
STATUTORY INSTRUMENTS

2021 No. 1156

The Free Zones (Customs, Excise and Value Added Tax) Regulations 2021

PART 2

CUSTOMS

Amendment of the Customs (Special Procedures and Outward Processing) (EU Exit) Regulations 2018

3.—(1) The Customs (Special Procedures and Outward Processing) (EU Exit) Regulations 2018⁽¹⁾ are amended as follows.

(2) In regulation 2 (interpretation)⁽²⁾—

(a) in paragraph (1), in the appropriate places insert—

““customs office” means premises used by HMRC for the purposes of exercising its functions under the Act;”;

““free zone activity” means an activity falling within the description in regulation 3(2)(c);”;

““free zone business” means a person authorised to declare goods for a free zone procedure or to carry out a free zone activity, and an authorisation as a free zone business is an authorisation to carry out one or both of those activities;”;

““responsible authority” means a person appointed as a responsible authority for a free zone under section 100A(3)(c) of CEMA 1979, and references to a responsible authority for a free zone are to a responsible authority so appointed in relation to that free zone;”;

(b) after paragraph (2) insert—

“(3) In these Regulations—

(a) a declaration of goods for “a customs warehouse procedure” is a declaration of goods for a storage procedure in a case where the goods are to be kept in a customs warehouse; and

(b) a declaration of goods for “a free zone procedure” is a declaration of goods for a storage procedure in a case where the goods are to be kept in a free zone.”.

(3) In regulation 3(2) (authorisation requirement)—

(a) in sub-paragraph (a), for “storage procedure” substitute “customs warehouse procedure”;

(b) after sub-paragraph (b)(iii), omit “or”;

(c) after sub-paragraph (b)(iv) insert—

(1) Relevant amending instruments are [S.I. 2019/486](#) and [2019/1215](#).

(2) Regulation 2 has been amended by [S.I. 2020/1449](#), [2020/1605](#), [2021/380](#) and [2021/478](#).

“or

(v) a free zone procedure;

(c) any industrial, service or commercial activity in a free zone⁽³⁾ 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.”.

(4) In regulation 9 (eligibility for authorisation or approval)—

(a) in paragraph (1)—

(i) after “The following criteria” insert “, and, where relevant, a criterion in paragraph (1A) or (1B),”;

(ii) in sub-paragraph (c), at the start insert “except where paragraph (1A) or (1B) applies,”;

(b) after paragraph (1) insert—

“(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.”;

(c) in paragraph (2)(a), after “declare goods for” insert “a free zone procedure,”.

(5) In regulation 10(1) (period for which an authorisation is to have effect), after “3(2)(b)” insert “(i) to (iv)”.

(6) In regulation 11(1) (retrospective authorisation), after “3(2)(b)” insert “(i) to (iv)”.

(7) In regulation 12 (declaration to be made in the name of the authorised person)—

(a) for paragraph (1) substitute—

“(1) Where paragraph (2) applies, a Customs agent may not make a declaration of goods for a free zone procedure, an inward processing procedure, an outward processing procedure, an authorised use procedure or a temporary admission procedure.”;

(b) after paragraph (2) insert—

“(3) A Customs agent may not, acting as an indirect agent, make a declaration for a storage procedure where the goods are to be kept in a private customs warehouse.”.

(8) Before regulation 14 (eligibility for approval to operate a customs warehouse) insert—
“SECTION 1

Customs warehouses”.

(9) In regulation 15 (approval to operate a customs warehouse)—

(a) in paragraph (3)—

(i) after “goods declared” insert “for a free zone procedure,”;

(ii) in sub-paragraph (b)—

(3) “Free zone” is defined for the purposes of Part 2 of Schedule 2 to the 2018 Act by paragraph 2(5) of that Part.

- (aa) for “storage procedure” substitute “customs warehouse procedure”;
- (bb) before “inward processing procedure” insert “free zone procedure.”;
- (b) in paragraph (6)—
 - (i) in sub-paragraph(b)(4), for “storage procedure” substitute “customs warehouse procedure”;
 - (ii) for sub-paragraph (c) substitute—
 - “(c) in relation to goods declared for a customs warehouse procedure, the approved person must notify any person keeping such goods in the warehouse of any permission to remove the goods from the warehouse contained in the approval notification.”.
- (10) In regulation 16 (obligations relating to keeping goods in a customs warehouse)—
 - (a) in paragraph (1)—
 - (i) for “storage procedure where they are to be kept in a customs warehouse and” substitute “customs warehouse procedure that”;
 - (ii) after “in the warehouse” insert “in which the goods are to be kept”;
 - (b) in paragraph (2), for “storage procedure to be kept in a customs warehouse” substitute “customs warehouse procedure”.
- (11) In regulation 17 (removal of goods from a customs warehouse)—
 - (a) in paragraph (1)—
 - (i) for “storage procedure” substitute “customs warehouse procedure”; and
 - (ii) for “the storage” substitute “that”;
 - (b) for paragraph (6)(b)(5) substitute—
 - “(b) the warehouse and a place at which, in relation to those goods, a notification of export of goods from the United Kingdom(6) must be given under regulation 51(4) of the Customs (Export) (EU Exit) Regulations 2019(7);”;
 - (c) omit paragraph (9).
- (12) In regulation 18(1)(a) (usual forms of handling – changes in nature of goods), for “storage procedure to be kept in a customs warehouse” substitute “customs warehouse procedure”.
- (13) After regulation 18 insert—

“SECTION 2

Free zones

Authorisation as a free zone business

18A.—(1) An approval notification issued in relation to an authorisation as a free zone business must specify—

- (a) the free zone or free zones in which—
 - (i) goods declared for a free zone procedure may be kept; and
 - (ii) any other free zone activity may take place;

(4) Paragraph (6)(b) was amended by [S.I. 2019/1215](#).

(5) Paragraph (6)(b) was amended by [S.I. 2019/486](#) and [2020/1605](#).

(6) See section 34(3) of the 2018 Act.

(7) [S.I. 2019/108](#). There are amending instruments, but none is relevant.

- (b) the authorised person;
- (c) if the person is authorised to declare goods for a free zone procedure, that they are so authorised; and
- (d) any free zone activities authorised.

(2) An authorisation to declare goods for a free zone procedure is subject to the requirements set out in regulation 18B and the conditions provided for in regulation 18C.

(3) An authorisation to carry out a free zone activity is subject to the conditions provided for in regulation 18C.

Authorisation to declare goods for a free zone procedure – requirements

18B.—(1) Where an authorisation to declare goods for a free zone procedure is granted, the following are requirements of the procedure—

- (a) in a case where the goods are outside a free zone when a declaration of those goods for a free zone procedure is accepted, the authorised person—
 - (i) once HMRC have accepted the declaration, ensures that the declared goods are moved directly to a free zone in which the goods are authorised to be kept; and
 - (ii) provides the responsible authority for that free zone with details of the declaration and any differences between the goods deposited and the goods declared;
- (b) the authorised person—
 - (i) stores, uses or processes the goods themselves or arranges for another free zone business to store, use or process the goods; and
 - (ii) ensures such storage, use or processing takes place in accordance with the conditions of the authorisation of the free zone business carrying out those activities;
- (c) where processing of the goods results in the production or manufacture of other goods in which the goods can be identified, the processing, or each individual processing operation, results in the production or manufacture of an approved quantity of the other goods; and
- (d) the holder of the procedure does not export the goods or cause them to be exported where—
 - (i) the export is to a country or territory with whose government Her Majesty’s government in the United Kingdom has made arrangements which contain provision for the rate of import duty applicable to goods, or any description of goods, originating from the country or territory to be lower than the applicable rate in the customs tariff in its standard form, within the meaning given in section 9(2) of the Act;
 - (ii) a United Kingdom proof of origin issued under any provision made under section 9 of the Act in relation to the goods has been obtained for the purpose of claiming the lower rate when the goods are imported into the country or territory referred to in paragraph (i); and
 - (iii) the arrangements are not of a description specified in a notice published by HMRC.

(2) For the purposes of paragraph (1)(c), the methodology by which the approved quantity of the other goods is to be determined—

- (a) is to be specified in the approval notification; and

- (b) is to be—
 - (i) chosen by the applicant, if an HMRC officer approves that choice; or
 - (ii) in all other cases, set by an HMRC officer.

Free zone businesses – conditions

18C.—(1) An authorisation as a free zone business is granted subject to conditions A to C and any other conditions specified under paragraph (6).

(2) Condition A is that the authorised person does not bring or cause to be brought into a free zone, or declare for a free zone procedure, goods of a description specified in a notice published by HMRC.

(3) HMRC—

- (a) must publish a notice specifying a description of the goods mentioned in paragraph (2); and
- (b) may specify a description of goods by reference to any matter or circumstance (including the manner in which a customs declaration may be made or is to be made in respect of them).

(4) Condition B is that the authorised person complies with any requirement of an HMRC officer that goods in the free zone are to be—

- (a) segregated, marked or otherwise identified; or
- (b) produced to an HMRC officer for examination.

(5) Condition C is that the authorised person does not cause or permit chargeable goods to be removed from the free zone otherwise than in accordance with regulation 18F.

(6) The authorisation is granted subject to such other conditions as may be specified in the approval notification issued in relation to the authorisation which may include conditions regarding (amongst other things)—

- (a) the type of goods the authorised person may—
 - (i) bring into or keep in the free zone; or
 - (ii) declare for a free zone procedure;
- (b) any activities that may be carried out in relation to the goods;
- (c) in relation to the keeping of goods in the free zone—
 - (i) the amount of time for which they may be kept;
 - (ii) the facilities in which they must be stored.

Notification that goods are to be kept in a free zone

18D.—(1) A notification that goods are to be kept in a free zone must be given to HMRC—

- (a) in relation to goods of a description specified in a notice published by HMRC; and
- (b) by the person specified in a notice published by HMRC.

(2) The notification referred to in paragraph (1) must—

- (a) contain the matters;
- (b) be accompanied by the documents
- (c) be made in the form and manner; and
- (d) be given within the period,

specified in a notice published by HMRC.

(3) A notice published under paragraph (1) or (2) may make different provision for different cases.

(4) If HMRC publish a notice under paragraph (1)(a), they must publish a notice under paragraphs (1)(b) and (2).

Control of other activities in free zones by responsible authority

18E.—(1) Subject to paragraph (5), a person must not carry out any industrial, commercial or service activity in a free zone unless HMRC have been notified of an intention to carry out that activity before it is commenced.

(2) The notification referred to in paragraph (1) must be made by—

- (a) a responsible authority for the free zone; or
- (b) another person specified in a notice published by HMRC.

(3) Any notification referred to in paragraph (1) must be—

- (a) made to the place;
- (b) made in the form and manner, including electronic; and
- (c) accompanied by the information, ,

specified in a notice published by HMRC.

(4) A notice published under paragraph (2)(b) or (3) may make different provision for different cases.

(5) A notification is not required to be given, or is to be treated as given, in any case specified in a notice published by HMRC.

(6) Where HMRC receive notification of intention to carry out an activity specified in paragraph (1), HMRC may prohibit or restrict such an activity where an HMRC officer considers it appropriate for the purposes of ensuring the control of chargeable goods.

(7) Where HMRC prohibit or restrict an activity specified in paragraph (1), HMRC must notify the person who made the notification and, if different, the responsible authority, in writing (including electronic) of—

- (a) the prohibition or restriction on the activity; and
- (b) the reason for the prohibition or restriction.

(8) A responsible authority for a free zone must take reasonable steps to ensure that—

- (a) no person carries out an activity involving the keeping of goods subject to a special customs procedure in the free zone if—
 - (i) a notification was required to be given to HMRC under paragraph (1) in relation to that activity and was not so given or treated as having been given;
 - (ii) HMRC have prohibited that activity under paragraph (6); or
 - (iii) the activity would not comply with the terms of any restriction imposed under paragraph (6);
- (b) no person brings into the free zone goods of a description specified in a notice published under regulation 18C(2); and
- (c) no person removes goods from a free zone in breach of regulation 18F(1).

(9) A responsible authority must comply with any other requirements relating to the control of goods subject to a special customs procedure within a free zone that are imposed by an HMRC officer.

(10) If a responsible authority fails to comply with the requirement in paragraph (8) or a requirement imposed by an HMRC officer under paragraph (9), the responsible authority is liable to any import duty arising from the breach of the requirement.

Removal of goods from free zones

18F.—(1) A person must not remove goods, or cause goods to be removed, from a free zone unless—

- (a) if the person removing the goods is not a responsible authority for that free zone, notification of the movement has been given to that responsible authority in accordance with paragraph (2); and
- (b) any of paragraphs (4) to (7) applies.

(2) The notification referred to in paragraph (1)(a) must be—

- (a) made by the person;
- (b) made in the form and manner, including electronic; and
- (c) accompanied by such information,

as specified in a notice published by HMRC.

(3) HMRC must publish a notice specifying the matters referred to in paragraph (2) and may make different provision for different cases.

(4) This paragraph applies where—

- (a) the goods have been declared for—
 - (i) an inward processing procedure;
 - (ii) an authorised used procedure;
 - (iii) a transit procedure;
 - (iv) a temporary admission procedure; or
 - (v) a customs warehouse procedure;
- (b) the procedure has not been discharged; and
- (c) the movement of goods out of the free zone takes place in accordance with the requirements relating to the procedure for which the goods have been declared.

(5) This paragraph applies where—

- (a) the goods have been declared for a free zone procedure; and
- (b) they are moved directly to—
 - (i) a place from which they are exported;
 - (ii) a customs office at which a declaration for the purposes of discharging the free zone procedure may be accepted;
 - (iii) a location in Northern Ireland; or
 - (iv) another free zone in Great Britain.

(6) This paragraph applies where the goods are domestic goods.

(7) This paragraph applies where—

- (a) removal of the goods has been approved by an HMRC officer; and
- (b) the movement takes place in accordance with any conditions of the approval.

(8) Subject to paragraph (9), any person who removes chargeable goods from a free zone, or causes such a removal, in contravention of this regulation is liable to import duty on those goods.

(9) Paragraph (8) does not apply where—

- (a) a person removes or causes goods to be removed from a free zone;
- (b) the removal was not intended;
- (c) the removal was caused by abnormal and unforeseeable circumstances beyond the control of that person; and
- (d) notification of the removal is given to the responsible authority as soon as reasonably practicable.

Liability to import duty where there is a change in the goods

18G.—(1) Subject to paragraph (2), an applicant for authorisation to declare goods for a free zone procedure may—

- (a) elect that any liability to import duty incurred in relation to processed goods resulting from processing while the goods are subject to the free zone procedure be determined by reference to the goods as they stood when the declaration was made; or
- (b) reserve the right to elect, once the authorisation has been granted, that any liability to import duty incurred in relation to processed goods resulting from processing while the goods are subject to the free zone procedure be determined by reference to the goods as they stood when the declaration was made.

(2) Paragraph (1) applies only to the extent that—

- (a) the processing under the free zone procedure consists of—
 - (i) qualifying processing activities as defined in paragraph 9(4) of Schedule 2 to the Act; or
 - (ii) the operations referred to in paragraph 11 of that Schedule (meaning of goods declared for “an inward processing procedure” in the supplementary form); and
- (b) where the processing to be carried out is the use of production accessories, they are not—
 - (i) fuels or energy sources, other than those needed for the testing of processed goods or for the detection of faults in goods declared for the free zone procedure which need repair;
 - (ii) lubricants, other than those needed for the testing, adjustment or withdrawal of processed goods; or
 - (iii) equipment and tools;

(3) An election under paragraph (1) must be made in accordance with such additional requirements, if any, specified in a notice published by HMRC which may also specify amongst other things—

- (a) further conditions that must be satisfied before an election under paragraph (1) may be made; and
- (b) cases in which an election may not be made.

(4) An election under paragraph (1), once so made, has effect only if—

- (a) the processing takes place within the period specified in either—
 - (i) the authorisation; or
 - (ii) a notice given to the applicant; and

- (b) the processing takes place in accordance with the conditions of the applicant's authorisation.
- (5) Determination of liability to import duty incurred in relation to processed goods resulting from processing under a free zone procedure is to be by reference to the goods as they stood when the declaration for the procedure was made where—
- (a) an election is made under paragraph (1); or
 - (b) paragraph (6), (7) or (10) applies.
- (6) This paragraph applies where—
- (a) the processed goods resulting from the processing of the goods are imported by the free zone business within one year after export of the processed goods or their removal from Great Britain to Northern Ireland; and
 - (b) if a declaration of those goods for the free-circulation procedure had been accepted at the time of their release to the free zone procedure—
 - (i) the goods would have been subject to—
 - (aa) an additional amount of import duty under section 13, 14 or 15 of the Act;
 - (bb) a non-tariff trade policy measure; or
 - (cc) an agricultural policy measure; or
 - (ii) the importer of the goods would have been required to give a guarantee under paragraph 15(5) of Schedule 4 to the Act.
- (7) Subject to paragraphs (8) and (9), this paragraph applies where, if a declaration of those goods for the free-circulation procedure were accepted at the time the authorisation to declare goods for a free zone procedure is granted—
- (a) the goods would have been subject to—
 - (i) an additional amount of import duty under section 13, 14 or 15 of the Act;
 - (ii) a non-tariff trade policy measure; or
 - (iii) an agricultural policy measure; or
 - (b) the importer of the goods would have been required to give a guarantee under paragraph 15(5) of Schedule 4 to the Act.
- (8) Paragraph (7) does not apply where—
- (a) the goods are not ones in relation to which, if a declaration of those goods for the free-circulation procedure were accepted at the time the authorisation is granted—
 - (i) an additional amount of import duty under section 13, 14 or 15 of the Act would be applicable; or
 - (ii) the importer of the goods would be required to give a guarantee under paragraph 15(5) of Schedule 4 to the Act; and
 - (b) the aggregate value of goods to be declared for a free zone procedure to be processed under that procedure, by the applicant for authorisation, in that calendar year, for each classification code, does not exceed—
 - (i) in the case of sensitive goods, £135,000;
 - (ii) in all other cases, £270,000.
- (9) Paragraph (7) does not apply where the goods—
- (a) are non-commercial goods or personal gifts;

- (b) are goods resulting from processing under an authorisation to declare goods for an inward processing procedure, the application for which was a case—
 - (i) in relation to which an examination of the available evidence was required for the purposes of regulation 20(1)(a); or
 - (ii) in relation to which an examination of the economic conditions was required for the purposes of Article 211(4)(b) of the UCC;
- (c) are to be processed into samples;
- (d) are to be reduced to waste and scrap;
- (e) are to be destroyed; or
- (f) are to be subject to recovery of parts or components.

(10) This paragraph applies where a liability to import duty has arisen as a result of a breach of the requirement at regulation 18B(1)(d).

Value of goods where there is a change in the goods

18H.—(1) Where regulation 18G applies, the value of the goods for the purposes of import duty is to be determined by reference to the quantity of the goods declared for the free zone procedure—

- (a) which, in accordance with a notice published by HMRC, are to be treated as present in the processed goods; and
- (b) for which import duty is incurred.

(2) HMRC must publish a notice specifying the methods for determining the matters referred to in paragraph (1) and may make different provision for different cases.

Consequences of determination of liability under regulation 18G

18I.—(1) Paragraph (2) applies where—

- (a) a liability to import duty is to be determined in accordance with regulation 18G(5);
- (b) any processing in relation to the goods while they were subject to a free zone procedure was an authorised use under regulation 32 at the time that the goods were released to a free zone procedure; and
- (c) at the time that the goods were released to a free zone procedure an application for authorisation to declare goods for an authorised use procedure by the person authorised to declare the goods for a free zone procedure would not have been prohibited by regulation 86(1) or (2) of the import duty regulations.

(2) Where this paragraph applies, the rate of import duty applicable to the goods is to be such rate as would have been applicable to those goods if they had been declared for an authorised use procedure and the declaration had been accepted by HMRC.

Usual forms of handling – changes in nature of goods

18J.—(1) Paragraph (2) applies where—

- (a) a declaration (“the first declaration”) of goods for a free zone procedure has been made;
- (b) there is a change in the goods by virtue of an operation that has been applied to the goods whilst the goods are subject to the procedure;
- (c) the operation is of a type—

- (i) described in sub-paragraph (b) of paragraph 11 of Schedule 2 to the Act; and
 - (ii) specified in a notice published by HMRC as an operation constituting a usual form of handling of goods;
 - (d) a further declaration (“the second declaration”) of goods for a different Customs procedure is made; and
 - (e) a liability to import duty is incurred in respect of the goods by virtue of making the second declaration.
- (2) Where this paragraph applies the declarant may elect in the second declaration that the liability be determined by reference to the goods as they stood when the first declaration was made.”.
- (14) In regulation 22(3)(c)(8) (authorisation to declare goods for an inward processing procedure – conditions and requirements), after “export the goods” insert “or cause them to be exported”.
- (15) In regulation 34(3) (waste and scrap)(9) for, “storage procedure to be kept in a customs warehouse” substitute “customs warehouse procedure”.
- (16) In regulation 42 (transfer of rights and obligations)—
- (a) in paragraph (5)—
 - (i) in sub-paragraph (a), after “goods declared for” insert “a free zone procedure,”;
 - (ii) in sub-paragraph (b), for “storage procedure to be kept in a customs warehouse” substitute “customs warehouse procedure”;
 - (b) in paragraph (9)—
 - (i) in the definition of “obligations” insert after paragraph (a)—

“(aa) conditions to which an authorisation to carry out a free zone activity in relation to the goods is subject;”;
 - (ii) in the definition of “rights” insert after paragraph (a)—

“(aa) any permissions contained in an authorisation to carry out a free zone activity relating to the goods;”.
- (17) In regulation 43(1) (discharge of a special Customs procedure – supplementary provision), after “declare goods for” insert “a free zone procedure,”.
- (18) In regulation 44 (record keeping)—
- (a) for paragraph (1) substitute—

“(1) The persons specified in paragraph (2) must keep and preserve such records in such form and for such period as is specified in a notice published by HMRC in respect of goods that are—

 - (a) subject to relevant non-transit Part 1 procedure; or
 - (b) in a free zone.”;
 - (b) in paragraph (2)—
 - (i) after sub-paragraph (b), omit “and”;
 - (ii) for sub-paragraph (c) substitute—

“(c) any person handling, storing, producing, manufacturing, or applying a process to—

 - (i) goods released to a relevant non-transit Part 1 procedure; or

(8) Regulation 22(3)(c) was amended by [S.I. 2019/486](#).

(9) Regulation 34(3) was amended by [S.I. 2019/486](#).

- (ii) goods in a free zone;”;
 - (iii) after sub-paragraph (c) insert—
 - “(d) responsible authorities; and
 - (e) any person selling or purchasing goods in a free zone in the course of a business.”;
 - (c) in paragraph (4)—
 - (i) after sub-paragraph (a)(i), omit “and”;
 - (ii) after sub-paragraph (a)(ii) insert—
 - “(iii) specify that records must be kept, preserved or updated by way of making an entry in a system maintained by a responsible authority.”;
 - (iii) omit sub-paragraph (b).
- (19) In regulation 45 (authorisation to use equivalent goods)—
 - (a) in paragraphs (2)(c) and (d) and (6), after “declaration of goods for” insert “a free zone procedure or”;
 - (b) in paragraph (2)(d), after “the requirement at” insert “regulation 18B(1)(d) or”;
 - (c) in paragraphs (2)(e)(**10**) and (5), omit “to be kept in a customs warehouse”;
 - (d) in paragraph (2)(g), for “storage procedure to be kept in a customs warehouse” substitute “customs warehouse procedure”.
- (20) In regulation 46(1)(a) (equivalent goods)—
 - (a) after “declaration of goods for” insert “a free zone procedure or”;
 - (b) in paragraph (ii), for “the processing” substitute “any processing under the procedure”.
- (21) In regulation 47(1)(a)(i) (treatment of equivalent goods), omit “to be kept in a customs warehouse”.

(10) Paragraph (2)(e) was amended by [S.I. 2019/486](#).