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STATUTORY INSTRUMENTS

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**2018 No. 1249**

**The Customs (Special Procedures and Outward Processing) (EU Exit) Regulations 2018**

**PART 4**

**Procedure-specific Rules**

**CHAPTER 1**

**Storage Procedure**

**Eligibility for approval to operate a customs warehouse**

**14.**—(1) This regulation applies to a person who owns, operates or otherwise uses premises which the person intends to operate as a customs warehouse.

(2) HMRC may approve the person to operate the premises as a customs warehouse only if an HMRC officer is satisfied that—

- (a) the person will use the premises, or will only permit the premises to be used, primarily for the storage of goods;
- (b) the person has a satisfactory logistical system to record the movement of goods into, within and out of the premises;
- (c) where the person intends to operate premises as a public customs warehouse, there is sufficient potential trade for a public customs warehouse to be viable; and
- (d) where the person intends to operate premises as a private customs warehouse, there would be sufficient benefit to the applicant to justify approval.

**Approval to operate a customs warehouse**

**15.**—(1) A notification of approval by HMRC to operate premises as a customs warehouse must specify—

- (a) the premises;
- (b) the approved person; and
- (c) whether the premises are to be operated as a public customs warehouse or a private customs warehouse.

(2) The warehouse is not to be used for any processing of goods other than—

- (a) an operation of a type—
  - (i) described in sub-paragraph (b) of paragraph 11 of Schedule 2 to the Act; and
  - (ii) specified in a notice published by HMRC as an operation constituting a usual form of handling of goods; or
- (b) processing authorised under paragraph (3).

- (3) The approval may authorise the taking place in the warehouse of the processing of goods declared for an inward processing procedure or for an authorised use procedure where an HMRC officer is satisfied that—
- (a) the holder of the procedure in relation to the goods or the approved person of the warehouse has an economic need for the processing to be carried out in the warehouse; and
  - (b) control by any HMRC officer of the goods subject to the storage procedure and goods subject to, as the case may be, the inward processing procedure or authorised use procedure would not be adversely affected by the authorisation to carry out the processing in the warehouse.
- (4) An approval must not authorise the keeping of goods other than chargeable goods in the customs warehouse unless—
- (a) the other goods to be kept in the warehouse are domestic goods; and
  - (b) an HMRC officer is satisfied that—
    - (i) the approved person has viable commercial reasons for the storage of domestic goods alongside goods declared for a storage procedure; and
    - (ii) control by any HMRC officer of any chargeable goods stored in the warehouse would not be adversely affected by storage of domestic goods.
- (5) The approval must require accounting segregation in accordance with a notice made under regulation 44 where—
- (a) the approval permits domestic goods to be stored in the warehouse; and
  - (b) it is not possible, without incurring disproportionate cost, to identify—
    - (i) whether any goods stored are domestic goods or chargeable goods; and
    - (ii) the Customs procedure for which any chargeable goods have been declared.
- (6) The approval is granted subject to the following conditions—
- (a) retail sales of goods from the warehouse are not permitted other than as specified in the approval notification;
  - (b) the approved person must not allow goods to leave the warehouse unless they are removed in accordance with regulation 17;
  - (c) the approved person must notify any person keeping goods declared for a storage procedure in the warehouse of any permission contained in the approval notification to remove such goods from the warehouse;
  - (d) the approved person must notify HMRC without delay of any breach by any person who is a holder of a procedure of any requirement imposed by or under Part 1 of the Act in relation to goods kept by the person in the warehouse; and
  - (e) such other conditions as may be specified in the approval notification.
- (7) The approval may be granted subject to conditions regarding (amongst other things)—
- (a) the type of goods which may be kept in the warehouse;
  - (b) the activities that are permitted to be carried out in the warehouse;
  - (c) the amount of time for which particular goods may be kept in the warehouse; and
  - (d) the facilities in which particular goods must be stored whilst kept in the warehouse.
- (8) Where the approved person breaches a requirement imposed by provision made by or under Schedule 2 to the Act in relation to the keeping of goods in the warehouse, the approved person is liable to any import duty arising as a result of that breach unless the approval specifies otherwise.

### **Obligations relating to keeping goods in a customs warehouse**

16.—(1) A person must not declare goods for a storage procedure where they are to be kept in a customs warehouse and are not of a type which may be kept in the warehouse under the conditions of the approval.

(2) Subject to paragraph (3), where goods have been declared for a storage procedure to be kept in a customs warehouse the person in whose name the goods have been declared must—

- (a) ensure that the goods declared are moved directly to the customs warehouse named in the declaration once HMRC have accepted the declaration; and
- (b) provide the approved person with details of the declaration and any differences between the goods deposited and the goods declared.

(3) In paragraph (2), where the person in whose name the goods have been declared is acting as an indirect agent, the reference to the person in whose name goods have been declared is to be read as a reference to the person on whose behalf the goods have been declared.

(4) A holder of the procedure who keeps goods in a customs warehouse must not—

- (a) cause or permit those goods to be removed from the warehouse unless they are removed in accordance with regulation 17; or
- (b) carry out, arrange or permit any processing of the goods other than as permitted under regulation 15(2).

### **Removal of goods from a customs warehouse**

17.—(1) No person may remove from a customs warehouse goods declared for a storage procedure which have not been discharged<sup>(1)</sup> from the storage procedure (“declared goods”) unless—

- (a) permitted under this regulation; or
- (b) permitted by the approval notification relating to that customs warehouse.

(2) Declared goods may be permanently removed from a customs warehouse if the removal has been approved by HMRC.

(3) Declared goods may be temporarily removed from a customs warehouse if—

- (a) the purpose of removing the goods is to undertake an operation of a type—
  - (i) described in sub-paragraph (b) of paragraph 11 of Schedule 2 to the Act; and
  - (ii) specified in a notice published by HMRC as an operation constituting a usual form of handling of goods; and
- (b) the removal has been approved by HMRC.

(4) Paragraph (5) applies where—

- (a) a person removes declared goods from a customs warehouse;
- (b) the removal was not intended; and
- (c) the removal was caused by abnormal and unforeseeable circumstances beyond the person’s control.

(5) Where this paragraph applies—

- (a) approval by HMRC for the removal is not required; but
- (b) the person must notify HMRC that the removal has occurred.

(6) Declared goods may be removed from a customs warehouse where the goods move between—

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(1) See paragraphs 18 to 20 of Schedule 2 to the Act on discharge of goods from a Customs procedure.

- (a) premises operated as customs warehouses and identified in the same approval;
  - (b) the warehouse and the customs office at which goods must be made available for examination following notification by HMRC that the goods have been released for export; or
  - (c) the warehouse and a customs office at which a declaration for the purposes of discharging the storage procedure may be accepted.
- (7) Any movement of goods under paragraph (6) must be completed within—
- (a) 30 days beginning with the day after the day on which the goods are removed from the customs warehouse; or
  - (b) any longer period permitted by an HMRC officer.
- (8) Any person removing declared goods from a customs warehouse in contravention of this regulation is liable to import duty on those goods.
- (9) In this regulation “customs office” means premises used by HMRC for the purposes of exercising its functions under the Act.

#### **Usual forms of handling – changes in nature of goods**

- 18.**—(1) Paragraph (2) applies where—
- (a) a declaration (“the first declaration”) of goods for a storage procedure to be kept in a customs warehouse has been made;
  - (b) there is a change in the goods by virtue of an operation that has been applied to the goods whilst the goods are subject to the procedure;
  - (c) the operation is of a type—
    - (i) described in sub-paragraph (b) of paragraph 11 of Schedule 2 to the Act; and
    - (ii) specified in a notice published by HMRC as an operation constituting a usual form of handling of goods;
  - (d) a further declaration (“the second declaration”) of the goods for a different Customs procedure is made; and
  - (e) a liability to import duty is incurred in respect of the goods by virtue of making the second declaration.
- (2) Where this paragraph applies the declarant may elect in the second declaration that the liability be determined by reference to the goods as they stood when the first declaration was made.