
STATUTORY INSTRUMENTS

2020 No. 1432

The Customs (Tariff Quotas) (EU Exit) Regulations 2020

PART 3

Import Licences: Part C of the Quota Table and the Preferential Quota Table

CHAPTER 1

Preliminary

Application of this Part

20. This Part applies—

- (a) to any quota identified by a quota number which is listed in Part C of the Quota Table (and for the purposes of identifying each quota, the quota numbers so listed are also set out in column (1) of Part A of the Licensing Table); and
- (b) to any quota identified by a quota number which commences with the three digits “054” and which is listed in the Preferential Quota Table (and for the purposes of identifying each quota, the quota numbers of that description so listed are also set out in column (1) of Part B of the Licensing Table),

and references to a “quota” in this Part mean any quota identified by a quota number of a description specified in paragraph (a) or (b).

Interpretation of this Part

21.—(1) In this Part—

“available quantity” has the meaning given in regulation 22;

“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;

“EORI number” has the meaning given in regulation 25(6)(c);

“extract” has the meaning given in regulation 38(1);

“Licensing Table” means the table comprising two Parts in Schedule 2;

“operator” has the meaning given in regulation 24;

“quota” has the meaning given in regulation 20;

“sub-period” means any sub-period of the quota period for the quota concerned which is specified in column (10) of the Licensing Table;

“transferee” has the meaning given in regulation 38.

(2) In this Part—

- (a) any reference to the release of goods under the free-circulation procedure as it applies to goods—
 - (i) that are specified in the second section of Part C of the Quota Table; or
 - (ii) that are “authorised use goods” as described in regulation 5(1)(b) of the Customs PTA Regulations,
 is to be read as if it were a reference to those goods being declared for an authorised use procedure in accordance with the Special Procedures Regulations;
- (b) references to a Customs declaration or to a declaration for a Customs procedure are to be read as including a reference to any such declaration made to HMRC under equivalent provisions of direct EU legislation that have effect in Northern Ireland in respect of goods imported into the United Kingdom as a result of their entry into Northern Ireland.

CHAPTER 2

Applying for an import licence

Applying for an import licence: available quantity

22.—(1) The Secretary of State may publish a notice inviting applications to be made for an import licence in respect of any quota specified in the notice.

(2) A notice published by the Secretary of State under paragraph (1) must be published before the commencement of the quota period or sub-period in respect of which applications for the import licence are invited and must specify the quantity of quota goods available for the quota concerned (the “available quantity”).

(3) The total sum of each available quantity specified in notices published under paragraph (1) in respect of the same quota period may not exceed the quota volume for the quota concerned.

(4) In determining the available quantity for each quota, the Secretary of State may take into account—

- (a) where applications are invited for a sub-period, the proportion of quota volume corresponding with that sub-period for the quota concerned;
- (b) any quota volume already allocated by the previous issue of import licences for the quota period concerned;
- (c) any quota volume which has been allocated but has not been used for the quota period concerned, including in any case where an import licence has been surrendered to the Secretary of State under regulation 39.

(5) If the available quantity specified in a notice published by the Secretary of State is subject to a conversion factor, the particulars of the applicable conversion factor must also be given by the Secretary of State in the notice.

(6) An available quantity is subject to a conversion factor where the quota is marked “CF1” or “CF2” in column (1) of the Licensing Table and the applicable conversion factor which is specified in the corresponding footnote is to be applied to establish the available quantity for the goods concerned.

(7) Any reference in this Part to an available quantity specified in a notice published under paragraph (1) is a reference to the available quantity for which applications for an import licence have been invited by the Secretary of State in respect of the quota concerned.

Conditions for granting an import licence

23.—(1) The Secretary of State may grant an application for an import licence if the Secretary of State is satisfied that the requirements of this regulation have been met.

- (2) The requirements are that—
- (a) the quantity applied for does not exceed the available quantity specified in a notice published by the Secretary of State under regulation 22(1);
 - (b) the applicant is an operator;
 - (c) the licence application has been submitted in accordance with regulation 25; and
 - (d) the applicant has lodged a security in accordance with regulation 26.

- (3) If the application is made in respect of a quota—
- (a) for which the entry in column (3) of the Licensing Table is “Yes” (indicating that a reference quantity applies); and
 - (b) which is the first such application made by the person concerned for the quota period to which the application relates,

the requirements relating to the applicable reference quantity in regulation 27 apply, unless those requirements are suspended by the Secretary of State under regulation 28.

(4) If the application is made in respect of a quota for which the entry in column (4) of the Licensing Table is “Yes” (indicating that proof of origin is required), the applicant must submit to the Secretary of State —

- (a) in the case of a quota listed in Part A of that Table, a declaration that the goods to be imported originate from the country of origin specified in the Quota Table; or
- (b) in the case of a quota listed in Part B of that Table, a declaration that the goods qualify as originating goods in accordance with regulation 6 of the Customs PTA Regulations.

(5) If the application—

- (a) is made in respect of a quota for which the entry in column (5) of the Licensing Table is “Yes” (indicating that proof of trade is required); and
- (b) is the first such application made by the person concerned for the quota period to which the application relates,

the applicant must show proof of trade in accordance with regulation 29.

(6) If the application is made in respect of a quota for which the entry in column (6) of the Licensing Table is “Yes” (indicating that a certificate of authenticity is required), the applicant must submit that certificate in accordance with regulation 30.

(7) If the application is made in respect of a quota for which the entry in column (7) of the Licensing Table is “Yes” (indicating that an Inward Monitoring Arrangement certificate is required), the applicant must submit that certificate in accordance with regulation 31.

(8) If the application is made in respect of a quota for which the entry in column (8) of the Licensing Table is “Yes” (indicating that a declaration of independence is required), the applicant must submit that declaration in accordance with regulation 32, unless a previous declaration of independence remains in force in accordance with that regulation for the quota concerned.

(9) If the application is made in respect of a quota for which the entry in column (9) of the Licensing Table is “Yes” (indicating that an export certificate is required), the applicant must submit that certificate in accordance with regulation 33, unless—

- (a) this requirement is disapplied by the Secretary of State for the purpose of removing the limit to the quantity applied for which would otherwise apply under regulation 33(3); and
- (b) the Secretary of State has given notice to that effect in the notice published under regulation 22(1) inviting applications for the quota concerned.

(10) The Secretary of State may require the applicant to provide such documents and evidence as the Secretary of State considers necessary for the verification of any information given in the licence application.

Operator

24.—(1) An operator is a person who is—

- (a) registered under the Value Added Tax Act 1994⁽¹⁾; and
- (b) established in the United Kingdom.

(2) In this regulation, “established in the United Kingdom” means—

- (a) in the case of an individual, where the individual is resident in the United Kingdom;
- (b) in any other case, where the person has—
 - (i) a registered office in the United Kingdom; or
 - (ii) a permanent place in the United Kingdom from which the person carries out activities which the person is constituted to perform.

Application procedure

25.—(1) Subject to paragraphs (2) and (3), an application for an import licence must be received by the Secretary of State—

- (a) in the case of any application made before the commencement of the quota period, within the period of seven days beginning with the first day of the month which precedes the commencement of the quota period for the quota concerned and no later than 17.00 hours on the last working day within that period;
- (b) in the case of any application made after the commencement of the quota period within the period of seven days beginning with the first day of each month throughout the remaining quota period and no later than 17.00 hours on the last working day within that period.

(2) Any application for an import licence made before the commencement of a quota period beginning on 1st January must be received within the period of seven days beginning with 17th November of the preceding year and no later than 17.00 hours on the last working day within that period.

(3) An application for an import licence in respect of a quota for which a certificate of authenticity or an Inward Monitoring Arrangement certificate is required to be submitted under regulation 23(6) or, as the case may be (7), may be received at any time.

(4) An applicant may not make more than one application per month in respect of the same quota, except that—

- (a) an applicant may make two applications for the same quota during the month of November, if one of those applications is required to be submitted within the period beginning 17th November for the purposes of paragraph (2); and
- (b) an applicant may make more than one such application per month if the application is for a quota for which a certificate of authenticity or an Inward Monitoring Arrangement certificate is required to be submitted under regulation 23.

(5) If an applicant makes more than one application in respect of a quota covering different—

- (a) commodity codes, as specified in column 2 of the Quota Table or column 3 of the Preferential Quota Table, as the case may be, and corresponding with the entry for the quota concerned;

(1) 1994 c. 23.

- (b) countries of origin; or
- (c) quota duty rates,

those applications will be treated as a single application for the purposes of paragraph (4) if they are made at the same time and in respect of the same quota.

(6) An application for an import licence must—

- (a) be made in the name of the person who is to be the holder of the licence;
- (b) identify the quota number for the goods concerned; and
- (c) include a valid Economic Operators' Identification Number ("EORI number") assigned by HMRC on the registration of the applicant under Article 9 of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code⁽²⁾, read with Articles 5 and 6 of Commission Delegated Regulation (EU) 2015/2446 of 28 July 2015 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards detailed rules concerning certain provisions of the Union Customs Code⁽³⁾.

(7) An application for an import licence may be withdrawn by the applicant at any time before 17.00 hours on the last working day of the period during which that application was received by the Secretary of State under paragraph (1) or (2).

Lodging of security

26.—(1) The security which is payable in connection with the application for an import licence must be lodged with the Secretary of State within the same period as the period during which the application for the import licence is to be received under regulation 25.

(2) The amount of security to be lodged in connection with the licence application is the amount payable as a result of applying the formula for the quota concerned set out in column (2) of the Licensing Table to the quantity of quota goods specified in the licence application, save that such amount must be rounded down to the nearest pound.

(3) Subject to any decision under regulation 42(3) that the security is forfeited, any security lodged in respect of a quantity of quota goods for which an import licence is not granted must be returned to the person who lodged the security.

Reference quantity

27.—(1) Where this regulation applies, the total quantity of goods specified in applications for an import licence submitted by an applicant in respect of a quota period—

- (a) may not exceed the applicant's applicable reference quantity; and
- (b) if an application concerns a sub-period, may not exceed the proportion of the applicant's applicable reference quantity corresponding with the sub-period.

(2) The applicant's applicable reference quantity is the average annual quantity of goods released by that person under the free-circulation procedure, calculated by reference to—

- (a) the quantity of goods released during the two consecutive 12 month periods ending two months before the commencement of the period for receiving applications for an import licence for the relevant goods under regulation 25(1)(a) or 25(2); or
- (b) as regards the beef and veal quotas which are marked "BV1" in the Licensing Table, the quantity of goods released by the applicant during the period of 12 months ending two

(2) EUR 952/2013, as amended by [S.I. 2019/714](#). There are other amendments but none is relevant.

(3) EUR 2015/2446, as amended by [S.I. 2019/714](#) and [S.I. 2019/715](#).

months before the commencement of the period for receiving applications for an import licence for the relevant goods under regulation 25(1)(a) or 25(2).

(3) The quantity of goods referred to in paragraph (2) is to be calculated by reference to—

- (a) any goods released by the applicant for which the description as specified in the Goods Classification Table is the same as the goods which are subject to the quota concerned; and
- (b) in the case of the quota 05.4003, in addition, any goods released by the applicant which fall within the following commodity codes—

- (i) 02010000;
- (ii) 02020000;
- (iii) 02061095;
- (iv) 02062991.

(4) The applicant must show evidence of its applicable reference quantity for the goods specified in the licence application, and such evidence may include a declaration for a Customs procedure (including a certified copy of such a declaration) which—

- (a) shows that the goods were subject to the free-circulation procedure; and
- (b) indicates that the applicant for the licence was the declarant.

(5) If an applicant can show to the satisfaction of the Secretary of State that it constitutes a merger of two or more persons such that the applicant is a merged applicant—

- (a) the applicable reference quantity for the merged applicant will be the combined sum of the goods which each predecessor to the merger could have taken into account in making a separate licence application had the merger not occurred; and
- (b) for the purposes of providing evidence of reference quantity under paragraph (4), documentation obtained prior to the merger by each predecessor to the merger may be treated as evidence in relation to the application made by the merged applicant.

Suspension of reference quantity

28.—(1) The Secretary of State may publish a notice suspending the requirement to show applicable reference quantity in accordance with regulation 27 in respect of any quota specified in the notice.

(2) The notice may be given if—

- (a) by the end of the ninth month of the quota period, the sum of the quantities specified in all licence applications in respect of the quota concerned is less than the remaining quantity available under that quota; or
- (b) in the opinion of the Secretary of State, due to the occurrence of abnormal and unforeseeable circumstances, the sum of the quantities remaining to be specified in licence applications in respect of the quota concerned is anticipated to be less than the remaining quantity available under that quota.

(3) The period of any suspension must be specified in the notice and may not exceed the end of the quota period.

Proof of trade

29.—(1) Where this regulation applies, the proof of trade must show that the applicant has, during each relevant preceding period, released under the free-circulation procedure at least 25 tonnes—

- (a) of quota goods of the same description as the goods specified in the licence application, if the application is for a quota to which regulation 27 or 32 applies; or

- (b) in any other case, of goods which—
 - (i) are of a description which falls within the same sector in column (1) of the Proof of Trade Table set out in Schedule 3 as the goods specified in the licence application; and
 - (ii) fall within a commodity code which is specified in column (2) of that Table in the corresponding row for that sector.
- (2) Proof of trade may include—
 - (a) a Customs declaration showing that the free-circulation procedure has been applied to the relevant goods and containing a reference to the applicant as declarant; or
 - (b) a used import licence endorsed by an HMRC officer (whether made available in electronic form or otherwise) showing that the free-circulation procedure has been applied to the relevant goods and containing a reference to the applicant as the licence holder or transferee.
- (3) Any proof of trade of trade provided under paragraph (2) must, in respect of each relevant preceding period, contain a reference to a valid EORI number assigned by HMRC on the registration of the applicant.
- (4) In this regulation—
 - (a) for goods subject to a quota which is marked “BV1” in the Licensing Table, the “relevant preceding period” means the period of 12 months ending two months before the commencement of the period for receiving applications for an import licence for those goods under regulation 25(1)(a) or 25(2);
 - (b) for other goods, a “relevant preceding period” means each of—
 - (i) the period of 12 months ending two months before the commencement of the period for receiving applications for an import licence for the relevant goods under regulation 25(1)(a) or 25(2); and
 - (ii) the period of 12 months immediately preceding that 12 month period.

Certificate of authenticity

- 30.**—(1) Where this regulation applies, the applicant must submit with the licence application—
- (a) the original certificate of authenticity which has been issued by the recognised authority for the exporting country identifying the origin of the goods and certifying that the particulars of the goods set out in the certificate are accurate; and
 - (b) a copy of that certificate.
- (2) The recognised authority for the exporting country is the authority listed in the footnote to the entry in column (6) of the Licensing Table corresponding with the row for the quota concerned.
- (3) The certificate of authenticity must be valid on the date on which the licence application is submitted.
- (4) A certificate of authenticity is deemed to be valid for the purposes of paragraph (3)—
- (a) for a period of three months from the date of its issue; or
 - (b) if that period of three months extends beyond the last day of the quota period in respect of the quota concerned, until the end of the quota period.
- (5) Once a certificate of authenticity has been submitted with a licence application, it cannot be used in connection with any other application for an import licence.
- (6) The original certificate of authenticity must be retained by the Secretary of State.

(7) If an import licence is issued, the quantity of quota goods to be imported under the licence is to be noted on the copy of the certificate of authenticity along with the licence issue number and the copy certificate is to be returned to the applicant.

Inward Monitoring Arrangement certificate

31.—(1) Where this regulation applies, the applicant must submit with the licence application—

- (a) the original Inward Monitoring Arrangement certificate (the “IMA 1”) which has been issued by the recognised authority for the exporting country, identifying the origin of the goods and certifying that the particulars of the goods set out in the certificate are accurate; and
- (b) a copy of that IMA 1.

(2) The recognised authority for the exporting country is the authority listed in the footnote to the entry in column (7) of the Licensing Table corresponding with the row for the quota concerned.

(3) The IMA 1 must be valid on the date on which the licence application is submitted.

(4) An IMA 1 is deemed to be valid for the purposes of paragraph (3)—

- (a) from the date of its issue until the final day of the month which is the eighth month following its issue; or
- (b) if that period ending with the final day of the eighth month extends beyond 31st December in the year in which the IMA 1 was issued, until 31st December of that year.

(5) An IMA 1 which has been submitted with a licence application cannot be used in connection with any other application for an import licence.

(6) The original IMA 1 must be retained by the Secretary of State.

(7) If an import licence is issued, the quantity of quota goods to be imported under the licence is to be noted on the copy of the IMA 1 along with the licence issue number and the copy of the IMA 1 is to be returned to the applicant.

Declaration of independence

32.—(1) Where this regulation applies, a declaration of independence must be made by the applicant containing—

- (a) a declaration that the applicant is not linked with any other person applying to the Secretary of State in respect of the same quota; or
- (b) if the applicant is linked with another person applying to the Secretary of State in respect of the same quota, a declaration to that effect identifying the linked person and providing evidence that the applicant regularly engages in substantial economic activities with other third parties.

(2) An applicant is linked with another person if the applicant—

- (a) has close business links with that person;
- (b) has family ties with that person; or
- (c) has an important business relationship with that person.

(3) In this regulation—

- (a) a person (A) has “close business links” with another person (B) if—
 - (i) B is a parent undertaking of A;
 - (ii) B is a subsidiary undertaking of A;
 - (iii) B is a parent undertaking of a subsidiary undertaking of A;

- (iv) B is a subsidiary undertaking of a parent undertaking of A;
 - (v) B owns or controls 25% or more of the voting rights or capital of A; or
 - (vi) A owns or controls 25% or more of the voting rights or capital of B,
- and for the purposes of this paragraph, “subsidiary undertaking” and “parent undertaking” have the meanings given in section 1162 of the Companies Act 2006, as read with Schedule 7 to that Act⁽⁴⁾;

- (b) having “family ties” with another applicant means—
 - (i) the applicants are spouses or civil partners, or are living together as spouses or as if they were civil partners; or
 - (ii) the applicant is the brother, sister, parent, child or grandchild of another applicant;
- (c) “important business relationship” includes a relationship where—
 - (i) the applicants are employer and employee;
 - (ii) the applicants are partners in a partnership, or officers or directors in the same undertaking;
- (d) “substantial economic activities” means activities carried out by the applicant relating to the production, distribution or consumption of goods and services, which are not carried out for the sole purpose of applying for quotas.

(4) For the purpose of assessing whether the applicant regularly engages in substantial economic activities with other third parties, the Secretary of State must take into account the character of the economic activities carried out by the applicant, the expenditure made, and the sales and turnover of the applicant.

(5) The Secretary of State must take into account any documents or evidence submitted in support of the applicant’s declaration of independence with a view to determining the validity of the declaration.

(6) A valid declaration of independence remains in force for the purpose of any subsequent licence application in respect of the quota concerned, subject to any determination made by the Secretary of State under paragraph (8).

(7) If any change of circumstances occurs affecting a valid declaration of independence, the operator must notify the Secretary of State of the particulars of the change within 10 days of the change.

(8) Where particulars of the change are notified under paragraph (7), the Secretary of State must determine whether the effect of the change is such that the declaration of independence is no longer in force and notify the operator accordingly.

Export certificates

33.—(1) Where this regulation applies, the applicant must submit with the application for the import licence—

- (a) the original export certificate issued by the recognised authority for the exporting country specifying the quantity of the goods certified for export; and
- (b) a copy of the original certificate.

(2) The recognised authority for the exporting country is the authority listed for the applicable country in the footnote to the entry in column (9) of the Licensing Table corresponding with the row for the quota concerned.

(4) 2006 c. 46.

(3) The quantity applied for in the licence application must not exceed the quantity of goods specified in the export certificate.

Suspension of licence applications

34.—(1) The Secretary of State may publish a notice suspending applications for import licences for any quota specified in the notice, if the available quantity specified in a notice published under regulation 22(1) has been allocated by the grant of previous licences.

(2) The notice must specify the period for which licence applications are suspended.

(3) The Secretary of State is not required to consider an application for an import licence in respect of a quota if a relevant notice has been published under paragraph (1) to the extent it relates to the period specified under paragraph (2).

(4) If unused quota volume becomes available before the end of a quota period within which applications were suspended, the Secretary of State must publish a notice cancelling the notice published under paragraph (1).

CHAPTER 3

Administration of Import Licences

Issue and period of validity of the licence

35.—(1) If an application for an import licence is granted, the Secretary of State must issue the import licence before the end of the month in which the licence application was received, except that licences that are valid from 1st January must be issued by 16th December of the preceding year.

(2) An import licence issued under paragraph (1) (other than a licence referred to in paragraph (4)) is valid from—

- (a) the first day of the opening of the quota period or sub-period for which the application was made, if the licence application was received prior to the commencement of the quota period or sub-period;
- (b) the first day of the month following receipt of the licence application, if the application is received within the quota period or sub-period for which the application was made;
- (c) 1st January of the following year, in the case of an application received within the period of seven days beginning with 17th November.

(3) An import licence (other than a licence referred to in paragraph (4)) is valid until—

- (a) the end of the quota period in respect of which it was issued; or
- (b) if the licence was issued in respect of a sub-period, until the end of the quota period within which that sub-period falls.

(4) An import licence—

- (a) in respect of which a certificate of authenticity was required to be submitted under regulation 30 is valid for the quota period or a period of three months beginning with the day on which the licence was issued, whichever period ends first;
- (b) in respect of which an Inward Monitoring Arrangement certificate was required to be submitted under regulation 31 is valid for the period beginning with the day on which the licence was issued and ending with the same day as the final day of the period of validity deemed to apply under regulation 31(4) for a certificate so submitted.

Allocation of quota

36.—(1) On the grant of an import licence, the Secretary of State must specify in the licence the quantity of quota goods to be imported under the licence.

(2) The quantity of quota goods to be imported is to be determined by—

- (a) calculating an allocation coefficient in respect of the quota concerned; and
- (b) applying the coefficient to the application quantity.

(3) The allocation coefficient is to be calculated for each quota as follows—

$(\text{available quantity} / \text{requested quantity}) \times 100\%$.

(4) But if the allocation coefficient calculated under paragraph (3) exceeds 100%, the allocation coefficient is to be 100%.

(5) The allocation coefficient is to be applied to the application quantity as follows—

$(\text{application quantity} \times \text{allocation coefficient})$.

(6) The figure resulting from the application of the allocation coefficient is the quantity of quota goods to be imported under the licence, rounded down to the nearest unit.

(7) For the purposes of calculating and applying the allocation coefficient—

- (a) the requested quantity is the sum total of the application quantities to which the allocation coefficient is being applied; and
- (b) the application quantity is the quantity of quota goods proposed to be imported in a valid application for the import licence concerned.

(8) The Secretary of State may adjust the allocation coefficient to ensure that the quantity of quota goods allocated on the grant of import licences does not exceed the available quantity specified in the notice published under regulation 22(1).

(9) The Secretary of State must publish a notice of the allocation coefficient which has been applied in respect of the requested quantity.

Licence conditions

37. An import licence may be granted subject to such terms and conditions as the Secretary of State considers necessary for the purposes of this Part.

Transfer of an import licence or extract

38.—(1) A person to whom an import licence has been granted (in this regulation, “the transferor”) may apply to the Secretary of State for the transfer of that licence, or for the transfer of an extract from that licence (an “extract”), to another person (“the transferee”).

(2) An application for the transfer of an extract from a licence must specify the quantity of goods proposed for extraction from those remaining to be imported under the licence.

(3) The Secretary of State may approve the transfer of the licence, or an extract from the licence, if the Secretary of State is satisfied—

- (a) that the transferee is an operator; and
- (b) where applicable, the transferee meets the same requirements as had been applied to the transferor for the grant of the licence under regulation 23(5) (in respect of submitting proof of trade) and regulation 23(8) (in respect of submitting a declaration of independence).

(4) With effect from the date of the transfer of an extract from an import licence—

- (a) the extract is to be treated as though it had been transferred as an import licence for the purposes of these Regulations;

- (b) the quantity of goods licensed for import by virtue of the transfer of the extract is the quantity extracted from the original licence; and
 - (c) the corresponding quantity of goods licensed for import by virtue of the transfer of the extract is to be deducted from the original licence held by the transferor.
- (5) With effect from the date of the transfer of the licence, or of the extract from that licence, the quantity of any further quota goods released under the free-circulation procedure under that licence or extract is to be attributed to the transferee and is to be taken into account for the purposes of any subsequent application for an import licence to establish the transferee's—
- (a) reference quantity under regulation 27; or
 - (b) proof of trade under regulation 29.

Surrender of an import licence

39.—(1) A licence holder may surrender an import licence by giving notice to the Secretary of State to that effect.

(2) Where a notice is given under paragraph (1), the import licence to which it relates ceases to have effect on receipt of the notice by the Secretary of State.

Return and forfeiture of security

40.—(1) This regulation applies to any security which is held by the Secretary of State consequent to the grant of an import licence and is subject to any decision under regulation 42(3) that the security is forfeited.

(2) Any return of the security is to be made to the person who lodged the security.

(3) In order to make arrangements for a return of the security, the Secretary of State must be satisfied that—

- (a) the quota goods specified in the licence have been released under the free-circulation procedure; and
 - (b) the release under the free-circulation procedure has taken place within the period of validity of the licence.
- (4) Evidence of the release of the goods under the free-circulation procedure may include—
- (a) a Customs declaration showing that the free-circulation procedure has been applied to the goods and containing a reference to the licence holder or transferee as declarant; or
 - (b) the used import licence endorsed by an HMRC officer (whether made available in electronic form or otherwise) showing that the free-circulation procedure has been applied to the goods.

(5) If the Secretary of State is satisfied that the quantity of goods released under the free-circulation procedure by the end of the period of validity of the licence is—

- (a) between 95% and 100% of the quantity of the goods specified in the licence, the entire amount of the security must be returned to the person who lodged the security;
- (b) between 5% and less than 95% of the quantity of the goods specified in the licence, the same percentage of the security must be returned to the person who lodged the security as the percentage of goods which were released under the free-circulation procedure;
- (c) less than 5% of the quantity of the goods specified in the licence, the whole security is forfeit.

(6) Where the amount of security which would be forfeit under paragraph (5)(b) or (c) is £100 or less, the Secretary of State may return the entire amount of the security.

(7) If a person has not released under the free-circulation procedure a quantity of the quota goods to be imported under the licence, and the failure to release the goods was caused by abnormal and unforeseeable circumstances beyond that person's control, the person who lodged the security may make representations to that effect to the Secretary of State at any time following the grant of the licence, but in any event no later than 45 days after the end of the period of validity of the licence.

(8) The Secretary of State, having regard to any representations so submitted—

- (a) may return to the person who lodged the security such further percentages of the security as the Secretary of State considers appropriate; or
- (b) in the case of a licence referred to in regulation 35(4) which has not expired, may in the alternative extend the period of the validity of the licence by such a period as the Secretary of State considers appropriate, so long as the period of validity of the licence does not extend beyond the quota close date of the quota period for the tariff concerned.

(9) Where, after the period for making representations to the Secretary of State under paragraph (7) has elapsed, the Secretary of State decides that any security is forfeited under paragraph (5)(b) or (c), the person who lodged the security must be so notified.

(10) The Secretary of State must give reasons for the decision and inform the person of the right to appeal against the decision under regulation 43.

CHAPTER 4

Appeals and penalties

Decision to refuse licence application

41.—(1) The Secretary of State must notify the applicant in writing if an application under regulation 23 is refused.

(2) The Secretary of State must give reasons for the decision and inform the applicant of the right to appeal against the decision under regulation 43.

Penalties

42.—(1) If any information or document submitted in connection with an application for an import licence or its transfer is found to be materially incorrect or misleading and if the Secretary of State considers that the information or document is decisive for the grant of the licence or the approval of its transfer (or the transfer of an extract) such that the grant or transfer would not have been made if the information or document had not been submitted, the Secretary of State may—

- (a) bar the applicant from releasing under the free-circulation procedure any goods subject to the quota concerned for the entire quota period during which the finding was made; and
- (b) exclude the applicant from applying for an import licence in respect of the quota concerned for a quota period following the quota period during which the finding was made.

(2) If the Secretary of State considers that the applicant submitted that information or document knowing it to be materially incorrect or misleading, the period for which that person may be excluded from applying for an import licence under paragraph (1)(b) may be extended to two quota periods following the quota period during which the finding was made.

(3) If a person—

- (a) submits more applications than the maximum number permitted under regulation 25 in respect of the quota concerned, or
 - (b) breaches any terms or conditions of the licence which were imposed under regulation 37,
- the Secretary of State may decide that any security lodged in connection with those applications is to be forfeit in part or in whole.

(4) The Secretary of State must give reasons for any decision to apply a penalty under this regulation and inform the person of the right to appeal against the decision under regulation 43.

Appeals

43.—(1) A person who is aggrieved by any decision taken by the Secretary of State under these Regulations (“the appellant”) may bring an appeal under this regulation.

(2) The appellant must notify the Secretary of State as to the decision to be appealed.

(3) The Secretary of State must appoint a person to hear the appeal (the “appointed person”).

(4) The appellant may make written representations to the appointed person.

(5) The Secretary of State may also make written representations to the appointed person.

(6) The appointed person must consider the appeal and any representations made by the Secretary of State and must report in writing to the Secretary of State, with the person’s conclusions on the appeal and a recommendation as to the manner in which the matter should be finally determined by the Secretary of State.

(7) The Secretary of State must then reach a final determination and notify the appellant of that determination and the reasons for it.

CHAPTER 5

Transitional provision

Transitional provision

44.—(1) Subject to paragraph (2), any licence, or any extract from a licence, which was granted by the Secretary of State to import goods which are subject to a quota listed in Part A of the Licensing Table and which has effect immediately before the appointed day remains in force as if it were granted under these Regulations; and, for these purposes, any goods released under the licence before the appointed day are deemed to have been released under the free-circulation procedure.

(2) Paragraph (1) does not apply to a licence of a description referred to in that paragraph which was transferred prior to the appointed day to a person who is not an operator, or to an extract from any such licence to import the quantity of goods licensed for import by virtue of the transfer of the extract.

(3) Any licence which—

(a) remains in force by virtue of paragraph (1), and

(b) is a licence to import goods under quotas 05.4215, 05.4254, 05.4255, 05.4256, 05.4258, 05.4259 or 05.4003,

remains valid until 30th June 2021, irrespective of the period of validity which was applicable to that licence when it was granted.

(4) Where the Secretary of State publishes a notice under regulation 22(1) inviting applications to be made for an import licence in respect of a quota period or sub-period which commences on 1st January 2021, the Secretary of State may publish that notice within 10 days of the appointed day, notwithstanding the provision otherwise made under regulation 22(2) for the publication of a notice before the commencement of the relevant quota period or sub-period.

(5) Where the Secretary of State has published a notice before the appointed day inviting applications for a licence to import goods which are subject to a quota listed in the Licensing Table in respect of a quota period which commences on 1st January 2021, that notice is to be treated as though it had been published under regulation 22(1).

(6) Any import licence which is granted in respect of an application referred to in paragraph (4) or (5) is to be valid from the day on which it was issued, notwithstanding the provision otherwise made under regulation 35(2) concerning the date of validity of the licence.

(7) Where an applicant for an import licence is required to submit evidence of applicable reference quantity in accordance with regulation 27, or proof of trade in accordance with regulation 29 (including that regulation as modified by paragraph (9) of this regulation)—

- (a) such evidence may include documentation relating to goods or products which were released by the applicant for free-circulation within a member State during any part of a preceding period which is relevant to the application and which falls before the appointed day; and
- (b) for these purposes, any evidence so submitted is to be treated as though the goods or products had been released under the free-circulation procedure.

(8) The requirement to submit evidence of applicable reference quantity in accordance with regulation 27 is not to apply in respect of any application for an import licence which is made on or after the appointed day and in respect of any quota period which commences before 1st June 2021.

(9) Where the requirement to submit evidence of proof of trade in accordance with regulation 29 applies in respect of an application for an import licence which is made on or after the appointed day and in respect of any sub-period of a quota period which commenced before the appointed day—

(a) for quotas marked PoT1 and PoT2 in the Licensing Table—

(i) notwithstanding the quantity of goods specified in regulation 29(1), the proof of trade must show that the applicant has, during each relevant preceding period, released at least—

(aa) 50 tonnes of goods as regards the quotas marked PoT1; and

(bb) 250 tonnes of goods as regards the quotas marked PoT2,

and the goods must be of a description which meets the requirements specified in regulation 29(1)(b) (irrespective of whether the application is for a quota to which regulation 27 or 32 applies); and

(ii) for these purposes, the meaning of “relevant preceding period” in regulation 29(4) (b) is modified to mean the period of 12 months preceding the commencement of the period for receiving applications for an import licence for the relevant goods under regulation 25(1)(a) or 25(2) and the period of 12 months immediately preceding that 12 month period;

(b) for quotas marked PoT3 in the Licensing Table—

(i) notwithstanding the quantity of goods specified in regulation 29(1), the proof of trade must show that the applicant has, during each relevant preceding period, released at least —

(aa) 50 tonnes of goods as regards goods which have been released under the free-circulation procedure, which must be fruit and vegetables of a description which meets the requirements specified in regulation 29(1)(b) (irrespective of whether the application is for a quota to which regulation 27 or 32 applies); or

(bb) 50 tonnes of garlic which have been exported to a territory outside the United Kingdom; and

(ii) for these purposes, the meaning of “relevant preceding period” in regulation 29(4) (b) is modified to mean—

(aa) the period of 12 months preceding the commencement of the period for receiving applications for an import licence for the relevant goods under

regulation 25(1)(a) or 25(2) and the period of 12 months immediately preceding that 12 month period; or

- (bb) as regards any application for an import licence in respect of a sub-period which commences on 1st March 2021, the two quota periods preceding that sub-period.

(10) For the purposes of regulation 25(6)(c) and 29(3), an EORI number assigned before IP completion day by HMRC, in its capacity as a customs authority referred to in Article 9 of Regulation (EU) No 952/2013⁽⁵⁾ read with Articles 5 and 6 of Commission Delegated Regulation (EU) 2015/2446⁽⁶⁾ as those Regulations had effect in the United Kingdom immediately before IP Completion day, is to be treated as a valid EORI number.

(11) The requirement to submit a declaration of independence in accordance with regulation 32 is not to apply in respect of any application for an import licence which is made on or after the appointed day and in respect of any quota period which commences before 1st June 2021.

(12) Where, under quotas 05.4215, 05.4254, 05.4255 or 05.4256—

- (a) import rights which have been attributed to an operator by the Secretary of State pursuant to Article 3(3) of [Commission Regulation \(EC\) No 616/2007](#) opening and providing for the administration of Community tariff quotas in the sector of poultrymeat originating in Brazil, Thailand and other third countries⁽⁷⁾ remain in effect immediately before the appointed day; and
- (b) the grant of a licence consequent to the attribution to the operator of import rights under that Article has not taken place before the appointed day,

the Secretary of State must grant an import licence to the operator concerned to import the quantity of goods for which import rights had been attributed, and the period of validity of that licence is to be from 1st January 2021 until 30th June 2021.

(13) Where—

- (a) a licence is surrendered in accordance with regulation 39; and
- (b) the surrender of the licence is made within one month of the appointed day,

any security held by the Secretary of State for goods which had not been released under the free-circulation procedure by the date of surrender is to be returned to the person who lodged the security.

⁽⁵⁾ OJ No L269, 10.10.2013, p. 1.

⁽⁶⁾ OJ No L343, 29.12.2015, p. 1.

⁽⁷⁾ OJ No L142, 5.6.2007, p. 3. [Commission Regulation \(EC\) No 616/2007](#) is prospectively repealed by Commission Delegated Regulation (EU) 2020/760 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council as it has effect in EU law.