



## CUSTOMS (SPECIAL PROCEDURES AND OUTWARD PROCESSING) REGULATIONS 2019

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Statutory Document No. 2019/0154



*Taxation (Cross-border Trade) Act 2018*

## **CUSTOMS (SPECIAL PROCEDURES AND OUTWARD PROCESSING) REGULATIONS 2019<sup>1</sup>**

*Laid before Tynwald: 21 May 2019*  
*Coming into Operation in accordance with regulation 2*

The Treasury makes the following Regulations under sections 19, 21(7), 32, 33(8) and 36(8) and (9) of, and paragraph 1(7) of Schedule 1, paragraphs 1 to 3, 9, 10, 12 to 18 and 20 to 23 of Schedule 2, paragraphs 6 and 8 of Schedule 6 and paragraph 1 of Schedule 7 to, the Taxation (Cross-border Trade) Act 2018<sup>1</sup>, as it has effect in the Island<sup>2</sup>.

### **PART 1 - INTRODUCTORY PROVISIONS**

#### **1 Title**

These Regulations are the Customs (Special Procedures and Outward Processing) Regulations 2019.

#### **2 Commencement**

These Regulations come into operation on IP completion day<sup>3,2</sup>

#### **3 Interpretation**

(1) In these Regulations —

“**the Act**” means the Taxation (Cross-border Trade) Act 2018, as it has effect in the Island;

“**the import duty regulations**” means the Customs (Import Duty) Regulations 2019<sup>4</sup>;

“**accompanied baggage**” means baggage which —

(a) accompanies an individual when arriving in the Island; or

<sup>1</sup> 2018 (c.22) of Parliament.

<sup>2</sup> The Taxation (Cross-border Trade) Act 2018, was applied in the Island by SD 2019/0080.

<sup>3</sup> Tynwald procedure - negative under section 32(6) of the Act.

<sup>4</sup> SD 2019/0152.

- (b) would have so accompanied an individual had the baggage not been delayed in transit to the Island;

**“agricultural policy measure”** means a provision made by or under any enactment relating to the import and export of the goods specified at points (1), (2) and (3) of the document entitled “Sensitive Goods” published on 27 November 2018<sup>5</sup>;

**“approval notification”** means a notification issued under regulation 95 of the import duty regulations;

**“charges”** has the meaning given in regulation 100 of the import duty regulations;

**“classification code”** means the code given to goods in accordance with section 8(1)(b) of the Act;<sup>3</sup>

**“Customs obligation”** has the same meaning as in regulation 3 of the import duty regulations;<sup>4</sup>

**“customs warehouse”** means premises owned, occupied or otherwise used by a person who is approved by the Treasury under these Regulations to operate the premises as a place to keep goods declared for a storage procedure<sup>6</sup>;

**“the Delegated Regulation”** means Commission Delegated Regulation (EU) 2015/2446 of 28 July 2016 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards detailed rules concerning provisions of the Union Customs Code;

**“equivalent chargeable goods”** means chargeable goods<sup>7</sup> that are of the same, or of substantially the same, description as domestic goods<sup>8</sup> intended to be declared for an outward processing procedure<sup>9</sup>;

**“equivalent goods”** means equivalent domestic goods<sup>10</sup> and equivalent chargeable goods;

**“established in the Island”** means —

- (a) in the case of an individual, where the individual is resident in the Island or the United Kingdom; or
- (b) in all other cases, where the person —

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<sup>5</sup> The document entitled “Sensitive Goods” is available at <https://www.gov.uk/government/collections/customs-vat-and-excise-regulations-leaving-the-eu-with-no-deal>.

<sup>6</sup> The meaning of “goods declared for a storage procedure” is given in paragraph 2 of Schedule 2 to the Act.

<sup>7</sup> “Chargeable goods” is defined in section 2 of the Act.

<sup>8</sup> “Domestic goods” is defined in section 33 of the Act.

<sup>9</sup> The meaning of a declaration of goods for “an outward processing procedure” is given in section 36(2) of the Act.

<sup>10</sup> The meaning of “equivalent domestic goods” is given in paragraph 23(2) of Schedule 2 to the Act.

- (i) has a registered office in the Island or the United Kingdom;  
or
- (ii) has a permanent place in the Island or the United Kingdom  
from which the person carries out activities for which the  
person is constituted to perform;

“EUCL” means the direct EU legislation referred to in paragraph 1(1) of Schedule 7 to the Act;

“EU Customs Code” means —

- (a) the UCC;
- (b) the Delegated Regulation; and
- (c) Commission Implementing Regulation (EU) 2015/2447 of 24 November 2015 laying down detailed rules for implementing certain provisions of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code;

“exit day” [Revoked]<sup>5</sup>

“holder of the procedure” means —

- (a) a person in whose name, or on whose behalf, goods have been declared for a relevant non-transit Part 1 procedure; or
- (b) a person to whom rights and obligations in relation to goods declared for a relevant non-transit Part 1 procedure have been transferred under regulation 46,

and “holder of the procedure” is to be construed accordingly;

“non-commercial goods” means goods —

- (a) which are provided by one individual to another;
- (b) where no payment is made, directly or indirectly, for the goods by the recipient;
- (c) which are for the personal use of the recipient; and
- (d) which do not form part of a series of consignments of goods made between the individuals;

“non-tariff trade policy measure” means a provision made by or under any enactment relating to government policy in respect of international trade in goods, other than provisions relating to the amount of import duty;

“non-transit Part 1 procedure” means —

- (a) a Customs procedure<sup>11</sup> other than a transit procedure<sup>12</sup>; or
- (b) an outward processing procedure;

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<sup>11</sup> The meaning of “Customs procedure” is given in section 3(3) of the Act.

<sup>12</sup> The meaning of “a transit procedure” is given in paragraph 5 of Schedule 2 to the Act.

“**Part 1 procedure**” means a Customs procedure or an outward processing procedure;

“**personal gifts**” means goods contained within accompanied baggage of a qualifying traveller which —

- (a) are intended for an individual’s personal use;
- (b) are not imported for commercial purposes; and
- (c) do not form part of a series of consignments of goods imported by the qualifying traveller;

“**private customs warehouse**” means a customs warehouse that may only be used to store goods by the person approved to operate that warehouse;

“**processed goods**” means goods which have been released to a relevant non-transit Part 1 procedure and processed in accordance with that procedure;

“**public customs warehouse**” means a customs warehouse that may be used to store goods by any person;

“**qualifying traveller**” means an individual who —

- (a) is not resident in the Island or United Kingdom and is arriving in the Island for a temporary stay; or
- (b) is resident in the Island or United Kingdom and is returning after a temporary stay outside the Island or United Kingdom;

“**relevant non-transit Part 1 procedure**” means —

- (a) a special Customs procedure<sup>13</sup> other than a transit procedure; or
- (b) an outward processing procedure;

“**replacement goods**” has the meaning given in regulation 6(3);

“**sensitive goods**” means the goods of a type listed in the document entitled “Sensitive Goods” published on 27 November 2018<sup>14</sup>;

“**standard exchange system**” has the meaning given in regulation 6(3);

“**the temporary admission document**” means the document entitled “Temporary Admission: Eligible Goods and Conditions for Relief” version 3.0, published on 17 December 2020<sup>15,6</sup>

“**UCC**” means Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code.

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<sup>13</sup> The meaning of “special Customs procedure” is given in section 3(4) of the Act.

<sup>14</sup> The document entitled “Sensitive Goods” is available at <https://www.gov.uk/government/collections/customs-vat-and-excise-regulations-leaving-the-eu-with-no-deal>.

<sup>15</sup> The document entitled “Temporary Admission: Eligible Goods and Conditions for Relief” is available at <https://www.gov.uk/government/collections/customs-vat-and-excise-regulations-leaving-the-eu-with-no-deal>.

- (2) For the purposes of these Regulations references to “process” (however expressed) include an operation of a type described in paragraph 11 of Schedule 2 to the Act.

*Part 2 – Authorisation and approval*

**4 Authorisation requirement**

- (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 storage procedure;
  - (b) declaring goods for —
    - (i) an inward processing procedure<sup>16</sup>;
    - (ii) an outward processing procedure<sup>17</sup>;
    - (iii) an authorised use procedure<sup>18</sup>; or
    - (iv) a temporary admission procedure<sup>19</sup>.
- (3) Subject to regulation 9, 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 95(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 22(1)(a); or
    - (ii) an application for authorisation to declare goods for an outward processing procedure to which regulation 29 applies; and
  - (b) the Treasury notifies the applicant that such an extension will be made.

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<sup>16</sup> The meaning of declaring goods for an inward processing procedure is given in paragraphs 8, 9 and 11 of Schedule 2 to the Act.

<sup>17</sup> The meaning of declaring goods for an outward processing procedure is given in section 36(2) of the Act.

<sup>18</sup> The meaning of declaring goods for an authorised use procedure is given in paragraph 13 of Schedule 2 to the Act.

<sup>19</sup> The meaning of declaring goods for a temporary admission procedure is given in paragraph 15 of Schedule 2 to the Act.

## 5 Treatment of a declaration as an application for authorisation

- (1) Subject to regulation 39, 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—
- (i) subject to paragraph (ii), where there is any liability, or potential liability, to pay import duty, in respect of the goods —
- (A) that person gives a single guarantee in accordance with Part 10 of the import duty regulations; or
- (B) there is no requirement for a person to give a guarantee by virtue of regulation 107 of the import duty regulations; or<sup>7</sup>
- (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 —
- (A) that person gives a single guarantee in accordance with Part 10 of the import duty regulations as modified by paragraph (3); or
- (B) there is no requirement for a person to give a guarantee by virtue of regulation 107 of the import duty regulations as modified by paragraph (3); and<sup>8</sup>
- <sup>9</sup>
- (b) the declaration —
- (i) is of a type specified in paragraph (2);
- (ii) is not one to which regulation 7 or 8 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 regulation 15.<sup>10</sup>
- (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 —
- (i) [Revoked]<sup>11</sup>



- (ii) the goods are not sensitive goods; or
  - (d) an inward processing procedure where the goods are not sensitive goods.
- (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 103(2), for “import duty”, wherever it appears, regard as substitute **10** import duty and excise duty **10**;
    - (ii) in regulation 101(1)(a), for “discharge of the liability”, regard as substituted **10** discharge of the liability to pay import duty **10**;
    - (iii) after regulation 106(1)(b), regard as inserted —
      - 10**(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 101(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; **10**;
    - (iv) in regulation 106(1)(c) —
      - (A) in paragraphs (i) and (ii), for “the duty”, regard as substituted **10** the import duty **10**;
      - (B) in paragraph (ii), at the end, regard as omitted “and”;
      - (C) in paragraph (iii), at the end, for “or”, regard as substituted **10** and **10**; and
      - (D) after paragraph (iii), regard as inserted —
        - 10**(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 **10**;
  - (b) a reference to a “guarantee” in the import duty regulations, wherever it occurs, should be construed in accordance with the modifications made by subparagraph (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<sup>20</sup>;

“excise duty” has the meaning given by section 49 of the Act.<sup>12</sup>

## **6 Treatment of a declaration as an application to amend an authorisation**

- (1) Subject to regulation 8, 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 92(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 32.
- (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 106 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.

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

- (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 5 as an application for authorisation.
- (2) This paragraph applies where, by virtue of regulation 25, liability to import duty is to be determined by reference to the goods as they stood when the declaration was made.

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<sup>20</sup> SD 198/10.

- (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 officer<sup>21</sup> 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 22 of the import duty regulations; or
    - (ii) for a temporary admission procedure by conduct under regulation 29, 30 or 30C of the import duty regulations;<sup>13</sup>
  - (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 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) the Treasury must notify the person in whose name the declaration is made without delay after presentation of the goods.

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

- (1) Where paragraph (2) applies, a declaration —
  - (a) is not to be treated by regulation 5 as an application for authorisation; and
  - (b) is not to be treated by regulation 6 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 33(1) of the import duty regulations; or
    - (ii) the transitional EIDR simplified Customs declaration process within the meaning given in regulation 32A(1) of the import duty regulations;<sup>14</sup>

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<sup>21</sup> “Officer” is defined in section 184(1) of the Customs and Excise Management Act 1986.

- (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 22(1)(a);  
or
    - (iii) to which regulation 29 applies;
  - (c) if the goods were declared for the free-circulation procedure the goods would be subject to an additional amount of import duty under section 13, 14 or 15 of the Act;
  - (d) the declaration is made by a Customs agent as an indirect agent<sup>22</sup>;
  - (e) [Revoked]<sup>15</sup>
- (3) The Treasury may publish a notice specifying other circumstances in which paragraph (2) is to apply.<sup>16</sup>

## **9 Determination of a declaration treated as an application for authorisation**

- (1) Where a declaration is to be treated by regulation 5 as an application the application is to be determined in accordance with this regulation and regulations 92 to 96 of the import duty regulations do not apply.<sup>17</sup>
- (2) Where the eligibility criteria set out in regulation 10 are met, acceptance of the declaration<sup>23</sup> is to be treated as grant of authorisation.
- (3) An authorisation treated by paragraph (2) as granted only authorises the making of that declaration.<sup>18</sup>
- (4) The Treasury 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 94 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.

### **9A Determination of a declaration treated as an application for**

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<sup>22</sup> For the meaning of Customs agents and indirect agents, see section 21 of the Act.

<sup>23</sup> See paragraphs 10 and 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 14(1) and (2)(c).

### **amendment**

- (1) Where a declaration is to be treated by regulation 6 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 32(1) are met, acceptance of the 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 the Treasury, 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.<sup>19</sup>

## **10 Eligibility for authorisation or approval**

- (1) The following criteria (“the eligibility criteria”) must be met before an authorisation or approval is granted to carry out an activity specified in regulation 4(2) —
  - (a) the applicant must be established in the Island or the United Kingdom, except where —
    - (i) the application is for authorisation to declare goods for a temporary admission procedure; or
    - (ii) paragraph (2) applies;<sup>20</sup>
  - (b) an 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
  - (c) an officer must be satisfied that the applicant will exercise proper conduct of the operations necessary to comply with the requirements of the procedure.
- (2) This paragraph applies where —
  - (a) the application is for authorisation to declare goods for an inward processing procedure or an authorised use procedure; and
  - (b) in the opinion of an officer it is appropriate to grant authorisation to a person established outside the Island or United Kingdom taking into consideration factors specified in a notice published by the Treasury.
- (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 officer may take into account include (for example) –
- (a) whether, in the opinion of an 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 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 an 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 the Treasury under regulation 98(2) of the import duty regulations; or
    - (ii) in the opinion of an 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 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.

## 11 Period for which an authorisation is to have effect

- (1) Subject to paragraph (2), the period for which an authorisation to carry out an activity specified in regulation 4(2)(b) is to have effect must not be longer than —
  - (a) in the case of activities relating to sensitive goods, 3 years beginning with the date from which the authorisation is to have effect; or
  - (b) in all other cases, 5 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 Island or 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 officer a longer period is justified.

## 12 Retrospective authorisation

- (1) An approval notification issued in relation to an authorisation to carry out an activity specified in regulation 4(2)(b) 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 officer at the time at which the application for authorisation is received by the Treasury.
- (3) The Treasury may grant retrospective authorisation only if —
  - (a) an officer is satisfied that —
    - (i) the applicant has an economic need for retrospective authorisation to be granted;
    - (ii) the application is not made for the purposes of —
      - (A) avoiding, or enabling any other person to avoid, any Customs obligation;
      - (B) preventing a liability to import duty or charges being incurred by any person; or;
      - (C) 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;<sup>21</sup>

- (iii) [Revoked]<sup>22</sup>
  - (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 the Treasury 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 3 years ending immediately before the date that the Treasury 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 22(1)(a) and regulation 29 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 3 years of the expiry of the authorisation for which renewal is sought.
- (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.<sup>23</sup>
- (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 one year before the date on which the application for authorisation is received by the Treasury;
  - (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 3 months before the date on which the application was received by the Treasury,
- where in the opinion of an officer, there are exceptional circumstances justifying that earlier date.<sup>24</sup>
- (6) In all cases, the approval notification must not provide that the authorisation has effect from a date earlier than IP completion day.<sup>25</sup>
  - (7) [Revoked]<sup>26</sup>

## PART 3 – DECLARATIONS

### 13 Declaration to be made in the name of the authorised person

- (1) Where paragraph (2) applies, a Customs agent may not make a declaration of goods for —
  - (a) an inward processing procedure, an outward processing procedure, an authorised use procedure or a temporary admission procedure; or
  - (b) a storage procedure where the goods are to be kept in a private customs warehouse.
- (2) This paragraph applies where —
  - (a) the principal of the agent is authorised to declare goods for the relevant procedure;
  - (b) the agent is not so authorised; and
  - (c) the agent intends to act as an indirect agent on behalf of the principal.

### 14 Declarations for an outward processing procedure

For the purposes of these Regulations, goods declared for an outward processing procedure are released to the procedure —

- (a) at the time at which the Treasury accepts the declaration; or
- (b) if later, at the time from which a person is authorised to use the procedure.

**15 Declarations for an outward processing procedure: further provisions**

- (1) The following Parts of the Customs (Export) Regulations 2020<sup>24</sup> apply, in respect of goods, to a declaration for an outward processing procedure as they apply to an export declaration, with the modifications set out in paragraphs (2) to (4) —
  - (a) Part 1 (introductory provisions) other than regulation 1 and 2;
  - (b) Part 4 (goods exported in accordance with applicable export provisions procedure);
  - (c) Part 6 (goods exported from RoRo listed locations);
  - (d) Part 7 (customs agents); and
  - (e) Part 8 (approvals and authorisations and authorised economic operators).<sup>27</sup>
- (2) In each place it occurs —
  - (a) a reference to an “export declaration” is to apply as if it were a reference to a “declaration for an outward processing procedure”; and
  - (b) a reference to a “common export procedure” is to apply as if it were a reference to an “outward processing procedure”, except where paragraph (4)(a) or (b) applies.
- (3) Part 1 is to apply as if, in regulation 3, the definitions of “common export procedure”, “exit summary declaration”, “export declaration”, “notification of export”, and “the UCC” were omitted.
- (4) Part 4 is to apply as if —
  - (a) in each place it occurs, reference to “released to a common export procedure” is to apply as if it were a reference to “released to the Customs formalities for exporting goods subject to the outward processing procedure”, and references to “release”, “releasing” and “released to the procedure” are to be construed accordingly;
  - (b) in each place it occurs, a reference to “discharged from a common export procedure” is to apply as if it were a reference to “discharged from the Customs formalities for exporting goods subject to the outward processing procedure”, and references to “discharge”, “discharging” and “discharged from the procedure” are to be construed accordingly;
  - (c) paragraphs (2) to (5) of regulation 11 (requirement to make export declaration before goods exported) and regulation 12 (export declarations to be made after goods exported) were omitted;
  - (d) Chapter 3 (eligibility of persons to make export declarations) were omitted;

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<sup>24</sup> SD 2020/0565

- (e) in regulation 15(2) (export declarations made electronically), for “Sections 2 to 4”, “regulation 32” were substituted;<sup>28</sup>
  - (f) Sections 2 to 5 of Chapter 4, except for regulation .32, were omitted;<sup>29</sup>
  - (g) in regulation 39, paragraph (2) were omitted;<sup>30</sup>
  - (h) Chapter 7 were omitted;
  - (i) in regulation 58, paragraphs (2) and (7)(a) were omitted; and<sup>31</sup>
  - (j) in regulation 51(3), for “person who made the export declaration” the “holder of the procedure” were substituted.<sup>32</sup>
- (5) In paragraph (1), “export declaration” has the meaning given by regulation 3 of the Customs (Export) Regulations 2020.<sup>33</sup>

## PART 4 – PROCEDURE-SPECIFIC RULES

### CHAPTER 1 – STORAGE PROCEDURE

#### 16 Eligibility for approval to operate a customs warehouse

- (1) This regulation applies to a person who owns, operates or otherwise uses premises which the person intends to operate as a customs warehouse.
- (2) The Treasury may approve the person to operate the premises as a customs warehouse only if an officer is satisfied that —
  - (a) the person will use the premises, or will only permit the premises to be used, primarily for the storage of goods;
  - (b) the person has a satisfactory logistical system to record the movement of goods into, within and out of the premises;
  - (c) where the person intends to operate premises as a public customs warehouse, there is sufficient potential trade for a public customs warehouse to be viable; and
  - (d) where the person intends to operate premises as a private customs warehouse, there would be sufficient benefit to the applicant to justify approval.

#### 17 Approval to operate a customs warehouse

- (1) A notification of approval by the Treasury to operate premises as a customs warehouse must specify —
  - (a) the premises;
  - (b) the approved person; and
  - (c) whether the premises are to be operated as a public customs warehouse or a private customs warehouse.

- (2) The warehouse is not to be used for any processing of goods other than —
  - (a) an operation 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 the Treasury as an operation constituting a usual form of handling of goods; or
  - (b) processing authorised under paragraph (3).
- (3) The approval may authorise the taking place in the warehouse of the processing of goods declared for an inward processing procedure or for an authorised use procedure where an officer is satisfied that —
  - (a) the holder of the procedure in relation to the goods or the approved person of the warehouse has an economic need for the processing to be carried out in the warehouse; and
  - (b) control by an officer of the goods subject to the storage procedure and goods subject to, as the case may be, the inward processing procedure or authorised use procedure would not be adversely affected by the authorisation to carry out the processing in the warehouse.
- (4) An approval must not authorise the keeping of goods other than chargeable goods in the customs warehouse unless —
  - (a) the other goods to be kept in the warehouse are domestic goods; and
  - (b) an officer is satisfied that —
    - (i) the approved person has viable commercial reasons for the storage of domestic goods alongside goods declared for a storage procedure; and
    - (ii) control by any officer of any chargeable goods stored in the warehouse would not be adversely affected by storage of domestic goods.
- (5) The approval must require accounting segregation in accordance with a notice made under regulation 48 where —
  - (a) the approval permits domestic goods to be stored in the warehouse; and
  - (b) it is not possible, without incurring disproportionate cost, to identify —
    - (i) whether any goods stored are domestic goods or chargeable goods; and
    - (ii) the Customs procedure for which any chargeable goods have been declared.
- (6) The approval is granted subject to the following conditions —

- (a) retail sales of goods from the warehouse are not permitted other than as specified in the approval notification;
  - (b) the approved person must not allow goods declared for a storage procedure to leave the warehouse unless they are removed in accordance with regulation 19;<sup>34</sup>
  - (c) the approved person must notify any person keeping goods declared for a storage procedure in the warehouse of any permission contained in the approval notification to remove such goods from the warehouse;
  - (d) the approved person must notify the Treasury without delay of any breach by any person who is a holder of a procedure of any requirement imposed by or under Part 1 of the Act in relation to goods kept by the person in the warehouse; and
  - (e) such other conditions as may be specified in the approval notification.
- (7) The approval may be granted subject to conditions regarding (amongst other things) –
- (a) the type of goods which may be kept in the warehouse;
  - (b) the activities that are permitted to be carried out in the warehouse;
  - (c) the amount of time for which particular goods may be kept in the warehouse; and
  - (d) the facilities in which particular goods must be stored whilst kept in the warehouse.
- (8) Where the approved person breaches a requirement imposed by provision made by or under Schedule 2 to the Act in relation to the keeping of goods in the warehouse, the approved person is liable to any import duty arising as a result of that breach unless the approval specifies otherwise.

## **18 Obligations relating to keeping goods in a customs warehouse**

- (1) A person must not declare goods for a storage procedure where they are kept in a customs warehouse and are not of a type which may be kept in the warehouse under the conditions of the approval.
- (2) Subject to paragraph (3), where goods have been declared for a storage procedure to be kept in a customs warehouse the person in whose name the goods have been declared must –
  - (a) ensure that the goods declared are moved directly to the customs warehouse named in the declaration once the Treasury has accepted the declaration; and
  - (b) provide the approved person with details of the declaration and any differences between the goods deposited and the goods declared.

- (3) In paragraph (2), where the person in whose name the goods have been declared is acting as an indirect agent, the reference to the person in whose name goods have been declared is to be read as a reference to the person on whose behalf the goods have been declared.
- (4) A holder of the procedure who keeps goods in a customs warehouse must not —
  - (a) cause or permit those goods to be removed from the warehouse unless they are removed in accordance with regulation 19; or
  - (b) carry out, arrange or permit any processing of the goods other than as permitted under regulation 17(2).

## 19 Removal of goods from a customs warehouse

- (1) No person may remove from a customs warehouse goods declared for a storage procedure which have not been discharged<sup>25</sup> from the storage procedure (“declared goods”) unless —
  - (a) permitted under this regulation; or
  - (b) permitted by the approval notification relating to that customs warehouse.
- (2) Declared goods may be permanently removed from a customs warehouse if the removal has been approved by the Treasury.
- (3) Declared goods may be temporarily removed from a customs warehouse if —
  - (a) the purpose of removing the goods is to undertake an operation of a type —
    - (i) described in paragraph 11(b) of Schedule 2 to the Act; and
    - (ii) specified in a notice published by the Treasury as an operation constituting a usual form of handling of goods; and
  - (b) the removal has been approved by the Treasury.
- (4) Paragraph (5) applies where —
  - (a) a person removes declared goods from a customs warehouse;
  - (b) the removal was not intended; and
  - (c) the removal was caused by abnormal and unforeseeable circumstances beyond the person’s control.
- (5) Where this paragraph applies —
  - (a) approval by the Treasury for the removal is not required; but
  - (b) the person must notify the Treasury that the removal has occurred.

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<sup>25</sup> See paragraphs 18 to 20 of Schedule 2 to the Act on discharge of goods from a Customs procedure.

- (6) Declared goods may be removed from a customs warehouse where the goods move between —
- (a) premises operated as customs warehouses and identified in the same approval;
  - (b) the warehouse and the customs office at which goods must be made available for examination following notification by the Treasury that the goods have been released to a common export procedure under regulation 57 of the Customs (Export) Regulations 2020<sup>26,35</sup>
  - (c) the warehouse and a customs office at which a declaration for the purposes of discharging the storage procedure may be accepted; or<sup>36</sup>
  - (d) the warehouse and a location in Northern Ireland.<sup>37</sup>
- (7) Any movement of goods under paragraph (6) must be completed within —
- (a) 30 days beginning with the day after the day on which the goods are removed from the customs warehouse; or
  - (b) any longer period permitted by an officer.
- (8) Any person removing declared goods from a customs warehouse in contravention of this regulation is liable to import duty on those goods.
- (9) In this regulation “customs office” means premises used by the Treasury for the purposes of exercising its functions under the Act.

## 20 Usual forms of handling – changes in nature of goods

- (1) Paragraph (2) applies where —
- (a) a declaration (“the first declaration”) of goods for a storage procedure to be kept in a customs warehouse 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 paragraph 11(b) of Schedule 2 to the Act; and
    - (ii) specified in a notice published by the Treasury as an operation constituting a usual form of handling of goods;
  - (d) a further declaration (“the second declaration”) of the 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.

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<sup>26</sup> SD 2020/0565.

- (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.

## CHAPTER 2 – INWARD PROCESSING PROCEDURE

### 21 Eligibility – inward processing procedure

The Treasury may grant an application for authorisation to declare goods for an inward processing procedure only if an officer is satisfied that –

- (a) if the goods were declared for the procedure either –
- (i) it would not be economically viable, following processing of the goods in accordance with the authorisation, to restore the goods to their condition at the time of the declaration; or
  - (ii) liability for import duty would be determined by virtue of regulation 25 by reference to the goods as they stood when the declaration was made;
- (b) use of the procedure could not result in circumvention of –
- (i) a quota to which the goods are subject for the purposes of section 11 of the Act; or
  - (ii) any provisions made by or under section 17 of the Act for determining the place of origin of the goods for the purposes of Part 1 of the Act; and
- (c) where the processing to be carried out is the use of production accessories, the production accessories 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 procedure with need repair;
  - (ii) lubricants, other than those needed for the testing, adjustment or withdrawal of processed goods; or
  - (iii) equipment and tools.

### 22 Economic condition – inward processing procedure

- (1) Where an application for authorisation to declare goods for an inward processing procedure is a case of a description specified in a notice published by the Treasury, an authorisation may be granted only if –
- (a) an officer is satisfied, on the basis of an examination of the available evidence, that the essential interests of producers of goods in the Island or United Kingdom would not be adversely affected by the granting of the authorisation; or
  - (b) paragraph (2) applies.
- (2) This paragraph applies where –



- (a) the Treasury is not aware of any evidence that the essential interests of producers of goods in the Island or United Kingdom would be adversely affected by an authorisation to declare the goods for an inward processing procedure; and
- (b) the authorisation concerns an operation which is not of a type specified in a notice published by the Treasury.

## **23 Authorisation to declare goods for an inward processing procedure**

- (1) An approval notification issued in relation to an authorisation to declare goods for an inward processing procedure must specify —
  - (a) the goods, or type of goods, to which the authorisation applies;<sup>38</sup>
  - (b) the processing to which the goods are to be subject (“specified processing”); and
  - (c) the date by which the procedure must be discharged (“the discharge date”).
- (2) Where —
  - (a) goods (“intended imported goods”) are to be imported into the Island or Great Britain in order to be processed there;<sup>39</sup>
  - (b) the intended imported goods are to be declared for an inward processing procedure;
  - (c) equivalent domestic goods<sup>27</sup> are to be subject to the specified processing in place of the intended imported goods; and
  - (d) the goods resulting from the processing are exported or removed to Northern Ireland before the intended imported goods are imported,<sup>40</sup>

the approval notification issued in relation to an authorisation to declare the intended imported goods for an inward processing procedure must specify the period within which the intended imported goods are to be declared.

- (3) The period specified under paragraph (2) must not be longer than 6 months beginning with the date after the date of any acceptance of such export declaration as may be provided for under section 35(3)(a) of the Act for the goods resulting from the processing or, in the case of a removal from the Island to Northern Ireland, the date the goods left the Island in the course of their removal to Northern Ireland.<sup>41</sup>
- (4) The period specified under paragraph (2) may be extended at the request of the authorised person, but the amended authorisation must not permit a declaration to be made more than 12 months after the date of any acceptance of an export declaration referred to in paragraph (3) or, in the

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<sup>27</sup> The meaning of “equivalent domestic goods” is given in paragraph 23(2) of Schedule 2 to the Act.

case of a removal from the Island to Northern Ireland, the amended authorisation must not permit that period to be longer than 12 months beginning with the date the goods left the Island in the course of their removal to Northern Ireland.<sup>42</sup>

- (5) In cases where paragraph (2) does not apply, an approval notification issued in relation to an authorisation to declare goods for an inward processing procedure may specify that goods released to the procedure, and processed goods resulting from processing of those goods, are to be treated for the purposes of Part 1 of the Act as if, on the discharge date, the goods had been declared for the free-circulation procedure and the Treasury had accepted that declaration if, on that date –
- (a) the goods have not been declared for another Part 1 procedure;
  - (b) the goods have not been exported or removed to Northern Ireland; and<sup>43</sup>
  - (c) the applicant has requested that the goods are to be so treated.
- (6) The Treasury must not make the specification referred to in paragraph (5) where, under any enactment, the goods are subject to a prohibition from, or restriction on, declaring them for the free-circulation procedure.
- (7) [Revoked]<sup>44</sup>

## **24 Authorisation to declare goods for an inward processing procedure – conditions and requirements**

- (1) An authorisation to declare goods for an inward processing procedure is subject to the condition that –
- (a) no evidence is presented to the Treasury that the essential interests of producers of goods in the Island or United Kingdom are likely to be adversely affected by –
    - (i) where the authorisation has been used to declare the goods, the further use of the authorisation;
    - (ii) in all other cases, the use of the authorisation; or
  - (b) where such evidence is presented to the Treasury, an officer has not notified the authorised person that the officer is of the opinion, on the basis of an examination of the available evidence, that the essential interests of producers of goods in the Island or the United Kingdom would be adversely affected by –
    - (i) where the authorisation has been used to declare the goods, the further use of the authorisation;
    - (ii) in all other cases, the use of the authorisation.<sup>45</sup>
- (2) An authorisation to declare goods for an inward processing procedure is granted subject to such other conditions as may be specified in the approval notification issued in relation to the authorisation.

- (3) Where an authorisation to declare goods for an inward processing procedure is granted the following are requirements of the procedure –
- (a) the authorised person processes the goods themselves or arranges for the processing to be carried out;
  - (b) where the 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
  - (c) the holder of the procedure does not export the goods 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<sup>28</sup> 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 the Treasury.
- (4) For the purposes of paragraph (3)(b), 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 officer approves that choice; or
    - (ii) in all other cases, set by an officer.

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

- (1) An applicant for authorisation to declare goods for an inward processing procedure may –
- (a) elect that any liability to import duty incurred in relation to processed goods resulting from processing under the procedure be determined by reference to the goods as they stood when the declaration was made; or

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<sup>28</sup> “Customs tariff” is defined in section 8 of the Act.

- (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 under the procedure be determined by reference to the goods as they stood when the declaration was made.
- (2) Determination of liability to import duty incurred in relation to processed goods resulting from processing under an inward processing 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);
  - (b) paragraph (3) or (4) applies; or
  - (c) the liability is incurred as a result of a breach of the requirement specified in regulation 24(3)(c).
- (3) This paragraph applies where —
  - (a) the processed goods resulting from the processing of the goods are imported by the holder of the procedure within one year after export of the processed goods or removed to Northern Ireland;<sup>46</sup>
  - (b) if a declaration of those goods for the free-circulation procedure had been accepted at the time of their release to the inward processing procedure 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
  - (c) the application for authorisation to declare the goods for an inward processing procedure was not a case in relation to which an examination of the available evidence was required for the purposes of regulation 22(1)(a).
- (4) Subject to paragraphs (5) and (6), this paragraph applies where —
  - (a) the application for authorisation to declare the goods for an inward processing procedure is not a case in relation to which an examination of the available evidence is required for the purposes of regulation 22(1)(a); and
  - (b) if a declaration of those goods for the free-circulation procedure were accepted at the time the authorisation was granted the goods would be 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
- (5) Paragraph (4) 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 an additional amount of import duty under section 13, 14 or 15 of the Act would be applicable; or
  - (b) the aggregate value of goods to be declared for an inward processing 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.
- (6) Paragraph (4) does not apply where the goods —
- (a) are non-commercial goods or personal gifts;
  - (b) are goods resulting from processing under a previous authorisation, 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 22(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.

## **26 Value of goods where there is a change in the goods**

- (1) Where regulation 25(2) 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 inward processing procedure —
- (a) which, in accordance with a notice published by the Treasury, are to be treated as present in the processed goods; and
  - (b) for which import duty is incurred.
- (2) The Treasury must publish a notice specifying the methods for determining the matters referred to in paragraph (1) and may make different provision for different cases.

## **27 Consequences of determination of liability under regulation 25**

- (1) Paragraph (2) applies where —
- (a) a liability to import duty is to be determined in accordance with regulation 25(2);

- (b) the specified processing, within the meaning given in regulation 23(1)(b), in relation to the goods was an authorised use under regulation 35 at the time that the goods were released to an inward processing procedure; and
  - (c) at the time that the goods were released to an inward processing procedure an application for authorisation to declare the goods for an authorised use procedure by the person authorised to declare the goods for an inward processing procedure would not have been prohibited by regulation 91(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 the Treasury.

## **28 Temporary export of goods released to an inward processing procedure**

- (1) Where an inward processing procedure in the supplementary form has effect in relation to any goods and paragraph (2) applies, the goods may be exported, in accordance with the applicable export provisions<sup>29</sup> or removed to Northern Ireland, for a temporary period without discharging the procedure.<sup>47</sup>
- (2) This paragraph applies where —
- (a) the goods are exported or removed to Northern Ireland for subjection to an operation described in paragraph 11 of Schedule 2 to the Act (“a relevant operation”) carried out outside the Island or Great Britain;<sup>48</sup>
  - (b) the operation is carried out —
    - (i) in accordance with requirements imposed on any person by a notice published by the Treasury; and
    - (ii) during a period specified in a notice given to the person making the declaration by an officer.
- (3) The period referred to in paragraph (2)(b)(ii) may be subsequently extended (or further extended) by another notice given as mentioned in that sub-paragraph.
- (4) The Treasury must publish a notice setting out the requirements imposed on any person in accordance with which —
- (a) the subjection of goods to a relevant operation outside the Island and Great Britain must be carried out for the purposes of paragraph (2)(b)(i); and<sup>49</sup>

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<sup>29</sup> Section 35 defines for the purposes of Part 1 of the Act what is meant by an export of goods from the Island being in accordance with the applicable export provisions.

- (b) the processing of goods outside the Island and Great Britain must be carried out for the purposes of paragraph 9(6)(a) of Schedule 2 to the Act.<sup>50</sup>
- (5) A notice published under paragraph (4) may make different provision for different cases.

## CHAPTER 3 – OUTWARD PROCESSING PROCEDURE

### 29 **Economic condition – outward processing procedure**

- (1) Where paragraph (2) applies, the Treasury must not grant an application for authorisation to declare goods for an outward processing procedure unless the Treasury is satisfied that the essential interests of producers of goods in the Island or United Kingdom would not be adversely affected by the granting of that authorisation.
- (2) This paragraph applies where –
  - (a) the goods are sensitive goods;
  - (b) the processing of the goods under the outward processing procedure does not consist in their repair; and
  - (c) the Treasury is aware of evidence that indicates that the essential interests of producers of goods in the Island or United Kingdom would be adversely affected by the granting of authorisation to declare the goods for an outward processing procedure.

### 30 **Authorisation to declare goods for an outward processing procedure**

- (1) An approval notification issued in relation to an authorisation to declared goods for an outward processing procedure must specify –
  - (a) the goods, or the type of goods, to which the authorisation applies; and
  - (b) the processing to which the goods are to be subject.<sup>51</sup>
- (2) An authorisation to declare goods for an outward processing procedure is subject to the condition that –
  - (a) no evidence is presented to the Treasury that the essential interests of producers of goods in the Island or United Kingdom are likely to be adversely affected by –
    - (i) where the authorisation has been used to declare the goods, the further use of the authorisation;
    - (ii) in all other cases, the use of the authorisation; or
  - (b) where such evidence is presented to the Treasury, an officer has not notified the authorised person that the officer is of the opinion, on the basis of an examination of the available evidence, that the

- essential interests of producers of goods in the Island or the United Kingdom would be adversely affected by —
- (i) where the authorisation has been used to declare the goods, the further use of the authorisation;
  - (ii) in all other cases, the use of the authorisation.<sup>52</sup>
- (3) A person must not use the standard exchange system in relation to goods declared for an outward processing procedure unless authorised to do so in accordance with regulation 32.
- (4) Where an authorisation to declare goods for an outward processing procedure is granted the following requirements apply —
- (a) the goods must not be declared for the free-circulation procedure by any person other than the authorised person, unless the authorised person has given their consent for the goods to be so declared; and
  - (b) where the processing of the goods results in the production or manufacture of other goods in which the goods declared can be identified, the processing, or each individual processing operation, must result in the production or manufacture of the approved quantity of the other goods.
- (5) For the purposes of paragraph (4)(b), 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 officer approves that choice; or
    - (ii) in all other cases, set by an officer.
- (6) This paragraph applies where —
- (a) goods (“intended exported goods”) are to be exported in order to be processed outside the Island and the United Kingdom;<sup>53</sup>
  - (b) the intended exported goods are to be declared for an outward processing procedure;
  - (c) the processing takes place using equivalent chargeable goods in place of the intended exported goods; and<sup>54</sup>
  - (d) the goods resulting from the processing are imported before the intended exported goods are exported.<sup>55</sup>
- (7) Where paragraph (6) applies, the approval notification issued in relation to the authorisation to declare the intended exported goods for an outward processing procedure must specify the period within which the domestic goods that are replaced by equivalent chargeable goods must be declared for the procedure.



- (8) Subject to paragraph (9), the period within which the domestic goods must be declared for the procedure must not be longer than 6 months beginning with the date after the date on which the equivalent chargeable goods are imported.
- (9) The period within which the domestic goods must be declared for the procedure may be longer than 6 months, but not longer than 12 months, beginning with the date after the date on which the equivalent chargeable goods are imported where —
  - (a) the applicant for the authorisation so requests; or
  - (b) the holder of the procedure requests an extension of the period specified in the approval to that effect.
- (10) An authorisation to declare goods for an outward processing procedure is granted subject to such other conditions as may be specified in the approval notification issued in relation to the authorisation.

### **31 Outward processing – goods regarded as domestic goods**

- (1) This regulation applies where —
  - (a) goods are released to an outward processing procedure;
  - (b) the processing of the goods under the procedure consists in their repair by any person without charge;
  - (c) there is a breach of —
    - (i) the terms of the declaration for the procedure; or
    - (ii) any other requirement in relation to the procedure; and
  - (d) an officer is satisfied that the person who caused the breach did not do so for the purposes of —
    - (i) avoiding, or enabling any other person to avoid, any Customs obligation that would have applied if the breach had not occurred;
    - (ii) preventing a liability to import duty or charges being incurred by any person; or
    - (iii) preventing the application of any non-tariff trade policy measure or agricultural policy measure.
- (2) Where this regulation applies, the goods continue to be regarded as domestic goods.

### **32 Standard exchange system**

- (1) An authorisation to declare goods for an outward processing procedure may authorise the standard exchange system to be used only if —
  - (a) the processing consists of the repair of the domestic goods declared for the procedure;

- (b) none of the domestic goods are subject to —
    - (i) [Revoked]<sup>56</sup>
    - (ii) insofar as it is retained EU law under the European Union and Trade Act 2019 —
      - (aa) a measure provided for under Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products; or
      - (bb) an arrangement relating to goods resulting from the processing of agricultural products provided for under Regulation (EU) No 510/2014 of the European Parliament and of the Council of 16 April 2014 laying down the trade arrangements applicable to certain goods resulting from the processing of agricultural products;
  - (c) the replacement goods have the same —
    - (i) classification code;
    - (ii) commercial quality; and
    - (iii) technical characteristics,as the domestic goods would have when repaired; and
  - (d) where the domestic goods have been used prior to export, the replacement goods have been subject to the same use.
- (2) For the purposes of paragraph (1)(c), the replacement goods have the same commercial quality as the domestic goods which they are replacing would have when repaired if a reasonable purchaser would consider the replacement goods to be of the same standard as the domestic goods would be when repaired.
- (3) The condition in paragraph (1)(d) does not apply where the replacement goods have been supplied to the person who will use them without charge as a result of a contractual or statutory obligation arising from a guarantee or from a manufacturing defect.<sup>57</sup>
- (4) Where replacement goods are supplied without charge to the person who will use them —
- (a) subject to paragraph (9) the replacement goods are to be regarded as domestic goods from the date on which they are imported into the Island or the United Kingdom; and
  - (b) the domestic goods are not to be regarded as domestic goods from the date on which they are exported from the Island or the United Kingdom.
- (5) This paragraph applies where replacement goods —

- (a) are imported after the domestic goods are exported; and
  - (b) are supplied with a charge to the person who will use them.
- (6) Where paragraph (5) applies —
- (a) subject to paragraph (9) the value of the replacement goods is to be determined in accordance with regulation 34(4); and
  - (b) domestic goods repaired outside the Island or United Kingdom and then imported into the Island or United Kingdom are not to be treated as imported in accordance with the outward processing procedure.
- (7) Subject to paragraph (8), where an authorisation to declare goods for an outward processing procedure authorises the import of replacement goods before the domestic goods are exported —
- (a) the domestic goods must be exported within the period of 2 months beginning with the date on which the replacement goods are imported (“the required export period”); and
  - (b) where paragraph (4) applies, if the domestic goods are not exported within the required export period —
    - (i) the replacement goods —
      - (aa) are not to be regarded as domestic goods from the date the required export period expired;
      - (bb) are to be treated as imported into the Island or United Kingdom on that date;
      - (cc) are to be treated as if, on that date, they had been declared for the free-circulation procedure and the Treasury had accepted that declaration; and
    - (ii) for the purposes of section 34(1)(b) of the Act, a notification of importation is to be treated as having been given in relation to the replacement goods on that date;
  - (c) subject to paragraph (9), where paragraph (4) does not apply, if the domestic goods are exported within the required export period —
    - (i) the value of the replacement goods is to be determined in accordance with regulation 34(4); and
    - (ii) domestic goods repaired outside the Island and the United Kingdom and then imported into the Island or the United Kingdom are not to be treated as imported in accordance with the outward processing procedure; and
  - (d) [Revoked]<sup>58</sup>
- (8) The Treasury may grant an extension to the required export period where —
- (a) the authorised person makes an application to the Treasury for an extension; and

- (b) in the opinion of an officer exceptional circumstances justify the extension.
- (9) Paragraphs (4)(a), (6)(a) and (7)(c)(i) do not apply where –
- (a) there is a breach of –
    - (i) the terms of the declaration for the procedure; or
    - (ii) any other requirement in relation to the procedure; and
  - (b) an officer is satisfied that the person who caused the breach did so for the purposes of –
    - (i) avoiding, or enabling any other person to avoid, any Customs obligation that would have applied if the breach had not occurred;
    - (ii) preventing a liability to import duty or charges being incurred by any person; or
    - (iii) preventing the application of any non-tariff trade policy measure or agricultural policy measure.

### 33 Cases in which goods may not be declared for an outward processing procedure

Goods must not be declared for an outward processing procedure where their export would give rise to –

- (a) remission or repayment of import duty under Part 7 of the import duty regulations; or
- (b) an export refund under Articles 196 to 204 of Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products.

### 34 Valuation of goods regarded as chargeable goods

(1) For the purposes of section 36(7) of the Act, the value of the goods regarded as chargeable goods is to be the greater of –

- (a) zero; and
- (b) an amount equal to –

$$A - B$$

where –

A is the value of the processed goods at the time of acceptance of the customs declaration of those goods for the free-circulation procedure; and

B is the statistical value of the goods at the time when they were released to an outward processing procedure.

(2) This paragraph applies where –

- (a) goods are released to an outward processing procedure;
  - (b) the processing of the goods under the procedure consists in anything other than their repair by any person without charge;
  - (c) the goods are imported in accordance with the procedure;
  - (d) there is a breach of —
    - (i) the terms of the declaration for the procedure; or
    - (ii) any other requirement in relation to the procedure; and
  - (e) an officer is satisfied that the person who caused the breach did not do so for the purposes of —
    - (i) avoiding, or enabling any other person to avoid, any Customs obligation that would have applied if the breach had not occurred;
    - (ii) preventing a liability to import duty or charges being incurred by any person; or
    - (iii) preventing the application of any non-tariff trade policy measure or agricultural policy measure.
- (3) Where paragraph (2) applies, the value of the goods is to be reduced in accordance with paragraph (1).
- (4) For the purposes of regulation 32(6)(a) or (7)(c), the value of the replacement goods is to be the greater of —
- (a) zero; and
  - (b) an amount equal to —
$$C - D$$
where —
    - C is the value of the replacement goods at the time of acceptance of the customs declaration of those goods for the free-circulation procedure; and
    - D is the statistical value of the domestic goods which the replacement goods replaced at the time when the domestic goods were released to an outward processing procedure.
- (5) In this regulation “the statistical value” has the meaning given in Article 4 of Commission Regulation (EU) No 113/2010 of 9 February 2010 implementing Regulation (EC) No 471/2009 of the European Parliament and of the Council on Community statistics relating to external trade with non-member countries.

## CHAPTER 4 – AUTHORISED USE PROCEDURE

**35 Authorised uses**

- (1) The uses to which goods are to be subject for the purposes of paragraph 13 of Schedule 2 to the Act are any uses identified as authorised uses in the authorised use document.
- (2) In this regulation “the authorised use document” means the document entitled “Authorised use: Eligible Goods and Authorised Uses (version 2.1)” dated 22 March 2021<sup>30,59</sup>

**36 Authorisation to declare goods for an authorised use procedure**

- (1) An approval notification issued in relation to an authorisation to declare goods for an authorised use procedure must specify –
  - (a) the use to which the goods are to be subject (“a specified authorised use”); and
  - (b) where the only economically viable use of the goods is a specified authorised use, the requirements that must be met in relation to the authorised use procedure in respect of those goods.
- (2) An approval notification of the kind mentioned in paragraph (1) may provide for different specified authorised uses for different goods.
- (3) Where an authorisation to declare goods for an authorised procedure is granted and paragraph (1)(b) does not apply, the following requirements apply –
  - (a) the authorised person must put the goods to a specified authorised use in the Island or Great Britain or the UK sector of the continental shelf; and<sup>60</sup>
  - (b) any specified authorised use of the goods must result in such quantity of other goods as may be –
    - (i) specified in the approval notification; or
    - (ii) determined by reference to a methodology specified in the approval notification.
- (4) Where an authorisation to declare goods for an authorised use procedure is granted and the goods are suitable for repeated use, the authorised person is subject to such requirements in respect of the goods, and for such period, as may be specified in the approval notification.
- (5) Any period specified under paragraph (4) must not be longer than 2 years from the date the goods were first put to a specified authorised use.

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<sup>30</sup> <https://www.gov.uk/government/publications/authorised-use-eligible-goods-andauthorised-uses>

- (6) An authorisation to declare goods for an authorised use procedure is granted subject to such other conditions as may be specified in the approval notification issued in relation to the authorisation.
- (7) In paragraph (3)(a), “the UK sector of the continental shelf” means the areas designated by Order in Council under section 1(7) of the Continental Shelf Act 1964<sup>31</sup>.

### **37 Waste and scrap**

- (1) This regulation applies where —
  - (a) goods released to an authorised use procedure are substantially destroyed;
  - (b) part of the goods remains (“the remaining goods”); and
  - (c) the remaining goods are rendered unusable for the use for which they were imported without further processing.
- (2) The remaining goods are to be treated, from the date of destruction, as being released to a storage procedure to be kept in a customs warehouse.

### **38 Authorised use relief – breach of a requirement**

- (1) This regulation applies where —
  - (a) goods are released to an authorised use procedure;
  - (b) a breach of a requirement relating to the procedure gives rise to a liability to import duty under section 4(4)(d) of the Act; and
  - (c) an officer is satisfied that the person who caused the breach did not do so for the purposes of —
    - (i) avoiding, or enabling any other person to avoid, any Customs obligation that would have applied if the breach had not occurred;
    - (ii) preventing a liability to import duty or charges being incurred by any person; or
    - (iii) preventing the application of any non-tariff trade policy measure or agricultural policy measure.
- (2) Where this regulation applies, relief from the liability to import duty arising under section 4(4)(d) of the Act is to be given.

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<sup>31</sup> 1964 c.29 (of Parliament); section 1(7) was amended by paragraph 1 of Schedule 3 to the Oil and Gas (Enterprise) Act 1982 (c.23 of Parliament) and section 103 of the Energy Act 2011 (c.16 of Parliament).

## CHAPTER 5 – TEMPORARY ADMISSION PROCEDURE

**39 Application for authorisation to declare goods for a temporary admission procedure**

- (1) Where paragraph (2) applies, the person who is to be treated as making an application for authorisation to declare goods for a temporary admission procedure is –
  - (a) in a case where the person (P) with physical control of the goods at the moment of the release of the goods to the temporary admission procedure is acting on behalf of another person, that other person; or
  - (b) in all other cases, P.
- (2) This paragraph applies where –
  - (a) the goods declared for a temporary admission procedure fall within a description given in one of the following sections of the temporary admission document –
    - (i) section 6 (means of transport);
    - (ii) section 7 (means of transport – full relief for persons established in the Island or the United Kingdom);
    - (iii) section 8 (means of transport – full relief for individuals who have their habitual residence in the Island or the United Kingdom);
    - (iv) section 9 (other cases of relief from import duty in respect of means of transport);
  - (b) the goods are declared orally under regulation 22 of the import duty regulations or a declaration is made by conduct under regulation 29, 30, 30A or 30B of the import duty regulations; and<sup>61</sup>
  - (c) the declaration is treated by regulation 5 as an application for authorisation.

**40 Eligibility – temporary admission procedure**

- (1) Subject to paragraph (2), the Treasury may grant an application for authorisation to declare goods for a temporary admission procedure where –
  - (a) the applicant is established outside the Island and the United Kingdom; or<sup>62</sup>
  - (b) the goods fall within a description given in a section of the temporary admission document that specifies that the goods may be declared by, or on behalf of, a person established in the Island or the United Kingdom.<sup>63</sup>



- (2) An authorisation to declare goods that are consumable goods may be granted only if full relief from a liability to import duty in relation to the goods is to be given under regulation 44.
- (3) For the purposes of paragraph (2), goods are consumable goods if they cannot be used without being rendered unusable.

#### **41 Authorisation to declare goods for a temporary admission procedure**

- (1) An approval notification issued in relation to an authorisation to declare goods for a temporary admission procedure must specify —
  - (a) the goods, or the type of goods, to which the authorisation applies;<sup>64</sup>
  - (b) the period, for the purposes of paragraph 15(b) of Schedule 2 to the Act, during which particular goods are to be used before they are exported from the Island or United Kingdom in accordance with the applicable export provisions or are removed to Northern Ireland.<sup>65</sup>
- (2) Subject to paragraphs (3), (4), (4A) and (4B) the period specified under paragraph (1)(b) must not be longer than 24 months beginning with the date the goods are declared for the procedure.<sup>66</sup>
- (3) The period referred to in paragraph (2) may be longer than 24 months, or the authorisation may be amended on application by the authorised person to extend the period specified beyond 24 months, if an officer is satisfied that —
  - (a) the use for which the goods are imported cannot be achieved within 24 months; and
  - (b) a longer period is justified.
- (4) An extension under paragraph (3) to the period referred to in paragraph (2) must not be granted with the effect that the total period granted is longer than 10 years beginning with the date the goods are declared for the procedure unless an officer is satisfied that there are abnormal and unforeseeable circumstances beyond the holder of the procedure's control justifying such an extension.<sup>67</sup>
- (4A) This paragraph applies to goods that fall within the scope of an international agreement, and that agreement applies to the Isle of Man, the effect of which is that the period during which the goods may be used before they are exported from the Island is longer than 24 months.<sup>68</sup>
- (4B) Where paragraph (4A) applies the period referred to in paragraph (2) may be longer than 24 months, but must not be longer than the period specified in the international agreement.<sup>69</sup>

- (5) When determining, for the purposes of this regulation, the period during which goods declared for a temporary admission procedure have been used —
- (a) any period during which the goods were subject to another special Customs procedure is to be disregarded; and
  - (b) account is to be taken of any period during which, where relevant, each of the following conditions is met —
    - (i) the goods were subject to a temporary admission procedure as a result of a subsequent declaration made by the holder of the procedure; and
    - (ii) where the goods fell within a description given in a section of the temporary admission document, the goods continue to fall within the same section.

#### 42 Requirements relating to a temporary admission procedure

- (1) Where an authorisation to declare goods for a temporary admission procedure is granted the following requirements apply —
- (a) the authorised person must —
    - (i) use the goods; or
    - (ii) where permitted in the approval notification issued in relation to an authorisation, arrange for another person to use the goods in accordance with the authorisation;
  - (b) the goods must not be imported to be repaired;
  - (c) the goods must not undergo any substantive change while subject to the procedure that is not a necessary consequence of an intended use of the goods;<sup>70</sup>
  - (d) the goods must be capable of being identified at all times, except where an officer is satisfied that —
    - (i) in view of the nature of the goods or their intended use, the absence of identification will not result in the avoidance of any or all liability to import duty or other charges, or of any obligations relating to the authorisation; or
    - (ii) equivalent goods are used and it can be verified that they are used in accordance with regulation 49.
- (2) For the purposes of paragraph (1)(c), goods do not undergo a substantive change where —
- (a) any change is the result of normal depreciation due to an intended use of the goods;<sup>71</sup>
  - (b) the goods are repaired, including overhaul, where this was not an intended use of the goods; or<sup>72</sup>

- (c) the goods are maintained, including adjustments or measures to preserve the goods or ensure compliance with technical requirements for their use under the procedure.
- (3) An authorisation to declare goods for a temporary admission procedure is granted subject to such other conditions as may be specified in the approval notification issued in relation to the authorisation.
- (4) For the purposes of this regulation an intended use of the goods means any use identified in —
  - (a) the declaration of the goods for a temporary admission procedure; or
  - (b) the approval notification issued in relation to an authorisation to declared goods for the procedure.<sup>73</sup>

#### **43 Specified goods**

The goods specified for the purposes of paragraph 15(a) of Schedule 2 to the Act are goods intended to be used in the Island or Great Britain for a temporary period before the goods are exported from the Island or the United Kingdom or are removed to Northern Ireland.<sup>74</sup>

#### **44 Temporary admission – full relief**

- (1) Where paragraph (2) applies, full relief from a liability to import duty is to be given.
- (2) This paragraph applies where —
  - (a) chargeable goods —
    - (i) are declared for a temporary admission procedure;
    - (ii) the Treasury accepts the declaration; and
    - (iii) a liability to import duty arises in relation to those goods;
  - (b) the goods fall within the description of goods given in any section of the temporary admission document; and
  - (c) any eligibility criteria described in the section are met.
- (3) Where full relief is to be given under this regulation any conditions specified in the section of the temporary admission document within which those goods fall apply and are requirements of the procedure.

#### **45 Temporary admission – partial relief**

- (1) Where paragraph (2) applies partial relief from a liability to import duty is to be given.
- (2) This paragraph applies where —
  - (a) chargeable goods —

- (i) are declared for a temporary admission procedure;
    - (ii) the Treasury accepts the declaration; and
    - (iii) a liability to import duty arises in relation to those goods; and
  - (b) full relief is not to be given under regulation 44.
- (3) Where partial relief is to be give under paragraph (1), the amount of import duty due is 3% of the amount of import duty which would have been payable on the goods if they had been declared for the free-circulation procedure and the Treasury had accepted that declaration on the date on which they accepted the declaration of those goods for the temporary admission procedure.
- (4) The amount specified in paragraph (3) is payable for every month, or fraction of a month, during which the goods are subject to the temporary admission procedure until —
- (a) the procedure is discharged; or
  - (b) the amount of import duty charged reaches the amount that would have been charged in the absence of any partial relief.

## PART 5 – GENERAL RULES

### 46 Transfer of rights and obligations

- (1) Where paragraph (2) applies, a person to whom rights and obligations in relation to goods declared for a relevant non-transit Part 1 procedure are transferred (“the transferee”) is subject to such requirements of the procedure as are specified in accordance with paragraph (7).
- (2) This paragraph applies where —
- (a) the Treasury grants —
    - (i) an application —
      - (A) for authorisation or approval to carry out an activity specified in regulation 4(2) that includes an approval to transfer to the transferee some or all of the rights and obligations that relate to relevant declared goods; or
      - (B) under regulation 97(2)(a) of the import duty regulations to amend an authorisation or approval to carry out an activity specified in regulation 4(2) in order to approve such a transfer; or<sup>75</sup>
    - (ii) an application specified in paragraph (3)(a) and one of the applications specified in paragraph (3)(b); and<sup>76</sup>

- (b) an agreement is made for a transfer of rights and obligations to take place.
- (3) The specified applications are —
  - (a) an application —
    - (i) made by an approved person, an authorised person or a holder of procedure for approval to transfer to the transferee some or all of the rights and obligations that relate to relevant declared goods; and
    - (ii) [Revoked]<sup>77</sup>
  - (b) an application made by a person —
    - (i) for approval to receive some or all of the rights and obligations that relate to relevant declared goods; or
    - (ii) under regulation 97(2)(a) of the import duty regulations to amend that person's authorisation or approval to carry out an activity specified in regulation 4(2) in order to approve the person to receive such rights and obligations.
- (4) For the purposes of Part 9 of the import duty regulations, the transfer of rights and obligations that relate to relevant declared goods is to be treated as a matter requiring approval under those Regulations.
- (5) The Treasury may only grant an application referred to in paragraphs (2)(a)(i) and (3) where —
  - (a) in the case of goods declared for an inward processing procedure, an outward processing procedure, an authorised use procedure or a temporary admission procedure the transferee meets the eligibility criteria for authorisation to declare goods for procedure to which the rights and obligations specified in the application relate;
  - (b) in the case of goods declared for a storage procedure to be kept in a customs warehouse, the transferee is established in the Island or United Kingdom.
- (6) The Treasury may grant an application referred to in paragraph (3) subject to conditions.
- (7) An approval notification issued in relation to an application referred to in paragraph (2)(a)(i) or (3) must specify the rights and obligations to be transferred.
- (8) Where the transferee breaches —
  - (a) a requirement imposed by or under Part 1 of the Act on the transferee as holder of the procedure; or
  - (b) an obligation transferred by virtue of this regulation,the transferee is liable to any import duty arising as a result of that breach.

- (9) In this regulation —
- “obligations”, in relation to relevant declared goods, includes —
- (a) conditions to which an authorisation to declare the relevant declared goods for the relevant non-transit Part 1 procedure is subject; and
  - (b) any other requirements in relation to the procedure imposed by or under Part 1 of the Act;
- “relevant declared goods” means goods declared for a relevant non-transit Part 1 procedure;
- “rights”, in relation to relevant declared goods, includes —
- (a) any permissions contained in an authorisation to declare the relevant declared goods for the relevant non-transit Part 1 procedure; and
  - (b) any rights in relation to those goods conferred by or under Part 1 of the Act.

#### **47 Discharge of a special Customs procedure – supplementary provision**

- (1) An approval notification in relation to an authorisation to declare goods for an inward processing procedure or an authorised use procedure may specify that it is a requirement that the authorised person supplies to the Treasury —
- (a) such information in relation to the discharge of the procedure as may be specified in the approval notification; and
  - (b) in such manner and at such time as may be so specified.
- (2) The evidence which is to be required, or is to be sufficient, for the purposes of showing that a relevant non-transit Part 1 procedure has been discharged, is to be determined by an officer in accordance with a notice published by the Treasury.
- (3) Where goods released to a relevant non-transit Part 1 procedure are placed together with other goods and are destroyed, the goods destroyed, for the purposes of showing the procedure has been discharged under paragraph 19(3)(b) of Schedule 2 to the Act, are —
- (a) where an officer is satisfied that the holder of the procedure has provided sufficient evidence as to the goods which were subject to the procedure that have been destroyed, those goods; or
  - (b) where an officer is not so satisfied, such proportion of the goods placed together as is determined in accordance with a notice published by the Treasury.
- (4) Paragraph (5) applies where —

- (a) two or more declarations of goods of the same type are made for a relevant non-transit Part 1 procedure using a single authorisation; and
  - (b) some of those goods —
    - (i) are exported from the Island or United Kingdom in accordance with the applicable export provisions or removed to Northern Ireland;<sup>78</sup>
    - (ii) are destroyed;
    - (iii) are declared for another Customs procedure and the Treasury accepts the declaration; or<sup>79</sup>
    - (iv) in the case of goods declared for an authorised use procedure or a temporary admission procedure, are goods in respect of which the requirements of the relevant procedure are met; or<sup>80</sup>
    - (v) the goods are liable to forfeiture.<sup>81</sup>
- (5) Where this paragraph applies, for the purposes of showing that a relevant non-transit Part 1 procedure has been discharged —
- (a) the event described in paragraph (4)(b) must have taken place in relation to the actual goods declared for the procedure where —
    - (i) an officer consents to a request from the approved person, the authorised person or the holder of the procedure that this should be the case; or
    - (ii) an officer is of the opinion that the amount of import duty which would be applicable to the goods would, as a result of treatment in accordance with sub-paragraph (b), be lower than the amount applicable to them if the event described in paragraph (4)(b) had taken place in relation to the actual goods declared; or
  - (b) in all other cases, the goods referred to in paragraph (4)(b) are to be treated as having been declared under the earliest of the declarations referred to in paragraph (4)(a).
- (6) A notice published under this regulation may make different provision for different cases.

#### 48 Record keeping

- (1) The persons specified in paragraph (2) must keep and preserve such records in respect of goods that are subject to a relevant non-transit Part 1 procedure, and in such form, as specified in a notice made by the Treasury.
- (2) The specified persons are —
  - (a) any person authorised to carry out an activity specified in regulation 4(2);

- (b) any holder of a procedure; and
  - (c) any person handling, storing, producing, or manufacturing, or applying a process to, goods released to a relevant non-transit Part 1 procedure.
- (3) The Treasury must publish a notice specifying —
- (a) the records to be kept and preserved under paragraph (1);
  - (b) the form in which they are to be kept; and
  - (c) the period for which they must be kept and preserved.
- (4) A notice published under paragraph (3) —
- (a) may —
    - (i) specify that the records must be updated within a specified period after the occurrence of a specified event; and
    - (ii) make different provision for different cases; and
  - (b) must make different provision for authorised economic operators.

#### **49 Authorisation to use equivalent goods**

- (1) Subject to paragraph (2), an approval or authorisation to carry out an activity specified in regulation 4(2) (“a relevant non-transit Part 1 procedure authorisation”) may authorise requirements in relation to the relevant procedure to be met by reference to equivalent goods (“an equivalent goods authorisation”).
- (2) An equivalent goods authorisation must not be granted —
- (a) subject to paragraph (3), where, in the opinion of an officer control by any officer of the goods to be declared for the relevant non-transit Part 1 procedure could not be satisfactorily exercised if an equivalent goods authorisation were granted;
  - (b) in relation to a declaration of goods for a temporary admission procedure unless —
    - (i) the goods fall within the description given in any of the following sections of the temporary admission document —
      - (aa) section 1 (pallets);
      - (bb) section 2 (spare parts, accessories and equipment for pallets);
      - (cc) section 3 (containers);
      - (dd) section 4 (spare parts, accessories and equipment for containers); and
    - (ii) full relief is to be given in respect of those goods under regulation 44;



- (c) in relation to a declaration of goods for an inward processing procedure where the goods are only to be subject to an operation of a type that is –
    - (i) described in paragraph 11(b) of Schedule 2 to the Act; and
    - (ii) specified in a notice published by the Treasury as an operation constituting a usual form of handling;
  - (d) in relation to a declaration of goods for an inward processing procedure where the export of the processed goods that would result from the processing under the procedure would constitute a breach of the requirement at regulation 24(3)(c);
  - (e) in relation to a declaration of goods for a storage procedure to be kept in a customs warehouse, an inward processing procedure, a temporary admission procedure or an authorised use procedure where, if the goods were declared for the free-circulation procedure they would be subject to an additional amount of import duty by virtue of section 13, 14 or 15 of the Act; or
  - (f) in relation to a declaration of goods for an outward processing procedure where, if the equivalent chargeable goods were declared for the free-circulation procedure the equivalent chargeable goods would be subject to an additional amount of import duty by virtue of section 13, 14 or 15 of the Act; or;
  - (g) in relation to a declaration of goods for a storage procedure to be kept in a customs warehouse where the goods are sensitive goods; or
  - (h) in relation to a declaration of goods for a relevant non-transit Part 1 procedure where the goods or the equivalent goods have been genetically modified or contain elements that have undergone genetic modification.
- (3) Paragraph (2)(a) does not apply where the applicant for authorisation is an authorised economic operator within the meaning of section 22(2) of the Act unless, in the opinion of an officer, consideration is required of matters relating to the use of equivalent goods that were not considered at the time when the applicant was authorised as an authorised economic operator.
- (4) A relevant non-transit Part 1 procedure authorisation may authorise equivalent goods to be stored together with other goods where –
- (a) the equivalent goods can be identified by such method as the Treasury may specify in the approval notification; or
  - (b) where it is not possible to identify the equivalent goods without incurring disproportionate cost, the approval notification specifies that it is a requirement of the procedure that the authorised person carries out accounting segregation in accordance with a notice made under regulation 48.

- (5) It is a condition of an equivalent goods authorisation in relation to the declaration of goods for an inward processing procedure, an outward processing procedure or a storage procedure to be kept in a customs warehouse that —
- (a) goods which are organic must not be replaced by goods which are not organic; and
  - (b) goods which are not organic must be replaced by goods which are not organic.
- (6) An equivalent goods authorisation in relation to the declaration of goods for an inward processing procedure is subject to any conditions set out in a notice published by the Treasury concerning —
- (a) rice;
  - (b) wheat;
  - (c) sugar;
  - (d) live animals and meat;
  - (e) maize;
  - (f) olive oil; and
  - (g) [Revoked]<sup>82</sup>
- (7) A notice published under paragraph (6) may make different provision for different cases.
- (8) In this regulation “organic” has the meaning given in Council Regulation (EC) No 834/2007 of 28 June 2007 on organic production and labelling of organic products.

## 50 Equivalent goods

- (1) For the purposes of paragraph 23 of Schedule 2 to the Act —
- (a) in relation to a declaration of goods for an inward processing procedure the following are to be regarded as equivalent domestic goods —
    - (i) goods at a more advanced stage of manufacture than the imported goods;
    - (ii) where the processing consists of repair —
      - (aa) new goods where the imported goods are used goods; and
      - (bb) goods that are newer goods, or goods in less need of repair, than the imported goods; and
    - (iii) goods with —
      - (aa) technical characteristics the same as, or similar to, those of the imported goods; and

- (bb) the same classification code and the same commercial quality as the imported goods;
- (b) in all other cases, goods are not to be regarded as equivalent domestic goods unless the goods have the same —
  - (i) classification code;
  - (ii) commercial quality; and
  - (iii) technical characteristics,as the imported goods.
- (2) In relation to a declaration of goods for an outward processing procedure the goods are not to be regarded as equivalent chargeable goods for the purposes of these Regulations unless —
  - (a) they have the same —
    - (i) classification code;
    - (ii) commercial quality; and
    - (iii) technical characteristics,as the goods they are replacing; and
  - (b) the goods which are being replaced are not sensitive goods.
- (3) For the purposes of paragraphs (1) and (2), goods have the same commercial quality as the imported goods or the goods they are replacing if a reasonable purchaser would consider the equivalent goods to be of the same standard as the imported goods or the goods they are replacing.
- (4) In this regulation “imported goods” means goods to be declared for a relevant non-transit Part 1 procedure.

## **51 Treatment of equivalent goods**

- (1) Paragraph (2) applies where —
  - (a) there is a declaration of goods —
    - (i) for a storage procedure to be kept in a customs warehouse; or
    - (ii) for an inward processing procedure; and
  - (b) the requirements in relation to the relevant procedure are to be met by reference to equivalent domestic goods in accordance with these Regulations.
- (2) Where this paragraph applies —
  - (a) on the date on which the declaration of the goods for the procedure is accepted by the Treasury —
    - (i) the goods are to be treated for the purposes of Part 1 of the Act as if they had been simultaneously released to, and discharged from, the procedure; and

- (ii) the goods are to be regarded as domestic goods;<sup>83</sup>
- (b) the equivalent domestic goods —
  - (i) are not to be regarded as domestic goods from the date on which the declaration of the goods for the relevant procedure is accepted by the Treasury (“the date of acceptance”); and
  - (ii) are to be treated for the purposes of Part 1 of the Act as imported into the Island or the United Kingdom on the date of acceptance.
- (3) For the purposes of section 34(1)(b) of the Act, a notification of importation is to be treated as having been given in relation to the equivalent goods not to be regarded as domestic goods under paragraph (2)(b)(i) on the date of acceptance.
- (4) Paragraphs (5) and (6) apply where —
  - (a) there is a declaration of goods —
    - (i) for an authorised use procedure; or
    - (ii) for a temporary admission procedure; and
  - (b) the requirements in relation to the procedure are to be met by reference to equivalent domestic goods in accordance with these Regulations.<sup>84</sup>
- (5) Where this paragraph applies, the goods are to be treated for the purposes of Part 1 of the Act as if they had been simultaneously released to, and discharged from, the relevant procedure where —
  - (a) the declaration of the goods for the procedure is accepted by the Treasury; and
  - (b) the requirements in relation to the procedure were met by reference to the equivalent domestic goods.
- (6) Where this paragraph applies, the goods are to be treated as if they had been discharged from the procedure on the date on which the equivalent domestic goods are exported from the Island or United Kingdom or removed to Northern Ireland where —
  - (a) the declaration of the goods for the procedure is accepted by the Treasury;
  - (b) the requirements in relation to the procedure were not met by reference to the equivalent domestic goods at the time of the declaration of the goods;
  - (c) the procedure has not been discharged in accordance with paragraph 18 or 19 of Schedule 2 to the Act; and
  - (d) the equivalent domestic goods are exported from the Island or United Kingdom or removed to Northern Ireland.<sup>85 86</sup>
- (7) Paragraph (8) applies where —

- (a) there is a declaration of goods for a temporary admission procedure; and
  - (b) the requirements in relation to the procedure are to be met by reference to equivalent domestic goods in accordance with these Regulations.<sup>87</sup>
- (8) Where this paragraph applies, the goods are to be regarded as domestic goods from the date on which the goods are treated as discharged from the temporary admission procedure under paragraph (5) or (6).<sup>88</sup>

## 52 Animals

Where an animal that is not to be regarded as a domestic good for the purposes of Part 1 of the Act is treated by regulation 110 of the import duty regulations as being imported into the Island or United Kingdom on a particular date, the animal is to be treated for the purposes of that Part as being released on that date to the Customs procedure to which the animal's mother has been released.

**MADE 30 APRIL 2019**

## ENDNOTES

### Table of Endnote References

<sup>1</sup> The format of this legislation has been changed as provided for under section 75 of, and paragraph 2 of Schedule 1 to, the Legislation Act 2015. The changes have been approved by the Attorney General after consultation with the Clerk of Tynwald as required by section 76 of the Legislation Act 2015.

<sup>2</sup> Reg 2 amended by SD2020/0403.

<sup>3</sup> Definition of “classification code” amended by SD2021/0125.

<sup>4</sup> Definition of “Customs obligation” substituted by SD2021/0041 with effect from 31/12/2020 at 23:00.

<sup>5</sup> Definition of “exit day” revoked by SD2020/0403.

<sup>6</sup> Definition of “the temporary admission document” amended by SD2021/0041 with effect from 31/12/2020 at 23:00.

<sup>7</sup> Para (i) substituted by SD2021/0041 with effect from 31/12/2020 at 23:00.

<sup>8</sup> Para (ii) substituted by SD2021/0041 with effect from 31/12/2020 at 23:00.

<sup>9</sup> Subpara (a) amended by SD2021/0041 with effect from 31/12/2020 at 23:00.

<sup>10</sup> Head (aa) amended by SD2021/0041 with effect from 31/12/2020 at 23:00.

<sup>11</sup> Para (i) amended by SD2021/0041 with effect from 31/12/2020 at 23:00.

<sup>12</sup> Para (3) inserted by SD2021/0041 with effect from 31/12/2020 at 23:00.

<sup>13</sup> Para (ii) amended by SD2021/0041 with effect from 31/12/2020 at 23:00.

<sup>14</sup> Para (ii) substituted by SD2021/0041 with effect from 31/12/2020 at 23:00.

<sup>15</sup> Subpara (e) revoked by SD2021/0041 with effect from 31/12/2020 at 23:00.

<sup>16</sup> Para (3) inserted by SD2021/0041 with effect from 31/12/2020 at 23:00.

<sup>17</sup> Para (1) amended by SD2021/0041 with effect from 31/12/2020 at 23:00.

<sup>18</sup> Para (3) substituted by SD2021/0041 with effect from 31/12/2020 at 23:00.

<sup>19</sup> Reg 9A inserted by SD2021/0041 with effect from 31/12/2020 at 23:00.

<sup>20</sup> Subpara (a) amended by SD2021/0041 with effect from 31/12/2020 at 23:00.

<sup>21</sup> Para (ii) substituted by SD2021/0041 with effect from 31/12/2020 at 23:00.

<sup>22</sup> Para (iii) revoked by SD2021/0041 with effect from 31/12/2020 at 23:00.

<sup>23</sup> Para (4) substituted by SD2021/0041 with effect from 31/12/2020 at 23:00.

<sup>24</sup> Para (5) substituted by SD2021/0041 with effect from 31/12/2020 at 23:00.

<sup>25</sup> Para (6) substituted by SD2021/0041 with effect from 31/12/2020 at 23:00.

<sup>26</sup> Para (7) revoked by SD2021/0041 with effect from 31/12/2020 at 23:00.

<sup>27</sup> Para (1) amended by SD2020/0565 with effect from 31/12/2020 at 23:00.

<sup>28</sup> Subpara (e) amended by SD2020/0565 with effect from 31/12/2020 at 23:00.

<sup>29</sup> Subpara (f) amended by SD2020/0565 with effect from 31/12/2020 at 23:00.

<sup>30</sup> Subpara (g) amended by SD2020/0565 with effect from 31/12/2020 at 23:00.

<sup>31</sup> Subpara (i) amended by SD2020/0565 with effect from 31/12/2020 at 23:00.

<sup>32</sup> Subpara (j) amended by SD2020/0565 with effect from 31/12/2020 at 23:00.

<sup>33</sup> Para (5) amended by SD2020/0565 with effect from 31/12/2020 at 23:00.

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- <sup>34</sup> Subpara (b) amended by SD2021/0041 with effect from 31/12/2020 at 23:00.
- <sup>35</sup> Subpara (b) amended by SD2020/0565 with effect from 31/12/2020 at 23:00.
- <sup>36</sup> Subpara (c) substituted by SD2021/0041 with effect from 31/12/2020 at 23:00.
- <sup>37</sup> Subpara (d) inserted by SD2021/0041 with effect from 31/12/2020 at 23:00.
- <sup>38</sup> Subpara (a) amended by SD2021/0041 with effect from 31/12/2020 at 23:00.
- <sup>39</sup> Subpara (a) amended by SD2021/0041 with effect from 31/12/2020 at 23:00.
- <sup>40</sup> Subpara (d) amended by SD2021/0041 with effect from 31/12/2020 at 23:00.
- <sup>41</sup> Para (3) amended by SD2021/0041 with effect from 31/12/2020 at 23:00.
- <sup>42</sup> Para (4) amended by SD2021/0041 with effect from 31/12/2020 at 23:00.
- <sup>43</sup> Subpara (b) amended by SD2021/0041 with effect from 31/12/2020 at 23:00.
- <sup>44</sup> Para (7) revoked by SD2021/0041 with effect from 31/12/2020 at 23:00.
- <sup>45</sup> Subpara (b) amended by SD2021/0041 with effect from 31/12/2020 at 23:00.
- <sup>46</sup> Subpara (a) amended by SD2021/0041 with effect from 31/12/2020 at 23:00.
- <sup>47</sup> Para (1) amended by SD2021/0041 with effect from 31/12/2020 at 23:00.
- <sup>48</sup> Subpara (a) amended by SD2021/0041 with effect from 31/12/2020 at 23:00.
- <sup>49</sup> Subpara (a) amended by SD2021/0041 with effect from 31/12/2020 at 23:00.
- <sup>50</sup> Subpara (b) amended by SD2021/0041 with effect from 31/12/2020 at 23:00.
- <sup>51</sup> Para (1) substituted by SD2021/0041 with effect from 31/12/2020 at 23:00.
- <sup>52</sup> Subpara (b) amended by SD2021/0041 with effect from 31/12/2020 at 23:00.
- <sup>53</sup> Subpara (a) amended by SD2021/0041 with effect from 31/12/2020 at 23:00.
- <sup>54</sup> Subpara (c) amended by SD2021/0041 with effect from 31/12/2020 at 23:00.
- <sup>55</sup> Subpara (d) amended by SD2021/0041 with effect from 31/12/2020 at 23:00.
- <sup>56</sup> Para (i) revoked by SD2021/0041 with effect from 31/12/2020 at 23:00.
- <sup>57</sup> Para (3) amended by SD2021/0041 with effect from 31/12/2020 at 23:00.
- <sup>58</sup> Subpara (d) revoked by SD2021/0041 with effect from 31/12/2020 at 23:00.
- <sup>59</sup> Para (2) amended by SD2021/0041 with effect from 31/12/2020 at 23:00 and by SD2021/0125.
- <sup>60</sup> Subpara (a) amended by SD2021/0041 with effect from 31/12/2020 at 23:00.
- <sup>61</sup> Subpara (b) amended by SD2021/0041 with effect from 31/12/2020 at 23:00.
- <sup>62</sup> Subpara (a) amended by SD2021/0041 with effect from 31/12/2020 at 23:00.
- <sup>63</sup> Subpara (b) amended by SD2021/0041 with effect from 31/12/2020 at 23:00.
- <sup>64</sup> Subpara (a) substituted by SD2021/0041 with effect from 31/12/2020 at 23:00.
- <sup>65</sup> Subpara (b) amended by SD2021/0041 with effect from 31/12/2020 at 23:00.
- <sup>66</sup> Para (2) amended by SD2021/0041 with effect from 31/12/2020 at 23:00.
- <sup>67</sup> Para (4) amended by SD2021/0041 with effect from 31/12/2020 at 23:00.
- <sup>68</sup> Para (4A) inserted by SD2021/0041 with effect from 31/12/2020 at 23:00.
- <sup>69</sup> Para (4B) inserted by SD2021/0041 with effect from 31/12/2020 at 23:00.
- <sup>70</sup> Subpara (c) amended by SD2021/0041 with effect from 31/12/2020 at 23:00.
- <sup>71</sup> Subpara (a) amended by SD2021/0041 with effect from 31/12/2020 at 23:00.
- <sup>72</sup> Subpara (b) amended by SD2021/0041 with effect from 31/12/2020 at 23:00.
- <sup>73</sup> Para (4) inserted by SD2021/0041 with effect from 31/12/2020 at 23:00.
- <sup>74</sup> Reg 43 amended by SD2021/0041 with effect from 31/12/2020 at 23:00.

- <sup>75</sup> Para (i) substituted by SD2021/0041 with effect from 31/12/2020 at 23:00.
- <sup>76</sup> Para (ii) amended by SD2021/0041 with effect from 31/12/2020 at 23:00.
- <sup>77</sup> Para (ii) revoked by SD2021/0041 with effect from 31/12/2020 at 23:00.
- <sup>78</sup> Para (i) amended by SD2021/0041 with effect from 31/12/2020 at 23:00.
- <sup>79</sup> Para (iii) amended by SD2021/0041 with effect from 31/12/2020 at 23:00.
- <sup>80</sup> Para (iv) amended by SD2021/0041 with effect from 31/12/2020 at 23:00.
- <sup>81</sup> Para (v) inserted by SD2021/0041 with effect from 31/12/2020 at 23:00.
- <sup>82</sup> Subpara (g) revoked by SD2021/0041 with effect from 31/12/2020 at 23:00.
- <sup>83</sup> Subpara (a) substituted by SD2021/0041 with effect from 31/12/2020 at 23:00.
- <sup>84</sup> Para (4) amended by SD2021/0041 with effect from 31/12/2020 at 23:00.
- <sup>85</sup> Subpara (d) amended by SD2021/0041 with effect from 31/12/2020 at 23:00.
- <sup>86</sup> Para (6) amended by SD2021/0041 with effect from 31/12/2020 at 23:00.
- <sup>87</sup> Para (7) inserted by SD2021/0041 with effect from 31/12/2020 at 23:00.
- <sup>88</sup> Para (8) inserted by SD2021/0041 with effect from 31/12/2020 at 23:00.