

SCHEDULES

SCHEDULE 2

Section 3(6)

SPECIAL CUSTOMS PROCEDURES

PART 1

ENTITLEMENT TO DECLARE GOODS FOR SPECIAL CUSTOMS PROCEDURES

- 1 (1) HMRC Commissioners may by regulations make provision entitling a person to declare goods for a special Customs procedure only if—
- (a) the person is authorised in accordance with provision made by or under the regulations, and
 - (b) any other specified conditions are met in relation to the making of the declaration (for example, the giving of information or documents to HMRC).
- (2) The provision that the regulations may make in respect of authorisations includes (among other things)—
- (a) provision for an authorisation to be granted only to persons established (as determined in accordance with provision made by the regulations) in the United Kingdom or in any specified place outside the United Kingdom,
 - (b) provision for an authorisation to be granted only to persons meeting such other conditions as to their suitability as may be specified (which may be framed by reference to the judgment of any person),
 - (c) provision specifying other criteria for the granting of authorisations,
 - (d) provision about the period for which an authorisation is to have effect,
 - (e) provision making the grant of the authorisation subject to conditions specified in the authorisation (which may be framed by reference to a document published by HMRC Commissioners) or in the regulations,
 - (f) provision for determining the time from which a special Customs procedure may be used in respect of any goods (including provision for the time to be determined in accordance with provision made by the authorisation),
 - (g) provision for treating the making of a declaration as an application for authorisation,
 - (h) provision for treating an application for authorisation (including one as a result of paragraph (g)) as granted in specified cases, and
 - (i) provision granting an authorisation (a “retrospective authorisation”) with effect from a time before the application for it is made.
- (3) If the Treasury consider it appropriate for the regulations to contain an economic condition applicable to a qualifying case, they may give directions to HMRC Commissioners requiring them to make regulations containing such a condition.
- (4) For this purpose—

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“an economic condition”, in relation to any goods, means a condition designed to secure that an authorisation is granted only if its granting would not adversely affect the interests of producers in the United Kingdom of the goods, and

“qualifying case” means a case where—

- (a) a person is authorised to declare goods for an inward processing procedure, or
- (b) a person is granted a retrospective authorisation.

PART 2

STORAGE PROCEDURE

Meaning of goods declared for “a storage procedure”

- 2 (1) A declaration of goods for “a storage procedure” is a declaration that the goods—
- (a) are to be kept in premises approved by HMRC, or
 - (b) are to be kept in a free zone,
- in accordance with requirements imposed on any person by or under regulations made by HMRC Commissioners.
- (2) References in this Part of this Schedule to cases where premises are approved by HMRC include cases where the premises are owned, occupied or otherwise used by a person approved by HMRC.
- (3) HMRC Commissioners may by regulations make provision imposing any other requirements on any person in relation to a storage procedure in respect of goods that are kept in—
- (a) premises approved by HMRC, or
 - (b) free zones,
- including provision as to what, or as to the extent to which, other activities may, or may not, be done in the premises or free zones (or elsewhere).
- (4) HMRC Commissioners may by regulations make any other provision that they consider appropriate for the purposes of import duty in relation to goods kept in free zones.
- (5) In this Part of this Schedule “free zone” means an area in the United Kingdom designated as a special area for customs purposes under section 100A of CEMA 1979.

Keeping of goods in premises approved by HMRC

- 3 In the case of goods kept in premises approved by HMRC, each of the following is an example of the kind of provision that may be made by regulations under paragraph 2—
- (a) provision establishing the criteria for approval,
 - (b) provision about the person to whom approval is to be granted,
 - (c) provision making the continued effect of the approval subject to the meeting of conditions specified in the approval or in the regulations,

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- (d) provision for goods to be kept in premises only by the person to whom the approval is granted, and
- (e) provision for any processing of goods to be limited to processing of a description specified in the approval or in the regulations.

Keeping of goods in free zones

- 4 In the case of goods kept in free zones, each of the following is an example of the kind of provision that may be made by regulations under paragraph 2—
- (a) provision authorising any processing of goods, or the carrying on of any other activity, in a free zone (subject only to restrictions or other limitations, exceptions or conditions that are specified),
 - (b) provision treating any chargeable goods entering a free zone as if they had been declared for a storage procedure,
 - (c) provision establishing a presumption (unless the contrary is shown) that goods taken out of a free zone are chargeable goods and requiring the goods to be declared for a Customs procedure,
 - (d) provision requiring goods entering or leaving a free zone to be presented at a place of a specified description together with documents of a specified description, and
 - (e) provision for exempting goods of a specified description from the application of any other provision made by or under this Part of this Act in cases where they are wholly consumed in a free zone or otherwise cease to exist having been wholly used in a free zone.

PART 3

TRANSIT PROCEDURE

Meaning of goods declared for “a transit procedure”

- 5 (1) A declaration of goods for “a transit procedure” is a declaration—
- (a) that goods are to move from one place in the United Kingdom to another place in the United Kingdom, and
 - (b) that the goods, so long as they are in the United Kingdom, are to be subject to requirements in relation to their movement in the United Kingdom imposed on any person by or under regulations made by HMRC Commissioners.
- (2) Each of the following is an example of the kind of requirements that may be imposed by the regulations—
- (a) a requirement for the goods to be presented at places of a specified description together with documents of a specified description,
 - (b) a requirement for the goods to be presented at any place within paragraph (a) at or before such time as may be specified,
 - (c) a requirement for the route by which the goods are to be moved to be a specified route,
 - (d) a requirement for the movement of the goods to be by a specified means of transport, and

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- (e) requirements imposed on any person who is in possession or control of the goods in circumstances where the person knows, or ought reasonably to have known, that the goods are subject to a transit procedure.

Other requirements in relation to transit procedure

- 6 (1) HMRC Commissioners may by regulations make provision imposing any other requirements on any person in relation to a transit procedure in respect of goods declared for the procedure.
- (2) Each of the following is an example of the kind of requirements that may be imposed by the regulations—
- (a) a requirement for the goods to be in a specified condition at specified times,
 - (b) a requirement for the goods to be identified by reference to specified documents and for the documents to accompany the goods,
 - (c) a requirement for a person to permit the inspection of the goods, the means of transport by which the goods are moved and the documents mentioned in paragraph (b), and
 - (d) a requirement imposed on any person for the purposes of, or in connection with, implementing any international arrangement to which Her Majesty's government in the United Kingdom is a party.

Deeming a declaration for a transit procedure to be made

- 7 (1) Regulations made by HMRC Commissioners may make provision, in specified cases, for treating a person as having declared goods for a transit procedure.
- (2) The regulations may make provision for treating a transit procedure for which goods are declared as a result of this paragraph as discharged in specified cases.

PART 4

INWARD PROCESSING PROCEDURE

Introduction

- 8 A declaration of goods for “an inward processing procedure” may be—
- (a) a declaration in the standard form (which is dealt with by paragraphs 9 and 10), or
 - (b) a declaration in the supplementary form (which is dealt with by paragraphs 11 and 12).

Meaning of goods declared for “an inward processing procedure” in the standard form

- 9 (1) A declaration of goods for “an inward processing procedure” in the standard form is a declaration—
- (a) that the goods are to be imported into the United Kingdom in order to be processed there,
 - (b) that the processing is to take place during a temporary period,
 - (c) that the processing is to consist of qualifying processing activities, and

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- (d) that the processing of the goods is to be carried out in accordance with requirements imposed on any person by or under regulations made by HMRC Commissioners.
- (2) The temporary period during which the processing is to take place is the period specified in a notice given to the person making the declaration by an HMRC officer.
 - (3) That period may be subsequently extended (or further extended) by another notice given as mentioned in sub-paragraph (2).
 - (4) For the purposes of this paragraph processing “consists of qualifying processing activities” in relation to any goods if—
 - (a) the processing is the repair of the goods,
 - (b) the processing of the goods (“the imported goods”) results in the production or manufacture of other goods in which the imported goods can be identified,
 - (c) the processing is the use of production accessories, or
 - (d) the processing is the destruction of the goods.
 - (5) If an inward processing procedure in the standard form has effect in relation to any goods, the goods may be exported in accordance with the applicable export provisions for a temporary period for processing outside the United Kingdom without discharging the procedure.
 - (6) The inward processing procedure in the standard form is not discharged in accordance with sub-paragraph (5) only if—
 - (a) the processing of the goods outside the United Kingdom is carried out in accordance with requirements imposed on any person by or under regulations made by HMRC Commissioners,
 - (b) the processing takes place during a period specified in a notice given to the person making the declaration by an HMRC officer (and sub-paragraph (3) also applies for the purposes of this sub-paragraph), and
 - (c) any other conditions specified in regulations made by HMRC Commissioners are met.
 - (7) The requirements that may be imposed by regulations under this paragraph include—
 - (a) requirements that any processing of a specified description of any goods must result in the production or manufacture of the approved quantity of other goods, and
 - (b) requirements that any processing is to be carried out only by persons of a specified description.
 - (8) For the purposes of sub-paragraph (7)(a) “the approved quantity of other goods” means a quantity of the other goods that is determined by reference to a specified methodology.
 - (9) The provision that may be made by the regulations about a methodology includes provision for the methodology—
 - (a) to be framed by reference to average production or manufacture of goods over a period,
 - (b) to apply generally to specified cases, or
 - (c) to be set by an HMRC officer or chosen by the person who has declared the goods for an inward processing procedure in the standard form (subject to other provision in the regulations limiting the choice).

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Other requirements in relation to inward processing procedure in the standard form

- 10 HMRC Commissioners may by regulations make provision imposing any other requirements on any person in relation to an inward processing procedure in the standard form in respect of goods declared for the procedure.

Meaning of goods declared for “an inward processing procedure” in the supplementary form

- 11 A declaration of goods for “an inward processing procedure” in the supplementary form is a declaration—
- (a) that the goods are to be subject to any operation designed to secure that they comply with requirements that must be met before the goods can lawfully be released for free circulation in the United Kingdom, or
 - (b) that the goods are to be subject to any operation designed to preserve them, improve their appearance or marketable quality or otherwise prepare them for distribution or resale.

Requirements in relation to inward processing procedure in the supplementary form

- 12 (1) HMRC Commissioners may by regulations make provision imposing requirements on any person in relation to an inward processing procedure in the supplementary form in respect of goods declared for the procedure.
- (2) The provision that may be made by the regulations includes provision that may be made by or under paragraph 9 or 10.

PART 5

AUTHORISED USE PROCEDURE

Meaning of goods declared for “an authorised use procedure”

- 13 A declaration of goods for “an authorised use procedure” is a declaration that the goods are to be subject to use of a description specified in regulations made by HMRC Commissioners.

Other requirements in relation to authorised use procedure

- 14 HMRC Commissioners may by regulations make provision imposing any other requirements on any person in relation to an authorised use procedure in respect of goods declared for the procedure.

PART 6

TEMPORARY ADMISSION PROCEDURE

Meaning of goods declared for “a temporary admission procedure”

- 15 A declaration of goods for “a temporary admission procedure” is a declaration—
- (a) that the goods are of a description specified in regulations made by HMRC Commissioners, and

- (b) that the goods are to be used for a period specified in regulations made by HMRC Commissioners before the goods are exported from the United Kingdom in accordance with the applicable export provisions.

Other requirements in relation to temporary admission procedure

- 16 HMRC Commissioners may by regulations make provision imposing any other requirements on any person in relation to a temporary admission procedure in respect of goods declared for the procedure.

PART 7

SUPPLEMENTARY PROVISIONS

Records

- 17 (1) HMRC Commissioners may by regulations make provision about the keeping of records in respect of goods that are subject to a special Customs procedure.
- (2) The regulations may provide for requirements to be imposed, in respect of records of a specified description, on—
- (a) any person to whom an authorisation is granted to declare the goods for the procedure,
 - (b) any person to whom any other authorisation is granted in accordance with regulations made under any provision of this Schedule,
 - (c) any person who is involved to any extent in handling, processing, disposing of or otherwise dealing with the goods while the procedure has effect, or
 - (d) any other person.

Discharge of special Customs procedures: rules applicable to all procedures

- 18 (1) The provision made by or under this Schedule in relation to goods declared for a special Customs procedure has effect from the time at which the goods are released to the procedure until the time at which the procedure is discharged in accordance with this paragraph or paragraph 19.
- (2) A special Customs procedure is discharged if—
- (a) the goods are declared for another Customs procedure, and
 - (b) HMRC accept the declaration.
- (3) Directions given by HMRC Commissioners may require a special Customs procedure to be discharged before a date specified in, or determined in accordance with, the directions.
- (4) If—
- (a) the procedure is not discharged before that date, and
 - (b) an HMRC officer gives a notice under this sub-paragraph to the person who declared the goods for the procedure,
- the goods are treated for the purposes of this Part of this Act as if, at the time at which the notice is given, that person had declared the goods for the free-circulation procedure and HMRC had accepted that declaration.

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- (5) Directions under this paragraph—
 - (a) may be given generally by HMRC Commissioners or in relation to the particular case concerned by an HMRC officer, and
 - (b) if given generally, may be given by way of a public notice given by HMRC Commissioners.
- (6) Any regulations made under the Part of this Schedule relating to a particular special Customs procedure—
 - (a) may require the procedure to be discharged before a specified date, and
 - (b) may make provision replicating or applying, with or without modifications, the provision made by sub-paragraph (4) or (5).
- (7) Any regulations made under the Part of this Schedule relating to a particular special Customs procedure may require the goods to be presented at any place in accordance with the regulations before the procedure is discharged.

Discharge of special Customs procedures: rules applicable to particular procedures

- 19 (1) This paragraph specifies further cases in which particular special Customs procedures are discharged.
- (2) A transit procedure is discharged in accordance with provision made by regulations made by HMRC Commissioners.
 - (3) A storage procedure, an inward processing procedure, an authorised use procedure or a temporary admission procedure is discharged if—
 - (a) the goods are exported from the United Kingdom in accordance with the applicable export provisions,
 - (b) the goods are destroyed, or
 - (c) the goods are liable to forfeiture.
 - (4) In addition, an authorised use procedure or temporary admission procedure in respect of any goods is discharged if the requirements imposed by or under this Schedule in relation to the procedure are met in respect of the goods.

Discharge of special Customs procedures: other provision

- 20 (1) Despite the provision made by paragraph 18 or 19, a special Customs procedure in respect of any goods is not discharged if a liability to import duty is incurred in respect of the goods while the procedure has effect and—
 - (a) a guarantee has not been given in accordance with regulations under paragraph 6 of Schedule 6 that has effect in relation to the goods, or
 - (b) if no guarantee is given, the import duty has not been paid.
- (2) If a special Customs procedure in respect of any goods is prevented from being discharged as a result of sub-paragraph (1) (and only as a result of that sub-paragraph), that does not prevent the goods from also being released to another special Customs procedure.
 - (3) HMRC Commissioners may by regulations make provision as to the evidence which is to be required, or is to be sufficient, for the purpose of showing that a special Customs procedure has been discharged.

Liability to import duty imposed on persons other than declarant etc

- 21 (1) HMRC Commissioners may by regulations impose a liability to import duty on any person who, at any time while a special Customs procedure has effect, breaches a requirement imposed on the person by provision made by or under this Schedule.
- (2) The regulations may provide for cases in which the person is not liable to import duty even though the person breaches a requirement.

Changes in nature of goods while subject to a special Customs procedure etc

- 22 (1) If at any time while a special Customs procedure has effect in relation to any goods—
- (a) there is a change in the goods, and
 - (b) a liability to import duty is incurred,
- HMRC Commissioners may by regulations make provision for determining the liability by reference to the goods as they stood when the declaration for the procedure was made (and not when the liability is incurred).
- (2) The regulations—
- (a) may apply only in relation to a special Customs procedure of a specified description, and
 - (b) may provide for their application to be limited to cases where an HMRC officer considers that the regulations ought to apply.
- (3) In the case of goods declared for a special Customs procedure, HMRC Commissioners may make provision by regulations for altering the value of the goods for the purposes of import duty so as to take account of things done after the declaration is made.
- (4) The regulations may provide—
- (a) for the alteration to be applicable only in relation to special Customs procedures of a specified description and only in relation to things done of a specified description, and
 - (b) for the amount of the alteration to be determined in accordance with the regulations.
- (5) Except as provided for by—
- (a) the preceding provisions of this paragraph, or
 - (b) provision made in regulations made by HMRC Commissioners,
- if there is a change in any goods at any time while a special Customs procedure has effect in relation to the goods, the goods are to be regarded nonetheless as the same goods for the purposes of any provision made by or under this Part of this Act.
- (6) For the purposes of this paragraph it does not matter—
- (a) whether a change in any goods is a change in their nature or in any other respect, or
 - (b) whether a change in any goods is as a result of their incorporation into any other goods or anything else.

Use of equivalent domestic goods

- 23 (1) HMRC Commissioners may, in cases where goods (“the imported goods”) are intended to be declared for a special Customs procedure, by regulations make

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provision for requirements in relation to the procedure to be met by reference to equivalent domestic goods.

- (2) Goods are “equivalent domestic goods” if they are domestic goods that are of the same, or of substantially the same, description as the imported goods.
- (3) Among other things, the regulations may—
 - (a) secure that, once a declaration of the imported goods for a special Customs procedure is accepted by HMRC, the goods are treated for the purposes of this Part of this Act as if they had been simultaneously released to, and discharged from, the procedure, and
 - (b) provide that goods may not be so treated unless the requirements in relation to the procedure were met by reference to the equivalent domestic goods.
- (4) The provision that may be made by the regulations includes provision for authorising goods in accordance with the regulations before they may be used as equivalent domestic goods.
- (5) HMRC Commissioners may by regulations make provision as to cases in which goods are, or are not, to be regarded as equivalent domestic goods for the purposes of this paragraph.
- (6) This paragraph does not apply to a transit procedure.

Directions

- 24 Any directions given by the Treasury or HMRC Commissioners under this Schedule may be amended or revoked.