

---

STATUTORY INSTRUMENTS

---

**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—

---

(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.

## **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<sup>(2)</sup> 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.

---

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

(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.

(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<sup>(3)</sup> 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—
  - (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;

---

(3) “Customs tariff” is defined in section 8 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<sup>(4)</sup>, 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

---

<sup>(4)</sup> 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.

- (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.

### CHAPTER 3

#### Outward Processing Procedure

##### **Economic condition – outward processing procedure**

**27.**—(1) Where paragraph (2) applies, HMRC must not grant an application for authorisation to declare goods for an outward processing procedure unless HMRC are satisfied that the essential interests of producers of goods in the United Kingdom would not be adversely affected by the granting of that authorisation.

- (2) This paragraph applies where—
  - (a) the goods are sensitive goods;
  - (b) the processing of the goods under the outward processing procedure does not consist in their repair; and
  - (c) HMRC are aware of evidence that indicates that the essential interests of producers of goods in the United Kingdom would be adversely affected by the granting of authorisation to declare the goods for an outward processing procedure.

##### **Authorisation to declare goods for an outward processing procedure**

**28.**—(1) An approval notification issued in relation to an authorisation to declare goods for an outward processing procedure must specify the period within which goods released to the procedure must be imported as processed goods and declared for the free-circulation procedure.

(2) An authorisation to declare goods for an outward 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.

(3) A person must not use the standard exchange system in relation to goods declared for an outward processing procedure unless authorised to do so in accordance with regulation 29.

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

- (a) the goods must not be declared for the free-circulation procedure by any person other than the authorised person, unless the authorised person has given their consent for the goods to be so declared; and
- (b) where the processing of the goods results in the production or manufacture of other goods in which the goods declared can be identified, the processing, or each individual processing

operation, must result in the production or manufacture of the approved quantity of the other goods.

(5) For the purposes of paragraph (4)(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—
  - (i) chosen by the applicant, if an HMRC officer approves that choice; or
  - (ii) in all other cases, set by an HMRC officer.

(6) This paragraph applies where—

- (a) goods (“intended exported goods”) are to be exported in order to be used in a process;
- (b) the intended exported goods are to be declared for an outward processing procedure;
- (c) the process takes place using equivalent chargeable goods in place of the intended exported goods; and
- (d) the processed goods resulting from the processing are imported before the intended exported goods are exported.

(7) Where paragraph (6) applies, the approval notification issued in relation to the authorisation to declare the intended exported goods for an outward processing procedure must specify the period within which the domestic goods that are replaced by equivalent chargeable goods must be declared for the procedure.

(8) Subject to paragraph (9), the period within which the domestic goods must be declared for the procedure must not be longer than 6 months beginning with the date after the date on which the equivalent chargeable goods are imported.

(9) The period within which the domestic goods must be declared for the procedure may be longer than 6 months, but not longer than 12 months, beginning with the date after the date on which the equivalent chargeable goods are imported where—

- (a) the applicant for authorisation so requests; or
- (b) the holder of the procedure requests an extension of the period specified in the approval to that effect.

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

### **Standard exchange system**

**29.**—(1) An authorisation to declare goods for an outward processing procedure may authorise the standard exchange system to be used only if—

- (a) the processing consists of the repair of the domestic goods declared for the procedure;
- (b) none of the domestic goods are subject to—
  - (i) an additional amount of import duty under section 14 of the Act; or
  - (ii) insofar as it is retained EU law under the European Union (Withdrawal) Act 2018(5)—
    - (aa) a measure provided for under [Regulation \(EU\) No 1308/2013](#) of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products; or

- (bb) an arrangement relating to goods resulting from the processing of agricultural products provided for under [Regulation \(EU\) No 510/2014](#) of the European Parliament and of the Council of 16 April 2014 laying down the trade arrangements applicable to certain goods resulting from the processing of agricultural products;
  - (c) the replacement goods have the same—
    - (i) classification code,
    - (ii) commercial quality, and
    - (iii) technical characteristics,
 as the domestic goods would have when repaired; and
  - (d) where the domestic goods have been used prior to export, the replacement goods have been subject to the same use.
- (2) For the purposes of paragraph (1)(c), the replacement goods have the same commercial quality as the domestic goods which they are replacing would have when repaired if a reasonable purchaser would consider the replacement goods to be of the same standard as the domestic goods would be when repaired.
- (3) The condition in paragraph (1)(c) does not apply where the replacement goods have been supplied to the person who will use them without charge as a result of a contractual or statutory obligation arising from a guarantee or from a manufacturing defect.
- (4) Where replacement goods are supplied without charge to the person who will use them—
- (a) the replacement goods are to be regarded as domestic goods from the date on which they are imported into the United Kingdom; and
  - (b) the domestic goods are not to be regarded as domestic goods from the date on which they are exported from the United Kingdom.
- (5) This paragraph applies where replacement goods—
- (a) are imported after the domestic goods are exported; and
  - (b) are supplied with a charge to the person who will use them.
- (6) Where paragraph (5) applies—
- (a) the value of the replacement goods is to be determined in accordance with regulation 31(2); and
  - (b) domestic goods repaired outside the United Kingdom and then imported into the United Kingdom are not to be treated as imported in accordance with the outward processing procedure.
- (7) Subject to paragraph (8), where an authorisation to declare goods for an outward processing procedure authorises the import of replacement goods before the domestic goods are exported—
- (a) the domestic goods must be exported within the period of two months beginning with the date on which the replacement goods are imported (“the required export period”);
  - (b) where paragraph (4) applies, if the domestic goods are not exported within the required export period—
    - (i) the replacement goods—
      - (aa) are not to be regarded as domestic goods from the date the required export period expired;
      - (bb) are to be treated as imported into the United Kingdom on that date;

- (cc) are to be treated as if, on that date, they had been declared for the free-circulation procedure and HMRC had accepted that declaration; and
  - (ii) for the purposes of section 34(1)(b) of the Act, a notification of importation is to be treated as having been given in relation to the replacement goods on that date; and
  - (c) the authorised person must give a guarantee in accordance with Part 10 of the import duty regulations.
- (8) HMRC may grant an extension to the required export period where—
- (a) the authorised person makes an application to HMRC for an extension; and
  - (b) in the opinion of an HMRC officer exceptional circumstances justify the extension.

### **Cases in which goods may not be declared for an outward processing procedure**

**30.** Goods must not be declared for an outward processing procedure where their export would give rise to—

- (a) remission or repayment of import duty under Part 7 of the import duty regulations; or
- (b) an export refund under Articles 196 to 204 of [Regulation \(EU\) No 1308/2013](#) of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products.

### **Valuation of goods regarded as chargeable goods**

**31.—(1)** For the purposes of section 36(7) of the Act, the value of the goods regarded as chargeable goods is to be the greater of—

- (a) zero; and
- (b) an amount equal to—

$$A - B$$

where—

A is the value of the processed goods at the time of acceptance of the customs declaration of those goods for the free-circulation procedure; and

B is the statistical value of the goods at the time when they were released to an outward processing procedure.

(2) For the purposes of regulation 29(6)(a), the value of the replacement goods is to be the greater of—

- (a) zero; and
- (b) an amount equal to—

$$C - D$$

where—

C is the value of the replacement goods at the time of acceptance of the customs declaration of those goods for the free-circulation procedure; and

D is the statistical value of the domestic goods which the replacement goods replaced at the time when the domestic goods were released to an outward processing procedure.

(3) In this regulation “the statistical value” has the meaning given in Article 4 of [Commission Regulation \(EU\) No 113/2010](#) of 9 February 2010 implementing Regulation (EC) No 471/2009 of the European Parliament and of the Council on Community statistics relating to external trade with non-member countries.

## CHAPTER 4

### Authorised Use Procedure

#### Authorised uses

**32.**—(1) The uses to which goods are to be subject for the purposes of paragraph 13 of Schedule 2 to the Act are any uses identified as authorised uses in the authorised use document.

(2) In this regulation “the authorised use document” means the document entitled “Authorised use: Eligible goods and authorised uses” published on 27 November 2018<sup>(6)</sup>.

#### Authorisation to declare goods for an authorised use procedure

**33.**—(1) An approval notification issued in relation to an authorisation to declare goods for an authorised use procedure must specify—

- (a) the use to which the goods are to be subject (“a specified authorised use”); and
- (b) where the only economically viable use of the goods is a specified authorised use, the requirements that must be met in relation to the authorised use procedure in respect of those goods.

(2) An approval notification of the kind mentioned in paragraph (1) may provide for different specified authorised uses for different goods.

(3) Where an authorisation to declare goods for an authorised use procedure is granted and paragraph (1)(b) does not apply, the following requirements apply—

- (a) the authorised person must put the goods to a specified authorised use in the United Kingdom; and
- (b) any specified authorised use of the goods must result in such quantity of other goods as may be—
  - (i) specified in the approval notification; or
  - (ii) determined by reference to a methodology specified in the approval notification.

(4) Where an authorisation to declare goods for an authorised use procedure is granted and the goods are suitable for repeated use, the authorised person is subject to such requirements in respect of the goods, and for such period, as may be specified in the approval notification.

(5) Any period specified under paragraph (4) must not be longer than two years from the date the goods were first put to a specified authorised use.

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

#### Waste and scrap

**34.**—(1) Waste and scrap resulting from the destruction of goods released to an authorised use procedure—

- (a) is not to be regarded as domestic goods; and
- (b) is to be treated as imported into the United Kingdom on the date of destruction.

---

(6) The document entitled “Authorised Use: Eligible goods and authorised uses” is available at <https://www.gov.uk/government/collections/customs-vat-and-excise-regulations-leaving-the-eu-with-no-deal> and a hard copy is available for inspection, free of charge, at the offices of HMRC at 100 Parliament Street, London, SW1A 2BQ.

(2) For the purposes of section 34(1)(b) of the Act, a notification of importation is treated as having been given on the date of destruction in relation to the waste and scrap not regarded as domestic goods under paragraph (1).

(3) Waste and scrap of the kind referred to in paragraph (1) is to be treated, from the date of destruction, as being released to a storage procedure to be kept in a customs warehouse.

## CHAPTER 5

### Temporary Admission Procedure

#### **Application for authorisation to declare goods for a temporary admission procedure**

**35.**—(1) Where paragraph (2) applies, the person who is to be treated as making an application for authorisation to declare goods for a temporary admission procedure is—

- (a) in a case where the person (P) with physical control of the goods at the moment of the release of the goods to the temporary admission procedure is acting on behalf of another person, that other person; or
- (b) in all other cases, P.

(2) This paragraph applies where—

- (a) the goods declared for a temporary admission procedure fall within a description given in one of the following sections of the temporary admission document—
  - (i) section 6 (means of transport);
  - (ii) section 7 (means of transport – full relief for persons established in the United Kingdom);
  - (iii) section 8 (means of transport – full relief for individuals who have their habitual residence in the United Kingdom);
  - (iv) section 9 (other cases of relief from import duty in respect of means of transport);
- (b) the goods are declared orally under regulation 21 of the import duty regulations or a declaration is made by conduct under regulation 27 of the import duty regulations; and
- (c) the declaration is treated by regulation 4 as an application for authorisation.

#### **Eligibility – temporary admission procedure**

**36.**—(1) Subject to paragraph (2), HMRC may grant an application for authorisation to declare goods for a temporary admission procedure where—

- (a) the applicant is established outside the United Kingdom; or
- (b) the goods fall within a description given in a section of the temporary admission document that specifies that the goods may be declared by, or on behalf of, a person established in the United Kingdom.

(2) An authorisation to declare goods that are consumable goods may be granted only if full relief from a liability to import duty in relation to the goods is to be given under regulation 40.

(3) For the purposes of paragraph (2), goods are consumable goods if they cannot be used without being rendered unusable.

#### **Authorisation to declare goods for a temporary admission procedure**

**37.**—(1) An approval notification issued in relation to an authorisation to declare goods for a temporary admission procedure must specify—

- (a) the type of goods that may be imported;

- (b) the period, for the purposes of paragraph 15(b) of Schedule 2 to the Act, during which particular goods are to be used before they are exported from the United Kingdom in accordance with the applicable export provisions.
- (2) Subject to paragraphs (3) and (4), the period specified under paragraph (1)(b) must not be longer than 24 months beginning with the date the goods are declared for the procedure.
- (3) The period referred to in paragraph (2) may be longer than 24 months, or the authorisation may be amended on application by the authorised person to extend the period specified beyond 24 months, if an HMRC officer is satisfied that—
  - (a) the use for which the goods are imported cannot be achieved within 24 months; and
  - (b) a longer period is justified.
- (4) An extension to the period referred to in paragraph (2) must not be granted with the effect that the total period granted is longer than 10 years beginning with the date the goods are declared for the procedure unless an HMRC officer is satisfied that there are abnormal and unforeseeable circumstances beyond the holder of the procedure's control justifying such an extension.
- (5) When determining, for the purposes of this regulation, the period during which goods declared for a temporary admission procedure have been used—
  - (a) any period during which the goods were subject to another special Customs procedure is to be disregarded; and
  - (b) account is to be taken of any period during which, where relevant, each of the following conditions is met—
    - (i) the goods were subject a temporary admission procedure as a result of a subsequent declaration made by the holder of the procedure; and
    - (ii) where the goods fell within a description given in a section of the temporary admission document, the goods continue to fall within the same section.

### **Requirements relating to a temporary admission procedure**

- 38.**—(1) Where an authorisation to declare goods for a temporary admission procedure is granted the following requirements apply—
- (a) the authorised person must—
    - (i) use the goods; or
    - (ii) where permitted in the approval notification issued in relation to an authorisation, arrange for another person to use the goods in accordance with the authorisation;
  - (b) the goods must not be imported to be repaired;
  - (c) the goods must not undergo any substantive change while subject to the procedure that is not a necessary consequence of an intended use of the goods identified in the declaration of the goods for the procedure;
  - (d) the goods must be capable of being identified at all times, except where an HMRC officer is satisfied that—
    - (i) in view of the nature of the goods or their intended use, the absence of identification will not result in the avoidance of any or all liability to import duty or other charges, or of any obligations relating to the authorisation; or
    - (ii) equivalent goods are used and it can be verified that they are used in accordance with regulation 45.
- (2) For the purposes of paragraph (1)(c), goods do not undergo a substantive change where—



- (a) any change is the result of normal depreciation due to an intended use of the goods identified in the declaration of the goods;
  - (b) the goods are repaired, including overhaul, where this was not an intended use of the goods identified in the declaration of the goods; or
  - (c) the goods are maintained, including adjustments or measures to preserve the goods or ensure compliance with technical requirements for their use under the procedure.
- (3) An authorisation to declare goods for a temporary admission procedure is granted subject to such other conditions as may be specified in the approval notification issued in relation to the authorisation.

### **Specified goods**

**39.** The goods specified for the purposes of paragraph 15(a) of Schedule 2 to the Act are goods intended to be used in the United Kingdom for a temporary period before the goods are exported from the United Kingdom.

### **Temporary admission – full relief**

- 40.**—(1) Where paragraph (2) applies, full relief from a liability to import duty is to be given.
- (2) This paragraph applies where—
- (a) chargeable goods—
    - (i) are declared for a temporary admission procedure;
    - (ii) HMRC accept the declaration; and
    - (iii) a liability to import duty arises in relation to those goods;
  - (b) the goods fall within the description of goods given in a section of the temporary admission document; and
  - (c) any eligibility criteria described in the section are met;
- (3) Where full relief is to be given under this regulation any conditions specified in the section of the temporary admission document within which those goods fall apply and are requirements of the procedure.

### **Temporary admission – partial relief**

- 41.**—(1) Where paragraph (2) applies partial relief from a liability to import duty is to be given.
- (2) This paragraph applies where—
- (a) chargeable goods—
    - (i) are declared for a temporary admission procedure;
    - (ii) HMRC accept the declaration; and
    - (iii) a liability to import duty arises in relation to those goods; and
  - (b) full relief is not to be given under regulation 40.
- (3) Where partial relief is to be given under paragraph (1), the amount of import duty due is 3% of the amount of import duty which would have been payable on the goods if they had been declared for the free-circulation procedure and HMRC had accepted that declaration on the date on which they accepted the declaration of those goods for the temporary admission procedure.
- (4) The amount specified in paragraph (3) is payable for every month, or fraction of a month, during which the goods are subject to the temporary admission procedure until—
- (a) the procedure is discharged; or

- (b) the amount of import duty charged reaches the amount that would have been charged in the absence of any partial relief.