
STATUTORY INSTRUMENTS

2018 No. 1249

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

PART 4

Procedure-specific Rules

CHAPTER 2

Inward Processing Procedure

Eligibility – inward processing procedure

19. HMRC may grant an application for authorisation to declare goods for an inward processing procedure only if an HMRC officer is satisfied that—

- (a) if the goods were declared for the procedure either—
 - (i) it would not be economically viable, following processing of the goods in accordance with the authorisation, to restore the goods to their condition at the time of the declaration; or
 - (ii) liability for import duty would be determined by virtue of regulation 23 by reference to the goods as they stood when the declaration was made;
- (b) use of the procedure could not result in circumvention of—
 - (i) a quota to which the goods are subject for the purposes of section 11 of the Act; or
 - (ii) any provisions made by or under section 17 of the Act for determining the place of origin of the goods for the purposes of Part 1 of the Act; and
- (c) where the processing to be carried out is the use of production accessories, the production accessories are not—
 - (i) fuels or energy sources, other than those needed for the testing of processed goods or for the detection of faults in goods declared for the procedure which need repair;
 - (ii) lubricants, other than those needed for the testing, adjustment or withdrawal of processed goods; or
 - (iii) equipment and tools.

Economic condition – inward processing procedure

20.—(1) Where an application for authorisation to declare goods for an inward processing procedure is a case of a description specified in a notice published by HMRC, an authorisation may be granted only if—

- (a) an HMRC officer is satisfied, on the basis of an examination of the available evidence, that the essential interests of producers of goods in the United Kingdom would not be adversely affected by the granting of the authorisation; or

- (b) paragraph (2) applies.
- (2) This paragraph applies where—
 - (a) HMRC are not aware of any evidence that the essential interests of producers of goods in the United Kingdom would be adversely affected by an authorisation to declare the goods for an inward processing procedure; and
 - (b) the authorisation concerns an operation which is not of a type specified in a notice published by HMRC.

Authorisation to declare goods for an inward processing procedure

21.—(1) An approval notification issued in relation to an authorisation to declare goods for an inward processing procedure must specify—

- (a) the type of goods to which the authorisation applies;
- (b) the processing to which the goods are to be subject (“specified processing”); and
- (c) the date by which the procedure must be discharged (“the discharge date”).
- (2) Where—
 - (a) goods (“intended imported goods”) are to be imported into the United Kingdom in order to be processed there;
 - (b) the intended imported goods are to be declared for an inward processing procedure;
 - (c) equivalent domestic goods⁽¹⁾ are to be subject to the specified processing in place of the intended imported goods; and
 - (d) the goods resulting from the processing are exported before the intended imported goods are imported,

the approval notification issued in relation to an authorisation to declare the intended imported goods for an inward processing procedure must specify the period within which the intended imported goods are to be declared.

(3) The period specified under paragraph (2) must not be longer than 6 months beginning with the date after the date of any acceptance of such export declaration as may be provided for under section 35(3)(a) of the Act for the goods resulting from the processing.

(4) The period specified under paragraph (2) may be extended at the request of the authorised person, but the amended authorisation must not permit a declaration to be made more than 12 months after the date of any acceptance of an export declaration referred to in paragraph (3).

(5) In cases where paragraph (2) does not apply, an approval notification issued in relation to an authorisation to declare goods for an inward processing procedure may specify that goods released to the procedure, and processed goods resulting from processing of those goods, are to be treated for the purposes of Part 1 of the Act as if, on the discharge date, the goods had been declared for the free-circulation procedure and HMRC had accepted that declaration if, on that date—

- (a) the goods have not been declared for another Part 1 procedure;
- (b) the goods have not been exported; and
- (c) the applicant has requested that the goods are to be so treated.

(6) HMRC must not make the specification referred to in paragraph (5) where, under any enactment, the goods are subject to a prohibition from, or restriction on, declaring them for the free-circulation procedure.

(1) The meaning of “equivalent domestic goods” is given in paragraph 23(2) of Schedule 2 to the Act.

(7) Where goods are treated as if they had been declared for the free-circulation procedure as a result of a specification under paragraph (5), HMRC must release the goods to the free-circulation procedure on the discharge date.

Authorisation to declare goods for an inward processing procedure – conditions and requirements

22.—(1) An authorisation to declare goods for an inward processing procedure is subject to the condition that—

- (a) no evidence is presented to HMRC that the essential interests of producers of goods in the United Kingdom are likely to be adversely affected by—
 - (i) where the authorisation has been used to declare the goods, the further use of the authorisation;
 - (ii) in all other cases, the use of the authorisation; or
- (b) where such evidence is presented to HMRC, an HMRC officer is satisfied, on the basis of an examination of the available evidence, that the essential interests of producers of goods in the United Kingdom would not be adversely affected by—
 - (i) where the authorisation has been used to declare the goods, the further use of the authorisation;
 - (ii) in all other cases, the use of the authorisation.

(2) An authorisation to declare goods for an inward processing procedure is granted subject to such other conditions as may be specified in the approval notification issued in relation to the authorisation.

(3) Where an authorisation to declare goods for an inward processing procedure is granted the following requirements apply—

- (a) the authorised person must process the goods themselves or arrange for the processing to be carried out;
- (b) where the processing of the goods results in the production or manufacture of other goods in which the goods can be identified, the processing, or each individual processing operation, must result in the production or manufacture of an approved quantity of the other goods; and
- (c) the holder of the procedure must not export the goods where—
 - (i) the export is to a country or territory with whose government Her Majesty's government in the United Kingdom has made arrangements which contain provision for the rate of import duty applicable to goods, or any description of goods, originating from the country or territory to be lower than the applicable rate in the customs tariff⁽²⁾ in its standard form, within the meaning given in section 9(2) of the Act; and
 - (ii) a United Kingdom proof of origin issued under any provision made under section 9 of the Act in relation to the goods has been obtained for the purpose of claiming the lower rate when the goods are imported into the country or territory referred to in paragraph (i).

(4) For the purposes of paragraph (3)(b), the methodology by which the approved quantity of the other goods is to be determined—

- (a) is to be specified in the approval notification; and
- (b) is to be—

(2) "Customs tariff" is defined in section 8 of the Act.

- (i) chosen by the applicant, if an HMRC officer approves that choice; or
- (ii) in all other cases, set by an HMRC officer.

Liability to import duty where there is a change in the goods

23.—(1) An applicant for authorisation to declare goods for an inward processing procedure may—

- (a) elect that any liability to import duty incurred in relation to processed goods resulting from processing under the procedure be determined by reference to the goods as they stood when the declaration was made; or
- (b) reserve the right to elect, once the authorisation has been granted, that any liability to import duty incurred in relation to processed goods resulting from processing under the procedure be determined by reference to the goods as they stood when the declaration was made.

(2) Determination of liability to import duty incurred in relation to processed goods resulting from processing under an inward processing procedure is to be by reference to the goods as they stood when the declaration for the procedure was made where—

- (a) an election is made under paragraph (1);
- (b) paragraph (3) or (4) applies; or
- (c) the liability is incurred as a result of a breach of the requirement specified in regulation 22(3)(c).

(3) This paragraph applies where—

- (a) the processed goods resulting from the processing of the goods are imported by the holder of the procedure within one year after export of the processed goods;
- (b) if a declaration of those goods for the free-circulation procedure had been accepted at the time of their release to the inward processing procedure—
 - (i) the goods would have been subject to—
 - (aa) an additional amount of import duty under section 13, 14 or 15 of the Act;
 - (bb) a non-tariff trade policy measure; or
 - (cc) an agricultural policy measure; or
 - (ii) the importer of the goods would have been required to give a guarantee under paragraph 15(5) of Schedule 4 to the Act; and
- (c) the application for authorisation to declare the goods for an inward processing procedure was not a case in relation to which an examination of the available evidence was required for the purposes of regulation 20(1)(a).

(4) Subject to paragraphs (5) and (6), this paragraph applies where—

- (a) the application for authorisation to declare the goods for an inward processing procedure is not a case in relation to which an examination of the available evidence is required for the purposes of regulation 20(1)(a); and
- (b) if a declaration of those goods for the free-circulation procedure were accepted at the time the authorisation is granted—
 - (i) the goods would be subject to—
 - (aa) an additional amount of import duty under section 13, 14 or 15 of the Act;
 - (bb) a non-tariff trade policy measure; or
 - (cc) an agricultural policy measure; or

- (ii) the importer of the goods would be required to give a guarantee under paragraph 15(5) of Schedule 4 to the Act.
- (5) Paragraph (4) does not apply where—
 - (a) the goods are not ones in relation to which, if a declaration of those goods for the free-circulation procedure were accepted at the time the authorisation is granted—
 - (i) an additional amount of import duty under section 13, 14 or 15 of the Act would be applicable; or
 - (ii) the importer of the goods would be required to give a guarantee under paragraph 15(5) of Schedule 4 to the Act; and
 - (b) the aggregate value of goods to be declared for an inward processing procedure, by the applicant for authorisation, in that calendar year, for each classification code, does not exceed—
 - (i) in the case of sensitive goods, £135,000;
 - (ii) in all other cases, £270,000.
- (6) Paragraph (4) does not apply where the goods—
 - (a) are non-commercial goods or personal gifts;
 - (b) are goods resulting from processing under a previous authorisation, the application for which was a case —
 - (i) in relation to which an examination of the available evidence was required for the purposes of regulation 20(1)(a); or
 - (ii) in relation to which an examination of the economic conditions was required for the purposes of Article 211(4)(b) of the UCC;
 - (c) are to be processed into samples;
 - (d) are to be reduced to waste and scrap;
 - (e) are to be destroyed; or
 - (f) are to be subject to recovery of parts or components.

Value of goods where there is a change in the goods

24.—(1) Where regulation 23(2) applies, the value of the goods for the purposes of import duty is to be determined by reference to the quantity of the goods declared for the inward processing procedure—

- (a) which, in accordance with a notice published by HMRC, are to be treated as present in the processed goods; and
- (b) for which import duty is incurred.

(2) HMRC must publish a notice specifying the methods for determining the matters referred to in paragraph (1) and may make different provision for different cases.

Consequences of determination of liability under regulation 23

25.—(1) Paragraph (2) applies where—

- (a) a liability to import duty is to be determined in accordance with regulation 23(2);
- (b) the specified processing, within the meaning given in regulation 21(1)(b), in relation to the goods was an authorised use under regulation 32 at the time that the goods were released to an inward processing procedure; and

- (c) at the time that the goods were released to an inward processing procedure an application for authorisation to declare the goods for an authorised use procedure by the person authorised to declare the goods for an inward processing procedure would not have been prohibited by regulation 86(1) or (2) of the import duty regulations.

(2) Where this paragraph applies, the rate of import duty applicable to the goods is to be such rate as would have been applicable to those goods if they had been declared for an authorised use procedure and the declaration had been accepted by HMRC.

Temporary export of goods released to an inward processing procedure

26.—(1) Where an inward processing procedure in the supplementary form has effect in relation to any goods and paragraph (2) applies, the goods may be exported, in accordance with the applicable export provisions⁽³⁾, for a temporary period without discharging the procedure.

(2) This paragraph applies where—

- (a) the goods are exported for subjection to an operation described in paragraph 11 of Schedule 2 to the Act (“a relevant operation”) carried out outside the United Kingdom;
- (b) the operation is carried out—
 - (i) in accordance with requirements imposed on any person by a notice published by HMRC; and
 - (ii) during a period specified in a notice given to the person making the declaration by an HMRC officer.

(3) The period referred to in paragraph (2)(b)(ii) may be subsequently extended (or further extended) by another notice given as mentioned in that sub-paragraph.

(4) HMRC must publish a notice setting out the requirements imposed on any person in accordance with which—

- (a) the subjection of goods to a relevant operation outside the United Kingdom must be carried out for the purposes of paragraph (2)(b)(i); and
- (b) the processing of goods outside the United Kingdom must be carried out for the purposes of paragraph 9(6)(a) of Schedule 2 to the Act.

(5) A notice published under paragraph (4) may make different provision for different cases.

(3) Section 35 defines for the purposes of Part 1 of the Act what is meant by an export of goods from the United Kingdom being in accordance with the applicable export provisions.