

## SCHEDULES

### SCHEDULE 3

#### ONLINE SALES BY OVERSEAS PERSONS AND LOW VALUE IMPORTATIONS

#### PART 2

##### AMENDMENTS AND MODIFICATIONS RELATING TO THE NORTHERN IRELAND PROTOCOL

##### *Amendments to the Value Added Tax Act 1994*

- 25 VATA 1994 is amended as follows.
- 26 In section 40A (Northern Ireland Protocol) (inserted by section 3 of this Act), after subsection (2) insert—
- “(3) Schedule 9ZC makes provision, as a result of the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement, about the application of this Act in cases involving—
- (a) supplies of goods by persons established outside the United Kingdom that are facilitated by online marketplaces, and
- (b) the importation of goods of a low value.”
- 27 (1) Schedule 9ZB (inserted by paragraph 2 of Schedule 2 to this Act) is amended as follows.
- (2) After paragraph 1(8) insert—
- “(9) This paragraph is subject to paragraph 4 of Schedule 9ZC.”;
- (3) After paragraph 4(10) insert—
- “(11) Sub-paragraphs (3) and (4) are subject to paragraph 4A of Schedule 9ZC.”
- 28 After that Schedule insert—

“SCHEDULE  
9ZC

Section 40A(3)

#### ONLINE SALES BY OVERSEAS PERSONS AND LOW VALUE IMPORTATIONS: MODIFICATIONS RELATING TO THE NORTHERN IRELAND PROTOCOL

#### PART 1

##### MODIFICATION OF THIS ACT

- 1 References in the following provisions of this Act to goods being imported do not include goods imported into the United Kingdom as a

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- result of their entry into Northern Ireland or goods treated as having been imported into the United Kingdom as a result of their being removed from Northern Ireland to Great Britain—
- (a) section 5A(3) (the imported consignment condition);
  - (b) section 7(5B)(b) (place of supply of goods);
  - (c) section 7AA(1)(c) (reverse charge on goods supplied from abroad).
- 2 Section 77F (exception from liability under section 5A) has effect as if—
- (a) in the heading, after “section 5A” there were inserted “or Part 1 of Schedule 9ZC”;
  - (b) in subsection (1), after “section 5A” there were inserted “or Part 1 of Schedule 9ZC”;
  - (c) in subsection (2), after “(as defined in section 5A” there were inserted “or Part 1 of Schedule 9ZC, as the case may be”.
- 3 (1) In Schedule 11, paragraph 6 has effect subject to the following modifications.
- (2) Sub-paragraph (4C) has effect as if—
- (a) the “or” at the end of paragraph (a) were omitted;
  - (b) after paragraph (b) there were inserted “, or
  - (c) Part 1 of Schedule 9ZC makes provision about who is treated as having imported those goods.”
- (3) Sub-paragraph (4D) has effect as if—
- (a) the “or” at the end of paragraph (b) were omitted;
  - (b) after paragraph (c) there were inserted “, or
  - (d) is treated as having imported goods under Part 1 of Schedule 9ZC.”
- 4 (1) Sub-paragraph (2) applies, instead of section 15(4) and (5) (as modified by paragraph 1 of Schedule 9ZB), where—
- (a) goods are imported into the United Kingdom as a result of their entry into Northern Ireland in the course or furtherance of a business by a person (“P”),
  - (b) that importation is in the course of a taxable supply to a person (“R”) who—
    - (i) is not registered under this Act, or
    - (ii) is registered under this Act but who has not provided P or, where the supply is facilitated by an online marketplace, the operator of that marketplace, with R’s VAT registration number,
  - (c) the intrinsic value of the consignment of which the goods are part is not more than £135, and
  - (d) the consignment of which the goods are part—
    - (i) does not contain excepted goods, and
    - (ii) is not a consignment in relation to which a postal operator established outside the United Kingdom has an obligation under an agreement with the Commissioners to pay any import VAT that is chargeable on the

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importation of that consignment into the United Kingdom.

- (2) The person who is treated as having imported the goods is—
  - (a) in a case where the supply is facilitated by an online marketplace, the operator of the online marketplace, or
  - (b) in any other case, P.
- (3) In sub-paragraph (1)(b)(ii), “VAT registration number” means the number allocated by the Commissioners to a person registered under this Act.
- (4) For the purposes of sub-paragraph (1)(d)(i), “excepted goods” means goods of a class or description subject to any duty of excise whether or not those goods are in fact chargeable with that duty, and whether or not that duty has been paid on the goods.
- (5) The Commissioners may by regulations substitute a different figure for a figure that is at any time specified in sub-paragraph (1)(c).

## PART 2

### MODIFICATION OF THE VALUE ADDED TAX (IMPORTED GOODS) RELIEF ORDER 1984

- 5 (1) In Schedule 2 to the Value Added Tax (Imported Goods) Relief Order 1984 (S.I. 1984/746) (reliefs for goods of certain descriptions), Group 8 (articles sent for miscellaneous purposes) has effect subject to the following modifications.
  - (2) That Group has effect as if after item 7 there were inserted—

“8 Any consignment of goods imported into the United Kingdom as a result of their entry into Northern Ireland (other than alcoholic beverages, tobacco products, perfumes or toilet waters) not exceeding £15 in value.”
  - (3) That Group has effect as if after note (1) there were inserted—

“(2) Item 8 does not apply in relation to any goods imported on mail order.
  - (3) For the purposes of note (2)—

“mail order” in relation to any goods means any transaction or series of transactions under which a seller (S) sends goods in fulfilment of an order placed remotely,  
“remotely” means by any means that do not involve the simultaneous physical presence of S and the person placing the order, and  
“seller” does not include any person acting otherwise than in a commercial or professional capacity.”

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### PART 3

#### REGISTRATION

##### *Liability to be registered*

- 6 (1) A person who is treated as having imported goods under Part 1 of this Schedule and—
- (a) is not registered under this Act, and
  - (b) is not liable to be registered under Schedule 1, 1A or 9ZA to this Act,
- becomes liable to be registered under this Schedule at the point they are so treated.
- (2) A person who is not registered or liable to be registered as mentioned in sub-paragraph (1)(a) and (b) becomes liable to be registered under this Schedule at any time if there are reasonable grounds for believing that the person will be treated as having imported goods under Part 1 of this Schedule in the following 30 days.
- (3) A person is treated as having become liable to be registered under this Schedule at any time when the person would have become so liable under the preceding provisions of this paragraph but for any registration which is subsequently cancelled under paragraph 11(2) of this Schedule, paragraph 13(3) of Schedule 1, paragraph 11 of Schedule 1A, paragraph 6(2) of Schedule 3A or paragraph 43 or 53 of Schedule 9ZA.
- (4) A person does not cease to be liable to be registered under this Schedule except in accordance with paragraph 7.
- 7 (1) A person who has become liable to be registered under this Schedule ceases to be so liable at any time if the Commissioners are satisfied that the person is no longer a person who is, or will be, treated as having imported goods under Part 1 of this Schedule.
- (2) But a person does not cease to be liable to be registered under this Schedule at any time if there are reasonable grounds for believing that the person will be treated as having imported goods under Part 1 of this Schedule in the following 30 days.

##### *Notification of liability and registration*

- 8 (1) A person who becomes liable to be registered under this Schedule must notify the Commissioners of the liability—
- (a) in the case of a liability under sub-paragraph (1) of paragraph 6, within 30 days of the person becoming so liable, and
  - (b) in the case of a liability under sub-paragraph (2) of that paragraph, before the end of the period by reference to which the liability arises.
- (2) The Commissioners must register any such person (whether or not the person notifies them) with effect from the relevant time.

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- (3) In this paragraph “the relevant time”—
- (a) in a case falling within sub-paragraph (1)(a), means the beginning of the day on which the liability arose, and
  - (b) in a case falling within sub-paragraph (1)(b), means the beginning of the period by reference to which the liability arose.

*Entitlement to be registered etc*

- 9 (1) Where a person who is not liable to be registered under this Act and is not already so registered—
- (a) satisfies the Commissioners that the person intends to make or facilitate a relevant supply from a specified date, and
  - (b) requests to be registered under this Schedule,
- the Commissioners may, subject to such conditions as they think fit to impose, register the person with effect from such date as may be agreed between the Commissioners and the person.
- (2) Conditions imposed under sub-paragraph (1) may—
- (a) be so imposed wholly or partly by reference to, or without reference to, any conditions prescribed for the purposes of this paragraph, and
  - (b) be subsequently varied by the Commissioners (whenever the conditions were imposed).
- (3) Where a person who is entitled to be registered under paragraph 9 or 10 of Schedule 1 requests registration under this paragraph, the person is to be registered under that Schedule, and not under this Schedule.

*Notification of matters affecting continuance of registration*

- 10 (1) Any person registered under this Schedule who ceases to be registrable under this Act must notify the Commissioners of that fact within 30 days of the day on which the person ceases to be registrable.
- (2) A person registered under paragraph 9(1) must notify the Commissioners, within 30 days of the first occasion after the person’s registration when the person makes or facilitates a relevant supply, that the person has made or facilitated that supply.
- (3) For the purposes of this paragraph a person ceases to be registrable under this Act where—
- (a) the person ceases to be a person who would be liable or entitled to be registered under this Act if the person’s registration and any enactment preventing a person from being liable to be registered under different provisions at the same time were disregarded, or
  - (b) in the case of a person who (having been registered under paragraph 9(1)) has not been such a person during the period of the person’s registration, the person ceases to have any intention of making or facilitating relevant supplies.

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### *Cancellation of registration*

- 11 (1) Where a person registered under this Schedule satisfies the Commissioners that the person is not liable to be so registered, the Commissioners must, if the person so requests, cancel that registration with effect from the day on which the request is made or from such later date as may be agreed between the Commissioners and the person.
- (2) Where the Commissioners are satisfied that a person registered under this Schedule has ceased since the person's registration to be registrable under this Schedule, they may cancel that registration with effect from the day on which the person so ceased or from such later date as may be agreed between the Commissioners and the person.
- (3) Where the Commissioners are satisfied that a person who has been registered under paragraph 9(1) and is not for the time being liable to be registered under this Schedule—
- (a) has not begun, by the date specified in the person's request to be registered, to make or facilitate relevant supplies, or
  - (b) has contravened any condition of the person's registration,
- the Commissioners may cancel the person's registration with effect from the date so specified or, as the case may be, the date of the contravention or from such later date as may be agreed between the Commissioners and the person.
- (4) But the Commissioners may not, under sub-paragraph (1), (2) or (3), cancel a person's registration with effect from any time unless the Commissioners are satisfied that it is not a time when that person would be subject to a requirement, or in a case falling under sub-paragraph (2) or (3) a requirement or entitlement, to be registered under this Act.
- (5) Where the Commissioners are satisfied that, on the day on which a person was registered under this Schedule, the person—
- (a) was not registrable under this Schedule, and
  - (b) in the case of a person registered under paragraph 9(1), did not have the intention by reference to which the person was registered,
- the Commissioners may cancel that registration with effect from that day.
- (6) In determining, for the purposes of sub-paragraph (4), whether a person would be subject to a requirement, or would be entitled, to be registered at any time, so much of any provision of this Act as prevents a person from becoming liable or entitled to be registered when the person is already registered or when the person is so liable under any other provision is to be disregarded.
- (7) For the purposes of this paragraph, a person is registrable under this Schedule at any time when the person is liable to be registered under this Schedule or is a person who makes or facilitates relevant supplies.

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### *Notifications*

- 12 Any notification required under this Part of this Schedule must be made in such form and manner and must contain such particulars as may be specified in regulations or by the Commissioners in accordance with regulations.

### *Meaning of relevant supply*

- 13 For the purposes of this Part of this Schedule a supply is a “relevant supply” if the person making or facilitating it would be treated as having imported goods under Part 1 of this Schedule.

### *Modification of the Finance Act 2008*

- 14 Paragraph 1 of Schedule 41 to the Finance Act 2008 (penalties: failure to notify etc) has effect as if in the table there were inserted the following entry—

“Value added tax	Obligation under paragraph 8 of Schedule 9ZC to VATA 1994 (obligations to notify liability to register and notify matters affecting continuance of registration).”
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- 29 (1) Part 1 of Schedule 9ZC (inserted by paragraph 28) is amended as follows.
- (2) After paragraph 1 insert—
- “1A Section 5A has effect as if in subsection (1)(c)(ii) after “outside the United Kingdom” there were inserted “and prior to the supply the goods were located in Great Britain”.”
- (3) After paragraph 4 insert—
- “4A (1) Sub-paragraph (2) applies, instead of paragraph 4(3) and (4) of Schedule 9ZB, in relation to a removal of goods from Northern Ireland to Great Britain or, as the case may be, vice versa where—
- (a) the removal is in the course of a supply by a person established outside of the United Kingdom (“P”), and
- (b) the supply is facilitated by an online marketplace.
- (2) The operator of the online marketplace is the person who is treated as having imported the goods.
- (3) But sub-paragraph (2) does not apply where the person to whom the goods are supplied (“R”)—
- (a) is registered under this Act,
- (b) has provided the operator of the online marketplace with R’s VAT registration number, and

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- (c) the operator of the online marketplace has provided P with that number and details of the supply before the end of the relevant period.
- (4) In sub-paragraph (3)—
- “relevant period” means the period of 7 days beginning with the day on which the supply is treated as taking place under section 6 or such longer period as the Commissioners may allow in general or specific directions;
  - “VAT registration number” means the number allocated by the Commissioners to a person registered under this Act.
- (5) The Commissioners may by regulations specify the details that must be provided for the purposes of sub-paragraph (3)(c).”