

STATUTORY INSTRUMENTS

2018 No. 1249

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

PART 2

Authorisation and Approval

Modifications etc. (not altering text)

C1 Pts. 1-3 applied (with modifications) (31.12.2020) by [The Customs \(Northern Ireland\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1605\)](#), regs. 1(1), **33**; [S.I. 2020/1643](#), reg. 2, Sch.

Authorisation requirement

3.—(1) A person must not carry out an activity specified in paragraph (2) unless that person is authorised or approved to do so in accordance with these Regulations.

(2) The specified activities are—

- (a) operating premises as a place to keep goods declared for a [^{F1}customs warehouse procedure];
- (b) declaring goods for—
 - (i) an inward processing procedure ^{M1};
 - (ii) an outward processing procedure ^{M2};
 - (iii) an authorised use procedure ^{M3}; ^{F2}...
 - (iv) a temporary admission procedure ^{M4} [^{F3} or
 - (v) a free zone procedure;
- (c) any industrial, service or commercial activity in a free zone that—
 - (i) relates to goods declared for a free zone procedure, including storing those goods in a free zone; and
 - (ii) is not an activity of a description specified in a notice published by HMRC.]

(3) Subject to regulation 8, the activities specified in paragraph (2) are to be treated for the purposes of Part 9 of the import duty regulations as matters requiring approval under those Regulations.

(4) The period specified in regulation 89(2)(a) of the import duty regulations may be extended by a further period of up to one year where—

- (a) the application is—

- (i) an application for authorisation to declare goods for an inward processing procedure in relation to which an examination of the available evidence is required for the purposes of regulation 20(1)(a); or
 - (ii) an application for authorisation to declare goods for an outward processing procedure to which regulation 27 applies; and
- (b) HMRC notify the applicant that such an extension will be made.

Textual Amendments

- F1** Words in reg. 3(2)(a) substituted (8.11.2021) by The Free Zones (Customs, Excise and Value Added Tax) Regulations 2021 (S.I. 2021/1156), regs. 1, **3(3)(a)**
- F2** Word in reg. 3(2)(b) omitted (8.11.2021) by virtue of The Free Zones (Customs, Excise and Value Added Tax) Regulations 2021 (S.I. 2021/1156), regs. 1, **3(3)(b)**
- F3** Reg. 3(2)(b)(v)(c) and word inserted (8.11.2021) by The Free Zones (Customs, Excise and Value Added Tax) Regulations 2021 (S.I. 2021/1156), regs. 1, **3(3)(c)**

Commencement Information

- I1** Reg. 3(1) in force at 31.12.2020 by S.I. 2020/1643, reg. 2, **Sch.**
- I2** Reg. 3(2)(3)(4) in force at 2.1.2019, see reg. 1(3)

Marginal Citations

- M1** The meaning of declaring goods for an inward processing procedure is given in paragraphs 8, 9 and 11 of Schedule 2 to the Act.
- M2** The meaning of declaring goods for an outward processing procedure is given in section 36(2) of the Act.
- M3** The meaning of declaring goods for an authorised use procedure is given in paragraph 13 of Schedule 2 to the Act.
- M4** The meaning of declaring goods for a temporary admission procedure is given in paragraph 15 of Schedule 2 to the Act.

Treatment of a declaration as an application for authorisation

4.—(1) Subject to regulation 35, a person in whose name goods are declared for a relevant non-transit Part 1 procedure is to be treated for the purposes of these Regulations as making an application for authorisation to declare the goods for that procedure where—

- (a) that person is not so authorised and ^{F4}...—
 - [^{F5}(i) subject to paragraph (ii), where there is any liability, or potential liability, to pay import duty, in respect of the goods—
 - (aa) that person gives a single guarantee in accordance with Part 10 of the import duty regulations; or
 - (bb) there is no requirement for a person to give a guarantee by virtue of regulation 101 of the import duty regulations; or
 - (ii) where there is any liability, or potential liability, to pay both import duty and excise duty in respect of goods, and the goods are declared for a temporary admission procedure or inward processing procedure—
 - (aa) that person gives a single guarantee in accordance with Part 10 of the import duty regulations as modified by paragraph (3); or

- (bb) there is no requirement for a person to give a guarantee by virtue of regulation 101 of the import duty regulations as modified by paragraph (3); and]
- (b) the declaration—
 - (i) is of a type specified in paragraph (2);
 - (ii) is not one to which regulation 6 or 7 applies; and
 - (iii) is made in accordance with—
 - (aa) any provision made by or under Schedule 1 to the Act; or
 - (bb) in the case of a declaration of goods for an outward processing procedure, any provision that applies by virtue of [^{F6}regulation 13A].
- (2) The specified types of declaration are a declaration of goods for—
 - (a) a temporary admission procedure;
 - (b) an authorised use procedure;
 - (c) an outward processing procedure where the goods are to be exported for repair and—
 - ^{F7}(i)
 - (ii) the goods are not sensitive goods; or
 - (d) an inward processing procedure where the goods are not sensitive goods.
- [^{F8}(3) For the purposes of paragraph (1)(a)(ii)—
 - (a) Part 10 of the import duty regulations is modified as follows—
 - (i) other than in regulation 97(2), for “import duty”, wherever it appears, regard as substituted “ import duty and excise duty ”;
 - (ii) in regulation 95(1)(a), for “discharge of the liability” regard as substituted “ discharge of the liability to pay import duty ”;
 - (iii) after regulation 100(1)(b), regard as inserted—
 - “(ba) where the goods have been placed under a duty suspension arrangement and—
 - (i) all the liability to import duty to which the guarantee relates and, where regulation 95(2) (guarantee in relation to charges) applies, any charges in relation to that liability have been paid in full; or
 - (ii) the potential liability to import duty to which the guarantee relates has been extinguished on the discharge of a special Customs procedure,”;
 - (iv) in regulation 100(1)(c)—
 - (aa) in paragraphs (i) and (ii), for “the duty” regard as substituted “ the import duty ”;
 - (bb) at the end of paragraph (ii), regard “and” as omitted;
 - (cc) at the end of paragraph (iii), for “or” regard as substituted “ and ” and regard as inserted—
 - “(iv) the part of the specified amount which is equivalent to the amount of the liability, or potential liability, to excise duty is paid in full or the goods to which that part relates have been placed in a duty suspension arrangement; or”;

- (b) a reference to a “guarantee” in the import duty regulations, wherever it appears, should be construed in accordance with the modifications made by sub-paragraph (a).
- (4) In this regulation—
- “duty suspension arrangement” has the meaning given in regulation 3(1) of the Excise Goods (Holding, Movement and Duty Point) Regulations 2010;
- “excise duty” has the meaning given by section 53 of the Taxation (Cross-border Trade) Act 2018.]

Textual Amendments

- F4** Word in reg. 4(1)(a) omitted (31.12.2020) by virtue of [The Customs and Excise \(Miscellaneous Provisions and Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/1215\)](#), regs. 1(2), **12(2)(a)**; S.I. 2020/1643, reg. 2, Sch.
- F5** Reg. 4(1)(a)(i)(ii) substituted (31.12.2020) by [The Customs and Excise \(Miscellaneous Provisions and Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/1215\)](#), regs. 1(2), **12(2)(b)**; S.I. 2020/1643, reg. 2, Sch.
- F6** Words in reg. 4(1)(b)(iii)(bb) substituted (31.12.2020) by [The Customs and Excise \(Miscellaneous Provisions and Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/1215\)](#), regs. 1(2), **12(2)(c)**; S.I. 2020/1643, reg. 2, Sch.
- F7** Reg. 4(2)(c)(i) omitted (31.12.2020) by virtue of [The Customs and Excise \(Miscellaneous Provisions and Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/1215\)](#), regs. 1(2), **12(2)(d)**; S.I. 2020/1643, reg. 2, Sch.
- F8** Reg. 4(3)(4) inserted (31.12.2020) by [The Customs and Excise \(Miscellaneous Provisions and Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/1215\)](#), regs. 1(2), **12(2)(e)**; S.I. 2020/1643, reg. 2, Sch.

Commencement Information

- I3** Reg. 4 in force at 31.12.2020 by [S.I. 2020/1643](#), reg. 2, Sch.

Treatment of a declaration as an application to amend an authorisation

5.—(1) Subject to regulation 7, where the conditions specified in paragraph (2) are met, a person in whose name goods are declared for the free-circulation procedure is to be treated, for the purposes of regulation 91(2)(a) of the import duty regulations, as making an application to amend an authorisation to declare goods for an outward processing procedure (“the authorisation”) so as to authorise the use of the standard exchange system in accordance with regulation 29.

- (2) The specified conditions are that—
- (a) the person in whose name the goods are declared is not so authorised and either—
- (i) that person gives a single guarantee in accordance with Part 10 of the import duty regulations; or
 - (ii) there is no requirement on any person to give a guarantee by virtue of regulation 101 of those Regulations;
- (b) the declaration is made—
- (i) in the name of the person authorised to declare goods under the authorisation; and
 - (ii) in accordance with any provision made by or under Schedule 1 to the Act; and
- (c) the goods declared for the free-circulation procedure are replacement goods.

(3) For the purposes of this regulation, “standard exchange system” means the import of goods to replace defective domestic goods that are to be, or have been, declared for an outward processing procedure and “replacement goods” means the goods that are imported for that purpose.

Commencement Information

I4 Reg. 5 in force at 31.12.2020 by S.I. 2020/1643, reg. 2, Sch.

Cases where a declaration is not to be treated as an application for authorisation

6.—(1) Where any of paragraphs (2) to (4) applies, a declaration of goods for a relevant non-transit Part 1 procedure is not to be treated by regulation 4 as an application for authorisation.

(2) This paragraph applies where, by virtue of regulation 23, liability to import duty is to be determined by reference to the goods as they stood when the declaration was made.

(3) This paragraph applies where—

- (a) the declaration is for a temporary admission procedure;
- (b) the goods fall within section 27 of the temporary admission document (other goods – no economic effect); and
- (c) in the opinion of an HMRC officer ^{M5} it is not appropriate for the declaration to be treated as an application for authorisation.

(4) This paragraph applies where—

- (a) the declaration is—
 - (i) an oral declaration of goods for a temporary admission procedure under regulation 21 of the import duty regulations; or
 - (ii) for a temporary admission procedure by conduct under [^{F9}regulation 27 [^{F10}, 27A or 27D]] of the import duty regulations;
- (b) the declaration relates to goods that are means of transport or spare parts, accessories and equipment for means of transport; and
- (c) in the opinion of an HMRC officer there is a risk that the person in whose name the declaration is made will be involved in a breach of a Customs obligation.

(5) Where a declaration is not to be treated as an application for authorisation by virtue of paragraph (4) HMRC must notify the person in whose name the declaration is made without delay after presentation of the goods.

Textual Amendments

F9 Words in reg. 6(4)(a)(ii) substituted (31.12.2020) by [The Customs and Excise \(Miscellaneous Provisions and Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/1215\)](#), regs. 1(2), **12(3)**; S.I. 2020/1643, reg. 2, Sch.

F10 Words in reg. 6(4)(a)(ii) substituted (31.12.2020) by [The Customs \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1552\)](#), regs. 1(2), **3(3)**; S.I. 2020/1643, reg. 2, Sch.

Commencement Information

I5 Reg. 6 in force at 31.12.2020 by S.I. 2020/1643, reg. 2, Sch.

Marginal Citations

M5 “HMRC officer” is defined in section 37(1) of the Act.

Cases where a declaration is not to be treated as an application for authorisation or for amendment

- 7.—(1) Where paragraph (2) applies, a declaration—
- (a) is not to be treated by regulation 4 as an application for authorisation; and
 - (b) is not to be treated by regulation 5 as an application to amend an authorisation to declare goods for an outward processing procedure.
- (2) This paragraph applies where—
- (a) the declaration is made using—
 - (i) the simplified Customs declaration process within the meaning given in regulation 30(1) of the import duty regulations; or
 - (ii) the EIDR procedure within the meaning given in regulation 36(1) of the import duty regulations;
 - (b) the declaration relates to a case—
 - (i) where the requirements in relation to the relevant non-transit Part 1 procedure are intended to be met by reference to equivalent goods;
 - (ii) in relation to which an examination of the available evidence is required for the purposes of regulation 20(1)(a); or
 - (iii) to which regulation 27 applies;
 - (c) if the goods were declared for the free-circulation procedure—
 - (i) the goods would be subject to an additional amount of import duty under section 13, 14 or 15 of the Act; or
 - (ii) the importer of the goods would be required to give a guarantee under paragraph 15(5) of Schedule 4 to the Act; ^[^{F11}or]
 - (d) the declaration is made by a Customs agent as an indirect agent ^{M6, F12} ...
 - ^{F13}(e)
- [^{F14}(3) HMRC may publish a notice specifying other circumstances in which paragraph (2) is to apply.]

<p>Textual Amendments</p> <p>F11 Word in reg. 7(2)(c)(ii) inserted (31.12.2020) by The Customs (Northern Ireland) (EU Exit) Regulations 2020 (S.I. 2020/1605), regs. 1(1), 38(3)(a)(i); S.I. 2020/1643, reg. 2, Sch.</p> <p>F12 Word in reg. 7(2)(d) omitted (31.12.2020) by virtue of The Customs (Northern Ireland) (EU Exit) Regulations 2020 (S.I. 2020/1605), regs. 1(1), 38(3)(a)(ii); S.I. 2020/1643, reg. 2, Sch.</p> <p>F13 Reg. 7(2)(e) omitted (31.12.2020) by virtue of The Customs (Northern Ireland) (EU Exit) Regulations 2020 (S.I. 2020/1605), regs. 1(1), 38(3)(a)(iii); S.I. 2020/1643, reg. 2, Sch.</p> <p>F14 Reg. 7(3) inserted (31.12.2020) by The Customs (Northern Ireland) (EU Exit) Regulations 2020 (S.I. 2020/1605), regs. 1(1), 38(3)(b); S.I. 2020/1643, reg. 2, Sch.</p>	
<p>Commencement Information</p> <p>I6 Reg. 7 in force at 31.12.2020 by S.I. 2020/1643, reg. 2, Sch.</p>	
<p>Marginal Citations</p> <p>M6 For the meaning of Customs agents and indirect agents, see section 21 of the Act.</p>	

Determination of a declaration treated as an application for authorisation

8.—(1) Where a declaration is to be treated by regulation 4 as an application for authorisation ^{F15}..., the application is to be determined in accordance with this regulation and regulations 87 to 91 of the import duty regulations do not apply.

(2) Where the eligibility criteria set out in regulation 9 are met, acceptance of the declaration ^{M7} is to be treated as grant of authorisation.

(3) An authorisation treated by paragraph (2) as granted only authorises [^{F16}the making of that declaration.]

^{F17}(a)

^{F17}(b)

(4) HMRC must publish a notice setting out any matters that apply to an authorisation treated by paragraph (2) as granted that would have been included in an approval notification by virtue of these Regulations if the application for authorisation had been granted under regulation 89 of the import duty regulations and may make different provision for different cases.

(5) If the declaration is not accepted the application is to be treated as refused.

Textual Amendments

F15 Words in reg. 8(1) omitted (31.12.2020) by virtue of [The Customs and Excise \(Miscellaneous Provisions and Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/1215\)](#), regs. 1(2), **12(4)(a)**; S.I. 2020/1643, reg. 2, Sch.

F16 Words in reg. 8(3) inserted (31.12.2020) by [The Customs and Excise \(Miscellaneous Provisions and Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/1215\)](#), regs. 1(2), **12(4)(b)(i)**; S.I. 2020/1643, reg. 2, Sch.

F17 Reg. 8(3)(a)(b) omitted (31.12.2020) by virtue of [The Customs and Excise \(Miscellaneous Provisions and Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/1215\)](#), regs. 1(2), **12(4)(b)(ii)**; S.I. 2020/1643, reg. 2, Sch.

Commencement Information

I7 Reg. 8 in force at 31.12.2020 by [S.I. 2020/1643](#), reg. 2, Sch.

Marginal Citations

M7 See paragraphs 10 to 12 of Schedule 1 to the Act on acceptance of Customs declarations, which are applied to declarations of goods for an outward processing procedure by regulation 13(1) and (2)(c).

[^{F18}Determination of a declaration treated as an application for amendment

8A.—(1) Where a declaration is to be treated by regulation 5 as an application for amendment of an authorisation, the application is to be determined in accordance with this regulation.

(2) Where the conditions in regulation 29(1) are met, acceptance of a declaration for the free-circulation procedure is to be treated as a grant of the application for amendment.

(3) An authorisation amended under paragraph (2) only authorises the use of the standard exchange system in relation to the import of the goods declared for the free-circulation procedure in that declaration.

(4) An authorisation amended under paragraph (2) is subject to such other conditions as may be specified in a notice published by HMRC, which may make different provision for different cases.

(5) If the declaration for the free-circulation procedure is not accepted the application is to be treated as refused.]

Textual Amendments
F18 Reg. 8A inserted (31.12.2020) by [The Customs and Excise \(Miscellaneous Provisions and Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/1215\)](#), regs. 1(2), **12(5)**; S.I. 2020/1643, reg. 2, Sch.

Eligibility for authorisation or approval

9.—(1) The following criteria [^{F19}, and, where relevant, a criterion in paragraph (1A) or (1B),] (“the eligibility criteria”) must be met before an authorisation or approval is granted to carry out an activity specified in regulation 3(2)—

- (a) the applicant must be established in the United Kingdom, except where—
 - (i) the application is for authorisation to declare goods for a temporary admission procedure; or
 - (ii) paragraph (2) applies;

^{F20}(b)

- (c) [^{F21}except where paragraph (1A) or (1B) applies,] an HMRC officer must be of the opinion that it is possible to exercise control of any goods declared under the authorisation sought without the effects being disproportionate to the benefit to the applicant of use of the procedure; and
- (d) an HMRC officer must be satisfied that the applicant will exercise proper conduct of the operations necessary to comply with the requirements of the procedure.

[^{F22}(1A) Where an application is for approval to operate premises as a place to keep goods declared for a customs warehouse procedure, an HMRC officer must be of the opinion that it is possible to exercise control of any goods that have been declared for a storage procedure and are to be kept in the premises to which the approval relates without the effects being disproportionate to the benefit to the applicant.

(1B) Where an application is for authorisation to carry out a free zone activity, an HMRC officer must be of the opinion that it is possible to exercise control of the goods in relation to which the activity is carried out without the effects being disproportionate to the benefit to the applicant.]

- (2) This paragraph applies where—
 - (a) the application is for authorisation to declare goods for [^{F23}a free zone procedure,] an inward processing procedure or an authorised use procedure; and
 - (b) in the opinion of an HMRC officer it is appropriate to grant authorisation to a person established outside the United Kingdom taking into consideration factors specified in a notice published by HMRC.
- (3) A notice published under paragraph (2)(b) may make different provision for different cases.
- (4) For the purposes of considering whether the applicant will exercise proper conduct of operations necessary to comply with the requirements of the relevant non-transit Part 1 procedure, the matters that an HMRC officer may take into account include (for example)—
 - (a) whether, in the opinion of an HMRC officer, the applicant's financial standing makes the applicant suitable to carry out the activity for which authorisation is sought;

- (b) whether the applicant, or any directors or senior employees of the applicant, has been involved in a breach of an obligation relating to tax or of a Customs obligation, which in the opinion of an HMRC officer is—
- (i) a serious breach having regard to the circumstances and nature of any breach and the number of any breaches; and
 - (ii) relevant to the suitability of the applicant to carry out the activity for which authorisation is sought;
- (c) whether the applicant, or any directors or senior employees of the applicant, has any criminal conviction which in the opinion of the HMRC officer is—
- (i) serious having regard to the type of conviction; and
 - (ii) relevant to the suitability of the applicant to carry out the activity for which authorisation is sought;
- (d) whether the applicant maintains a logistical system and records that identify sufficiently the movement of, and transactions in, chargeable goods and domestic goods and facilitate compliance with Customs obligations;
- (e) whether—
- (i) the applicant meets any professional standards of competence specified in a notice published by HMRC under regulation 93(2) of the import duty regulations; or
 - (ii) in the opinion of an HMRC officer, the applicant's practical experience makes the applicant suitable to carry out the activity for which authorisation is sought.
- (5) An authorised economic operator within the meaning given in section 22(2) of the Act is deemed to satisfy the requirement specified in paragraph (1)(d) unless, in the opinion of an HMRC officer, consideration is required of matters relating to the exercise of proper conduct of operations that were not considered at the time when the applicant was authorised as an authorised economic operator.

Textual Amendments

- F19** Words in reg. 9(1) inserted (8.11.2021) by The Free Zones (Customs, Excise and Value Added Tax) Regulations 2021 (S.I. 2021/1156), regs. 1, **3(4)(a)(i)**
- F20** Reg. 9(1)(b) omitted (21.3.2019) by virtue of The Customs (Import Duty, Transit and Miscellaneous Amendments) (EU Exit) Regulations 2019 (S.I. 2019/326), regs. 1(3)(b), **14(2)**
- F21** Words in reg. 9(1)(c) inserted (8.11.2021) by The Free Zones (Customs, Excise and Value Added Tax) Regulations 2021 (S.I. 2021/1156), regs. 1, **3(4)(a)(ii)**
- F22** Reg. 9(1A)(1B) inserted (8.11.2021) by The Free Zones (Customs, Excise and Value Added Tax) Regulations 2021 (S.I. 2021/1156), regs. 1, **3(4)(b)**
- F23** Words in reg. 9(2)(a) inserted (8.11.2021) by The Free Zones (Customs, Excise and Value Added Tax) Regulations 2021 (S.I. 2021/1156), regs. 1, **3(4)(c)**

Modifications etc. (not altering text)

- C2** Reg. 9(1)(a) modified (31.12.2020) by The Customs (Crown Dependencies Customs Union) (EU Exit) Regulations 2019 (S.I. 2019/385), regs. 1(2), **4(4)** (with reg. 2); S.I. 2020/1643, reg. 2, Sch.

Period for which an authorisation is to have effect

10.—(1) Subject to paragraph (2), the period for which an authorisation to carry out an activity specified in regulation 3(2)(b)^{F24}(i) to (iv)] is to have effect must not be longer than—

- (a) in the case of activities relating to sensitive goods, three years beginning with the date from which the authorisation is to have effect; or
 - (b) in all other cases, five years beginning with the date from which the authorisation is to have effect.
- (2) In the case of authorisation to declare goods for a temporary admission procedure, the period for which an authorisation is to have effect may be longer than the period specified in paragraph (1) (a) or (b) where—
- (a) the applicant provides evidence that the proposed use of the goods in the UK while subject to the temporary admission procedure requires the authorisation to have effect for a longer period; and
 - (b) in the opinion of an HMRC officer a longer period is justified.

Textual Amendments

F24 Words in [reg. 10\(1\)](#) inserted (8.11.2021) by [The Free Zones \(Customs, Excise and Value Added Tax\) Regulations 2021 \(S.I. 2021/1156\)](#), regs. 1, [3\(5\)](#)

Retrospective authorisation

11.—(1) An approval notification issued in relation to an authorisation to carry out an activity specified in regulation 3(2)(b)^[F25(i) to (iv)] may provide that the authorisation has effect from a time before the application for it is made (“retrospective authorisation”) in accordance with this regulation.

(2) Paragraph (1) applies even where the goods for which authorisation to make a declaration is sought are not available for examination by an HMRC officer at the time at which the application for authorisation is received by HMRC.

(3) HMRC may grant retrospective authorisation only if—

(a) an HMRC officer is satisfied that—

(i) the applicant has an economic need for retrospective authorisation to be granted;

^[F26](ii) the application is not made for the purposes of—

- (aa) avoiding, or enabling any other person to avoid, any Customs obligation;
- (bb) preventing a liability to import duty or charges being incurred by any person; or
- (cc) preventing the application of any non-tariff trade policy measure or agricultural policy measure,

that would have applied had the application been made before the time from which the authorisation is to have effect;]

^{F27}(iii)

(iv) either—

- (aa) the goods can be identified in the applicant's accounts and records from the date on which the authorisation is to have effect; or
- (bb) such identification is not required for the purposes of demonstrating compliance with obligations imposed by or under Part 1 of the Act;

(v) the applicant's accounts and records identify sufficiently the movement of, and transactions in, chargeable and domestic goods so as to enable the applicant to

- comply with the obligations imposed by or under Part 1 of the Act in relation to the procedure for which retrospective authorisation is sought; and
- (vi) the applicant and HMRC are able to take all steps required to ensure that records and other documentation reflect any grant of retrospective authorisation including, where necessary, the withdrawal or amendment of customs declarations;
- (b) in the period of three years ending immediately before the date that HMRC received the application—
- (i) no previous retrospective authorisation was granted to the applicant to declare goods for the same relevant non-transit Part 1 procedure as that in relation to which the application seeks retrospective authorisation; and
- (ii) no authorisation was granted to the applicant under Article 211(2) of the UCC to declare goods for a procedure which corresponds to that in relation to which the application seeks retrospective authorisation;
- (c) the case is one in relation to which an examination of the available evidence is not required for the purposes of regulation 20(1)(a) and regulation 27 does not apply; and
- (d) where the application is for renewal of authorisation in relation to the same kind of goods and operation, the application was submitted within three years of the expiry of the authorisation for which renewal is sought.

[^{F28}(4) Subject to paragraph (6), where the application is for renewal of an authorisation for the same kind of goods and operation the approval notification may provide that the authorisation has effect from the date on which the authorisation for which renewal is sought expired.

(5) Subject to paragraph (6), where the application is not for a renewal of an authorisation for the same kind of goods and operation—

- (a) if the application for authorisation does not relate to sensitive goods the approval notification may provide that the authorisation has effect from a date within the period of a year before the date on which the application for authorisation is received by HMRC;
- (b) if the application for authorisation relates to sensitive goods, the approval notification may provide that the authorisation has effect from a date up to three months before the date on which the application was received by HMRC,

where, in the opinion of an HMRC officer, there are exceptional circumstances justifying that earlier date.

(6) In all cases, the approval notification must not provide that the authorisation has effect from a date earlier than IP completion day.]

Textual Amendments

- F25** Words in [reg. 11\(1\)](#) inserted (8.11.2021) by [The Free Zones \(Customs, Excise and Value Added Tax\) Regulations 2021 \(S.I. 2021/1156\)](#), regs. 1, **3(6)**
- F26** [Reg. 11\(3\)\(a\)\(ii\)](#) substituted (31.12.2020) by [The Customs and Excise \(Miscellaneous Provisions and Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/1215\)](#), regs. 1(2), **12(6)(a)(i)**; S.I. 2020/1643, [reg. 2](#), Sch.
- F27** [Reg. 11\(3\)\(a\)\(iii\)](#) omitted (31.12.2020) by virtue of [The Customs and Excise \(Miscellaneous Provisions and Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/1215\)](#), regs. 1(2), **12(6)(a)(ii)**; S.I. 2020/1643, [reg. 2](#), Sch.
- F28** [Reg. 11\(4\)-\(6\)](#) substituted for [reg. 11\(4\)-\(7\)](#) (31.12.2020) by [The Customs and Excise \(Miscellaneous Provisions and Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/1215\)](#), regs. 1(2), **12(6)(b)** (as amended by S.I. 2020/1449, regs. 1(3), **17(5)**; S.I. 2020/1643, [reg. 2](#), Sch.); S.I. 2020/1643, [reg. 2](#), Sch.

Changes to legislation: There are currently no known outstanding effects for the The Customs (Special Procedures and Outward Processing) (EU Exit) Regulations 2018, PART 2. (See end of Document for details)

Commencement Information

18 Reg. 11 in force at 31.12.2020 by S.I. 2020/1643, reg. 2, Sch.

Changes to legislation:

There are currently no known outstanding effects for the The Customs (Special Procedures and Outward Processing) (EU Exit) Regulations 2018, PART 2.