time be agreed by exchange of letters between the Commissioners and the Isle of Man Treasury" substitute "within twenty-eight calendar days, unless the Commissioners and the Isle of Man Treasury agree to an alternative time limit, of a request from the Commissioners".

(3) In sub-paragraph (b), omit "as a result of the United Kingdom's membership of the European Communities or".

13. Amendment of paragraph 23

(1) Paragraph 23 is amended as follows.

(2) Omit the definition of "Community obligations".