



# Taxation (Cross-border Trade) Act 2018

## 2018 CHAPTER 22

An Act to impose and regulate a duty of customs by reference to the importation of goods into the United Kingdom; to confer a power to impose and regulate a duty of customs by reference to the export of goods from the United Kingdom; to make other provision in relation to any duty of customs in connection with the withdrawal of the United Kingdom from the EU; to amend the law relating to value added tax, and the law relating to any excise duty on goods, in connection with that withdrawal; and for connected purposes. [13th September 2018]

Most Gracious Sovereign

WE, Your Majesty's most dutiful and loyal subjects, the Commons of the United Kingdom in Parliament assembled, towards raising the necessary supplies to defray Your Majesty's public expenses, and making an addition to the public revenue, have freely and voluntarily resolved to give and to grant unto Your Majesty the several duties hereinafter mentioned; and do therefore most humbly beseech Your Majesty that it may be enacted, and be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

## PART 1

### IMPORT DUTY

#### *The charge to tax*

#### **1 Charge to import duty**

A duty of customs (to be known as “import duty”) is charged in accordance with provision made by or under this Part by reference to the importation of chargeable goods into the United Kingdom.

## 2 Chargeable goods

Goods are “chargeable goods” for the purposes of this Part unless they are domestic goods.

### *Incurring of liability to import duty*

## 3 Obligation to declare goods for a Customs procedure on import

- (1) Chargeable goods which are presented to Customs on import must be declared for a Customs procedure by the making of a Customs declaration.
- (2) It is the Customs procedure for which the goods are declared that determines when a liability to import duty is incurred.
- (3) The Customs procedures for which chargeable goods may be declared are as follows—
  - (a) a procedure under which the goods are released for free circulation in the United Kingdom (referred to in this Part as “the free-circulation procedure”), or
  - (b) a special Customs procedure.
- (4) In this Part “special Customs procedure” means—
  - (a) a storage procedure,
  - (b) a transit procedure,
  - (c) an inward processing procedure, or
  - (d) an authorised use procedure or temporary admission procedure.
- (5) Schedule 1 makes provision about—
  - (a) the period within which Customs declarations are required to be made (and associated matters),
  - (b) the making, amendment or withdrawal of Customs declarations,
  - (c) the acceptance of Customs declarations by HMRC,
  - (d) the verification of Customs declarations by HMRC officers, and
  - (e) the release of goods to, and the discharge of goods from, Customs procedures.
- (6) Schedule 2 makes further provision about special Customs procedures.

## 4 When liability to import duty incurred

- (1) If—
  - (a) chargeable goods are declared for the free-circulation procedure, and
  - (b) HMRC accept the declaration,a liability to import duty is incurred at the time of the acceptance.
- (2) If chargeable goods are declared for—
  - (a) a storage procedure,
  - (b) a transit procedure, or
  - (c) an inward processing procedure,the general rule is that a liability to import duty is not incurred by reference to the importation of the goods.

- (3) This rule is subject to the following two exceptions—
- (a) if there is no entitlement to make the Customs declaration concerned, a liability to import duty is incurred at the time the (purported) declaration is made, and
  - (b) if there is a breach by any person of any requirement relating to the procedure, a liability to import duty is incurred at the time at which the breach first occurs.
- (4) In the case of goods declared for an authorised use procedure or temporary admission procedure—
- (a) a liability to import duty is incurred at the time the declaration is accepted by HMRC,
  - (b) if there is an entitlement to make the declaration for the procedure, the rate of import duty is lower than the normal rate (see section 19(4)),
  - (c) if there is no such entitlement, the liability is at the normal rate, and
  - (d) if there is a breach of a requirement relating to the procedure, a further liability to import duty arises at the time of the breach at the normal rate reduced to take account of the amount of any earlier liability.
- (5) In the case of goods declared for a temporary admission procedure, see also section 19(5).
- (6) In this section any reference to the breach of a requirement relating to a special Customs procedure is to—
- (a) a breach, occurring while the procedure has effect, of the terms of the declaration for the procedure or of any other requirement imposed in relation to the procedure by or under Schedule 2, or
  - (b) a breach, occurring at any time after the declaration was made, of any other requirement imposed by an HMRC officer in relation to the goods for which the declaration was made.
- (7) In this section “the normal rate” means the rate that, at the time of the declaration or breach (as the case may be), would be applicable if section 19(4) were ignored.

## **5 Goods not presented to Customs or Customs declaration not made**

- (1) If chargeable goods—
- (a) are imported into the United Kingdom, and
  - (b) are not presented to Customs on import (if so required),
- the goods are liable to forfeiture (as to which, see Part 11 of CEMA 1979) at the time of importation.
- (2) If goods are liable to forfeiture as a result of—
- (a) subsection (1), or
  - (b) paragraph 1(5) or 3(4) of Schedule 1 (no Customs declaration made),
- a liability to import duty is incurred at the time at which the goods become liable to forfeiture.

*Person liable to import duty***6 Person liable to import duty**

- (1) If a Customs declaration is made in respect of any chargeable goods, the person in whose name the declaration is made is the person liable to import duty in respect of the goods.
- (2) If a liability to import duty is incurred as a result of section 5 in respect of any chargeable goods, any person who is in possession or control of the goods when they enter the United Kingdom is liable to import duty in respect of the goods.
- (3) In addition to any person liable as a result of subsection (1) or (2), each of the following persons is liable to import duty—
  - (a) a person on whose behalf a Customs declaration is made,
  - (b) a person liable as a result of provision made by section 21(6) (Customs agents),
  - (c) a person liable as a result of provision made under paragraph 21 of Schedule 2 (special Customs procedures), and
  - (d) a person otherwise involved in a breach of a relevant Customs obligation.
- (4) For this purpose a person is otherwise involved in a breach of a relevant Customs obligation if—
  - (a) the person provides false information in connection with a chargeable Customs declaration and the person knew, or ought reasonably to have known, that the information was false,
  - (b) the person (“A”) acted (whether as a Customs agent or otherwise) on behalf of another person who breached a relevant Customs obligation and A knew, or ought reasonably to have known, of the breach by that other person,
  - (c) the person participated in, or was otherwise involved in, a breach of a relevant Customs obligation and knew, or ought reasonably to have known, of the breach, or
  - (d) the person possesses or controls the goods at a time when there has been a breach of a relevant Customs obligation and the person knew, or ought reasonably to have known, of the breach.
- (5) For the purposes of subsection (4)(a) a person (“P”) provides “false information in connection with a chargeable Customs declaration” if—
  - (a) P provides information to another person to enable that other person to make a Customs declaration,
  - (b) that other person makes the declaration, and
  - (c) the information provided by P is false.
- (6) For the purposes of subsection (4) there is “a breach of a relevant Customs obligation” if—
  - (a) there is a breach of a requirement imposed on any person that results in a liability to import duty, or
  - (b) circumstances otherwise arise that result in a liability to import duty,and, in a case within paragraph (b) of this subsection, references to knowledge of the breach are to knowledge of those circumstances.

- (7) If two or more persons are liable to import duty in any case, those persons are jointly and severally liable to import duty in that case.

*Amount of import duty: the customs tariff, preferences, safeguarding etc*

## **7 Amount of duty: introduction**

- (1) The amount of import duty applicable to any goods is to be determined in accordance with the customs tariff (see section 8), as amended or adjusted by provision made under any of the following sections—
- (a) section 9 (preferential rates: arrangements with countries or territories outside UK),
  - (b) section 10 (preferential rates given unilaterally),
  - (c) section 11 (quotas),
  - (d) section 12 (tariff suspension),
  - (e) section 13 (dumping of goods, foreign subsidies and increases in imports),
  - (f) section 14 (increases in imports or changes in price of agricultural goods), and
  - (g) section 15 (international disputes etc).
- (2) See also—
- (a) sections 16 to 18 (which deal with the valuation of goods, their place of origin and cases where amounts are expressed in a foreign currency), and
  - (b) section 19 (which enables provision to be made for full or partial relief from import duty).

## **8 The customs tariff**

- (1) The Treasury must make regulations establishing, and maintaining in force, a system which—
- (a) classifies goods according to their nature, origin or any other factor,
  - (b) gives codes to the goods as so classified,
  - (c) specifies the rate of import duty applicable to goods falling within those codes (whether by a formula or otherwise), and
  - (d) contains rules for determining the amount of import duty applicable to those goods.
- (2) This system is referred to in this Part as the customs tariff.
- (3) The customs tariff may provide for the amount of any import duty applicable to any goods falling within any code to be determined by reference to either or both of the following—
- (a) the value of the goods, and
  - (b) the weight or volume of the goods or any other measure of their quantity or size.
- (4) The customs tariff may include provision as to the meaning of any expression used in it.
- (5) In considering the rate of import duty that ought to apply to any goods in a standard case, the Treasury must have regard to—

- (a) the interests of consumers in the United Kingdom,
  - (b) the interests of producers in the United Kingdom of the goods concerned,
  - (c) the desirability of maintaining and promoting the external trade of the United Kingdom,
  - (d) the desirability of maintaining and promoting productivity in the United Kingdom, and
  - (e) the extent to which the goods concerned are subject to competition.
- (6) In considering the rate of import duty that ought to apply to any goods in a standard case, the Treasury must also have regard to any recommendation about the rate made to them by the Secretary of State.
- (7) In considering what recommendation to make, the Secretary of State must have regard to the matters set out in subsection (5)(a) to (e).
- (8) In this section “a standard case” means a case other than one to which any of sections 9 to 15 or 19(4) apply (preferential rates, quotas, tariff suspension, safeguarding, etc).

## **9 Preferential rates: arrangements with countries or territories outside UK**

- (1) If—
- (a) Her Majesty’s government in the United Kingdom makes arrangements with the government of a country or territory outside the United Kingdom, and
  - (b) the arrangements 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 in its standard form,
- the Treasury may make regulations to give effect to the provision made by the arrangements (whether by amending the customs tariff or otherwise).
- (2) The reference here to the customs tariff in its standard form is to the tariff as it has effect without regard to any provision made under any of sections 10 to 15 or section 19(4).
- (3) The power of the Treasury to make regulations under this section is exercisable only on the recommendation of the Secretary of State.

## **10 Preferential rates given unilaterally**

- (1) The Secretary of State may by regulations establish a scheme (“a trade preference scheme”) under which the rate of import duty applicable to goods, or any description of goods, originating from an eligible developing country is lower than the applicable rate in the customs tariff in its standard form.
- (2) A trade preference scheme may—
- (a) apply to one or more eligible developing countries,
  - (b) provide for the application of the lower rates to be subject to the meeting of specified conditions, and
  - (c) make provision about the variation, suspension and withdrawal of the application of the lower rates.
- (3) If a trade preference scheme is established under subsection (1), regulations under subsection (1)—
- (a) must provide for a nil rate of import duty to be applicable to all goods originating from a least developed country, except arms and ammunition, and

- (b) may make provision about the suspension and withdrawal of the application of the nil rate.
- (4) In subsection (3)—
  - (a) “arms and ammunition” has the meaning specified in regulations made by the Secretary of State, and
  - (b) “suspension” and “withdrawal” may include the application of another rate that is lower than the applicable rate in the customs tariff in its standard form.
- (5) The references in this section to the customs tariff in its standard form are to the tariff as it has effect without regard to any provision made under any of section 9, sections 11 to 15 or section 19(4).
- (6) In Schedule 3—
  - (a) Part 1 defines “eligible developing country” and “least developed country” for the purposes of this section,
  - (b) Parts 2 and 3 contain lists for the purpose of those definitions, and
  - (c) Part 4 confers power to amend those lists.

## 11 Quotas

- (1) Regulations may make provision for determining the amount of import duty applicable to any goods that are subject to a quota.
- (2) Goods are subject to a quota for the purposes of this section if—
  - (a) Her Majesty’s government in the United Kingdom makes arrangements with the government of a country or territory outside the United Kingdom and the arrangements contain provision for the goods concerned to be subject to a quota, or
  - (b) the Treasury otherwise consider that it is appropriate for the goods concerned to be subject to a quota.
- (3) Regulations may make any provision that the person making them considers appropriate for the purposes of this section, including (for example)—
  - (a) provision specifying the factors by reference to which a quota is to be determined,
  - (b) provision imposing conditions subject to which a quota has effect,
  - (c) provision for a quota in respect of specified goods to be subject to a licensing or allocation system (see also subsection (4)), and
  - (d) any other provision in relation to the administration of a quota.
- (4) Regulations made under subsection (3) which make provision for a quota in respect of specified goods to be subject to a licensing or allocation system may include—
  - (a) provision authorising any public body to grant licences or determine a system for allocating the quotas,
  - (b) provision specifying the cases in which a person is eligible to make use of a quota,
  - (c) provision specifying the conditions subject to which any person may make use of a quota (including provision for the giving of a guarantee of a specified amount),
  - (d) provision authorising the conditions to be imposed by a licence or other document,

- (e) provision requiring the payment of fees by any person in connection with any application for a licence or an allocation, and
  - (f) provision generally in relation to the administration of the licensing or allocation system.
- (5) Any fees payable as a result of provision made under subsection (4)(e) must be paid into the Consolidated Fund.
- (6) The power to make regulations under this section providing for a quota in respect of specified goods to be subject to a licensing or allocation system is exercisable by the Secretary of State.
- (7) The power to make regulations under this section containing any other provision is exercisable by the Treasury; and, in considering what provision to include in the regulations, the Treasury must have regard to any recommendation made to them by the Secretary of State.

## 12 Tariff suspension

- (1) The Treasury may by regulations make provision securing that, for a specified period, the rate of import duty applicable to specified goods is to be lower than the applicable rate in the customs tariff in its standard form.
- (2) The regulations must provide that (subject to any exceptions) the Secretary of State is obliged—
- (a) to consider a request made by any person for goods to be specified goods for the purposes of the regulations, and
  - (b) to make recommendations to the Treasury about the request.
- (3) The regulations may—
- (a) make provision for extending the specified period (including by means of a notice),
  - (b) impose conditions on the application of the lower rate, and
  - (c) make further provision about requests made to the Secretary of State (including provision about the form and contents of a request and the manner, and date by which, a request is to be made).
- (4) In this section the reference to the customs tariff in its standard form is to the tariff as it has effect without regard to any provision made under any of sections 9 to 11, sections 13 to 15 or section 19(4).
- (5) In considering what provision to include in any regulations under this section, the Treasury must have regard to any recommendation made to them by the Secretary of State.

## 13 Dumping of goods, foreign subsidies and increases in imports

- (1) Functions relating to import duty are conferred on the Trade Remedies Authority (“the TRA”) by—
- (a) Schedule 4 (dumping and foreign subsidies causing injury to UK industry), and
  - (b) Schedule 5 (increased imports causing serious injury to UK producers).



- (2) If the Secretary of State accepts a recommendation by the TRA under provision made by or under Schedule 4 or 5 that an additional amount of import duty should be applicable to goods, the Secretary of State must by public notice make provision giving effect to the recommendation.
- (3) If the Secretary of State accepts a recommendation by the TRA under provision made by or under Schedule 5 that goods should be subject to a provisional tariff rate quota or a tariff rate quota, the Secretary of State must by public notice make provision for determining the amount of import duty applicable to the goods in order to give effect to the recommendation.
- (4) If the Secretary of State accepts a recommendation by the TRA under provision made by or under Schedule 4 or 5 that—
  - (a) the application of an additional amount of import duty to goods under this section should be suspended, varied or revoked, or
  - (b) the application of a quota to which goods are subject under this section should be suspended, varied or revoked,the Secretary of State must by public notice make provision giving effect to the recommendation.
- (5) The Secretary of State may make regulations containing any provision that the Secretary of State considers appropriate for the purposes of subsections (3) and (4) (b); and section 11(3)(a) to (d), (4) and (5) apply to regulations under this subsection as they apply to regulations under section 11(3).

#### **14 Increases in imports or changes in price of agricultural goods**

- (1) The Treasury may by regulations make provision for an additional amount of import duty to be applicable to specified agricultural goods, or a specified description of agricultural goods, if—
  - (a) the volume of imports of the specified goods, or goods of the specified description, into the United Kingdom during a specified period exceeds a specified trigger level, or
  - (b) the import price of the goods has fallen below a specified trigger price.
- (2) The regulations may (among other things) make provision—
  - (a) limiting the period for which an additional amount of import duty is applicable;
  - (b) for the suspension of the application of an additional amount of import duty;
  - (c) requiring the giving of a guarantee in respect of an additional amount of import duty which is potentially applicable to goods, where the representative price for the goods has fallen below the specified trigger price and the import price of the goods is higher than that representative price;
  - (d) specifying the representative price for goods or a description of goods, (whether by a formula or otherwise) and providing for representative prices to be adjusted (whether by a formula or otherwise).
- (3) The power of the Treasury to make regulations under this section is exercisable only on the recommendation of the Secretary of State.

## 15 International disputes etc

- (1) If—
- (a) a dispute or other issue has arisen between Her Majesty’s government in the United Kingdom and the government of a country or territory, and
  - (b) Her Majesty’s government in the United Kingdom is authorised under international law to deal with the issue by varying the amount of import duty in the case of goods, or a description of goods, originating from the country or territory,
- the Secretary of State may make regulations varying the amount of import duty applicable to the goods or the description of goods.
- (2) In exercising the power to make the regulations in the case of a dispute affecting any goods, the Secretary of State must secure that the amount of import duty payable in that case takes account of any additional amount of import duty which—
- (a) is payable under section 13 as a result of the goods being subsidised, or
  - (b) would have been so payable had an undertaking not been accepted in respect of the goods.

*Amount of import duty: supplementary*

## 16 Value of chargeable goods

- (1) This section makes provision for determining the value of chargeable goods for the purposes of this Part.
- (2) The general rule is that the value of the goods is the transaction value of the goods when sold for export to the United Kingdom.
- (3) For this purpose “the transaction value” means the total amount of the consideration—
- (a) payable for the goods, or
  - (b) payable in connection with the importation of the goods into the United Kingdom,
- subject to the inclusion or exclusion of matters specified in regulations made by the Treasury.
- (4) The regulations may make provision for treating a matter to be of a specified amount or value.
- (5) Regulations made by the Treasury may make provision for the value of goods for the purposes of this Part to be a value other than the transaction value.
- (6) The following are examples of the kind of provision that may be made by the regulations—
- (a) provision dealing with transactions between persons who are related to, or connected with, each other in a specified way, and
  - (b) provision dealing with cases where a transaction value cannot, or cannot readily, be determined.

## **17 Place of origin of chargeable goods**

- (1) This section makes provision for determining the place of origin of chargeable goods for the purposes of this Part.
- (2) Goods are to be regarded as originating from a country or territory if they are wholly obtained in the country or territory.
- (3) If goods are obtained in two or more countries or territories, the goods are to be regarded as originating from the last country or territory in which substantial processing of them has taken place that is economically justified.
- (4) Processing of any goods is to be regarded as substantial only if—
  - (a) it results in the manufacture of a new product or represents an important stage of manufacture, and
  - (b) it takes place in an undertaking equipped for the purpose.
- (5) It is for the person making a Customs declaration to show that goods originate from a particular country or territory.
- (6) The Treasury may by regulations make provision for the purposes of this section, including (for example) provision—
  - (a) for determining what constitutes, or does not constitute, processing that is economically justified,
  - (b) for determining what constitutes, or does not constitute, an important stage of manufacture,
  - (c) as to cases in which goods are, or are not, to be regarded as originating from a country or territory, and
  - (d) as to the evidence which is to be required, or is to be sufficient, for the purpose of showing that goods originate from a particular country or territory.
- (7) In relation to any case where the applicable rate of import duty is determined under section 9 or 10 (preferences), the provision that may be made by regulations under subsection (6) includes—
  - (a) provision for the place of origin of the goods to be determined in accordance with the regulations,
  - (b) provision for regarding goods exported by or on behalf of persons approved in accordance with the regulations as originating from a country or territory or for regarding only goods exported by or on behalf of approved persons as originating from a country or territory,
  - (c) provision for different categories of approved persons,
  - (d) provision requiring the Treasury to publish a list of persons who are for the time being approved persons and information about the category of approval, and
  - (e) other provision about approved persons.
- (8) The power to make regulations under this section is exercisable only on the recommendation of the Secretary of State.

## **18 Currency**

- (1) The value of chargeable goods for the purposes of this Part must be calculated and expressed in sterling.

- (2) If an amount that is relevant for the purpose of calculating the value of goods for the purposes of this Part is expressed in a currency other than sterling, the amount must be converted into its sterling equivalent.
- (3) The conversion must be made in accordance with provision contained in a public notice given by HMRC Commissioners.
- (4) The public notice may make provision—
  - (a) specifying the exchange rate that must be used for the purposes of this section,
  - (b) for the conversion to be made by reference to an exchange rate (or rates) applicable at any time (including a time earlier than that at which an importation took place) or by reference to the average exchange rate for a specified period,
  - (c) for the exchange rate determined in accordance with the notice to apply to transactions or other events taking place in a specified period,
  - (d) for adjusting the applicable exchange rate if the value of sterling against the currency concerned has increased or decreased by more than a specified percentage, and
  - (e) for any conversion to be rounded up or down.

### *Reliefs*

## **19 Reliefs**

- (1) The Treasury may by regulations make provision for full or partial relief from a liability to import duty.
- (2) The regulations may provide for the relief to be given by reference to any factor, for example—
  - (a) the nature or origin of goods or anything else by reference to which goods are classified in the customs tariff,
  - (b) anything in the customs tariff by reference to which the amount of import duty applicable to goods is determined,
  - (c) the purposes for which goods are imported,
  - (d) the person by whom, or for whose benefit, goods are imported, and
  - (e) the circumstances in which goods are imported.
- (3) The regulations may provide for a relief to be conditional on (among other things) the export of goods in accordance with the applicable export provisions.
- (4) In the case of goods that are declared for an authorised use procedure or temporary admission procedure, the Treasury—
  - (a) must exercise the power to make regulations under this section so as to secure that the rate of import duty applicable to the goods is lower than the applicable rate in the customs tariff in its standard form, and
  - (b) may secure that result by amending the customs tariff.
- (5) If the regulations provide for partial relief in respect of goods declared for a temporary admission procedure, the regulations must secure that—
  - (a) the partial relief operates by way of additional charges to import duty by reference to any period during which the procedure has effect, and

- (b) the total of the additional charges does not exceed the amount of the liability in the absence of the partial relief.
- (6) If the regulations provide for partial relief in any other case, the regulations may make provision corresponding to that mentioned in subsection (5)(a) and (b).
- (7) The reference in this section to the customs tariff in its standard form is to the tariff as it has effect without regard to any provision made under any of sections 9 to 15 (preferential rates, quotas, tariff suspension, safeguarding, etc).

#### *Administration etc*

### **20 Notification and payment of import duty, etc**

Schedule 6 makes provision for—

- (a) the notification of any liability to pay import duty,
- (b) the payment of import duty,
- (c) the giving of guarantees in respect of any liability to pay import duty,
- (d) the repayment of import duty,
- (e) the remission of import duty, and
- (f) the recovery of import duty.

### **21 Customs agents**

- (1) A person (“the principal”) may appoint any other person (a “Customs agent”) to act on the principal’s behalf for the purposes of this Part, and—
  - (a) the agent may make Customs declarations in the name of the principal (and in that case the agent acts as a “direct agent”), or
  - (b) the agent may make Customs declarations in the agent’s own name (and in that case the agent acts as an “indirect agent”).
- (2) The appointment of a person as a Customs agent, and the withdrawal of an appointment of a person as a Customs agent, must be disclosed to HMRC in accordance with regulations made by HMRC Commissioners.
- (3) The effect of an appointment of a person as a Customs agent is that anything done under, or otherwise for the purposes of, this Part by, or in relation to, the agent is regarded as done under, or otherwise for the purposes of, this Part by, or in relation to, the principal (and not by the agent).
- (4) There is an exception to this rule if a Customs agent acts as an indirect agent (and see also section 37(8)(b)).
- (5) In that case, the indirect agent is liable to import duty in accordance with section 6(1) (and the principal is also liable to import duty in accordance with section 6(3)(a)).
- (6) If a Customs agent acts as a direct agent, the agent is also liable to import duty if—
  - (a) the agent acts at time when the appointment has not been disclosed to HMRC as mentioned in subsection (2),
  - (b) the agent acts at a time when the appointment of the person as a Customs agent has been withdrawn,

- (c) the agent otherwise purports to act on behalf of the principal when the agent has no authority to do so, or
  - (d) a liability to import duty is incurred by reference to the importation of goods declared for a Customs procedure and the declaration was not made in accordance with regulations under paragraph 9 of Schedule 1 (simplified Customs declarations).
- (7) HMRC Commissioners may by regulations make further provision about Customs agents for the purposes of import duty.
- (8) Each of the following is an example of the kind of provision that may be made by the regulations—
- (a) provision requiring persons to be eligible for appointment as Customs agents only if an HMRC officer has approved the appointment, and
  - (b) provision specifying the criteria for approving the appointment (including provision for the criteria to be specified in a public notice given by HMRC Commissioners).

## **22 Authorised economic operators**

- (1) HMRC Commissioners may by regulations make provision—
- (a) disapplying or simplifying specified requirements made by or under this Part in relation to things required or authorised to be done by authorised economic operators, or
  - (b) requiring HMRC to have regard to the status of a person as an authorised economic operator when considering whether or not, or how, to exercise any power or other function for the purposes of this Part.
- (2) For this purpose “authorised economic operators” means persons authorised in accordance with provision made by or under the regulations.
- (3) Regulations under this section may (for example)—
- (a) specify the criteria to be applied in determining whether or not any person should be an authorised economic operator,
  - (b) specify those criteria by reference to professional standards of competence (as set by any specified person) or by reference to anything else (including the judgment of any person as to suitability),
  - (c) make provision for a person’s status as an authorised economic operator to be subject to compliance with conditions specified in the regulations or in the authorisation, and
  - (d) establish different classes of authorised economic operator.

## **23 Approvals and authorisations granted under regulations**

- (1) This section applies in relation to approvals granted to any person under regulations made under this Part (whether in respect of premises or anything else) unless the regulations in question make alternative provision.
- (2) In this section references to an approval include an authorisation.
- (3) The regulations under which an approval is granted may—
- (a) require an application for approval to be made in a specified form and in a specified manner and to contain specified information,

- (b) specify cases in which an application for approval may not be made,
  - (c) require HMRC to consider, within a specified period, whether or not an application, or purported application, for approval is, as a result of provision made by paragraph (a) or (b), one that falls to be determined,
  - (d) confer on the applicant a right of appeal to an appeal tribunal in a case where HMRC have failed to comply with paragraph (c),
  - (e) require HMRC to notify a person making a purported application for approval that, as a result of provision made by paragraph (a) or (b), the purported application does not fall to be determined, and
  - (f) make further provision about the notification.
- (4) The provision that may be made under subsection (3)(d) includes—
- (a) provision for an appeal to be brought only if a period specified in the regulations has ended, and
  - (b) provision limiting the power of an appeal tribunal to the power to direct HMRC, in a case where it is satisfied that HMRC have acted unreasonably, to consider the application as mentioned in subsection (3)(c) within such further period as is specified by the tribunal.
- (5) An approval granted by HMRC is treated as if it had never been granted if—
- (a) the (purported) application for approval was deficient in some respect,
  - (b) the applicant knew, or ought reasonably to have known, of the deficiency,
  - (c) HMRC consider that the approval would not have been granted if the deficiency was known at the time it was granted by the person granting it, and
  - (d) HMRC give a notice to the applicant under this subsection notifying the applicant of the effect of this subsection.
- (6) Regulations made by HMRC Commissioners may make any provision that they consider appropriate for the purposes of subsection (5), including provision specifying cases in which the approval is to continue to be treated as still in force.
- (7) An approval may be amended, suspended or revoked in cases specified in the regulations under which it was granted.
- (8) The amendment, suspension or revocation of an approval takes effect from the date specified in a notice given by HMRC to the person approved (and, accordingly, does not affect anything already done by any person before that date in reliance on the approval).
- (9) HMRC—
- (a) may not specify a date before the notice is given unless HMRC and the person both agree that such a date may be given, and
  - (b) may not specify a date that falls more than one year after the date on which the notice is given.
- (10) In this section “an appeal tribunal” has the same meaning as in Chapter 2 of Part 1 of the Finance Act 1994 (see section 7).

## **24 Rulings as to application of customs tariff or place of origin**

- (1) HMRC Commissioners must by public notice make provision establishing a system under which persons apply for rulings given by HMRC officers for the purpose of—

- (a) determining any issue as to the code in the customs tariff applicable to any goods, or
  - (b) determining the place of origin of any goods for the purposes of this Part.
- (2) Each of the following is an example of the kind of provision that may be made by the notice—
- (a) provision specifying cases in which rulings need not be given,
  - (b) provision about the making of the applications (including their form, the information to be contained in them and any documents to accompany them),
  - (c) provision requiring the applications to be determined within a specified period,
  - (d) provision about the period for which, and other conditions subject to which, the rulings are to have effect,
  - (e) provision about the form in which the rulings are to be given,
  - (f) provision for the withdrawal or amendment of rulings,
  - (g) provision determining the extent to which the rulings may be relied on by applicants, and
  - (h) provision requiring any person to whom a ruling has been given to disclose that fact to HMRC.
- (3) The system established by the notice must secure that an application may be made for a ruling even if an HMRC officer considers that the ruling is not, or may not be, required to resolve a doubt as to the issue being determined.

### *Supplementary*

## **25 Disclosure of information**

- (1) HMRC (or anyone acting on their behalf) may disclose information relating to import duty for customs duty purposes.
- (2) In this section “customs duty purposes” means purposes in connection with, or otherwise incidental to, the imposition, enforcement or other regulation of import duty.
- (3) A person who receives information as a result of this section may not further disclose the information except with the consent of the HMRC Commissioners (which may be general or specific).
- (4) A person who receives information as a result of this section may use the information only for customs duty purposes.
- (5) If a person discloses information in contravention of subsection (3) which relates to a person whose identity—
  - (a) is specified in the disclosure, or
  - (b) can be deduced from it,
 section 19 of the Commissioners for Revenue and Customs Act 2005 (offence of wrongful disclosure) applies in relation to that disclosure as it applies in relation to a disclosure in contravention of section 20(9) of that Act.
- (6) This section does not limit the circumstances in which information may be disclosed under section 18(2) of the Commissioners for Revenue and Customs Act 2005 or under any other enactment or rule of law.



- (7) Nothing in this section authorises the making of a disclosure which—
- (a) contravenes the data protection legislation, or
  - (b) is prohibited by any of Parts 1 to 7 or Chapter 1 of Part 9 of the Investigatory Powers Act 2016.
- (8) In this section “the data protection legislation” has the same meaning as in the Data Protection Act 2018.

## **26 Co-operation with other customs services**

- (1) HMRC may co-operate with other customs services on matters of mutual concern with a view to securing (by the exchange of information or otherwise)—
- (a) the administration of the import duty system,
  - (b) the prevention or detection of evasion or other fraud relating to import duty, and
  - (c) the prevention, reduction or elimination of avoidance of a liability to import duty.
- (2) Section 25(3) to (7) apply in relation to information disclosed as a result of this section.

## **27 Fees for exercise of functions in connection with import duty**

- (1) The Treasury may by regulations authorise the charging of fees in respect of the exercise of any specified function of HMRC, or of an HMRC officer, for the purposes of, or otherwise in connection with, import duty.
- (2) The power may be exercised by the Treasury only if they consider that—
- (a) its exercise is consistent with arrangements between Her Majesty’s government in the United Kingdom and any other government or any international organisation or authority, and
  - (b) the circumstances in which the specified function is, or is likely to be, exercised are such that it is fair and reasonable for the charge to be made.

## **28 Requirement to have regard to international obligations**

- (1) In exercising any function under any provision made by or under this Part—
- (a) the Treasury,
  - (b) the Secretary of State,
  - (c) HMRC,
  - (d) the TRA, and
  - (e) any other public body,
- must have regard to international arrangements to which Her Majesty’s government in the United Kingdom is a party that are relevant to the exercise of the function.
- (2) This section is not to be read as affecting the circumstances in which any obligation to have regard to such matters would otherwise have arisen.

## **29 Consequential amendments**

- (1) Schedule 7 contains amendments consequential on the provision made by this Part.

- (2) The amendments made by that Schedule include amendments dealing with—
- (a) reviews or appeals of decisions in relation to import duty (see sections 13A to 16 of, and Schedule 5 to, the Finance Act 1994), and
  - (b) penalties in relation to breaches of requirements in relation to import duty (see Part 3 of the Finance Act 2003).

### **30 General provision for the purposes of import duty**

The Treasury may by regulations—

- (a) make provision supplementing provision made in relation to import duty by or under this Part or any other enactment, or
- (b) make other provision generally for the purposes of import duty.

*UK's customs union*

### **31 Territories forming part of a customs union with UK**

- (1) This section applies if arrangements are entered into between—
  - (a) Her Majesty's government in the United Kingdom, and
  - (b) the government of a country or territory outside the United Kingdom,
 establishing a customs union between the United Kingdom and the country or territory.
- (2) Arrangements establish a “customs union” between the United Kingdom and a country or territory if—
  - (a) they provide that no duty is to be chargeable by reference to movements of goods, or goods of a specified description, between the United Kingdom and the country or territory, and
  - (b) they provide for the same, or substantially the same, rules for charging duty on imports of goods, or goods of a specified description, from places outside the United Kingdom or the country or territory.
- (3) For this purpose—
 

“duty” means—

  - (a) import duty, or
  - (b) any duty (however described) imposed by the law of the country or territory that is of a similar character to import duty, and

“specified” means specified in the arrangements.
- (4) If Her Majesty by Order in Council declares that it is expedient that the arrangements should have effect for the purposes of import duty, the arrangements have effect for those purposes despite any enactment.
- (5) In the case of a customs union between the United Kingdom and the European Union, Her Majesty may not make a declaration by Order in Council under subsection (4) unless the arrangements have been approved by an Act of Parliament.
- (6) HMRC Commissioners may make regulations generally for carrying out any arrangements having effect in accordance with this section.
- (7) Among other things, the regulations may—
  - (a) modify or disapply provision made by or under this Part or any other Act,

- (b) treat anything done by the government of a country or territory as if done by the appropriate authority or person in the United Kingdom, and
  - (c) apply or replicate, with or without modifications, provision relating to duty under the law of a country or territory as that provision has effect from time to time.
- (8) Examples of the kind of provision within subsection (7)(b) are—
- (a) provision treating an agreement entered into by a country or territory as if it were entered into by Her Majesty’s government in the United Kingdom, and
  - (b) provision treating a system for determining the amount of duty established under the law of a country or territory as if it were the customs tariff mentioned in section 8.

### *Regulations etc*

## **32 Regulations etc**

- (1) Regulations under this Part are to be made by statutory instrument.
- (2) A statutory instrument containing any regulations to which this subsection applies must be laid before the House of Commons, and, unless approved by that House before the end of the period of 28 days beginning with the date on which the instrument is made, ceases to have effect at the end of that period.
- (3) Subsection (2) applies to—
  - (a) the first regulations under section 8 (the customs tariff),
  - (b) any other regulations under that section the effect of which is an increase in the amount of import duty payable under the customs tariff in a standard case (within the meaning of that section), or
  - (c) regulations under section 30 (general provision for import duty purposes).
- (4) The fact that a statutory instrument ceases to have effect as a result of subsection (2) does not affect—
  - (a) anything previously done under the instrument, or
  - (b) the making of a new statutory instrument.
- (5) In calculating the period for the purposes of subsection (2), no account is to be taken of any time—
  - (a) during which Parliament is dissolved or prorogued, or
  - (b) during which the House of Commons is adjourned for more than 4 days.
- (6) A statutory instrument containing regulations made under this Part other than regulations to which subsection (2) applies is subject to annulment in pursuance of a resolution of the House of Commons.
- (7) Any power to make regulations under this Part may be exercised—
  - (a) either in relation to all cases to which the power extends, or in relation to those cases subject to specified exceptions, or in relation to any specified case or description of case, or
  - (b) so as to make different provision for different purposes or areas.
- (8) Any power to make regulations under this Part includes—

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*Status: This is the original version (as it was originally enacted).*

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- (a) power conferring a discretion on any specified person to do anything under, or for the purposes of, the regulations,
  - (b) power to make provision by reference to things specified in a notice published in accordance with the regulations,
  - (c) power to make supplementary, incidental and consequential provision, and
  - (d) power to make transitional or transitory provision and savings.
- (9) Any power to make regulations under any provision of this Part does not restrict the width of any power to make subordinate legislation under—
- (a) any other provision of this Part, or
  - (b) CEMA 1979 or any other enactment.
- (10) Subsections (7) to (9) apply in relation to any public notice under this Part; and any provision that may be made by a public notice under this Part may be made by regulations.
- (11) An Order under section 31—
- (a) is not to be submitted to Her Majesty in Council unless a draft of the Order has been laid before, and approved by a resolution of, the House of Commons, and
  - (b) if it revokes an earlier Order under that section, may contain transitional or transitory provision and savings.
- (12) After it is established, the Secretary of State must consult the TRA before making regulations under Schedule 4 or 5.
- (13) Any power of HMRC Commissioners to make regulations under this Part is exercisable concurrently by the Treasury.

*Interpretation etc*

**33 Meaning of “domestic goods”**

- (1) Goods are domestic goods for the purposes of this Part if—
- (a) they are wholly obtained in the United Kingdom, or
  - (b) they have been subject to a chargeable Customs procedure.
- (2) For the purposes of this section goods have been “subject to a chargeable Customs procedure” if—
- (a) the goods were declared for the free-circulation procedure and the procedure has been discharged, or
  - (b) the goods were declared for an authorised use procedure and the procedure has been discharged.
- (3) Goods cease to be domestic goods if—
- (a) they are exported from the United Kingdom, and
  - (b) the export is one which is required to be made in accordance with the applicable export provisions,
- and the goods are then chargeable goods until such time (if any) as they are next subject to a chargeable Customs procedure.

- (4) For the purposes of subsection (3), every export of goods is required to be made in accordance with the applicable export provisions unless an exception provided for by regulations made by HMRC Commissioners applies to the export.
- (5) HMRC Commissioners may by regulations make provision for goods exported from the United Kingdom in accordance with the applicable export provisions to retain their status as domestic goods if—
  - (a) the goods merely pass through places outside the United Kingdom before arriving at their ultimate destination in the United Kingdom, or
  - (b) the goods otherwise remain outside the United Kingdom for a temporary period.
- (6) The provision that may be made by the regulations includes—
  - (a) provision requiring conditions to be met in relation to the goods while they are outside the United Kingdom, and
  - (b) provision requiring the making of a declaration in connection with their subsequent import into the United Kingdom.
- (7) Goods that are in the United Kingdom are presumed to be domestic goods unless the contrary is shown.
- (8) The Treasury may by regulations make provision—
  - (a) as to cases in which goods are, or are not, to be regarded as domestic goods for the purposes of this Part,
  - (b) for reversing the presumption that goods are domestic goods in specified cases (so that they are presumed not to be domestic goods unless the contrary is shown), and
  - (c) as to the evidence which is to be required, or is to be sufficient, for the purpose of showing that goods are domestic goods.

### **34 Presentation of goods to Customs on import or export**

- (1) For the purposes of this Part, goods are presented to Customs on import if—
  - (a) the goods are lawfully imported into the United Kingdom, and
  - (b) notification of their importation into the United Kingdom is given to HMRC in accordance with provision made by regulations made by HMRC Commissioners.
- (2) The time at which goods are presented to Customs on import is the later of—
  - (a) the time at which the notification of importation in accordance with the regulations is received by HMRC, and
  - (b) the time at which the goods are imported into the United Kingdom.
- (3) For the purposes of this Part, goods are presented to Customs on export if notification of their export from the United Kingdom is given to HMRC in accordance with provision made by regulations made by HMRC Commissioners.
- (4) The notification must be given before the export of goods unless provision is made by regulations made by HMRC Commissioners authorising the notification to be given at a later time.
- (5) Regulations made by HMRC Commissioners may make provision for the purposes of this section.

- (6) Each of the following is an example of the kind of provision that may be made by regulations under this section—
- (a) provision requiring a notification to be accompanied by documents of a description specified in the regulations or in a public notice given by HMRC Commissioners,
  - (b) provision authorising a public notice given by HMRC Commissioners to make provision about the form and contents of a notification,
  - (c) provision authorising a public notice given by HMRC Commissioners to require notification to be made in accordance with provision made by the notice,
  - (d) provision requiring or authorising, in specified cases, notification of an importation of goods to be given before the importation,
  - (e) provision deeming a notification to have been given in specified cases, and
  - (f) provision requiring a notification to disclose the location of the goods.

### **35 Exports made in accordance with applicable export provisions**

- (1) This section defines for the purposes of this Part what is meant by an export of goods from the United Kingdom being in accordance with the applicable export provisions.
- (2) The export of the goods is made in accordance with the applicable export provisions if—
  - (a) the goods are presented to Customs on export, and
  - (b) the export is subsequently made in accordance with a procedure provided for by regulations made by HMRC Commissioners.
- (3) The regulations may—
  - (a) provide for the procedure to involve the making of a declaration by the person making the export or any specified person,
  - (b) provide for requirements to be imposed on any person at any time while the goods are subject to the procedure,
  - (c) make provision specifying, or otherwise determining, the period during which the goods are to be regarded as subject to the procedure,
  - (d) deem, in specified cases, the export to have been made in accordance with the procedure, and
  - (e) provide for goods to be subject to the control of any HMRC officer from a specified time.
- (4) The provision which may be made as a result of subsection (3)(a) includes provision applying or replicating the effect of—
  - (a) any provision made by or under Schedule 1 (Customs declarations), or
  - (b) any other provision made by or under this Part that operates (to any extent) by reference to a Customs declaration,
 with or without modifications.

### **36 Outward processing procedure**

- (1) This section applies if—
  - (a) domestic goods have been presented to Customs on export, and
  - (b) the goods are declared for an outward processing procedure.

- (2) A declaration of goods for “an outward processing procedure” is a declaration—
  - (a) that the goods are to be exported from the United Kingdom in order to be processed outside the United Kingdom,
  - (b) that the processing is to take place during a temporary period at the end of which the goods are to be imported into the United Kingdom, and
  - (c) that the processing is to be carried out in accordance with requirements imposed on any person by or under regulations made by HMRC Commissioners.
- (3) 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.
- (4) That period may be subsequently extended (or further extended) by another notice given as mentioned in subsection (3).
- (5) If goods are declared for an outward processing procedure—
  - (a) the export of the goods is not one which is required to be made in accordance with the applicable export provisions, but
  - (b) HMRC Commissioners may by regulations make provision in relation to any export under an outward processing procedure corresponding to the provision that may be made by regulations under section 35.
- (6) If the processing of the goods under an outward processing procedure consists in their repair by any person without charge, the goods continue to be regarded as domestic goods but only if, while the procedure has effect—
  - (a) there is no breach of the terms of the declaration for the procedure, and
  - (b) there is no breach of any other requirement in relation to the procedure.
- (7) If the processing of the goods under an outward processing procedure consists in anything else, the goods are to be regarded as chargeable goods, but if—
  - (a) the goods are imported in accordance with the procedure, and
  - (b) there is no breach of the terms of the declaration for the procedure, or of any other requirement in relation to the procedure, while the procedure has effect,the value of the goods is to be reduced to take account of so much of that value as can be attributed to the goods as they stood before being exported.
- (8) HMRC Commissioners may make regulations for the purposes of this section.
- (9) Each of the following is an example of the kind of provision that may be made by the regulations—
  - (a) provision specifying cases in which goods may not be declared for an outward processing procedure,
  - (b) provision imposing requirements on any person in relation to an outward processing procedure,
  - (c) provision for determining the reduction in the value of any goods for the purposes of subsection (7),
  - (d) provision authorised or required to be made by any regulations under Schedule 2, and
  - (e) other provision made by or under this Part of this Act that has effect in relation to a special Customs procedure.

### 37 Minor definitions

(1) In this Part—

“approved guarantee”, in relation to goods declared for the free-circulation procedure, means any guarantee given in accordance with regulations made under paragraphs 6 and 7 of Schedule 6,

“arrangements” includes an understanding of any kind,

“CEMA 1979” means the Customs and Excise Management Act 1979,

“directions” means directions in electronic form or otherwise in writing,

“guarantee” includes any indemnity, surety, security and undertaking of any kind,

“HMRC” means Her Majesty’s Revenue and Customs,

“HMRC Commissioners” means the Commissioners for Her Majesty’s Revenue and Customs,

“HMRC officer” means an officer of Revenue and Customs,

“notice”, except in the expression “public notice”, means a notice in electronic form or otherwise in writing,

“specified”, in relation to any regulations or public notice, means specified in, or determined in accordance with, the regulations or public notice,

“subordinate legislation” has the same meaning as in the Interpretation Act 1978, and

“the WTO” means the World Trade Organisation.

(2) In this Part any reference to a rate of duty includes a nil rate.

(3) In this Part any reference to goods being wholly obtained in any country or territory includes—

(a) any case where the goods are grown, produced or manufactured only in the country or territory, and

(b) any other cases specified in regulations made by the Treasury.

(4) In this Part any reference to the processing of any goods includes the following activities—

(a) the erection, assembly, fitting or other working of the goods,

(b) the repair of the goods,

(c) the use of the goods for the purpose of facilitating the production or manufacture of any other goods, and

(d) the destruction of the goods.

(5) Any reference in any provision of this Part to a public notice is to a notice published by the Secretary of State, or (as the case may be) HMRC Commissioners, in such manner as the person giving the notice considers appropriate for the purposes of that provision.

(6) In this Part—

(a) references to a territory outside the United Kingdom include the European Union or any other international organisation or authority comprising territories outside the United Kingdom, and

(b) expressions relating to a territory outside the United Kingdom (such as the government of a territory outside the United Kingdom or the law of a territory outside the United Kingdom) are to be read accordingly with the necessary modifications.



- (7) For the purposes of this Part any reference to goods being subject to the control of an HMRC officer includes control being exercised by—
- (a) requiring the goods to be handled, or otherwise dealt with, in accordance with instructions given by an HMRC officer (whether given orally or in any other way), or
  - (b) requiring the goods to be kept in any place specified by an HMRC officer.
- (8) In the case of any reference in this Part to a person who makes a Customs declaration—
- (a) the reference is to the person actually making the declaration even if the declaration is made on behalf of another person, and
  - (b) if a Customs declaration is made by a Customs agent in the name of the principal, the reference is to the agent despite the provision made by section 21(3).

### 38 Table of definitions

The following table sets out some of the expressions used in this Part, showing where they are defined or otherwise explained—

acceptance (of a Customs declaration)	paragraphs 11(2) and 13(4) of Schedule 1
the applicable export provisions	section 35
approved guarantee (in relation to goods declared for the free-circulation procedure)	section 37(1)
arrangements	section 37(1)
an authorised use procedure	paragraph 13 of Schedule 2
CEMA 1979	section 37(1)
chargeable goods	section 2
control of HMRC officer	section 37(7)
Customs agent	section 21
Customs procedures	section 3
customs tariff	section 8
directions	section 37(1)
domestic goods	section 33
export (time of)	section 5 of CEMA 1979
the free-circulation procedure	section 3
guarantee	section 37(1)
HMRC	section 37(1)
HMRC Commissioners	section 37(1)
HMRC officer	section 37(1)
import (time of)	section 5 of CEMA 1979

import duty	section 1
an inward processing procedure	paragraphs 9 and 11 of Schedule 2
notice (except in the expression “public notice”)	section 37(1)
origin (of goods)	section 17
person making a Customs declaration	section 37(8)
presented to Customs on export	section 34(3)
presented to Customs on import	section 34(1) and (2)
processing (of goods)	section 37(4)
public notice	section 37(5)
rate of duty	section 37(2)
special Customs procedure	section 3
specified (in relation to regulations or public notices)	section 37(1)
a storage procedure	paragraph 2 of Schedule 2
subordinate legislation	section 37(1)
a temporary admission procedure	paragraph 15 of Schedule 2
territory outside the United Kingdom (and related expressions)	section 37(6)
the TRA	section 13
a transit procedure	paragraph 5 of Schedule 2
value (of chargeable goods)	section 16
wholly obtained (in the case of goods)	section 37(3)
the WTO	section 37(1)

## PART 2

### EXPORT DUTY

#### 39 Charge to export duty

- (1) The Treasury may by regulations make provision for, and in connection with, the charging of a duty of customs (to be known as “export duty”) by reference to the export of goods from the United Kingdom.
- (2) The regulations may provide for export duty to be chargeable by reference to the export of—
  - (a) all goods, or
  - (b) goods of a description specified in the regulations.
- (3) The regulations—

- (a) may provide for export duty to be chargeable in accordance with a tariff specified in the regulations (“the export tariff”),
  - (b) may provide for export duty to be chargeable by reference to value, weight or volume or other measure of quantity or size, and
  - (c) may provide for the value of the goods and the other matters mentioned in paragraph (b) to be determined in accordance with the regulations.
- (4) In considering whether to impose export duty, and, if so, the rate of duty that ought to apply to any goods, the Treasury must have regard to—
- (a) the interests of consumers in the United Kingdom,
  - (b) the interests of producers in the United Kingdom of the goods concerned,
  - (c) the desirability of maintaining and promoting the external trade of the United Kingdom,
  - (d) the desirability of maintaining and promoting productivity in the United Kingdom, and
  - (e) the extent to which the goods concerned are subject to competition.
- (5) In considering whether to impose export duty, and, if so, the rate of duty that ought to apply to any goods, the Treasury must also have regard to any recommendation about the rate made to them by the Secretary of State.
- (6) In considering what recommendation to make, the Secretary of State must have regard to the matters set out in subsection (4)(a) to (e).
- (7) The provision that may be made by regulations under this section includes provision replicating or applying, with or without modifications, any provision made by or under—
- (a) Part 1, or
  - (b) any other enactment relating to import duty.
- (8) Paragraph 1 of Schedule 7 (replacement of EU customs duties) applies in relation to this Part as it applies in relation to Part 1 (reading any reference to import duty as a reference to export duty).
- (9) In this section “specified” means specified in, or determined in accordance with, the regulations.

#### **40 Regulations under section 39: supplementary**

- (1) Regulations under section 39 are to be made by statutory instrument.
- (2) A statutory instrument containing—
- (a) the first regulations under that section, or
  - (b) any other regulations under that section the effect of which is an increase in the amount of export duty payable,
- must be laid before the House of Commons, and, unless approved by that House before the end of the period of 28 days beginning with the date on which the instrument is made, ceases to have effect at the end of that period.
- (3) The fact that a statutory instrument ceases to have effect as a result of subsection (2) does not affect—
- (a) anything previously done under the instrument, or
  - (b) the making of a new statutory instrument.

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*Status: This is the original version (as it was originally enacted).*

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- (4) In calculating the period for the purposes of subsection (2), no account is to be taken of any time—
  - (a) during which Parliament is dissolved or prorogued, or
  - (b) during which the House of Commons is adjourned for more than 4 days.
- (5) A statutory instrument containing regulations under section 39 other than regulations to which subsection (2) applies is subject to annulment in pursuance of a resolution of the House of Commons.
- (6) Any power to make regulations under section 39 may be exercised—
  - (a) either in relation to all cases to which the power extends, or in relation to those cases subject to specified exceptions, or in relation to any specified case or description of case, or
  - (b) so as to make different provision for different purposes or areas.
- (7) Any power to make regulations under section 39 includes—
  - (a) power conferring a discretion on any specified person to do anything under, or for the purposes of, the regulations,
  - (b) power to make provision by reference to things specified in a notice published in accordance with the regulations,
  - (c) power to make supplementary, incidental and consequential provision, and
  - (d) power to make transitional or transitory provision and savings.

### PART 3

#### VALUE ADDED TAX

#### **41 Abolition of acquisition VAT and extension of import VAT**

- (1) The Value Added Tax Act 1994 is amended as follows.
- (2) In section 1 (imposition of charge to value added tax), in subsection (1)—
  - (a) omit paragraph (b) (which charges VAT on the acquisition in the United Kingdom of goods from other member States), and
  - (b) for paragraph (c) substitute—
    - “(c) on the importation of goods into the United Kingdom.”.
- (3) For section 15 substitute—

#### **“15 Meaning of “importation of goods” into the United Kingdom**

- (1) This section determines for the purposes of this Act when, and by whom, goods are imported into the United Kingdom.
- (2) Goods are imported when they are declared for a Customs procedure under Part 1 of TCTA 2018.
- (3) But—
  - (a) in the case of goods declared under TCTA 2018 for a storage procedure, a transit procedure or an inward processing procedure, the goods are imported when a liability to import duty is, or on the

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- relevant assumptions would be, incurred in respect of them under section 4 of that Act, and
- (b) in the case of goods which are liable to forfeiture as a result of section 5(1) of, or paragraph 1(5) or 3(4) of Schedule 1 to, that Act (goods not presented to Customs or Customs declaration not made), the goods are imported when they become liable to forfeiture as a result of those provisions.
- (4) Each person who is, or on the relevant assumptions would be, liable to import duty in respect of goods imported into the United Kingdom is a person who has imported the goods.
  - (5) For the purposes of this section “the relevant assumptions” are—
    - (a) an assumption that a liability to import duty at a nil rate is replaced by a liability to import duty at a higher rate, and
    - (b) an assumption that no relief from import duty is available.
  - (6) If two or more persons are regarded as importing goods, those persons are jointly and severally liable to any VAT that is payable on the importation.
  - (7) The preceding provisions of this section are to be ignored in reading any reference to importation or to an importer in anything applied for the purposes of this Act by section 16(1) or (2).
  - (8) But subsection (7) does not apply so far as the context otherwise requires or provision to the contrary is contained in regulations under section 16(3).”

## **42 EU law relating to VAT**

- (1) Any EU regulation so far as applying in relation to value added tax, and any direct EU legislation so far as relevant to any such regulation, that form part of the law of the United Kingdom as a result of section 3 of the European Union (Withdrawal) Act 2018 cease to have effect (but, in the case of the implementing VAT regulation, see also subsection (5)).
- (2) In the application of section 4(1) of that Act (saving for EU rights, powers, liabilities, obligations, restrictions, remedies and procedures) in relation to value added tax, the rights, powers, liabilities, obligations, restrictions, remedies and procedures mentioned there are subject to any exclusions or other modifications made by regulations made by the Treasury by statutory instrument.
- (3) Further provision relevant to the law relating to value added tax is made by the European Union (Withdrawal) Act 2018: see, for example, section 6 of that Act (interpretation of retained EU law).
- (4) One of the consequences of the provision made by that Act is that the principle of EU law preventing the abuse of the VAT system (see, for example, the cases of *Halifax* and *Kittel*) continues to be relevant, in accordance with that Act, for the purposes of the law relating to value added tax.
- (5) Where the principal VAT directive remains relevant for determining the meaning and effect of the law relating to value added tax, that directive is to be read for that purpose in the light of the provision made by the implementing VAT regulation but ignoring such of its provisions as are excluded by regulations made by the Treasury by statutory instrument.

- (6) No regulations may be made under this section on or after 1 April 2023.
- (7) A statutory instrument containing regulations under this section must be laid before the House of Commons, and, unless approved by that House before the end of the period of 28 days beginning with the date on which the instrument is made, ceases to have effect at the end of that period.
- (8) The fact that a statutory instrument ceases to have effect as mentioned in subsection (7) does not affect—
  - (a) anything previously done under the instrument, or
  - (b) the making of a new statutory instrument.
- (9) In calculating the period for the purposes of subsection (7), no account is to be taken of any time—
  - (a) during which Parliament is dissolved or prorogued, or
  - (b) during which the House of Commons is adjourned for more than 4 days.
- (10) Regulations under this section—
  - (a) may make different provision for different purposes or areas,
  - (b) may contain supplementary, incidental and consequential provision, and
  - (c) may contain transitional or transitory provision and savings.
- (11) In this section—
  - “the implementing VAT regulation” means Council Implementing Regulation (EU) No 282/2011, and
  - “the principal VAT directive” means Council Directive 2006/112/EC on the common system of value added tax.

#### **43 Other VAT amendments connected with withdrawal from EU**

Schedule 8 makes amendments of the Value Added Tax Act 1994, and other enactments relating to VAT, in consequence of the provision made by this Part or otherwise in connection with the withdrawal of the United Kingdom from the EU.

### **PART 4**

#### EXCISE DUTIES

#### **44 Excise duties: postal packets sent from overseas**

- (1) HMRC Commissioners may by regulations impose a liability to excise duty on a person outside the United Kingdom in respect of the entry of goods into the United Kingdom, if the person sent, or arranged for the sending of, the goods to their recipient in a postal packet.
- (2) The regulations may—
  - (a) provide that the liability of the sender of the goods to excise duty arises only in relation to goods of a value described in the regulations,
  - (b) provide that, in cases specified in the regulations, other persons are jointly and severally liable for the excise duty, and

- (c) provide that persons who would otherwise be liable to the excise duty are not so liable.
- (3) Among other provision that may be made by the regulations, the regulations may make provision—
  - (a) requiring persons to register with HMRC Commissioners under the regulations for the purpose of accounting for excise duty,
  - (b) requiring persons to provide information to HMRC Commissioners about the goods or the person who sent, or arranged for the sending of, them,
  - (c) about penalties for failure to comply with the regulations, and
  - (d) modifying the application of provision made by or under the customs and excise Acts in relation to cases dealt with by the regulations.
- (4) In this section—
  - “the customs and excise Acts” has the same meaning as in the Customs and Excise Management Act 1979, and
  - “postal packet” has the meaning given by the Postal Services Act 2000.

#### **45 General regulation making power for excise duty purposes etc**

- (1) HMRC Commissioners may make regulations generally for excise duty purposes or for the purposes of an excise duty specified in the regulations.
- (2) Among other things, the regulations may make provision about—
  - (a) duty points (and connected provision such as the calculation and payment of the duty and the person liable for the duty),
  - (b) the holding and movement of goods,
  - (c) warehousing of goods or stores,
  - (d) drawback, rebate, relief, exemption, reimbursement or remission of or from excise duty,
  - (e) the descriptions of goods on which excise duty is chargeable,
  - (f) approvals or registrations of persons or premises,
  - (g) the production of goods and other processes relating to goods,
  - (h) the stamping or marking of goods,
  - (i) restrictions on the use of goods,
  - (j) record keeping (including electronic record keeping) and provision of information or documents (including electronic provision), and
  - (k) any arrangements that have effect as a result of section 31 (territories forming part of a customs union with UK).
- (3) The power to make regulations under this section may (among other things) be exercised by amending or repealing any Act of Parliament (whenever passed).
- (4) In this section “approvals” includes authorisations and licences.

#### **46 Exercise of information powers in connection with excise duty**

- (1) HMRC Commissioners may make regulations imposing obligations on revenue traders for the purpose of giving effect to international excise arrangements.

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- (2) The regulations may require the submission to HMRC Commissioners by revenue traders of statements containing such particulars of—
- (a) relevant business matters in which the revenue traders are concerned, and
  - (b) the persons concerned in those matters,
- as may be specified in the regulations.
- (3) The regulations may provide for statements about relevant business matters to be submitted at such times and intervals, in such cases and in such form and manner as may be specified—
- (a) in the regulations, or
  - (b) by HMRC Commissioners in accordance with the regulations.
- (4) For the purposes of this section, each of the following is a “relevant business matter” in relation to a revenue trader —
- (a) any goods or services supplied by or to the revenue trader in the course or furtherance of a business,
  - (b) any goods in the importation or exportation of which the revenue trader is concerned in the course or furtherance of a business, or
  - (c) any transaction or activity made or taking place in the course or furtherance of a business,
- so far as information about the goods, services, transaction or activity could be relevant to any international excise arrangements.
- (5) If any international excise arrangements have effect, any power of an officer of Revenue and Customs to obtain information or documents under any enactment (or instrument made under any enactment) relating to excise duty is exercisable in relation to matters which are relevant to those arrangements.
- (6) HMRC Commissioners may disclose information which is obtained as a result of subsection (5) (and no obligation of secrecy, whether imposed by statute or otherwise, prevents the disclosure) if—
- (a) the disclosure is required in accordance with the international excise arrangements, and
  - (b) HMRC Commissioners are satisfied that the recipient is bound, or has undertaken, both to observe rules of confidentiality which are no less strict than those applying to the information in the United Kingdom and to use the information only for the purposes contemplated by the arrangements.
- (7) Powers are exercisable as a result of subsection (5) only if HMRC Commissioners have given (and not withdrawn) a direction in writing authorising their use (either generally or in relation to specified cases).
- (8) HMRC Commissioners may not make regulations under this section, or give a direction under subsection (7), unless they consider that making the regulations or giving the direction would facilitate the administration, collection or enforcement of any excise duty.
- (9) In this section—
- “international excise arrangements” means arrangements which—
- (a) have effect by virtue of an Order in Council under section 173 of the Finance Act 2006, and



- (b) relate to any excise duty or any duty corresponding to excise duty imposed under the law of the territory, or any of the territories, in relation to which the arrangements have been made, and  
“revenue trader” has the meaning given by section 1(1) of the Customs and Excise Management Act 1979.

#### **47 EU law relating to excise duty**

- (1) Any EU regulation so far as applying in relation to excise duty, and any direct EU legislation so far as relevant to any such regulation, that form part of the law of the United Kingdom as a result of section 3 of the European Union (Withdrawal) Act 2018 cease to have effect.
- (2) In the application of section 4(1) of that Act (saving for EU rights, powers, liabilities, obligations, restrictions, remedies and procedures) in relation to any excise duty, the rights, powers, liabilities, obligations, restrictions, remedies and procedures mentioned there are subject to any exclusions or other modifications made by regulations made by the Treasury.
- (3) No regulations may be made under this section on or after 1 April 2023.
- (4) Further provision relevant to the law relating to excise duty is made by the European Union (Withdrawal) Act 2018: see, for example, section 6 of that Act (interpretation of retained EU law).
- (5) Nothing in this section is to be read as restricting the power conferred by section 45 (which could, for example, be exercised so as to replicate or apply, with or without modifications, any EU regulation or legislation mentioned in subsection (1)).

#### **48 Regulations under ss. 44 to 47**

- (1) Regulations under any of sections 44 to 47 are to be made by statutory instrument.
- (2) A statutory instrument containing regulations under section 45 that makes provision within subsection (3) of this section, or regulations under section 47, must be laid before the House of Commons, and, unless approved by that House before the end of the period of 28 days beginning with the date on which the instrument is made, ceases to have effect at the end of that period
- (3) The provision is within this subsection if it—
  - (a) amends or repeals any Act of Parliament,
  - (b) restricts any rebate of or relief from excise duty,
  - (c) extends the descriptions of goods on which excise duty is chargeable, or
  - (d) extends the cases in which stamping or marking of goods is required.
- (4) The fact that a statutory instrument ceases to have effect as mentioned in subsection (2) does not affect—
  - (a) anything previously done under the instrument, or
  - (b) the making of a new statutory instrument.
- (5) In calculating the period for the purposes of subsection (2), no account is to be taken of any time—
  - (a) during which Parliament is dissolved or prorogued, or

- (b) during which the House of Commons is adjourned for more than 4 days.
- (6) A statutory instrument containing regulations under any of sections 44 to 46 other than one to which subsection (2) applies is subject to annulment in pursuance of a resolution of the House of Commons.
- (7) If—
  - (a) a statutory instrument contains provision under any of sections 44 to 47 and provision relating to excise duty under another enactment, and
  - (b) the Parliamentary procedure applicable to a statutory instrument containing provision under the other enactment does not require House of Commons approval,
 the only Parliamentary procedure that is to apply to the instrument mentioned in paragraph (a) is that given by this section.
- (8) For the purposes of subsection (7) the Parliamentary procedure applicable to a statutory instrument requires House of Commons approval if, as a condition of its continuing to have effect or its making, the House of Commons has to approve the statutory instrument or a draft of it.
- (9) The power to make regulations under any of sections 44 to 47 does not restrict the width of any power to make legislation under any other enactment relating to excise duty.
- (10) Any power to make regulations under any of sections 44 to 47 may be exercised—
  - (a) either in relation to all cases to which the power extends, or in relation to those cases subject to specified exceptions, or in relation to any specified case or description of case, or
  - (b) so as to make different provision for different purposes or areas.
- (11) Any power to make regulations under any of sections 44 to 47 includes—
  - (a) power conferring a discretion on any specified person to do anything under, or for the purposes of, the regulations,
  - (b) power to make provision by reference to things specified in a notice published in accordance with the regulations,
  - (c) power to make supplementary, incidental and consequential provision, and
  - (d) power to make transitional or transitory provision and savings.

#### **49 Sections 44 to 48: interpretation**

In sections 44 to 48—

“excise duty” means any excise duty under—

- (a) the Alcoholic Liquor Duties Act 1979,
- (b) the Hydrocarbon Oil Duties Act 1979, or
- (c) the Tobacco Products Duty Act 1979, and

“HMRC Commissioners” means the Commissioners for Her Majesty’s Revenue and Customs.

#### **50 Excise duty amendments connected with withdrawal from EU**

Schedule 9 makes amendments of enactments relating to excise duty in consequence of the provision made by this Part or otherwise in connection with the withdrawal of

the United Kingdom from the EU (including some amendments also relating to duties of customs).

## PART 5

### OTHER PROVISION CONNECTED WITH WITHDRAWAL FROM EU

#### **51 Power to make provision in relation to VAT or duties of customs or excise**

- (1) The appropriate Minister may by regulations made by statutory instrument make such provision relating to—
  - (a) value added tax,
  - (b) any duty of customs, or
  - (c) any excise duty,as the appropriate Minister considers appropriate in consequence of, or otherwise in connection with, the withdrawal of the United Kingdom from the EU.
- (2) No regulations may be made under this section on or after 1 April 2022.
- (3) Regulations under this section—
  - (a) may make any such provision as might be made by Act of Parliament, including provision amending or repealing this Act, but
  - (b) may not make provision taking effect from a date earlier than that of the making of the regulations.
- (4) In this section “the appropriate Minister” means—
  - (a) in any case where the provision relates to anything dealt with by any provision mentioned in section 57(2), the Secretary of State or the Treasury, and
  - (b) in any other case, the Treasury.
- (5) A statutory instrument containing regulations under this section that amends or repeals any Act of Parliament must be laid before the House of Commons, and, unless approved by that House before the end of the period of 28 days beginning with the date on which the instrument is made, ceases to have effect at the end of that period.
- (6) The fact that a statutory instrument ceases to have effect as mentioned in subsection (5) does not affect—
  - (a) anything previously done under the instrument, or
  - (b) the making of a new statutory instrument.
- (7) In calculating the period for the purposes of subsection (5), no account is to be taken of any time—
  - (a) during which Parliament is dissolved or prorogued, or
  - (b) during which the House of Commons is adjourned for more than 4 days.
- (8) A statutory instrument containing regulations under this section to which subsection (5) does not apply is subject to annulment in pursuance of a resolution of the House of Commons.
- (9) If—
  - (a) a statutory instrument contains provision relating to excise duty under this section and provision relating to excise duty under another enactment, and

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(b) the Parliamentary procedure applicable to a statutory instrument containing provision under the other enactment does not require House of Commons approval (within the meaning of section 48(7)),  
the only Parliamentary procedure that is to apply to the instrument mentioned in paragraph (a) is that given by this section.

(10) After it is established, the appropriate Minister must consult the Trade Remedies Authority before including in regulations under this section provision relating to anything dealt with by Schedule 4 or 5.

## **52 Subordinate legislation relating to VAT or duties of customs or excise**

(1) In this section “relevant subordinate legislation” means any subordinate legislation within the meaning of the Interpretation Act 1978 made under—

- (a) this Act, or
- (b) any other enactment relating to value added tax, any duty of customs or any excise duty.

(2) If the person making any relevant subordinate legislation considers it is appropriate to do so in consequence of, or otherwise in connection with, the withdrawal of the United Kingdom from the EU, the legislation may provide for it, or any of its provisions, to come into force on such day as the Treasury may by regulations under this section appoint.

(3) In the case of relevant subordinate legislation subject to the 28-day affirmative procedure containing provision as a result of subsection (2)—

- (a) any reference in the enactment dealing with that procedure to the date on which the legislation (or statutory instrument containing it) was made is to be read as a reference to the first day on which any provision of the legislation comes into force for any purpose as a result of subsection (2), and
- (b) any reference in the enactment dealing with that procedure to a period of 28 days is to be read as a reference to a period of 60 days.

(4) For this purpose subordinate legislation is “subject to the 28-day affirmative procedure” if provision is made for it to cease to have effect unless approved by a resolution of the House of Commons before the end of a period of 28 days.

(5) Any power to make relevant subordinate legislation (or to do anything under it) includes—

- (a) power to make supplementary, incidental or consequential provision, and
- (b) power to make transitional or transitory provision or savings,

if the person exercising the power considers it appropriate to make the provision concerned in consequence of, or otherwise in connection with, the withdrawal of the United Kingdom from the EU.

(6) Any power of the Treasury to appoint a day under this section includes—

- (a) a power to appoint different days for different purposes or areas,
- (b) a power to appoint a time on a day if they consider it appropriate to do so (including a time that has effect by reference to the coming into force of any other enactment), and

- (c) a power to revoke provision made by relevant subordinate legislation so far as the provision was an alternative to provision coming into force as a result of subsection (2).
- (7) Regulations under this section are to be made by statutory instrument.
- (8) Nothing in this section is to be read as having any bearing on whether or not, in the absence of this section, the matters it authorises would otherwise have been authorised.

### **53 Meaning of “excise duty”**

In this Part “excise duty” means any excise duty under—

- (a) the Alcoholic Liquor Duties Act 1979,
- (b) the Hydrocarbon Oil Duties Act 1979, or
- (c) the Tobacco Products Duty Act 1979.

## **PART 6**

### FINAL PROVISIONS

### **54 Prohibition on collection of certain taxes or duties on behalf of country or territory without reciprocity**

- (1) Subject to subsection (2), it shall be unlawful for HMRC to account for any duty of customs or VAT or excise duty collected by HMRC to the government of a country or territory outside the United Kingdom.
- (2) Subsection (1) shall not apply if the Treasury declare by Order that arrangements have been entered into by Her Majesty’s Government and that government under which that government will account to HMRC for those duties and taxes collected in that country or territory on a reciprocal basis.

### **55 Single United Kingdom customs territory**

- (1) It shall be unlawful for Her Majesty’s Government to enter into arrangements under which Northern Ireland forms part of a separate customs territory to Great Britain.
- (2) For the purposes of this section “customs territory” shall have the same meaning as in the General Agreement on Tariffs and Trade 1947 as amended.

### **56 Consequential and transitional provision**

- (1) The appropriate Minister may by regulations made by statutory instrument make such provision as the appropriate Minister considers appropriate in consequence of this Act.
- (2) The power to make regulations under subsection (1) may (among other things) be exercised by amending or repealing any Act of Parliament other than this Act or one passed after the end of the Session in which this Act is passed.
- (3) The power to make regulations under subsection (1) includes power to make transitional or transitory provision and savings.

- (4) The appropriate Minister may by regulations made by statutory instrument make such transitional, transitory or saving provision as the appropriate Minister considers appropriate in connection with the coming into force of any provision of this Act.
- (5) In this section “the appropriate Minister” means—
- in any case where the provision relates to any provision mentioned in section 57(2), the Secretary of State or the Treasury, and
  - in any other case, the Treasury.
- (6) Any power to make regulations under this section may be exercised so as to make different provision for different purposes or areas.
- (7) Any power to make regulations under this section includes—
- power conferring a discretion on any specified person to do anything under, or for the purposes of, the regulations,
  - power to make provision by reference to things specified in a notice published in accordance with the regulations, and
  - power to make supplementary, incidental and consequential provision.
- (8) A statutory instrument containing regulations under subsection (1) that amends or repeals any Act of Parliament must be laid before the House of Commons, and, unless approved by that House before the end of the period of 28 days beginning with the date on which the instrument is made, ceases to have effect at the end of that period.
- (9) The fact that a statutory instrument ceases to have effect as mentioned in subsection (8) does not affect—
- anything previously done under the instrument, or
  - the making of a new statutory instrument.
- (10) In calculating the period for the purposes of subsection (8), no account is to be taken of any time—
- during which Parliament is dissolved or prorogued, or
  - during which the House of Commons is adjourned for more than 4 days.
- (11) A statutory instrument containing regulations under subsection (1) to which subsection (8) does not apply is subject to annulment in pursuance of a resolution of the House of Commons.
- (12) If—
- a statutory instrument contains provision relating to excise duty under subsection (1) and provision relating to excise duty under another enactment (and “excise duty” has the same meaning in this paragraph as in Part 5), and
  - the Parliamentary procedure applicable to a statutory instrument containing provision under the other enactment does not require House of Commons approval (within the meaning of section 48(7)),
- the only Parliamentary procedure that is to apply to the instrument mentioned in paragraph (a) is that given by this section.
- (13) After it is established, the appropriate Minister must consult the Trade Remedies Authority before including in regulations under this section provision relating to Schedule 4 or 5.

## **57 Commencement**

- (1) The following provisions come into force on the day on which this Act is passed—
  - (a) Part 1 (other than the provisions mentioned in subsection (2)) so far as making provision for anything to be done by regulations or public notice,
  - (b) Part 2,
  - (c) sections 44 to 46 and sections 48 and 49,
  - (d) Part 5, and
  - (e) this Part.
- (2) The following provisions come into force on such day as the Secretary of State may by regulations under this section appoint—
  - (a) section 10 and Schedule 3 (import duty: preferential rates given unilaterally),
  - (b) section 13 and Schedules 4 and 5 (import duty: dumping of goods, foreign subsidies, etc),
  - (c) section 15 (import duty: international disputes etc), and
  - (d) paragraph 1 of Schedule 7 (replacement of EU customs duties) so far as relating to EU trade duties.
- (3) The remaining provisions of this Act come into force on such day as the Treasury may by regulations under this section appoint.
- (4) Any power of the Treasury or Secretary of State to appoint a day under this section includes—
  - (a) a power to appoint different days for different purposes or areas, and
  - (b) a power to appoint a time on a day if the person exercising the power considers it appropriate to do so (including a time that has effect by reference to the coming into force of any other enactment).
- (5) Regulations under this section are to be made by statutory instrument.

## **58 Short title**

This Act may be cited as the Taxation (Cross-border Trade) Act 2018.

## SCHEDULES

### SCHEDULE 1

Section 3(5)

#### CUSTOMS DECLARATIONS

##### *Presentation of goods to Customs and period for making Customs declaration etc*

- 1 (1) Goods must be presented to Customs on import and a Customs declaration in respect of the goods must be made before the end of the period of 90 days beginning with the day on which the goods are so presented.
- (2) The goods are subject to the control of any HMRC officer as soon as they are imported into the United Kingdom.
- (3) The control that may be exercised by the officer includes, in particular, requiring the goods to be moved to, and stored in, any place approved as a temporary storage facility under section 25 or 25A of CEMA 1979.
- (4) The obligation to make a Customs declaration in respect of any goods is extinguished if—
- (a) the goods are exported from the United Kingdom before the 90 day period ends, and
  - (b) the export is made in accordance with the applicable export provisions.
- (5) If the obligation to make a Customs declaration still falls to be complied with when the 90 day period ends, the goods—
- (a) are then liable to forfeiture (see Part 11 of CEMA 1979), and
  - (b) cease to be subject to sub-paragraph (2).
- (6) The provision made by this paragraph is subject to paragraph 3.
- (7) HMRC Commissioners may by regulations make further provision for the purposes of this paragraph.
- (8) Among other things, the regulations may make—
- (a) provision for cases in which goods are not required to be presented to Customs on import,
  - (b) provision about the person who must present goods to Customs on import,
  - (c) provision requiring the making of a separate declaration in respect of the storage of goods subject to sub-paragraph (2), and
  - (d) provision restricting the extent to which goods subject to that sub-paragraph may generally be handled, or otherwise dealt with, by any person.

##### *Eligibility of persons to make Customs declarations*

- 2 (1) A person may make a Customs declaration in respect of any chargeable goods if—
- (a) the person is able to present the goods to Customs on import, or



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- (b) the person is able to secure that the goods are presented to Customs on import.
- (2) HMRC Commissioners may by regulations provide that, in addition to meeting the requirements of sub-paragraph (1), persons may make Customs declarations only if—
- (a) they are established in the United Kingdom or a specified place outside the United Kingdom,
  - (b) they otherwise have a specified connection to the United Kingdom or to a specified place outside the United Kingdom, or
  - (c) they meet any other specified conditions.

*Time at which Customs declarations required or authorised to be made*

- 3
- (1) HMRC Commissioners may by regulations make provision requiring, in specified cases, a Customs declaration to be made in respect of any goods before they are imported into the United Kingdom.
- (2) A Customs declaration may be made in other cases in respect of any goods before they are imported into the United Kingdom, but the declaration is treated as withdrawn if the goods are not presented to Customs on import within the permitted period.
- (3) For this purpose “the permitted period” means—
- (a) the period of 30 days beginning with the day on which the declaration is made, or
  - (b) such longer or shorter period as may be specified in a public notice given by HMRC Commissioners.
- (4) If—
- (a) a Customs declaration is required to be made in respect of any goods before they are imported into the United Kingdom, and
  - (b) the requirement to make the declaration still falls to be complied with when the goods are imported,
- the goods are liable to forfeiture at the time of importation.
- (5) HMRC Commissioners may make regulations for the purposes of this paragraph.
- (6) Each of the following is an example of the kind of provision that may be made by the regulations—
- (a) provision requiring a person in possession or control of any goods to have evidence of the making of a Customs declaration and to produce (on request) the evidence to an HMRC officer,
  - (b) provision for the evidence mentioned in paragraph (a) to be of a type, and in a form, specified in the regulations or in a public notice given by HMRC Commissioners,
  - (c) provision requiring, after a Customs declaration is made in respect of any goods, the giving of a notification in respect of the goods to HMRC in accordance with the regulations, and
  - (d) provision treating, in specified cases, a requirement to make a Customs declaration before the time at which any goods are imported as if it had been met if a Customs declaration is made at a later time in accordance with the regulations.

*Form of Customs declarations and how they are made*

- 4 The general rule is that a Customs declaration—
- (a) must be made in an electronic form specified in a public notice given by HMRC Commissioners, and
  - (b) must be submitted or otherwise made available to HMRC electronically in accordance with provision made by a public notice given by HMRC Commissioners.
- 5 (1) In cases specified in a public notice given by HMRC Commissioners, a Customs declaration may be made in writing (otherwise than in electronic form) in a form specified in the notice.
- (2) In those cases, the declaration must be submitted or otherwise made available to HMRC in accordance with provision made by a public notice given by HMRC Commissioners.
- 6 (1) In cases specified in a public notice given by HMRC Commissioners, a Customs declaration—
- (a) may be made orally, or
  - (b) may be made by conduct.
- (2) HMRC Commissioners may by regulations make provision for altering or supplementing the operation of the customs duty provisions in any case where a Customs declaration is made orally or by conduct.
- (3) Among other things, the regulations may include provision—
- (a) disapplying any requirement under the customs duty provisions,
  - (b) treating anything done, or omitted to be done, as meeting any condition imposed under the customs duty provisions,
  - (c) restricting or excluding the exercise of a power conferred under the customs duty provisions, or
  - (d) requiring any person to provide documents or information to HMRC.
- (4) In this paragraph “the customs duty provisions” means any provision made by or under—
- (a) this Part, or
  - (b) CEMA 1979, or any other enactment, so far as relating to any duty of customs.

*Contents of Customs declarations*

- 7 (1) A Customs declaration in respect of any goods—
- (a) must, in addition to specifying the Customs procedure for which the goods are declared, contain information of a description specified in a public notice given by HMRC Commissioners,
  - (b) must be accompanied by such documents of a description specified in a public notice given by HMRC Commissioners, and
  - (c) must include a declaration by the person making it that the declaration is, to the best of the person’s knowledge, correct and complete.
- (2) In cases specified in a public notice given by HMRC Commissioners, the requirement under sub-paragraph (1)(b) may be met by the person who has made the declaration or any other person—

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- (a) making the documents available for inspection by an HMRC officer, or
  - (b) making available to HMRC information of a description specified in the notice (whether electronically or otherwise).
- (3) In cases specified in a public notice given by HMRC Commissioners, the documents required to accompany a Customs declaration may be required to be submitted or otherwise made available to HMRC before the making of the declaration.
- (4) References in this Schedule to documents accompanying a Customs declaration are to be read in accordance with sub-paragraphs (2) and (3).
- 8 A public notice given by HMRC Commissioners—
- (a) may make provision, in specified cases, for a single Customs declaration to cover a number of different goods, including goods of different descriptions, and
  - (b) may make provision, in specified cases, requiring separate Customs declarations to be made in respect of goods of the same description.

#### *Simplified Customs declarations etc*

- 9 (1) HMRC Commissioners may by regulations make provision disapplying or simplifying the requirements made by or under this Part in relation to the making of Customs declarations.
- (2) Each of the following is an example of the kind of provision that may be made by the regulations—
- (a) provision entitling only authorised persons to make use of the regulations or specified provisions of the regulations,
  - (b) provision requiring the giving of a guarantee, in accordance with the regulations, in respect of any liability to import duty before a Customs declaration is made,
  - (c) provision for the making of a simplified Customs declaration (subject to any conditions that may be imposed by the regulations as to the subsequent provision of further information or documents),
  - (d) provision for a single rate of import duty to apply to goods of different descriptions comprised in a particular consignment (using the highest rate otherwise applicable to any of the goods),
  - (e) provision for the amount of import duty in respect of goods of different descriptions comprised in a particular consignment to be calculated by reference to the same matter,
  - (f) provision for treating a Customs declaration in respect of goods as being made if a person makes an entry in respect of the goods in a system for recording information where the system is approved by HMRC and the information is made available to HMRC,
  - (g) provision disapplying any requirement made by or under this Part in cases where a Customs declaration is treated as made as a result of paragraph (f), and
  - (h) provision for the making of a Customs declaration in respect of goods imported during a specified period (instead of separate Customs declarations being required in respect of each importation).
- (3) In sub-paragraph (2)(a) “authorised persons” means persons authorised in accordance with provision made by or under the regulations.

*Acceptance of Customs declarations*

- 10 As soon as practicable after receiving a Customs declaration, HMRC must determine—
- (a) whether or not the declaration has been made, and has been made available to HMRC, in accordance with the provision made by or under paragraphs 1 to 6, and
  - (b) whether or not the declaration is complete.
- 11 (1) If HMRC are satisfied that—
- (a) the goods have been presented to Customs on import,
  - (b) a Customs declaration has been made in respect of the goods, and has been made available to HMRC, in accordance with the provision made by or under paragraphs 1 to 6, and
  - (c) the declaration is complete,
- HMRC must notify the person making the declaration that HMRC are so satisfied.
- (2) A notification under sub-paragraph (1) constitutes the acceptance of the declaration by HMRC for the purposes of this Part.
- (3) This does not prevent the subsequent exercise of a power to verify the declaration under paragraph 13.
- (4) That paragraph also provides for another way in which a declaration is accepted by HMRC for the purposes of this Part.
- 12 For the purposes of this Schedule a Customs declaration is regarded as complete only if—
- (a) all the information required to be included in the declaration is included (in the appropriate places in the declaration), and
  - (b) all the documents required to accompany the declaration do accompany it, whether or not there are any inaccuracies in the information contained in the declaration or documents.

*Verification of Customs declarations*

- 13 (1) An HMRC officer may verify a Customs declaration by taking any of the following steps—
- (a) steps to establish the entitlement of a person to make a Customs declaration and generally to determine whether the conditions for making the declaration are met, and
  - (b) steps to establish the accuracy of a Customs declaration or any document required to accompany it.
- (2) An HMRC officer may take any of the steps in sub-paragraph (1) before or after, or at the same time as, accepting the declaration.
- (3) If an HMRC officer takes any of those steps before a Customs declaration is accepted, the officer—
- (a) may notify the person making the declaration that the declaration is to be treated for the purposes of this Part as if it had been accepted by HMRC (whether or not it would have been accepted under paragraph 11(2)), and
  - (b) may make any amendments of the declaration that the officer considers are appropriate.

- (4) A notification under sub-paragraph (3) constitutes the acceptance of the declaration by HMRC for the purposes of this Part (as amended, where relevant, by an HMRC officer).
- (5) For further provision governing the steps which the officer may take, see, in particular, Parts 7 and 12 of CEMA 1979.
- 14 (1) This paragraph applies if an HMRC officer considers at any time that there is an inaccuracy in a Customs declaration (including as a result of an inaccuracy in a document accompanying it).
- (2) The officer—
  - (a) must notify the person making the declaration of the inaccuracy, and
  - (b) must correct the declaration, or direct the person who has made the declaration or any other appropriate person to make the necessary corrections.
- (3) Any liability to import duty in respect of any goods is determined on the basis of the information contained in the Customs declaration as corrected (or required to be corrected) under this paragraph.
- (4) A notification is not required to be given under sub-paragraph (2)(a) if an HMRC officer considers that doing so might prejudice an investigation that could result in legal proceedings (whether or not involving the person who would otherwise be notified).

#### *Amendment or withdrawal of Customs declarations*

- 15 (1) A person who has made a Customs declaration is entitled to amend or withdraw it at any time before a relevant event occurs.
- (2) For this purpose “a relevant event occurs” on the first occurrence of any of the following—
  - (a) an HMRC officer indicating to the person that the officer intends to take steps to verify the declaration,
  - (b) an HMRC officer taking steps to verify the declaration, and
  - (c) HMRC accepting the declaration.
- 16 Once a relevant event occurs, the person making the declaration may amend or withdraw it only if—
  - (a) a notification to amend or withdraw the declaration is given to an HMRC officer before the end of a period specified in a public notice given by HMRC Commissioners, and
  - (b) an HMRC officer consents to the making of the amendment or the withdrawal.

#### *Releasing and discharging goods to and from Customs procedures*

- 17 (1) Once chargeable goods are declared for a Customs procedure, the goods remain subject to the control of any HMRC officer until the procedure is discharged.
- (2) If goods are declared for the free-circulation procedure, the goods are released to the procedure—
  - (a) when the import duty is paid, or

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- (b) if satisfactory payment arrangements are in place, when the declaration is accepted by HMRC.
- (3) For this purpose “satisfactory payment arrangements” are in place only if—
- (a) an approved guarantee for the payment of import duty has effect in relation to the goods, or
  - (b) HMRC are, in cases specified in a public notice given by HMRC Commissioners, otherwise satisfied, by reference to matters specified in the notice, that the import duty will be paid.
- (4) The goods are discharged from the free-circulation procedure when HMRC notify the person making the declaration that the goods are discharged from the procedure.
- (5) Consequently, at that point—
- (a) the goods cease to be chargeable goods, and
  - (b) the goods cease to be subject to control of an HMRC officer,
- but nothing in this sub-paragraph prevents the subsequent exercise of a power of to verify the declaration under paragraph 13.
- (6) If the goods are declared for a special Customs procedure, the goods are released to the procedure at whichever is the later of the following times—
- (a) the time at which HMRC accept the declaration, or
  - (b) if the procedure is one requiring the person making the declaration to be authorised, the time determined in accordance with paragraph 1(2)(f) of Schedule 2 as the time from which the procedure may be used in respect of the goods.
- (7) Once goods are released to a special Customs procedure—
- (a) the goods are subject to the provision made by or under Schedule 2, and
  - (b) the procedure continues to have effect until it is discharged in accordance with the provision made by or under that Schedule.

#### *Declarations for different Customs procedures*

- 18 (1) The fact that chargeable goods are declared for one Customs procedure does not prevent the goods from being subsequently declared for a different Customs procedure.
- (2) Goods may not be released to a Customs procedure at any time if another Customs procedure has effect in relation to the goods at that time (but this is subject to paragraph 20(2) of Schedule 2).

#### *Notifications given by HMRC or HMRC officers*

- 19 (1) Any notification given by HMRC or an HMRC officer under this Schedule may be given in such form and manner as the person giving it considers appropriate.
- (2) HMRC Commissioners may by regulations make provision specifying cases where it is to be presumed that a person has been notified under this Schedule (including cases where the presumption may not be rebutted).

## 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—
- “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,
  - (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—



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- (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
  - (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.

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- (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
  - (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).

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- (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).

*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.

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*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.
- (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

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- (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.

## SCHEDULE 3

Section 10

### ELIGIBLE DEVELOPING COUNTRIES

#### PART 1

##### INTRODUCTION

- 1 For the purposes of section 10—
  - (a) a country or territory is an “eligible developing country” if it is listed in Part 2 or Part 3 of this Schedule;
  - (b) a country or territory is a “least developed country” if it is listed in Part 2 of this Schedule.

#### PART 2

##### LEAST DEVELOPED COUNTRIES

Afghanistan	Congo (Democratic Republic)	Lesotho	Sierra Leone
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Angola		Djibouti	Liberia	Solomon Islands
Bangladesh		East Timor	Madagascar	Somalia
Benin		Equatorial Guinea	Malawi	South Sudan
Bhutan		Eritrea	Mali	Sudan
Burkina Faso		Ethiopia	Mauritania	Tanzania
Burma		Gambia (The)	Mozambique	Togo
Burundi		Guinea	Nepal	Tuvalu
Cambodia		Guinea-Bissau	Niger	Uganda
Central Republic	African	Haiti	Rwanda	Vanuatu
Chad		Kiribati	Sao Tome and Principe	Yemen
Comoros		Laos	Senegal	Zambia

### PART 3

#### OTHER ELIGIBLE DEVELOPING COUNTRIES

Armenia	Guyana	Mongolia	Sri Lanka
Bolivia	Honduras	Morocco	Swaziland
Cameroon	India	Nauru	Syria
Cape Verde	Indonesia	Nicaragua	Tajikistan
Congo	Ivory Coast	Nigeria	Tonga
Cook Islands	Jordan	Niue	Tunisia
Egypt	Kenya	Occupied Palestinian Territories	Ukraine
El Salvador	Kosovo	Pakistan	Uzbekistan
Georgia	Kyrgyzstan	Papua New Guinea	Vietnam
Ghana	Micronesia	Philippines	Zimbabwe
Guatemala	Moldova	Samoa	

### PART 4

#### POWER TO AMEND PARTS 2 AND 3

- 2 (1) The Secretary of State may by regulations add countries or territories to or remove them from a list in Part 2 or 3 if the Secretary of State is satisfied that—
- (a) in the case of the list in Part 2, the country or territory has become, or ceased to be, a least developed country or territory;

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- (b) in the case of the list in Part 3, the country has become, or ceased to be, a country or territory that is similarly situated to the other countries and territories listed in Part 3, in terms of its economic characteristics.
- (2) In determining whether a country or territory has become or ceased to be a least developed country or territory, the Secretary of State must have regard to its classification by the United Nations.
- (3) In determining whether a country or territory has become or ceased to be similarly situated to the other countries and territories listed in Part 3, the Secretary of State must have regard, among other things, to its classification by the World Bank.
- (4) The Secretary of State may by regulations amend a list in Part 2 or 3 to reflect a change in the name of a country or territory.

## SCHEDULE 4

Section 13

### DUMPING OF GOODS OR FOREIGN SUBSIDIES CAUSING INJURY TO UK INDUSTRY

#### PART 1

##### KEY DEFINITIONS

##### *Meaning of “dumped”*

- 1 (1) For the purposes of this Schedule, goods are “dumped” in the United Kingdom if—
  - (a) they are imported into the United Kingdom, and
  - (b) their export price is less than their normal value;
 and references to the “dumping” of goods are to be read accordingly.
- (2) The “normal value” of goods means—
  - (a) the comparable price, in the ordinary course of trade, for like goods (see paragraph 7) when destined for consumption in the exporting foreign country or territory, or
  - (b) such other price or value as may be determined in accordance with provision made by regulations for specified cases where it is not appropriate to use the price in paragraph (a).
- (3) Regulations may make provision for the purposes of this paragraph—
  - (a) about what constitutes or does not constitute—
    - (i) the “export price” of goods;
    - (ii) “the comparable price”;
    - (iii) “in the ordinary course of trade”;
    - (iv) “the exporting foreign country or territory”;
  - (b) about how any of those matters are to be determined;
  - (c) to ensure that a fair comparison is made between the export price of goods and their normal value;
  - (d) about the use of sampling to determine the export price or normal value of goods.

*Meaning of “the margin of dumping”*

- 2 For the purposes of this Schedule, “the margin of dumping”, in relation to goods, means the amount which is the difference between—
- (a) their export price as determined in accordance with paragraph 1, and
  - (b) their normal value as determined in accordance with that paragraph.

*Meaning of “subsidised”, “countervailable subsidy” and related terms*

- 3 (1) For the purposes of this Schedule—
- (a) goods are “subsidised” if they are goods in respect of whose manufacture, production, export or transport a countervailable subsidy is granted, and
  - (b) references to the “subsidisation” of goods are to be read accordingly.
- (2) For the purposes of this Schedule, a “countervailable subsidy” is a subsidy which is specific and which is granted directly or indirectly for the manufacture, production, export or transport of goods.
- (3) For the purposes of this Schedule, a “subsidy” exists if there is—
- (a) a financial contribution by a foreign authority which confers a benefit, or
  - (b) a form of income or price support within the meaning of Article XVI of the General Agreement on Tariffs and Trade 1994 (being part of Annex 1A to the WTO Agreement) received from a foreign authority which confers a benefit.
- (4) For the purposes of this Schedule, a “foreign authority” means a government or public body within the territory of a foreign country or territory.
- (5) Regulations may make provision for the purposes of this paragraph—
- (a) about what constitutes or does not constitute a “subsidy”, “a financial contribution by a foreign authority”, “a government” or a “public body” and how any of those matters are to be determined;
  - (b) about what constitutes or does not constitute “a benefit” and how it is to be determined whether a benefit is conferred;
  - (c) about what constitutes or does not constitute a subsidy which is “specific” and how it is to be determined whether such a subsidy is granted directly or indirectly as described in sub-paragraph (2).

*Meaning of “the amount of the subsidy”*

- 4 (1) For the purposes of this Schedule, “the amount of the subsidy”, in relation to goods, means the amount of the benefit conferred during a specified period by the countervailable subsidy as attributed to the goods in question.
- (2) Regulations may make provision—
- (a) about how the amount of the benefit conferred by the countervailable subsidy is to be determined for those purposes;
  - (b) about what constitutes or does not constitute “benefit” for those purposes;
  - (c) about how the amount of the benefit conferred is to be attributed to the goods in question.
- (3) Such regulations may, among other things, make provision about the use of sampling or cumulative assessments.
- (4) “Specified period” means such period as may be specified by regulations.

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*Meaning of “injury”*

- 5 (1) For the purposes of this Schedule, “injury” to a UK industry in particular goods (see paragraph 6) means—
- (a) material injury, or the threat of material injury, to the industry, or
  - (b) material retardation of the establishment of the industry.
- (2) Regulations may make provision about—
- (a) what constitutes or does not constitute material injury to a UK industry or the threat of such injury for the purposes of this Schedule;
  - (b) what constitutes or does not constitute material retardation of the establishment of a UK industry for the purposes of this Schedule.
- (3) Regulations may make provision about how it is to be determined for the purposes of this Schedule whether—
- (a) the dumping of goods in the United Kingdom has caused or is causing injury to a UK industry in those goods, or
  - (b) the importation of subsidised goods into the United Kingdom has caused or is causing injury to a UK industry in those goods.
- (4) Such regulations may, among other things, make provision about the use of sampling or cumulative assessments.

*Meaning of “UK industry”*

- 6 (1) For the purposes of this Schedule, a “UK industry” in particular goods means—
- (a) all the producers in the United Kingdom of like goods (see paragraph 7), or
  - (b) those of them whose collective output of like goods constitutes a major proportion of the total production in the United Kingdom of those goods.
- (2) Regulations may make provision for the purposes of sub-paragraph (1)—
- (a) about what constitutes or does not constitute—
    - (i) a producer in the United Kingdom of like goods;
    - (ii) such a producer’s output of like goods;
    - (iii) the total production in the United Kingdom of like goods;
    - (iv) a major proportion of that total production;
  - (b) about how any of those matters are to be determined.

*Meaning of “like goods”*

- 7 (1) For the purposes of this Schedule, “like goods”, in relation to goods, means—
- (a) goods which are like those goods in all respects, or
  - (b) if there are no such goods, goods which, although not alike in all respects, have characteristics closely resembling those of the goods in question.
- (2) Regulations may make provision about—
- (a) what constitutes or does not constitute “like goods” for the purposes of this Schedule;
  - (b) how “like goods” is to be determined for those purposes.

## PART 2

### DUMPING AND SUBSIDISATION INVESTIGATIONS

#### *Dumping and subsidisation investigations*

- 8 (1) The TRA may investigate—
- (a) whether goods have been or are being dumped in the United Kingdom, and
  - (b) whether the dumping of the goods has caused or is causing injury to a UK industry in those goods.
- (2) References in this Schedule to a “dumping investigation” are to an investigation under sub-paragraph (1).
- (3) The TRA may investigate—
- (a) whether goods which have been or are being imported into the United Kingdom are subsidised, and
  - (b) whether the importation of the subsidised goods has caused or is causing injury to a UK industry in those goods.
- (4) References in this Schedule to a “subsidisation investigation” are to an investigation under sub-paragraph (3).

#### *Initiation of a dumping or a subsidisation investigation*

- 9 (1) The TRA may initiate a dumping or a subsidisation investigation in relation to goods only if—
- (a) it is requested to initiate an investigation in an application made—
    - (i) by or on behalf of a UK industry in the goods (“the applicant UK industry”), or
    - (ii) in exceptional circumstances, by the Secretary of State,
  - (b) it is satisfied that the application contains sufficient evidence that—
    - (i) the goods have been or are being dumped in the United Kingdom and the dumping has caused or is causing injury to a UK industry in those goods, or
    - (ii) as the case may be, the goods have been or are being imported into the United Kingdom and are subsidised, and the importation of the subsidised goods has caused or is causing injury to a UK industry in those goods,
  - (c) it is satisfied that it appears from that evidence that—
    - (i) the volume of dumped goods (whether actual or potential), and the injury, is more than negligible, and the margin of dumping in relation to those goods is more than minimal, or
    - (ii) as the case may be, the volume of subsidised goods (whether actual or potential), and the injury, is more than negligible, and the amount of the subsidy in relation to those goods is more than minimal, and
  - (d) the market share requirement is met or the TRA waives the requirement in relation to the application.
- (2) The market share requirement is met if—
- (a) in the case of an application under sub-paragraph (1)(a)(i), the TRA is satisfied that the applicant UK industry has a share of the market for like

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- goods for consumption in the United Kingdom (whether produced there or elsewhere) which is sufficient to justify initiating the investigation;
- (b) in the case of an application under sub-paragraph (1)(a)(ii), the TRA is satisfied that a UK industry in the goods has a share of the market for like goods for consumption in the United Kingdom (whether produced there or elsewhere) which is sufficient to justify initiating the investigation.
- (3) Regulations may make provision about—
- (a) what constitutes or does not constitute an application made by or on behalf of a UK industry for the purposes of sub-paragraph (1)(a)(i);
  - (b) when an application is made for the purposes of sub-paragraph (1)(a);
  - (c) the information to be contained in such an application;
  - (d) the time limit for determining such an application;
  - (e) what constitutes or does not constitute “negligible” and “minimal” for the purposes of sub-paragraph (1)(c)(i) or (ii);
  - (f) how it is to be determined for those purposes whether those thresholds have been exceeded;
  - (g) what constitutes or does not constitute “the market for like goods for consumption in the United Kingdom” and a UK industry’s “share” of that market for the purposes of sub-paragraphs (1)(d) and (2);
  - (h) how any of those matters are to be determined for the purposes of sub-paragraphs (1)(d) and (2).
- (4) If any of the requirements of sub-paragraph (1)(a) to (d) in respect of a dumping or a subsidisation investigation (as the case may be) are not met, the TRA must reject the application and notify the applicant accordingly (unless it is the requirement in sub-paragraph (1)(a) that is not met because the application has been withdrawn).
- (5) If the requirements of sub-paragraph (1)(a) to (d) in respect of a dumping investigation are met, the TRA must—
- (a) accept the application,
  - (b) notify the governments of the relevant foreign countries or territories,
  - (c) initiate the investigation,
  - (d) publish notice of its decision to initiate the investigation (including notice of the goods which are the subject of the investigation), and
  - (e) notify the Secretary of State and interested parties (see paragraph 32(3)) accordingly.
- (6) If the requirements of sub-paragraph (1)(a) to (d) in respect of a subsidisation investigation are met, the TRA must—
- (a) accept the application,
  - (b) after the governments of the relevant foreign countries or territories have been invited to participate in consultations, initiate the investigation,
  - (c) publish notice of its decision to initiate the investigation (including notice of the goods which are the subject of the investigation), and
  - (d) notify the Secretary of State and interested parties accordingly.
- (7) “Relevant foreign country or territory” means—
- (a) in the case of an application for a dumping investigation, the exporting foreign country or territory (within the meaning of paragraph 1(2)) of the alleged dumped goods;

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- (b) in the case of an application for a subsidisation investigation, a foreign country or territory within whose territory is located a foreign authority which is alleged to have granted one or more of the subsidies in question.
- (8) Notices under sub-paragraphs (5)(d) and (e) and (6)(c) and (d) must specify the date of the initiation of the investigation.
- (9) Nothing in this paragraph prevents the TRA initiating both a dumping investigation and a subsidisation investigation in relation to the same goods if the requirements of sub-paragraph (1)(a) to (d) are met in the case of each investigation.

*Conduct of a dumping or a subsidisation investigation*

- 10 (1) Regulations may make provision about the conduct of a dumping or a subsidisation investigation.
- (2) Such regulations may, among other things, make provision about—
- (a) the stages of an investigation;
  - (b) time limits for completion of a stage or of an investigation;
  - (c) the termination of an investigation in certain circumstances in relation to some or all of the goods;
  - (d) the information which must or may be provided or made available by the TRA to others;
  - (e) requests by the TRA for information from others and the consequences of not providing the information requested or of providing information which is false or misleading;
  - (f) requests by the TRA to visit premises in or outside the United Kingdom and the consequences of not agreeing to such requests;
  - (g) the conduct of such visits;
  - (h) the consequences of otherwise impeding an investigation;
  - (i) the treatment of confidential or other information provided to or by the TRA;
  - (j) the provision and conduct of oral hearings.

*Provisional affirmative determinations and final affirmative or negative determinations*

- 11 (1) In the case of a dumping investigation, an “affirmative determination” in relation to goods means a determination that—
- (a) the goods have been or are being dumped in the United Kingdom, and
  - (b) the dumping of the goods has caused or is causing injury to a UK industry in those goods.
- (2) In the case of a subsidisation investigation, an “affirmative determination” in relation to goods means a determination that—
- (a) the goods have been or are being imported into the United Kingdom and are subsidised, and
  - (b) the importation of the subsidised goods has caused or is causing injury to a UK industry in those goods.
- (3) At any stage during a dumping or a subsidisation investigation, the TRA may make an affirmative determination, based on the evidence then before it, in relation to goods which are the subject of the investigation (referred to in this Schedule as “a provisional affirmative determination”).

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- (4) But the TRA may only make such a determination if it is satisfied that interested parties (see paragraph 32(3)) have been given an adequate opportunity to provide information to it regarding the investigation.
- (5) The TRA must make a final determination in relation to each of the goods which are the subject of a dumping or a subsidisation investigation.
- (6) A final determination under sub-paragraph (5) in relation to goods is—
  - (a) an affirmative determination (referred to in this Schedule as a “final affirmative determination”), or
  - (b) if the TRA determines that it cannot make an affirmative determination in relation to the goods, a negative determination (referred to in this Schedule as a “final negative determination”).
- (7) The TRA may make different final determinations in relation to different goods which are the subject of the investigation.
- (8) The TRA must—
  - (a) publish notice of its final negative determination or final negative determinations under sub-paragraph (5), and
  - (b) notify the Secretary of State and interested parties accordingly.

*Termination of a dumping or a subsidisation investigation*

- 12 A dumping or a subsidisation investigation in relation to goods terminates (if it has not already terminated by virtue of provision made under paragraph 10(1))—
- (a) in a case where the TRA makes a final negative determination in relation to the goods, when notice of that determination is published under paragraph 11(8)(a),
  - (b) in a case where the TRA makes a final affirmative determination in relation to the goods and determines that there is not a recommendation which it could make under paragraph 17(3) or (4) in relation to them, when notice of that determination is published under paragraph 17(10)(b),
  - (c) in a case where the TRA makes a final affirmative determination in relation to the goods and makes a recommendation under paragraph 17(3) or (4) in relation to them which the Secretary of State rejects, when the notice of rejection is published under paragraph 20(4)(a), or
  - (d) in a case where the TRA makes a final affirmative determination in relation to the goods and makes a recommendation under paragraph 17(3) or (4) in relation to them which the Secretary of State accepts, at the end of the day of publication of the public notice under section 13 giving effect to the recommendation.



### PART 3

#### PROVISIONAL REMEDY: REQUIRING A GUARANTEE

##### *TRA's duty to recommend requiring guarantees*

- 13 (1) This paragraph applies where the TRA makes a provisional affirmative determination in relation to goods which are the subject of a dumping or a subsidisation investigation.
- (2) Goods in relation to which that determination is made are referred to in this paragraph as relevant goods.
- (3) The TRA may recommend to the Secretary of State—
- (a) in the case of a dumping investigation that, in respect of all the relevant goods, all importers of those goods should be required to give a guarantee in respect of any additional amount of import duty which would have been applicable, or potentially applicable, to the goods under section 13 if an anti-dumping amount had been applied to the goods based on the provisional affirmative determination (“an estimated anti-dumping amount”), or
  - (b) in the case of a subsidisation investigation that, in respect of all the relevant goods, all importers of those goods should be required to give a guarantee in respect of any additional amount of import duty which would have been applicable, or potentially applicable, to the goods under section 13 if a countervailing amount had been applied to the goods based on the provisional affirmative determination (“an estimated countervailing amount”).
- (4) The TRA may make a recommendation under sub-paragraph (3) only if it is satisfied that requiring a guarantee in accordance with its recommendation—
- (a) is necessary to prevent injury being caused during the investigation to a UK industry in the relevant goods, and
  - (b) meets the economic interest test (see paragraph 25).
- (5) The TRA may make different recommendations under sub-paragraph (3) for different relevant goods or descriptions of relevant goods, including by reference to—
- (a) specified overseas exporters or descriptions of overseas exporter;
  - (b) specified foreign countries or territories or descriptions of foreign countries or territories.
- (6) But the TRA may only make one recommendation under paragraph (a) or, as the case may be, paragraph (b) of sub-paragraph (3) in relation to any particular relevant good.
- (7) And the TRA may make different recommendations under paragraph (a) or (b) of sub-paragraph (3) for different relevant goods or descriptions of relevant goods only if the recommendations which it makes under that paragraph when taken together cover all the relevant goods.
- (8) If the TRA determines that there are one or more recommendations which it could make under paragraph (a) or, as the case may be paragraph (b), of sub-paragraph (3), it must make that recommendation or those recommendations (subject to sub-paragraphs (6) and (7)).

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- (9) If the TRA determines that there is no recommendation which it could make under sub-paragraph (3), it must—
- (a) publish notice of its provisional affirmative determination in relation to the goods,
  - (b) publish notice of its determination that there is no recommendation which it could make under sub-paragraph (3), and
  - (c) notify the Secretary of State and interested parties (see paragraph 32(3)) accordingly.

*TRA's recommendations regarding requiring a guarantee*

- 14 (1) A recommendation under paragraph 13(3) to require the giving of a guarantee in respect of goods must specify those goods and include—
- (a) the TRA's recommendation regarding—
    - (i) the form of the guarantee,
    - (ii) how an estimated anti-dumping amount or an estimated countervailing amount applicable to the goods should be determined for the purpose of calculating the amount of the guarantee,
    - (iii) how the amount of the guarantee should be calculated, and
    - (iv) the period during which the requirement to give a guarantee should apply, and
  - (b) such other content as regulations may require.
- (2) The form of guarantee referred to in sub-paragraph (1)(a)(i) may be cash, a bond or a bank guarantee.
- (3) The recommendation referred to in sub-paragraph (1)(a)(ii) must be such that an estimated anti-dumping amount or an estimated countervailing amount does not exceed—
- (a) the margin of dumping or, as the case may be, the amount of the subsidy, in relation to the goods as determined by the TRA as part of its provisional affirmative determination, or
  - (b) the amount which the TRA is satisfied would be adequate to remove the injury to a UK industry in the goods if that amount is less than the margin of dumping or, as the case may be, the amount of the subsidy referred to in paragraph (a).
- (4) Regulations may make provision for the purposes of sub-paragraph (3)(b) about how the amount which the TRA is satisfied would be adequate to remove the injury described in that provision is to be determined.
- (5) The period referred to in sub-paragraph (1)(a)(iv)—
- (a) must not exceed 6 months in the case of a dumping investigation (but see paragraph 16 regarding extensions), or 4 months in the case of a subsidisation investigation, and
  - (b) if the recommendation is accepted by the Secretary of State, must begin—
    - (i) on the day after the date of publication of the notice under paragraph 15(5)(b), or
    - (ii) if later, on the day which is the day after the end of the period of 60 days beginning with the date of the initiation of the investigation.

*Secretary of State's power to require a guarantee*

- 15 (1) If the TRA makes a recommendation under paragraph 13(3), the Secretary of State must decide whether to accept or reject the recommendation.
- (2) The Secretary of State may reject the recommendation only if the Secretary of State is satisfied that it is not in the public interest to accept it.
- (3) In considering that, the Secretary of State must accept the TRA's determination that requiring a guarantee in accordance with the recommendation meets the economic interest test (see paragraph 25), unless the Secretary of State is satisfied that the determination is not one that the TRA could reasonably have made.
- (4) If the recommendation is rejected, the Secretary of State must—
- (a) publish notice of the TRA's provisional affirmative determination in relation to the goods, of the recommendation and of the rejection of it,
  - (b) notify interested parties (see paragraph 32(3)) accordingly, and
  - (c) lay a statement before the House of Commons setting out the reasons for rejecting the recommendation.
- (5) If the recommendation is accepted, the Secretary of State must—
- (a) publish notice of the TRA's provisional affirmative determination in relation to the goods and of the recommendation,
  - (b) publish a notice that all importers of the goods specified in the recommendation are required to give a guarantee in accordance with the recommendation and regulations under paragraph 6 of Schedule 6, and
  - (c) notify interested parties accordingly.
- (6) The notice under sub-paragraph (5)(b) must—
- (a) specify, in accordance with the TRA's recommendation, the matters referred to in paragraph 14(1)(a)(i) to (iv), and
  - (b) include such other content as regulations may require.
- (7) For the purposes of this Schedule, “the period of a provisional remedy” in respect of goods means the period during which the requirement to give a guarantee in respect of the goods applies.
- (8) The period of a provisional remedy in respect of goods ceases (if it has not already expired) when the dumping investigation or, as the case may be, the subsidisation investigation in relation to the goods terminates.

*Extension of the period of a provisional remedy in a dumping investigation*

- 16 (1) Regulations may make provision for, or in connection with, the extension by the Secretary of State, on the recommendation of the TRA, of the period of a provisional remedy which has been applied in respect of goods in the case of a dumping investigation.
- (2) Any such extension must not result in the period of the provisional remedy being a period of more than 9 months beginning with the date when the requirement to give a guarantee in respect of goods first applied.
- (3) The regulations must require that if the period of a provisional remedy is extended, the Secretary of State—

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- (a) publishes a revised notice under paragraph 15(5)(b) containing the revised period of the provisional remedy in accordance with the TRA's recommendation, and
- (b) notifies interested parties (see paragraph 32(3)) accordingly.

#### PART 4

##### DEFINITIVE REMEDIES: ANTI-DUMPING AMOUNT OR COUNTERVAILING AMOUNT

###### *TRA's duty to recommend an anti-dumping amount or countervailing amount*

- 17 (1) This paragraph applies where the TRA makes a final affirmative determination in relation to goods which are the subject of a dumping or a subsidisation investigation.
- (2) Goods in relation to which that determination is made are referred to in this paragraph as relevant goods.
- (3) In the case of a dumping investigation, the TRA may recommend to the Secretary of State—
- (a) that an additional amount of import duty (referred to in this Schedule as an “anti-dumping amount”) should be applicable for a specified period to all the relevant goods except, in the case of goods in respect of which an undertaking is accepted under provision made by or under Part 5, during any period when the undertaking applies, and
  - (b) how an anti-dumping amount applicable to the relevant goods should be determined.
- (4) In the case of a subsidisation investigation, the TRA may recommend to the Secretary of State—
- (a) that an additional amount of import duty (referred to in this Schedule as a “countervailing amount”) should be applicable for a specified period to all the relevant goods except, in the case of goods in respect of which an undertaking is accepted under provision made by or under Part 5, during any period when the undertaking applies, and
  - (b) how a countervailing amount applicable to the relevant goods should be determined.
- (5) The TRA may make a recommendation under sub-paragraph (3) or (4) only if it is satisfied that the application of an anti-dumping amount or a countervailing amount in accordance with its recommendation meets the economic interest test (see paragraph 25).
- (6) The TRA may make different recommendations under sub-paragraph (3) or (4) for different relevant goods or descriptions of relevant goods, including by reference to—
- (a) specified overseas exporters or descriptions of overseas exporters;
  - (b) specified foreign countries or territories or descriptions of foreign countries or territories.
- (7) But the TRA may only make one recommendation under sub-paragraph (3) or, as the case may be, sub-paragraph (4) in relation to any particular relevant good.

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- (8) And the TRA may make different recommendations under sub-paragraph (3) or (4) for different relevant goods or descriptions of relevant goods only if the recommendations which it makes under that sub-paragraph when taken together cover all the relevant goods.
- (9) If the TRA determines that there are one or more recommendations which it could make under sub-paragraph (3) or, as the case may be, sub-paragraph (4), it must make that recommendation or those recommendations (subject to sub-paragraphs (7) and (8)).
- (10) If the TRA determines that there is no recommendation which it could make under sub-paragraph (3) or (4) (as the case may be), it must—
  - (a) publish notice of its final affirmative determination in relation to the goods,
  - (b) publish notice of its determination that there is no recommendation which it could make under sub-paragraph (3) or (4), and
  - (c) notify the Secretary of State and interested parties (see paragraph 32(3)) accordingly.

*TRA's recommendations about an anti-dumping amount or a countervailing amount*

- 18 (1) This paragraph applies to a recommendation by the TRA under paragraph 17(3) or (4) in relation to goods.
- (2) The specified period referred to in paragraph 17(3)(a) or (4)(a)—
  - (a) must be a period of 5 years unless the TRA considers that a lesser period is sufficient to counteract—
    - (i) the dumping of the goods which has caused or is causing injury to a UK industry in the goods, or
    - (ii) the importation of the subsidised goods which has caused or is causing injury to a UK industry in the goods, and
  - (b) if the recommendation is accepted by the Secretary of State, must begin on the day after the date of publication of the public notice under section 13 giving effect to the recommendation (see paragraph 20(5)(c)) unless the TRA is authorised by regulations under paragraph 19 to recommend a date before then.
- (3) In the case of a recommendation of such a prior date made by virtue of paragraph 19, the reference in sub-paragraph (2)(a) to a period of 5 years is to be read as a reference to a period of 5 years plus the relevant period (within the meaning of paragraph 19).
- (4) See also paragraph 21 regarding the possibility, following a review, of extensions or variations to the period for which an anti-dumping amount or a countervailing amount applies to goods.
- (5) The recommendation referred to in paragraph 17(3)(b) or (4)(b) as to how an anti-dumping amount or a countervailing amount applicable to goods should be determined may be by reference to either or both of the following—
  - (a) the value of the goods, and
  - (b) the weight or volume of the goods or any other measure of their quantity or size.
- (6) But that recommendation must be such that an anti-dumping amount or a countervailing amount applicable to goods does not exceed—

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- (a) the margin of dumping or, as the case may be, the amount of the subsidy, in relation to the goods, or
  - (b) the amount which the TRA is satisfied would be adequate to remove the injury to a UK industry in the goods if that amount is less than the margin of dumping or, as the case may be, the amount of the subsidy referred to in paragraph (a).
- (7) Regulations may make provision for the purposes of sub-paragraph (6)(b) about how the amount which the TRA is satisfied would be adequate to remove the injury described in that provision is to be determined.
- (8) A recommendation under paragraph 17(3) or (4) must include such other content as regulations may require.
- 19 (1) Regulations may make provision authorising the TRA, in specified circumstances, to recommend under paragraph 17(3) or (4) that the specified period for which an anti-dumping amount or a countervailing amount should apply to goods begins on a date (“the relevant date”) before the day after the date of publication of the public notice under section 13 giving effect to the recommendation.
- (2) Such a recommendation may only be made in relation to goods in respect of which a requirement to give a guarantee under paragraph 15 is applied (“the provisional remedy”).
- (3) “The relevant date” must be—
- (a) in a case where a notice under paragraph 29(1) (registration) has been published in respect of the goods—
    - (i) a date during the period of 90 days before the beginning of the period of the provisional remedy provided it is not a date before the date of publication of that notice, or
    - (ii) a date during the period of the provisional remedy, or
  - (b) in any other case, a date during the period of the provisional remedy.
- (4) Regulations may provide that, in the case of a recommendation made by virtue of sub-paragraph (1), the recommendation as to how an anti-dumping amount or a countervailing amount should be determined must be such that an anti-dumping amount or a countervailing amount applicable for all or part of the relevant period must not exceed a particular amount.
- (5) “The relevant period” is the period—
- (a) beginning with the relevant date, and
  - (b) ending with the date of publication of the public notice under section 13 giving effect to the recommendation.

*Secretary of State’s power to accept or reject a recommendation*

- 20 (1) If the TRA makes a recommendation under paragraph 17(3) or (4), the Secretary of State must decide whether to accept or reject the recommendation.
- (2) The Secretary of State may reject the recommendation only if the Secretary of State is satisfied that it is not in the public interest to accept it.
- (3) In considering that, the Secretary of State must accept the TRA’s determination that the application of an anti-dumping amount or a countervailing amount to goods in accordance with the recommendation meets the economic interest test (see paragraph

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- 25), unless the Secretary of State is satisfied that the determination is not one that the TRA could reasonably have made.
- (4) If the recommendation is rejected, the Secretary of State must—
- (a) publish notice of the TRA’s final affirmative determination in relation to the goods, of the recommendation and of the rejection of it,
  - (b) notify interested parties (see paragraph 32(3)) accordingly, and
  - (c) lay a statement before the House of Commons setting out the reasons for rejecting the recommendation.
- (5) If the recommendation is accepted, the Secretary of State—
- (a) must publish notice of the TRA’s final affirmative determination in relation to the goods, of the recommendation and of the acceptance of it,
  - (b) must notify interested parties accordingly, and
  - (c) is required under section 13 to make provision by public notice to give effect to the recommendation.
- (6) See paragraphs 21 and 22 for variation or revocation of the application of an anti-dumping amount or a countervailing amount.

*Reviews of continuing application of an anti-dumping amount or a countervailing amount*

- 21 (1) Regulations may make provision for, or in connection with, reviews by the TRA of the continuing application of an anti-dumping amount or a countervailing amount to goods.
- (2) References in this paragraph to “a review” are to a review by virtue of provision made under sub-paragraph (1).
- (3) Regulations under sub-paragraph (1) may, among other things, provide for a review to consider—
- (a) whether the continuing application of an anti-dumping amount or a countervailing amount to goods is necessary or sufficient to offset—
    - (i) in the case of an anti-dumping amount, the dumping of the goods which has caused or is causing injury to a UK industry in the goods, or
    - (ii) in the case of a countervailing amount, the importation of the subsidised goods which has caused or is causing injury to a UK industry in the goods;
  - (b) whether the application of an anti-dumping amount or a countervailing amount to goods is having the effect of removing injury to a UK industry in the goods;
  - (c) whether injury to a UK industry in the goods would be likely to continue or recur if the application of an anti-dumping amount or a countervailing amount to the goods were to expire, or it were to be varied or revoked;
  - (d) whether activity is being undertaken to circumvent the application of an anti-dumping amount or a countervailing amount to goods and whether the application should be varied to prevent that;
  - (e) whether the application of an anti-dumping amount or a countervailing amount to goods in the case of a particular overseas exporter, or a particular description of overseas exporter, should be varied;

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- (f) the goods or description of goods to which an anti-dumping amount or a countervailing amount is applicable.
- (4) Regulations under sub-paragraph (1) may, among other things, make—
- (a) provision for the TRA to investigate certain matters;
  - (b) provision for the period for which an anti-dumping amount or a countervailing amount applies to goods by public notice under section 13 to be treated as continuing (where it would otherwise cease to do so) while a review in relation to the application of the amount is ongoing;
  - (c) provision for the suspension, by public notice given by the Secretary of State, of the application of an anti-dumping amount or a countervailing amount while a review in relation to it is ongoing;
  - (d) other provision about the conduct of a review.
- (5) Paragraph 10(2) applies to regulations made by virtue of sub-paragraph (4)(d) in relation to a review as it applies to regulations under paragraph 10(1) in relation to an investigation.
- (6) Regulations may make provision for or in connection with—
- (a) the TRA recommending to the Secretary of State that the application of an anti-dumping amount or a countervailing amount to goods should be varied or revoked, and
  - (b) the Secretary of State accepting or rejecting such a recommendation.
- (7) Where, by virtue of provision made under sub-paragraph (6), the Secretary of State accepts a recommendation that the application of an anti-dumping amount or a countervailing amount to goods should be varied or revoked, the Secretary of State—
- (a) must publish notice of the recommendation and of the acceptance of it,
  - (b) must notify interested parties (see paragraph 32(3)) accordingly, and
  - (c) is required under section 13 to make provision by public notice to give effect to the recommendation.
- (8) The variation of the application of an anti-dumping amount or a countervailing amount to goods which the TRA may recommend to the Secretary of State by virtue of regulations under sub-paragraph (6) may, among other things, include—
- (a) varying the goods or descriptions of goods to which an anti-dumping amount or a countervailing amount is applicable (including so that it is applicable to goods or descriptions of goods to which it has not previously been applicable);
  - (b) varying the period for which an anti-dumping amount or a countervailing amount is applicable (including extending it beyond the period referred to in paragraph 18(2)(a));
  - (c) varying how an anti-dumping amount or a countervailing amount should be determined.
- (9) Regulations under sub-paragraph (6) may provide that the TRA may recommend that the application of an anti-dumping amount or a countervailing amount as varied should be applicable to goods from a date (“the relevant date”) before the date of publication of the public notice under section 13 giving effect to the recommendation.
- (10) Such a recommendation may only be made if—
- (a) a notice under paragraph 29(1) (registration) has been published in respect of the goods, and



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- (b) the relevant date is not a date before the date of publication of that notice.

*Variation or revocation following an international dispute decision*

- 22 (1) Regulations may make provision for or in connection with—
- (a) the TRA recommending to the Secretary of State that the application of an anti-dumping amount or a countervailing amount to goods should be varied or revoked in light of an international dispute decision, and
  - (b) the Secretary of State accepting or rejecting such a recommendation.
- (2) The regulations may, among other things—
- (a) provide for the TRA to investigate certain matters for the purposes of determining whether to make a recommendation to the Secretary of State and what to recommend;
  - (b) make provision about the conduct of such an investigation;
  - (c) provide for the suspension, by public notice given by the Secretary of State, of the application of an anti-dumping amount or a countervailing amount.
- (3) Paragraph 10(2) applies to regulations made by virtue of sub-paragraph (2)(b) in relation to an investigation as it applies to regulations under paragraph 10(1) in relation to a dumping or a subsidisation investigation.
- (4) Where, by virtue of provision made under the regulations, the Secretary of State accepts a recommendation that the application of an anti-dumping amount or a countervailing amount to goods should be varied or revoked, the Secretary of State—
- (a) must publish notice of the recommendation and of the acceptance of it,
  - (b) must notify interested parties (see paragraph 32(3)) accordingly, and
  - (c) is required under section 13 to make provision by public notice to give effect to the recommendation.
- (5) The variation of the application of an anti-dumping amount or a countervailing amount to goods which the regulations may provide for may, among other things, include any of the variations mentioned in paragraph 21(8).
- (6) An “international dispute decision” means—
- (a) a report of a panel or Appellate Body that is adopted by the Dispute Settlement Body of the WTO, or
  - (b) if not within paragraph (a), a decision under the dispute settlement procedures of an arrangement relating to trade to which Her Majesty’s government in the United Kingdom is a party with the government of another country or territory.

## PART 5

### UNDERTAKINGS

*Acceptance of undertakings*

- 23 (1) Where the TRA determines to recommend to the Secretary of State under paragraph 17(3) or (4) that an anti-dumping amount or a countervailing amount should be applicable to goods, the TRA may also recommend to the Secretary of State the acceptance of an undertaking in respect of the goods.

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- (2) In this Part, an “undertaking” means—
- (a) in the case of the dumping of goods, an undertaking offered by an overseas exporter of the goods—
    - (i) to revise the overseas exporter’s prices for export to the United Kingdom, or
    - (ii) to cease exports to the United Kingdom at prices which cause the goods to be dumped;
  - (b) in the case of subsidised goods—
    - (i) an undertaking offered by an overseas exporter of the goods to revise the overseas exporter’s prices for export to the United Kingdom, or
    - (ii) an undertaking offered by a relevant foreign government to eliminate or limit the importation into the United Kingdom of the subsidised goods or to take other measures concerning its effects.
- (3) “A relevant foreign government” means the government of a foreign country or territory—
- (a) which granted one or more of the countervailable subsidies in question, or
  - (b) within whose territory is located a foreign authority which granted one or more of those subsidies.
- (4) Regulations may make provision about—
- (a) recommendations by the TRA under sub-paragraph (1);
  - (b) the acceptance of undertakings by the Secretary of State on such a recommendation.
- (5) The regulations must secure that the TRA may request an undertaking in respect of goods only—
- (a) at a time after it has made a provisional affirmative determination in relation to the goods, and
  - (b) if such other requirements as the regulations may specify are met.
- (6) The regulations must secure that the TRA may recommend the acceptance of an undertaking in respect of goods to the Secretary of State only if it is satisfied that—
- (a) the undertaking is sufficient to eliminate the injurious effect of—
    - (i) the dumping of the goods to a UK industry in those goods, or
    - (ii) the importation of the subsidised goods to a UK industry in those goods,
  - (b) acceptance of the undertaking meets the economic interest test (see paragraph 25), and
  - (c) it is appropriate to accept the undertaking.
- (7) The regulations may make provision for the purposes of sub-paragraph (6)(c) about the circumstances where it is or is not appropriate to accept an undertaking.
- (8) Those circumstances may include that the terms and conditions of an undertaking include provision for the provision of information to enable the monitoring of compliance with the undertaking.
- (9) The regulations must require that if the Secretary of State accepts an undertaking, the Secretary of State—
- (a) publishes a notice to that effect, and

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- (b) notifies interested parties (see paragraph 32(3)) accordingly.

*Reviews of undertakings etc*

- 24 (1) Regulations may make provision for or in connection with—
- (a) monitoring compliance with an undertaking;
  - (b) investigations by the TRA of breach of an undertaking;
  - (c) reviews by the TRA of the continuing application of an undertaking;
  - (d) the circumstances in which an undertaking ceases to apply;
  - (e) the acceptance of a new undertaking in place of an existing undertaking.
- (2) Regulations under sub-paragraph (1)(c) may, among other things, provide for a review to consider—
- (a) whether the continuing application of the undertaking is sufficient to eliminate the injurious effect of—
    - (i) the dumping of the goods to a UK industry in the goods, or
    - (ii) the importation of the subsidised goods to a UK industry in the goods;
  - (b) whether the continuing application of the undertaking is appropriate.
- (3) Paragraph 10(2) applies to regulations under sub-paragraph (1)(b) or (c) in relation to an investigation or review as it applies to regulations under paragraph 10(1) in relation to a dumping or a subsidisation investigation.
- (4) The reference in sub-paragraph (1)(e) to the acceptance of a new undertaking is to the acceptance of an undertaking in respect of goods by the Secretary of State, on the recommendation of the TRA.
- (5) Sub-paragraphs (4) and (6) to (9) of paragraph 23 apply to regulations under sub-paragraph (1)(e) in relation to the acceptance of new undertakings by virtue of those regulations as they apply to the acceptance of undertakings by virtue of regulations under paragraph 23(4).
- (6) References in sub-paragraph (1) to an “undertaking” (other than the reference in sub-paragraph (1)(e) to a “new undertaking”) are to an undertaking accepted by the Secretary of State by virtue of regulations under paragraph 23(4) or sub-paragraph (1)(e).

## PART 6

### SUPPLEMENTARY

*The economic interest test*

- 25 (1) This paragraph applies if the TRA or the Secretary of State is considering, for the purposes of this Schedule, whether the TRA or the Secretary of State is satisfied that the application of an anti-dumping remedy or anti-subsidy remedy meets or does not meet the economic interest test.
- (2) The economic interest test is met in relation to the application of an anti-dumping remedy or anti-subsidy remedy if the application of the remedy is in the economic interest of the United Kingdom.

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- (3) That test is presumed to be met unless the TRA or, as the case may be, the Secretary of State is satisfied that the application of the remedy is not in the economic interest of the United Kingdom.
- (4) When considering whether the application of an anti-dumping remedy or anti-subsidy remedy is not in the economic interest of the United Kingdom, the TRA or the Secretary of State must—
- (a) take account of the following so far as relevant—
    - (i) the injury caused by the dumping of the goods, or the importation of the subsidised goods, to a UK industry in the goods and the benefits to that UK industry in removing that injury,
    - (ii) the economic significance of affected industries and consumers in the United Kingdom,
    - (iii) the likely impact on affected industries and consumers in the United Kingdom,
    - (iv) the likely impact on particular geographic areas, or particular groups, in the United Kingdom, and
    - (v) the likely consequences for the competitive environment, and for the structure of markets for goods, in the United Kingdom, and
  - (b) take account of such other matters as the TRA or, as the case may be, the Secretary of State considers relevant.
- (5) In this paragraph—
- (a) references to the application of an anti-dumping remedy are to—
    - (i) requiring the giving of a guarantee under paragraph 15,
    - (ii) applying an anti-dumping amount to goods, or
    - (iii) accepting an undertaking under provision made by or under Part 5;
  - (b) references to the application of an anti-subsidy remedy are to—
    - (i) requiring the giving of a guarantee under paragraph 15,
    - (ii) applying a countervailing amount to goods, or
    - (iii) accepting an undertaking under provision made by or under Part 5;
  - (c) “affected industries and consumers” means industries and consumers that would be affected if the anti-dumping remedy or anti-subsidy remedy were, or were not, to be applied;
  - (d) “industries” includes—
    - (i) the UK industry referred to in sub-paragraph (4)(a)(i) and other producers of goods,
    - (ii) suppliers of goods or services, and
    - (iii) importers, distributors and retailers of goods;
  - (e) “consumers” includes users of goods or services.

*Suspension of anti-dumping or anti-subsidy remedies*

- 26 (1) Regulations may make provision for or in connection with—
- (a) the TRA recommending to the Secretary of State that the application of an anti-dumping remedy or anti-subsidy remedy should be suspended, and
  - (b) the Secretary of State accepting or rejecting such a recommendation.

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- (2) The regulations must secure that the TRA may make such a recommendation to the Secretary of State only if the TRA is satisfied that market conditions have temporarily changed such that the injury caused to a UK industry in the goods would be unlikely to recur as a result of the suspension.
- (3) Regulations may make provision for the purposes of sub-paragraph (2) about what constitutes or does not constitute “market conditions” or a temporary change in such conditions.
- (4) Regulations under sub-paragraph (1) may, among other things, make—
  - (a) provision for the TRA to investigate certain matters;
  - (b) provision about the conduct of such an investigation;
  - (c) provision about the period for which a suspension may have effect;
  - (d) provision about whether that period counts towards the period for which the suspended remedy applies.
- (5) Paragraph 10(2) applies to regulations under sub-paragraph (4)(b) in relation to an investigation as it applies to regulations under paragraph 10(1) in relation to a dumping or a subsidisation investigation.
- (6) Where, by virtue of provision made under sub-paragraph (1), the Secretary of State accepts a recommendation that the application of an anti-dumping remedy or anti-subsidy remedy should be suspended, the Secretary of State—
  - (a) must publish notice of the recommendation and of the acceptance of it,
  - (b) must notify interested parties (see paragraph 32(3)) accordingly, and
  - (c) is required under section 13 to make provision by public notice to give effect to the recommendation.
- (7) References in this paragraph to the application of an anti-dumping remedy or anti-subsidy remedy have the same meaning as in paragraph 25.

*Not subject to both application of an anti-dumping amount and a countervailing amount*

- 27
- (1) An anti-dumping amount is not applicable to goods if a countervailing amount is already applicable to the goods (and vice versa) for the purpose of dealing with the same situation arising from the dumping of goods or export subsidisation.
  - (2) Regulations may make provision about what constitutes or does not constitute “export subsidisation” for those purposes.

*Investigations regarding repayments and discharge of a guarantee*

- 28
- (1) Regulations may provide for the TRA to investigate specified matters for the purpose of determining whether—
    - (a) a repayment of an anti-dumping amount or a countervailing amount, or interest paid in respect of any such amounts, should be made under regulations made under paragraph 10 of Schedule 6;
    - (b) the whole or a part of a guarantee given under paragraph 15 should be discharged under regulations made under paragraph 6 of Schedule 6.
  - (2) The regulations may make provision about the conduct of any such investigation.

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- (3) Paragraph 10(2) applies to those regulations in relation to such an investigation as it applies to regulations under paragraph 10(1) in relation to a dumping or a subsidisation investigation.

#### *Registration*

- 29 (1) The Secretary of State may publish a notice of goods—
- (a) which are the subject of an investigation or other proceedings under provision made by or under this Schedule, and
  - (b) to which an anti-dumping amount or a countervailing amount may be applied or the existing application of an anti-dumping amount or a countervailing amount to which may be varied.
- (2) HMRC must register goods in respect of which such a notice is published.
- (3) Regulations may make provision for, or in connection with, the registration by HMRC of goods—
- (a) to which an anti-dumping amount or a countervailing amount may be applied, or
  - (b) the existing application of an anti-dumping amount or a countervailing amount to which may be varied.

#### *Reconsideration, reviews and appeals*

- 30 Regulations may make provision for or in connection with—
- (a) the reconsideration by the TRA of decisions made by the TRA under provision made by or under this Schedule, and
  - (b) the review or appeal of decisions made by the TRA or the Secretary of State under provision made by or under this Schedule.

#### *Notices*

- 31 (1) Where a notice is required to be published or given by a provision made by or under this Schedule, regulations may make provision about—
- (a) the form of the notice;
  - (b) its content;
  - (c) the manner of publication;
  - (d) the means by which it is given;
  - (e) the time or date on which it is published or given or is to be treated as published or given.
- (2) Such regulations may, among other things, provide—
- (a) for some of the content of the notice to be contained in a separate report to which the notice refers, and
  - (b) for that report to be published or for it to be given, or otherwise made available to, the persons to whom the notice is required to be given.
- (3) The provision made by regulations under this paragraph about the content of a notice is in addition to any such provision made by or under any other provision of this Schedule.

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- (4) Sub-paragraph (1)(c) does not apply to a public notice under provision made under paragraph 21(4)(c) or 22(2)(c) (see section 37(5)).

### *Interpretation*

32 (1) In this Schedule—

- “anti-dumping amount” has the meaning given by paragraph 17(3);
- “the amount of the subsidy”, in relation to goods, has the meaning given by paragraph 4;
- “countervailable subsidy” has the meaning given by paragraph 3(2);
- “countervailing amount” has the meaning given by paragraph 17(4);
- “dumped” and “dumping” have the meaning given by paragraph 1(1);
- “dumping investigation” has the meaning given by paragraph 8(2);
- “final affirmative determination”, in relation to goods, has the meaning given by paragraph 11(6)(a);
- “final negative determination”, in relation to goods, has the meaning given by paragraph 11(6)(b);
- “foreign authority” has the meaning given by paragraph 3(4);
- “foreign country or territory” means a country or territory outside the United Kingdom;
- “importer” of goods means a person liable to pay import duty in respect of the goods;
- “injury” to a UK industry in particular goods has the meaning given by paragraph 5;
- “interested parties” has the meaning given by sub-paragraph (3);
- “like goods”, in relation to goods, has the meaning given by paragraph 7;
- “the margin of dumping”, in relation to goods, has the meaning given by paragraph 2;
- “overseas exporter” means a person outside the United Kingdom that exports goods to the United Kingdom;
- “the period of a provisional remedy”, in respect of goods, has the meaning given by paragraph 15(7);
- “provisional affirmative determination”, in relation to goods, has the meaning given by paragraph 11(3);
- “regulations” means regulations made by the Secretary of State;
- “subsidisation investigation” has the meaning given by paragraph 8(4);
- “subsidised” and “subsidisation” have the meaning given by paragraph 3(1);
- “subsidy” has the meaning given by paragraph 3(3);
- “UK industry”, in particular goods, has the meaning given by paragraph 6;
- “the WTO Agreement” means the agreement establishing the WTO signed at Marrakesh on 15 April 1994.

- (2) References in this Schedule to the economic interest test are to be construed in accordance with paragraph 25.
- (3) References in a provision of this Schedule to “interested parties” means the governments of such foreign countries or territories, or such other persons, as may

be specified in regulations made under this sub-paragraph for the purposes of the provision in question.

## SCHEDULE 5

Section 13

### INCREASE IN IMPORTS CAUSING SERIOUS INJURY TO UK PRODUCERS

#### PART 1

##### KEY DEFINITIONS

###### *Meaning of importation in “increased quantities”*

- 1 (1) For the purposes of this Schedule, goods are imported into the United Kingdom in “increased quantities” if—
- (a) the volume of imports of the goods increases, whether in absolute terms or relative to the total production in the United Kingdom of like goods and directly competitive goods, and
  - (b) that increase is significant.
- (2) Regulations may make provision for the purposes of sub-paragraph (1)—
- (a) about how it is to be determined whether or not there has been an increase in the volume of imports;
  - (b) about how the amount of the increase is to be determined;
  - (c) about what constitutes or does not constitute a “significant” increase, including provision for an increase not to constitute a “significant” increase if it was foreseeable.
- (3) “The total production in the United Kingdom of like goods and directly competitive goods” has the same meaning as in paragraph 3.
- (4) See paragraphs 4 and 5 for the meaning of “like goods” and “directly competitive goods”.

###### *Meaning of “serious injury”*

- 2 (1) For the purposes of this Schedule, “serious injury” to UK producers of particular goods (see paragraph 3) means—
- (a) a significant overall impairment to their position, or
  - (b) the threat of such impairment.
- (2) Regulations may make provision about what constitutes or does not constitute significant overall impairment to the position of UK producers, or the threat of such impairment, for the purposes of this Schedule.
- (3) Regulations may make provision about how it is to be determined for the purposes of this Schedule whether the importation of goods into the United Kingdom in increased quantities has caused or is causing serious injury to UK producers of those goods.
- (4) Such regulations may, among other things, make provision about the use of sampling or cumulative assessments.



### *Meaning of “UK producers”*

- 3 (1) For the purposes of this Schedule, “UK producers” of particular goods means—
- (a) all the producers in the United Kingdom of like goods and all the producers in the United Kingdom of directly competitive goods, or
  - (b) those of them whose collective output of like goods and directly competitive goods constitutes a major proportion of the total production in the United Kingdom of those goods.
- (2) Regulations may make provision for the purposes of sub-paragraph (1)—
- (a) about what constitutes or does not constitute—
    - (i) a producer in the United Kingdom of like goods or directly competitive goods;
    - (ii) such a producer’s output of like goods or directly competitive goods;
    - (iii) the total production in the United Kingdom of like goods and directly competitive goods;
    - (iv) a major proportion of that total production;
  - (b) about how any of those matters are to be determined.
- (3) See paragraphs 4 and 5 for the meaning of “like goods” and “directly competitive goods”.

### *Meaning of “like goods”*

- 4 (1) For the purposes of this Schedule, “like goods”, in relation to goods, means—
- (a) goods which are like those goods in all respects, and
  - (b) goods which, although not alike in all respects, have characteristics closely resembling those of the goods in question.
- (2) Regulations may make provision about—
- (a) what constitutes or does not constitute “like goods” for the purposes of this Schedule;
  - (b) how “like goods” is to be determined for those purposes.

### *Meaning of “directly competitive goods”*

- 5 Regulations may make provision about—
- (a) what constitutes or does not constitute “directly competitive goods” for the purposes of this Schedule;
  - (b) how “directly competitive goods” is to be determined for those purposes.

## **PART 2**

### **SAFEGUARDING INVESTIGATIONS**

#### *Safeguarding investigation*

- 6 (1) The TRA may investigate—
- (a) whether goods have been or are being imported into the United Kingdom in increased quantities, and

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- (b) whether the importation of the goods in increased quantities has caused or is causing serious injury to UK producers of those goods.
- (2) References in this Schedule to a “safeguarding investigation” are to an investigation under sub-paragraph (1).

*Initiation of a safeguarding investigation*

- 7 (1) The TRA may initiate a safeguarding investigation in relation to goods only if—
- (a) it is requested to initiate an investigation in an application made—
    - (i) by or on behalf of UK producers of the goods (“the applicant UK producers”), or
    - (ii) by the Secretary of State,
  - (b) it is satisfied that the application contains sufficient evidence that—
    - (i) the goods have been or are being imported into the United Kingdom in increased quantities, and
    - (ii) the importation of the goods in increased quantities has caused or is causing serious injury to UK producers of those goods,
  - (c) the market share requirement is met or the TRA waives the requirement in relation to the application, and
  - (d) the application is accompanied by a preliminary adjustment plan or the TRA waives the requirement for the application to be accompanied by such a plan.
- (2) The market share requirement is met if—
- (a) in the case of an application under sub-paragraph (1)(a)(i), the TRA is satisfied that the applicant UK producers have a share of the market for like goods and directly competitive goods for consumption in the United Kingdom (whether produced there or elsewhere) which is sufficient to justify initiating the investigation;
  - (b) in the case of an application under sub-paragraph (1)(a)(ii), the TRA is satisfied that UK producers of the goods have a share of the market for like goods and directly competitive goods for consumption in the United Kingdom (whether produced there or elsewhere) which is sufficient to justify initiating the investigation.
- (3) A preliminary adjustment plan is—
- (a) in the case of an application under sub-paragraph (1)(a)(i), a plan setting out how the applicant UK producers think they might be able to adjust to the importation of the goods in increased quantities;
  - (b) in the case of an application under sub-paragraph (1)(a)(ii), a plan setting out how UK producers of the goods might be able to adjust to the importation of the goods in increased quantities.
- (4) Regulations may make provision about—
- (a) what constitutes or does not constitute an application made by or on behalf of UK producers for the purposes of sub-paragraph (1)(a)(i);
  - (b) when an application is made for the purposes of sub-paragraph (1)(a);
  - (c) the information to be contained in such an application;
  - (d) the time limit for determining such an application;
  - (e) the form and content of a preliminary adjustment plan;

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- (f) what constitutes or does not constitute “the market for like goods and directly competitive goods for consumption in the United Kingdom” and UK producers’ “share” of that market for the purposes of sub-paragraphs (1)(c) and (2);
  - (g) how any of those matters are to be determined for the purposes of sub-paragraphs (1)(c) and (2).
- (5) If any of the requirements of sub-paragraph (1)(a) to (d) in respect of a safeguarding investigation are not met, the TRA must reject the application and notify the applicant accordingly (unless it is the requirement in sub-paragraph (1)(a) that is not met because the application has been withdrawn).
- (6) If the requirements of sub-paragraph (1)(a) to (d) in respect of a safeguarding investigation are met, the TRA must—
- (a) accept the application and initiate the investigation,
  - (b) publish notice of its decision to initiate the investigation (including notice of the goods which are the subject of the investigation), and
  - (c) notify the Secretary of State and interested parties (see paragraph 31(3)) accordingly.
- (7) Notices under sub-paragraph (6)(b) and (c) must specify the date of the initiation of the investigation.

#### *Conduct of a safeguarding investigation*

- 8 (1) Regulations may make provision about the conduct of a safeguarding investigation.
- (2) Paragraph 10(2) of Schedule 4 applies to regulations under sub-paragraph (1) in relation to a safeguarding investigation as it applies to regulations under paragraph 10(1) of that Schedule in relation to a dumping or a subsidisation investigation.

#### *Provisional affirmative determinations and final affirmative or negative determinations*

- 9 (1) In the case of a safeguarding investigation, an “affirmative determination” in relation to goods means a determination that—
- (a) the goods have been or are being imported into the United Kingdom in increased quantities, and
  - (b) the importation of the goods in increased quantities has caused or is causing serious injury to UK producers of those goods.
- (2) At any stage during a safeguarding investigation, the TRA may make an affirmative determination, based on the evidence then before it, in relation to goods which are the subject of the investigation (referred to in this Schedule as “a provisional affirmative determination”).
- (3) But the TRA may only make such a determination if it is satisfied that interested parties (see paragraph 31(3)) have been given an adequate opportunity to provide information to it regarding the investigation.
- (4) The TRA must make a final determination in relation to each of the goods which are the subject of a safeguarding investigation.
- (5) A final determination under sub-paragraph (4) in relation to goods is—

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- (a) an affirmative determination (referred to in this Schedule as a “final affirmative determination”), or
  - (b) if the TRA determines that it cannot make an affirmative determination in relation to the goods, a negative determination (referred to in this Schedule as a “final negative determination”).
- (6) The TRA may make different final determinations in relation to different goods which are the subject of the investigation.
- (7) The TRA must—
- (a) publish notice of its final negative determination or final negative determinations under sub-paragraph (4), and
  - (b) notify the Secretary of State and interested parties accordingly.

*Termination of a safeguarding investigation*

- 10 A safeguarding investigation in relation to goods terminates (if it has not already terminated by virtue of provision made under paragraph 8(1))—
- (a) in a case where the TRA makes a final negative determination in relation to the goods, when notice of that determination is published under paragraph 9(7)(a),
  - (b) in a case where the TRA makes a final affirmative determination in relation to the goods and determines that there is not a recommendation which it could make under paragraph 16(3) in relation to them, when notice of that determination is published under paragraph 16(11)(b),
  - (c) in a case where the TRA makes a final affirmative determination in relation to the goods and makes a recommendation under paragraph 16(3) in relation to them which the Secretary of State rejects, when the notice of rejection is published under paragraph 19(3)(a) or 20(3)(a), or
  - (d) in a case where the TRA makes a final affirmative determination in relation to the goods and makes a recommendation under paragraph 16(3) in relation to them which the Secretary of State accepts, at the end of the day of publication of the public notice under section 13 giving effect to the recommendation.

### PART 3

#### PROVISIONAL REMEDIES: PROVISIONAL SAFEGUARDING AMOUNT & PROVISIONAL TARIFF RATE QUOTAS

*TRA's duty to recommend a provisional safeguarding amount or provisional tariff rate quota*

- 11 (1) This paragraph applies where the TRA makes a provisional affirmative determination in relation to goods which are the subject of a safeguarding investigation.
- (2) Goods in relation to which that determination is made are referred to in this paragraph as relevant goods.
- (3) The TRA may recommend to the Secretary of State—
- (a) that an additional amount of import duty (referred to in this Schedule as a “provisional safeguarding amount”) should be applicable for a specified period to all the relevant goods or to specified relevant goods;

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- (b) that all the relevant goods, or specified relevant goods, should be subject to a quota for a specified period during which a lower rate of import duty should be applicable to imports of goods within the amount of the quota than is applicable to imports of goods outside the amount of the quota (referred to in this Schedule as a “provisional tariff rate quota”).
- (4) Where the TRA makes a recommendation under sub-paragraph (3)(a) in relation to relevant goods it must, as part of the recommendation, recommend to the Secretary of State how a provisional safeguarding amount applicable to those goods should be determined.
- (5) The TRA may make a recommendation under sub-paragraph (3) only if it is satisfied that applying a provisional safeguarding amount to relevant goods, or making relevant goods subject to a provisional tariff rate quota, in accordance with its recommendation—
  - (a) is necessary to prevent serious injury which it would be difficult to repair from being caused during the investigation to UK producers of the goods, and
  - (b) meets the economic interest test (see paragraph 23).
- (6) The TRA may only make a recommendation under one or other of paragraphs (a) and (b) of sub-paragraph (3) in relation to any particular relevant good.
- (7) The TRA may make a recommendation under paragraph (a) or (b) of sub-paragraph (3) in relation to specified relevant goods (rather than all the relevant goods) only if the recommendations which it makes under that sub-paragraph, when taken together, cover all the relevant goods.
- (8) If the TRA determines that there are one or more recommendations which it could make under sub-paragraph (3) in relation to all the relevant goods, or that there are one or more recommendations which it could make under sub-paragraph (3) in relation to specified relevant goods, it must make that recommendation or one of those recommendations (subject to sub-paragraphs (6) and (7)).
- (9) If the TRA determines that there is no recommendation which it could make under sub-paragraph (3), it must—
  - (a) publish notice of its provisional affirmative determination in relation to the goods,
  - (b) publish notice of its determination that there is no recommendation which it could make under sub-paragraph (3), and
  - (c) notify the Secretary of State and interested parties (see paragraph 31(3)) accordingly.

*TRA's recommendations about a provisional safeguarding amount*

- 12 (1) This paragraph applies to a recommendation by the TRA under paragraph 11(3)(a) in relation to goods.
- (2) The specified period referred to in paragraph 11(3)(a)—
  - (a) must not exceed 200 days, and
  - (b) if the recommendation is accepted by the Secretary of State, must begin on the day after the date of publication of the public notice under section 13 giving effect to the recommendation.

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- (3) A recommendation under paragraph 11(3)(a) as to how a provisional safeguarding amount applicable to goods should be determined (see paragraph 11(4)) may be by reference to either or both of the following—
  - (a) the value of the goods, and
  - (b) the weight or volume of the goods or any other measure of their quantity or size.
- (4) But that recommendation must be such that a provisional safeguarding amount applicable to goods does not exceed the amount which the TRA is satisfied is necessary to prevent serious injury which it would be difficult to repair from being caused during the investigation to UK producers of the goods.
- (5) Regulations may make provision for the purposes of sub-paragraph (4) about how the amount which the TRA is satisfied is necessary to prevent the serious injury described in that provision is to be determined.
- (6) A recommendation under paragraph 11(3)(a) must include such other content as regulations may require.

*TRA's recommendations regarding provisional tariff rate quotas*

- 13 (1) This paragraph applies to a recommendation by the TRA under paragraph 11(3)(b) in relation to goods.
- (2) The specified period referred to in paragraph 11(3)(b)—
  - (a) must not exceed 200 days, and
  - (b) if the recommendation is accepted by the Secretary of State, must begin on the day after the date of publication of the public notice under section 13 giving effect to the recommendation.
- (3) The recommendation must (in addition to the specified period) include—
  - (a) the TRA's recommendation regarding—
    - (i) the amount of the quota,
    - (ii) how the quota should be allocated, and
    - (iii) the rates of import duty that should be applied to goods subject to the quota, and
  - (b) such other content as regulations may require.
- (4) The TRA must consult the Secretary of State before making a recommendation regarding the allocation of the quota.
- (5) The things recommended by the TRA by virtue of sub-paragraph (3)(a) must be such as the TRA is satisfied are necessary to prevent serious injury which it would be difficult to repair from being caused during the investigation to UK producers of the goods.
- (6) Regulations may make provision for the purposes of sub-paragraph (5) about how the things which the TRA is satisfied are necessary to prevent the serious injury described in that provision are to be determined.

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*Secretary of State's power to apply a provisional safeguarding amount*

- 14 (1) If the TRA makes a recommendation under paragraph 11(3)(a), the Secretary of State must decide whether to accept or reject the recommendation.
- (2) The Secretary of State may reject the recommendation only if the Secretary of State is satisfied that—
- (a) the application of a provisional safeguarding amount to goods in accordance with the recommendation does not meet the economic interest test (see paragraph 23), or
  - (b) it is not otherwise in the public interest to accept the recommendation.
- (3) If the recommendation is rejected, the Secretary of State must—
- (a) publish notice of the TRA's provisional affirmative determination in relation to the goods, of the recommendation and of the rejection of it,
  - (b) notify interested parties (see paragraph 31(3)) accordingly, and
  - (c) lay a statement before the House of Commons setting out the reasons for rejecting the recommendation.
- (4) If the recommendation is accepted, the Secretary of State—
- (a) must publish notice of the TRA's provisional affirmative determination in relation to the goods, of the recommendation and of the acceptance of it,
  - (b) must notify interested parties accordingly, and
  - (c) is required under section 13 to make provision by public notice to give effect to the recommendation.
- (5) The period for which a provisional safeguarding amount applies to goods ceases (if it has not already expired) when the safeguarding investigation in relation to the goods terminates.

*Secretary of State's power to subject goods to a provisional tariff rate quota*

- 15 (1) If the TRA makes a recommendation under paragraph 11(3)(b), the Secretary of State must decide whether to accept or reject the recommendation.
- (2) The Secretary of State may reject the recommendation only if the Secretary of State is satisfied that—
- (a) making goods subject to a provisional tariff rate quota in accordance with the recommendation does not meet the economic interest test (see paragraph 23), or
  - (b) it is not otherwise in the public interest to accept the recommendation.
- (3) If the recommendation is rejected, the Secretary of State must—
- (a) publish notice of the TRA's provisional affirmative determination in relation to the goods, of the recommendation and of the rejection of it,
  - (b) notify interested parties (see paragraph 31(3)) accordingly, and
  - (c) lay a statement before the House of Commons setting out the reasons for rejecting the recommendation.
- (4) If the recommendation is accepted, the Secretary of State—
- (a) must publish notice of the TRA's provisional affirmative determination in relation to the goods, of the recommendation and of the acceptance of it,
  - (b) must notify interested parties accordingly, and

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- (c) is required under section 13 to make provision by public notice to give effect to the recommendation.
- (5) The period for which goods are subject to a provisional tariff rate quota ceases (if it has not already expired) when the safeguarding investigation in relation to the goods terminates.

#### PART 4

##### DEFINITIVE REMEDIES: DEFINITIVE SAFEGUARDING AMOUNT & TARIFF RATE QUOTAS

###### *TRA's duty to recommend a definitive safeguarding amount or tariff rate quota*

- 16 (1) This paragraph applies where the TRA makes a final affirmative determination in relation to goods which are the subject of a safeguarding investigation.
- (2) Goods in relation to which that determination is made are referred to in this paragraph as relevant goods.
- (3) The TRA may recommend to the Secretary of State—
- (a) that an additional amount of import duty (referred to in this Schedule as a “definitive safeguarding amount”) should be applicable for a specified period to all the relevant goods or to specified relevant goods;
  - (b) that all the relevant goods, or specified relevant goods, should be subject to a quota for a specified period during which a lower rate of import duty should be applicable to imports of goods within the amount of the quota than is applicable to imports of goods outside the amount of the quota (referred to in this Schedule as a “tariff rate quota”).
- (4) Where the TRA makes a recommendation under sub-paragraph (3)(a) in relation to relevant goods it must, as part of the recommendation, recommend to the Secretary of State how a definitive safeguarding amount applicable to those goods should be determined.
- (5) The TRA may make a recommendation under sub-paragraph (3) only if it is satisfied that—
- (a) applying a definitive safeguarding amount to relevant goods, or making relevant goods subject to a tariff rate quota, in accordance with its recommendation meets the economic interest test (see paragraph 23), and
  - (b) there is in place an adjustment plan setting out how UK producers of the relevant goods intend to adjust to the importation of the goods in increased quantities.
- (6) But sub-paragraph (5) is to be read as if paragraph (b) were omitted if the TRA waived the requirement for the application to initiate a safeguarding investigation in relation to the relevant goods to be accompanied by a preliminary adjustment plan.
- (7) Regulations may make provision about the form and content of an adjustment plan.
- (8) The TRA may only make a recommendation under one or other of paragraphs (a) and (b) of sub-paragraph (3) in relation to any particular relevant good.
- (9) The TRA may make a recommendation under paragraph (a) or (b) of sub-paragraph (3) in relation to specified relevant goods (rather than all the relevant



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goods) only if the recommendations which it makes under that sub-paragraph, when taken together, cover all the relevant goods.

- (10) If the TRA determines that there are one or more recommendations which it could make under sub-paragraph (3) in relation to all the relevant goods, or that there are one or more recommendations which it could make under sub-paragraph (3) in relation to specified relevant goods, it must make that recommendation or one of those recommendations (subject to sub-paragraphs (8) and (9)).
- (11) If the TRA determines that there is no recommendation which it could make under sub-paragraph (3) it must—
- (a) publish notice of its final affirmative determination in relation to the goods,
  - (b) publish notice of its determination that there is no recommendation which it could make under sub-paragraph (3), and
  - (c) notify the Secretary of State and interested parties (see paragraph 31(3)) accordingly.

*TRA's recommendations about a definitive safeguarding amount*

- 17 (1) This paragraph applies to a recommendation by the TRA under paragraph 16(3)(a) in relation to goods.
- (2) The specified period referred to in paragraph 16(3)(a)—
- (a) must be such period as the TRA is satisfied is necessary—
    - (i) to remove the serious injury, or to prevent further serious injury, caused by the importation of the goods in increased quantities to UK producers of the goods, and
    - (ii) to facilitate the adjustment of those UK producers to the importation of the goods in increased quantities,
  - (b) must not exceed 4 years (but see paragraph 21 regarding the possibility of extensions or other variations to that period following a review), and
  - (c) if the recommendation is accepted by the Secretary of State, must begin on the day after the date of publication of the public notice under section 13 giving effect to the recommendation.
- (3) A recommendation under paragraph 16(3)(a) as to how a definitive safeguarding amount applicable to goods should be determined (see paragraph 16(4)) may be by reference to either or both of the following—
- (a) the value of the goods, and
  - (b) the weight or volume of the goods or any other measure of their quantity or size.
- (4) But that recommendation must be such that—
- (a) a definitive safeguarding amount applicable to goods does not exceed the amount which the TRA is satisfied is necessary—
    - (i) to remove serious injury to UK producers of the goods, and
    - (ii) to facilitate the adjustment of those UK producers to the importation of the goods in increased quantities, and
  - (b) where the specified period referred to in paragraph 16(3)(a) exceeds 1 year, a definitive safeguarding amount applicable to goods becomes progressively smaller as the period progresses.

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- (5) Regulations may make provision for the purposes of sub-paragraph (4)(a) about how the amount which the TRA is satisfied is necessary for the purposes mentioned is to be determined.
- (6) A recommendation under paragraph 16(3)(a) must include such other content as regulations may require.
- (7) If a provisional safeguarding remedy has been applied to some or all of the goods as part of the same safeguarding investigation, sub-paragraph (8) applies for the purposes of sub-paragraphs (2)(b) and (4)(b).
- (8) The length of the specified period referred to in paragraph 16(3)(a), so far as relating to goods to which a provisional safeguarding remedy has been applied, is to be treated as extended by the length of the specified period for which the TRA recommended that a provisional safeguarding remedy should be applied to them.
- (9) Where the application of sub-paragraph (8) results in the length of the specified period referred to in paragraph 16(3)(a), so far as relating to goods to which a provisional safeguarding remedy has been applied, exceeding 1 year, sub-paragraph (4)(b) is to be read as if references to goods were references to the goods to which the provisional safeguarding remedy has been applied.
- (10) In this paragraph, references to the application of a provisional safeguarding remedy are to—
  - (a) applying a provisional safeguarding amount to goods, or
  - (b) making goods subject to a provisional tariff rate quota.

*TRA's recommendations regarding tariff rate quotas*

- 18 (1) This paragraph applies to a recommendation by the TRA under paragraph 16(3)(b) in relation to goods.
- (2) The specified period referred to in paragraph 16(3)(b)—
    - (a) must be such period as the TRA is satisfied is necessary—
      - (i) to remove the serious injury, or to prevent further serious injury, caused by the importation of the goods in increased quantities to UK producers of the goods, and
      - (ii) to facilitate the adjustment of those UK producers to the importation of the goods in increased quantities,
    - (b) must not exceed 4 years (but see paragraph 21 regarding the possibility of extensions or other variations to that period following a review), and
    - (c) if the recommendation is accepted by the Secretary of State, must begin on the day after the date of publication of the public notice under section 13 giving effect to the recommendation.
  - (3) The recommendation must (in addition to the specified period) include—
    - (a) the TRA's recommendation regarding—
      - (i) the amount of the quota,
      - (ii) how the quota should be allocated, and
      - (iii) the rates of import duty that should be applied to goods subject to the quota, and
    - (b) such other content as regulations may require.

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- (4) The TRA must consult the Secretary of State before making a recommendation regarding the allocation of the quota.
- (5) The things recommended by the TRA by virtue of sub-paragraph (3)(a)—
  - (a) must be such as the TRA is satisfied are necessary—
    - (i) to remove serious injury to UK producers of the goods, and
    - (ii) to facilitate the adjustment of those UK producers to the importation of the goods in increased quantities, and
  - (b) where the specified period referred to in paragraph 16(3)(b) exceeds 1 year, must be such that the amount of import duty applicable to goods subject to the quota becomes progressively smaller as the period progresses (whether by increases in the amount of the quota, decreases in the rates of import duty, or both).
- (6) Regulations may make provision for the purposes of sub-paragraph (5)(a) about how the things which the TRA is satisfied are necessary for the purposes mentioned are to be determined.
- (7) If a provisional safeguarding remedy has been applied to some or all of the goods as part of the same safeguarding investigation, sub-paragraph (8) applies for the purposes of sub-paragraphs (2)(b) and (5)(b).
- (8) The length of the specified period referred to in paragraph 16(3)(b), so far as relating to goods to which a provisional safeguarding remedy has been applied, is to be treated as extended by the length of the specified period for which the TRA recommended that a provisional safeguarding remedy should be applied to them.
- (9) Where the application of sub-paragraph (8) results in the length of the specified period referred to in paragraph 16(3)(b), so far as relating to goods to which a provisional safeguarding remedy has been applied, exceeding 1 year, sub-paragraph (5)(b) is to be read as if references to goods were references to the goods to which the provisional safeguarding remedy has been applied.
- (10) In this paragraph, references to the application of a provisional safeguarding remedy are to—
  - (a) applying a provisional safeguarding amount to goods, or
  - (b) making goods subject to a provisional tariff rate quota.

*Secretary of State's power to apply a definitive safeguarding amount*

- 19 (1) If the TRA makes a recommendation under paragraph 16(3)(a) that a definitive safeguarding amount should be applicable to goods, the Secretary of State must decide whether to accept or reject the recommendation.
- (2) The Secretary of State may reject the recommendation only if the Secretary of State is satisfied that—
  - (a) the application of a definitive safeguarding amount to goods in accordance with the recommendation does not meet the economic interest test (see paragraph 23), or
  - (b) it is not otherwise in the public interest to accept the recommendation.
- (3) If the recommendation is rejected, the Secretary of State must—

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- (a) publish notice of the TRA’s final affirmative determination in relation to the goods, of the recommendation and of the rejection of it,
  - (b) notify interested parties (see paragraph 31(3)) accordingly, and
  - (c) lay a statement before the House of Commons setting out the reasons for rejecting the recommendation.
- (4) If the recommendation is accepted, the Secretary of State—
- (a) must publish notice of the TRA’s final affirmative determination in relation to the goods, of the recommendation and of the acceptance of it,
  - (b) must notify interested parties accordingly, and
  - (c) is required under section 13 to make provision by public notice to give effect to the recommendation.
- (5) See paragraphs 21 and 22 for variation or revocation of the application of a definitive safeguarding amount.

*Secretary of State’s power to subject goods to a tariff rate quota*

- 20 (1) If the TRA makes a recommendation under paragraph 16(3)(b) that goods should be subject to a tariff rate quota, the Secretary of State must decide whether to accept or reject the recommendation.
- (2) The Secretary of State may reject the recommendation only if the Secretary of State is satisfied that—
- (a) making goods subject to a tariff rate quota in accordance with the recommendation does not meet the economic interest test (see paragraph 23), or
  - (b) it is not otherwise in the public interest to accept the recommendation.
- (3) If the recommendation is rejected, the Secretary of State must—
- (a) publish notice of the TRA’s final affirmative determination in relation to the goods, of the recommendation and of the rejection of it,
  - (b) notify interested parties (see paragraph 31(3)) accordingly, and
  - (c) lay a statement before the House of Commons setting out the reasons for rejecting the recommendation.
- (4) If the recommendation is accepted, the Secretary of State—
- (a) must publish notice of the TRA’s final affirmative determination in relation to the goods, of the recommendation and of the acceptance of it,
  - (b) must notify interested parties accordingly, and
  - (c) is required under section 13 to make provision by public notice to give effect to the recommendation.
- (5) See paragraphs 21 and 22 for variation or revocation of a tariff rate quota.

*Reviews*

- 21 (1) Regulations may make provision for, or in connection with, reviews by the TRA of the continuing application of a definitive safeguarding amount or the continuation of a tariff rate quota.
- (2) References in this paragraph to “a review” are to a review by virtue of provision made under sub-paragraph (1).

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- (3) Regulations under sub-paragraph (1) may, among other things, provide for a review to consider—
- (a) whether the continuing application of a definitive safeguarding amount, or the continuation of a tariff rate quota, is necessary—
    - (i) to remove the serious injury, or to prevent further serious injury, caused by the importation of the goods in increased quantities to UK producers of the goods, or
    - (ii) to facilitate the adjustment of those UK producers to the importation of the goods in increased quantities;
  - (b) whether serious injury to UK producers of the goods would be likely to continue or recur if the application of a definitive safeguarding amount were to expire or be varied or revoked or if a tariff rate quota were to expire or be varied or revoked;
  - (c) whether replacing the application of a definitive safeguarding amount with a tariff rate quota, or replacing a tariff rate quota with the application of a definitive safeguarding amount, would better meet the aim of—
    - (i) removing serious injury to UK producers of the goods, or
    - (ii) facilitating the adjustment of those UK producers to the importation of the goods in increased quantities;
  - (d) whether an adjustment plan as referred to in paragraph 16(5)(b) is being complied with.
- (4) Regulations under sub-paragraph (1) may, among other things, make—
- (a) provision for the TRA to investigate certain matters;
  - (b) provision for the period for which a definitive safeguarding amount applies to goods by public notice under section 13, or for which goods are subject to a tariff rate quota by public notice under that section, to be treated as continuing (where it would otherwise cease to do so) while a review is ongoing;
  - (c) other provision about the conduct of a review.
- (5) Paragraph 10(2) of Schedule 4 applies to regulations made by virtue of sub-paragraph (4)(c) in relation to a review as it applies to regulations under paragraph 10(1) of that Schedule in relation to a dumping or a subsidisation investigation.
- (6) Regulations may make provision for or in connection with—
- (a) the TRA recommending to the Secretary of State that—
    - (i) the application of a definitive safeguarding amount to goods should be varied, revoked or replaced with a tariff rate quota, or
    - (ii) a tariff rate quota to which goods are subject should be varied, revoked or replaced with the application of a definitive safeguarding amount, and
  - (b) the Secretary of State accepting or rejecting such a recommendation.
- (7) Where, by virtue of provision made under sub-paragraph (6), the Secretary of State accepts a recommendation that the application of a definitive safeguarding amount to goods, or a tariff rate quota to which goods are subject, should be varied or revoked, the Secretary of State—
- (a) must publish notice of the recommendation and of the acceptance of it,
  - (b) must notify interested parties (see paragraph 31(3)) accordingly, and

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- (c) is required under section 13 to make provision by public notice to give effect to the recommendation.
- (8) The variation of the application of a definitive safeguarding amount to goods which the TRA may recommend to the Secretary of State by virtue of regulations under sub-paragraph (6) may take the form of one or both of the following—
- (a) varying the period for which a definitive safeguarding amount is applicable (including extending it beyond the period referred to in paragraph 17(2)(b));
  - (b) varying how a definitive safeguarding amount should be determined such that a lower amount of import duty is applicable.
- (9) The variation of a tariff rate quota which the TRA may recommend to the Secretary of State by virtue of regulations under sub-paragraph (6) may take the form of one or more of the following—
- (a) increasing the amount of the quota;
  - (b) varying the allocation of the quota;
  - (c) reducing the rates of import duty that apply to goods subject to the quota;
  - (d) reducing the part of the period for which the amount of the quota is lower or for which import duty at a higher rate applies (so that the amount of the quota is increased, or import duty applies at a lower rate, more quickly);
  - (e) varying the period for which goods are subject to the quota (including extending it beyond the period referred to in paragraph 18(2)(b)).
- (10) Where, by virtue of provision made under sub-paragraph (6), the Secretary of State accepts a recommendation that, for the first time, a definitive safeguarding amount should be applicable to goods or goods should be subject to a tariff rate quota, the Secretary of State—
- (a) must publish notice of the recommendation and of the acceptance of it,
  - (b) must notify interested parties accordingly, and
  - (c) is required under section 13 to make provision by public notice to give effect to the recommendation.

*Variation or revocation following an international dispute decision*

- 22 (1) Regulations may make provision for or in connection with—
- (a) the TRA recommending to the Secretary of State that the application of a definitive safeguarding amount to goods, or a tariff rate quota to which goods are subject, should be varied or revoked in light of an international dispute decision, and
  - (b) the Secretary of State accepting or rejecting such a recommendation.
- (2) The regulations may, among other things—
- (a) provide for the TRA to investigate certain matters for the purposes of determining whether to make a recommendation to the Secretary of State and what to recommend;
  - (b) make provision about the conduct of such an investigation;
  - (c) provide for the suspension, by public notice given by the Secretary of State, of the application of a definitive safeguarding amount or the making of goods subject to a tariff rate quota.
- (3) Paragraph 10(2) of Schedule 4 applies to regulations made by virtue of sub-paragraph (2)(b) in relation to such an investigation as it applies to regulations

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under paragraph 10(1) of that Schedule in relation to a dumping or a subsidisation investigation.

- (4) Where, by virtue of provision made under the regulations, the Secretary of State accepts a recommendation that the application of a definitive safeguarding amount to goods, or a tariff rate quota to which goods are subject, should be varied or revoked, the Secretary of State—
- (a) must publish notice of the recommendation and of the acceptance of it,
  - (b) must notify interested parties (see paragraph 31(3)) accordingly, and
  - (c) is required under section 13 to make provision by public notice to give effect to the recommendation.
- (5) Paragraph 21(8) and (9) apply for the purposes of regulations under this paragraph as they apply for the purposes of regulations under paragraph 21(6).
- (6) An “international dispute decision” means—
- (a) a report of a panel or Appellate Body that is adopted by the Dispute Settlement Body of the WTO, or
  - (b) if not within paragraph (a), a decision under the dispute settlement procedures of an arrangement relating to trade to which Her Majesty’s government in the United Kingdom is a party with the government of a foreign country or territory.

## PART 5

### SUPPLEMENTARY

#### *The economic interest test*

- 23 (1) This paragraph applies if the TRA or the Secretary of State is considering, for the purposes of this Schedule, whether the TRA or the Secretary of State is satisfied that the application of a safeguarding remedy meets or does not meet the economic interest test.
- (2) The economic interest test is met in relation to the application of a safeguarding remedy if the application of the remedy is in the economic interest of the United Kingdom.
- (3) When considering whether or not the application of a safeguarding remedy is in the economic interest of the United Kingdom, the TRA or the Secretary of State must—
- (a) take account of the following so far as relevant—
    - (i) the serious injury caused by the importation of the goods in increased quantities to UK producers of those goods and the benefits to those UK producers in removing that injury,
    - (ii) the economic significance of affected industries and consumers in the United Kingdom,
    - (iii) the likely impact on affected industries and consumers in the United Kingdom,
    - (iv) the likely impact on particular geographic areas, or particular groups, in the United Kingdom, and
    - (v) the likely consequences for the competitive environment, and for the structure of markets for goods, in the United Kingdom, and

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- (b) take account of such other matters as the TRA or, as the case may be, the Secretary of State considers relevant.
- (4) In this paragraph—
- (a) references to the application of a safeguarding remedy are to—
    - (i) applying a provisional safeguarding amount or a definitive safeguarding amount to goods, or
    - (ii) making goods subject to a provisional tariff rate quota or a tariff rate quota;
  - (b) “affected industries and consumers” means industries and consumers that would be affected if the safeguarding remedy were, or were not, to be applied;
  - (c) “industries” includes—
    - (i) the UK producers referred to in sub-paragraph (3)(a)(i) and other producers of goods,
    - (ii) suppliers of goods or services, and
    - (iii) importers, distributors and retailers of goods;
  - (d) “consumers” includes users of goods or services.

*Suspension of safeguarding remedies*

- 24 (1) Regulations may make provision for or in connection with—
- (a) the TRA recommending to the Secretary of State that the application of a safeguarding remedy should be suspended, and
  - (b) the Secretary of State accepting or rejecting such a recommendation.
- (2) The regulations must secure that the TRA may make such a recommendation to the Secretary of State only if the TRA is satisfied that market conditions have temporarily changed such that the serious injury caused to UK producers of the goods would be unlikely to recur as a result of the suspension.
- (3) Regulations may make provision for the purposes of sub-paragraph (2) about what constitutes or does not constitute “market conditions” or a temporary change in such conditions.
- (4) Regulations under sub-paragraph (1) may, among other things, make—
- (a) provision for the TRA to investigate certain matters;
  - (b) provision about the conduct of such an investigation;
  - (c) provision about the period for which a suspension may have effect;
  - (d) provision about whether that period counts towards the period for which the suspended remedy applies.
- (5) Paragraph 10(2) of Schedule 4 applies to regulations made by virtue of sub-paragraph (4)(b) in relation to an investigation as it applies to regulations under paragraph 10(1) of that Schedule in relation to a dumping or a subsidisation investigation.
- (6) Where, by virtue of provision made under sub-paragraph (1), the Secretary of State accepts a recommendation that the application of a safeguarding remedy should be suspended, the Secretary of State—
- (a) must publish notice of the recommendation and of the acceptance of it,
  - (b) must notify interested parties (see paragraph 31(3)) accordingly, and



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- (c) is required under section 13 to make provision by public notice to give effect to the recommendation.
- (7) References in this paragraph to the application of a safeguarding remedy have the same meaning as in paragraph 23.

#### *Exceptions*

- 25 (1) For the purpose of giving effect to arrangements between Her Majesty’s government in the United Kingdom and the government of a foreign country or territory, regulations may make provision excepting goods originating from a specified foreign country or territory from the application of this Schedule, or from specified provision made by or under it.
- (2) Regulations may make provision requiring goods originating from a specified foreign country or territory or description of foreign country or territory to be excepted from the goods in relation to which the TRA may make a recommendation under provision made by or under this Schedule.

#### *Restrictions on successive safeguarding remedies*

- 26 (1) This paragraph applies if—
- (a) the TRA makes a recommendation under paragraph 16(3) that a definitive safeguarding amount should be applicable to goods or that goods should be subject to a tariff rate quota, and
  - (b) a definitive safeguarding amount has previously been applied to those goods, or they have previously been subject to a tariff rate quota, as a result of an earlier recommendation made by the TRA under that paragraph.
- (2) In this paragraph, references to the “previous safeguarding remedy”, in relation to goods, are to—
- (a) the most recent application of a definitive safeguarding amount to the goods, or
  - (b) the tariff rate quota to which the goods were most recently subject.
- (3) The Secretary of State may not accept the recommendation if the period for which a definitive safeguarding amount would be applicable to the goods, or for which the goods would be subject to a tariff rate quota, would (by virtue of paragraph 17(2)(c) or 18(2)(c)) begin before the end of the restricted period.
- (4) The restricted period means—
- (a) such period, beginning with the day after the date on which the period of the previous safeguarding remedy ended, as is equal to the period of that previous safeguarding remedy, or
  - (b) if it would result in a period of a greater length than the period referred to in paragraph (a), the period of two years beginning with the day after the date on which the period of the previous safeguarding remedy ended.
- (5) Sub-paragraph (3) does not prevent the Secretary of State from accepting the recommendation if—
- (a) the specified period referred to in paragraph 16(3)(a) or, as the case may be, paragraph 16(3)(b) (“the recommended period”) does not exceed 180 days,

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- (b) the date on which the period of the previous safeguarding remedy began is at least 1 year before the date on which the recommended period would (by virtue of paragraph 17(2)(c) or 18(2)(c)) begin, and
- (c) no more than 2 notices have been published under paragraph 19(4)(a) or 20(4)(a) in relation to the goods in the period of 5 years ending with the day before the date on which the recommended period would begin.

*Interaction with anti-dumping remedies and anti-subsidy remedies*

- 27 In determining for the purposes of any provision of this Schedule, or of regulations made under it, what is necessary to prevent or remove serious injury to UK producers of particular goods, the TRA must take account of—
- (a) any requirement to give a guarantee in respect of the goods which applies under paragraph 15 of Schedule 4,
  - (b) any application of an anti-dumping amount or a countervailing amount to the goods under section 13, and
  - (c) any undertaking which has been accepted in respect of the goods under provision made by or under Part 5 of Schedule 4.

*Investigations regarding repayments*

- 28 (1) Regulations may provide for the TRA to investigate specified matters for the purpose of determining whether—
- (a) a repayment of a provisional safeguarding amount or a definitive safeguarding amount,
  - (b) the repayment of an amount of import duty charged by virtue of provision made under section 13 in respect of goods which are subject to a provisional tariff rate quota or a tariff rate quota, or
  - (c) the repayment of interest paid in respect of any such amounts,
- should be made under regulations made under paragraph 10 of Schedule 6.
- (2) The regulations may make provision about the conduct of any such investigation.
- (3) Paragraph 10(2) of Schedule 4 applies to those regulations in relation to such an investigation as it applies to regulations under paragraph 10(1) of that Schedule in relation to a dumping or a subsidisation investigation.

*Reconsideration, reviews and appeals*

- 29 Regulations may make provision for or in connection with—
- (a) the reconsideration by the TRA of decisions made by the TRA under provision made by or under this Schedule, and
  - (b) the review or appeal of decisions made by the TRA or the Secretary of State under provision made by or under this Schedule.

*Notices*

- 30 (1) Where a notice is required to be published or given by a provision made by or under this Schedule, regulations may make provision about—
- (a) the form of the notice;
  - (b) its content;

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- (c) the manner of publication;
  - (d) the means by which it is given;
  - (e) the time or date on which it is published or given or is to be treated as published or given.
- (2) Such regulations may, among other things, provide—
- (a) for some of the content of the notice to be contained in a separate report to which the notice refers, and
  - (b) for that report to be published or for it to be given, or otherwise made available to, the persons to whom the notice is required to be given.
- (3) The provision made by regulations under this paragraph about the content of a notice is in addition to any such provision made by or under any other provision of this Schedule.
- (4) Sub-paragraph (1)(c) does not apply to a public notice under provision made under paragraph 22(2)(c) (see section 37(5)).

### *Interpretation*

- 31 (1) In this Schedule—
- “definitive safeguarding amount” has the meaning given by paragraph 16(3)(a);
  - “directly competitive goods” has the meaning given by paragraph 5;
  - “final affirmative determination”, in relation to goods, has the meaning given by paragraph 9(5)(a);
  - “final negative determination”, in relation to goods, has the meaning given by paragraph 9(5)(b);
  - “foreign country or territory” means a country or territory outside the United Kingdom;
  - importation in “increased quantities” has the meaning given by paragraph 1;
  - “interested parties” has the meaning given by sub-paragraph (3);
  - “like goods”, in relation to goods, has the meaning given by paragraph 4;
  - “provisional affirmative determination”, in relation to goods, has the meaning given by paragraph 9(2);
  - “provisional safeguarding amount” has the meaning given by paragraph 11(3)(a);
  - “provisional tariff rate quota” has the meaning given by paragraph 11(3)(b);
  - “regulations” means regulations made by the Secretary of State;
  - “safeguarding investigation” has the meaning given by paragraph 6(2);
  - “serious injury” to UK producers of particular goods has the meaning given by paragraph 2;
  - “tariff rate quota” has the meaning given by paragraph 16(3)(b);
  - “UK producers”, of particular goods, has the meaning given by paragraph 3.
- (2) References in this Schedule to the economic interest test are to be construed in accordance with paragraph 23.

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- (3) References in a provision of this Schedule to “interested parties” means the governments of such foreign countries or territories, or such other persons, as may be specified in regulations made under this sub-paragraph for the purposes of the provision in question.

## SCHEDULE 6

Section 20

### IMPORT DUTY: NOTIFICATION OF LIABILITY, PAYMENT ETC

#### *Notification of liability to pay import duty*

- 1 A liability of a person to pay import duty may not be enforced unless the person has been notified of the liability in accordance with the provision made by or under this Schedule.
- 2 (1) If HMRC consider that a person is liable to pay import duty, they must notify the person of that fact specifying—
- (a) the amount of the duty,
  - (b) the circumstances giving rise to the liability, and
  - (c) the date on or before which the duty must be paid.
- (2) The notification may be given in such form and manner as HMRC consider appropriate.
- 3 (1) HMRC Commissioners may by regulations make provision—
- (a) specifying cases where it is to be presumed that a person has been notified under paragraph 2 (including cases where the presumption may not be rebutted),
  - (b) specifying cases in which the duty to notify under paragraph 2 is taken to be met by the doing of some other specified act, or
  - (c) specifying cases in which neither paragraph 1 nor 2 apply.
- (2) Regulations made under sub-paragraph (1)(c)—
- (a) must contain provision for securing that the existence of a liability to pay import duty is acknowledged in some other way (for example, by the provision of documents or information to HMRC in which a person sets out or self-assesses the liability), and
  - (b) may contain any other provision that HMRC Commissioners consider appropriate for the purpose of securing the enforceability of the liability (for example, by requiring a guarantee to be given in respect of any liability to import duty).
- 4 (1) The general rule is that a notification under paragraph 2 of a liability to pay import duty must be given before the end of the period of 3 years beginning with the day on which the liability was incurred.
- (2) If the liability is incurred in circumstances where, in the opinion of an HMRC officer, an offence has been committed (whether or not the offence relates in any way to import duty), the period of 3 years for notifying is extended to a period of 20 years.

### *Payment of import duty*

- 5 (1) HMRC Commissioners must make regulations about the payment of import duty.
- (2) The regulations may (among other things) make provision about—
- (a) the date on or before which a liability to pay import duty must be discharged,
  - (b) cases in which the period for discharging the liability is extended (either generally or in relation to particular cases),
  - (c) how a liability to pay import duty may be discharged, and
  - (d) interest in respect of import duty.
- (3) The provision that may be made within sub-paragraph (2)(d) includes provision—
- (a) for interest to be recoverable as if it were an amount due by way of import duty,
  - (b) determining the period during which interest is to be payable,
  - (c) for exceptions from the requirement to pay interest, and
  - (d) about the rate of interest (which may be by reference to a rate payable by the Bank of England, or by any other person, in respect of any amount).

### *Guarantees*

- 6 (1) HMRC Commissioners must make regulations about the giving of guarantees in respect of any liability to pay import duty.
- (2) The provision that may be made by the regulations includes (among other things) provision about—
- (a) the form of a guarantee,
  - (b) the circumstances in which a guarantee is to be regarded as discharged (in full or in part), and
  - (c) the steps required to be taken by HMRC officers in cases where the guarantee is to be enforced or discharged (to any extent).
- 7 In the case of goods declared for the free-circulation procedure, regulations under paragraph 6 must provide that, if a guarantee as to the payment of a liability to import duty is given in accordance with specified conditions, the liability is deferred until such time as is specified.
- 8 (1) In the case of goods declared for a special Customs procedure, the provision that may be made by regulations under paragraph 6 includes provision requiring—
- (a) a guarantee to be given in respect of a liability to import duty that might be incurred in respect of particular goods declared for a special Customs procedure, or
  - (b) a guarantee (a “comprehensive guarantee”) to be given in respect of a liability to import duty that might be incurred in respect of all goods declared for a special Customs procedure.
- (2) In the case of a comprehensive guarantee, the regulations—
- (a) must provide that the guarantee is to be given only by persons for the time being authorised in accordance with the regulations, and
  - (b) may provide for the guarantee to be given in respect of only a portion of the liability to import duty that might be incurred (as determined in accordance with the regulations).

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- (3) Regulations under paragraph 6 may make provision for a guarantee in respect of any liability to import duty in respect of any goods declared for a special Customs procedure to extend also to any liability to import duty in respect of any goods declared for the free-circulation procedure.
- 9 For the purposes of paragraphs 6 to 8 any reference to a liability to import duty includes a potential liability to import duty.

*Repayment of import duty*

- 10 (1) HMRC Commissioners must make regulations about—
- (a) the repayment of import duty, and
  - (b) the repayment of interest paid in respect of import duty,
- in specified cases if a claim for the purpose is made and other specified conditions are met.
- (2) Among other things, the regulations may—
- (a) make provision about who is entitled to make a claim and the form of a claim (including provision for the form to be specified in a public notice given by HMRC Commissioners),
  - (b) make provision about the date on or before which a claim must be made,
  - (c) make provision as to the evidence which is to be required, or is to be sufficient, for the purpose of showing that any of the specified conditions are met,
  - (d) specify how a repayment may be made,
  - (e) require a repayment to be made only if the goods are presented to an HMRC officer, or a Customs declaration is made, on or before a specified date,
  - (f) specify cases in which simple interest is to be payable in respect of the repayment of import duty (but not in respect of the repayment of interest paid in respect of import duty), and
  - (g) provide for the recovery of amounts wrongly paid to a person under the regulations (including provision for the payment of interest on amounts recovered) but only if, at the time at which the person is notified of the requirement to repay, the original liability to pay import duty could have been enforced.
- (3) The provision that may be made as a result of sub-paragraph (2)(f) or (g) includes provision—
- (a) for interest to be payable in respect of a period beginning with a specified date,
  - (b) for exceptions from the requirement to pay interest, and
  - (c) about the rate of interest (which may be by reference to a rate payable by the Bank of England, or by any other person, in respect of any amount).

*Remission of import duty*

- 11 HMRC Commissioners may make regulations about the remission of import duty.

*Recovery of import duty*

- 12 (1) Any amount due by way of import duty is recoverable as a debt due to the Crown.

- (2) If—
- (a) goods in respect of which a liability to import duty is incurred are condemned as forfeited, and
  - (b) the goods are not subsequently restored under section 152(b) of CEMA 1979 or sold by HMRC Commissioners,
- the amount due by way of import duty ceases to be recoverable as a debt due to the Crown.
- (3) If the goods are sold by HMRC Commissioners, the purchaser is liable to pay the debt due to the Crown (in addition to anyone else who is liable apart from this sub-paragraph).
- (4) This paragraph does not restrict any other way in which import duty may be recovered, whether as a result of CEMA 1979 or any other enactment.

## SCHEDULE 7

Section 29

### IMPORT DUTY: CONSEQUENTIAL AMENDMENTS

#### PART 1

##### REPLACEMENT OF EU CUSTOMS DUTIES

- 1 (1) Any direct EU legislation, so far as imposing or otherwise applying in relation to any EU customs duty, that forms part of the law of the United Kingdom as a result of section 3 of the European Union (Withdrawal) Act 2018 (incorporation of direct EU legislation) ceases to have effect.
- (2) Nothing in—
- (a) any direct EU legislation, or
  - (b) section 4(1) of the European Union (Withdrawal) Act 2018 (saving for EU rights, powers, liabilities, obligations, restrictions, remedies and procedures),
- is to have effect in relation to import duty.
- (3) Part 1 of this Act—
- (a) contains provisions replacing EU customs duties,
  - (b) is not retained EU law, and
  - (c) so far as it contains powers to make or give regulations or public notices, enables provision to be made of a kind corresponding to that which could previously have been made by the legislation ceasing to have effect as a result of sub-paragraph (1).
- (4) In this paragraph—
- (a) any reference to EU customs duty includes any EU trade duty,
  - (b) the reference to EU trade duty is to anti-dumping duty, countervailing duty, safeguard duty and any duty imposed in consequence of an international dispute, and
  - (c) the reference to Part 1 of this Act does not include section 29 or this Schedule.

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- 2 Provision relevant to the law relating to duties of customs and other customs matters is made by the European Union (Withdrawal) Act 2018: see, for example, section 2 of that Act (which, among other things, provides for CEMA 1979 to continue to have effect in the law of the United Kingdom).

## PART 2

### AMENDMENTS OF CEMA 1979

- 3 CEMA 1979 is amended as follows.
- 4 (1) Section 1 (interpretation) is amended as follows.
- (2) In subsection (1)—
- (a) omit the definition of “coasting ship”,
  - (b) omit the definition of “Community transit goods”,
  - (c) after the definition of “customs and excise station” insert—
    - ““customs formalities”, in relation to any goods, means the requirements made by or under this Act, or by or under Part 1 of the Taxation (Cross-border Trade) Act 2018, that apply in relation to the importation or exportation of the goods;
    - “customs warehouse” means premises approved under regulations under Schedule 2 to the Taxation (Cross-border Trade) Act 2018 for the purposes of a storage procedure;”
  - (d) in the definition of “excise warehouse”, omit “(whether or not it is also approved under subsection (2))”,
  - (e) in the definition of “importer”, for “they are delivered out of charge” substitute “all customs formalities have been complied with in respect of the goods”,
  - (f) after the definition of “Queen’s warehouse” insert—
    - ““railway customs area” has the meaning given by section 26(1ZA)(c);”
  - (g) in the definition of “stores”, for “ship or aircraft” substitute “ship, aircraft or railway vehicle”,
  - (h) after the definition of “stores” insert—
    - ““temporary storage facility” has the meaning given by section 25A;”
  - (i) in the definition of “transit goods”, for the words from “except in the expression” to the end substitute “means chargeable goods declared for a transit procedure;”
  - (j) omit the definition of “transit or transshipment”,
  - (k) omit the definition of “transit shed”,
  - (l) for the definition of “vehicle” substitute—
    - ““vehicle” includes—
      - (a) a ship,
      - (b) an aircraft, and
      - (c) a railway vehicle;    - and any reference to goods being in or on board a vehicle include their being conveyed by the vehicle (for example, by being on or otherwise attached to it);”



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- (m) after that definition insert—
  - ““vehicle operator” means—
  - (a) in the case a ship, the master of the ship,
  - (b) in the case of an aircraft, the commander of the aircraft,
  - (c) in the case of a railway vehicle, the person designated as train manager by the person operating the international service on which the railway vehicle is engaged, and
  - (d) in the case of any other vehicle, the person in charge of the vehicle;”
- (n) omit the definition of “victualling warehouse”, and
- (o) in the definition of “warehouse”—
  - (i) omit “or (2) or subsections (1) and (2)”, and
  - (ii) omit “subsection (4) of that section and”.

(3) After subsection (3) insert—

“(3A) Any expression used in this Act or in any instrument made under this Act to which a meaning is given by Part 1 of the Taxation (Cross-border Trade) Act 2018 has, except where the context otherwise requires, the same meaning in this Act or any such instrument as in that Part; and for ease of reference the following is a list of the expressions concerned—

“the applicable export provisions”

“authorised use procedure”

“chargeable goods”

“Customs declaration” (including any expression relating to a Customs declaration such as the documents accompanying it or its acceptance)

“Customs procedure” (including expressions relating to a Customs procedure such as goods being released to or discharged from the procedure)

“inward processing procedure”

“storage procedure”

“territory outside the United Kingdom”

“temporary admission procedure”

“transit procedure”.

(4) Omit subsection (7).

5 (1) Section 2 (application to hovercraft) is amended as follows.

(2) In subsection (1)—

(a) after “ships or vessels” insert “(including references, without more, to vehicles)”, and

(b) for “transit shed” substitute “temporary storage facility”.

(3) In subsection (3), omit ““transshipment””.

6 (1) Section 5 (time of importation, exportation, etc) is amended as follows.

(2) In subsection (2)—

(a) in the opening words, for “subsections (3)” substitute “subsections (2A)”, and

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(b) in paragraph (c), for “are brought across the boundary into Northern Ireland” substitute “enter the United Kingdom”.

(3) After subsection (2) insert—

“(2A) If there is a relevant international arrangement with a country or territory outside the United Kingdom, the Commissioners may by regulations provide for the time of importation of any goods to be a time—

- (a) which is earlier than the times set out in paragraph (a), (b) or (c) of subsection (2), and
- (b) which is specified by reference to movement in or out of an area in the country or territory.

(2B) “Relevant international arrangement” means an arrangement between Her Majesty’s government in the United Kingdom and the government of the country or territory which includes provision in relation to the time at which goods are to be regarded as imported into the United Kingdom.”

(4) Omit subsection (3).

(5) In subsection (4), after “subsections (5)” insert “, (5A)”.

(6) After subsection (5) insert—

“(5A) If there is a relevant international arrangement with a country or territory outside the United Kingdom, the Commissioners may by regulations provide for the time of exportation of any goods to be a time—

- (a) which is earlier than the times set out in paragraph (a) or (b) of subsection (4), and
- (b) which is specified by reference to movement in or out of an area in the country or territory.

(5B) “Relevant international arrangement” means an arrangement between Her Majesty’s government in the United Kingdom and the government of the country or territory which includes provision in relation to the time at which goods are to be regarded as exported from the United Kingdom.”

(7) In subsection (6), for “or brought across the boundary into Northern Ireland” substitute “or otherwise when they enter the United Kingdom”.

7 Omit section 9 (general duties of Commissioners in relation to customs matters concerning the European Union).

8 (1) Section 10 (disclosure by Commissioners of certain information as to imported goods) is amended as follows.

(2) Before subsection (1) insert—

“(A1) This section does not apply to information the disclosure of which is governed by section 25 of the Taxation (Cross-border Trade) Act 2018.”

(3) In subsection (2), for “making entry of any goods on their importation,” substitute “notifying the importation of any goods, making a declaration in respect of the temporary storage of goods, or making a Customs declaration in respect of any goods.”.

9 (1) Section 20 (approval of wharves) is amended as follows.

- (2) In subsection (1), omit “and subject to such conditions and restrictions”.
- (3) After subsection (1) insert—
- “(1A) In any case where they consider it would facilitate the administration, collection or enforcement of any duty of customs, the Commissioners may by regulations—
- (a) specify conditions which must be met before an approval is granted, or
- (b) specify other conditions which they may, in any particular case, require to be met before an approval is granted.
- (1B) In any other case, an approval has effect subject to such conditions and restrictions as the Commissioners think fit.”
- (4) Omit subsection (3).
- 10 (1) Section 20A (approved wharves) is amended as follows.
- (2) Omit subsection (1)(b) (together with the “or” before it).
- (3) After subsection (1) insert—
- “(1A) Any person contravening or failing to comply with any condition imposed under regulations under section 20(1A) attaching to an approval by virtue of which a place is an approved wharf is liable on summary conviction to—
- (a) a penalty not exceeding £20,000, or
- (b) if the contravention or failure to comply is not remedied before such date as is specified in a notice or further notice given to the person by an officer of Revenue and Customs, a penalty not exceeding the sum of £20,000 and the enhanced amount.
- (1B) For the purposes of subsection (1A)(b)—
- (a) “the enhanced amount” means the sum produced by multiplying £20,000 by the number of notices in respect of which the contravention or failure to comply has not been remedied by the date specified in the notice,
- (b) the date specified in a notice must be one that falls after the end of the period of 14 days beginning with the day on which the notice is given, and
- (c) if a notice has already been given, a further notice may not be given on or before the date specified in any earlier notice.”
- (4) In subsection (2), after “approved wharf” insert “(other than a condition imposed under regulations under section 20(1A))”.
- 11 (1) Section 21 (control of movement of aircraft, etc into and out of the United Kingdom) is amended as follows.
- (2) Omit subsection (1A).
- (3) In subsection (2), for the words from “no person” to “so importing” substitute “no person importing or concerned in importing”.
- (4) Omit subsection (4A).

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- 12 (1) Section 22 (approval of examination stations at customs and excise airports) is amended as follows.
- (2) In subsection (1), omit “and subject to such conditions and restrictions”.
- (3) After subsection (1) insert—
- “(1A) In any case where they consider it would facilitate the administration, collection or enforcement of any duty of customs, the Commissioners may by regulations—
- (a) specify conditions which must be met before an approval is granted, or
- (b) specify other conditions which they may, in any particular case, require to be met before an approval is granted.
- (1B) In any other case, an approval has effect subject to such conditions and restrictions as the Commissioners think fit.”
- (4) Omit subsection (3).
- 13 (1) Section 22A (examination stations) is amended as follows.
- (2) Omit subsection (1)(b) (together with the “or” before it).
- (3) After subsection (1) insert—
- “(1A) Any person contravening or failing to comply with any condition imposed under regulations under section 22(1A) attaching to an approval by virtue of which a part of, or a place at, a customs and excise airport is an examination station is liable on summary conviction to—
- (a) a penalty not exceeding £20,000, or
- (b) if the contravention or failure to comply is not remedied before such date as is specified in a notice or further notice given to the person by an officer of Revenue and Customs, a penalty not exceeding the sum of £20,000 and the enhanced amount.
- (1B) For the purposes of subsection (1A)(b)—
- (a) “the enhanced amount” means the sum produced by multiplying £20,000 by the number of notices in respect of which the contravention or failure to comply has not been remedied by the date specified in the notice,
- (b) the date specified in a notice must be one that falls after the end of the period of 14 days beginning with the day on which the notice is given, and
- (c) if a notice has already been given, a further notice may not be given on or before the date specified in any earlier notice.”
- (4) In subsection (2), after “examination station” insert “(other than a condition imposed under regulations under section 22(1A))”.
- 14 In section 23 (control of movement of hovercraft), in subsection (2), for “transit shed” substitute “temporary storage facility”.
- 15 In section 24 (control of movement of goods by pipe-line), in subsection (2)(a), for “have not been cleared out of charge” substitute “are subject to the control of any

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- officer of Revenue and Customs as a result of Part 1 of the Taxation (Cross-border Trade) Act 2018”.
- 16 (1) Section 25 (approval of transit sheds) is amended as follows.
- (2) In subsection (1)—
- (a) omit “and subject to such conditions and restrictions”, and
- (b) for the words from “not yet cleared out of charge” to the end, substitute “subject to the control of any officer of Revenue and Customs as a result of Part 1 of the Taxation (Cross-border Trade) Act 2018.”
- (3) After subsection (1) insert—
- “(1A) In any case where they consider it would facilitate the administration, collection or enforcement of any duty of customs, the Commissioners may by regulations—
- (a) specify conditions which must be met before an approval is granted, or
- (b) specify other conditions which they may, in any particular case, require to be met before an approval is granted.
- (1B) In any other case, an approval has effect subject to such conditions and restrictions as the Commissioners think fit.”
- (4) Omit subsection (3).
- (5) In subsection (4)—
- (a) for “entry” substitute “needing to comply with all customs formalities in relation to the goods”, and
- (b) for “transit sheds”, in each place, substitute “temporary storage facilities”.
- (6) In the heading, for “transit sheds” substitute “temporary storage facilities”.
- 17 (1) Section 25A (transit sheds) is amended as follows.
- (2) In subsection (1)—
- (a) in the opening words, for “transit shed” substitute “temporary storage facility”, and
- (b) omit paragraph (b) (together with the “or” before it).
- (3) After subsection (1) insert—
- “(1A) Any person contravening or failing to comply with any condition imposed under regulations under section 25(1A) attaching to an approval by virtue of which a place is a temporary storage facility is liable on summary conviction to—
- (a) a penalty not exceeding £20,000, or
- (b) if the contravention or failure to comply is not remedied before such date as is specified in a notice or further notice given to the person by an officer of Revenue and Customs, a penalty not exceeding the sum of £20,000 and the enhanced amount.
- (1B) For the purposes of subsection (1A)(b)—
- (a) “the enhanced amount” means the sum produced by multiplying £20,000 by the number of notices in respect of which the

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- contravention or failure to comply has not been remedied by the date specified in the notice,
- (b) the date specified in a notice must be one that falls after the end of the period of 14 days beginning with the day on which the notice is given, and
- (c) if a notice has already been given, a further notice may not be given on or before the date specified in any earlier notice.”
- (4) In subsection (2), for “transit shed” substitute “temporary storage facility (other than a condition imposed under regulations under section 25(1A))”.
- (5) In subsection (3), for “transit shed”, in both places, substitute “temporary storage facility”.
- (6) For the heading substitute “Temporary storage facilities”.
- 18 (1) Section 26 (power to regulate movements of goods into and out of Northern Ireland by land) is amended as follows.
- (2) In subsection (1), omit the words after paragraph (b).
- (3) After subsection (1) insert—
- “(1ZA) The Commissioners may, for the purpose of safeguarding the revenue, by regulations—
- (a) apply any provision made by or under this Act so that it applies in relation to any road or railway vehicle (with or without modifications),
- (b) provide for any provision made by or under this Act not to apply in relation to any road or railway vehicle, and
- (c) make provision for the designation of any area as a railway customs area for the purposes of this Act (referred to in this Act as a “railway customs area”).
- (1ZB) An area may be designated as a railway customs area if it is—
- (a) a place at which goods are loaded onto or unloaded from, or passengers board or disembark from, a railway vehicle before it departs or enters the United Kingdom, or
- (b) an area adjoining such a place.
- (1ZC) Regulations under this section may make different provision in relation to different classes or descriptions of goods and, in particular, in relation to different classes or descriptions of vehicles.”
- (4) In subsection (1A), for “subsection (1) above” substitute “this section”.
- (5) In subsection (2), for “subsection (1) above” substitute “this section”.
- (6) In the heading, for “Northern Ireland” substitute “United Kingdom”.
- 19 (1) Section 27 (officers’ powers of boarding) is amended as follows.
- (2) In subsection (1)—
- (a) in the opening words, for “a vehicle” substitute “any other vehicle”,
- (b) after paragraph (b) insert—
- “(ba) within a railway customs area,”

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- (c) in paragraph (e), for “transit shed,” substitute “temporary storage facility,” and
  - (d) in the words after paragraph (f), for “the ship, aircraft or vehicle” substitute “the vehicle”.
- (3) Omit subsection (1A).
- 20 (1) Section 28 (officers’ powers of access, etc) is amended as follows.
- (2) In subsection (1)—
- (a) in the opening words, for “of any vehicle” substitute “of any other vehicle”, and
  - (b) in paragraphs (a) and (b), for “ship, aircraft or vehicle” substitute “vehicle”.
- (3) In subsection (2), for “ship, aircraft or vehicle” substitute “vehicle”.
- 21 (1) Section 29 (officers’ powers of detention of ships, etc) is amended as follows.
- (2) In subsection (1), for “ship, aircraft or vehicle”, in each place, substitute “vehicle”.
- (3) In subsection (2)(a), after “in the case of a ship or vehicle” insert “other than an aircraft”.
- 22 (1) Section 30 (control of movement of uncleared goods within or between port or airport and other places) is amended as follows.
- (2) In subsection (1), for the words from “moved within” to the end substitute “moved—
- (a) within the limits of any port, railway customs area or customs and excise airport, or
  - (b) between any port, railway customs area or customs and excise airport and any other place.”
- (3) In subsection (2), for “have not been cleared out of charge” substitute “are subject to the control of any officer of Revenue and Customs as a result of Part 1 of the Taxation (Cross-border Trade) Act 2018”.
- (4) In subsection (3)(b), for “ships, aircraft or vehicles” substitute “vehicles”.
- 23 In section 31 (control of movement of goods to and from inland clearance depot, etc), in subsection (1)—
- (a) in paragraphs (a) and (aa)(i), for “the clearance out of charge of” substitute “the discharge of a Customs procedure in respect of”, and
  - (b) in paragraph (b), omit “, or a place designated by the proper officer under section 53(4) or 58(3) below,”.
- 24 (1) Section 33 (power to inspect aircraft, aerodromes, records, etc) is amended as follows.
- (2) In subsection (1)—
- (a) in the opening words—
    - (i) for “commander of an aircraft” substitute “vehicle operator of a vehicle which is an aircraft or railway vehicle”, and
    - (ii) for “to board the aircraft” substitute “to board the vehicle”, and
  - (b) in paragraphs (a) and (b), for “the aircraft” substitute “the vehicle”.
- (3) In subsection (2)—

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- (a) after “any aerodrome” insert “or railway customs area”, and
  - (b) after “the aerodrome” insert “or railway customs area”.
- (4) After subsection (3) insert—
- “(3A) If so required by the Commissioners, the person in control of a railway customs area shall—
- (a) keep a record in such form and manner as the Commissioners may approve of all railway vehicles arriving at or departing from the area,
  - (b) keep that record available and produce it on demand to any officer, together with all other documents kept in the area which relate to the movement of railway vehicles, and
  - (c) permit any officer to make copies of and take extracts from any such record or document.”
- (5) In the heading, after “aerodromes,” insert “railway vehicles and customs areas,”.
- 25 (1) Section 34 (power to prevent flight of aircraft) is amended as follows.
- (2) In subsection (1)(b), for “clearance outwards is given” substitute “the aircraft is cleared for departure”.
- (3) After subsection (1) insert—
- “(1A) If it appears to any officer or constable—
- (a) that a railway vehicle is intended or likely to depart for a destination outside the United Kingdom, and
  - (b) that—
    - (i) the last place at which goods may be loaded onto or unloaded from, or passengers may board or disembark from, the vehicle before it leaves the United Kingdom is not within a railway customs area, or
    - (ii) it is intended or likely to depart from a railway customs area before being cleared for departure,
- the officer or constable may give such instructions and take such steps by way of detention of the vehicle or otherwise as appear necessary in order to prevent its departure.”
- (4) In subsection (2), after “subsection (1)” insert “or (1A)”.
- (5) In subsection (3)—
- (a) after “an aircraft flies” insert “or railway vehicle departs”,
  - (b) after “subsection (1)” insert “or (1A)”,
  - (c) for “or notwithstanding” substitute “or flies or departs notwithstanding”,
  - (d) after “the flight”, in both places, insert “or departure”, and
  - (e) for “the commander” substitute “the vehicle operator”.
- (6) In the heading, after “aircraft” insert “or departure of railway vehicles”.
- 26 In the italic heading before section 35, for “Inward entry and clearance” substitute “Control of entry of goods”.
- 27 (1) Section 35 (report inwards) is amended as follows.
- (2) In subsection (1), for “ship and aircraft” substitute “vehicle”.



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- (3) In subsection (2)(b), for “and not yet cleared on importation” substitute “which have not yet been declared for a Customs procedure”.
- (4) In subsection (3)(b)(i) for “and not already cleared at a customs and excise airport” substitute “without yet having made a Customs declaration”.
- (5) After subsection (3) insert—
- “(3A) This section applies to every vehicle (other than a ship or aircraft) arriving, or expected to arrive, at any place in the United Kingdom—
- (a) from any place outside the United Kingdom; or
- (b) carrying any goods brought in the vehicle from a place outside the United Kingdom which have not yet been declared for a Customs procedure.”
- (6) In subsection (6)—
- (a) for “ship, or aircraft” substitute “vehicle”, and
- (b) for “or flight” substitute “flight, or journey”.
- (7) In subsection (7)—
- (a) for “ship or aircraft” substitute “vehicle”,
- (b) after “arrives” insert “in the United Kingdom, or”, and
- (c) for “the master of the ship or commander of the aircraft” substitute “the vehicle operator”.
- (8) In subsection (9), after “in this section” insert “and in section 35A”.
- 28 After section 35 insert—
- “35A Obligation to confirm making of Customs declaration: particular vehicle operators**
- (1) The Commissioners may by regulations make provision requiring, in cases specified in the regulations, a vehicle operator to confirm that, in respect of all goods in the vehicle which are to be imported into the United Kingdom—
- (a) a Customs declaration has been made in respect of them, or
- (b) the vehicle operator reasonably believes that a Customs declaration has been made in respect of them.
- (2) The regulations may require the confirmation to be given in accordance with provision made by the regulations.
- (3) A vehicle operator who does not provide a confirmation in accordance with the regulations is liable on summary conviction to a penalty of level 3 on the standard scale.”
- 29 Omit section 37A (initial and supplementary entries).
- 30 Omit section 37B (postponed entry).
- 31 Omit section 37C (provisions supplementary to ss. 37A and 37B).
- 32 Omit section 38B (correction and cancellation of entry).
- 33 In section 39 (entry of surplus stores), before subsection (1) insert—
- “(A1) This section applies only for excise duty purposes.”

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- 34 (1) Section 40 (removal of uncleared goods to Queen’s warehouse) is amended as follows.
- (2) For subsection (1) substitute—
- “(1) The proper officer may remove chargeable goods to a Queen’s warehouse in any of the following cases—
- (a) where the goods have not been presented to Customs on import in accordance with Part 1 of the Taxation (Cross-border Trade) Act 2018 within the relevant number of days from the day on which the goods were imported;
  - (b) where the goods have not been moved to a temporary storage facility in accordance with paragraph 1 of Schedule 1 to that Act within the relevant number of days from the day on which the goods were required to be so moved;
  - (c) where a Customs declaration has not been made in respect of the goods within the relevant number of days from the day on which the goods were presented to Customs on import;
  - (d) where a document which is required to accompany a Customs declaration is not made available to Her Majesty’s Revenue and Customs within the relevant number of days from the day on which it was required to be made available;
  - (e) where the 90 day period referred to in paragraph 1 of Schedule 1 to the Taxation (Cross-border Trade) Act 2018 has ended and the goods have not been released to a Customs procedure within the relevant number of days from the day on which that period ended;
  - (f) where the goods have been released to a Customs procedure but have not been removed from a temporary storage facility within the relevant number of days from the day on which the goods were released to the procedure;
  - (g) where an officer of Revenue and Customs requires goods to be made available for examination and the goods are not made available within 21 days of the requirement being imposed; or
  - (h) where goods have been imported by sea and do not constitute a significant proportion of the ship’s cargo, they are at any time after the arrival of the importing ship at the port at which they are to be unloaded the only goods remaining to be unloaded from that ship at that port.”
- (3) In subsection (2), for “entry” substitute “compliance with the customs formalities in respect of the goods”.
- (4) In subsection (3)—
- (a) in the opening words—
    - (i) after “section 99(3) below, if” insert “the relevant customs formalities are not complied with in respect of”, and
    - (ii) omit “are not cleared by the importer thereof”, and
  - (b) in the words after paragraph (b), for “them” substitute “the goods”.
- (5) In subsection (4), for paragraph (a) substitute—
- “(a) “the relevant number of days” means—
    - (i) where the goods have been imported by air, 7 clear days, and

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- (ii) in any other case, 14 clear days;”.
- (6) For subsection (5) substitute—
- “(5) Where any restriction is placed upon the unloading of goods from any vehicle by virtue of any enactment relating to the prevention of epidemic and infectious diseases, then, in relation to that vehicle—
- (a) “the relevant date” means the date of the removal of the restriction; and
- (b) the relevant number of days referred to in any paragraph of subsection (1) other than paragraph (d) is counted from the day on which the restriction is removed rather than the day referred to within the paragraph concerned.”
- (7) In the heading, for “uncleared” substitute “chargeable”.
- 35 (1) Section 41 (failure to comply with provisions as to entry) is amended as follows.
- (2) For the words from “, any person making entry of goods” to “in connection with that entry shall” substitute “—
- (a) any person importing goods who contravenes or fails to comply with any of the requirements made by or under this Part of this Act, or
- (b) any person who contravenes or fails to comply with any of the requirements made by or under Part 1 of the Taxation (Cross-border Trade) Act 2018 in connection with the presentation of goods to Customs on import, the making of a declaration relating to the storage of goods or the making of a Customs declaration,
- shall”.
- (3) Omit the words from “but this section shall not apply to” to the end.
- (4) In the heading, for “provisions as to entry” substitute “customs formalities”.
- 36 (1) Section 42 (power to regulate unloading, removal, etc of imported goods) is amended as follows.
- (2) In subsection (1)(a)—
- (a) after “airport,” insert “any other vehicle entering the United Kingdom”, and
- (b) for “Northern Ireland” substitute “the United Kingdom”.
- (3) Omit subsection (3).
- 37 (1) Section 43 (duty on imported goods) is amended as follows.
- (2) In subsection (1)—
- (a) omit “or section 2(2) of the European Communities Act 1972 or any Community regulation or other instrument having the force of law”, and
- (b) after “the proper officer any” insert “excise”.
- (3) In subsection (2)—
- (a) in the opening words, omit “customs or”, and
- (b) in paragraph (c)—
- (i) omit sub-paragraph (i) (together with the “and” at the end of it), and
- (ii) in sub-paragraph (ii), omit “as respects other duties,”.

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- (4) Omit subsections (2A) to (2C).
  - (5) In subsection (2D), for “any of sections 44 to 48” substitute “section 44”.
  - (6) In subsection (3)—
    - (a) after “chargeable with the like” insert “excise”, and
    - (b) omit the words from “; and if any question” to the end.
  - (7) In subsection (5)—
    - (a) after “whether or not any” insert “excise”, and
    - (b) after “purpose of charging” insert “excise”.
  - (8) In subsection (6)—
    - (a) in the opening words, omit “customs or”,
    - (b) in paragraph (b), omit “customs and”, and
    - (c) in the words after that paragraph, after “rate of the” insert “excise”.
  - (9) Omit subsections (8) and (9).
  - (10) In the heading, for “Duty” substitute “Excise duty”.
- 38 In section 44 (exclusion of s. 43(1) for importers etc keeping standing deposits),  
 after “to cover any” insert “excise”.
- 39 Omit section 45 (deferred payment of customs duty).
- 40 Omit section 46 (goods to be warehoused without payment of duty).
- 41 Omit section 47 (relief from payment of duty of goods entered for transit or  
 transhipment).
- 42 Omit section 48 (relief from payment of duty of goods temporarily imported).
- 43 (1) Section 49 (forfeiture of goods improperly imported) is amended as follows.
- (2) In subsection (1)—
- (a) in paragraph (a)—
    - (i) in the opening words, for “Acts 1979, any imported goods, being  
 goods chargeable on” substitute “Acts 1979 or by or under the  
 Taxation (Cross-border Trade) Act 2018, any imported goods, being  
 goods chargeable by reference to”,
    - (ii) for sub-paragraph (iii) substitute—
      - “(iii) unloaded from any other vehicle which has  
 entered the United Kingdom, or”, and
    - (iii) in sub-paragraph (iv), for “transit shed” substitute “temporary  
 storage facility or any place specified by an officer of Revenue and  
 Customs under Part 1 of the Taxation (Cross-border Trade) Act 2018  
 as a place where the goods are required to be kept”,
  - (b) in paragraph (c), for “any vehicle” substitute “any other vehicle”, and
  - (c) for paragraph (e) substitute—
    - “(e) any goods are found, whether before or after being  
 released to or discharged from a Customs procedure, not to  
 correspond with any information provided under Part 1 of  
 the Taxation (Cross-border Trade) Act 2018;”.

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- (3) In subsection (2), for paragraphs (a) to (c) substitute—
- “(a) declared as intended for exportation in the same vehicle,
  - (b) declared for a transit procedure or a storage procedure, or
  - (c) are otherwise to be warehoused for exportation or for use as stores.”.
- 44 (1) Section 50 (penalty for improper importation of goods) is amended as follows.
- (2) In subsection (2)—
- (a) in paragraph (a), for “any vehicle in Northern Ireland” substitute “any other vehicle which has entered the United Kingdom”, and
  - (b) in paragraph (b), for “transit shed” substitute “temporary storage facility, any place specified by an officer of Revenue and Customs under Part 1 of the Taxation (Cross-border Trade) Act 2018 as a place where the goods are required to be kept”.
- (3) In subsection (6), for paragraph (b) substitute—
- “(b) directly or indirectly imports, or causes to be imported, any chargeable goods found, whether before or after being released to a Customs procedure, not to correspond with any information provided under Part 1 of the Taxation (Cross-border Trade) Act 2018,”.
- 45 In section 51 (special provisions as to proof in Northern Ireland), in subsection (1), for “on their importation”, in both places, substitute “by reference to their importation”.
- 46 For the italic heading before section 52 substitute “Breach of applicable export provisions etc”.
- 47 (1) Section 52 (meaning for this Part of “dutiabale or restricted goods”) is amended as follows.
- (2) In subsection (1)—
- (a) for paragraph (a) substitute—
    - “(a) goods from an excise warehouse or goods which have been declared for a storage procedure;”,
  - (b) in paragraph (c), at the end insert “or goods which have been declared for an authorised use procedure or temporary admission procedure;”, and
  - (c) in paragraph (d), at the end insert “or goods otherwise eligible for remission, repayment or refund of duty on their export”.
- (3) In subsection (2)—
- (a) for “means goods” substitute “means—
    - (a) goods declared for an inward processing procedure, or
    - (b) goods”, and
  - (b) omit “import duty or”.
- 48 After section 52 insert—

**“52A Breach of applicable export provisions etc**

- (1) This section applies to any goods the export of which is required to be made in accordance with the applicable export provisions.

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- (2) If any person contravenes or fails to comply with any of the requirements—
- (a) the person is guilty of an offence, and
  - (b) the goods are liable to forfeiture.
- (3) A person guilty of an offence under subsection (2) in a case where the goods are dutiable or restricted goods is liable on summary conviction to a penalty of—
- (a) £20,000, or
  - (b) three times the value of the goods,
- whichever is the greater.
- (4) A person guilty of an offence under subsection (2) in any other case is liable on summary conviction to a penalty of level 4 on the standard scale.
- (5) If—
- (a) in breach of the applicable export provisions, any dutiable or restricted goods fail to be exported from the United Kingdom by the time by which they were required to be exported, and
  - (b) notice of the failure is not immediately given to an officer of Revenue and Customs,
- the goods are (in addition to being liable to forfeiture under subsection (2)) subject to the control of an officer of Revenue and Customs as mentioned in subsection (6) even if the procedure provided for by the applicable export provisions is discharged.
- (6) An officer of Revenue and Customs may—
- (a) require any person to provide such information and documents to the officer as may be specified by the officer, and
  - (b) require the goods to be moved to, and kept in, such place as may be specified by the officer.
- (7) Any person who contravenes or fails to comply with a requirement imposed under subsection (6) is liable on summary conviction to a penalty of £20,000.”
- 49 (1) Section 53 (entry outwards of goods) is amended as follows.
- (2) Omit subsections (1) to (7).
- (3) In subsection (8)—
- (a) for “of which entry is required under this section” substitute “which are required to be exported in accordance with the applicable export provisions”, and
  - (b) for the words from “before entry has” to “and where” substitute “before the applicable export provisions have been complied with, and”.
- (4) Omit subsections (10) to (12).
- 50 Omit section 54 (acceptance of incomplete entry).
- 51 Omit section 55 (correction and cancellation of entry).
- 52 Omit section 56 (failure to export).
- 53 Omit section 57 (delivery of entry by owner of exporting ship etc).

- 54 Omit section 58 (simplified clearance procedure).
- 55 Omit section 58A (local export control).
- 56 Omit section 58B (provisions supplementary to ss 58 and 58A).
- 57 Omit section 58C (pipe-lines and export of ships and aircraft).
- 58 Omit section 58D (operative date for Community purposes).
- 59 Omit section 58E (authentication of Community customs documents).
- 60 (1) Section 59 (restrictions on putting export goods alongside for loading) is amended as follows.
- (2) In subsection (1), for the words from “to be entered outwards” to the end substitute “to be exported in accordance with the applicable export provisions”.
- (3) In subsection (2)(a) and (b), for “ship or aircraft” substitute “vehicle other than a road vehicle”.
- 61 In section 60 (additional restrictions as to certain export goods), after subsection (1) insert—
- “(1A) For the purposes of subsection (1), the reference to entering goods for exportation is to the doing of anything required to be done under provision made by or under Part 1 of the Taxation (Cross-border Trade) Act 2018 in connection with the export of the goods.”
- 62 In section 60A (power to make regulations about stores), in subsection (1), for “ship or aircraft” substitute “ship, aircraft or railway vehicle”.
- 63 (1) Section 61 (supplementary provision relating to stores) is amended as follows.
- (2) In subsection (5)(b), for “the master or commander and the owner of the ship or aircraft” substitute “the vehicle operator and the owner of the ship, aircraft or railway vehicle”.
- (3) In subsection (7)—
- (a) in the opening words—
- (i) for “ship or aircraft” substitute “ship, aircraft or railway vehicle”,
- (ii) for “any port or customs and excise airport for a destination outside the United Kingdom” substitute “the United Kingdom”, and
- (iii) for “cleared outwards” substitute “cleared for departure”,
- (b) in paragraph (b), for “ship’s or aircraft’s” substitute “vehicle’s”, and
- (c) in the words after that paragraph, for “the master of the ship or the commander of the aircraft” substitute “the vehicle operator”.
- (4) In subsection (7A), for “the master of the ship or the commander of the aircraft” substitute “the vehicle operator”.
- 64 (1) Section 62 (information, documentation, etc as to export goods) is amended as follows.
- (2) Omit subsection (2).
- (3) In subsection (3), omit “or (2)”.
- (4) In subsection (4), omit “or (2)”.

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- 65 (1) Section 63 (entry outwards of exporting ships) is amended as follows.
- (2) In subsection (1)—
- (a) omit “to a place outside the member States”, and
  - (b) for “those States” substitute “the United Kingdom”.
- (3) In subsection (2), for “the member States” substitute “the United Kingdom”.
- (4) In subsection (7), omit “or the member States”.
- 66 (1) Section 64 (clearance outwards of ships and aircraft) is amended as follows.
- (2) For subsection (1) substitute—
- “(1) No vehicle other than a road vehicle is to depart from the United Kingdom until clearance for departure has been obtained from the proper officer.”
- (3) After subsection (1) insert—
- “(1A) The Commissioners may by regulations make provision disapplying the requirement to obtain clearance in specified circumstances.”
- (4) In subsection (6)—
- (a) for “ship or aircraft” substitute “vehicle”,
  - (b) for “departs from any port or customs and excise airport” substitute “departs from the United Kingdom”, and
  - (c) for “master or commander” substitute “vehicle operator”.
- (5) In subsection (7), for the words from “where any aircraft” to “that airport” substitute “where any vehicle is required under this section to obtain clearance to depart the United Kingdom, any goods are loaded, or are waterborne for loading, into that vehicle”.
- (6) In the heading, for “ships and aircraft” substitute “vehicles”.
- 67 (1) Section 65 (power to refuse or cancel clearance of ship or aircraft) is amended as follows.
- (2) In subsection (1)—
- (a) in the opening words, after “the Customs and Excise Acts 1979” insert “or Part 1 of the Taxation (Cross-border Trade) Act 2018”,
  - (b) in paragraph (a), for “ship or aircraft” substitute “vehicle required to obtain clearance to depart the United Kingdom”, and
  - (c) for paragraph (b) substitute—
 

“(b) where clearance has been given in respect of a vehicle, any officer may at any time cancel the clearance before the vehicle has departed from the United Kingdom.”
- (3) In subsection (2)—
- (a) in the opening words, from the beginning to “may be served—” substitute “Any cancellation may be made orally, electronically or otherwise in writing, and if made in writing (but not electronically) may be served on the vehicle operator—”, and
  - (b) in paragraph (c), for “ship or aircraft” substitute “vehicle”.
- (4) For subsection (3) substitute—



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- “(3) Where a clearance is cancelled, it forthwith becomes void.”
- (5) In the heading, for “ship or aircraft” substitute “vehicle”.
- 68 In section 66 (power to make regulations as to exportation, etc), in subsection (1)—
- (a) in paragraph (a), for “ships and aircraft respectively the loading and making waterborne for loading” substitute “vehicles the loading (including making waterborne for loading)”, and
  - (b) in paragraph (b), for “Northern Ireland” substitute “the United Kingdom”.
- 69 (1) Section 67 (offences in relation to exportation of goods) is amended as follows.
- (2) In subsection (1)—
- (a) in the opening words, for “ship or aircraft” substitute “vehicle”, and
  - (b) in the words after paragraph (b)—
    - (i) for “the master of the ship or the commander of the aircraft” substitute “the vehicle operator”, and
    - (ii) for “ship or aircraft” substitute “vehicle”.
- (3) In subsection (4)—
- (a) in the opening words, omit “or brought to a customs and export station for exportation by land”,
  - (b) for paragraph (a) substitute—
    - “(a) goods in an excise warehouse or goods which have been declared for a storage procedure;”, and
  - (c) in paragraph (c), after “not been paid” insert “or goods which have been declared for an authorised use procedure or temporary admission procedure”.
- 70 In section 68 (offences in relation to exportation of prohibited or restricted goods), in subsection (5)—
- (a) for “the ship, aircraft or vehicle in which they were exported” substitute “the vehicle in which they were exported”, and
  - (b) for “both the owner of the ship, aircraft or vehicle and the master of the ship, commander of the aircraft or person in charge of the vehicle” substitute “both the owner of the vehicle and the vehicle operator”.
- 71 For section 69 substitute—

#### “69 Meaning of “coasting ship”

- (1) In this Part “coasting ship” means any ship for the time being engaged in the trade of carrying goods coastwise—
- (a) between places in the United Kingdom, or
  - (b) between a place in the United Kingdom and a place in the Isle of Man.
- (2) The Commissioners may from time to time give directions as to what trade by water—
- (a) between places in the United Kingdom, or
  - (b) between a place in the United Kingdom and a place in the Isle of Man,
- is, or is not, to be deemed to be carrying goods coastwise.”

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- 72 Omit section 70 (coasting trade —exceptional provisions).
- 73 (1) Section 74 (offences in connection with carriage of goods coastwise) is amended as follows.
- (2) Omit subsection (1).
- (3) In subsection (2), for “sections 69 to 71” substitute “section 71”.
- (4) Omit subsection (5).
- 74 Omit section 75A (records relating to importation and exportation).
- 75 Omit section 75C (records relating to goods subject to certain transit arrangements).
- 76 (1) Section 77 (information in relation to goods imported or exported) is amended as follows.
- (2) In subsection (1)(a), for “an entry is required by regulation 5 of the Customs Controls on Importation of Goods Regulations 1991 or an entry or specification is required by or under this Act” substitute “a declaration is required as a result of Part 1 of the Taxation (Cross-border Trade) Act 2018”.
- (3) In subsection (3)—
- (a) for “entry thereof” substitute “a declaration in respect of the goods”, and
- (b) for “declaration”, in each place, substitute “statement”.
- (4) In subsection (4), for “entry delivered” substitute “declaration made”.
- (5) In subsection (5)(a), for “entry delivered” substitute “declaration made”.
- 77 Omit section 77C (information powers relating to goods subject to certain transit arrangements).
- 78 (1) Section 78 (customs and excise control of persons entering or leaving the United Kingdom) is amended as follows.
- (2) In subsection (1)—
- (a) in paragraph (b), for “chargeable” substitute “taxable”,
- (b) in the words after paragraph (b), after “by virtue of” insert “provision made by regulations under section 19 of the Taxation (Cross-border Trade) Act 2018 relating to any relief conferred on persons entering the United Kingdom or”, and
- (c) in the second sentence, for “subsection “chargeable goods” means” substitute “subsection “taxable goods” means”.
- (3) Omit subsection (1B).
- 79 (1) Section 80 (power to require information or production of documents where origin of goods exported is evidenced under EU law or practice) is amended as follows.
- (2) In subsection (1), for “Community requirement or practice” substitute “requirement by or under any enactment”.
- (3) In the heading, omit “under EU law or practice”.
- 80 In section 82 (power to haul up revenue vessels, patrol coasts, etc), in subsection (2), after “railway” insert “or railway customs area”.
- 81 (1) Section 85 (penalty for interfering with revenue vessels, etc) is amended as follows.

- (2) In subsection (1), omit “ship, aircraft.”
- (3) In subsection (2), for “vessel, aircraft or vehicle” substitute “vehicle”.
- 82 In section 88 (forfeiture of ship, aircraft or vehicle constructed, etc for concealing goods)—
- (a) in paragraph (c), for “a vehicle” substitute “any other vehicle”,
  - (b) in that paragraph, for “any port or at any aerodrome” substitute “any port, railway customs area or aerodrome”, and
  - (c) in the words after that paragraph, for “or vehicle” substitute “or other vehicle”.
- 83 In section 90 (forfeiture of ship or aircraft unable to account for missing cargo)—
- (a) after “port in the United Kingdom or the Isle of Man,” insert “a railway vehicle has been within the limits of a railway customs area”,
  - (b) for “master of the ship or commander of the aircraft” substitute “vehicle operator”, and
  - (c) for “the ship or aircraft” substitute “the ship, railway vehicle or aircraft”, and
  - (d) in the heading, after “ship” insert “, railway vehicle”.
- 84 In section 92 (approval of warehouses), omit subsections (2) to (4).
- 85 In section 93 (regulation of warehouses and warehoused goods), before subsection (1) insert—
- “(A1) In their application to warehouses, this section and sections 94, 95, 97 and 98 apply only to excise warehouses.”
- 86 In section 98 (procedure on warehouse ceasing to be approved), for subsection (4) substitute—
- “(4) In this section “the prescribed period” means the period of 3 months.”
- 87 (1) Section 99 (provisions as to deposit in Queen’s warehouse) is amended as follows.
- (2) In subsection (1), after “the Customs and Excise Acts 1979” insert “or Part 1 of the Taxation (Cross-border Trade) Act 2018”.
- (3) In subsection (4)—
- (a) in the opening words, after “the Customs and Excise Acts 1979” insert “or Part 1 of the Taxation (Cross-border Trade) Act 2018”,
  - (b) in paragraph (a), after “thereon” insert “has been paid”,
  - (c) in the words after sub-paragraph (ii) of paragraph (b), omit the words from “and, in the case of goods” to the end, and
  - (d) after that paragraph insert “; and
- (c) the requirements made by or under Part 1 of the Taxation (Cross-border Trade) Act 2018 have been complied with.”
- (4) In subsection (6), after “the Customs and Excise Acts 1979” insert “or Part 1 of the Taxation (Cross-border Trade) Act 2018”.
- (5) In subsection (7), after “the Customs and Excise Acts 1979” insert “or Part 1 of the Taxation (Cross-border Trade) Act 2018”.

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- 88 (1) Section 100 (general offences relating to warehouses and warehoused goods) is amended as follows.
- (2) In subsection (2)—
- (a) in paragraph (a), after “any goods which have been” insert “declared for a storage procedure or”,
  - (b) in paragraph (b), after “any goods which have been” insert “declared for a storage procedure or”,
  - (c) in paragraph (c), for “ship, aircraft or vehicle” substitute “vehicle”, and
  - (d) in paragraph (d), after “when they have been” insert “declared for a storage procedure or”.
- (3) After subsection (4) insert—
- “(5) In this section “warehouse”, except in the expression “Queen’s warehouse”, means a customs warehouse or an excise warehouse.”
- 89 In section 112 (power of entry upon premises, etc of revenue traders), in subsection (5), omit “vessels, aircraft.”.
- 90 Omit section 119 (delivery of imported goods on giving of security for duty).
- 91 Omit section 120 (regulations for determining origin of goods).
- 92 (1) Section 121 (power to impose restrictions where duty depends on certain matters other than use) is amended as follows.
- (2) Omit “(other than the use to be made of the goods)”.
- (3) In the heading, omit “other than use”.
- 93 Omit section 122 (regulations where customs duty depends on use).
- 94 In section 123 (repayment of duty where goods returned or destroyed by importer), in subsection (1)(b)(i), for the words from “and for that purpose” to “this Act;” substitute “and, if the export of the goods was required to be made in accordance with the applicable export provisions, the requirements were met;”.
- 95 (1) Section 124 (forfeiture for breach of certain conditions) is amended as follows.
- (2) In subsection (1)(a), for “on” substitute “by reference to”.
- (3) In subsection (2), for “or security”, in both places, substitute “, security or other guarantee”.
- 96 Omit section 125 (valuation of goods for purpose of ad valorem duties).
- 97 (1) Section 129 (power to remit or repay duty on denatured goods) is amended as follows.
- (2) In subsection (1)—
- (a) omit paragraph (a) (together with the “or” at the end of it),
  - (b) in paragraph (b), for “a duty” substitute “a duty of excise”, and
  - (c) in the words following that paragraph, for “duty”, in both places, substitute “duty of excise”.
- (3) In subsection (1A)—
- (a) for “chargeable with a duty” substitute “chargeable with a duty of excise”, and
  - (b) omit “, in the application of that section in relation to a duty of excise,”.

- (4) Omit subsection (5).
- 98 Omit section 130 (power to remit or repay duty on goods lost or destroyed, etc).
- 99 (1) Section 131 (enforcement of bond in respect of goods removed without payment of duty) is amended as follows.
- (2) For “payment of duty” substitute “payment of excise duty”.
- (3) Omit “ship, aircraft”.
- (4) In the heading, after “payment of” insert “excise”.
- 100 In section 133 (general provisions as to claims for drawback), at the beginning insert—
- “(A1) This section applies in relation to any claim for drawback for the purposes of any excise duty.”
- 101 In section 134 (drawback and allowance on goods damaged or destroyed after shipment), at the beginning insert—
- “(A1) This section applies only for the purposes of excise duty.”
- 102 In section 135 (time limit on payment of drawback or allowance), after “in respect of any drawback or allowance” insert “for the purposes of any excise duty”.
- 103 (1) Section 136 (offences in connection with claims for drawback, etc) is amended as follows.
- (2) In subsection (4), for “entry”, in both places, substitute “any declaration”.
- (3) Omit subsection (6).
- 104 (1) Section 137 (recovery of duties and calculation of duties, drawbacks, etc) is amended as follows.
- (2) In subsection (1), omit “customs or”.
- (3) In subsection (2)—
- (a) for “Any duty,” substitute “Any excise duty or”, and
- (b) after “or rebate” insert “in relation to excise duty”.
- (4) In the heading, after “of”, in both places, insert “excise”.
- 105 (1) Section 141 (forfeiture of ships, etc used in connection with goods liable to forfeiture) is amended as follows.
- (2) In subsection (1)(a), omit “ship, aircraft”.
- (3) In subsection (2), omit “ship, aircraft”.
- (4) In subsection (3)—
- (a) after paragraph (a) insert—
- “(aa) any railway vehicle;”, and
- (b) for “the master or commander” substitute “the vehicle operator”.
- 106 In section 154 (proof of certain other matters), in subsection (2)(c), (d) and (e), for “ship or aircraft” substitute “ship, aircraft or railway vehicle”.
- 107 (1) Section 159 (power to examine and take account of goods) is amended as follows.

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- (2) In subsection (1)—
- (a) after paragraph (a) insert—
- “(aa) which are subject to the control of any officer of Revenue and Customs as a result of Part 1 of the Taxation (Cross-border Trade) Act 2018; or
- (ab) which have been discharged from a Customs procedure under Part 1 of the Taxation (Cross-border Trade) Act 2018 so far as necessary for the purpose of verifying any Customs declaration or any document required to accompany it; or”,
- and
- (b) in paragraph (d), for “entered” substitute “declared”.
- (3) After subsection (4) insert—
- “(4A) But, in the case of anything done for the purpose of verifying any Customs declaration or any document required to accompany it—
- (a) the reference in subsection (4) to the proprietor of the goods is a reference to the declarant, and
- (b) if, while the goods are being moved to a place for examination, an act which was not authorised by the Commissioners is, without reasonable excuse, done by any person in relation to the goods, the declarant is liable on summary conviction to a penalty of level 3 on the standard scale.
- (4B) In subsection (4A) “the declarant”, in relation to a Customs declaration in respect of any goods, means—
- (a) the person who has made the declaration, or
- (b) the person on whose behalf it was made.”
- 108 In section 160 (power to take samples), in subsection (4)—
- (a) in the opening words, for “a duty of customs or excise” substitute “a duty of excise”, and
- (b) in paragraph (a), for “are first entered on importation” substitute “are imported”.
- 109 After section 160 insert—

**“160ZA Examination of goods and samples: supplementary**

- (1) This section applies if, for the purpose of verifying any Customs declaration or any document required to accompany it—
- (a) goods are examined under section 159, or
- (b) a sample of any goods is taken under section 160.
- (2) The declarant is entitled to be present or represented when the goods are examined or the sample is taken.
- (3) The Commissioners may require the declarant to be present or represented when the goods are examined or the sample is taken, and a person who, without reasonable excuse, contravenes or fails to comply with a direction under this subsection is liable on summary conviction to a penalty of level 3 on the standard scale.

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- (4) Once any goods have been examined or a sample from them has been taken (“the examined or sampled goods”), the Commissioners are entitled to regard the examined or sampled goods as representative of all the goods (“the declared goods”) in respect of which the declaration is made.
  - (5) But if the declarant proves to the satisfaction of the Commissioners that the examined or sampled goods do not represent all the declared goods, the declarant may require the Commissioners to re-examine any of the declared goods or take a further sample from them.
  - (6) If the declared goods are no longer under the control of the Commissioners, they may refuse the request if they are not satisfied that the declared goods have remained in the same condition as they were in when they ceased to be under the control of the Commissioners.
  - (7) In this section “the declarant”, in relation to a Customs declaration in respect of any goods, means—
    - (a) the person who has made the declaration, or
    - (b) the person on whose behalf it was made.”
- 110 In section 162 (power to enter land for or in connection with access to pipe-lines), after “the Customs and Excise Acts 1979” insert “or by or under Part 1 of the Taxation (Cross-border Trade) Act 2018”.
- 111 (1) Section 163 (power to search vehicles or vessels) is amended as follows.
- (2) In subsection (1)—
    - (a) in the opening words—
      - (i) after “Customs and Excise Acts 1979” insert “or Part 1 of the Taxation (Cross-border Trade) Act 2018”, and
      - (ii) omit “or vessel”, and
    - (b) in the words after paragraph (c), omit “or vessel”.
  - (3) In subsection (2), in both places, omit “or vessel”.
  - (4) In subsection (3), omit “This section shall apply in relation to aircraft as it applies in relation to vehicles or vessels but”.
  - (5) In the heading, omit “or vessels”.
- 112 In section 164 (power to search persons), in subsection (4)—
  - (a) after paragraph (d) insert—
    - (da) any person in, entering or leaving a railway customs area;
    - (db) any person who is on board a railway vehicle which—
      - (i) is in a railway customs area,
      - (ii) has entered the United Kingdom but has not yet arrived at a railway customs area in the course of its journey, or
      - (iii) has left a railway customs area and has not yet left the United Kingdom in the course of its journey;”, and
  - (b) in paragraph (e), for “transit shed” substitute “temporary storage facility”.
- 113 In section 166 (agents), after subsection (2) insert—

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- “(3) For the purposes of import duty, this section has effect only to the extent that alternative provision has not been made by Part 1 of the Taxation (Cross-border Trade) Act 2018 (see, in particular, section 21 of that Act).”
- 114 In section 170 (penalty for fraudulent evasion of duty, etc), in subsection (2)(c), after “the Customs and Excise Acts 1979” insert “, or Part 1 of the Taxation (Cross-border Trade) Act 2018,”.
- 115 In section 171 (general provisions as to offences and penalties), in subsection (5)—
- (a) for “the relevant time specified in section 43 above” substitute “the time at which a liability to import duty is incurred”, and
  - (b) for “as if the goods had been imported without entry at the time when the proceedings were commenced” substitute “as if the time when the proceedings were commenced was the time at which the liability to import duty was incurred”.
- 116 In section 172 (regulations), in subsection (3), for “section 120” substitute “section 5, 20, 22, 25, 26(1ZA), 35A or 64”.
- 117 (1) Schedule 2A (supplementary provisions relating to the detention of things as liable to forfeiture) is amended as follows.
- (2) In paragraph 3(2)(d), for “a vehicle, the driver of the vehicle” substitute “any other vehicle, the vehicle operator”.
  - (3) In paragraph 4(2)(e), for “a vehicle, the driver of the vehicle” substitute “any other vehicle, the vehicle operator”.

### PART 3

#### AMENDMENTS OF OTHER ENACTMENTS

##### *Customs and Excise Duties (General Reliefs) Act 1979*

- 118 The Customs and Excise Duties (General Reliefs) Act 1979 is amended as follows.
- 119 Omit section 1 (reliefs from customs duty for conformity with EU obligations and other international obligations, etc) and the italic heading before it.
- 120 Omit section 2 (reliefs from customs duty referable to Community practices).
- 121 Omit section 3 (power to exempt particular importations of certain goods from customs duty).
- 122 Omit section 4 (administration of reliefs under section 1 and administration or implementation of similar Community reliefs).
- 123 Omit section 5 (relief from customs duty of certain goods from Channel Islands) and the italic heading before it.
- 124 In the italic heading before section 7, omit “miscellaneous” and “customs and”.
- 125 (1) Section 7 (power to provide for reliefs from duty and value added tax in respect of imported legacies) is amended as follows.
- (2) In subsection (1), after “reliefs from” insert “excise”.
  - (3) In subsection (2)—



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- (a) after “payment of” insert “excise”, and
  - (b) after “by way of” insert “excise”.
- (4) Omit subsection (3).
- (5) In subsection (4)(a), omit “or any Community relief”.
- (6) In subsection (5)—
  - (a) omit the definition of “Community relief”, and
  - (b) for the definition of “duty” substitute—

““excise duty” means any duty of excise chargeable on goods and includes any addition to the duty by virtue of section 1 of the Excise Duties (Surcharges or Rebates) Act 1979;”.
- (7) In the heading, after “reliefs from” insert “excise”.
- 126 In section 8 (relief from customs or excise duty on trade samples, labels, etc)—
  - (a) in the opening words, omit “customs or”, and
  - (b) in the heading, omit “customs or”.
- 127 In section 9 (relief from customs or excise duty on antiques, prizes, etc)—
  - (a) in the opening words, omit “customs or”, and
  - (b) in the heading, omit “customs or”.
- 128 Omit the italic heading before section 10.
- 129 In section 11 (relief from excise duty on certain foreign goods re-imported), in subsection (2), for “were entered for transit or transhipment” substitute “were declared for a transit procedure under Part 1 of the Taxation (Cross-border Trade) Act 2018”.
- 130 In section 12 (supply of duty-free goods to Her Majesty’s ships), omit subsection (6).
- 131 (1) Section 13 (power to provide, in relation to persons entering the United Kingdom, for reliefs from duty and value added tax and for simplified computation of duty and tax) is amended as follows.
  - (2) In subsection (1)—
    - (a) after “reliefs from” insert “excise”,
    - (b) after “payment of” insert “excise”, and
    - (c) after “by way of” insert “excise”.
  - (3) Omit subsection (1A).
  - (4) In subsection (2)—
    - (a) after “by way of” insert “excise”, and
    - (b) after “elect that” insert “excise”.
  - (5) In subsection (3)—
    - (a) in paragraph (a), omit “, or any Community relief”, and
    - (b) in paragraph (b), after “relieved from” insert “excise”.
  - (6) In subsection (3B)(b), after “any” insert “excise”.
  - (7) In subsection (4)—
    - (a) omit the definition of “Community relief”, and

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- (b) for the definition of “duty” substitute—
  - ““excise duty” means any duty of excise chargeable on goods and includes any addition to excise duty by virtue of section 1 of the Excise Duties (Surcharges or Rebates) Act 1979;”.
- (8) In the heading—
  - (a) after “reliefs from” insert “excise”, and
  - (b) after “computation of” insert “excise”.
- 132 (1) Section 13A (reliefs from duties and taxes for persons enjoying certain immunities and privileges) is amended as follows.
  - (2) In subsection (1), for “duties of customs or excise,” substitute “any relevant levy, any duty of excise,”.
  - (3) In subsection (3)(a), for “any duty of customs or excise,” substitute “any relevant levy, any duty of excise,”.
  - (4) In subsection (6), for ““duty of customs” includes” substitute ““relevant levy” means”.
- 133 In section 13B (persons to whom section 13A applies), omit subsection (1)(c).
- 134 In section 13C (offence where relieved goods used, etc, in breach of condition), in subsection (1)(a), for “any duty of customs or excise,” substitute “any relevant levy, any duty of excise,”.
- 135 Omit section 14 (produce of the sea or continental shelf) and the italic heading before it.
- 136 (1) Section 15 (false statements etc in connection with reliefs from customs duties) is amended as follows.
  - (2) In subsection (1)—
    - (a) in paragraph (a), for “customs duty under section 1 or 3 above or under an EU instrument; or” substitute “import duty under regulations made under section 19 of the Taxation (Cross-border Trade) Act 2018,”
    - (b) omit paragraph (b), and
    - (c) in the words after that paragraph, for “section 1, 3 or 4 above or an EU instrument” substitute “Part 1 of that Act”.
- 137 Omit section 16 (annual reports to Parliament).
- 138 (1) Section 17 (orders and regulations) is amended as follows.
  - (2) In subsection (2)—
    - (a) omit “2 or”, and
    - (b) omit the words from “except where,” to the end of the subsection.
  - (3) In subsection (3)—
    - (a) omit “1, 4”, and
    - (b) omit “or regulations under section 14(3) above”.
  - (4) In subsection (4)—
    - (a) omit “Subject to subsection (5) below”,
    - (b) omit “1, 4,”, and
    - (c) after “relief from” insert “excise”.

(5) Omit subsection (5).

*Isle of Man Act 1979*

- 139 The Isle of Man Act 1979 is amended as follows.
- 140 In section 8 (removal of goods from Isle of Man to United Kingdom), for subsection (3) substitute—
- “(3) The goods referred to in subsection (2)(a) above do not include goods which have been wholly or partly relieved from duty under, or which are not subject to duty by virtue of, any Isle of Man equivalent to—
- (a) provision made under section 19 of the Taxation (Cross-border Trade) Act 2018 relating to any relief conferred on persons entering the United Kingdom or under section 13 of the Customs and Excise Duties (General Reliefs) Act 1979, or
- (b) the temporary admission procedure under Part 1 of the Taxation (Cross-border Trade) Act 2018.
- (3A) Where there are conditions which apply in connection with the goods being relieved from duty or not being subject to duty, the customs and excise Acts shall apply to the goods as if they were imported into the United Kingdom when they were imported into the Isle of Man and as if corresponding conditions apply to the goods under, or by virtue of, those Acts.”
- 141 In section 9 (removal of goods from United Kingdom to Isle of Man), in subsection (5), for “or under any EU instrument” substitute “or section 19 of the Taxation (Cross-border Trade) Act 2018”.

*Finance Act 1994*

- 142 The Finance Act 1994 is amended as follows.
- 143 In section 16 (appeals to tribunal), omit subsections (11) and (12).
- 144 In section 17 (interpretation), in subsection (2)—
- (a) omit the definition of “the Community Customs Code”, and
- (b) in the definition of “relevant duty”, for “means any EU customs duty” substitute “means any customs duty”.
- 145 (1) Schedule 5 (decisions subject to review and appeal) is amended as follows.
- (2) For the italic heading before paragraph 1 substitute “Taxation (Cross-border Trade) Act 2018”.
- (3) In paragraph 1—
- (a) in the opening words, from “, so far as” to “implementing that Code,” substitute “so far as they are made under any provision made by or under Part 1 of the Taxation (Cross-border Trade) Act 2018,”,
- (b) in paragraph (a), for “transhipment” substitute “transit”,
- (c) after paragraph (a) insert—
- “(aa) any decision as to whether or not consent to the amendment or withdrawal of any Customs or other declaration is to be given;”,

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- (d) for paragraph (e) substitute—
    - “(e) any decision, in any particular case, as to whether or not any licence, authorisation or approval is to be granted to any person (whether in respect of any premises, place or area or anything else);”
  - (e) for paragraph (j) substitute—
    - “(j) any decision, in any particular case, as to whether or not a fee is to be charged to any person under regulations made under section 27 of the Taxation (Cross-border Trade) Act 2018 or as to the amount of any such fee;”
  - (f) in paragraph (m), for “security”, in both places, substitute “security or other guarantee”, and
  - (g) in paragraph (n)—
    - (i) omit “customs duty or”, and
    - (ii) omit the words from “or to do any other thing” to the end,
  - (h) after paragraph (n) insert—
    - “(na) any decision as to the time at which or the period within which any obligation to pay any customs duty or to do any other thing required or authorised as a result of provision made by or under Part 1 of the Taxation (Cross-border Trade) Act 2018 is to be complied with;” and
  - (i) in paragraph (o)—
    - (i) for “varied or revoked” substitute “varied, suspended or revoked”, and
    - (ii) at the end insert “, and a decision as to whether or not a licence, authorisation or approval is to be suspended or revoked or the terms of a licence, authorisation or approval are to be varied”.
- (4) In paragraph 2(1)—
- (a) for paragraph (a) substitute—
    - “(a) any decision made under any regulations under section 20, 22 or 25 (approved wharf, examination station or temporary storage facility)—
      - (i) as to whether or not a mandatory condition is met; or
      - (ii) as to whether or not a discretionary condition is to be imposed, the terms of a discretionary condition or whether or not a discretionary condition is met;
 and any reference to a mandatory condition is to a condition within subsection (1A)(a) of section 20, 22 or 25 and any reference to a discretionary condition is to a condition within subsection (1A)(b) of that section;”
  - (b) after paragraph (g) insert—
    - “(ga) any decision consisting in the imposition of a requirement by virtue of subsection (3A) of section 33 or as to what is or is not to be approved for the purposes of paragraph (a) of that subsection;” and
  - (c) omit paragraphs (j) and (k).

### *Terrorism Act 2000*

- 146 In Schedule 7 to the Terrorism Act 2000 (port and border controls), in paragraph 9—
- (a) in sub-paragraph (2C)(c), for “transit shed” substitute “temporary storage facility”,
  - (b) in sub-paragraph (3)(d), for ““transit shed”” substitute ““temporary storage facility””, and
  - (c) in sub-paragraph (4)(d), for “transit shed” substitute “temporary storage facility”.

### *Finance Act 2003*

- 147 Part 3 of the Finance Act 2003 (taxes and duties on importation and exportation: penalties) is amended as follows.
- 148 (1) Section 24 (introductory) is amended as follows.
- (2) In subsection (2), omit paragraphs (b), (c) and (e).
  - (3) In subsection (3), omit the definitions of “the European Union Customs Code”, “Community export duty”, “Community import duty”, “customs duty of a preferential tariff country” and “preferential tariff country”.
  - (4) Omit subsections (4) to (6).
- 149 In section 25 (penalty for evasion), omit subsection (3).
- 150 (1) Section 26 (penalty for contravention of relevant rule) is amended as follows.
- (2) After subsection (5) insert—
    - “(5A) Where the conduct constituting a contravention of a relevant rule is a contravention of a condition imposed under regulations under section 20(1A), 22(1A) or 25(1A) of the Customs and Excise Management Act 1979—
      - (a) the Treasury may by regulations provide that, in prescribed circumstances, there are to be deemed for the purposes of subsection (1) of this section to be further separate contraventions of the rule, and
      - (b) the provision that may be made by the regulations includes provision replicating or applying, with or without modifications, any provision made by section 20A(1A) or (1B), 22A(1A) or (1B) or 25A(1A) or (1B) of the Customs and Excise Management Act 1979.”
  - (3) In subsection (8)—
    - (a) before paragraph (a) insert—
      - “(za) Part 1 of the Taxation (Cross-border Trade) Act 2018, as it applies in relation to the relevant tax or duty,” and
    - (b) omit paragraphs (c) and (e).
  - (4) In subsection (9)—
    - (a) omit the definition of “Community customs rules”, and
    - (b) in the definition of “relevant international rules”, omit paragraph (b) (together with the “or” before it).
- 151 In section 32 (no prosecution after demand notice for penalty under section 26)—

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- (a) the existing text becomes subsection (1), and
- (b) after that subsection insert—

“(2) Nothing in subsection (1) prevents the bringing of proceedings against a person for an offence under section 20A(1A), 22A(1A) or 25A(1A) of the Customs and Excise Management Act 1979 in circumstances where it is alleged that the person is liable to a penalty of an enhanced amount.”

- 152 In section 38 (admissibility of certain statements and documents), omit subsection (3).

*Income Tax (Trading and Other Income) Act 2005*

- 153 The Income Tax (Trading and Other Income) Act 2005 is amended as follows.
- 154 In section 54 (trading income: penalties, interest and VAT surcharges), in subsection (2), in the entry relating to a penalty under section 25 or 26 of the Finance Act 2003, for “Customs, export and import duties” substitute “Customs duties”.
- 155 In section 869 (general calculation rules, etc: penalties, interest and VAT surcharges), in subsection (4), in the entry relating to a penalty under section 25 or 26 of the Finance Act 2003, for “Customs, export and import duties” substitute “Customs duties”.

*Borders, Citizenship and Immigration Act 2009*

- 156 (1) Section 7 of the Borders, Citizenship and Immigration Act 2009 (customs revenue functions of the Director) is amended as follows.
- (2) In subsection (2), omit paragraphs (b) and (c).
  - (3) In subsection (7)—
    - (a) at the end of paragraph (aa) omit “and”, and
    - (b) after paragraph (aa) insert—
      - “(ab) Part 1 of the Taxation (Cross-border Trade) Act 2018, and”.
  - (4) In subsection (9), in paragraph (c), after “a function under” insert “retained”.

*Corporation Tax Act 2009*

- 157 In section 1303 of the Corporation Tax Act 2009 (general calculation rules, etc: penalties, interest and VAT surcharges), in subsection (2), in the entry relating to a penalty under section 25 or 26 of the Finance Act 2003, for “Customs, export and import duties” substitute “Customs duties”.

## SCHEDULE 8

Section 43

### VAT AMENDMENTS CONNECTED WITH WITHDRAWAL FROM EU

#### PART 1

##### AMENDMENTS OF VALUE ADDED TAX ACT 1994

###### *Amendment of the Value Added Tax Act 1994*

- 1 The Value Added Tax Act 1994 is amended as follows.
- 2 (1) Section 1 (imposition of charge to value added tax) is amended as follows.
  - (2) Omit subsection (3).
  - (3) In subsection (4)—
    - (a) for “from places outside the member States” substitute “into the United Kingdom”, and
    - (b) for “a duty of customs” substitute “import duty”.
- 3 In section 2 (rate of VAT), in subsection (1)—
  - (a) omit paragraph (b) (together with the “and” at the end of the paragraph), and
  - (b) in paragraph (c), omit “from a place outside the member States”.
- 4 Omit section 3A (supplies of electronic, telecommunication and broadcasting services: special accounting schemes).
- 5 In Section 5 (meaning of supply: alteration by Treasury order), in subsection (3), in the words after paragraph (c), omit the words from “and may provide that paragraph 6” to the end.
- 6 (1) Section 6 (time of supply) is amended as follows.
  - (2) Omit subsections (7) and (8).
  - (3) In subsection (14), for “subsections (2) to (8)” substitute “subsections (2) to (6)”.
- 7 (1) Section 7 (place of supply of goods) is amended as follows.
  - (2) In subsection (1), omit “14,”.
  - (3) Omit subsections (4) and (5).
  - (4) In subsection (6)(a), omit “from a place outside the member States”.
  - (5) Omit subsection (9).
  - (6) After subsection (11) insert—
    - “(12) The Commissioners may by regulations provide that any rule for determining where a supply of goods is made is subject to such conditions relating to the notification of matters to the Commissioners, or such other conditions, as may be specified in the regulations.”
- 8 In section 7A (place of supply of services), for subsection (4) substitute—

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“(4) For the purposes of this Act a person is a relevant business person in relation to a supply of services if—

- (a) the person carries on a business, and
- (b) the services are not received by the person wholly for private purposes,

whether or not the services are received in the course of business.”

9 In section 9 (place where supplier or recipient of services belongs), omit subsection (6).

10 In section 9A (reverse charge on gas, electricity, heat or cooling supplied by persons outside the United Kingdom), in subsection (5)(a)—

- (a) for “situated within the territory of a member State” substitute “in the United Kingdom”, and
- (b) for “such a system” substitute “a natural gas system in the United Kingdom”.

11 Omit sections 10 to 14 (acquisition of goods from member States) and the italic heading before those sections.

12 In the italic heading before section 15, omit “from outside the member States”.

13 For section 16 substitute—

**“16 Application of customs enactments**

- (1) The provision made by or under—
  - (a) the Customs and Excise Acts 1979 (as defined in the Management Act), and
  - (b) the other enactments for the time being having effect generally in relation to duties of customs and excise charged by reference to the importation of goods into the United Kingdom,

apply (so far as relevant) in relation to any VAT chargeable on the importation of goods into the United Kingdom as they apply in relation to any duty of customs or excise.

- (2) The provision made by section 1(4) for VAT on the importation of goods to be charged and payable as if it were import duty is to be taken as applying, in relation to any VAT chargeable on the importation of the goods, the provision made by or under Part 1 of TCTA 2018.

- (3) The Commissioners may by regulations—
  - (a) provide for exceptions from the effect of subsection (1) or (2), or
  - (b) provide for the provision mentioned in subsection (1) or (2) to have effect with modifications specified in the regulations.

(4) Subsections (1) and (2) do not apply so far as the context otherwise requires.

- (5) Regulations under section 105 of the Postal Services Act 2000 (which provides for the application of customs enactments to postal packets) may make special provision in relation to VAT.”

14 After that section insert—



### “16A Postal packets

- (1) The Commissioners may by regulations impose a liability to VAT on a person outside the United Kingdom in respect of the entry of goods into the United Kingdom if the person sent, or arranged for the sending of, the goods to their recipient in a postal packet (within the meaning of the Postal Services Act 2000).
- (2) The regulations may—
  - (a) provide that a liability to VAT arises only in relation to goods of a value described in the regulations,
  - (b) provide that in cases specified in the regulations, other persons are jointly and severally liable for the VAT, and
  - (c) provide that the entry of the goods into the United Kingdom is not an importation for the purposes of this Act.
- (3) Among other provision that may be made by the regulations, the regulations may make provision—
  - (a) requiring persons to register under the regulations for the purpose of accounting for VAT imposed under the regulations,
  - (b) modifying the application of this Act in relation to cases dealt with by the regulations, and
  - (c) requiring persons to provide information to the Commissioners about the goods or the person who sent, or arranged for the sending of, the goods.
- (4) Regulations under this section may make different provision for different purposes.”

- 15 (1) Section 17 (free zone regulations) is amended as follows.
- (2) In subsection (1), omit “from places outside the member States”.
  - (3) In subsection (2), omit “Subject to any contrary provision made by any directly applicable Community provision,”.
  - (4) In subsection (5)(a), omit “into the United Kingdom”.
- 16 (1) Section 18 (place and time of acquisition or supply) is amended as follows.
- (2) For subsection (1) substitute—

“(1) A supply of goods which are subject to a warehousing regime is to be treated, for the purposes of this Act, as taking place outside the United Kingdom where —

    - (a) those goods have been brought into the United Kingdom,
    - (b) the material time of that supply is while those goods are subject to that regime and before the duty point, and
    - (c) those goods are not mixed with any dutiable goods which were produced or manufactured in the United Kingdom.”
  - (3) In subsection (2)—
    - (a) omit paragraph (a) (together with the “or” at the end of it), and
    - (b) in paragraph (b)(i), omit “or acquired from another member State”.

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- (4) In subsection (3), omit “acquisition or” in both places.
  - (5) In subsection (4)—
    - (a) in the opening words, omit “acquisition or” in both places,
    - (b) in paragraph (a), omit “acquisition or”, and
    - (c) in paragraph (b), omit “in the case of a supply,”.
  - (6) In subsection (6)—
    - (a) in the definition of “dutiable goods”, in paragraph (b), omit “EU customs duty or”,
    - (b) in the definition of “the duty point”, in paragraph (b)—
      - (i) for the words from “any Community” to “be incurred” substitute “import duty is incurred in respect of the goods”,
      - (ii) for the words from “the corresponding” to “duty or” substitute “the time a debt in respect of any”, and
      - (iii) after “dutiable goods” insert “is incurred in respect of the goods”,
    - (c) in the definition of “material time”—
      - (i) in paragraph (a), omit “acquisition or” and “or 12(3)”, and
      - (ii) omit paragraph (b) (but not the “and” at the end of the paragraph), and
    - (d) in the definition of “warehouse”—
      - (i) in the opening words, for “any member State” substitute “the United Kingdom”,
      - (ii) for paragraph (a) substitute—
        - “(a) import duty;”,
      - (iii) in paragraph (c), omit “into any member State”, and
      - (iv) in paragraph (d), omit the words from “or any duty” to the end.
  - (7) In subsection (7)—
    - (a) omit “(whether in the same or different member States)”, and
    - (b) omit “in a member State”.
  - (8) In the heading, omit “acquisition or”.
- 17 In section 18A (fiscal warehousing), in subsection (4)—
- (a) in paragraph (b), omit “(as defined in the Management Act)”,
  - (b) omit paragraphs (c) and (d),
  - (c) in paragraph (e), for “(a) to (d)”, in both places it occurs, substitute “(a) and (b)”, and
  - (d) in paragraph (f), for “(a) to (d)” substitute “(a) and (b)”.
- 18 (1) Section 18B (fiscally warehoused goods: relief) is amended as follows.
- (2) Omit subsection (1).
  - (3) In subsection (2), omit “also”.
  - (4) In subsection (2A), omit “(1)(d) or”.
  - (5) In subsection (3), omit “acquisition or”.
  - (6) In subsection (4), omit “acquisition or” in both places.

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- (7) For subsection (5) substitute—
- “(5) VAT is chargeable on a supply made by a person who is not a taxable person, but who would be were it not for paragraph 1(9) of Schedule 1, where—
- (a) subsection (4) applies to that supply, and
  - (b) that supply is taxable and not zero-rated.”
- (8) For subsection (6) substitute—
- “(6) In this section “eligible goods” means goods—
- (a) of a description falling within Schedule 5A,
  - (b) in the case of imported goods—
    - (i) upon which any import duty has been paid or deferred (by virtue of the customs and excise Acts or any subordinate legislation made under those Acts), and
    - (ii) upon which any VAT chargeable under section 1(1)(c) has been paid, or deferred (by virtue of the customs and excise Acts or any subordinate legislation made under those Acts), and
  - (c) in the case of goods subject to a duty of excise, upon which any excise duty has been paid or deferred under section 127A of the Management Act.”
- (9) In subsection (7)—
- (a) for “an acquisition or supply” substitute “a supply”, and
  - (b) for “the acquisition or supply” substitute “the supply”.
- 19 In section 18C (warehouses and fiscal warehouses: services), in subsection (4)(b), for “Community customs provisions or warehousing regulations” substitute “the customs and excise Acts or any subordinate legislation made under those Acts”.
- 20 (1) Section 18D (removal from warehousing: accountability) is amended as follows.
- (2) In subsection (1), omit the words from “and any acquisition” to the end.
- (3) In subsection (2)—
- (a) in the opening words, omit “or acquisition”, and
  - (b) in paragraph (a), omit “or acquisition”.
- 21 In section 18F (sections 18A to 18E: supplementary), in subsection (1)—
- (a) at the appropriate place insert—

““the customs and excise Acts” has the same meaning as in the Management Act;”,
  - (b) in the definition of “material time”—
    - (i) in paragraph (a), omit “acquisition or” and “or 12(3)”, and
    - (ii) omit paragraph (b), and
  - (c) omit the definition of “warehousing regulations”.
- 22 Omit section 20 (valuation of acquisitions from other member States).
- 23 (1) Section 21 (value of imported goods) is amended as follows.
- (2) For subsection (1) substitute—

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“(1) For the purposes of this Act, the value of imported goods is (subject to subsections (2) to (4)) their value as if determined under TCTA 2018 for the purposes of import duty (whether or not the goods are subject to import duty).”

- (3) In subsection (2)—
    - (a) in the opening words, omit “from a place outside the member States”, and
    - (b) in paragraph (c), omit “from a place outside the member States” and “or another member State”.
  - (4) In subsection (2A)—
    - (a) in paragraph (a), for “the procedure specified in subsection (2B) below” substitute “the temporary admission procedure under Part 1 of TCTA 2018”, and
    - (b) in paragraph (b), omit “from a place outside the member States”.
  - (5) Omit subsection (2B).
  - (6) In subsection (3), in paragraph (a), omit “from a place outside the member States”.
  - (7) In subsection (4), omit “from a place outside the member States”.
  - (8) In subsection (6D), for “any goods imported from outside the member States” substitute “imported goods”.
- 24 (1) Section 24 (input tax and output tax) is amended as follows.
- (2) In subsection (1)—
    - (a) omit paragraph (b) (but not the “and” at the end of the paragraph), and
    - (b) in paragraph (c), omit “from a place outside the member States”.
  - (3) In subsection (2), omit the words from “or on the acquisition” to the end.
  - (4) In subsection (5)—
    - (a) in the opening words—
      - (i) omit “, goods acquired by a taxable person from another member State”, and
      - (ii) omit “from a place outside the member States”, and
    - (b) in paragraph (a), omit “, acquisitions”.
  - (5) In subsection (6)—
    - (a) in paragraph (a)—
      - (i) omit “, VAT on the acquisition of goods by a taxable person from other member States”, and
      - (ii) omit “from places outside the member States”,
    - (b) in paragraph (b)—
      - (i) omit “or on the acquisition of goods by him from another member State”,
      - (ii) omit “from places outside the member States”, and
      - (iii) omit “, acquisition”, and
    - (c) in paragraph (c), omit “, acquisition”.

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- 25 (1) Section 25 (payment by reference to accounting periods and credit for input tax against output tax) is amended as follows.
- (2) In subsection (1), omit paragraph (b) (together with the “and” before that paragraph).
- (3) In subsection (7)—
- (a) in the opening words, omit “, acquisitions”, and
- (b) in paragraph (a), omit “acquired or” and, in both places, omit “, acquired”.
- 26 In section 26 (input tax allowable under section 25), in subsection (1), omit “, acquisitions”.
- 27 In section 27 (goods imported for private purposes), in subsection (1), omit “from a place outside the member States”.
- 28 (1) Section 29A (reduced rate) is amended as follows.
- (2) In subsection (1)(b), omit “acquisition or”.
- (3) For subsection (2) substitute—
- “(2) The reference in subsection (1) to an equivalent importation, in relation to any supply that is of a description for the time being specified in Schedule 7A, is a reference to any importation of any goods the supply of which would be such a supply.”
- 29 (1) Section 30 (zero-rating) is amended as follows.
- (2) In subsection (3), for the words from “acquired in the United Kingdom” to “importation,” substitute “imported, no VAT shall be chargeable on their importation”.
- (3) In subsection (5), omit “to a place outside the member States”.
- (4) In subsection (6)(a), omit “to a place outside the member States”.
- (5) In subsection (8), for paragraph (a) substitute—
- “(a) the Commissioners are satisfied that the goods have been or are to be exported to such places as may be specified in the regulations, and”.
- (6) Omit subsection (8A).
- (7) In subsection (9), for “removed from the United Kingdom” substitute “exported”.
- (8) In subsection (10)—
- (a) in the opening words, for “subsection (8), (8A) or (9)” substitute “subsection (8) or (9)”,
- (b) in paragraph (a), omit “or otherwise removed from the United Kingdom”, and
- (c) in paragraph (b), for “subsection (6), (8), (8A) or (9)” substitute “subsection (6), (8) or (9)”.
- 30 (1) Section 31 (exempt supplies and acquisitions) is amended as follows.
- (2) In subsection (1), omit the words from “and an acquisition” to the end.
- (3) In the heading, omit “and acquisitions”.
- 31 (1) Section 33 (refunds of VAT in certain cases) is amended as follows.

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- (2) In subsection (1)—
- (a) for paragraph (a) (together with the “and” at the end of the paragraph) substitute—
    - “(a) VAT is chargeable on the supply of goods or services to, or on the importation of goods by, a body to which this section applies, and”, and
    - (b) in paragraph (b), omit “, acquisition”.
  - (3) In subsection (2)—
    - (a) omit “or acquired” in both places, and
    - (b) omit “or acquisition”.
- 32 (1) Section 33A (refunds of VAT to museums and galleries) is amended as follows.
- (2) In subsection (1)—
- (a) for paragraph (a) substitute—
    - “(a) VAT is chargeable on the supply of goods or services to, or on the importation of goods by, a body to which this section applies,”,
    - (b) in paragraph (b), omit “, acquisition”, and
    - (c) in paragraph (c), omit “acquisition or”.
  - (3) In subsection (4), omit “acquisition or”.
  - (4) In subsection (6), omit “or acquired” in both places.
  - (5) In subsection (8)(b)(ii), omit “acquisitions and”.
- 33 (1) Section 33B (refunds of VAT to Academies) is amended as follows.
- (2) In subsection (1)—
- (a) for paragraph (a) (together with the “and” at the end of the paragraph) substitute—
    - “(a) VAT is chargeable on the supply of goods or services to, or on the importation of goods by, the proprietor of an Academy, and”, and
    - (b) in paragraph (b), omit “, acquisition”.
  - (3) In subsection (3), omit “acquisition or”.
  - (4) In subsection (5), omit “or acquired” in both places.
  - (5) In subsection (6), omit “or acquisition”.
- 34 (1) Section 33C (refunds of VAT to charities within section 33D) is amended as follows.
- (2) In subsection (2)—
- (a) for paragraph (a) (together with the “and” at the end of the paragraph) substitute—
    - “(a) VAT is chargeable on the supply of goods or services to, or on the importation of goods by, a qualifying charity, and”, and
    - (b) in paragraph (b), omit “, acquisition”.
  - (3) In subsection (4)—

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- (a) for “supply, acquisition or” substitute “supply or”, and
  - (b) for “the acquisition or importation” substitute “the importation”.
- (4) In subsection (5), omit “or acquired” in both places.
- (5) In subsection (6), omit “or acquisition”.
- 35 (1) Section 33E (power to extend refunds of VAT to other persons) is amended as follows.
  - (2) In subsection (1)—
    - (a) for paragraph (a) (together with the “and” at the end of the paragraph) substitute—
      - “(a) VAT is chargeable on the supply of goods or services to, or on the importation of goods by, a specified person, and”, and
      - (b) in paragraph (b), omit “, acquisition”.
  - (3) In subsection (4), omit “, acquisition”.
  - (4) In subsection (5)—
    - (a) in paragraph (a), omit “acquisition or”, and
    - (b) in paragraph (b), omit “acquisition or”.
  - (5) In subsection (6), omit “or acquired” in both places.
  - (6) In subsection (7), omit “or acquisition”.
- 36 (1) Section 34 (capital goods) is amended as follows.
  - (2) In subsection (1), omit “, acquisition”.
  - (3) In subsection (2), omit “, acquired”.
- 37 (1) Section 35 (refund of VAT to persons constructing certain buildings) is amended as follows.
  - (2) In subsection (1)(c), omit “, acquisition”.
  - (3) Omit subsection (3).
- 38 Omit section 36A (relief from VAT on acquisition if importation would attract relief) and the italic heading before that section.
- 39 (1) Section 37 (relief from VAT on importation of goods) is amended as follows.
  - (2) In subsection (1)—
    - (a) omit “from places outside the member States”, and
    - (b) omit the words from “, if and so” to the end.
  - (3) In subsection (2)(a), omit “from a place outside the member States”.
  - (4) In subsection (3)—
    - (a) omit “from places outside the member States”, and
    - (b) omit “from the United Kingdom or removed from any member State”.
  - (5) In subsection (4)—
    - (a) in the opening words—
      - (i) omit “from places outside the member States”, and

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- (ii) omit “or otherwise removed from the United Kingdom”, and
- (b) omit paragraph (b).
- 40 In section 38 (importation of goods by taxable persons)—
  - (a) omit “from a place outside the member States”, and
  - (b) omit “or on the acquisition of goods by him from other member States”.
- 41 In section 39 (repayment of VAT to those in business overseas), for subsections (1) and (2) substitute—
  - “(1) The Commissioners may, by means of a scheme embodied in regulations, provide for the repayment, to persons carrying on business wholly outside the United Kingdom, of VAT which would be input tax of theirs if they were taxable persons in the United Kingdom.
  - (2) The scheme may make different provision in relation to persons carrying on business in different places.”
- 42 Omit section 39A (applications for forwarding of VAT repayment claims to other member States).
- 43 Omit section 40 (refunds in relation to new means of transport supplied to other member States).
- 44 (1) Section 41 (application to the Crown) is amended as follows.
  - (2) In subsection (3)—
    - (a) omit “, on the acquisition of any goods by a Government department from another member State”,
    - (b) omit “from a place outside the member States”, and
    - (c) omit “, acquisition”.
  - (3) In subsection (4), omit “, acquisition”.
- 45 (1) Section 41A (supply of goods or services by public bodies) is amended as follows.
  - (2) In subsection (1), for the words from “body” to “taxable persons)” substitute “public authority”.
  - (3) For subsection (2) substitute—
    - “(2) Unless the supply is on such a small scale as to be negligible, it is to be treated for the purposes of this Act as a supply in the course or furtherance of a business if it is in respect of any of the following activities—
    - (a) telecommunications services,
    - (b) supply of water, gas, electricity or thermal energy,
    - (c) transport of goods,
    - (d) port or airport services,
    - (e) passenger transport,
    - (f) supply of new goods manufactured for sale,
    - (g) engaging in transactions in respect of agricultural products in the exercise of regulatory functions,
    - (h) organisation of trade fairs or exhibitions,
    - (i) warehousing,
    - (j) activities of commercial publicity bodies,



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- (k) activities of travel agents,
  - (l) running of staff shops, cooperatives, industrial canteens, or similar institutions, or
  - (m) activities carried out by radio and television bodies which are of a commercial nature.”
- (4) Omit subsection (4).
- 46 (1) Section 43 (groups of companies) is amended as follows.
  - (2) In subsection (1), for paragraph (c) substitute—
    - “(c) any VAT paid or payable by a member of the group on the importation of goods shall be treated as paid or payable by the representative member and the goods shall be treated, for the purposes of sections 38 and 73(7), as imported by the representative member;”.
  - (3) In subsection (1AA)—
    - (a) in paragraph (a), omit “acquired or”,
    - (b) in paragraph (b), omit “, acquisition”,
    - (c) in paragraph (c)(ii), omit “, acquisition”, and
    - (d) in the words after paragraph (c), omit “, acquisition”.
- 47 (1) Section 44 (supplies to groups) is amended as follows.
  - (2) In subsection (2), in the opening words, omit “acquisitions and”.
  - (3) In subsection (9), omit “acquisition or”.
- 48 (1) Section 45 (partnerships) is amended as follows.
  - (2) In subsection (1)—
    - (a) omit paragraph (b) (together with the “or” before it), and
    - (b) in the words after that paragraph, omit “or are acquired by such persons from another member State”.
  - (3) In subsection (2), omit “or on the acquisition of goods by the partnership from another member State”.
  - (4) In subsection (5), omit “or on the acquisition during that period by the firm of any goods from another member State”.
- 49 (1) Section 46 (business carried on in divisions or by unincorporated bodies, personal representatives etc) is amended as follows.
  - (2) In subsection (3), omit “or whether goods are acquired by such a club, association or organisation from another member State”.
  - (3) Omit subsection (6).
- 50 (1) Section 47 (agents etc) is amended as follows.
  - (2) For subsection (1) substitute—
    - “(1) Where goods are imported by a taxable person (“T”) who supplies them as agent for a person who is not a taxable person, then, if T acts in relation to the supply in T’s own name, the goods are to be treated for the purposes of this Act as imported and supplied by T as principal.”

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- (3) In subsection (4), after “through an agent,” insert “acting in the agent’s own name,”.
- (4) Omit subsection (5).
- 51 (1) Section 48 (VAT representatives and security) is amended as follows.
- (2) In subsection (1)(a), omit “or who acquires goods in the United Kingdom from one or more other member States”.
- (3) For subsections (1A) and (1B) substitute—
- “(1A) The condition mentioned in subsection (1)(ba) is that there are no arrangements in relation to the country or territory relating to VAT which—
- (a) have effect by virtue of an Order in Council under section 173 of the Finance Act 2006, and
- (b) contain provision of a kind mentioned in subsection (2)(a) and (b) of that section.”
- (4) Omit subsection (9).
- 52 In section 50A (margin schemes), in subsection (5), omit “, acquisition”.
- 53 In section 52 (trading stamp schemes)—
- (a) in the opening words—
- (i) for “sections 19 and 20 and Schedules 6 and 7” substitute “section 19 and Schedule 6”, and
- (ii) for “in those sections and Schedules)” substitute “in that section and Schedule”;
- (b) omit paragraph (b) (together with the “or” before it), and
- (c) in the words after that paragraph—
- (i) omit “or acquired”, and
- (ii) omit “or under any scheme of an equivalent description which is in operation in another member State”.
- 54 In section 54 (farmers etc), for subsection (8) substitute—
- “(8) In this section “designated activities” means activities relating to farming, fisheries or forestry which are designated in an order made by the Treasury.”
- 55 In section 55A (customers to account for tax on supplies of goods or services of a kind used in missing trader intra-community fraud), in the heading, omit “intra-community”.
- 56 In section 58 (general provisions relating to the administration and collection of VAT), for “92(6)” substitute “58ZA(5)(a)”.
- 57 After section 58 insert—

**“58ZA International VAT arrangements**

- (1) The Commissioners may make regulations imposing obligations on taxable persons for the purpose of giving effect to international VAT arrangements.
- (2) The regulations may require the submission to the Commissioners by taxable persons of statements containing such particulars of—

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- (a) relevant transactions in which the taxable persons are concerned, and
  - (b) the persons concerned in those transactions,as may be specified in the regulations.
- (3) The regulations may provide for statements about relevant transactions to be submitted at such times and intervals, in such cases and in such form and manner as may be specified—
  - (a) in the regulations, or
  - (b) by the Commissioners in accordance with the regulations.
- (4) A transaction is a “relevant transaction” for the purposes of this section if information about it could be relevant to any international VAT arrangements.
- (5) If any international VAT arrangements have effect—
  - (a) any Schedule 11 information power is exercisable with respect to matters that are relevant to those arrangements as it is exercisable with respect to matters that are relevant for any of the purposes of this Act, and
  - (b) any power of an officer of Revenue and Customs to obtain information or documents under any enactment or subordinate legislation relating to VAT is exercisable in relation to matters which are relevant to those arrangements.
- (6) The Commissioners may disclose information which is obtained as a result of subsection (5) (and no obligation of secrecy, whether imposed by statute or otherwise, prevents such disclosure) if—
  - (a) the disclosure is required in accordance with the international VAT arrangements, and
  - (b) the Commissioners are satisfied that the recipient is bound, or has undertaken, both to observe rules of confidentiality which are no less strict than those applying to the information in the United Kingdom and to use the information only for the purposes contemplated by the arrangements.
- (7) Powers are exercisable as a result of subsection (5) only if the Commissioners have given (and not withdrawn) a direction in writing authorising their use (either generally or in relation to specified cases).
- (8) The Commissioners may not make regulations under this section, or give a direction under subsection (7), unless they consider that making the regulations or giving the direction would facilitate the administration, collection or enforcement of VAT.
- (9) In this section—
  - “international VAT arrangements” means arrangements which—
    - (a) have effect by virtue of an Order in Council under section 173 of the Finance Act 2006, and
    - (b) relate to VAT or any tax corresponding to VAT imposed under the law of the territory, or any of the territories, in relation to which the arrangements have been made, and

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“Schedule 11 information power” means any power of the Commissioners under Schedule 11 relating to—

- (a) the keeping of accounts,
- (b) the making of returns and the submission of other documents to the Commissioners,
- (c) the production, use and contents of invoices,
- (d) the keeping and preservation of records, and
- (e) the furnishing of information and the production of documents.”

- 58 (1) Section 62 (incorrect certificates as to zero-rating etc) is amended as follows.
- (2) Omit subsection (1A).
  - (3) In subsection (2), omit paragraph (b).
- 59 (1) Section 65 (inaccuracies in EC sales statements or in statements relating to section 55A) is amended as follows.
- (2) In subsection (1)—
    - (a) in paragraph (a), for “an EC sales statement” substitute “a section 55A statement”,
    - (b) in paragraph (c), for “another EC sales statement” substitute “another section 55A statement”, and
    - (c) in paragraph (f), for “another EC sales statement” substitute “another section 55A statement”.
  - (3) In subsection (2), for “an EC sales statement” substitute “a section 55A statement”.
  - (4) In subsection (3), for “an EC sales statement” substitute “a section 55A statement”.
  - (5) For subsections (6) and (7) substitute—
    - “(6) In this section—
      - “section 55A statement” means a statement which is required to be submitted to the Commissioners in accordance with regulations under paragraph 2(3A) of Schedule 11; and
      - “submission date”, in relation to a section 55A statement, means whichever is the earlier of the last day for the submission of the statement to the Commissioners in accordance with those regulations and the day on which it was in fact submitted to them.”
  - (6) For the heading substitute “Inaccuracies in section 55A statements”.
- 60 (1) Section 66 (failure to submit EC sales statement or statement relating to section 55A) is amended as follows.
- (2) In subsection (1), for “an EC sales statement” substitute “a section 55A statement”.
  - (3) In subsection (2), for “any EC sales statement” substitute “any section 55A statement”.
  - (4) In subsection (3)(b), for “any EC sales statement” substitute “any section 55A statement”.

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- (5) In subsection (4)(b) for “any EC sales statement”, in both places it occurs, substitute “any section 55A statement”.
- (6) In subsection (7)—
- (a) in paragraph (a), for “an EC sales statement” substitute “a section 55A statement”, and
  - (b) in the words after paragraph (b), omit “, 75”.
- (7) For subsections (9) and (10) substitute—
- “(9) In this section, “section 55A statement” means a statement which is required to be submitted to the Commissioners in accordance with regulations under paragraph 2(3A) of Schedule 11.”
- (8) For the heading substitute “Failure to submit section 55A statement”.
- 61 In section 69 (breaches of regulatory provisions), in subsection (1), in paragraph (a), omit “, paragraph 5 of Schedule 2, paragraph 5 of Schedule 3”.
- 62 In section 69C (transactions connected with VAT fraud), in subsection (6), in the words after paragraph (b)—
- (a) for “(whether before or after the coming into force of this section) in other cases” substitute “in any other cases”, and
  - (b) after “VAT system” insert “which were decided before the coming into force of section 42 of TCTA 2018”.
- 63 (1) Section 72 (offences) is amended as follows.
- (2) In subsection (2)—
- (a) in paragraph (b), for “35, 36 or 40” substitute “35 or 36”,
  - (b) omit paragraph (c), and
  - (c) in paragraph (ii), for “(b), (c) or (d)” substitute “(b) or (d)”.
- (3) In subsection (5), in paragraph (a)—
- (a) for “35, 36 or 40” substitute “35 or 36”, and
  - (b) omit “for a refund under any regulations made by virtue of section 13(5)”.
- (4) In subsection (10)—
- (a) omit “, on the acquisition of the goods from another member State”, and
  - (b) omit “from a place outside the member States”.
- 64 (1) Section 73 (failure to make returns etc) is amended as follows.
- (2) In subsection (3)(b), omit “, paragraph 6(2) of Schedule 2, paragraph 6(2) or (3) of Schedule 3”.
- (3) In subsection (7)—
- (a) in paragraph (a), omit “, acquired any goods from another member State”,
  - (b) in paragraph (b), omit “from a place outside the member States”, and
  - (c) in the words after paragraph (b), omit “or otherwise removed from the United Kingdom without being exported or so removed by way of supply”.
- 65 In section 74 (interest on VAT recovered or recoverable by assessment), in subsection (1)(c), omit “, under paragraph 8 of Schedule 3”.

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- 66 Omit section 75 (assessments in cases of acquisitions of certain goods by non-taxable persons).
- 67 (1) Section 76 (assessment of amounts due by way of penalty, interest or surcharge) is amended as follows.
- (2) In subsection (1), in paragraph (a), for “, section 59A, paragraph 16F of Schedule 3B or paragraph 26 of Schedule 3BA” substitute “or 59A”.
- (3) Omit subsection (3A).
- (4) In subsection (5), omit “or (3A)” in both places.
- (5) Omit subsection (6).
- 68 Omit section 76A (section 76: cases involving special accounting schemes).
- 69 (1) Section 77 (assessments: time limits and supplementary assessments) is amended as follows.
- (2) In subsection (1)—
- (a) in the opening words, omit “, 75”, and
- (b) in paragraph (a), omit “or acquisition”.
- (3) In subsection (2), omit “or (3A)”.
- (4) In subsection (3), omit “or (3A)”.
- (5) In subsection (4), omit “, acquisition”.
- (6) In subsection (4C)—
- (a) in paragraph (aa), after “Schedule 1A,” insert “or”, and
- (b) omit paragraphs (b), (c) and (e) (together with the “or” before paragraph (e)).
- (7) In subsection (6), omit “or 75(2)(b)”.
- 70 In section 78A (assessment for interest overpayments), in subsection (7)(a), for “(6)” substitute “(5)”.
- 71 (1) Section 80 (credit for, or repayment of, overstated or overpaid VAT) is amended as follows.
- (2) In subsection (3C), in the definition of “VAT provisions”, in paragraph (a), for “, subordinate legislation or EU legislation” substitute “or subordinate legislation”.
- (3) In subsection (7), omit “(and paragraph 16I of Schedule 3B and paragraph 29 of Schedule 3BA)”.
- 72 In section 83 (appeals), in subsection (1)—
- (a) in paragraph (b)—
- (i) omit “, on the acquisition of goods from another member State”, and
- (ii) omit “from a place outside the member States”,
- (b) omit paragraph (d),
- (c) omit paragraph (j),
- (d) in paragraph (p), omit sub-paragraph (iii) (together with the “or” before that sub-paragraph), and
- (e) omit paragraph (w).

- 73 In section 84 (further provisions relating to appeals)—
- (a) in subsection (4)(c), omit “, acquisition”, and
  - (b) in subsection (6), omit “or (as the case requires) paragraph 26 of Schedule 3BA or paragraph 16F of Schedule 3B”.
- 74 (1) Section 88 (supplies spanning change of rate etc) is amended as follows.
- (2) In subsection (1), omit “or exempt, zero-rated or reduced-rate acquisitions”.
  - (3) Omit subsections (4) and (7).
  - (4) For subsection (8) substitute—
    - “(8) References in this section to a supply being a reduced-rate supply are references to a supply being one on which VAT is charged at the rate in force under section 29A.”
- 75 (1) Section 90 (failure of resolution under Provisional Collection of Taxes Act 1968) is amended as follows.
- (2) In subsection (1)—
    - (a) in paragraph (a), omit the words from “or on the acquisition” to “20(3)”, and
    - (b) in paragraph (b), omit “or acquisition”.
  - (3) In subsection (2)—
    - (a) in paragraph (a), omit the words from “or on the acquisition” to “20(3)”, and
    - (b) in paragraph (b), omit “or acquisition”.
  - (4) In subsection (3), for “, 35 or 40” substitute “or 35”.
- 76 Omit section 92 (taxation under the laws of other member States etc).
- 77 Omit section 93 (territories included in references to other member States etc).
- 78 Omit section 95 (meaning of “new means of transport”).
- 79 (1) Section 96 (other interpretative provisions) is amended as follows.
- (2) In subsection (1)—
    - (a) omit the definition of “another member State”,
    - (b) at the appropriate place insert—
      - ““TCTA 2018” means the Taxation (Cross-border Trade) Act 2018;”,
      - and
      - ““import duty” means import duty charged in accordance with Part 1 of TCTA 2018;”,
    - (c) omit the definition of “taxable acquisition”, and
    - (d) for the definition of “VAT” substitute—
      - ““VAT” means value added tax charged in accordance with this Act;”.
  - (3) Omit subsection (3).
- 80 In section 99 (refund of VAT to Government of Northern Ireland)—
- (a) omit “, on the acquisition of any goods by that Government from another member State”,
  - (b) omit “from a place outside the member States”, and
  - (c) omit “, acquisitions”.

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- 81 (1) Schedule 1 (registration in respect of taxable supplies: UK establishment) is amended as follows.
- (2) In paragraph 1—
- (a) in sub-paragraph (4)(a), omit “, paragraph 6(2) of Schedule 2, paragraph 6(3) of Schedule 3”,
  - (b) in sub-paragraph (5), omit “, paragraph 6(2) of Schedule 2, paragraph 6(3) of Schedule 3”,
  - (c) in sub-paragraph (7), omit “and any taxable supplies which would not be taxable supplies apart from section 7(4)”, and
  - (d) in sub-paragraph (9), omit “acquisition or”.
- (3) In paragraph 2(7), omit paragraph (c).
- (4) In paragraph 4(3), omit “and any taxable supplies which would not be taxable supplies apart from section 7(4)”.
- (5) In paragraph 13, omit sub-paragraph (8).
- 82 (1) Schedule 1A (registration in respect of taxable supplies: non-UK establishment) is amended as follows.
- (2) In paragraph 3, omit paragraphs (c) and (d) (but not the “or” at the end of paragraph (d)).
- (3) Omit paragraph 12.
- 83 Omit Schedule 2 (registration in respect of supplies from other member States).
- 84 Omit Schedule 3 (registration in respect of acquisitions from other member States).
- 85 In Schedule 3A (registration in respect of disposals of assets for which a VAT repayment is claimed), in paragraph 1—
- (a) in sub-paragraph (1), for “Schedule 1, 1A, 2 or 3” substitute “Schedule 1 or 1A”, and
  - (b) in sub-paragraph (2), for the words from “, paragraph 11 of Schedule 1A” to the end substitute “or paragraph 11 of Schedule 1A”.
- 86 Omit Schedule 3B (electronic, telecommunication and broadcasting services: non-Union scheme).
- 87 Omit Schedule 3BA (electronic, telecommunication and broadcasting services: Union scheme).
- 88 (1) Schedule 4 (matters to be treated as supply of goods or services) is amended as follows.
- (2) In paragraph 5(5)(a), omit “, acquisition”.
- (3) Omit paragraph 6.
- (4) In paragraph 8(2)(a), for the words from “, their acquisition” to the end substitute “or their importation into the United Kingdom”.
- 89 (1) Schedule 4A (place of supply of services: special rules) is amended as follows.
- (2) In paragraph 3—
- (a) in sub-paragraph (3)—



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- (i) in paragraph (b), for “in a country which is not a member State” substitute “outside the United Kingdom”, and
    - (ii) in the words after that paragraph, for “in that country” substitute “outside the United Kingdom”, and
  - (b) in sub-paragraph (4)(a), for “in a country which is not a member State” substitute “outside the United Kingdom”.
- (3) In the italic heading before paragraph 5, omit “: general”.
- (4) For paragraph 5 substitute—
  - “5 A supply of restaurant or catering services is to be treated as made in the country in which the services are physically carried out.”
- (5) Omit paragraph 6 and the italic heading before it.
- (6) In paragraph 7—
  - (a) in sub-paragraph (1)—
    - (i) in paragraph (b), for “in a country which is not a member State” substitute “outside the United Kingdom”, and
    - (ii) in the words after that paragraph, for “in that country” substitute “outside the United Kingdom”, and
  - (b) in sub-paragraph (2)(a), for “in a country which is not a member State” substitute “outside the United Kingdom”.
- (7) In paragraph 8—
  - (a) in sub-paragraph (3)—
    - (i) in paragraph (b), for “in a country which is not a member State” substitute “outside the United Kingdom”, and
    - (ii) in the words after that paragraph, for “in that country” substitute “outside the United Kingdom”, and
  - (b) in sub-paragraph (4)(a), for “in a country which is not a member State” substitute “outside the United Kingdom”.
- (8) In paragraph 9—
  - (a) in sub-paragraph (1)—
    - (i) in paragraph (b), for “in a country which is not a member State” substitute “outside the United Kingdom”, and
    - (ii) in the words after that paragraph, for “in that country” substitute “outside the United Kingdom”, and
  - (b) in sub-paragraph (2)(a), for “in a country which is not a member State” substitute “outside the United Kingdom”.
- (9) In paragraph 9B—
  - (a) in paragraph (b), for “outside the member States” substitute “outside the United Kingdom”, and
  - (b) in the words after that paragraph, for “wholly outside the member States” substitute “outside the United Kingdom”.
- (10) In paragraph 9C, in sub-paragraph (1)—
  - (a) in paragraph (b), for “outside the member States” substitute “outside the United Kingdom”, and

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- (b) in the words after that paragraph, for “wholly outside the member States” substitute “outside the United Kingdom”.
- (11) In paragraph 9D—
- (a) in sub-paragraph (2)—
    - (i) in paragraph (b), for “outside the territories of the member States” substitute “outside the United Kingdom”, and
    - (ii) in the words after that paragraph, for “where it is used and enjoyed” substitute “outside the United Kingdom”, and
  - (b) in sub-paragraph (3)(a), for “outside the territories of the member States” substitute “outside the United Kingdom”.
- (12) In paragraph 9E—
- (a) in sub-paragraph (3)—
    - (i) in paragraph (b), for “in a country which is not a member State” substitute “outside the United Kingdom”, and
    - (ii) in the words after that paragraph, for “in that country” substitute “outside the United Kingdom”, and
  - (b) in sub-paragraph (4)(a), for “in a country which is not a member State” substitute “outside the United Kingdom”.
- (13) In the italic heading before paragraph 11, omit “: general”.
- (14) In paragraph 11, omit sub-paragraph (3).
- (15) Omit paragraph 12 and the italic heading before it.
- (16) In the italic heading before paragraph 16, for “EC” substitute “United Kingdom and the Isle of Man”.
- (17) In paragraph 16—
- (a) in sub-paragraph (1)(b), for “which is not a member State (other than the Isle of Man)” substitute “other than the United Kingdom or the Isle of Man”, and
  - (b) in sub-paragraph (2)(f)(i)—
    - (i) for “situated within the territory of a member State” substitute “in the United Kingdom”, and
    - (ii) for “such a system” substitute “a natural gas system in the United Kingdom”.
- 90 In Schedule 5A (goods eligible to be fiscally warehoused), for the heading of the second column substitute “customs tariff (within the meaning of TCTA 2018) code”.
- 91 (1) Schedule 6 (valuation: special cases) is amended as follows.
- (2) In paragraph 1A—
- (a) in sub-paragraph (4)—
    - (i) in the definition of “motor dealer”, omit “or acquiring from another member State”, and
    - (ii) in the definition of “stock in trade”, for paragraphs (a) and (b) substitute—
      - “(a) produced by a motor manufacturer, or supplied to or imported by a motor dealer, for the purpose of resale, and

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- (b) intended to be sold within 12 months of their production, supply or importation (as the case may require),” and
    - (b) in sub-paragraph (6)(a)—
      - (i) omit “, acquired from another member State,” and
      - (ii) omit “, acquisition”.
  - (3) In paragraph 3, in sub-paragraph (1)(a), in sub-paragraph (ii), omit “EU customs duty or”.
- 92 Omit Schedule 7 (valuation of acquisitions from other member States: special cases).
- 93 In Schedule 7A (charge at reduced rate), in Group 3 (grant-funded installation of heating equipment or security goods or connection of gas supply), in paragraph 2(3) of the Notes to that Group, omit sub-paragraph (e).
- 94 (1) Schedule 8 (zero-rating) is amended as follows.
  - (2) In Part 1, in the index, omit the entry relating to European Research Infrastructure Consortia.
  - (3) In Group 7 (international services)—
    - (a) in the opening words of item 1—
      - (i) omit “or acquired”,
      - (ii) for “any of the member States” substitute “the United Kingdom”, and
      - (iii) omit “to a place outside the member States”,
    - (b) in paragraph (b) of item 1, for “member States” substitute “United Kingdom”, and
    - (c) in item 2—
      - (i) in paragraph (a), omit “to a place outside the member States”, and
      - (ii) in paragraph (c), for “member States” substitute “United Kingdom”.
  - (4) In Group 8 (transport)—
    - (a) in item 5, for “member States” substitute “United Kingdom”,
    - (b) in paragraph (a) of item 11, for sub-paragraphs (i) and (ii) substitute—
      - “(i) the transport of goods to or from a place—
        - (a) from which they are to be exported, or
        - (b) to which they have been imported,
      - (ii) the handling or storage of those goods at that place, or
      - (iii) the handling or storage of those goods in connection with their transport to or from that place, or”,
    - (c) in item 12, after “enjoyed outside” insert “the United Kingdom or”,
    - (d) omit item 13,
    - (e) in Note (C1), omit the definition of “State institution”, and
    - (f) omit Note (9).
  - (5) In Group 12 (drugs, medicines, aids for the disabled)—
    - (a) in Note (1)—
      - (i) omit “acquired from another member State or”, and
      - (ii) omit “from a place outside the member States”,

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- (b) in Note (5N), in paragraph (b), omit “reckonable zero-rated acquisition, or”,
  - (c) in Note (5O)—
    - (i) in paragraph (b), omit “acquisition or”, and
    - (ii) in the words after paragraph (b), omit “or acquisition”, and
  - (d) in Note (5T)—
    - (i) omit the definition of “reckonable zero-rated acquisition”, and
    - (ii) in the definition of “reckonable zero-rated importation”, omit “from a place outside the member States”.
- (6) In Group 13 (imports, exports, etc)—
- (a) for item 1 substitute—
    - “1 The supply of imported goods before a Customs declaration has been made under Part 1 of TCTA 2018 in respect of those goods where the supplier and the purchaser of the goods have agreed that the purchaser will make the Customs declaration.”,
  - (b) in item 3, omit “to places outside the member States”, and
  - (c) in Note (5), omit the words from “, another member State, any” to the end.
- (7) In Group 15 (charities etc), in item 3, omit “to a place outside the member States”.
- (8) In Group 16 (clothing and footwear)—
- (a) in Note (4)(b), for sub-paragraphs (i) and (ii) substitute—
    - “(i) are manufactured to standards which satisfy the requirements of regulation 8(2) of the Personal Protective Equipment Regulations 2002, and
    - (ii) bear the mark of conformity required by that regulation.”, and
  - (b) in Note (4A)(b), for sub-paragraphs (i) and (ii) substitute—
    - “(i) is manufactured to standards which satisfy the requirements of regulation 8(2) of the Personal Protective Equipment Regulations 2002, and
    - (ii) bears the mark of conformity required by that regulation.”
- (9) Omit Group 18 (European Research Infrastructure Consortia).
- 95 (1) Schedule 9 (exemptions) is amended as follows.
- (2) In Group 5 (finance)—
- (a) in item 9—
    - (i) in paragraph (i), for “another EEA state” substitute “an EEA state”, and
    - (ii) in paragraph (j), for “another EEA state” substitute “an EEA state”, and
  - (b) in Note (6), in the definition of “recognised collective investment scheme constituted in another EEA state”, for “another EEA state” substitute “an EEA state”.
- (3) In Group 14 (supplies of goods where input tax cannot be recovered)—
- (a) in paragraph (a) of item 1, omit “or acquisition”,
  - (b) in Note (7)(a), omit “or acquisition”,

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- (c) in Note (9)—
    - (i) in the opening words, omit “or acquisition”, and
    - (ii) in paragraph (b), omit “or acquisition”,
  - (d) in Note (10), omit “, acquisition” in both places, and
  - (e) in Note (15), omit “, acquisition” in both places.
- (4) In Group 16 (supplies of services by groups involving cost sharing), in item 1, in paragraph (a), for the words from “in relation to” to the end substitute “is not carried on in the course or furtherance of carrying on a business,”.
- 96 (1) Schedule 9A (anti-avoidance provisions: groups) is amended as follows.
- (2) In paragraph 1(5)(a), omit “acquisition or”.
  - (3) In paragraph 6(10)(a), for “(6)” substitute “(5)”.
- 97 (1) Schedule 11 (administration, collection and enforcement) is amended as follows.
- (2) In paragraph 2—
    - (a) omit sub-paragraphs (3) and (3ZA),
    - (b) omit sub-paragraphs (4) and (5),
    - (c) in sub-paragraph (5A), for paragraph (b) substitute—
      - “(b) where notification of the arrival of a means of transport imported into the United Kingdom is required by virtue of paragraph (a), for requiring any VAT on its importation to be paid at such time and in such manner as may be specified in the regulations.”,
    - (d) in sub-paragraph (5B)(a), omit “acquisition or”,
    - (e) in sub-paragraph (5D)—
      - (i) omit the definition of “means of transport”, and
      - (ii) in the definition of “relevant person”—
        - (a) omit paragraph (a),
        - (b) in paragraph (b), omit “from a place outside the member States”, and
        - (c) omit paragraph (c),
    - (f) after sub-paragraph (5D) insert—
      - “(5E) For the purposes of sub-paragraphs (5A) to (5D) “means of transport” means—
        - (a) any ship which exceeds 7.5 metres in length,
        - (b) any aircraft the take-off weight of which exceeds 1550 kilograms, or
        - (c) any motorised land vehicle which—
          - (i) has an engine with a displacement or cylinder capacity exceeding 48 cubic centimetres, or
          - (ii) is constructed or adapted to be electrically propelled using more than 7.2 kilowatts,but only if the ship, aircraft or vehicle is intended for the transport of persons or goods.
      - (5F) The Treasury may by order vary sub-paragraph (5E) by adding or deleting any ship, aircraft or vehicle of a description specified in

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the order to or from those which are for the time being specified there.”,

(g) in sub-paragraph (8)—

(i) omit paragraph (b) (together with the “or” before it), and

(ii) in the words after paragraph (b), omit “or acquisition”, and

(h) omit sub-paragraph (9).

(3) In paragraph 2A(2), in paragraph (b), omit “or the law of another member State”.

(4) In paragraph 3(2), omit paragraph (c).

(5) In paragraph 6(1), omit the words from “, and every person who” to the end.

(6) For paragraph 8(1) substitute—

“(1) An authorised person may take samples from goods that are in the possession of either a person who supplies goods or a fiscal warehousekeeper if it appears necessary to do so—

(a) to protect the revenue against mistake or fraud, and

(b) to determine how the goods, or the material of which they are made, ought to be or to have been treated for the purposes of VAT.”

(7) In paragraph 14(1), in paragraph (c), for “2(3) or (4)” substitute “2(5A)”.

98 In Schedule 11A (disclosure of avoidance schemes), in paragraph 2A, in sub-paragraph (2)—

(a) omit paragraph (b) (but not the “and” at the end of the paragraph), and

(b) in paragraph (c), omit “from a place outside the member States”.

### *Effect of amendments made by this Part of this Schedule*

99 (1) If an amendment made by this Part of this Schedule to a provision of the Value Added Tax Act 1994 has the effect of removing a reference to the principal VAT directive or the implementing VAT regulation, the removal is not to be taken as implying that the directive or regulation is no longer relevant for determining the meaning and effect of that provision.

(2) In this paragraph “the principal VAT directive” and “the implementing VAT regulation” have the same meaning as in section 42.

## **PART 2**

### AMENDMENTS OF OTHER ENACTMENTS

#### *Diplomatic Privileges Act 1964*

100 In section 2 of the Diplomatic Privileges Act 1964 (application of Vienna Convention), in subsection (5A)—

(a) for “10 or 15” substitute “1(1)(c)”, and

(b) for “(acquisitions from other member States and importations from outside the European Union)” substitute “(imposition of charge to value added tax on imported goods)”.

*Commonwealth Secretariat Act 1966*

- 101 In paragraph 10 of the Schedule to the Commonwealth Secretariat Act 1966 (immunities and privileges), in sub-paragraph (1A)—
- (a) for “10 or 15” substitute “1(1)(c)”, and
  - (b) for “(acquisitions from other member States and importations from outside the European Union)” substitute “(imposition of charge to value added tax on imported goods)”.

*Consular Relations Act 1968*

- 102 (1) The Consular Relations Act 1968 is amended as follows.
- (2) In section 1 (application of Vienna Convention), in subsection (8A)—
- (a) for “10 or 15” substitute “1(1)(c)”, and
  - (b) for “(acquisitions from other member States and importations from outside the European Union)” substitute “(imposition of charge to value added tax on imported goods)”.
- (3) In section 8 (refund of customs duty on hydrocarbon oils), in subsection (1), omit “or acquisition from another member State”.

*International Organisations Act 1968*

- 103 In paragraph 19 of Schedule 1 to the International Organisations Act 1968 (privileges and immunities), in sub-paragraph (c)—
- (a) for “10 or 15” substitute “1(1)(c)”, and
  - (b) for “(acquisitions from other member States and importations from outside the European Union)” substitute “(imposition of charge to value added tax on imported goods)”.

*Diplomatic and other Privileges Act 1971*

- 104 In section 1 of the Diplomatic and other Privileges Act 1971 (refund of customs duties on hydrocarbon oil used for diplomatic or Commonwealth Secretariat purposes), in subsection (5)—
- (a) for “10 or 15” substitute “1(1)(c)”, and
  - (b) for “(acquisitions from other member States and importations from outside the European Union)” substitute “(imposition of charge to value added tax on imported goods)”.

*Customs and Excise Duties (General Reliefs) Act 1979*

- 105 In section 13 of the Customs and Excise Duties (General Reliefs) Act 1979 (power to provide, in relation to persons entering the United Kingdom, for reliefs from duty and value added tax and for simplified computation of duty and tax), in subsection (4), in the definition of “value added tax”, omit the words from “from places outside” to the end.

*Finance Act 1994*

- 106 In the Finance Act 1994, in Schedule 5 (decisions subject to review and appeal), in paragraph 9B, for “third country goods” substitute “imported goods”.

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*Vehicle Excise and Registration Act 1994*

- 107 In section 8 of the Vehicle Excise and Registration Act 1994 (vehicles removed into UK), in subsection (2)—
- (a) for paragraph (a) substitute—
    - “(a) that any value added tax charged on any supply involving the removal of the vehicle into the United Kingdom has been or will be paid or remitted,”
  - (b) in paragraph (b), omit “from a place outside the member States”, and
  - (c) in paragraph (c), omit “acquisition or”.

*Finance Act 2003*

- 108 The Finance Act 2003 is amended as follows.
- 109 In section 24 (taxes and duties on importation and exportation: penalties), in subsection (3), in the definition of “import VAT”, for “from places outside the member States” substitute “into the United Kingdom”.
- 110 In section 26 (penalty for contravention of relevant rule), in subsection (8), omit paragraph (d).

*Finance Act 2007*

- 111 (1) Paragraph 1 of Schedule 24 to the Finance Act 2007 (penalties for errors) is amended as follows.
- (2) In the table, omit the third entry relating to VAT (return under a special scheme).
  - (3) Omit sub-paragraphs (4A) to (4C).

*Finance Act 2008*

- 112 The Finance Act 2008 is amended as follows.
- 113 (1) Schedule 36 (information and inspection powers) is amended as follows.
- (2) In paragraph 11—
    - (a) in sub-paragraph (1), omit paragraph (b) (but not the “or” at the end of that paragraph), and
    - (b) in sub-paragraph (2), in paragraph (c), omit the words from “, the acquisition” to “acquisitions”.
  - (3) In paragraph 34—
    - (a) in sub-paragraph (1)—
      - (i) omit paragraph (b) (but not the “or” at the end of that paragraph), and
      - (ii) in paragraph (c), omit “from a place outside the member States”, and
    - (b) in sub-paragraph (4), omit “, 11”.
  - (4) In paragraph 63, in sub-paragraph (3), omit paragraph (b) (but not the “and” at the end of that paragraph).
- 114 (1) Schedule 41 (penalties: failure to notify and certain VAT and excise wrongdoing) is amended as follows.
- (2) In paragraph 1, in the table—



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- (a) omit the second entry relating to Value Added Tax (obligation to notify under Schedule 2 to the Value Added Tax Act 1994),
  - (b) omit the third entry relating to Value Added Tax (obligations to notify under Schedule 3 to the Value Added Tax Act 1994), and
  - (c) omit the fifth entry relating to Value Added Tax (obligation to notify under regulations made under paragraph 2(4) of Schedule 11 to the Value Added Tax Act 1994).
- (3) In paragraph 7—
- (a) omit sub-paragraph (5),
  - (b) in sub-paragraph (6)—
    - (i) for “any other” substitute “a”, and
    - (ii) omit “, but subject to sub-paragraph (8)”,
  - (c) in sub-paragraph (7), in paragraph (a), omit “, paragraph 8(2) of Schedule 3 to that Act”, and
  - (d) omit sub-paragraph (8).

#### *Finance Act 2009*

- 115 The Finance Act 2009 is amended as follows.
- 116 In section 101 (late payment interest on sums due to HMRC), omit subsections (10) and (11).
- 117 In section 108 (suspension of penalties during currency of agreement for deferred payment), in the table in subsection (5), in the entry relating to value added tax, omit “or under paragraph 16F of Schedule 3B, or paragraph 26 of Schedule 3BA, to that Act”.
- 118 (1) Schedule 55 (penalty for failure to make returns etc) is amended as follows.
- (2) In paragraph 1—
- (a) in sub-paragraph (4), in the definition of “filing date”, omit “(or, in the case of a return mentioned in item 7AA or 7AB of the Table, to the tax authorities to whom the return is required to be delivered)”, and
  - (b) in the table, omit items 7AA and 7AB (returns relating to Schedules 3BA and 3B to the Value Added Tax Act 1994).
- (3) In paragraph 13A, in sub-paragraph (1), for “7A to 7B” substitute “7A, 7B”.
- 119 In paragraph 1 of Schedule 56 (penalty for failure to make payments on time), in the table—
- (a) omit items 6BA and 6BB (amounts payable under returns relating to Schedules 3B and 3BA to the Value Added Tax Act 1994), and
  - (b) omit items 13AA and 13AB (amounts assessed under section 73(1) of the Value Added Tax Act 1994 by virtue of Schedules 3B and 3BA of that Act).

#### *Finance Act 2011*

- 120 In paragraph 45 of Schedule 23 to the Finance Act 2011 (power to obtain data: meaning of “tax”), in sub-paragraph (3), omit paragraph (b) (together with the “and” before that paragraph).

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### *Finance Act 2016*

- 121 In Schedule 18 to the Finance Act 2016 (serial tax avoidance)—
- (a) in paragraph 5(4)—
    - (i) omit paragraph (b) (but not the “and” at the end of the paragraph), and
    - (ii) in paragraph (c), omit “from a place outside the member States”,
  - (b) in paragraph 6(2)—
    - (i) omit paragraph (b) (but not the “and” at the end of the paragraph), and
    - (ii) in paragraph (c), omit “from a place outside the member States”, and
  - (c) in paragraph 36(8)—
    - (i) omit paragraph (b), and
    - (ii) in paragraph (c), omit “from a place outside the member States”.

### *Finance (No. 2) Act 2017*

- 122 The Finance (No. 2) Act 2017 is amended as follows.
- 123 (1) Section 48 (carrying on a third country goods fulfilment business) is amended as follows.
- (2) In subsection (1)—
    - (a) in the opening words, for “a third country goods” substitute “an imported goods”,
    - (b) in paragraph (a)—
      - (i) for “third country goods” substitute “imported goods”, and
      - (ii) for “established in a Member State” substitute “UK-established”, and
    - (c) in paragraph (b)—
      - (i) for “third country goods” substitute “imported goods”, and
      - (ii) for “established in a Member State” substitute “UK-established”.
  - (3) In subsection (3), for “a third country goods” substitute “an imported goods”.
  - (4) For subsections (4) and (5) substitute—
    - “(4) Goods are “imported goods” if they have been imported into the United Kingdom for the purposes of VATA 1994 (as to which, see section 15).
    - (5) A person is “UK-established” if the person’s business establishment is in the United Kingdom as determined for the purposes of section 9 of VATA 1994.”
  - (5) In the heading, for “a third country goods” substitute “an imported goods”.
- 124 In section 49 (requirement for approval), in subsections (1) to (3) and (5), for “a third country goods” substitute “an imported goods”.
- 125 In section 50 (register of approved persons), in subsection (3), for “a third country goods” substitute “an imported goods”.
- 126 In section 51 (regulations relating to approval, registration etc), in subsection (1)(d), for “a third country goods” substitute “an imported goods”.

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- 127 In section 53 (offence), in subsections (1)(a) and (2)(a), for “a third country goods” substitute “an imported goods”.
- 128 In section 54 (forfeiture), in subsections (1)(a) and (2)(b), for “a third country goods” substitute “an imported goods”.
- 129 In section 55 (penalties), in subsection (1), for “a third country goods” substitute “an imported goods”.
- 130 (1) Schedule 13 (third country goods fulfilment businesses: penalty) is amended as follows.
- (2) In paragraph 1(1)(a), for “a third country goods” substitute “an imported goods”.
- (3) In the heading of the Schedule, for “Third country goods” substitute “Imported goods”.
- 131 In Schedule 17 (disclosure of tax avoidance schemes: VAT and other indirect taxes), in paragraph 6—
- (a) in sub-paragraph (3)—
- (i) omit paragraph (b), and
- (ii) in paragraph (c), omit “from a place outside the member States”, and
- (b) in sub-paragraph (5)—
- (i) omit paragraph (b), and
- (ii) in paragraph (c), omit “from a place outside the member States”.

*Consequential repeals*

- 132 In consequence of the amendments made by the other provisions of this Schedule, the following are repealed or revoked—
- (a) in the Finance Act 1996, paragraphs 3, 4, 6, 7, 14 and 15 of Schedule 3,
- (b) in the Postal Services Act 2000, paragraph 22 of Schedule 8,
- (c) in the Finance Act 2001, section 100(2) and paragraph 4(4) and (5) of Schedule 31,
- (d) in the Finance Act 2002, section 25,
- (e) in the Finance Act 2003, section 23 and Schedule 2,
- (f) in the Finance Act 2006, section 19(3) and (4),
- (g) in the Finance Act 2009, section 78,
- (h) in the Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009, paragraph 227 of Schedule 1,
- (i) in the Corporation Tax Act 2010, paragraph 285(c) of Schedule 1,
- (j) in the Finance Act 2012—
- (i) paragraphs 14, 15 and 17 of Schedule 28, and
- (ii) paragraphs 2(2), 9, 10 and 12(3), (6) and (7) of Schedule 29,
- (k) in the Value Added Tax (Relief for European Research Infrastructure Consortia) Order 2012, article 3,
- (l) in the Finance Act 2014, sections 103 and 104(4) and Schedule 22,
- (m) in the Bankruptcy (Scotland) Act 2016 (Consequential Provisions and Modifications) Order 2016, paragraph 12(3) and (8) of Schedule 1,
- (n) in the Finance Act 2016, section 123(12), and

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- (o) in the Value Added Tax (Increase of Registration Limits) Order 2017, article 4.

## SCHEDULE 9

Section 50

### EXCISE DUTY AMENDMENTS CONNECTED WITH WITHDRAWAL FROM EU

#### *Customs and Excise Management Act 1979*

- 1 The Customs and Excise Management Act 1979 is amended as follows.
- 2 In section 101 (excise licences), in subsection (4), after “the Customs and Excise Acts 1979” insert “or made by regulations under section 45 of the Taxation (Cross-border Trade) Act 2018”.
- 3 (1) Section 157 (bonds and security) is amended as follows.
- (2) Omit subsection (1A).
- (3) In subsection (2)—
- (a) in paragraph (a), for the words from “either” to “United Kingdom” substitute “on behalf of Her Majesty”, and
- (b) omit the sentence after paragraph (c).
- (4) In consequence of the amendments made by this paragraph, in section 27 of the Finance Act 2000, omit subsections (3), (5) and (6).

#### *Hydrocarbon Oil Duties Act 1979*

- 4 The Hydrocarbon Oil Duties Act 1979 is amended as follows.
- 5 (1) Section 13AC (use of rebated kerosene for private pleasure-flying) is amended as follows.
- (2) After subsection (6) insert—
- “(6A) In this section “private pleasure-flying” means the use of an aircraft otherwise than for commercial purposes by—
- (a) the owner of the aircraft, or
- (b) any other person entitled to use it.
- (6B) For the purposes of subsection (6A), the cases in which an aircraft is to be regarded as used for commercial purposes include any case where—
- (a) consideration is provided by any person for the use of the aircraft (whether for the carriage of passengers or goods or for the supply of services or otherwise), or
- (b) the aircraft is used for the purposes of any public authority.
- (6C) Regulations may provide for other cases in which use of an aircraft is treated as being, or not being, private pleasure-flying for the purposes of this section.”
- (3) In subsection (7), omit the definition of “private pleasure-flying”.

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- 6 (1) Section 14E (rebated heavy oil and bioblend: private pleasure craft) is amended as follows.
- (2) Omit subsection (7A).
- (3) After that subsection insert—
- “(7B) In this section “private pleasure craft” means any aircraft or vessel used otherwise than for commercial purposes by—
- (a) the owner of the aircraft or vessel, or
- (b) any other person entitled to use it.
- (7C) For the purposes of subsection (7B), the cases in which an aircraft or vessel is to be regarded as used for commercial purposes include any case where—
- (a) consideration is provided by any person for the use of the aircraft or vessel (whether for the carriage of passengers or goods or for the supply of services or otherwise), or
- (b) the aircraft or vessel is used for the purposes of any public authority.
- (7D) Regulations may provide for other cases in which any aircraft or vessel is treated as being, or not being, a private pleasure craft for the purposes of this section.”
- (4) In subsection (8), omit the definition of “private pleasure craft”.
- (5) In consequence of the amendment made by sub-paragraph (2), omit section 189 of the Finance Act 2012.

*Tobacco Products Duty Act 1979*

- 7 In section 5 of the Tobacco Products Duty Act 1979 (retail price of cigarettes), in subsection (1A)(a), for “a member State” substitute “the United Kingdom”.

*Finance Act 1994*

- 8 (1) In section 12 of the Finance Act 1994 (assessments to excise duty), omit subsection (2A).
- (2) In consequence of the amendment made by sub-paragraph (1), omit regulation 9 of the Excise Duty Points (Duty Suspended Movements of Excise Goods) Regulations 2001.

*Finance Act 2008*

- 9 In Schedule 41 to the Finance Act 2008 (penalties: failure to notify and certain VAT and excise wrongdoing), in the table in paragraph 1, in the final entry relating to excise duties, for “Article 79 of Council Regulation 2913/92/EEC” substitute “Part 1 of the Taxation (Cross-border Trade) Act 2018”.