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## SCHEDULES

### SCHEDULE 1

Section 3(5)

#### CUSTOMS DECLARATIONS

##### *Presentation of goods to Customs and period for making Customs declaration etc*

- 1 (1) Goods must be presented to Customs on import and a Customs declaration in respect of the goods must be made before the end of the period of 90 days beginning with the day on which the goods are so presented.
- (2) The goods are subject to the control of any HMRC officer as soon as they are imported into the United Kingdom.
- (3) The control that may be exercised by the officer includes, in particular, requiring the goods to be moved to, and stored in, any place approved as a temporary storage facility under section 25 or 25A of CEMA 1979.
- (4) The obligation to make a Customs declaration in respect of any goods is extinguished if—
  - (a) the goods are exported from the United Kingdom [<sup>F1</sup>, or removed to Northern Ireland,] before the 90 day period ends, and
  - (b) [<sup>F2</sup>in the case of goods exported from the United Kingdom,] the export is made in accordance with the applicable export provisions.
- (5) If the obligation to make a Customs declaration still falls to be complied with when the 90 day period ends, the goods—
  - (a) are then liable to forfeiture (see Part 11 of CEMA 1979), and
  - (b) cease to be subject to sub-paragraph (2).
- (6) The provision made by this paragraph is subject to paragraph 3.
- (7) HMRC Commissioners may by regulations make further provision for the purposes of this paragraph.
- (8) Among other things, the regulations may make—
  - (a) provision for cases in which goods are not required to be presented to Customs on import,
  - (b) provision about the person who must present goods to Customs on import,
  - (c) provision requiring the making of a separate declaration in respect of the storage of goods subject to sub-paragraph (2), and
  - (d) provision restricting the extent to which goods subject to that sub-paragraph may generally be handled, or otherwise dealt with, by any person.

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#### Textual Amendments

- F1** Words in Sch. 1 para. 1(4)(a) inserted (17.12.2020 for specified purposes) by [Taxation \(Post-transition Period\) Act 2020 \(c. 26\), s. 11\(1\)\(e\), Sch. 1 para. 8\(2\)\(a\)](#) (with [Sch. 2 para. 7\(7\)-\(9\)](#))
- F2** Words in Sch. 1 para. 1(4)(b) inserted (17.12.2020 for specified purposes) by [Taxation \(Post-transition Period\) Act 2020 \(c. 26\), s. 11\(1\)\(e\), Sch. 1 para. 8\(2\)\(b\)](#) (with [Sch. 2 para. 7\(7\)-\(9\)](#))

#### Commencement Information

- I1** Sch. 1 para. 1 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

#### *Eligibility of persons to make Customs declarations*

- 2 (1) A person may make a Customs declaration in respect of any chargeable goods if—
- (a) the person is able to present the goods to Customs on import, or
  - (b) the person is able to secure that the goods are presented to Customs on import.
- (2) HMRC Commissioners may by regulations provide that, in addition to meeting the requirements of sub-paragraph (1), persons may make Customs declarations only if—
- (a) they are established [<sup>F3</sup>in, or outside, a specified place],
  - (b) they otherwise have [<sup>F4</sup>, or do not have,] a specified connection to [<sup>F5</sup>a specified place], or
  - (c) they meet any other specified conditions.

#### Textual Amendments

- F3** Words in Sch. 1 para. 2(2)(a) substituted (17.12.2020 for specified purposes) by [Taxation \(Post-transition Period\) Act 2020 \(c. 26\), s. 11\(1\)\(e\), Sch. 1 para. 8\(3\)\(a\)](#) (with [Sch. 2 para. 7\(7\)-\(9\)](#))
- F4** Words in Sch. 1 para. 2(2)(b) inserted (17.12.2020 for specified purposes) by [Taxation \(Post-transition Period\) Act 2020 \(c. 26\), s. 11\(1\)\(e\), Sch. 1 para. 8\(3\)\(b\)\(i\)](#) (with [Sch. 2 para. 7\(7\)-\(9\)](#))
- F5** Words in Sch. 1 para. 2(2)(b) substituted (17.12.2020 for specified purposes) by [Taxation \(Post-transition Period\) Act 2020 \(c. 26\), s. 11\(1\)\(e\), Sch. 1 para. 8\(3\)\(b\)\(ii\)](#) (with [Sch. 2 para. 7\(7\)-\(9\)](#))

#### Commencement Information

- I2** Sch. 1 para. 2 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

#### *Time at which Customs declarations required or authorised to be made*

- 3 (1) HMRC Commissioners may by regulations make provision requiring, in specified cases, a Customs declaration to be made in respect of any goods before they are imported into the United Kingdom.
- (2) A Customs declaration may be made in other cases in respect of any goods before they are imported into the United Kingdom, but the declaration is treated as withdrawn if the goods are not presented to Customs on import within the permitted period.
- (3) For this purpose “the permitted period” means—

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- (a) the period of 30 days beginning with the day on which the declaration is made, or
  - (b) such longer or shorter period as may be specified in a public notice given by HMRC Commissioners.
- (4) If—
- (a) a Customs declaration is required to be made in respect of any goods before they are imported into the United Kingdom, and
  - (b) the requirement to make the declaration still falls to be complied with when the goods are imported,
- the goods are liable to forfeiture at the time of importation.
- (5) HMRC Commissioners may make regulations for the purposes of this paragraph.
- (6) Each of the following is an example of the kind of provision that may be made by the regulations—
- (a) provision requiring a person in possession or control of any goods to have evidence of the making of a Customs declaration and to produce (on request) the evidence to an HMRC officer,
  - (b) provision for the evidence mentioned in paragraph (a) to be of a type, and in a form, specified in the regulations or in a public notice given by HMRC Commissioners,
  - (c) provision requiring, after a Customs declaration is made in respect of any goods, the giving of a notification in respect of the goods to HMRC in accordance with the regulations, and
  - (d) provision treating, in specified cases, a requirement to make a Customs declaration before the time at which any goods are imported as if it had been met if a Customs declaration is made at a later time in accordance with the regulations.

**Commencement Information**

**I3** Sch. 1 para. 3 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

*Form of Customs declarations and how they are made*

- 4 The general rule is that a Customs declaration—
- (a) must be made in an electronic form specified in a public notice given by HMRC Commissioners, and
  - (b) must be submitted or otherwise made available to HMRC electronically in accordance with provision made by a public notice given by HMRC Commissioners.

**Commencement Information**

**I4** Sch. 1 para. 4 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 5 (1) In cases specified in a public notice given by HMRC Commissioners, a Customs declaration may be made in writing (otherwise than in electronic form) in a form specified in the notice.

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- (2) In those cases, the declaration must be submitted or otherwise made available to HMRC in accordance with provision made by a public notice given by HMRC Commissioners.

**Commencement Information**

**I5** Sch. 1 para. 5 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 6 (1) In cases specified in a public notice given by HMRC Commissioners, a Customs declaration—
- (a) may be made orally, or
  - (b) may be made by conduct.
- (2) HMRC Commissioners may by regulations make provision for altering or supplementing the operation of the customs duty provisions in any case where a Customs declaration is made orally or by conduct.
- (3) Among other things, the regulations may include provision—
- (a) disapplying any requirement under the customs duty provisions,
  - (b) treating anything done, or omitted to be done, as meeting any condition imposed under the customs duty provisions,
  - (c) restricting or excluding the exercise of a power conferred under the customs duty provisions, or
  - (d) requiring any person to provide documents or information to HMRC.
- (4) In this paragraph “the customs duty provisions” means any provision made by or under—
- (a) this Part, or
  - (b) CEMA 1979, or any other enactment, so far as relating to any duty of customs.

**Commencement Information**

**I6** Sch. 1 para. 6 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

*Contents of Customs declarations*

- 7 (1) A Customs declaration in respect of any goods—
- (a) must, in addition to specifying the Customs procedure for which the goods are declared, contain information of a description specified in a public notice given by HMRC Commissioners,
  - (b) must be accompanied by such documents of a description specified in a public notice given by HMRC Commissioners, and
  - (c) must include a declaration by the person making it that the declaration is, to the best of the person's knowledge, correct and complete.
- (2) In cases specified in a public notice given by HMRC Commissioners, the requirement under sub-paragraph (1)(b) may be met by the person who has made the declaration or any other person—
- (a) making the documents available for inspection by an HMRC officer, or

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- (b) making available to HMRC information of a description specified in the notice (whether electronically or otherwise).
- (3) In cases specified in a public notice given by HMRC Commissioners, the documents required to accompany a Customs declaration may be required to be submitted or otherwise made available to HMRC before the making of the declaration.
- (4) References in this Schedule to documents accompanying a Customs declaration are to be read in accordance with sub-paragraphs (2) and (3).

**Commencement Information**

**I7** Sch. 1 para. 7 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 8 A public notice given by HMRC Commissioners—
- (a) may make provision, in specified cases, for a single Customs declaration to cover a number of different goods, including goods of different descriptions, and
  - (b) may make provision, in specified cases, requiring separate Customs declarations to be made in respect of goods of the same description.

**Commencement Information**

**I8** Sch. 1 para. 8 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

*Simplified Customs declarations etc*

- 9 (1) HMRC Commissioners may by regulations make provision disapplying or simplifying the requirements made by or under this Part in relation to the making of Customs declarations.
- (2) Each of the following is an example of the kind of provision that may be made by the regulations—
- (a) provision entitling only authorised persons to make use of the regulations or specified provisions of the regulations,
  - (b) provision requiring the giving of a guarantee, in accordance with the regulations, in respect of any liability to import duty before a Customs declaration is made,
  - (c) provision for the making of a simplified Customs declaration (subject to any conditions that may be imposed by the regulations as to the subsequent provision of further information or documents),
  - (d) provision for a single rate of import duty to apply to goods of different descriptions comprised in a particular consignment (using the highest rate otherwise applicable to any of the goods),
  - (e) provision for the amount of import duty in respect of goods of different descriptions comprised in a particular consignment to be calculated by reference to the same matter,
  - (f) provision for treating a Customs declaration in respect of goods as being made if a person makes an entry in respect of the goods in a system for recording information where the system is approved by HMRC and the information is made available to HMRC,

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- (g) provision disapplying any requirement made by or under this Part in cases where a Customs declaration is treated as made as a result of paragraph (f), and
  - (h) provision for the making of a Customs declaration in respect of goods imported during a specified period (instead of separate Customs declarations being required in respect of each importation).
- (3) In sub-paragraph (2)(a) “authorised persons” means persons authorised in accordance with provision made by or under the regulations.

**Commencement Information**

**I9** Sch. 1 para. 9 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

*Acceptance of Customs declarations*

- 10 As soon as practicable after receiving a Customs declaration, HMRC must determine—
- (a) whether or not the declaration has been made, and has been made available to HMRC, in accordance with the provision made by or under paragraphs 1 to 6, and
  - (b) whether or not the declaration is complete.

**Commencement Information**

**I10** Sch. 1 para. 10 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 11 (1) If HMRC are satisfied that—
- (a) the goods have been presented to Customs on import,
  - (b) a Customs declaration has been made in respect of the goods, and has been made available to HMRC, in accordance with the provision made by or under paragraphs 1 to 6, and
  - (c) the declaration is complete,
- HMRC must notify the person making the declaration that HMRC are so satisfied.
- (2) A notification under sub-paragraph (1) constitutes the acceptance of the declaration by HMRC for the purposes of this Part.
- (3) This does not prevent the subsequent exercise of a power to verify the declaration under paragraph 13.
- (4) That paragraph also provides for another way in which a declaration is accepted by HMRC for the purposes of this Part.

**Commencement Information**

**I11** Sch. 1 para. 11 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 12 For the purposes of this Schedule a Customs declaration is regarded as complete only if—

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- (a) all the information required to be included in the declaration is included (in the appropriate places in the declaration), and
- (b) all the documents required to accompany the declaration do accompany it, whether or not there are any inaccuracies in the information contained in the declaration or documents.

**Commencement Information**

**I12** Sch. 1 para. 12 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

*Verification of Customs declarations*

- 13 (1) An HMRC officer may verify a Customs declaration by taking any of the following steps—
- (a) steps to establish the entitlement of a person to make a Customs declaration and generally to determine whether the conditions for making the declaration are met, and
  - (b) steps to establish the accuracy of a Customs declaration or any document required to accompany it.
- (2) An HMRC officer may take any of the steps in sub-paragraph (1) before or after, or at the same time as, accepting the declaration.
- (3) If an HMRC officer takes any of those steps before a Customs declaration is accepted, the officer—
- (a) may notify the person making the declaration that the declaration is to be treated for the purposes of this Part as if it had been accepted by HMRC (whether or not it would have been accepted under paragraph 11(2)), and
  - (b) may make any amendments of the declaration that the officer considers are appropriate.
- (4) A notification under sub-paragraph (3) constitutes the acceptance of the declaration by HMRC for the purposes of this Part (as amended, where relevant, by an HMRC officer).
- (5) For further provision governing the steps which the officer may take, see, in particular, Parts 7 and 12 of CEMA 1979.

**Commencement Information**

**I13** Sch. 1 para. 13 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 14 (1) This paragraph applies if an HMRC officer considers at any time that there is an inaccuracy in a Customs declaration (including as a result of an inaccuracy in a document accompanying it).
- (2) The officer—
- (a) must notify the person making the declaration of the inaccuracy, and
  - (b) must correct the declaration, or direct the person who has made the declaration or any other appropriate person to make the necessary corrections.

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- (3) Any liability to import duty in respect of any goods is determined on the basis of the information contained in the Customs declaration as corrected (or required to be corrected) under this paragraph.
- (4) A notification is not required to be given under sub-paragraph (2)(a) if an HMRC officer considers that doing so might prejudice an investigation that could result in legal proceedings (whether or not involving the person who would otherwise be notified).

**Commencement Information**

**I14** Sch. 1 para. 14 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

*Amendment or withdrawal of Customs declarations*

- 15 (1) A person who has made a Customs declaration is entitled to amend or withdraw it at any time before a relevant event occurs.
- (2) For this purpose “a relevant event occurs” on the first occurrence of any of the following—
  - (a) an HMRC officer indicating to the person that the officer intends to take steps to verify the declaration,
  - (b) an HMRC officer taking steps to verify the declaration, and
  - (c) HMRC accepting the declaration.

**Commencement Information**

**I15** Sch. 1 para. 15 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 16 Once a relevant event occurs, the person making the declaration may amend or withdraw it only if—
  - (a) a notification to amend or withdraw the declaration is given to an HMRC officer before the end of a period specified in a public notice given by HMRC Commissioners, and
  - (b) an HMRC officer consents to the making of the amendment or the withdrawal.

**Commencement Information**

**I16** Sch. 1 para. 16 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- [<sup>F6</sup>16A. Paragraphs 15 and 16 are subject to provision contained in regulations made under paragraph 3(5) about customs declarations that are made before goods are imported into the United Kingdom (for example, provision that in certain cases such declarations may only be amended or withdrawn with the consent of an HMRC officer).]



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### Textual Amendments

- F6** Sch. 1 para. 16A inserted (16.12.2020) by The Taxation Cross-border Trade (Special Procedures Supplementary and General Provision etc.) (EU Exit) Regulations 2020 (S.I. 2020/1439), regs. 1(3)(c), 5(2)

#### *Releasing and discharging goods to and from Customs procedures*

- 17 (1) Once chargeable goods are declared for a Customs procedure, the goods remain subject to the control of any HMRC officer until the procedure is discharged.
- (2) If goods are declared for the free-circulation procedure, the goods are released to the procedure—
- (a) when the import duty is paid, or
  - (b) if satisfactory payment arrangements are in place, when the declaration is accepted by HMRC.
- (3) For this purpose “satisfactory payment arrangements” are in place only if—
- (a) an approved guarantee for the payment of import duty has effect in relation to the goods, or
  - (b) HMRC are, in cases specified in a public notice given by HMRC Commissioners, otherwise satisfied, by reference to matters specified in the notice, that the import duty will be paid.
- (4) The goods are discharged from the free-circulation procedure when HMRC notify the person making the declaration that the goods are discharged from the procedure.
- (5) Consequently, at that point—
- (a) the goods cease to be chargeable goods, and
  - (b) the goods cease to be subject to control of an HMRC officer,
- but nothing in this sub-paragraph prevents the subsequent exercise of a power of to verify the declaration under paragraph 13.
- (6) If the goods are declared for a special Customs procedure, the goods are released to the procedure at whichever is the later of the following times—
- (a) the time at which HMRC accept the declaration, or
  - (b) if the procedure is one requiring the person making the declaration to be authorised, the time determined in accordance with paragraph 1(2)(f) of Schedule 2 as the time from which the procedure may be used in respect of the goods.
- (7) Once goods are released to a special Customs procedure—
- (a) the goods are subject to the provision made by or under Schedule 2, and
  - (b) the procedure continues to have effect until it is discharged in accordance with the provision made by or under that Schedule.

### Commencement Information

- I17** Sch. 1 para. 17 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

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### *Declarations for different Customs procedures*

- 18 (1) The fact that chargeable goods are declared for one Customs procedure does not prevent the goods from being subsequently declared for a different Customs procedure.
- (2) Goods may not be released to a Customs procedure at any time if another Customs procedure has effect in relation to the goods at that time (but this is subject to paragraph 20(2) of Schedule 2).

#### **Commencement Information**

**I18** Sch. 1 para. 18 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

### *Notifications given by HMRC or HMRC officers*

- 19 (1) Any notification given by HMRC or an HMRC officer under this Schedule may be given in such form and manner as the person giving it considers appropriate.
- (2) HMRC Commissioners may by regulations make provision specifying cases where it is to be presumed that a person has been notified under this Schedule (including cases where the presumption may not be rebutted).

#### **Commencement Information**

**I19** Sch. 1 para. 19 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

## SCHEDULE 2

Section 3(6)

### SPECIAL CUSTOMS PROCEDURES

#### **PART 1**

##### ENTITLEMENT TO DECLARE GOODS FOR SPECIAL CUSTOMS PROCEDURES

- 1 (1) HMRC Commissioners may by regulations make provision entitling a person to declare goods for a special Customs procedure only if—
- (a) the person is authorised in accordance with provision made by or under the regulations, and
  - (b) any other specified conditions are met in relation to the making of the declaration (for example, the giving of information or documents to HMRC).
- (2) The provision that the regulations may make in respect of authorisations includes (among other things)—
- (a) provision for an authorisation to be granted only to persons established (as determined in accordance with provision made by the regulations) [<sup>F7</sup>in, or outside, a specified place],

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- (b) provision for an authorisation to be granted only to persons meeting such other conditions as to their suitability as may be specified (which may be framed by reference to the judgment of any person),
  - (c) provision specifying other criteria for the granting of authorisations,
  - (d) provision about the period for which an authorisation is to have effect,
  - (e) provision making the grant of the authorisation subject to conditions specified in the authorisation (which may be framed by reference to a document published by HMRC Commissioners) or in the regulations,
  - (f) provision for determining the time from which a special Customs procedure may be used in respect of any goods (including provision for the time to be determined in accordance with provision made by the authorisation),
  - (g) provision for treating the making of a declaration as an application for authorisation,
  - (h) provision for treating an application for authorisation (including one as a result of paragraph (g)) as granted in specified cases, and
  - (i) provision granting an authorisation (a “retrospective authorisation”) with effect from a time before the application for it is made.
- (3) If the Treasury consider it appropriate for the regulations to contain an economic condition applicable to a qualifying case, they may give directions to HMRC Commissioners requiring them to make regulations containing such a condition.
- (4) For this purpose—
- “an economic condition”, in relation to any goods, means a condition designed to secure that an authorisation is granted only if its granting would not adversely affect the interests of producers in the United Kingdom of the goods, and
  - “qualifying case” means a case where—
    - (a) a person is authorised to declare goods for an inward processing procedure, or
    - (b) a person is granted a retrospective authorisation.

#### Textual Amendments

- F7** Words in Sch. 2 para. 1(2)(a) substituted (17.12.2020 for specified purposes) by [Taxation \(Post-transition Period\) Act 2020 \(c. 26\)](#), s. 11(1)(e), [Sch. 1 para. 9\(2\)](#) (with [Sch. 2 para. 7\(7\)-\(9\)](#))

#### Commencement Information

- I20** Sch. 2 para. 1 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

## PART 2

### STORAGE PROCEDURE

#### *Meaning of goods declared for “a storage procedure”*

- 2 (1) A declaration of goods for “a storage procedure” is a declaration that the goods—
- (a) are to be kept in premises approved by HMRC, or
  - (b) are to be kept in a free zone,

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in accordance with requirements imposed on any person by or under regulations made by HMRC Commissioners.

- (2) References in this Part of this Schedule to cases where premises are approved by HMRC include cases where the premises are owned, occupied or otherwise used by a person approved by HMRC.
- (3) HMRC Commissioners may by regulations make provision imposing any other requirements on any person in relation to a storage procedure in respect of goods that are kept in—
  - (a) premises approved by HMRC, or
  - (b) free zones,
 including provision as to what, or as to the extent to which, other activities may, or may not, be done in the premises or free zones (or elsewhere).
- (4) HMRC Commissioners may by regulations make any other provision that they consider appropriate for the purposes of import duty in relation to goods kept in free zones.
- (5) In this Part of this Schedule “free zone” means an area in the United Kingdom designated as a special area for customs purposes under section 100A of CEMA 1979.

#### Commencement Information

**I21** Sch. 2 para. 2 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

#### *Keeping of goods in premises approved by HMRC*

- 3 In the case of goods kept in premises approved by HMRC, each of the following is an example of the kind of provision that may be made by regulations under paragraph 2—
  - (a) provision establishing the criteria for approval,
  - (b) provision about the person to whom approval is to be granted,
  - (c) provision making the continued effect of the approval subject to the meeting of conditions specified in the approval or in the regulations,
  - (d) provision for goods to be kept in premises only by the person to whom the approval is granted, and
  - (e) provision for any processing of goods to be limited to processing of a description specified in the approval or in the regulations.

#### Commencement Information

**I22** Sch. 2 para. 3 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

#### *Keeping of goods in free zones*

- 4 In the case of goods kept in free zones, each of the following is an example of the kind of provision that may be made by regulations under paragraph 2—

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- (a) provision authorising any processing of goods, or the carrying on of any other activity, in a free zone (subject only to restrictions or other limitations, exceptions or conditions that are specified),
- (b) provision treating any chargeable goods entering a free zone as if they had been declared for a storage procedure,
- (c) provision establishing a presumption (unless the contrary is shown) that goods taken out of a free zone are chargeable goods and requiring the goods to be declared for a Customs procedure,
- (d) provision requiring goods entering or leaving a free zone to be presented at a place of a specified description together with documents of a specified description, and
- (e) provision for exempting goods of a specified description from the application of any other provision made by or under this Part of this Act in cases where they are wholly consumed in a free zone or otherwise cease to exist having been wholly used in a free zone.

#### Commencement Information

**I23** Sch. 2 para. 4 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

### PART 3

#### TRANSIT PROCEDURE

##### *Meaning of goods declared for “a transit procedure”*

- 5 (1) A declaration of goods for “a transit procedure” is a declaration—
- (a) that goods are to move from one place in [<sup>F8</sup>Great Britain] to another place in [<sup>F8</sup>Great Britain], and
  - (b) that the goods, so long as they are in [<sup>F8</sup>Great Britain], are to be subject to requirements in relation to their movement in [<sup>F8</sup>Great Britain] imposed on any person by or under regulations made by HMRC Commissioners.
- (2) Each of the following is an example of the kind of requirements that may be imposed by the regulations—
- (a) a requirement for the goods to be presented at places of a specified description together with documents of a specified description,
  - (b) a requirement for the goods to be presented at any place within paragraph (a) at or before such time as may be specified,
  - (c) a requirement for the route by which the goods are to be moved to be a specified route,
  - (d) a requirement for the movement of the goods to be by a specified means of transport, and
  - (e) requirements imposed on any person who is in possession or control of the goods in circumstances where the person knows, or ought reasonably to have known, that the goods are subject to a transit procedure.

*Status: Point in time view as at 17/12/2020.*

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#### Textual Amendments

- F8** Words in Sch. 2 para. 5(1) substituted (17.12.2020 for specified purposes) by [Taxation \(Post-transition Period\) Act 2020 \(c. 26\)](#), s. 11(1)(e), **Sch. 1 para. 9(3)** (with [Sch. 2 para. 7\(7\)-\(9\)](#))

#### Commencement Information

- I24** Sch. 2 para. 5 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

#### *Other requirements in relation to transit procedure*

- 6 (1) HMRC Commissioners may by regulations make provision imposing any other requirements on any person in relation to a transit procedure in respect of goods declared for the procedure.
- (2) Each of the following is an example of the kind of requirements that may be imposed by the regulations—
- (a) a requirement for the goods to be in a specified condition at specified times,
  - (b) a requirement for the goods to be identified by reference to specified documents and for the documents to accompany the goods,
  - (c) a requirement for a person to permit the inspection of the goods, the means of transport by which the goods are moved and the documents mentioned in paragraph (b), and
  - (d) a requirement imposed on any person for the purposes of, or in connection with, implementing any international arrangement to which Her Majesty's government in the United Kingdom is a party.

#### Commencement Information

- I25** [Sch. 2 para. 6](#) in force for specified purposes at 13.9.2018, see s. 57(1)(a)

#### *Deeming a declaration for a transit procedure to be made*

- 7 (1) Regulations made by HMRC Commissioners may make provision, in specified cases, for treating a person as having declared goods for a transit procedure.
- (2) The regulations may make provision for treating a transit procedure for which goods are declared as a result of this paragraph as discharged in specified cases.

#### Commencement Information

- I26** [Sch. 2 para. 7](#) in force for specified purposes at 13.9.2018, see s. 57(1)(a)

## PART 4

### INWARD PROCESSING PROCEDURE

#### *Introduction*

- 8 A declaration of goods for “an inward processing procedure” may be—

*Status: Point in time view as at 17/12/2020.*

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- (a) a declaration in the standard form (which is dealt with by paragraphs 9 and 10), or
- (b) a declaration in the supplementary form (which is dealt with by paragraphs 11 and 12).

#### Commencement Information

I27 Sch. 2 para. 8 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

#### *Meaning of goods declared for “an inward processing procedure” in the standard form*

- 9 (1) A declaration of goods for “an inward processing procedure” in the standard form is a declaration—
- (a) that the goods are to be imported into the United Kingdom in order to be processed [<sup>F9</sup>in Great Britain ],
  - (b) that the processing is to take place during a temporary period,
  - (c) that the processing is to consist of qualifying processing activities, and
  - (d) that the processing of the goods is to be carried out in accordance with requirements imposed on any person by or under regulations made by HMRC Commissioners.
- (2) The temporary period during which the processing is to take place is the period specified in a notice given to the person making the declaration by an HMRC officer.
- (3) That period may be subsequently extended (or further extended) by another notice given as mentioned in sub-paragraph (2).
- (4) For the purposes of this paragraph processing “consists of qualifying processing activities” in relation to any goods if—
- (a) the processing is the repair of the goods,
  - (b) the processing of the goods (“the imported goods”) results in the production or manufacture of other goods in which the imported goods can be identified,
  - (c) the processing is the use of production accessories, or
  - (d) the processing is the destruction of the goods.
- (5) If an inward processing procedure in the standard form has effect in relation to any goods, the goods may be exported in accordance with the applicable export provisions [<sup>F10</sup>, or removed to Northern Ireland,] for a temporary period for processing outside [<sup>F11</sup>Great Britain] without discharging the procedure.
- (6) The inward processing procedure in the standard form is not discharged in accordance with sub-paragraph (5) only if—
- (a) the processing of the goods outside [<sup>F12</sup>Great Britain] is carried out in accordance with requirements imposed on any person by or under regulations made by HMRC Commissioners,
  - (b) the processing takes place during a period specified in a notice given to the person making the declaration by an HMRC officer (and sub-paragraph (3) also applies for the purposes of this sub-paragraph), and
  - (c) any other conditions specified in regulations made by HMRC Commissioners are met.

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- (7) The requirements that may be imposed by regulations under this paragraph include—
- (a) requirements that any processing of a specified description of any goods must result in the production or manufacture of the approved quantity of other goods, and
  - (b) requirements that any processing is to be carried out only by persons of a specified description.
- (8) For the purposes of sub-paragraph (7)(a) “the approved quantity of other goods” means a quantity of the other goods that is determined by reference to a specified methodology.
- (9) The provision that may be made by the regulations about a methodology includes provision for the methodology—
- (a) to be framed by reference to average production or manufacture of goods over a period,
  - (b) to apply generally to specified cases, or
  - (c) to be set by an HMRC officer or chosen by the person who has declared the goods for an inward processing procedure in the standard form (subject to other provision in the regulations limiting the choice).

#### Textual Amendments

- F9** Words in Sch. 2 para. 9(1)(a) substituted (17.12.2020 for specified purposes) by [Taxation \(Post-transition Period\) Act 2020 \(c. 26\), s. 11\(1\)\(e\), Sch. 1 para. 9\(4\)\(a\)](#) (with Sch. 2 para. 7(7)-(9))
- F10** Words in Sch. 2 para. 9(5) inserted (17.12.2020 for specified purposes) by [Taxation \(Post-transition Period\) Act 2020 \(c. 26\), s. 11\(1\)\(e\), Sch. 1 para. 9\(4\)\(b\)\(i\)](#) (with Sch. 2 para. 7(7)-(9))
- F11** Words in Sch. 2 para. 9(5) substituted (17.12.2020 for specified purposes) by [Taxation \(Post-transition Period\) Act 2020 \(c. 26\), s. 11\(1\)\(e\), Sch. 1 para. 9\(4\)\(b\)\(ii\)](#) (with Sch. 2 para. 7(7)-(9))
- F12** Words in Sch. 2 para. 9(6)(a) substituted (17.12.2020 for specified purposes) by [Taxation \(Post-transition Period\) Act 2020 \(c. 26\), s. 11\(1\)\(e\), Sch. 1 para. 9\(4\)\(c\)](#) (with Sch. 2 para. 7(7)-(9))

#### Commencement Information

- I28** Sch. 2 para. 9 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

#### *Other requirements in relation to inward processing procedure in the standard form*

- 10 HMRC Commissioners may by regulations make provision imposing any other requirements on any person in relation to an inward processing procedure in the standard form in respect of goods declared for the procedure.

#### Commencement Information

- I29** [Sch. 2 para. 10](#) in force for specified purposes at 13.9.2018, see s. 57(1)(a)

#### *Meaning of goods declared for “an inward processing procedure” in the supplementary form*

- 11 A declaration of goods for “an inward processing procedure” in the supplementary form is a declaration—



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- (a) that the goods are to be subject to any operation designed to secure that they comply with requirements that must be met before the goods can lawfully be released for free circulation in [<sup>F13</sup>Great Britain,]
- [<sup>F14</sup>(aa) that the goods are to be subject to any operation designed to secure that they comply with requirements that must be met before the goods can lawfully be released in accordance with Union customs legislation to a procedure corresponding to the free-circulation procedure, or]
- (b) that the goods are to be subject to any operation designed to preserve them, improve their appearance or marketable quality or otherwise prepare them for distribution or resale.

#### Textual Amendments

- F13** Words in [Sch. 2 para. 11\(a\)](#) substituted (17.12.2020 for specified purposes) by [Taxation \(Post-transition Period\) Act 2020 \(c. 26\), s. 11\(1\)\(e\), Sch. 1 para. 9\(5\)\(a\)](#) (with [Sch. 2 para. 7\(7\)-\(9\)](#))
- F14** [Sch. 2 para. 11\(aa\)](#) inserted (17.12.2020 for specified purposes) by [Taxation \(Post-transition Period\) Act 2020 \(c. 26\), s. 11\(1\)\(e\), Sch. 1 para. 9\(5\)\(b\)](#) (with [Sch. 2 para. 7\(7\)-\(9\)](#))

#### Commencement Information

- I30** [Sch. 2 para. 11](#) in force for specified purposes at 13.9.2018, see [s. 57\(1\)\(a\)](#)

#### *Requirements in relation to inward processing procedure in the supplementary form*

- 12 (1) HMRC Commissioners may by regulations make provision imposing requirements on any person in relation to an inward processing procedure in the supplementary form in respect of goods declared for the procedure.
- (2) The provision that may be made by the regulations includes provision that may be made by or under paragraph 9 or 10.

#### Commencement Information

- I31** [Sch. 2 para. 12](#) in force for specified purposes at 13.9.2018, see [s. 57\(1\)\(a\)](#)

## PART 5

### AUTHORISED USE PROCEDURE

#### *Meaning of goods declared for “an authorised use procedure”*

- 13 A declaration of goods for “an authorised use procedure” is a declaration that the goods are to be subject to use of a description specified in regulations made by HMRC Commissioners.

#### Commencement Information

- I32** [Sch. 2 para. 13](#) in force for specified purposes at 13.9.2018, see [s. 57\(1\)\(a\)](#)

*Status: Point in time view as at 17/12/2020.*

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*Other requirements in relation to authorised use procedure*

- 14 HMRC Commissioners may by regulations make provision imposing any other requirements on any person in relation to an authorised use procedure in respect of goods declared for the procedure.

**Commencement Information**

**I33** Sch. 2 para. 14 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

**PART 6**

TEMPORARY ADMISSION PROCEDURE

*Meaning of goods declared for “a temporary admission procedure”*

- 15 A declaration of goods for “a temporary admission procedure” is a declaration—
- (a) that the goods are of a description specified in regulations made by HMRC Commissioners, and
  - (b) that the goods are to be used for a period specified in regulations made by HMRC Commissioners before the goods are exported from the United Kingdom in accordance with the applicable export provisions [<sup>F15</sup>or are removed to Northern Ireland].

**Textual Amendments**

**F15** Words in Sch. 2 para. 15(b) inserted (17.12.2020 for specified purposes) by [Taxation \(Post-transition Period\) Act 2020 \(c. 26\)](#), s. 11(1)(e), [Sch. 1 para. 9\(6\)](#) (with [Sch. 2 para. 7\(7\)-\(9\)](#))

**Commencement Information**

**I34** Sch. 2 para. 15 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

*Other requirements in relation to temporary admission procedure*

- 16 HMRC Commissioners may by regulations make provision imposing any other requirements on any person in relation to a temporary admission procedure in respect of goods declared for the procedure.

**Commencement Information**

**I35** Sch. 2 para. 16 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

*Status: Point in time view as at 17/12/2020.*

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## PART 7

### SUPPLEMENTARY PROVISIONS

#### *Records*

- 17 (1) HMRC Commissioners may by regulations make provision about the keeping of records in respect of goods that are subject to a special Customs procedure.
- (2) The regulations may provide for requirements to be imposed, in respect of records of a specified description, on—
- (a) any person to whom an authorisation is granted to declare the goods for the procedure,
  - (b) any person to whom any other authorisation is granted in accordance with regulations made under any provision of this Schedule,
  - (c) any person who is involved to any extent in handling, processing, disposing of or otherwise dealing with the goods while the procedure has effect, or
  - (d) any other person.

#### **Commencement Information**

**I36** Sch. 2 para. 17 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

#### *Discharge of special Customs procedures: rules applicable to all procedures*

- 18 (1) The provision made by or under this Schedule in relation to goods declared for a special Customs procedure has effect from the time at which the goods are released to the procedure until the time at which the procedure is discharged in accordance with this paragraph or paragraph 19.
- (2) A special Customs procedure is discharged if—
- (a) the goods are declared for another Customs procedure, and
  - (b) HMRC accept the declaration.
- (3) Directions given by HMRC Commissioners may require a special Customs procedure to be discharged before a date specified in, or determined in accordance with, the directions.
- (4) If—
- (a) the procedure is not discharged before that date, and
  - (b) an HMRC officer gives a notice under this sub-paragraph to the person who declared the goods for the procedure,
- the goods are treated for the purposes of this Part of this Act as if, at the time at which the notice is given, that person had declared the goods for the free-circulation procedure and HMRC had accepted that declaration.
- (5) Directions under this paragraph—
- (a) may be given generally by HMRC Commissioners or in relation to the particular case concerned by an HMRC officer, and
  - (b) if given generally, may be given by way of a public notice given by HMRC Commissioners.

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- (6) Any regulations made under the Part of this Schedule relating to a particular special Customs procedure—
- (a) may require the procedure to be discharged before a specified date, and
  - (b) may make provision replicating or applying, with or without modifications, the provision made by sub-paragraph (4) or (5).
- (7) Any regulations made under the Part of this Schedule relating to a particular special Customs procedure may require the goods to be presented at any place in accordance with the regulations before the procedure is discharged.

#### Commencement Information

**I37** Sch. 2 para. 18 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

#### *Discharge of special Customs procedures: rules applicable to particular procedures*

- 19 (1) This paragraph specifies further cases in which particular special Customs procedures are discharged.
- (2) A transit procedure is discharged in accordance with provision made by regulations made by HMRC Commissioners.
- (3) A storage procedure, an inward processing procedure, an authorised use procedure or a temporary admission procedure is discharged if—
- (a) the goods are exported from the United Kingdom in accordance with the applicable export provisions [<sup>F16</sup>or are removed to Northern Ireland],
  - (b) the goods are destroyed, or
  - (c) the goods are liable to forfeiture.
- (4) In addition, an authorised use procedure or temporary admission procedure in respect of any goods is discharged if the requirements imposed by or under this Schedule in relation to the procedure are met in respect of the goods.

#### Textual Amendments

**F16** Words in Sch. 2 para. 19(3)(a) inserted (17.12.2020 for specified purposes) by [Taxation \(Post-transition Period\) Act 2020 \(c. 26\)](#), s. 11(1)(e), [Sch. 1 para. 9\(7\)](#) (with [Sch. 2 para. 7\(7\)-\(9\)](#))

#### Commencement Information

**I38** Sch. 2 para. 19 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

#### *Discharge of special Customs procedures: other provision*

- 20 (1) Despite the provision made by paragraph 18 or 19, a special Customs procedure in respect of any goods is not discharged if a liability to import duty is incurred in respect of the goods while the procedure has effect and—
- (a) a guarantee has not been given in accordance with regulations under paragraph 6 of Schedule 6 that has effect in relation to the goods, or
  - (b) if no guarantee is given, the import duty has not been paid.

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- (2) If a special Customs procedure in respect of any goods is prevented from being discharged as a result of sub-paragraph (1) (and only as a result of that sub-paragraph), that does not prevent the goods from also being released to another special Customs procedure.
- (3) HMRC Commissioners may by regulations make provision as to the evidence which is to be required, or is to be sufficient, for the purpose of showing that a special Customs procedure has been discharged.

#### Commencement Information

**I39** Sch. 2 para. 20 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

#### *Liability to import duty imposed on persons other than declarant etc*

- 21 (1) HMRC Commissioners may by regulations impose a liability to import duty on any person who, at any time while a special Customs procedure has effect, breaches a requirement imposed on the person by provision made by or under this Schedule.
- (2) The regulations may provide for cases in which the person is not liable to import duty even though the person breaches a requirement.

#### Commencement Information

**I40** Sch. 2 para. 21 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

#### *Changes in nature of goods while subject to a special Customs procedure etc*

- 22 (1) If at any time while a special Customs procedure has effect in relation to any goods—
  - (a) there is a change in the goods, and
  - (b) a liability to import duty is incurred,HMRC Commissioners may by regulations make provision for determining the liability by reference to the goods as they stood when the declaration for the procedure was made (and not when the liability is incurred).
- (2) The regulations—
  - (a) may apply only in relation to a special Customs procedure of a specified description, and
  - (b) may provide for their application to be limited to cases where an HMRC officer considers that the regulations ought to apply.
- (3) In the case of goods declared for a special Customs procedure, HMRC Commissioners may make provision by regulations for altering the value of the goods for the purposes of import duty so as to take account of things done after the declaration is made.
- (4) The regulations may provide—
  - (a) for the alteration to be applicable only in relation to special Customs procedures of a specified description and only in relation to things done of a specified description, and

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- (b) for the amount of the alteration to be determined in accordance with the regulations.
- (5) Except as provided for by—
  - (a) the preceding provisions of this paragraph, or
  - (b) provision made in regulations made by HMRC Commissioners,
 if there is a change in any goods at any time while a special Customs procedure has effect in relation to the goods, the goods are to be regarded nonetheless as the same goods for the purposes of any provision made by or under this Part of this Act.
- (6) For the purposes of this paragraph it does not matter—
  - (a) whether a change in any goods is a change in their nature or in any other respect, or
  - (b) whether a change in any goods is as a result of their incorporation into any other goods or anything else.

#### Commencement Information

**I41** Sch. 2 para. 22 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

#### *Use of equivalent domestic goods*

- 23 (1) HMRC Commissioners may, in cases where goods (“the imported goods”) are intended to be declared for a special Customs procedure, by regulations make provision for requirements in relation to the procedure to be met by reference to equivalent domestic goods.
- (2) Goods are “equivalent domestic goods” if they are domestic goods that are of the same, or of substantially the same, description as the imported goods.
- (3) Among other things, the regulations may—
- (a) secure that, once a declaration of the imported goods for a special Customs procedure is accepted by HMRC, the goods are treated for the purposes of this Part of this Act as if they had been simultaneously released to, and discharged from, the procedure, and
  - (b) provide that goods may not be so treated unless the requirements in relation to the procedure were met by reference to the equivalent domestic goods.
- (4) The provision that may be made by the regulations includes provision for authorising goods in accordance with the regulations before they may be used as equivalent domestic goods.
- (5) HMRC Commissioners may by regulations make provision as to cases in which goods are, or are not, to be regarded as equivalent domestic goods for the purposes of this paragraph.
- (6) This paragraph does not apply to a transit procedure.

#### Commencement Information

**I42** Sch. 2 para. 23 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

*Status: Point in time view as at 17/12/2020.*

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### Directions

- 24 Any directions given by the Treasury or HMRC Commissioners under this Schedule may be amended or revoked.

#### Commencement Information

**I43** Sch. 2 para. 24 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

## SCHEDULE 3

Section 10

### ELIGIBLE DEVELOPING COUNTRIES

#### PART 1

##### INTRODUCTION

- 1 For the purposes of section 10—
- (a) a country or territory is an “eligible developing country” if it is listed in Part 2 or Part 3 of this Schedule;
  - (b) a country or territory is a “least developed country” if it is listed in Part 2 of this Schedule.

#### Commencement Information

**I44** Sch. 3 para. 1 in force at 23.1.2019 by S.I. 2019/69, reg. 2

#### PART 2

##### LEAST DEVELOPED COUNTRIES

#### Commencement Information

**I45** Sch. 3 Pt. 2 in force at 23.1.2019 by S.I. 2019/69, reg. 2

Afghanistan	Congo (Democratic Republic)	Lesotho	Sierra Leone
Angola	Djibouti	Liberia	Solomon Islands
Bangladesh	East Timor	Madagascar	Somalia
Benin	Equatorial Guinea	Malawi	South Sudan
Bhutan	Eritrea	Mali	Sudan
Burkina Faso	Ethiopia	Mauritania	Tanzania
Burma	Gambia (The)	Mozambique	Togo

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Burundi	Guinea	Nepal	Tuvalu
Cambodia	Guinea-Bissau	Niger	Uganda
Central African Republic	Haiti	Rwanda	Vanuatu
Chad	Kiribati	Sao Tome and Principe	Yemen
Comoros	Laos	Senegal	Zambia

### PART 3

#### OTHER ELIGIBLE DEVELOPING COUNTRIES

##### Commencement Information

**I46** Sch. 3 Pt. 3 in force at 23.1.2019 by S.I. 2019/69, reg. 2

Armenia	Guyana	Mongolia	Sri Lanka
Bolivia	Honduras	Morocco	Swaziland
Cameroon	India	Nauru	Syria
Cape Verde	Indonesia	Nicaragua	Tajikistan
Congo	Ivory Coast	Nigeria	Tonga
Cook Islands	Jordan	Niue	Tunisia
Egypt	Kenya	Occupied Palestinian Territories	Ukraine
El Salvador	Kosovo	Pakistan	Uzbekistan
Georgia	Kyrgyzstan	Papua New Guinea	Vietnam
Ghana	Micronesia	Philippines	Zimbabwe
Guatemala	Moldova	Samoa	

### PART 4

#### POWER TO AMEND PARTS 2 AND 3

- 2 (1) The Secretary of State may by regulations add countries or territories to or remove them from a list in Part 2 or 3 if the Secretary of State is satisfied that—
- in the case of the list in Part 2, the country or territory has become, or ceased to be, a least developed country or territory;
  - in the case of the list in Part 3, the country has become, or ceased to be, a country or territory that is similarly situated to the other countries and territories listed in Part 3, in terms of its economic characteristics.



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- (2) In determining whether a country or territory has become or ceased to be a least developed country or territory, the Secretary of State must have regard to its classification by the United Nations.
- (3) In determining whether a country or territory has become or ceased to be similarly situated to the other countries and territories listed in Part 3, the Secretary of State must have regard, among other things, to its classification by the World Bank.
- (4) The Secretary of State may by regulations amend a list in Part 2 or 3 to reflect a change in the name of a country or territory.

#### Commencement Information

**I47** Sch. 3 para. 2 in force at 23.1.2019 by S.I. 2019/69, reg. 2

## SCHEDULE 4

Section 13

### DUMPING OF GOODS OR FOREIGN SUBSIDIES CAUSING INJURY TO UK INDUSTRY

#### Modifications etc. (not altering text)

**C1** Sch. 4 applied (6.3.2019) by [The Trade Remedies \(Dumping and Subsidisation\) \(EU Exit\) Regulations 2019 \(S.I. 2019/450\)](#), regs. 1(2), **97(1)** (with Pt. 13) (as amended (23.7.2019) by [The Trade Remedies \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/1076\)](#), regs. 1, **11(2)**)

## PART 1

### KEY DEFINITIONS

#### *Meaning of “dumped”*

- 1 (1) For the purposes of this Schedule, goods are “dumped” in the United Kingdom if—
  - (a) they are imported into the United Kingdom, and
  - (b) their export price is less than their normal value;and references to the “dumping” of goods are to be read accordingly.
- (2) The “normal value” of goods means—
  - (a) the comparable price, in the ordinary course of trade, for like goods (see paragraph 7) when destined for consumption in the exporting foreign country or territory, or
  - (b) such other price or value as may be determined in accordance with provision made by regulations for specified cases where it is not appropriate to use the price in paragraph (a).
- (3) Regulations may make provision for the purposes of this paragraph—
  - (a) about what constitutes or does not constitute—
    - (i) the “export price” of goods;

*Status: Point in time view as at 17/12/2020.*

*Changes to legislation: Taxation (Cross-border Trade) Act 2018 is up to date with all changes known to be in force on or before 21 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (ii) “the comparable price”;
- (iii) “in the ordinary course of trade”;
- (iv) “the exporting foreign country or territory”;
- (b) about how any of those matters are to be determined;
- (c) to ensure that a fair comparison is made between the export price of goods and their normal value;
- (d) about the use of sampling to determine the export price or normal value of goods.

**Commencement Information**

**I48** Sch. 4 para. 1 in force at 4.3.2019 at 11:59 a.m. by [S.I. 2019/429](#), [reg. 2](#) (with [regs. 4-9](#))

*Meaning of “the margin of dumping”*

- 2 For the purposes of this Schedule, “the margin of dumping”, in relation to goods, means the amount which is the difference between—
- (a) their export price as determined in accordance with paragraph 1, and
  - (b) their normal value as determined in accordance with that paragraph.

**Commencement Information**

**I49** Sch. 4 para. 2 in force at 4.3.2019 at 11:59 a.m. by [S.I. 2019/429](#), [reg. 2](#) (with [regs. 4-9](#))

*Meaning of “subsidised”, “countervailable subsidy” and related terms*

- 3 (1) For the purposes of this Schedule—
- (a) goods are “subsidised” if they are goods in respect of whose manufacture, production, export or transport a countervailable subsidy is granted, and
  - (b) references to the “subsidisation” of goods are to be read accordingly.
- (2) For the purposes of this Schedule, a “countervailable subsidy” is a subsidy which is specific and which is granted directly or indirectly for the manufacture, production, export or transport of goods.
- (3) For the purposes of this Schedule, a “subsidy” exists if there is—
- (a) a financial contribution by a foreign authority which confers a benefit, or
  - (b) a form of income or price support within the meaning of Article XVI of the General Agreement on Tariffs and Trade 1994 (being part of Annex 1A to the WTO Agreement) received from a foreign authority which confers a benefit.
- (4) For the purposes of this Schedule, a “foreign authority” means a government or public body within the territory of a foreign country or territory.
- (5) Regulations may make provision for the purposes of this paragraph—
- (a) about what constitutes or does not constitute a “subsidy”, “a financial contribution by a foreign authority”, “a government” or a “public body” and how any of those matters are to be determined;
  - (b) about what constitutes or does not constitute “a benefit” and how it is to be determined whether a benefit is conferred;

*Status: Point in time view as at 17/12/2020.*

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- (c) about what constitutes or does not constitute a subsidy which is “specific” and how it is to be determined whether such a subsidy is granted directly or indirectly as described in sub-paragraph (2).

**Commencement Information**

**I50** Sch. 4 para. 3 in force at 4.3.2019 at 11:59 a.m. by [S.I. 2019/429](#), [reg. 2](#) (with [regs. 4-9](#))

*Meaning of “the amount of the subsidy”*

- 4 (1) For the purposes of this Schedule, “the amount of the subsidy”, in relation to goods, means the amount of the benefit conferred during a specified period by the countervailable subsidy as attributed to the goods in question.
- (2) Regulations may make provision—
- (a) about how the amount of the benefit conferred by the countervailable subsidy is to be determined for those purposes;
- (b) about what constitutes or does not constitute “benefit” for those purposes;
- (c) about how the amount of the benefit conferred is to be attributed to the goods in question.
- (3) Such regulations may, among other things, make provision about the use of sampling or cumulative assessments.
- (4) “Specified period” means such period as may be specified by regulations.

**Commencement Information**

**I51** Sch. 4 para. 4 in force at 4.3.2019 at 11:59 a.m. by [S.I. 2019/429](#), [reg. 2](#) (with [regs. 4-9](#))

*Meaning of “injury”*

- 5 (1) For the purposes of this Schedule, “injury” to a UK industry in particular goods (see paragraph 6) means—
- (a) material injury, or the threat of material injury, to the industry, or
- (b) material retardation of the establishment of the industry.
- (2) Regulations may make provision about—
- (a) what constitutes or does not constitute material injury to a UK industry or the threat of such injury for the purposes of this Schedule;
- (b) what constitutes or does not constitute material retardation of the establishment of a UK industry for the purposes of this Schedule.
- (3) Regulations may make provision about how it is to be determined for the purposes of this Schedule whether—
- (a) the dumping of goods in the United Kingdom has caused or is causing injury to a UK industry in those goods, or
- (b) the importation of subsidised goods into the United Kingdom has caused or is causing injury to a UK industry in those goods.

*Status: Point in time view as at 17/12/2020.*

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- (4) Such regulations may, among other things, make provision about the use of sampling or cumulative assessments.

**Commencement Information**

**I52** Sch. 4 para. 5 in force at 4.3.2019 at 11:59 a.m. by [S.I. 2019/429](#), [reg. 2](#) (with [regs. 4-9](#))

*Meaning of “UK industry”*

- 6 (1) For the purposes of this Schedule, a “UK industry” in particular goods means—
- (a) all the producers in the United Kingdom of like goods (see paragraph 7), or
  - (b) those of them whose collective output of like goods constitutes a major proportion of the total production in the United Kingdom of those goods.
- (2) Regulations may make provision for the purposes of sub-paragraph (1)—
- (a) about what constitutes or does not constitute—
    - (i) a producer in the United Kingdom of like goods;
    - (ii) such a producer's output of like goods;
    - (iii) the total production in the United Kingdom of like goods;
    - (iv) a major proportion of that total production;
  - (b) about how any of those matters are to be determined.

**Commencement Information**

**I53** Sch. 4 para. 6 in force at 4.3.2019 at 11:59 a.m. by [S.I. 2019/429](#), [reg. 2](#) (with [regs. 4-9](#))

*Meaning of “like goods”*

- 7 (1) For the purposes of this Schedule, “like goods”, in relation to goods, means—
- (a) goods which are like those goods in all respects, or
  - (b) if there are no such goods, goods which, although not alike in all respects, have characteristics closely resembling those of the goods in question.
- (2) Regulations may make provision about—
- (a) what constitutes or does not constitute “like goods” for the purposes of this Schedule;
  - (b) how “like goods” is to be determined for those purposes.

**Commencement Information**

**I54** Sch. 4 para. 7 in force at 4.3.2019 at 11:59 a.m. by [S.I. 2019/429](#), [reg. 2](#) (with [regs. 4-9](#))

*Status: Point in time view as at 17/12/2020.*

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## PART 2

### DUMPING AND SUBSIDISATION INVESTIGATIONS

#### *Dumping and subsidisation investigations*

- 8 (1) The TRA may investigate—
- (a) whether goods have been or are being dumped in the United Kingdom, and
  - (b) whether the dumping of the goods has caused or is causing injury to a UK industry in those goods.
- (2) References in this Schedule to a “dumping investigation” are to an investigation under sub-paragraph (1).
- (3) The TRA may investigate—
- (a) whether goods which have been or are being imported into the United Kingdom are subsidised, and
  - (b) whether the importation of the subsidised goods has caused or is causing injury to a UK industry in those goods.
- (4) References in this Schedule to a “subsidisation investigation” are to an investigation under sub-paragraph (3).

#### **Commencement Information**

**I55** Sch. 4 para. 8 in force at 4.3.2019 at 11:59 a.m. by [S.I. 2019/429](#), [reg. 2](#) (with [regs. 4-9](#))

#### *Initiation of a dumping or a subsidisation investigation*

- 9 (1) The TRA may initiate a dumping or a subsidisation investigation in relation to goods only if—
- (a) it is requested to initiate an investigation in an application made—
    - (i) by or on behalf of a UK industry in the goods (“the applicant UK industry”), or
    - (ii) in exceptional circumstances, by the Secretary of State,
  - (b) it is satisfied that the application contains sufficient evidence that—
    - (i) the goods have been or are being dumped in the United Kingdom and the dumping has caused or is causing injury to a UK industry in those goods, or
    - (ii) as the case may be, the goods have been or are being imported into the United Kingdom and are subsidised, and the importation of the subsidised goods has caused or is causing injury to a UK industry in those goods,
  - (c) it is satisfied that it appears from that evidence that—
    - (i) the volume of dumped goods (whether actual or potential), and the injury, is more than negligible, and the margin of dumping in relation to those goods is more than minimal, or
    - (ii) as the case may be, the volume of subsidised goods (whether actual or potential), and the injury, is more than negligible, and the amount of the subsidy in relation to those goods is more than minimal, and

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- (d) the market share requirement is met or the TRA waives the requirement in relation to the application.
- (2) The market share requirement is met if—
- (a) in the case of an application under sub-paragraph (1)(a)(i), the TRA is satisfied that the applicant UK industry has a share of the market for like goods for consumption in the United Kingdom (whether produced there or elsewhere) which is sufficient to justify initiating the investigation;
  - (b) in the case of an application under sub-paragraph (1)(a)(ii), the TRA is satisfied that a UK industry in the goods has a share of the market for like goods for consumption in the United Kingdom (whether produced there or elsewhere) which is sufficient to justify initiating the investigation.
- (3) Regulations may make provision about—
- (a) what constitutes or does not constitute an application made by or on behalf of a UK industry for the purposes of sub-paragraph (1)(a)(i);
  - (b) when an application is made for the purposes of sub-paragraph (1)(a);
  - (c) the information to be contained in such an application;
  - (d) the time limit for determining such an application;
  - (e) what constitutes or does not constitute “negligible” and “minimal” for the purposes of sub-paragraph (1)(c)(i) or (ii);
  - (f) how it is to be determined for those purposes whether those thresholds have been exceeded;
  - (g) what constitutes or does not constitute “the market for like goods for consumption in the United Kingdom” and a UK industry's “share” of that market for the purposes of sub-paragraphs (1)(d) and (2);
  - (h) how any of those matters are to be determined for the purposes of sub-paragraphs (1)(d) and (2).
- (4) If any of the requirements of sub-paragraph (1)(a) to (d) in respect of a dumping or a subsidisation investigation (as the case may be) are not met, the TRA must reject the application and notify the applicant accordingly (unless it is the requirement in sub-paragraph (1)(a) that is not met because the application has been withdrawn).
- (5) If the requirements of sub-paragraph (1)(a) to (d) in respect of a dumping investigation are met, the TRA must—
- (a) accept the application,
  - (b) notify the governments of the relevant foreign countries or territories,
  - (c) initiate the investigation,
  - (d) publish notice of its decision to initiate the investigation (including notice of the goods which are the subject of the investigation), and
  - (e) notify the Secretary of State and interested parties (see paragraph 32(3)) accordingly.
- (6) If the requirements of sub-paragraph (1)(a) to (d) in respect of a subsidisation investigation are met, the TRA must—
- (a) accept the application,
  - (b) after the governments of the relevant foreign countries or territories have been invited to participate in consultations, initiate the investigation,
  - (c) publish notice of its decision to initiate the investigation (including notice of the goods which are the subject of the investigation), and

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- (d) notify the Secretary of State and interested parties accordingly.
- (7) “Relevant foreign country or territory” means—
- (a) in the case of an application for a dumping investigation, the exporting foreign country or territory (within the meaning of paragraph 1(2)) of the alleged dumped goods;
  - (b) in the case of an application for a subsidisation investigation, a foreign country or territory within whose territory is located a foreign authority which is alleged to have granted one or more of the subsidies in question.
- (8) Notices under sub-paragraphs (5)(d) and (e) and (6)(c) and (d) must specify the date of the initiation of the investigation.
- (9) Nothing in this paragraph prevents the TRA initiating both a dumping investigation and a subsidisation investigation in relation to the same goods if the requirements of sub-paragraph (1)(a) to (d) are met in the case of each investigation.

**Commencement Information**

**I56** Sch. 4 para. 9 in force at 4.3.2019 at 11:59 a.m. by [S.I. 2019/429](#), [reg. 2](#) (with [regs. 4-9](#))

*Conduct of a dumping or a subsidisation investigation*

- 10 (1) Regulations may make provision about the conduct of a dumping or a subsidisation investigation.
- (2) Such regulations may, among other things, make provision about—
- (a) the stages of an investigation;
  - (b) time limits for completion of a stage or of an investigation;
  - (c) the termination of an investigation in certain circumstances in relation to some or all of the goods;
  - (d) the information which must or may be provided or made available by the TRA to others;
  - (e) requests by the TRA for information from others and the consequences of not providing the information requested or of providing information which is false or misleading;
  - (f) requests by the TRA to visit premises in or outside the United Kingdom and the consequences of not agreeing to such requests;
  - (g) the conduct of such visits;
  - (h) the consequences of otherwise impeding an investigation;
  - (i) the treatment of confidential or other information provided to or by the TRA;
  - (j) the provision and conduct of oral hearings.

**Commencement Information**

**I57** Sch. 4 para. 10 in force at 4.3.2019 at 11:59 a.m. by [S.I. 2019/429](#), [reg. 2](#) (with [regs. 4-9](#))

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*Provisional affirmative determinations and final affirmative or negative determinations*

- 11 (1) In the case of a dumping investigation, an “affirmative determination” in relation to goods means a determination that—
- (a) the goods have been or are being dumped in the United Kingdom, and
  - (b) the dumping of the goods has caused or is causing injury to a UK industry in those goods.
- (2) In the case of a subsidisation investigation, an “affirmative determination” in relation to goods means a determination that—
- (a) the goods have been or are being imported into the United Kingdom and are subsidised, and
  - (b) the importation of the subsidised goods has caused or is causing injury to a UK industry in those goods.
- (3) At any stage during a dumping or a subsidisation investigation, the TRA may make an affirmative determination, based on the evidence then before it, in relation to goods which are the subject of the investigation (referred to in this Schedule as “a provisional affirmative determination”).
- (4) But the TRA may only make such a determination if it is satisfied that interested parties (see paragraph 32(3)) have been given an adequate opportunity to provide information to it regarding the investigation.
- (5) The TRA must make a final determination in relation to each of the goods which are the subject of a dumping or a subsidisation investigation.
- (6) A final determination under sub-paragraph (5) in relation to goods is—
- (a) an affirmative determination (referred to in this Schedule as a “final affirmative determination”), or
  - (b) if the TRA determines that it cannot make an affirmative determination in relation to the goods, a negative determination (referred to in this Schedule as a “final negative determination”).
- (7) The TRA may make different final determinations in relation to different goods which are the subject of the investigation.
- (8) The TRA must—
- (a) publish notice of its final negative determination or final negative determinations under sub-paragraph (5), and
  - (b) notify the Secretary of State and interested parties accordingly.

**Commencement Information**

**I58** Sch. 4 para. 11 in force at 4.3.2019 at 11:59 a.m. by [S.I. 2019/429](#), [reg. 2](#) (with [regs. 4-9](#))

*Termination of a dumping or a subsidisation investigation*

- 12 A dumping or a subsidisation investigation in relation to goods terminates (if it has not already terminated by virtue of provision made under paragraph 10(1))—
- (a) in a case where the TRA makes a final negative determination in relation to the goods, when notice of that determination is published under paragraph 11(8)(a),



*Status: Point in time view as at 17/12/2020.*

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- (b) in a case where the TRA makes a final affirmative determination in relation to the goods and determines that there is not a recommendation which it could make under paragraph 17(3) or (4) in relation to them, when notice of that determination is published under paragraph 17(10)(b),
- (c) in a case where the TRA makes a final affirmative determination in relation to the goods and makes a recommendation under paragraph 17(3) or (4) in relation to them which the Secretary of State rejects, when the notice of rejection is published under paragraph 20(4)(a), or
- (d) in a case where the TRA makes a final affirmative determination in relation to the goods and makes a recommendation under paragraph 17(3) or (4) in relation to them which the Secretary of State accepts, at the end of the day of publication of the public notice under section 13 giving effect to the recommendation.

#### Commencement Information

**I59** Sch. 4 para. 12 in force at 4.3.2019 at 11:59 a.m. by [S.I. 2019/429](#), [reg. 2](#) (with [regs. 4-9](#))

### PART 3

#### PROVISIONAL REMEDY: REQUIRING A GUARANTEE

##### *TRA's duty to recommend requiring guarantees*

- 13 (1) This paragraph applies where the TRA makes a provisional affirmative determination in relation to goods which are the subject of a dumping or a subsidisation investigation.
- (2) Goods in relation to which that determination is made are referred to in this paragraph as relevant goods.
- (3) The TRA may recommend to the Secretary of State—
- (a) in the case of a dumping investigation that, in respect of all the relevant goods, all importers of those goods should be required to give a guarantee in respect of any additional amount of import duty which would have been applicable, or potentially applicable, to the goods under section 13 if an anti-dumping amount had been applied to the goods based on the provisional affirmative determination (“an estimated anti-dumping amount”), or
  - (b) in the case of a subsidisation investigation that, in respect of all the relevant goods, all importers of those goods should be required to give a guarantee in respect of any additional amount of import duty which would have been applicable, or potentially applicable, to the goods under section 13 if a countervailing amount had been applied to the goods based on the provisional affirmative determination (“an estimated countervailing amount”).
- (4) The TRA may make a recommendation under sub-paragraph (3) only if it is satisfied that requiring a guarantee in accordance with its recommendation—
- (a) is necessary to prevent injury being caused during the investigation to a UK industry in the relevant goods, and
  - (b) meets the economic interest test (see paragraph 25).

*Status: Point in time view as at 17/12/2020.*

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- (5) The TRA may make different recommendations under sub-paragraph (3) for different relevant goods or descriptions of relevant goods, including by reference to—
  - (a) specified overseas exporters or descriptions of overseas exporter;
  - (b) specified foreign countries or territories or descriptions of foreign countries or territories.
- (6) But the TRA may only make one recommendation under paragraph (a) or, as the case may be, paragraph (b) of sub-paragraph (3) in relation to any particular relevant good.
- (7) And the TRA may make different recommendations under paragraph (a) or (b) of sub-paragraph (3) for different relevant goods or descriptions of relevant goods only if the recommendations which it makes under that paragraph when taken together cover all the relevant goods.
- (8) If the TRA determines that there are one or more recommendations which it could make under paragraph (a) or, as the case may be paragraph (b), of sub-paragraph (3), it must make that recommendation or those recommendations (subject to sub-paragraphs (6) and (7)).
- (9) If the TRA determines that there is no recommendation which it could make under sub-paragraph (3), it must—
  - (a) publish notice of its provisional affirmative determination in relation to the goods,
  - (b) publish notice of its determination that there is no recommendation which it could make under sub-paragraph (3), and
  - (c) notify the Secretary of State and interested parties (see paragraph 32(3)) accordingly.

#### **Commencement Information**

**I60** Sch. 4 para. 13 in force at 4.3.2019 at 11:59 a.m. by [S.I. 2019/429](#), [reg. 2](#) (with [regs. 4-9](#))

#### *TRA's recommendations regarding requiring a guarantee*

- 14 (1) A recommendation under paragraph 13(3) to require the giving of a guarantee in respect of goods must specify those goods and include—
  - (a) the TRA's recommendation regarding—
    - (i) the form of the guarantee,
    - (ii) how an estimated anti-dumping amount or an estimated countervailing amount applicable to the goods should be determined for the purpose of calculating the amount of the guarantee,
    - (iii) how the amount of the guarantee should be calculated, and
    - (iv) the period during which the requirement to give a guarantee should apply, and
  - (b) such other content as regulations may require.
- (2) The form of guarantee referred to in sub-paragraph (1)(a)(i) may be cash, a bond or a bank guarantee.

*Status: Point in time view as at 17/12/2020.*

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- (3) The recommendation referred to in sub-paragraph (1)(a)(ii) must be such that an estimated anti-dumping amount or an estimated countervailing amount does not exceed—
  - (a) the margin of dumping or, as the case may be, the amount of the subsidy, in relation to the goods as determined by the TRA as part of its provisional affirmative determination, or
  - (b) the amount which the TRA is satisfied would be adequate to remove the injury to a UK industry in the goods if that amount is less than the margin of dumping or, as the case may be, the amount of the subsidy referred to in paragraph (a).
- (4) Regulations may make provision for the purposes of sub-paragraph (3)(b) about how the amount which the TRA is satisfied would be adequate to remove the injury described in that provision is to be determined.
- (5) The period referred to in sub-paragraph (1)(a)(iv)—
  - (a) must not exceed 6 months in the case of a dumping investigation (but see paragraph 16 regarding extensions), or 4 months in the case of a subsidisation investigation, and
  - (b) if the recommendation is accepted by the Secretary of State, must begin—
    - (i) on the day after the date of publication of the notice under paragraph 15(5)(b), or
    - (ii) if later, on the day which is the day after the end of the period of 60 days beginning with the date of the initiation of the investigation.

#### Commencement Information

**I61** Sch. 4 para. 14 in force at 4.3.2019 at 11:59 a.m. by [S.I. 2019/429](#), [reg. 2](#) (with [regs. 4-9](#))

#### *Secretary of State's power to require a guarantee*

- 15 (1) If the TRA makes a recommendation under paragraph 13(3), the Secretary of State must decide whether to accept or reject the recommendation.
- (2) The Secretary of State may reject the recommendation only if the Secretary of State is satisfied that it is not in the public interest to accept it.
- (3) In considering that, the Secretary of State must accept the TRA's determination that requiring a guarantee in accordance with the recommendation meets the economic interest test (see paragraph 25), unless the Secretary of State is satisfied that the determination is not one that the TRA could reasonably have made.
- (4) If the recommendation is rejected, the Secretary of State must—
  - (a) publish notice of the TRA's provisional affirmative determination in relation to the goods, of the recommendation and of the rejection of it,
  - (b) notify interested parties (see paragraph 32(3)) accordingly, and
  - (c) lay a statement before the House of Commons setting out the reasons for rejecting the recommendation.
- (5) If the recommendation is accepted, the Secretary of State must—
  - (a) publish notice of the TRA's provisional affirmative determination in relation to the goods and of the recommendation,

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- (b) publish a notice that all importers of the goods specified in the recommendation are required to give a guarantee in accordance with the recommendation and regulations under paragraph 6 of Schedule 6, and
  - (c) notify interested parties accordingly.
- (6) The notice under sub-paragraph (5)(b) must—
- (a) specify, in accordance with the TRA's recommendation, the matters referred to in paragraph 14(1)(a)(i) to (iv), and
  - (b) include such other content as regulations may require.
- (7) For the purposes of this Schedule, “the period of a provisional remedy” in respect of goods means the period during which the requirement to give a guarantee in respect of the goods applies.
- (8) The period of a provisional remedy in respect of goods ceases (if it has not already expired) when the dumping investigation or, as the case may be, the subsidisation investigation in relation to the goods terminates.

**Commencement Information**

**I62** Sch. 4 para. 15 in force at 4.3.2019 at 11:59 a.m. by [S.I. 2019/429](#), [reg. 2](#) (with [regs. 4-9](#))

*Extension of the period of a provisional remedy in a dumping investigation*

- 16 (1) Regulations may make provision for, or in connection with, the extension by the Secretary of State, on the recommendation of the TRA, of the period of a provisional remedy which has been applied in respect of goods in the case of a dumping investigation.
- (2) Any such extension must not result in the period of the provisional remedy being a period of more than 9 months beginning with the date when the requirement to give a guarantee in respect of goods first applied.
- (3) The regulations must require that if the period of a provisional remedy is extended, the Secretary of State—
- (a) publishes a revised notice under paragraph 15(5)(b) containing the revised period of the provisional remedy in accordance with the TRA's recommendation, and
  - (b) notifies interested parties (see paragraph 32(3)) accordingly.

**Commencement Information**

**I63** Sch. 4 para. 16 in force at 4.3.2019 at 11:59 a.m. by [S.I. 2019/429](#), [reg. 2](#) (with [regs. 4-9](#))

*Status: Point in time view as at 17/12/2020.*

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## PART 4

### DEFINITIVE REMEDIES: ANTI-DUMPING AMOUNT OR COUNTERVAILING AMOUNT

#### *TRA's duty to recommend an anti-dumping amount or countervailing amount*

- 17 (1) This paragraph applies where the TRA makes a final affirmative determination in relation to goods which are the subject of a dumping or a subsidisation investigation.
- (2) Goods in relation to which that determination is made are referred to in this paragraph as relevant goods.
- (3) In the case of a dumping investigation, the TRA may recommend to the Secretary of State—
- (a) that an additional amount of import duty (referred to in this Schedule as an “anti-dumping amount”) should be applicable for a specified period to all the relevant goods except, in the case of goods in respect of which an undertaking is accepted under provision made by or under Part 5, during any period when the undertaking applies, and
  - (b) how an anti-dumping amount applicable to the relevant goods should be determined.
- (4) In the case of a subsidisation investigation, the TRA may recommend to the Secretary of State—
- (a) that an additional amount of import duty (referred to in this Schedule as a “countervailing amount”) should be applicable for a specified period to all the relevant goods except, in the case of goods in respect of which an undertaking is accepted under provision made by or under Part 5, during any period when the undertaking applies, and
  - (b) how a countervailing amount applicable to the relevant goods should be determined.
- (5) The TRA may make a recommendation under sub-paragraph (3) or (4) only if it is satisfied that the application of an anti-dumping amount or a countervailing amount in accordance with its recommendation meets the economic interest test (see paragraph 25).
- (6) The TRA may make different recommendations under sub-paragraph (3) or (4) for different relevant goods or descriptions of relevant goods, including by reference to—
- (a) specified overseas exporters or descriptions of overseas exporters;
  - (b) specified foreign countries or territories or descriptions of foreign countries or territories.
- (7) But the TRA may only make one recommendation under sub-paragraph (3) or, as the case may be, sub-paragraph (4) in relation to any particular relevant good.
- (8) And the TRA may make different recommendations under sub-paragraph (3) or (4) for different relevant goods or descriptions of relevant goods only if the recommendations which it makes under that sub-paragraph when taken together cover all the relevant goods.
- (9) If the TRA determines that there are one or more recommendations which it could make under sub-paragraph (3) or, as the case may be, sub-paragraph (4), it must make

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that recommendation or those recommendations (subject to sub-paragraphs (7) and (8)).

- (10) If the TRA determines that there is no recommendation which it could make under sub-paragraph (3) or (4) (as the case may be), it must—
- (a) publish notice of its final affirmative determination in relation to the goods,
  - (b) publish notice of its determination that there is no recommendation which it could make under sub-paragraph (3) or (4), and
  - (c) notify the Secretary of State and interested parties (see paragraph 32(3)) accordingly.

#### **Commencement Information**

**I64** Sch. 4 para. 17 in force at 4.3.2019 at 11:59 a.m. by [S.I. 2019/429](#), [reg. 2](#) (with [regs. 4-9](#))

*TRA's recommendations about an anti-dumping amount or a countervailing amount*

- 18 (1) This paragraph applies to a recommendation by the TRA under paragraph 17(3) or (4) in relation to goods.
- (2) The specified period referred to in paragraph 17(3)(a) or (4)(a)—
- (a) must be a period of 5 years unless the TRA considers that a lesser period is sufficient to counteract—
    - (i) the dumping of the goods which has caused or is causing injury to a UK industry in the goods, or
    - (ii) the importation of the subsidised goods which has caused or is causing injury to a UK industry in the goods, and
  - (b) if the recommendation is accepted by the Secretary of State, must begin on the day after the date of publication of the public notice under section 13 giving effect to the recommendation (see paragraph 20(5)(c)) unless the TRA is authorised by regulations under paragraph 19 to recommend a date before then.
- (3) In the case of a recommendation of such a prior date made by virtue of paragraph 19, the reference in sub-paragraph (2)(a) to a period of 5 years is to be read as a reference to a period of 5 years plus the relevant period (within the meaning of paragraph 19).
- (4) See also paragraph 21 regarding the possibility, following a review, of extensions or variations to the period for which an anti-dumping amount or a countervailing amount applies to goods.
- (5) The recommendation referred to in paragraph 17(3)(b) or (4)(b) as to how an anti-dumping amount or a countervailing amount applicable to goods should be determined may be by reference to either or both of the following—
- (a) the value of the goods, and
  - (b) the weight or volume of the goods or any other measure of their quantity or size.
- (6) But that recommendation must be such that an anti-dumping amount or a countervailing amount applicable to goods does not exceed—
- (a) the margin of dumping or, as the case may be, the amount of the subsidy, in relation to the goods, or

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- (b) the amount which the TRA is satisfied would be adequate to remove the injury to a UK industry in the goods if that amount is less than the margin of dumping or, as the case may be, the amount of the subsidy referred to in paragraph (a).
- (7) Regulations may make provision for the purposes of sub-paragraph (6)(b) about how the amount which the TRA is satisfied would be adequate to remove the injury described in that provision is to be determined.
- (8) A recommendation under paragraph 17(3) or (4) must include such other content as regulations may require.

#### Commencement Information

**I65** Sch. 4 para. 18 in force at 4.3.2019 at 11:59 a.m. by [S.I. 2019/429](#), [reg. 2](#) (with [regs. 4-9](#))

- 19
- (1) Regulations may make provision authorising the TRA, in specified circumstances, to recommend under paragraph 17(3) or (4) that the specified period for which an anti-dumping amount or a countervailing amount should apply to goods begins on a date (“the relevant date”) before the day after the date of publication of the public notice under section 13 giving effect to the recommendation.
  - (2) Such a recommendation may only be made in relation to goods in respect of which a requirement to give a guarantee under paragraph 15 is applied (“the provisional remedy”).
  - (3) “The relevant date” must be—
    - (a) in a case where a notice under paragraph 29(1) (registration) has been published in respect of the goods—
      - (i) a date during the period of 90 days before the beginning of the period of the provisional remedy provided it is not a date before the date of publication of that notice, or
      - (ii) a date during the period of the provisional remedy, or
    - (b) in any other case, a date during the period of the provisional remedy.
  - (4) Regulations may provide that, in the case of a recommendation made by virtue of sub-paragraph (1), the recommendation as to how an anti-dumping amount or a countervailing amount should be determined must be such that an anti-dumping amount or a countervailing amount applicable for all or part of the relevant period must not exceed a particular amount.
  - (5) “The relevant period” is the period—
    - (a) beginning with the relevant date, and
    - (b) ending with the date of publication of the public notice under section 13 giving effect to the recommendation.

#### Commencement Information

**I66** Sch. 4 para. 19 in force at 4.3.2019 at 11:59 a.m. by [S.I. 2019/429](#), [reg. 2](#) (with [regs. 4-9](#))

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*Secretary of State's power to accept or reject a recommendation*

- 20 (1) If the TRA makes a recommendation under paragraph 17(3) or (4), the Secretary of State must decide whether to accept or reject the recommendation.
- (2) The Secretary of State may reject the recommendation only if the Secretary of State is satisfied that it is not in the public interest to accept it.
- (3) In considering that, the Secretary of State must accept the TRA's determination that the application of an anti-dumping amount or a countervailing amount to goods in accordance with the recommendation meets the economic interest test (see paragraph 25), unless the Secretary of State is satisfied that the determination is not one that the TRA could reasonably have made.
- (4) If the recommendation is rejected, the Secretary of State must—
- (a) publish notice of the TRA's final affirmative determination in relation to the goods, of the recommendation and of the rejection of it,
  - (b) notify interested parties (see paragraph 32(3)) accordingly, and
  - (c) lay a statement before the House of Commons setting out the reasons for rejecting the recommendation.
- (5) If the recommendation is accepted, the Secretary of State—
- (a) must publish notice of the TRA's final affirmative determination in relation to the goods, of the recommendation and of the acceptance of it,
  - (b) must notify interested parties accordingly, and
  - (c) is required under section 13 to make provision by public notice to give effect to the recommendation.
- (6) See paragraphs 21 and 22 for variation or revocation of the application of an anti-dumping amount or a countervailing amount.

**Commencement Information**

**I67** Sch. 4 para. 20 in force at 4.3.2019 at 11:59 a.m. by [S.I. 2019/429](#), [reg. 2](#) (with [regs. 4-9](#))

*Reviews of continuing application of an anti-dumping amount or a countervailing amount*

- 21 (1) Regulations may make provision for, or in connection with, reviews by the TRA of the continuing application of an anti-dumping amount or a countervailing amount to goods.
- (2) References in this paragraph to “a review” are to a review by virtue of provision made under sub-paragraph (1).
- (3) Regulations under sub-paragraph (1) may, among other things, provide for a review to consider—
- (a) whether the continuing application of an anti-dumping amount or a countervailing amount to goods is necessary or sufficient to offset—
    - (i) in the case of an anti-dumping amount, the dumping of the goods which has caused or is causing injury to a UK industry in the goods, or



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- (ii) in the case of a countervailing amount, the importation of the subsidised goods which has caused or is causing injury to a UK industry in the goods;
  - (b) whether the application of an anti-dumping amount or a countervailing amount to goods is having the effect of removing injury to a UK industry in the goods;
  - (c) whether injury to a UK industry in the goods would be likely to continue or recur if the application of an anti-dumping amount or a countervailing amount to the goods were to expire, or it were to be varied or revoked;
  - (d) whether activity is being undertaken to circumvent the application of an anti-dumping amount or a countervailing amount to goods and whether the application should be varied to prevent that;
  - (e) whether the application of an anti-dumping amount or a countervailing amount to goods in the case of a particular overseas exporter, or a particular description of overseas exporter, should be varied;
  - (f) the goods or description of goods to which an anti-dumping amount or a countervailing amount is applicable.
- (4) Regulations under sub-paragraph (1) may, among other things, make—
- (a) provision for the TRA to investigate certain matters;
  - (b) provision for the period for which an anti-dumping amount or a countervailing amount applies to goods by public notice under section 13 to be treated as continuing (where it would otherwise cease to do so) while a review in relation to the application of the amount is ongoing;
  - (c) provision for the suspension, by public notice given by the Secretary of State, of the application of an anti-dumping amount or a countervailing amount while a review in relation to it is ongoing;
  - (d) other provision about the conduct of a review.
- (5) Paragraph 10(2) applies to regulations made by virtue of sub-paragraph (4)(d) in relation to a review as it applies to regulations under paragraph 10(1) in relation to an investigation.
- (6) Regulations may make provision for or in connection with—
- (a) the TRA recommending to the Secretary of State that the application of an anti-dumping amount or a countervailing amount to goods should be varied or revoked, and
  - (b) the Secretary of State accepting or rejecting such a recommendation.
- (7) Where, by virtue of provision made under sub-paragraph (6), the Secretary of State accepts a recommendation that the application of an anti-dumping amount or a countervailing amount to goods should be varied or revoked, the Secretary of State—
- (a) must publish notice of the recommendation and of the acceptance of it,
  - (b) must notify interested parties (see paragraph 32(3)) accordingly, and
  - (c) is required under section 13 to make provision by public notice to give effect to the recommendation.
- (8) The variation of the application of an anti-dumping amount or a countervailing amount to goods which the TRA may recommend to the Secretary of State by virtue of regulations under sub-paragraph (6) may, among other things, include—
- (a) varying the goods or descriptions of goods to which an anti-dumping amount or a countervailing amount is applicable (including so that it is applicable

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- to goods or descriptions of goods to which it has not previously been applicable);
  - (b) varying the period for which an anti-dumping amount or a countervailing amount is applicable (including extending it beyond the period referred to in paragraph 18(2)(a));
  - (c) varying how an anti-dumping amount or a countervailing amount should be determined.
- (9) Regulations under sub-paragraph (6) may provide that the TRA may recommend that the application of an anti-dumping amount or a countervailing amount as varied should be applicable to goods from a date (“the relevant date”) before the date of publication of the public notice under section 13 giving effect to the recommendation.
- (10) Such a recommendation may only be made if—
- (a) a notice under paragraph 29(1) (registration) has been published in respect of the goods, and
  - (b) the relevant date is not a date before the date of publication of that notice.

**Commencement Information**

**I68** Sch. 4 para. 21 in force at 4.3.2019 at 11:59 a.m. by [S.I. 2019/429](#), [reg. 2](#) (with [regs. 4-9](#))

*Variation or revocation following an international dispute decision*

- 22 (1) Regulations may make provision for or in connection with—
- (a) the TRA recommending to the Secretary of State that the application of an anti-dumping amount or a countervailing amount to goods should be varied or revoked in light of an international dispute decision, and
  - (b) the Secretary of State accepting or rejecting such a recommendation.
- (2) The regulations may, among other things—
- (a) provide for the TRA to investigate certain matters for the purposes of determining whether to make a recommendation to the Secretary of State and what to recommend;
  - (b) make provision about the conduct of such an investigation;
  - (c) provide for the suspension, by public notice given by the Secretary of State, of the application of an anti-dumping amount or a countervailing amount.
- (3) Paragraph 10(2) applies to regulations made by virtue of sub-paragraph (2)(b) in relation to an investigation as it applies to regulations under paragraph 10(1) in relation to a dumping or a subsidisation investigation.
- (4) Where, by virtue of provision made under the regulations, the Secretary of State accepts a recommendation that the application of an anti-dumping amount or a countervailing amount to goods should be varied or revoked, the Secretary of State—
- (a) must publish notice of the recommendation and of the acceptance of it,
  - (b) must notify interested parties (see paragraph 32(3)) accordingly, and
  - (c) is required under section 13 to make provision by public notice to give effect to the recommendation.

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- (5) The variation of the application of an anti-dumping amount or a countervailing amount to goods which the regulations may provide for may, among other things, include any of the variations mentioned in paragraph 21(8).
- (6) An “international dispute decision” means—
- (a) a report of a panel or Appellate Body that is adopted by the Dispute Settlement Body of the WTO, or
  - (b) if not within paragraph (a), a decision under the dispute settlement procedures of an arrangement relating to trade to which Her Majesty's government in the United Kingdom is a party with the government of another country or territory.

#### Commencement Information

**I69** Sch. 4 para. 22 in force at 30.1.2020 by S.I. 2020/97, reg. 3 (with Sch. para. 1)

## PART 5

### UNDERTAKINGS

#### *Acceptance of undertakings*

- 23 (1) Where the TRA determines to recommend to the Secretary of State under paragraph 17(3) or (4) that an anti-dumping amount or a countervailing amount should be applicable to goods, the TRA may also recommend to the Secretary of State the acceptance of an undertaking in respect of the goods.
- (2) In this Part, an “undertaking” means—
- (a) in the case of the dumping of goods, an undertaking offered by an overseas exporter of the goods—
    - (i) to revise the overseas exporter's prices for export to the United Kingdom, or
    - (ii) to cease exports to the United Kingdom at prices which cause the goods to be dumped;
  - (b) in the case of subsidised goods—
    - (i) an undertaking offered by an overseas exporter of the goods to revise the overseas exporter's prices for export to the United Kingdom, or
    - (ii) an undertaking offered by a relevant foreign government to eliminate or limit the importation into the United Kingdom of the subsidised goods or to take other measures concerning its effects.
- (3) “A relevant foreign government” means the government of a foreign country or territory—
- (a) which granted one or more of the countervailable subsidies in question, or
  - (b) within whose territory is located a foreign authority which granted one or more of those subsidies.
- (4) Regulations may make provision about—
- (a) recommendations by the TRA under sub-paragraph (1);

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- (b) the acceptance of undertakings by the Secretary of State on such a recommendation.
- (5) The regulations must secure that the TRA may request an undertaking in respect of goods only—
  - (a) at a time after it has made a provisional affirmative determination in relation to the goods, and
  - (b) if such other requirements as the regulations may specify are met.
- (6) The regulations must secure that the TRA may recommend the acceptance of an undertaking in respect of goods to the Secretary of State only if it is satisfied that—
  - (a) the undertaking is sufficient to eliminate the injurious effect of—
    - (i) the dumping of the goods to a UK industry in those goods, or
    - (ii) the importation of the subsidised goods to a UK industry in those goods,
  - (b) acceptance of the undertaking meets the economic interest test (see paragraph 25), and
  - (c) it is appropriate to accept the undertaking.
- (7) The regulations may make provision for the purposes of sub-paragraph (6)(c) about the circumstances where it is or is not appropriate to accept an undertaking.
- (8) Those circumstances may include that the terms and conditions of an undertaking include provision for the provision of information to enable the monitoring of compliance with the undertaking.
- (9) The regulations must require that if the Secretary of State accepts an undertaking, the Secretary of State—
  - (a) publishes a notice to that effect, and
  - (b) notifies interested parties (see paragraph 32(3)) accordingly.

#### **Commencement Information**

**I70** Sch. 4 para. 23 in force at 4.3.2019 at 11:59 a.m. by [S.I. 2019/429](#), [reg. 2](#) (with [regs. 4-9](#))

#### *Reviews of undertakings etc*

- 24 (1) Regulations may make provision for or in connection with—
- (a) monitoring compliance with an undertaking;
  - (b) investigations by the TRA of breach of an undertaking;
  - (c) reviews by the TRA of the continuing application of an undertaking;
  - (d) the circumstances in which an undertaking ceases to apply;
  - (e) the acceptance of a new undertaking in place of an existing undertaking.
- (2) Regulations under sub-paragraph (1)(c) may, among other things, provide for a review to consider—
- (a) whether the continuing application of the undertaking is sufficient to eliminate the injurious effect of—
    - (i) the dumping of the goods to a UK industry in the goods, or
    - (ii) the importation of the subsidised goods to a UK industry in the goods;

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- (b) whether the continuing application of the undertaking is appropriate.
- (3) Paragraph 10(2) applies to regulations under sub-paragraph (1)(b) or (c) in relation to an investigation or review as it applies to regulations under paragraph 10(1) in relation to a dumping or a subsidisation investigation.
- (4) The reference in sub-paragraph (1)(e) to the acceptance of a new undertaking is to the acceptance of an undertaking in respect of goods by the Secretary of State, on the recommendation of the TRA.
- (5) Sub-paragraphs (4) and (6) to (9) of paragraph 23 apply to regulations under sub-paragraph (1)(e) in relation to the acceptance of new undertakings by virtue of those regulations as they apply to the acceptance of undertakings by virtue of regulations under paragraph 23(4).
- (6) References in sub-paragraph (1) to an “undertaking” (other than the reference in sub-paragraph (1)(e) to a “new undertaking”) are to an undertaking accepted by the Secretary of State by virtue of regulations under paragraph 23(4) or sub-paragraph (1) (e).

#### Commencement Information

I71 Sch. 4 para. 24 in force at 4.3.2019 at 11:59 a.m. by S.I. 2019/429, reg. 2 (with regs. 4-9)

## PART 6

### SUPPLEMENTARY

#### *The economic interest test*

- 25
- (1) This paragraph applies if the TRA or the Secretary of State is considering, for the purposes of this Schedule, whether the TRA or the Secretary of State is satisfied that the application of an anti-dumping remedy or anti-subsidy remedy meets or does not meet the economic interest test.
  - (2) The economic interest test is met in relation to the application of an anti-dumping remedy or anti-subsidy remedy if the application of the remedy is in the economic interest of the United Kingdom.
  - (3) That test is presumed to be met unless the TRA or, as the case may be, the Secretary of State is satisfied that the application of the remedy is not in the economic interest of the United Kingdom.
  - (4) When considering whether the application of an anti-dumping remedy or anti-subsidy remedy is not in the economic interest of the United Kingdom, the TRA or the Secretary of State must—
    - (a) take account of the following so far as relevant—
      - (i) the injury caused by the dumping of the goods, or the importation of the subsidised goods, to a UK industry in the goods and the benefits to that UK industry in removing that injury,
      - (ii) the economic significance of affected industries and consumers in the United Kingdom,

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- (iii) the likely impact on affected industries and consumers in the United Kingdom,
  - (iv) the likely impact on particular geographic areas, or particular groups, in the United Kingdom, and
  - (v) the likely consequences for the competitive environment, and for the structure of markets for goods, in the United Kingdom, and
  - (b) take account of such other matters as the TRA or, as the case may be, the Secretary of State considers relevant.
- (5) In this paragraph—
- (a) references to the application of an anti-dumping remedy are to—
    - (i) requiring the giving of a guarantee under paragraph 15,
    - (ii) applying an anti-dumping amount to goods, or
    - (iii) accepting an undertaking under provision made by or under Part 5;
  - (b) references to the application of an anti-subsidy remedy are to—
    - (i) requiring the giving of a guarantee under paragraph 15,
    - (ii) applying a countervailing amount to goods, or
    - (iii) accepting an undertaking under provision made by or under Part 5;
  - (c) “affected industries and consumers” means industries and consumers that would be affected if the anti-dumping remedy or anti-subsidy remedy were, or were not, to be applied;
  - (d) “industries” includes—
    - (i) the UK industry referred to in sub-paragraph (4)(a)(i) and other producers of goods,
    - (ii) suppliers of goods or services, and
    - (iii) importers, distributors and retailers of goods;
  - (e) “consumers” includes users of goods or services.

#### **Commencement Information**

**I72** Sch. 4 para. 25 in force at 4.3.2019 at 11:59 a.m. by [S.I. 2019/429](#), [reg. 2](#) (with [regs. 4-9](#))

#### *Suspension of anti-dumping or anti-subsidy remedies*

- 26 (1) Regulations may make provision for or in connection with—
- (a) the TRA recommending to the Secretary of State that the application of an anti-dumping remedy or anti-subsidy remedy should be suspended, and
  - (b) the Secretary of State accepting or rejecting such a recommendation.
- (2) The regulations must secure that the TRA may make such a recommendation to the Secretary of State only if the TRA is satisfied that market conditions have temporarily changed such that the injury caused to a UK industry in the goods would be unlikely to recur as a result of the suspension.
- (3) Regulations may make provision for the purposes of sub-paragraph (2) about what constitutes or does not constitute “market conditions” or a temporary change in such conditions.
- (4) Regulations under sub-paragraph (1) may, among other things, make—
- (a) provision for the TRA to investigate certain matters;

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- (b) provision about the conduct of such an investigation;
  - (c) provision about the period for which a suspension may have effect;
  - (d) provision about whether that period counts towards the period for which the suspended remedy applies.
- (5) Paragraph 10(2) applies to regulations under sub-paragraph (4)(b) in relation to an investigation as it applies to regulations under paragraph 10(1) in relation to a dumping or a subsidisation investigation.
- (6) Where, by virtue of provision made under sub-paragraph (1), the Secretary of State accepts a recommendation that the application of an anti-dumping remedy or anti-subsidy remedy should be suspended, the Secretary of State—
- (a) must publish notice of the recommendation and of the acceptance of it,
  - (b) must notify interested parties (see paragraph 32(3)) accordingly, and
  - (c) is required under section 13 to make provision by public notice to give effect to the recommendation.
- (7) References in this paragraph to the application of an anti-dumping remedy or anti-subsidy remedy have the same meaning as in paragraph 25.

#### Commencement Information

**I73** Sch. 4 para. 26 in force at 4.3.2019 at 11:59 a.m. by [S.I. 2019/429](#), [reg. 2](#) (with [regs. 4-9](#))

*Not subject to both application of an anti-dumping amount and a countervailing amount*

- 27 (1) An anti-dumping amount is not applicable to goods if a countervailing amount is already applicable to the goods (and vice versa) for the purpose of dealing with the same situation arising from the dumping of goods or export subsidisation.
- (2) Regulations may make provision about what constitutes or does not constitute “export subsidisation” for those purposes.

#### Commencement Information

**I74** Sch. 4 para. 27 in force at 4.3.2019 at 11:59 a.m. by [S.I. 2019/429](#), [reg. 2](#) (with [regs. 4-9](#))

*Investigations regarding repayments and discharge of a guarantee*

- 28 (1) Regulations may provide for the TRA to investigate specified matters for the purpose of determining whether—
- (a) a repayment of an anti-dumping amount or a countervailing amount, or interest paid in respect of any such amounts, should be made under regulations made under paragraph 10 of Schedule 6;
  - (b) the whole or a part of a guarantee given under paragraph 15 should be discharged under regulations made under paragraph 6 of Schedule 6.
- (2) The regulations may make provision about the conduct of any such investigation.
- (3) Paragraph 10(2) applies to those regulations in relation to such an investigation as it applies to regulations under paragraph 10(1) in relation to a dumping or a subsidisation investigation.

*Status: Point in time view as at 17/12/2020.*

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**Commencement Information**

**I75** Sch. 4 para. 28 in force at 4.3.2019 at 11:59 a.m. by [S.I. 2019/429](#), [reg. 2](#) (with [regs. 4-9](#))

*Registration*

- 29 (1) The Secretary of State may publish a notice of goods—
- (a) which are the subject of an investigation or other proceedings under provision made by or under this Schedule, and
  - (b) to which an anti-dumping amount or a countervailing amount may be applied or the existing application of an anti-dumping amount or a countervailing amount to which may be varied.
- (2) HMRC must register goods in respect of which such a notice is published.
- (3) Regulations may make provision for, or in connection with, the registration by HMRC of goods—
- (a) to which an anti-dumping amount or a countervailing amount may be applied, or
  - (b) the existing application of an anti-dumping amount or a countervailing amount to which may be varied.

**Commencement Information**

**I76** Sch. 4 para. 29 in force at 4.3.2019 at 11:59 a.m. by [S.I. 2019/429](#), [reg. 2](#) (with [regs. 4-9](#))

*Reconsideration, reviews and appeals*

- 30 Regulations may make provision for or in connection with—
- (a) the reconsideration by the TRA of decisions made by the TRA under provision made by or under this Schedule, and
  - (b) the review or appeal of decisions made by the TRA or the Secretary of State under provision made by or under this Schedule.

**Commencement Information**

**I77** Sch. 4 para. 30 in force at 7.5.2019 at 11:59 p.m. by [S.I. 2019/914](#), [reg. 2](#) (with [reg. 3](#), [Sch. para. 1](#))

*Notices*

- 31 (1) Where a notice is required to be published or given by a provision made by or under this Schedule, regulations may make provision about—
- (a) the form of the notice;
  - (b) its content;
  - (c) the manner of publication;
  - (d) the means by which it is given;
  - (e) the time or date on which it is published or given or is to be treated as published or given.



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- (2) Such regulations may, among other things, provide—
- (a) for some of the content of the notice to be contained in a separate report to which the notice refers, and
  - (b) for that report to be published or for it to be given, or otherwise made available to, the persons to whom the notice is required to be given.
- (3) The provision made by regulations under this paragraph about the content of a notice is in addition to any such provision made by or under any other provision of this Schedule.
- (4) Sub-paragraph (1)(c) does not apply to a public notice under provision made under paragraph 21(4)(c) or 22(2)(c) (see section 37(5)).

#### Commencement Information

**I78** Sch. 4 para. 31 in force at 4.3.2019 at 11:59 a.m. by [S.I. 2019/429](#), [reg. 2](#) (with [regs. 4-9](#))

#### Interpretation

- 32 (1) In this Schedule—
- “anti-dumping amount” has the meaning given by paragraph 17(3);
  - “the amount of the subsidy”, in relation to goods, has the meaning given by paragraph 4;
  - “countervailable subsidy” has the meaning given by paragraph 3(2);
  - “countervailing amount” has the meaning given by paragraph 17(4);
  - “dumped” and “dumping” have the meaning given by paragraph 1(1);
  - “dumping investigation” has the meaning given by paragraph 8(2);
  - “final affirmative determination”, in relation to goods, has the meaning given by paragraph 11(6)(a);
  - “final negative determination”, in relation to goods, has the meaning given by paragraph 11(6)(b);
  - “foreign authority” has the meaning given by paragraph 3(4);
  - “foreign country or territory” means a country or territory outside the United Kingdom;
  - “importer” of goods means a person liable to pay import duty in respect of the goods;
  - “injury” to a UK industry in particular goods has the meaning given by paragraph 5;
  - “interested parties” has the meaning given by sub-paragraph (3);
  - “like goods”, in relation to goods, has the meaning given by paragraph 7;
  - “the margin of dumping”, in relation to goods, has the meaning given by paragraph 2;
  - “overseas exporter” means a person outside the United Kingdom that exports goods to the United Kingdom;
  - “the period of a provisional remedy”, in respect of goods, has the meaning given by paragraph 15(7);
  - “provisional affirmative determination”, in relation to goods, has the meaning given by paragraph 11(3);

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“regulations” means regulations made by the Secretary of State;  
“subsidisation investigation” has the meaning given by paragraph 8(4);  
“subsidised” and “subsidisation” have the meaning given by paragraph 3(1);  
“subsidy” has the meaning given by paragraph 3(3);  
“UK industry”, in particular goods, has the meaning given by paragraph 6;  
“the WTO Agreement” means the agreement establishing the WTO signed at Marrakesh on 15 April 1994.

- (2) References in this Schedule to the economic interest test are to be construed in accordance with paragraph 25.
- (3) References in a provision of this Schedule to “interested parties” means the governments of such foreign countries or territories, or such other persons, as may be specified in regulations made under this sub-paragraph for the purposes of the provision in question.

**Commencement Information**

**I79** Sch. 4 para. 32 in force at 4.3.2019 at 11:59 a.m. by [S.I. 2019/429](#), [reg. 2](#) (with [regs. 4-9](#))

SCHEDULE 5

Section 13

INCREASE IN IMPORTS CAUSING SERIOUS INJURY TO UK PRODUCERS

**PART 1**

KEY DEFINITIONS

*Meaning of importation in “increased quantities”*

- 1 (1) For the purposes of this Schedule, goods are imported into the United Kingdom in “increased quantities” if—
- (a) the volume of imports of the goods increases, whether in absolute terms or relative to the total production in the United Kingdom of like goods and directly competitive goods, and
  - (b) that increase is significant.
- (2) Regulations may make provision for the purposes of sub-paragraph (1)—
- (a) about how it is to be determined whether or not there has been an increase in the volume of imports;
  - (b) about how the amount of the increase is to be determined;
  - (c) about what constitutes or does not constitute a “significant” increase, including provision for an increase not to constitute a “significant” increase if it was foreseeable.
- (3) “The total production in the United Kingdom of like goods and directly competitive goods” has the same meaning as in paragraph 3.

*Status: Point in time view as at 17/12/2020.*

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- (4) See paragraphs 4 and 5 for the meaning of “like goods” and “directly competitive goods”.

**Commencement Information**

**180** Sch. 5 para. 1 in force at 4.3.2019 at 11:59 a.m. by S.I. 2019/429, reg. 2 (with regs. 4-9)

*Meaning of “serious injury”*

- 2 (1) For the purposes of this Schedule, “serious injury” to UK producers of particular goods (see paragraph 3) means—
- (a) a significant overall impairment to their position, or
  - (b) the threat of such impairment.
- (2) Regulations may make provision about what constitutes or does not constitute significant overall impairment to the position of UK producers, or the threat of such impairment, for the purposes of this Schedule.
- (3) Regulations may make provision about how it is to be determined for the purposes of this Schedule whether the importation of goods into the United Kingdom in increased quantities has caused or is causing serious injury to UK producers of those goods.
- (4) Such regulations may, among other things, make provision about the use of sampling or cumulative assessments.

**Commencement Information**

**181** Sch. 5 para. 2 in force at 4.3.2019 at 11:59 a.m. by S.I. 2019/429, reg. 2 (with regs. 4-9)

*Meaning of “UK producers”*

- 3 (1) For the purposes of this Schedule, “UK producers” of particular goods means—
- (a) all the producers in the United Kingdom of like goods and all the producers in the United Kingdom of directly competitive goods, or
  - (b) those of them whose collective output of like goods and directly competitive goods constitutes a major proportion of the total production in the United Kingdom of those goods.
- (2) Regulations may make provision for the purposes of sub-paragraph (1)—
- (a) about what constitutes or does not constitute—
    - (i) a producer in the United Kingdom of like goods or directly competitive goods;
    - (ii) such a producer's output of like goods or directly competitive goods;
    - (iii) the total production in the United Kingdom of like goods and directly competitive goods;
    - (iv) a major proportion of that total production;
  - (b) about how any of those matters are to be determined.
- (3) See paragraphs 4 and 5 for the meaning of “like goods” and “directly competitive goods”.

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**Commencement Information**

**I82** Sch. 5 para. 3 in force at 4.3.2019 at 11:59 a.m. by S.I. 2019/429, reg. 2 (with regs. 4-9)

*Meaning of “like goods”*

- 4 (1) For the purposes of this Schedule, “like goods”, in relation to goods, means—
- (a) goods which are like those goods in all respects, and
  - (b) goods which, although not alike in all respects, have characteristics closely resembling those of the goods in question.
- (2) Regulations may make provision about—
- (a) what constitutes or does not constitute “like goods” for the purposes of this Schedule;
  - (b) how “like goods” is to be determined for those purposes.

**Commencement Information**

**I83** Sch. 5 para. 4 in force at 4.3.2019 at 11:59 a.m. by S.I. 2019/429, reg. 2 (with regs. 4-9)

*Meaning of “directly competitive goods”*

- 5 Regulations may make provision about—
- (a) what constitutes or does not constitute “directly competitive goods” for the purposes of this Schedule;
  - (b) how “directly competitive goods” is to be determined for those purposes.

**Commencement Information**

**I84** Sch. 5 para. 5 in force at 4.3.2019 at 11:59 a.m. by S.I. 2019/429, reg. 2 (with regs. 4-9)

## PART 2

### SAFEGUARDING INVESTIGATIONS

*Safeguarding investigation*

- 6 (1) The TRA may investigate—
- (a) whether goods have been or are being imported into the United Kingdom in increased quantities, and
  - (b) whether the importation of the goods in increased quantities has caused or is causing serious injury to UK producers of those goods.
- (2) References in this Schedule to a “safeguarding investigation” are to an investigation under sub-paragraph (1).

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#### Commencement Information

**185** Sch. 5 para. 6 in force at 4.3.2019 at 11:59 a.m. by S.I. 2019/429, reg. 2 (with regs. 4-9)

#### *Initiation of a safeguarding investigation*

- 7 (1) The TRA may initiate a safeguarding investigation in relation to goods only if—
- (a) it is requested to initiate an investigation in an application made—
    - (i) by or on behalf of UK producers of the goods (“the applicant UK producers”), or
    - (ii) by the Secretary of State,
  - (b) it is satisfied that the application contains sufficient evidence that—
    - (i) the goods have been or are being imported into the United Kingdom in increased quantities, and
    - (ii) the importation of the goods in increased quantities has caused or is causing serious injury to UK producers of those goods,
  - (c) the market share requirement is met or the TRA waives the requirement in relation to the application, and
  - (d) the application is accompanied by a preliminary adjustment plan or the TRA waives the requirement for the application to be accompanied by such a plan.
- (2) The market share requirement is met if—
- (a) in the case of an application under sub-paragraph (1)(a)(i), the TRA is satisfied that the applicant UK producers have a share of the market for like goods and directly competitive goods for consumption in the United Kingdom (whether produced there or elsewhere) which is sufficient to justify initiating the investigation;
  - (b) in the case of an application under sub-paragraph (1)(a)(ii), the TRA is satisfied that UK producers of the goods have a share of the market for like goods and directly competitive goods for consumption in the United Kingdom (whether produced there or elsewhere) which is sufficient to justify initiating the investigation.
- (3) A preliminary adjustment plan is—
- (a) in the case of an application under sub-paragraph (1)(a)(i), a plan setting out how the applicant UK producers think they might be able to adjust to the importation of the goods in increased quantities;
  - (b) in the case of an application under sub-paragraph (1)(a)(ii), a plan setting out how UK producers of the goods might be able to adjust to the importation of the goods in increased quantities.
- (4) Regulations may make provision about—
- (a) what constitutes or does not constitute an application made by or on behalf of UK producers for the purposes of sub-paragraph (1)(a)(i);
  - (b) when an application is made for the purposes of sub-paragraph (1)(a);
  - (c) the information to be contained in such an application;
  - (d) the time limit for determining such an application;
  - (e) the form and content of a preliminary adjustment plan;
  - (f) what constitutes or does not constitute “the market for like goods and directly competitive goods for consumption in the United Kingdom” and UK

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- producers' "share" of that market for the purposes of sub-paragraphs (1)(c) and (2);
- (g) how any of those matters are to be determined for the purposes of sub-paragraphs (1)(c) and (2).
- (5) If any of the requirements of sub-paragraph (1)(a) to (d) in respect of a safeguarding investigation are not met, the TRA must reject the application and notify the applicant accordingly (unless it is the requirement in sub-paragraph (1)(a) that is not met because the application has been withdrawn).
- (6) If the requirements of sub-paragraph (1)(a) to (d) in respect of a safeguarding investigation are met, the TRA must—
- (a) accept the application and initiate the investigation,
  - (b) publish notice of its decision to initiate the investigation (including notice of the goods which are the subject of the investigation), and
  - (c) notify the Secretary of State and interested parties (see paragraph 31(3)) accordingly.
- (7) Notices under sub-paragraph (6)(b) and (c) must specify the date of the initiation of the investigation.

**Commencement Information**

**I86** Sch. 5 para. 7 in force at 4.3.2019 at 11:59 a.m. by S.I. 2019/429, reg. 2 (with regs. 4-9)

*Conduct of a safeguarding investigation*

- 8 (1) Regulations may make provision about the conduct of a safeguarding investigation.
- (2) Paragraph 10(2) of Schedule 4 applies to regulations under sub-paragraph (1) in relation to a safeguarding investigation as it applies to regulations under paragraph 10(1) of that Schedule in relation to a dumping or a subsidisation investigation.

**Commencement Information**

**I87** Sch. 5 para. 8 in force at 4.3.2019 at 11:59 a.m. by S.I. 2019/429, reg. 2 (with regs. 4-9)

*Provisional affirmative determinations and final affirmative or negative determinations*

- 9 (1) In the case of a safeguarding investigation, an "affirmative determination" in relation to goods means a determination that—
- (a) the goods have been or are being imported into the United Kingdom in increased quantities, and
  - (b) the importation of the goods in increased quantities has caused or is causing serious injury to UK producers of those goods.
- (2) At any stage during a safeguarding investigation, the TRA may make an affirmative determination, based on the evidence then before it, in relation to goods which are the subject of the investigation (referred to in this Schedule as "a provisional affirmative determination").

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- (3) But the TRA may only make such a determination if it is satisfied that interested parties (see paragraph 31(3)) have been given an adequate opportunity to provide information to it regarding the investigation.
- (4) The TRA must make a final determination in relation to each of the goods which are the subject of a safeguarding investigation.
- (5) A final determination under sub-paragraph (4) in relation to goods is—
  - (a) an affirmative determination (referred to in this Schedule as a “final affirmative determination”), or
  - (b) if the TRA determines that it cannot make an affirmative determination in relation to the goods, a negative determination (referred to in this Schedule as a “final negative determination”).
- (6) The TRA may make different final determinations in relation to different goods which are the subject of the investigation.
- (7) The TRA must—
  - (a) publish notice of its final negative determination or final negative determinations under sub-paragraph (4), and
  - (b) notify the Secretary of State and interested parties accordingly.

#### Commencement Information

**188** Sch. 5 para. 9 in force at 4.3.2019 at 11:59 a.m. by S.I. 2019/429, reg. 2 (with regs. 4-9)

#### *Termination of a safeguarding investigation*

- 10 A safeguarding investigation in relation to goods terminates (if it has not already terminated by virtue of provision made under paragraph 8(1))—
- (a) in a case where the TRA makes a final negative determination in relation to the goods, when notice of that determination is published under paragraph 9(7)(a),
  - (b) in a case where the TRA makes a final affirmative determination in relation to the goods and determines that there is not a recommendation which it could make under paragraph 16(3) in relation to them, when notice of that determination is published under paragraph 16(11)(b),
  - (c) in a case where the TRA makes a final affirmative determination in relation to the goods and makes a recommendation under paragraph 16(3) in relation to them which the Secretary of State rejects, when the notice of rejection is published under paragraph 19(3)(a) or 20(3)(a), or
  - (d) in a case where the TRA makes a final affirmative determination in relation to the goods and makes a recommendation under paragraph 16(3) in relation to them which the Secretary of State accepts, at the end of the day of publication of the public notice under section 13 giving effect to the recommendation.

#### Commencement Information

**189** Sch. 5 para. 10 in force at 4.3.2019 at 11:59 a.m. by S.I. 2019/429, reg. 2 (with regs. 4-9)

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### PART 3

#### PROVISIONAL REMEDIES: PROVISIONAL SAFEGUARDING AMOUNT & PROVISIONAL TARIFF RATE QUOTAS

*TRA's duty to recommend a provisional safeguarding amount or provisional tariff rate quota*

- 11 (1) This paragraph applies where the TRA makes a provisional affirmative determination in relation to goods which are the subject of a safeguarding investigation.
- (2) Goods in relation to which that determination is made are referred to in this paragraph as relevant goods.
- (3) The TRA may recommend to the Secretary of State—
- (a) that an additional amount of import duty (referred to in this Schedule as a “provisional safeguarding amount”) should be applicable for a specified period to all the relevant goods or to specified relevant goods;
  - (b) that all the relevant goods, or specified relevant goods, should be subject to a quota for a specified period during which a lower rate of import duty should be applicable to imports of goods within the amount of the quota than is applicable to imports of goods outside the amount of the quota (referred to in this Schedule as a “provisional tariff rate quota”).
- (4) Where the TRA makes a recommendation under sub-paragraph (3)(a) in relation to relevant goods it must, as part of the recommendation, recommend to the Secretary of State how a provisional safeguarding amount applicable to those goods should be determined.
- (5) The TRA may make a recommendation under sub-paragraph (3) only if it is satisfied that applying a provisional safeguarding amount to relevant goods, or making relevant goods subject to a provisional tariff rate quota, in accordance with its recommendation—
- (a) is necessary to prevent serious injury which it would be difficult to repair from being caused during the investigation to UK producers of the goods, and
  - (b) meets the economic interest test (see paragraph 23).
- (6) The TRA may only make a recommendation under one or other of paragraphs (a) and (b) of sub-paragraph (3) in relation to any particular relevant good.
- (7) The TRA may make a recommendation under paragraph (a) or (b) of sub-paragraph (3) in relation to specified relevant goods (rather than all the relevant goods) only if the recommendations which it makes under that sub-paragraph, when taken together, cover all the relevant goods.
- (8) If the TRA determines that there are one or more recommendations which it could make under sub-paragraph (3) in relation to all the relevant goods, or that there are one or more recommendations which it could make under sub-paragraph (3) in relation to specified relevant goods, it must make that recommendation or one of those recommendations (subject to sub-paragraphs (6) and (7)).
- (9) If the TRA determines that there is no recommendation which it could make under sub-paragraph (3), it must—
- (a) publish notice of its provisional affirmative determination in relation to the goods,



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- (b) publish notice of its determination that there is no recommendation which it could make under sub-paragraph (3), and
- (c) notify the Secretary of State and interested parties (see paragraph 31(3)) accordingly.

#### Commencement Information

**I90** Sch. 5 para. 11 in force at 4.3.2019 at 11:59 a.m. by S.I. 2019/429, reg. 2 (with regs. 4-9)

#### *TRA's recommendations about a provisional safeguarding amount*

- 12 (1) This paragraph applies to a recommendation by the TRA under paragraph 11(3)(a) in relation to goods.
- (2) The specified period referred to in paragraph 11(3)(a)—
- (a) must not exceed 200 days, and
  - (b) if the recommendation is accepted by the Secretary of State, must begin on the day after the date of publication of the public notice under section 13 giving effect to the recommendation.
- (3) A recommendation under paragraph 11(3)(a) as to how a provisional safeguarding amount applicable to goods should be determined (see paragraph 11(4)) may be by reference to either or both of the following—
- (a) the value of the goods, and
  - (b) the weight or volume of the goods or any other measure of their quantity or size.
- (4) But that recommendation must be such that a provisional safeguarding amount applicable to goods does not exceed the amount which the TRA is satisfied is necessary to prevent serious injury which it would be difficult to repair from being caused during the investigation to UK producers of the goods.
- (5) Regulations may make provision for the purposes of sub-paragraph (4) about how the amount which the TRA is satisfied is necessary to prevent the serious injury described in that provision is to be determined.
- (6) A recommendation under paragraph 11(3)(a) must include such other content as regulations may require.

#### Commencement Information

**I91** Sch. 5 para. 12 in force at 4.3.2019 at 11:59 a.m. by S.I. 2019/429, reg. 2 (with regs. 4-9)

#### *TRA's recommendations regarding provisional tariff rate quotas*

- 13 (1) This paragraph applies to a recommendation by the TRA under paragraph 11(3)(b) in relation to goods.
- (2) The specified period referred to in paragraph 11(3)(b)—
- (a) must not exceed 200 days, and

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- (b) if the recommendation is accepted by the Secretary of State, must begin on the day after the date of publication of the public notice under section 13 giving effect to the recommendation.
- (3) The recommendation must (in addition to the specified period) include—
  - (a) the TRA's recommendation regarding—
    - (i) the amount of the quota,
    - (ii) how the quota should be allocated, and
    - (iii) the rates of import duty that should be applied to goods subject to the quota, and
  - (b) such other content as regulations may require.
- (4) The TRA must consult the Secretary of State before making a recommendation regarding the allocation of the quota.
- (5) The things recommended by the TRA by virtue of sub-paragraph (3)(a) must be such as the TRA is satisfied are necessary to prevent serious injury which it would be difficult to repair from being caused during the investigation to UK producers of the goods.
- (6) Regulations may make provision for the purposes of sub-paragraph (5) about how the things which the TRA is satisfied are necessary to prevent the serious injury described in that provision are to be determined.

#### **Commencement Information**

**I92** Sch. 5 para. 13 in force at 4.3.2019 at 11:59 a.m. by S.I. 2019/429, reg. 2 (with regs. 4-9)

#### *Secretary of State's power to apply a provisional safeguarding amount*

- 14
- (1) If the TRA makes a recommendation under paragraph 11(3)(a), the Secretary of State must decide whether to accept or reject the recommendation.
  - (2) The Secretary of State may reject the recommendation only if the Secretary of State is satisfied that—
    - (a) the application of a provisional safeguarding amount to goods in accordance with the recommendation does not meet the economic interest test (see paragraph 23), or
    - (b) it is not otherwise in the public interest to accept the recommendation.
  - (3) If the recommendation is rejected, the Secretary of State must—
    - (a) publish notice of the TRA's provisional affirmative determination in relation to the goods, of the recommendation and of the rejection of it,
    - (b) notify interested parties (see paragraph 31(3)) accordingly, and
    - (c) lay a statement before the House of Commons setting out the reasons for rejecting the recommendation.
  - (4) If the recommendation is accepted, the Secretary of State—
    - (a) must publish notice of the TRA's provisional affirmative determination in relation to the goods, of the recommendation and of the acceptance of it,
    - (b) must notify interested parties accordingly, and

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- (c) is required under section 13 to make provision by public notice to give effect to the recommendation.
- (5) The period for which a provisional safeguarding amount applies to goods ceases (if it has not already expired) when the safeguarding investigation in relation to the goods terminates.

**Commencement Information**

**I93** Sch. 5 para. 14 in force at 4.3.2019 at 11:59 a.m. by S.I. 2019/429, reg. 2 (with regs. 4-9)

*Secretary of State's power to subject goods to a provisional tariff rate quota*

- 15
- (1) If the TRA makes a recommendation under paragraph 11(3)(b), the Secretary of State must decide whether to accept or reject the recommendation.
  - (2) The Secretary of State may reject the recommendation only if the Secretary of State is satisfied that—
    - (a) making goods subject to a provisional tariff rate quota in accordance with the recommendation does not meet the economic interest test (see paragraph 23), or
    - (b) it is not otherwise in the public interest to accept the recommendation.
  - (3) If the recommendation is rejected, the Secretary of State must—
    - (a) publish notice of the TRA's provisional affirmative determination in relation to the goods, of the recommendation and of the rejection of it,
    - (b) notify interested parties (see paragraph 31(3)) accordingly, and
    - (c) lay a statement before the House of Commons setting out the reasons for rejecting the recommendation.
  - (4) If the recommendation is accepted, the Secretary of State—
    - (a) must publish notice of the TRA's provisional affirmative determination in relation to the goods, of the recommendation and of the acceptance of it,
    - (b) must notify interested parties accordingly, and
    - (c) is required under section 13 to make provision by public notice to give effect to the recommendation.
  - (5) The period for which goods are subject to a provisional tariff rate quota ceases (if it has not already expired) when the safeguarding investigation in relation to the goods terminates.

**Commencement Information**

**I94** Sch. 5 para. 15 in force at 4.3.2019 at 11:59 a.m. by S.I. 2019/429, reg. 2 (with regs. 4-9)

*Status: Point in time view as at 17/12/2020.*

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## PART 4

### DEFINITIVE REMEDIES: DEFINITIVE SAFEGUARDING AMOUNT & TARIFF RATE QUOTAS

*TRA's duty to recommend a definitive safeguarding amount or tariff rate quota*

- 16 (1) This paragraph applies where the TRA makes a final affirmative determination in relation to goods which are the subject of a safeguarding investigation.
- (2) Goods in relation to which that determination is made are referred to in this paragraph as relevant goods.
- (3) The TRA may recommend to the Secretary of State—
- (a) that an additional amount of import duty (referred to in this Schedule as a “definitive safeguarding amount”) should be applicable for a specified period to all the relevant goods or to specified relevant goods;
  - (b) that all the relevant goods, or specified relevant goods, should be subject to a quota for a specified period during which a lower rate of import duty should be applicable to imports of goods within the amount of the quota than is applicable to imports of goods outside the amount of the quota (referred to in this Schedule as a “tariff rate quota”).
- (4) Where the TRA makes a recommendation under sub-paragraph (3)(a) in relation to relevant goods it must, as part of the recommendation, recommend to the Secretary of State how a definitive safeguarding amount applicable to those goods should be determined.
- (5) The TRA may make a recommendation under sub-paragraph (3) only if it is satisfied that—
- (a) applying a definitive safeguarding amount to relevant goods, or making relevant goods subject to a tariff rate quota, in accordance with its recommendation meets the economic interest test (see paragraph 23), and
  - (b) there is in place an adjustment plan setting out how UK producers of the relevant goods intend to adjust to the importation of the goods in increased quantities.
- (6) But sub-paragraph (5) is to be read as if paragraph (b) were omitted if the TRA waived the requirement for the application to initiate a safeguarding investigation in relation to the relevant goods to be accompanied by a preliminary adjustment plan.
- (7) Regulations may make provision about the form and content of an adjustment plan.
- (8) The TRA may only make a recommendation under one or other of paragraphs (a) and (b) of sub-paragraph (3) in relation to any particular relevant good.
- (9) The TRA may make a recommendation under paragraph (a) or (b) of sub-paragraph (3) in relation to specified relevant goods (rather than all the relevant goods) only if the recommendations which it makes under that sub-paragraph, when taken together, cover all the relevant goods.
- (10) If the TRA determines that there are one or more recommendations which it could make under sub-paragraph (3) in relation to all the relevant goods, or that there are one or more recommendations which it could make under sub-paragraph (3) in relation to specified relevant goods, it must make that recommendation or one of those recommendations (subject to sub-paragraphs (8) and (9)).

*Status: Point in time view as at 17/12/2020.*

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- (11) If the TRA determines that there is no recommendation which it could make under sub-paragraph (3) it must—
- (a) publish notice of its final affirmative determination in relation to the goods,
  - (b) publish notice of its determination that there is no recommendation which it could make under sub-paragraph (3), and
  - (c) notify the Secretary of State and interested parties (see paragraph 31(3)) accordingly.

#### Commencement Information

**I95** Sch. 5 para. 16 in force at 4.3.2019 at 11:59 a.m. by S.I. 2019/429, reg. 2 (with regs. 4-9)

#### *TRA's recommendations about a definitive safeguarding amount*

- 17 (1) This paragraph applies to a recommendation by the TRA under paragraph 16(3)(a) in relation to goods.
- (2) The specified period referred to in paragraph 16(3)(a)—
- (a) must be such period as the TRA is satisfied is necessary—
    - (i) to remove the serious injury, or to prevent further serious injury, caused by the importation of the goods in increased quantities to UK producers of the goods, and
    - (ii) to facilitate the adjustment of those UK producers to the importation of the goods in increased quantities,
  - (b) must not exceed 4 years (but see paragraph 21 regarding the possibility of extensions or other variations to that period following a review), and
  - (c) if the recommendation is accepted by the Secretary of State, must begin on the day after the date of publication of the public notice under section 13 giving effect to the recommendation.
- (3) A recommendation under paragraph 16(3)(a) as to how a definitive safeguarding amount applicable to goods should be determined (see paragraph 16(4)) may be by reference to either or both of the following—
- (a) the value of the goods, and
  - (b) the weight or volume of the goods or any other measure of their quantity or size.
- (4) But that recommendation must be such that—
- (a) a definitive safeguarding amount applicable to goods does not exceed the amount which the TRA is satisfied is necessary—
    - (i) to remove serious injury to UK producers of the goods, and
    - (ii) to facilitate the adjustment of those UK producers to the importation of the goods in increased quantities, and
  - (b) where the specified period referred to in paragraph 16(3)(a) exceeds 1 year, a definitive safeguarding amount applicable to goods becomes progressively smaller as the period progresses.
- (5) Regulations may make provision for the purposes of sub-paragraph (4)(a) about how the amount which the TRA is satisfied is necessary for the purposes mentioned is to be determined.

*Status: Point in time view as at 17/12/2020.*

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- (6) A recommendation under paragraph 16(3)(a) must include such other content as regulations may require.
- (7) If a provisional safeguarding remedy has been applied to some or all of the goods as part of the same safeguarding investigation, sub-paragraph (8) applies for the purposes of sub-paragraphs (2)(b) and (4)(b).
- (8) The length of the specified period referred to in paragraph 16(3)(a), so far as relating to goods to which a provisional safeguarding remedy has been applied, is to be treated as extended by the length of the specified period for which the TRA recommended that a provisional safeguarding remedy should be applied to them.
- (9) Where the application of sub-paragraph (8) results in the length of the specified period referred to in paragraph 16(3)(a), so far as relating to goods to which a provisional safeguarding remedy has been applied, exceeding 1 year, sub-paragraph (4)(b) is to be read as if references to goods were references to the goods to which the provisional safeguarding remedy has been applied.
- (10) In this paragraph, references to the application of a provisional safeguarding remedy are to—
  - (a) applying a provisional safeguarding amount to goods, or
  - (b) making goods subject to a provisional tariff rate quota.

**Commencement Information**

**196** Sch. 5 para. 17 in force at 4.3.2019 at 11:59 a.m. by S.I. 2019/429, reg. 2 (with regs. 4-9)

*TRA's recommendations regarding tariff rate quotas*

- 18 (1) This paragraph applies to a recommendation by the TRA under paragraph 16(3)(b) in relation to goods.
- (2) The specified period referred to in paragraph 16(3)(b)—
- (a) must be such period as the TRA is satisfied is necessary—
    - (i) to remove the serious injury, or to prevent further serious injury, caused by the importation of the goods in increased quantities to UK producers of the goods, and
    - (ii) to facilitate the adjustment of those UK producers to the importation of the goods in increased quantities,
  - (b) must not exceed 4 years (but see paragraph 21 regarding the possibility of extensions or other variations to that period following a review), and
  - (c) if the recommendation is accepted by the Secretary of State, must begin on the day after the date of publication of the public notice under section 13 giving effect to the recommendation.
- (3) The recommendation must (in addition to the specified period) include—
- (a) the TRA's recommendation regarding—
    - (i) the amount of the quota,
    - (ii) how the quota should be allocated, and
    - (iii) the rates of import duty that should be applied to goods subject to the quota, and

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- (b) such other content as regulations may require.
- (4) The TRA must consult the Secretary of State before making a recommendation regarding the allocation of the quota.
- (5) The things recommended by the TRA by virtue of sub-paragraph (3)(a)—
  - (a) must be such as the TRA is satisfied are necessary—
    - (i) to remove serious injury to UK producers of the goods, and
    - (ii) to facilitate the adjustment of those UK producers to the importation of the goods in increased quantities, and
  - (b) where the specified period referred to in paragraph 16(3)(b) exceeds 1 year, must be such that the amount of import duty applicable to goods subject to the quota becomes progressively smaller as the period progresses (whether by increases in the amount of the quota, decreases in the rates of import duty, or both).
- (6) Regulations may make provision for the purposes of sub-paragraph (5)(a) about how the things which the TRA is satisfied are necessary for the purposes mentioned are to be determined.
- (7) If a provisional safeguarding remedy has been applied to some or all of the goods as part of the same safeguarding investigation, sub-paragraph (8) applies for the purposes of sub-paragraphs (2)(b) and (5)(b).
- (8) The length of the specified period referred to in paragraph 16(3)(b), so far as relating to goods to which a provisional safeguarding remedy has been applied, is to be treated as extended by the length of the specified period for which the TRA recommended that a provisional safeguarding remedy should be applied to them.
- (9) Where the application of sub-paragraph (8) results in the length of the specified period referred to in paragraph 16(3)(b), so far as relating to goods to which a provisional safeguarding remedy has been applied, exceeding 1 year, sub-paragraph (5)(b) is to be read as if references to goods were references to the goods to which the provisional safeguarding remedy has been applied.
- (10) In this paragraph, references to the application of a provisional safeguarding remedy are to—
  - (a) applying a provisional safeguarding amount to goods, or
  - (b) making goods subject to a provisional tariff rate quota.

#### **Commencement Information**

**I97** Sch. 5 para. 18 in force at 4.3.2019 at 11:59 a.m. by S.I. 2019/429, reg. 2 (with regs. 4-9)

#### *Secretary of State's power to apply a definitive safeguarding amount*

- 19
- (1) If the TRA makes a recommendation under paragraph 16(3)(a) that a definitive safeguarding amount should be applicable to goods, the Secretary of State must decide whether to accept or reject the recommendation.
  - (2) The Secretary of State may reject the recommendation only if the Secretary of State is satisfied that—

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- (a) the application of a definitive safeguarding amount to goods in accordance with the recommendation does not meet the economic interest test (see paragraph 23), or
  - (b) it is not otherwise in the public interest to accept the recommendation.
- (3) If the recommendation is rejected, the Secretary of State must—
- (a) publish notice of the TRA's final affirmative determination in relation to the goods, of the recommendation and of the rejection of it,
  - (b) notify interested parties (see paragraph 31(3)) accordingly, and
  - (c) lay a statement before the House of Commons setting out the reasons for rejecting the recommendation.
- (4) If the recommendation is accepted, the Secretary of State—
- (a) must publish notice of the TRA's final affirmative determination in relation to the goods, of the recommendation and of the acceptance of it,
  - (b) must notify interested parties accordingly, and
  - (c) is required under section 13 to make provision by public notice to give effect to the recommendation.
- (5) See paragraphs 21 and 22 for variation or revocation of the application of a definitive safeguarding amount.

#### **Commencement Information**

**I98** Sch. 5 para. 19 in force at 4.3.2019 at 11:59 a.m. by S.I. 2019/429, reg. 2 (with regs. 4-9)

#### *Secretary of State's power to subject goods to a tariff rate quota*

- 20 (1) If the TRA makes a recommendation under paragraph 16(3)(b) that goods should be subject to a tariff rate quota, the Secretary of State must decide whether to accept or reject the recommendation.
- (2) The Secretary of State may reject the recommendation only if the Secretary of State is satisfied that—
- (a) making goods subject to a tariff rate quota in accordance with the recommendation does not meet the economic interest test (see paragraph 23), or
  - (b) it is not otherwise in the public interest to accept the recommendation.
- (3) If the recommendation is rejected, the Secretary of State must—
- (a) publish notice of the TRA's final affirmative determination in relation to the goods, of the recommendation and of the rejection of it,
  - (b) notify interested parties (see paragraph 31(3)) accordingly, and
  - (c) lay a statement before the House of Commons setting out the reasons for rejecting the recommendation.
- (4) If the recommendation is accepted, the Secretary of State—
- (a) must publish notice of the TRA's final affirmative determination in relation to the goods, of the recommendation and of the acceptance of it,
  - (b) must notify interested parties accordingly, and



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(c) is required under section 13 to make provision by public notice to give effect to the recommendation.

(5) See paragraphs 21 and 22 for variation or revocation of a tariff rate quota.

#### Commencement Information

**I99** Sch. 5 para. 20 in force at 4.3.2019 at 11:59 a.m. by S.I. 2019/429, reg. 2 (with regs. 4-9)

#### Reviews

- 21 (1) Regulations may make provision for, or in connection with, reviews by the TRA of the continuing application of a definitive safeguarding amount or the continuation of a tariff rate quota.
- (2) References in this paragraph to “a review” are to a review by virtue of provision made under sub-paragraph (1).
- (3) Regulations under sub-paragraph (1) may, among other things, provide for a review to consider—
- (a) whether the continuing application of a definitive safeguarding amount, or the continuation of a tariff rate quota, is necessary—
    - (i) to remove the serious injury, or to prevent further serious injury, caused by the importation of the goods in increased quantities to UK producers of the goods, or
    - (ii) to facilitate the adjustment of those UK producers to the importation of the goods in increased quantities;
  - (b) whether serious injury to UK producers of the goods would be likely to continue or recur if the application of a definitive safeguarding amount were to expire or be varied or revoked or if a tariff rate quota were to expire or be varied or revoked;
  - (c) whether replacing the application of a definitive safeguarding amount with a tariff rate quota, or replacing a tariff rate quota with the application of a definitive safeguarding amount, would better meet the aim of—
    - (i) removing serious injury to UK producers of the goods, or
    - (ii) facilitating the adjustment of those UK producers to the importation of the goods in increased quantities;
  - (d) whether an adjustment plan as referred to in paragraph 16(5)(b) is being complied with.
- (4) Regulations under sub-paragraph (1) may, among other things, make—
- (a) provision for the TRA to investigate certain matters;
  - (b) provision for the period for which a definitive safeguarding amount applies to goods by public notice under section 13, or for which goods are subject to a tariff rate quota by public notice under that section, to be treated as continuing (where it would otherwise cease to do so) while a review is ongoing;
  - (c) other provision about the conduct of a review.
- (5) Paragraph 10(2) of Schedule 4 applies to regulations made by virtue of sub-paragraph (4)(c) in relation to a review as it applies to regulations under paragraph 10(1) of that Schedule in relation to a dumping or a subsidisation investigation.

*Status: Point in time view as at 17/12/2020.*

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- (6) Regulations may make provision for or in connection with—
- (a) the TRA recommending to the Secretary of State that—
    - (i) the application of a definitive safeguarding amount to goods should be varied, revoked or replaced with a tariff rate quota, or
    - (ii) a tariff rate quota to which goods are subject should be varied, revoked or replaced with the application of a definitive safeguarding amount, and
  - (b) the Secretary of State accepting or rejecting such a recommendation.
- (7) Where, by virtue of provision made under sub-paragraph (6), the Secretary of State accepts a recommendation that the application of a definitive safeguarding amount to goods, or a tariff rate quota to which goods are subject, should be varied or revoked, the Secretary of State—
- (a) must publish notice of the recommendation and of the acceptance of it,
  - (b) must notify interested parties (see paragraph 31(3)) accordingly, and
  - (c) is required under section 13 to make provision by public notice to give effect to the recommendation.
- (8) The variation of the application of a definitive safeguarding amount to goods which the TRA may recommend to the Secretary of State by virtue of regulations under sub-paragraph (6) may take the form of one or both of the following—
- (a) varying the period for which a definitive safeguarding amount is applicable (including extending it beyond the period referred to in paragraph 17(2)(b));
  - (b) varying how a definitive safeguarding amount should be determined such that a lower amount of import duty is applicable.
- (9) The variation of a tariff rate quota which the TRA may recommend to the Secretary of State by virtue of regulations under sub-paragraph (6) may take the form of one or more of the following—
- (a) increasing the amount of the quota;
  - (b) varying the allocation of the quota;
  - (c) reducing the rates of import duty that apply to goods subject to the quota;
  - (d) reducing the part of the period for which the amount of the quota is lower or for which import duty at a higher rate applies (so that the amount of the quota is increased, or import duty applies at a lower rate, more quickly);
  - (e) varying the period for which goods are subject to the quota (including extending it beyond the period referred to in paragraph 18(2)(b)).
- (10) Where, by virtue of provision made under sub-paragraph (6), the Secretary of State accepts a recommendation that, for the first time, a definitive safeguarding amount should be applicable to goods or goods should be subject to a tariff rate quota, the Secretary of State—
- (a) must publish notice of the recommendation and of the acceptance of it,
  - (b) must notify interested parties accordingly, and
  - (c) is required under section 13 to make provision by public notice to give effect to the recommendation.

#### **Commencement Information**

**I100** Sch. 5 para. 21 in force at 4.3.2019 at 11:59 a.m. by S.I. 2019/429, reg. 2 (with regs. 4-9)

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*Variation or revocation following an international dispute decision*

- 22 (1) Regulations may make provision for or in connection with—
- (a) the TRA recommending to the Secretary of State that the application of a definitive safeguarding amount to goods, or a tariff rate quota to which goods are subject, should be varied or revoked in light of an international dispute decision, and
  - (b) the Secretary of State accepting or rejecting such a recommendation.
- (2) The regulations may, among other things—
- (a) provide for the TRA to investigate certain matters for the purposes of determining whether to make a recommendation to the Secretary of State and what to recommend;
  - (b) make provision about the conduct of such an investigation;
  - (c) provide for the suspension, by public notice given by the Secretary of State, of the application of a definitive safeguarding amount or the making of goods subject to a tariff rate quota.
- (3) Paragraph 10(2) of Schedule 4 applies to regulations made by virtue of subparagraph (2)(b) in relation to such an investigation as it applies to regulations under paragraph 10(1) of that Schedule in relation to a dumping or a subsidisation investigation.
- (4) Where, by virtue of provision made under the regulations, the Secretary of State accepts a recommendation that the application of a definitive safeguarding amount to goods, or a tariff rate quota to which goods are subject, should be varied or revoked, the Secretary of State—
- (a) must publish notice of the recommendation and of the acceptance of it,
  - (b) must notify interested parties (see paragraph 31(3)) accordingly, and
  - (c) is required under section 13 to make provision by public notice to give effect to the recommendation.
- (5) Paragraph 21(8) and (9) apply for the purposes of regulations under this paragraph as they apply for the purposes of regulations under paragraph 21(6).
- (6) An “international dispute decision” means—
- (a) a report of a panel or Appellate Body that is adopted by the Dispute Settlement Body of the WTO, or
  - (b) if not within paragraph (a), a decision under the dispute settlement procedures of an arrangement relating to trade to which Her Majesty's government in the United Kingdom is a party with the government of a foreign country or territory.

**Commencement Information**

**I101** Sch. 5 para. 22 in force at 30.1.2020 by S.I. 2020/97, reg. 3 (with Sch. para. 2)

*Status: Point in time view as at 17/12/2020.*

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## PART 5

### SUPPLEMENTARY

#### *The economic interest test*

- 23 (1) This paragraph applies if the TRA or the Secretary of State is considering, for the purposes of this Schedule, whether the TRA or the Secretary of State is satisfied that the application of a safeguarding remedy meets or does not meet the economic interest test.
- (2) The economic interest test is met in relation to the application of a safeguarding remedy if the application of the remedy is in the economic interest of the United Kingdom.
- (3) When considering whether or not the application of a safeguarding remedy is in the economic interest of the United Kingdom, the TRA or the Secretary of State must—
- (a) take account of the following so far as relevant—
    - (i) the serious injury caused by the importation of the goods in increased quantities to UK producers of those goods and the benefits to those UK producers in removing that injury,
    - (ii) the economic significance of affected industries and consumers in the United Kingdom,
    - (iii) the likely impact on affected industries and consumers in the United Kingdom,
    - (iv) the likely impact on particular geographic areas, or particular groups, in the United Kingdom, and
    - (v) the likely consequences for the competitive environment, and for the structure of markets for goods, in the United Kingdom, and
  - (b) take account of such other matters as the TRA or, as the case may be, the Secretary of State considers relevant.
- (4) In this paragraph—
- (a) references to the application of a safeguarding remedy are to—
    - (i) applying a provisional safeguarding amount or a definitive safeguarding amount to goods, or
    - (ii) making goods subject to a provisional tariff rate quota or a tariff rate quota;
  - (b) “affected industries and consumers” means industries and consumers that would be affected if the safeguarding remedy were, or were not, to be applied;
  - (c) “industries” includes—
    - (i) the UK producers referred to in sub-paragraph (3)(a)(i) and other producers of goods,
    - (ii) suppliers of goods or services, and
    - (iii) importers, distributors and retailers of goods;
  - (d) “consumers” includes users of goods or services.

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#### Commencement Information

**I102** Sch. 5 para. 23 in force at 4.3.2019 at 11:59 a.m. by S.I. 2019/429, reg. 2 (with regs. 4-9)

#### *Suspension of safeguarding remedies*

- 24 (1) Regulations may make provision for or in connection with—
- (a) the TRA recommending to the Secretary of State that the application of a safeguarding remedy should be suspended, and
  - (b) the Secretary of State accepting or rejecting such a recommendation.
- (2) The regulations must secure that the TRA may make such a recommendation to the Secretary of State only if the TRA is satisfied that market conditions have temporarily changed such that the serious injury caused to UK producers of the goods would be unlikely to recur as a result of the suspension.
- (3) Regulations may make provision for the purposes of sub-paragraph (2) about what constitutes or does not constitute “market conditions” or a temporary change in such conditions.
- (4) Regulations under sub-paragraph (1) may, among other things, make—
- (a) provision for the TRA to investigate certain matters;
  - (b) provision about the conduct of such an investigation;
  - (c) provision about the period for which a suspension may have effect;
  - (d) provision about whether that period counts towards the period for which the suspended remedy applies.
- (5) Paragraph 10(2) of Schedule 4 applies to regulations made by virtue of sub-paragraph (4)(b) in relation to an investigation as it applies to regulations under paragraph 10(1) of that Schedule in relation to a dumping or a subsidisation investigation.
- (6) Where, by virtue of provision made under sub-paragraph (1), the Secretary of State accepts a recommendation that the application of a safeguarding remedy should be suspended, the Secretary of State—
- (a) must publish notice of the recommendation and of the acceptance of it,
  - (b) must notify interested parties (see paragraph 31(3)) accordingly, and
  - (c) is required under section 13 to make provision by public notice to give effect to the recommendation.
- (7) References in this paragraph to the application of a safeguarding remedy have the same meaning as in paragraph 23.

#### Commencement Information

**I103** Sch. 5 para. 24 in force at 4.3.2019 at 11:59 a.m. by S.I. 2019/429, reg. 2 (with regs. 4-9)

#### *Exceptions*

- 25 (1) For the purpose of giving effect to arrangements between Her Majesty's government in the United Kingdom and the government of a foreign country or territory,

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regulations may make provision excepting goods originating from a specified foreign country or territory from the application of this Schedule, or from specified provision made by or under it.

- (2) Regulations may make provision requiring goods originating from a specified foreign country or territory or description of foreign country or territory to be excepted from the goods in relation to which the TRA may make a recommendation under provision made by or under this Schedule.

#### **Commencement Information**

**I104** Sch. 5 para. 25 in force at 4.3.2019 at 11:59 a.m. by S.I. 2019/429, reg. 2 (with regs. 4-9)

#### *Restrictions on successive safeguarding remedies*

- 26 (1) This paragraph applies if—
- (a) the TRA makes a recommendation under paragraph 16(3) that a definitive safeguarding amount should be applicable to goods or that goods should be subject to a tariff rate quota, and
  - (b) a definitive safeguarding amount has previously been applied to those goods, or they have previously been subject to a tariff rate quota, as a result of an earlier recommendation made by the TRA under that paragraph.
- (2) In this paragraph, references to the “previous safeguarding remedy”, in relation to goods, are to—
- (a) the most recent application of a definitive safeguarding amount to the goods, or
  - (b) the tariff rate quota to which the goods were most recently subject.
- (3) The Secretary of State may not accept the recommendation if the period for which a definitive safeguarding amount would be applicable to the goods, or for which the goods would be subject to a tariff rate quota, would (by virtue of paragraph 17(2)(c) or 18(2)(c)) begin before the end of the restricted period.
- (4) The restricted period means—
- (a) such period, beginning with the day after the date on which the period of the previous safeguarding remedy ended, as is equal to the period of that previous safeguarding remedy, or
  - (b) if it would result in a period of a greater length than the period referred to in paragraph (a), the period of two years beginning with the day after the date on which the period of the previous safeguarding remedy ended.
- (5) Sub-paragraph (3) does not prevent the Secretary of State from accepting the recommendation if—
- (a) the specified period referred to in paragraph 16(3)(a) or, as the case may be, paragraph 16(3)(b) (“the recommended period”) does not exceed 180 days,
  - (b) the date on which the period of the previous safeguarding remedy began is at least 1 year before the date on which the recommended period would (by virtue of paragraph 17(2)(c) or 18(2)(c)) begin, and
  - (c) no more than 2 notices have been published under paragraph 19(4)(a) or 20(4)(a) in relation to the goods in the period of 5 years ending with the day before the date on which the recommended period would begin.

*Status: Point in time view as at 17/12/2020.*

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#### Commencement Information

**I105** Sch. 5 para. 26 in force at 4.3.2019 at 11:59 a.m. by S.I. 2019/429, reg. 2 (with regs. 4-9)

#### *Interaction with anti-dumping remedies and anti-subsidy remedies*

- 27 In determining for the purposes of any provision of this Schedule, or of regulations made under it, what is necessary to prevent or remove serious injury to UK producers of particular goods, the TRA must take account of—
- (a) any requirement to give a guarantee in respect of the goods which applies under paragraph 15 of Schedule 4,
  - (b) any application of an anti-dumping amount or a countervailing amount to the goods under section 13, and
  - (c) any undertaking which has been accepted in respect of the goods under provision made by or under Part 5 of Schedule 4.

#### Commencement Information

**I106** Sch. 5 para. 27 in force at 4.3.2019 at 11:59 a.m. by S.I. 2019/429, reg. 2 (with regs. 4-9)

#### *Investigations regarding repayments*

- 28 (1) Regulations may provide for the TRA to investigate specified matters for the purpose of determining whether—
- (a) a repayment of a provisional safeguarding amount or a definitive safeguarding amount,
  - (b) the repayment of an amount of import duty charged by virtue of provision made under section 13 in respect of goods which are subject to a provisional tariff rate quota or a tariff rate quota, or
  - (c) the repayment of interest paid in respect of any such amounts,
- should be made under regulations made under paragraph 10 of Schedule 6.
- (2) The regulations may make provision about the conduct of any such investigation.
- (3) Paragraph 10(2) of Schedule 4 applies to those regulations in relation to such an investigation as it applies to regulations under paragraph 10(1) of that Schedule in relation to a dumping or a subsidisation investigation.

#### Commencement Information

**I107** Sch. 5 para. 28 in force at 4.3.2019 at 11:59 a.m. by S.I. 2019/429, reg. 2 (with regs. 4-9)

#### *Reconsideration, reviews and appeals*

- 29 Regulations may make provision for or in connection with—
- (a) the reconsideration by the TRA of decisions made by the TRA under provision made by or under this Schedule, and
  - (b) the review or appeal of decisions made by the TRA or the Secretary of State under provision made by or under this Schedule.

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#### Commencement Information

**I108** Sch. 5 para. 29 in force at 7.5.2019 at 11:59 p.m. by S.I. 2019/914, reg. 2 (with reg. 3, Sch. para. 2)

#### *Notices*

- 30 (1) Where a notice is required to be published or given by a provision made by or under this Schedule, regulations may make provision about—
- (a) the form of the notice;
  - (b) its content;
  - (c) the manner of publication;
  - (d) the means by which it is given;
  - (e) the time or date on which it is published or given or is to be treated as published or given.
- (2) Such regulations may, among other things, provide—
- (a) for some of the content of the notice to be contained in a separate report to which the notice refers, and
  - (b) for that report to be published or for it to be given, or otherwise made available to, the persons to whom the notice is required to be given.
- (3) The provision made by regulations under this paragraph about the content of a notice is in addition to any such provision made by or under any other provision of this Schedule.
- (4) Sub-paragraph (1)(c) does not apply to a public notice under provision made under paragraph 22(2)(c) (see section 37(5)).

#### Commencement Information

**I109** Sch. 5 para. 30 in force at 4.3.2019 at 11:59 a.m. by S.I. 2019/429, reg. 2 (with regs. 4-9)

#### *Interpretation*

- 31 (1) In this Schedule—
- “definitive safeguarding amount” has the meaning given by paragraph 16(3)(a);
  - “directly competitive goods” has the meaning given by paragraph 5;
  - “final affirmative determination”, in relation to goods, has the meaning given by paragraph 9(5)(a);
  - “final negative determination”, in relation to goods, has the meaning given by paragraph 9(5)(b);
  - “foreign country or territory” means a country or territory outside the United Kingdom;
  - importation in “increased quantities” has the meaning given by paragraph 1;
  - “interested parties” has the meaning given by sub-paragraph (3);
  - “like goods”, in relation to goods, has the meaning given by paragraph 4;



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“provisional affirmative determination”, in relation to goods, has the meaning given by paragraph 9(2);

“provisional safeguarding amount” has the meaning given by paragraph 11(3)(a);

“provisional tariff rate quota” has the meaning given by paragraph 11(3)(b);

“regulations” means regulations made by the Secretary of State;

“safeguarding investigation” has the meaning given by paragraph 6(2);

“serious injury” to UK producers of particular goods has the meaning given by paragraph 2;

“tariff rate quota” has the meaning given by paragraph 16(3)(b);

“UK producers”, of particular goods, has the meaning given by paragraph 3.

- (2) References in this Schedule to the economic interest test are to be construed in accordance with paragraph 23.
- (3) References in a provision of this Schedule to “interested parties” means the governments of such foreign countries or territories, or such other persons, as may be specified in regulations made under this sub-paragraph for the purposes of the provision in question.

#### Commencement Information

**I110** Sch. 5 para. 31 in force at 4.3.2019 at 11:59 a.m. by S.I. 2019/429, reg. 2 (with regs. 4-9)

## SCHEDULE 6

Section 20

### IMPORT DUTY: NOTIFICATION OF LIABILITY, PAYMENT ETC

#### *Notification of liability to pay import duty*

- 1 A liability of a person to pay import duty may not be enforced unless the person has been notified of the liability in accordance with the provision made by or under this Schedule.

#### Commencement Information

**I111** Sch. 6 para. 1 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 2 (1) If HMRC consider that a person is liable to pay import duty, they must notify the person of that fact specifying—
  - (a) the amount of the duty,
  - (b) the circumstances giving rise to the liability, and
  - (c) the date on or before which the duty must be paid.
- (2) The notification may be given in such form and manner as HMRC consider appropriate.

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**Commencement Information**

**I112** Sch. 6 para. 2 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 3 (1) HMRC Commissioners may by regulations make provision—
- (a) specifying cases where it is to be presumed that a person has been notified under paragraph 2 (including cases where the presumption may not be rebutted),
  - (b) specifying cases in which the duty to notify under paragraph 2 is taken to be met by the doing of some other specified act, or
  - (c) specifying cases in which neither paragraph 1 nor 2 apply.
- (2) Regulations made under sub-paragraph (1)(c)—
- (a) must contain provision for securing that the existence of a liability to pay import duty is acknowledged in some other way (for example, by the provision of documents or information to HMRC in which a person sets out or self-assesses the liability), and
  - (b) may contain any other provision that HMRC Commissioners consider appropriate for the purpose of securing the enforceability of the liability (for example, by requiring a guarantee to be given in respect of any liability to import duty).

**Commencement Information**

**I113** Sch. 6 para. 3 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 4 (1) The general rule is that a notification under paragraph 2 of a liability to pay import duty must be given before the end of the period of 3 years beginning with the day on which the liability was incurred.
- (2) If the liability is incurred in circumstances where, in the opinion of an HMRC officer, an offence has been committed (whether or not the offence relates in any way to import duty), the period of 3 years for notifying is extended to a period of 20 years.

**Commencement Information**

**I114** Sch. 6 para. 4 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

*Payment of import duty*

- 5 (1) HMRC Commissioners must make regulations about the payment of import duty.
- (2) The regulations may (among other things) make provision about—
- (a) the date on or before which a liability to pay import duty must be discharged,
  - (b) cases in which the period for discharging the liability is extended (either generally or in relation to particular cases),
  - (c) how a liability to pay import duty may be discharged, and
  - (d) interest in respect of import duty.
- (3) The provision that may be made within sub-paragraph (2)(d) includes provision—

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- (a) for interest to be recoverable as if it were an amount due by way of import duty,
- (b) determining the period during which interest is to be payable,
- (c) for exceptions from the requirement to pay interest, and
- (d) about the rate of interest (which may be by reference to a rate payable by the Bank of England, or by any other person, in respect of any amount).

**Commencement Information**

**I115** Sch. 6 para. 5 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

*Guarantees*

- 6
- (1) HMRC Commissioners must make regulations about the giving of guarantees in respect of any liability to pay import duty.
  - (2) The provision that may be made by the regulations includes (among other things) provision about—
    - (a) the form of a guarantee,
    - (b) the circumstances in which a guarantee is to be regarded as discharged (in full or in part), and
    - (c) the steps required to be taken by HMRC officers in cases where the guarantee is to be enforced or discharged (to any extent).

**Commencement Information**

**I116** Sch. 6 para. 6 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 7
- In the case of goods declared for the free-circulation procedure, regulations under paragraph 6 must provide that, if a guarantee as to the payment of a liability to import duty is given in accordance with specified conditions, the liability is deferred until such time as is specified.

**Commencement Information**

**I117** Sch. 6 para. 7 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 8
- (1) In the case of goods declared for a special Customs procedure, the provision that may be made by regulations under paragraph 6 includes provision requiring—
    - (a) a guarantee to be given in respect of a liability to import duty that might be incurred in respect of particular goods declared for a special Customs procedure, or
    - (b) a guarantee (a “comprehensive guarantee”) to be given in respect of a liability to import duty that might be incurred in respect of all goods declared for a special Customs procedure.
  - (2) In the case of a comprehensive guarantee, the regulations—
    - (a) must provide that the guarantee is to be given only by persons for the time being authorised in accordance with the regulations, and

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- (b) may provide for the guarantee to be given in respect of only a portion of the liability to import duty that might be incurred (as determined in accordance with the regulations).
- (3) Regulations under paragraph 6 may make provision for a guarantee in respect of any liability to import duty in respect of any goods declared for a special Customs procedure to extend also to any liability to import duty in respect of any goods declared for the free-circulation procedure.

**Commencement Information**

**I118** Sch. 6 para. 8 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 9 For the purposes of paragraphs 6 to 8 any reference to a liability to import duty includes a potential liability to import duty.

**Commencement Information**

**I119** Sch. 6 para. 9 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

*Repayment of import duty*

- 10 (1) HMRC Commissioners must make regulations about—
- (a) the repayment of import duty, and
  - (b) the repayment of interest paid in respect of import duty,
- in specified cases if a claim for the purpose is made and other specified conditions are met.
- (2) Among other things, the regulations may—
- (a) make provision about who is entitled to make a claim and the form of a claim (including provision for the form to be specified in a public notice given by HMRC Commissioners),
  - (b) make provision about the date on or before which a claim must be made,
  - (c) make provision as to the evidence which is to be required, or is to be sufficient, for the purpose of showing that any of the specified conditions are met,
  - (d) specify how a repayment may be made,
  - (e) require a repayment to be made only if the goods are presented to an HMRC officer, or a Customs declaration is made, on or before a specified date,
  - (f) specify cases in which simple interest is to be payable in respect of the repayment of import duty (but not in respect of the repayment of interest paid in respect of import duty), and
  - (g) provide for the recovery of amounts wrongly paid to a person under the regulations (including provision for the payment of interest on amounts recovered) but only if, at the time at which the person is notified of the requirement to repay, the original liability to pay import duty could have been enforced.
- (3) The provision that may be made as a result of sub-paragraph (2)(f) or (g) includes provision—

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- (a) for interest to be payable in respect of a period beginning with a specified date,
- (b) for exceptions from the requirement to pay interest, and
- (c) about the rate of interest (which may be by reference to a rate payable by the Bank of England, or by any other person, in respect of any amount).

**Commencement Information**

**I120** Sch. 6 para. 10 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

*Remission of import duty*

- 11 HMRC Commissioners may make regulations about the remission of import duty.

**Commencement Information**

**I121** Sch. 6 para. 11 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

*Recovery of import duty*

- 12 (1) Any amount due by way of import duty is recoverable as a debt due to the Crown.
- (2) If—
- (a) goods in respect of which a liability to import duty is incurred are condemned as forfeited, and
  - (b) the goods are not subsequently restored under section 152(b) of CEMA 1979 or sold by HMRC Commissioners,
- the amount due by way of import duty ceases to be recoverable as a debt due to the Crown.
- (3) If the goods are sold by HMRC Commissioners, the purchaser is liable to pay the debt due to the Crown (in addition to anyone else who is liable apart from this subparagraph).
- (4) This paragraph does not restrict any other way in which import duty may be recovered, whether as a result of CEMA 1979 or any other enactment.

**Commencement Information**

**I122** Sch. 6 para. 12 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

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## SCHEDULE 7

Section 29

### IMPORT DUTY: CONSEQUENTIAL AMENDMENTS

#### PART 1

##### REPLACEMENT OF EU CUSTOMS DUTIES

- 1 (1) Any direct EU legislation, so far as imposing or otherwise applying in relation to any EU customs duty, that forms part of the law of the United Kingdom as a result of section 3 of the European Union (Withdrawal) Act 2018 (incorporation of direct EU legislation) ceases to have effect.
- (2) Nothing in—
- (a) any direct EU legislation, or
  - (b) section 4(1) of the European Union (Withdrawal) Act 2018 (saving for EU rights, powers, liabilities, obligations, restrictions, remedies and procedures),
- is to have effect in relation to import duty.
- (3) Part 1 of this Act—
- (a) contains provisions replacing EU customs duties,
  - (b) is not retained EU law, and
  - (c) so far as it contains powers to make or give regulations or public notices, enables provision to be made of a kind corresponding to that which could previously have been made by the legislation ceasing to have effect as a result of sub-paragraph (1).
- (4) In this paragraph—
- (a) any reference to EU customs duty includes any EU trade duty,
  - (b) the reference to EU trade duty is to anti-dumping duty, countervailing duty, safeguard duty and any duty imposed in consequence of an international dispute, and
  - (c) the reference to Part 1 of this Act does not include section 29 or this Schedule.

#### **Commencement Information**

**I123** Sch. 7 para. 1 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 2 Provision relevant to the law relating to duties of customs and other customs matters is made by the European Union (Withdrawal) Act 2018: see, for example, section 2 of that Act (which, among other things, provides for CEMA 1979 to continue to have effect in the law of the United Kingdom).

#### **Commencement Information**

**I124** Sch. 7 para. 2 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

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## PART 2

### AMENDMENTS OF CEMA 1979

3 CEMA 1979 is amended as follows.

#### Commencement Information

**I125** Sch. 7 para. 3 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

**I126** Sch. 7 para. 3 in force at 8.4.2019 for specified purposes by **S.I. 2019/819, reg. 2(2)** (with **reg. 2(3)**)

4 (1) Section 1 (interpretation) is amended as follows.

(2) In subsection (1)—

- (a) omit the definition of “coasting ship”,
- (b) omit the definition of “Community transit goods”,
- (c) after the definition of “customs and excise station” insert—

““customs formalities”, in relation to any goods, means the requirements made by or under this Act, or by or under Part 1 of the Taxation (Cross-border Trade) Act 2018, that apply in relation to the importation or exportation of the goods;

“customs warehouse” means premises approved under regulations under Schedule 2 to the Taxation (Cross-border Trade) Act 2018 for the purposes of a storage procedure;”

- (d) in the definition of “excise warehouse”, omit “(whether or not it is also approved under subsection (2))”,
- (e) in the definition of “importer”, for “they are delivered out of charge” substitute “ all customs formalities have been complied with in respect of the goods ”,
- (f) after the definition of “Queen's warehouse” insert—

““railway customs area” has the meaning given by section 26(1ZA) (c);”

- (g) in the definition of “stores”, for “ship or aircraft” substitute “ ship, aircraft or railway vehicle ”,
- (h) after the definition of “stores” insert—

““temporary storage facility” has the meaning given by section 25A;”

- (i) in the definition of “transit goods”, for the words from “except in the expression” to the end substitute “ means chargeable goods declared for a transit procedure; ”,
- (j) omit the definition of “transit or transshipment”,
- (k) omit the definition of “transit shed”,
- (l) for the definition of “vehicle” substitute—

““vehicle” includes—

- (a) a ship,
- (b) an aircraft, and
- (c) a railway vehicle;

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and any reference to goods being in or on board a vehicle include their being conveyed by the vehicle (for example, by being on or otherwise attached to it);”

- (m) after that definition insert—
  - ““vehicle operator” means—
    - (a) in the case a ship, the master of the ship,
    - (b) in the case of an aircraft, the commander of the aircraft,
    - (c) in the case of a railway vehicle, the person designated as train manager by the person operating the international service on which the railway vehicle is engaged, and
    - (d) in the case of any other vehicle, the person in charge of the vehicle;”
  - (n) omit the definition of “victualling warehouse”, and
  - (o) in the definition of “warehouse”—
    - (i) omit “or (2) or subsections (1) and (2)”, and
    - (ii) omit “subsection (4) of that section and”.
- (3) After subsection (3) insert—
  - “(3A) Any expression used in this Act or in any instrument made under this Act to which a meaning is given by Part 1 of the Taxation (Cross-border Trade) Act 2018 has, except where the context otherwise requires, the same meaning in this Act or any such instrument as in that Part; and for ease of reference the following is a list of the expressions concerned—
    - “the applicable export provisions”
    - “authorised use procedure”
    - “chargeable goods”
    - “Customs declaration” (including any expression relating to a Customs declaration such as the documents accompanying it or its acceptance)
    - “Customs procedure” (including expressions relating to a Customs procedure such as goods being released to or discharged from the procedure)
    - “inward processing procedure”
    - “storage procedure”
    - “territory outside the United Kingdom”
    - “temporary admission procedure”
    - “transit procedure”.
- (4) Omit subsection (7).

**Commencement Information**

**I127** Sch. 7 para. 4 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 5 (1) Section 2 (application to hovercraft) is amended as follows.
  - (2) In subsection (1)—
    - (a) after “ships or vessels” insert “ (including references, without more, to vehicles) ”, and
    - (b) for “transit shed” substitute “ temporary storage facility ”.



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(3) In subsection (3), omit ““transshipment””.

#### **Commencement Information**

**I128** Sch. 7 para. 5 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 6 (1) Section 5 (time of importation, exportation, etc) is amended as follows.
- (2) In subsection (2)—
- (a) in the opening words, for “subsections (3)” substitute “ subsections (2A) ”, and
  - (b) in paragraph (c), for “are brought across the boundary into Northern Ireland” substitute “ enter the United Kingdom ”.
- (3) After subsection (2) insert—
- “(2A) If there is a relevant international arrangement with a country or territory outside the United Kingdom, the Commissioners may by regulations provide for the time of importation of any goods to be a time—
- (a) which is earlier than the times set out in paragraph (a), (b) or (c) of subsection (2), and
  - (b) which is specified by reference to movement in or out of an area in the country or territory.
- (2B) “Relevant international arrangement” means an arrangement between Her Majesty's government in the United Kingdom and the government of the country or territory which includes provision in relation to the time at which goods are to be regarded as imported into the United Kingdom.”
- (4) Omit subsection (3).
- (5) In subsection (4), after “subsections (5)” insert “ , (5A) ”.
- (6) After subsection (5) insert—
- “(5A) If there is a relevant international arrangement with a country or territory outside the United Kingdom, the Commissioners may by regulations provide for the time of exportation of any goods to be a time—
- (a) which is earlier than the times set out in paragraph (a) or (b) of subsection (4), and
  - (b) which is specified by reference to movement in or out of an area in the country or territory.
- (5B) “Relevant international arrangement” means an arrangement between Her Majesty's government in the United Kingdom and the government of the country or territory which includes provision in relation to the time at which goods are to be regarded as exported from the United Kingdom.”
- (7) In subsection (6), for “or brought across the boundary into Northern Ireland” substitute “ or otherwise when they enter the United Kingdom ”.

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**Commencement Information**

**I129** Sch. 7 para. 6 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 7 Omit section 9 (general duties of Commissioners in relation to customs matters concerning the European Union).

**Commencement Information**

**I130** Sch. 7 para. 7 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 8 (1) Section 10 (disclosure by Commissioners of certain information as to imported goods) is amended as follows.
- (2) Before subsection (1) insert—
- “(A1) This section does not apply to information the disclosure of which is governed by section 25 of the Taxation (Cross-border Trade) Act 2018.”
- (3) In subsection (2), for “making entry of any goods on their importation,” substitute “notifying the importation of any goods, making a declaration in respect of the temporary storage of goods, or making a Customs declaration in respect of any goods,”.

**Commencement Information**

**I131** Sch. 7 para. 8 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 9 (1) Section 20 (approval of wharves) is amended as follows.
- (2) In subsection (1), omit “and subject to such conditions and restrictions”.
- (3) After subsection (1) insert—
- “(1A) In any case where they consider it would facilitate the administration, collection or enforcement of any duty of customs, the Commissioners may by regulations—
- (a) specify conditions which must be met before an approval is granted, or
- (b) specify other conditions which they may, in any particular case, require to be met before an approval is granted.
- (1B) In any other case, an approval has effect subject to such conditions and restrictions as the Commissioners think fit.”
- (4) Omit subsection (3).

**Commencement Information**

**I132** Sch. 7 para. 9 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 10 (1) Section 20A (approved wharves) is amended as follows.
- (2) Omit subsection (1)(b) (together with the “or” before it).

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(3) After subsection (1) insert—

“(1A) Any person contravening or failing to comply with any condition imposed under regulations under section 20(1A) attaching to an approval by virtue of which a place is an approved wharf is liable on summary conviction to—

- (a) a penalty not exceeding £20,000, or
- (b) if the contravention or failure to comply is not remedied before such date as is specified in a notice or further notice given to the person by an officer of Revenue and Customs, a penalty not exceeding the sum of £20,000 and the enhanced amount.

(1B) For the purposes of subsection (1A)(b)—

- (a) “the enhanced amount” means the sum produced by multiplying £20,000 by the number of notices in respect of which the contravention or failure to comply has not been remedied by the date specified in the notice,
- (b) the date specified in a notice must be one that falls after the end of the period of 14 days beginning with the day on which the notice is given, and
- (c) if a notice has already been given, a further notice may not be given on or before the date specified in any earlier notice.”

(4) In subsection (2), after “approved wharf” insert “ (other than a condition imposed under regulations under section 20(1A)) ”.

**Commencement Information**

**I133** Sch. 7 para. 10 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 11 (1) Section 21 (control of movement of aircraft, etc into and out of the United Kingdom) is amended as follows.
- (2) Omit subsection (1A).
- (3) In subsection (2), for the words from “no person” to “so importing” substitute “ no person importing or concerned in importing ”.
- (4) Omit subsection (4A).

**Commencement Information**

**I134** Sch. 7 para. 11 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 12 (1) Section 22 (approval of examination stations at customs and excise airports) is amended as follows.
- (2) In subsection (1), omit “and subject to such conditions and restrictions”.
- (3) After subsection (1) insert—
- “(1A) In any case where they consider it would facilitate the administration, collection or enforcement of any duty of customs, the Commissioners may by regulations—

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- (a) specify conditions which must be met before an approval is granted, or
- (b) specify other conditions which they may, in any particular case, require to be met before an approval is granted.

(1B) In any other case, an approval has effect subject to such conditions and restrictions as the Commissioners think fit.”

(4) Omit subsection (3).

**Commencement Information**

**I135** Sch. 7 para. 12 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

13 (1) Section 22A (examination stations) is amended as follows.

(2) Omit subsection (1)(b) (together with the “or” before it).

(3) After subsection (1) insert—

“(1A) Any person contravening or failing to comply with any condition imposed under regulations under section 22(1A) attaching to an approval by virtue of which a part of, or a place at, a customs and excise airport is an examination station is liable on summary conviction to—

- (a) a penalty not exceeding £20,000, or
- (b) if the contravention or failure to comply is not remedied before such date as is specified in a notice or further notice given to the person by an officer of Revenue and Customs, a penalty not exceeding the sum of £20,000 and the enhanced amount.

(1B) For the purposes of subsection (1A)(b)—

- (a) “the enhanced amount” means the sum produced by multiplying £20,000 by the number of notices in respect of which the contravention or failure to comply has not been remedied by the date specified in the notice,
- (b) the date specified in a notice must be one that falls after the end of the period of 14 days beginning with the day on which the notice is given, and
- (c) if a notice has already been given, a further notice may not be given on or before the date specified in any earlier notice.”

(4) In subsection (2), after “examination station” insert “ (other than a condition imposed under regulations under section 22(1A)) ”.

**Commencement Information**

**I136** Sch. 7 para. 13 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

14 In section 23 (control of movement of hovercraft), in subsection (2), for “transit shed” substitute “ temporary storage facility ”.

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#### Commencement Information

**I137** Sch. 7 para. 14 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 15 In section 24 (control of movement of goods by pipe-line), in subsection (2)(a), for “have not been cleared out of charge” substitute “ are subject to the control of any officer of Revenue and Customs as a result of Part 1 of the Taxation (Cross-border Trade) Act 2018 ”.

#### Commencement Information

**I138** Sch. 7 para. 15 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 16 (1) Section 25 (approval of transit sheds) is amended as follows.
- (2) In subsection (1)—
- (a) omit “and subject to such conditions and restrictions”, and
  - (b) for the words from “not yet cleared out of charge” to the end, substitute “ subject to the control of any officer of Revenue and Customs as a result of Part 1 of the Taxation (Cross-border Trade) Act 2018. ”
- (3) After subsection (1) insert—
- “(1A) In any case where they consider it would facilitate the administration, collection or enforcement of any duty of customs, the Commissioners may by regulations—
- (a) specify conditions which must be met before an approval is granted, or
  - (b) specify other conditions which they may, in any particular case, require to be met before an approval is granted.
- (1B) In any other case, an approval has effect subject to such conditions and restrictions as the Commissioners think fit.”
- (4) Omit subsection (3).
- (5) In subsection (4)—
- (a) for “entry” substitute “ needing to comply with all customs formalities in relation to the goods ”, and
  - (b) for “transit sheds”, in each place, substitute “ temporary storage facilities ”.
- (6) In the heading, for “transit sheds” substitute “ temporary storage facilities ”.

#### Commencement Information

**I139** Sch. 7 para. 16 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

**I140** Sch. 7 para. 16(1) in force at 8.4.2019 for specified purposes by [S.I. 2019/819](#), [reg. 2\(1\)\(a\)](#) (with [reg. 2\(3\)](#))

**I141** Sch. 7 para. 16(2)(a) in force at 8.4.2019 in so far as not already in force by [S.I. 2019/819](#), [reg. 2\(1\)\(b\)](#) (with [reg. 2\(3\)](#))

**I142** Sch. 7 para. 16(3) in force at 8.4.2019 in so far as not already in force by [S.I. 2019/819](#), [reg. 2\(1\)\(c\)](#) (with [reg. 2\(3\)](#))

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- 17 (1) Section 25A (transit sheds) is amended as follows.
- (2) In subsection (1)—
- (a) in the opening words, for “transit shed” substitute “ temporary storage facility ”, and
  - (b) omit paragraph (b) (together with the “or” before it).
- (3) After subsection (1) insert—
- “(1A) Any person contravening or failing to comply with any condition imposed under regulations under section 25(1A) attaching to an approval by virtue of which a place is a temporary storage facility is liable on summary conviction to—
- (a) a penalty not exceeding £20,000, or
  - (b) if the contravention or failure to comply is not remedied before such date as is specified in a notice or further notice given to the person by an officer of Revenue and Customs, a penalty not exceeding the sum of £20,000 and the enhanced amount.
- (1B) For the purposes of subsection (1A)(b)—
- (a) “the enhanced amount” means the sum produced by multiplying £20,000 by the number of notices in respect of which the contravention or failure to comply has not been remedied by the date specified in the notice,
  - (b) the date specified in a notice must be one that falls after the end of the period of 14 days beginning with the day on which the notice is given, and
  - (c) if a notice has already been given, a further notice may not be given on or before the date specified in any earlier notice.”
- (4) In subsection (2), for “transit shed” substitute “ temporary storage facility (other than a condition imposed under regulations under section 25(1A)) ”.
- (5) In subsection (3), for “transit shed”, in both places, substitute “ temporary storage facility ”.
- (6) For the heading substitute “ Temporary storage facilities ”.

**Commencement Information**

**I143** Sch. 7 para. 17 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 18 (1) Section 26 (power to regulate movements of goods into and out of Northern Ireland by land) is amended as follows.
- (2) In subsection (1), omit the words after paragraph (b).
- (3) After subsection (1) insert—
- “(1ZA) The Commissioners may, for the purpose of safeguarding the revenue, by regulations—
- (a) apply any provision made by or under this Act so that it applies in relation to any road or railway vehicle (with or without modifications),

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- (b) provide for any provision made by or under this Act not to apply in relation to any road or railway vehicle, and
  - (c) make provision for the designation of any area as a railway customs area for the purposes of this Act (referred to in this Act as a “railway customs area”).
- (1ZB) An area may be designated as a railway customs area if it is—
- (a) a place at which goods are loaded onto or unloaded from, or passengers board or disembark from, a railway vehicle before it departs or enters the United Kingdom, or
  - (b) an area adjoining such a place.
- (1ZC) Regulations under this section may make different provision in relation to different classes or descriptions of goods and, in particular, in relation to different classes or descriptions of vehicles.”
- (4) In subsection (1A), for “subsection (1) above” substitute “ this section ”.
- (5) In subsection (2), for “subsection (1) above” substitute “ this section ”.
- (6) In the heading, for “Northern Ireland” substitute “ United Kingdom ”.

**Commencement Information**

**I144** Sch. 7 para. 18 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 19 (1) Section 27 (officers' powers of boarding) is amended as follows.
- (2) In subsection (1)—
- (a) in the opening words, for “a vehicle” substitute “ any other vehicle ”,
  - (b) after paragraph (b) insert—
    - “(ba) within a railway customs area,”,
  - (c) in paragraph (e), for “transit shed,” substitute “ temporary storage facility ”, and
  - (d) in the words after paragraph (f), for “the ship, aircraft or vehicle” substitute “ the vehicle ”.
- (3) Omit subsection (1A).

**Commencement Information**

**I145** Sch. 7 para. 19 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 20 (1) Section 28 (officers' powers of access, etc) is amended as follows.
- (2) In subsection (1)—
- (a) in the opening words, for “of any vehicle” substitute “ of any other vehicle ”, and
  - (b) in paragraphs (a) and (b), for “ship, aircraft or vehicle” substitute “ vehicle ”.
- (3) In subsection (2), for “ship, aircraft or vehicle” substitute “ vehicle ”.

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**Commencement Information**

**I146** Sch. 7 para. 20 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 21 (1) Section 29 (officers' powers of detention of ships, etc) is amended as follows.
- (2) In subsection (1), for “ship, aircraft or vehicle”, in each place, substitute “ vehicle ”.
- (3) In subsection (2)(a), after “in the case of a ship or vehicle” insert “ other than an aircraft ”.

**Commencement Information**

**I147** Sch. 7 para. 21 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 22 (1) Section 30 (control of movement of uncleared goods within or between port or airport and other places) is amended as follows.
- (2) In subsection (1), for the words from “moved within” to the end substitute “moved—
- (a) within the limits of any port, railway customs area or customs and excise airport, or
- (b) between any port, railway customs area or customs and excise airport and any other place.”
- (3) In subsection (2), for “have not been cleared out of charge” substitute “ are subject to the control of any officer of Revenue and Customs as a result of Part 1 of the Taxation (Cross-border Trade) Act 2018 ”.
- (4) In subsection (3)(b), for “ships, aircraft or vehicles” substitute “ vehicles ”.

**Commencement Information**

**I148** Sch. 7 para. 22 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 23 In section 31 (control of movement of goods to and from inland clearance depot, etc), in subsection (1)—
- (a) in paragraphs (a) and (aa)(i), for “the clearance out of charge of” substitute “ the discharge of a Customs procedure in respect of ”, and
- (b) in paragraph (b), omit “, or a place designated by the proper officer under section 53(4) or 58(3) below”.

**Commencement Information**

**I149** Sch. 7 para. 23 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 24 (1) Section 33 (power to inspect aircraft, aerodromes, records, etc) is amended as follows.
- (2) In subsection (1)—
- (a) in the opening words—
- (i) for “commander of an aircraft” substitute “ vehicle operator of a vehicle which is an aircraft or railway vehicle ”, and



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- (ii) for “to board the aircraft” substitute “ to board the vehicle ”, and
  - (b) in paragraphs (a) and (b), for “the aircraft” substitute “ the vehicle ”.
- (3) In subsection (2)—
- (a) after “any aerodrome” insert “ or railway customs area ”, and
  - (b) after “the aerodrome” insert “ or railway customs area ”.
- (4) After subsection (3) insert—
- “(3A) If so required by the Commissioners, the person in control of a railway customs area shall—
- (a) keep a record in such form and manner as the Commissioners may approve of all railway vehicles arriving at or departing from the area,
  - (b) keep that record available and produce it on demand to any officer, together with all other documents kept in the area which relate to the movement of railway vehicles, and
  - (c) permit any officer to make copies of and take extracts from any such record or document.”
- (5) In the heading, after “aerodromes,” insert “ railway vehicles and customs areas, ”.

#### **Commencement Information**

**I150** Sch. 7 para. 24 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 25 (1) Section 34 (power to prevent flight of aircraft) is amended as follows.
- (2) In subsection (1)(b), for “clearance outwards is given” substitute “ the aircraft is cleared for departure ”.
- (3) After subsection (1) insert—
- “(1A) If it appears to any officer or constable—
- (a) that a railway vehicle is intended or likely to depart for a destination outside the United Kingdom, and
  - (b) that—
    - (i) the last place at which goods may be loaded onto or unloaded from, or passengers may board or disembark from, the vehicle before it leaves the United Kingdom is not within a railway customs area, or
    - (ii) it is intended or likely to depart from a railway customs area before being cleared for departure,
- the officer or constable may give such instructions and take such steps by way of detention of the vehicle or otherwise as appear necessary in order to prevent its departure.”
- (4) In subsection (2), after “subsection (1)” insert “ or (1A) ”.
- (5) In subsection (3)—
- (a) after “an aircraft flies” insert “ or railway vehicle departs ”,
  - (b) after “subsection (1)” insert “ or (1A) ”,
  - (c) for “or notwithstanding” substitute “ or flies or departs notwithstanding ”,
  - (d) after “the flight”, in both places, insert “ or departure ”, and

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(e) for “the commander” substitute “ the vehicle operator ”.

(6) In the heading, after “aircraft” insert “ or departure of railway vehicles ”.

**Commencement Information**

**I151** Sch. 7 para. 25 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

26 In the italic heading before section 35, for “Inward entry and clearance” substitute “ Control of entry of goods ”.

**Commencement Information**

**I152** Sch. 7 para. 26 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

27 (1) Section 35 (report inwards) is amended as follows.

(2) In subsection (1), for “ship and aircraft” substitute “ vehicle ”.

(3) In subsection (2)(b), for “and not yet cleared on importation” substitute “ which have not yet been declared for a Customs procedure ”.

(4) In subsection (3)(b)(i) for “and not already cleared at a customs and excise airport” substitute “ without yet having made a Customs declaration ”.

(5) After subsection (3) insert—

“(3A) This section applies to every vehicle (other than a ship or aircraft) arriving, or expected to arrive, at any place in the United Kingdom—

(a) from any place outside the United Kingdom; or

(b) carrying any goods brought in the vehicle from a place outside the United Kingdom which have not yet been declared for a Customs procedure.”

(6) In subsection (6)—

(a) for “ship, or aircraft” substitute “ vehicle ”, and

(b) for “or flight” substitute “ flight, or journey ”.

(7) In subsection (7)—

(a) for “ship or aircraft” substitute “ vehicle ”,

(b) after “arrives” insert “ in the United Kingdom, or ”, and

(c) for “the master of the ship or commander of the aircraft” substitute “ the vehicle operator ”.

(8) In subsection (9), after “in this section” insert “ and in section 35A ”.

**Commencement Information**

**I153** Sch. 7 para. 27 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

28 After section 35 insert—

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### “35A Obligation to confirm making of Customs declaration: particular vehicle operators

- (1) The Commissioners may by regulations make provision requiring, in cases specified in the regulations, a vehicle operator to confirm that, in respect of all goods in the vehicle which are to be imported into the United Kingdom—
  - (a) a Customs declaration has been made in respect of them, or
  - (b) the vehicle operator reasonably believes that a Customs declaration has been made in respect of them.
- (2) The regulations may require the confirmation to be given in accordance with provision made by the regulations.
- (3) A vehicle operator who does not provide a confirmation in accordance with the regulations is liable on summary conviction to a penalty of level 3 on the standard scale.”

#### Commencement Information

**I154** Sch. 7 para. 28 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

29 Omit section 37A (initial and supplementary entries).

#### Commencement Information

**I155** Sch. 7 para. 29 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

30 Omit section 37B (postponed entry).

#### Commencement Information

**I156** Sch. 7 para. 30 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

31 Omit section 37C (provisions supplementary to ss. 37A and 37B).

#### Commencement Information

**I157** Sch. 7 para. 31 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

32 Omit section 38B (correction and cancellation of entry).

#### Commencement Information

**I158** Sch. 7 para. 32 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

[<sup>F17</sup>33 In section 39 (entry of surplus stores)—

(a) before subsection (1) insert—

“(A1) This section applies only for excise duty purposes.”, and

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- (b) in subsection (1), for “ship or aircraft”, in both places it occurs, substitute “ship, aircraft or railway vehicle”.]

#### Textual Amendments

**F17** Sch. 7 para. 33 substituted (16.12.2020) by [The Taxation Cross-border Trade \(Special Procedures Supplementary and General Provision etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1439\)](#), regs. 1(3)(c), 5(3)

#### Commencement Information

**I159** Sch. 7 para. 33 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 34 (1) Section 40 (removal of uncleared goods to Queen's warehouse) is amended as follows.

- (2) For subsection (1) substitute—

“(1) The proper officer may remove chargeable goods to a Queen's warehouse in any of the following cases—

- (a) where the goods have not been presented to Customs on import in accordance with Part 1 of the Taxation (Cross-border Trade) Act 2018 within the relevant number of days from the day on which the goods were imported;
- (b) where the goods have not been moved to a temporary storage facility in accordance with paragraph 1 of Schedule 1 to that Act within the relevant number of days from the day on which the goods were required to be so moved;
- (c) where a Customs declaration has not been made in respect of the goods within the relevant number of days from the day on which the goods were presented to Customs on import;
- (d) where a document which is required to accompany a Customs declaration is not made available to Her Majesty's Revenue and Customs within the relevant number of days from the day on which it was required to be made available;
- (e) where the 90 day period referred to in paragraph 1 of Schedule 1 to the Taxation (Cross-border Trade) Act 2018 has ended and the goods have not been released to a Customs procedure within the relevant number of days from the day on which that period ended;
- (f) where the goods have been released to a Customs procedure but have not been removed from a temporary storage facility within the relevant number of days from the day on which the goods were released to the procedure;
- (g) where an officer of Revenue and Customs requires goods to be made available for examination and the goods are not made available within 21 days of the requirement being imposed; or
- (h) where goods have been imported by sea and do not constitute a significant proportion of the ship's cargo, they are at any time after the arrival of the importing ship at the port at which they are to be unloaded the only goods remaining to be unloaded from that ship at that port.”

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- (3) In subsection (2), for “entry” substitute “ compliance with the customs formalities in respect of the goods ”.
- (4) In subsection (3)—
- (a) in the opening words—
    - (i) after “section 99(3) below, if” insert “ the relevant customs formalities are not complied with in respect of ”, and
    - (ii) omit “are not cleared by the importer thereof”, and
  - (b) in the words after paragraph (b), for “them” substitute “ the goods ”.
- (5) In subsection (4), for paragraph (a) substitute—
- “(a) “the relevant number of days” means—
    - (i) where the goods have been imported by air, 7 clear days, and
    - (ii) in any other case, 14 clear days;”.
- (6) For subsection (5) substitute—
- “(5) Where any restriction is placed upon the unloading of goods from any vehicle by virtue of any enactment relating to the prevention of epidemic and infectious diseases, then, in relation to that vehicle—
    - (a) “the relevant date” means the date of the removal of the restriction; and
    - (b) the relevant number of days referred to in any paragraph of subsection (1) other than paragraph (d) is counted from the day on which the restriction is removed rather than the day referred to within the paragraph concerned.”
- (7) In the heading, for “uncleared” substitute “ chargeable ”.

#### **Commencement Information**

**1160** Sch. 7 para. 34 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 35 (1) Section 41 (failure to comply with provisions as to entry) is amended as follows.
- (2) For the words from “, any person making entry of goods” to “in connection with that entry shall” substitute “—
- (a) any person importing goods who contravenes or fails to comply with any of the requirements made by or under this Part of this Act, or
  - (b) any person who contravenes or fails to comply with any of the requirements made by or under Part 1 of the Taxation (Cross-border Trade) Act 2018 in connection with the presentation of goods to Customs on import, the making of a declaration relating to the storage of goods or the making of a Customs declaration,
- shall ”.
- (3) Omit the words from “but this section shall not apply to” to the end.
- (4) In the heading, for “provisions as to entry” substitute “ customs formalities ”.

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#### Commencement Information

**I161** Sch. 7 para. 35 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 36 (1) Section 42 (power to regulate unloading, removal, etc of imported goods) is amended as follows.
- (2) In subsection (1)(a)—
- (a) after “airport,” insert “ any other vehicle entering the United Kingdom ”, and
  - (b) for “Northern Ireland” substitute “ the United Kingdom ”.
- (3) Omit subsection (3).

#### Commencement Information

**I162** Sch. 7 para. 36 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 37 (1) Section 43 (duty on imported goods) is amended as follows.
- (2) In subsection (1)—
- (a) omit “or section 2(2) of the European Communities Act 1972 or any Community regulation or other instrument having the force of law”, and
  - (b) after “the proper officer any” insert “ excise ”.
- (3) In subsection (2)—
- (a) in the opening words, omit “customs or”, and
  - (b) in paragraph (c)—
    - (i) omit sub-paragraph (i) (together with the “and” at the end of it), and
    - (ii) in sub-paragraph (ii), omit “as respects other duties,”.
- (4) Omit subsections (2A) to (2C).
- (5) In subsection (2D), for “any of sections 44 to 48” substitute “ section 44 ”.
- (6) In subsection (3)—
- (a) after “chargeable with the like” insert “ excise ”, and
  - (b) omit the words from “; and if any question” to the end.
- (7) In subsection (5)—
- (a) after “whether or not any” insert “ excise ”, and
  - (b) after “purpose of charging” insert “ excise ”.
- (8) In subsection (6)—
- (a) in the opening words, omit “customs or”,
  - (b) in paragraph (b), omit “customs and”, and
  - (c) in the words after that paragraph, after “rate of the” insert “ excise ”.
- (9) Omit subsections (8) and (9).
- (10) In the heading, for “Duty” substitute “ Excise duty ”.

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**Commencement Information**

**I163** Sch. 7 para. 37 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 38 In section 44 (exclusion of s. 43(1) for importers etc keeping standing deposits), after “to cover any” insert “ excise ”.

**Commencement Information**

**I164** Sch. 7 para. 38 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 39 Omit section 45 (deferred payment of customs duty).

**Commencement Information**

**I165** Sch. 7 para. 39 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 40 Omit section 46 (goods to be warehoused without payment of duty).

**Commencement Information**

**I166** Sch. 7 para. 40 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 41 Omit section 47 (relief from payment of duty of goods entered for transit or transhipment).

**Commencement Information**

**I167** Sch. 7 para. 41 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 42 Omit section 48 (relief from payment of duty of goods temporarily imported).

**Commencement Information**

**I168** Sch. 7 para. 42 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 43 (1) Section 49 (forfeiture of goods improperly imported) is amended as follows.
- (2) In subsection (1)—
- (a) in paragraph (a)—
- (i) in the opening words, for “Acts 1979, any imported goods, being goods chargeable on” substitute “ Acts 1979 or by or under the Taxation (Cross-border Trade) Act 2018, any imported goods, being goods chargeable by reference to ”,
- (ii) for sub-paragraph (iii) substitute—
- “(iii) unloaded from any other vehicle which has entered the United Kingdom, or”, and
- (iii) in sub-paragraph (iv), for “transit shed” substitute “ temporary storage facility or any place specified by an officer of Revenue and

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Customs under Part 1 of the Taxation (Cross-border Trade) Act 2018 as a place where the goods are required to be kept ”,

- (b) in paragraph (c), for “any vehicle” substitute “ any other vehicle ”, and
- (c) for paragraph (e) substitute—

“(e) any goods are found, whether before or after being released to or discharged from a Customs procedure, not to correspond with any information provided under Part 1 of the Taxation (Cross-border Trade) Act 2018;”.

- (3) In subsection (2), for paragraphs (a) to (c) substitute—

- “(a) declared as intended for exportation in the same vehicle,
- (b) declared for a transit procedure or a storage procedure, or
- (c) are otherwise to be warehoused for exportation or for use as stores;”.

**Commencement Information**

**I169** Sch. 7 para. 43 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 44 (1) Section 50 (penalty for improper importation of goods) is amended as follows.

- (2) In subsection (2)—

- (a) in paragraph (a), for “any vehicle in Northern Ireland” substitute “ any other vehicle which has entered the United Kingdom ”, and
- (b) in paragraph (b), for “transit shed” substitute “ temporary storage facility, any place specified by an officer of Revenue and Customs under Part 1 of the Taxation (Cross-border Trade) Act 2018 as a place where the goods are required to be kept ”.

- (3) In subsection (6), for paragraph (b) substitute—

“(b) directly or indirectly imports, or causes to be imported, any chargeable goods found, whether before or after being released to a Customs procedure, not to correspond with any information provided under Part 1 of the Taxation (Cross-border Trade) Act 2018;”.

**Commencement Information**

**I170** Sch. 7 para. 44 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 45 In section 51 (special provisions as to proof in Northern Ireland), in subsection (1), for “on their importation”, in both places, substitute “ by reference to their importation ”.

**Commencement Information**

**I171** Sch. 7 para. 45 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 46 For the italic heading before section 52 substitute “ Breach of applicable export provisions etc ”.



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#### Commencement Information

**1172** Sch. 7 para. 46 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

47 (1) Section 52 (meaning for this Part of “dutiable or restricted goods”) is amended as follows.

(2) In subsection (1)—

(a) for paragraph (a) substitute—

“(a) goods from an excise warehouse or goods which have been declared for a storage procedure;”,

(b) in paragraph (c), at the end insert “ or goods which have been declared for an authorised use procedure or temporary admission procedure, ”, and

(c) in paragraph (d), at the end insert “ or goods otherwise eligible for remission, repayment or refund of duty on their export ”.

(3) In subsection (2)—

(a) for “means goods” substitute “means—

(a) goods declared for an inward processing procedure, or

(b) goods”, and

(b) omit “import duty or”.

#### Commencement Information

**1173** Sch. 7 para. 47 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

48 After section 52 insert—

#### “52A Breach of applicable export provisions etc

(1) This section applies to any goods the export of which is required to be made in accordance with the applicable export provisions.

(2) If any person contravenes or fails to comply with any of the requirements—

(a) the person is guilty of an offence, and

(b) the goods are liable to forfeiture.

(3) A person guilty of an offence under subsection (2) in a case where the goods are dutiable or restricted goods is liable on summary conviction to a penalty of—

(a) £20,000, or

(b) three times the value of the goods,

whichever is the greater.

(4) A person guilty of an offence under subsection (2) in any other case is liable on summary conviction to a penalty of level 4 on the standard scale.

(5) If—

(a) in breach of the applicable export provisions, any dutiable or restricted goods fail to be exported from the United Kingdom by the time by which they were required to be exported, and

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- (b) notice of the failure is not immediately given to an officer of Revenue and Customs,
- the goods are (in addition to being liable to forfeiture under subsection (2)) subject to the control of an officer of Revenue and Customs as mentioned in subsection (6) even if the procedure provided for by the applicable export provisions is discharged.
- (6) An officer of Revenue and Customs may—
- (a) require any person to provide such information and documents to the officer as may be specified by the officer, and
- (b) require the goods to be moved to, and kept in, such place as may be specified by the officer.
- (7) Any person who contravenes or fails to comply with a requirement imposed under subsection (6) is liable on summary conviction to a penalty of £20,000.”

**Commencement Information**

**I174** Sch. 7 para. 48 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 49 (1) Section 53 (entry outwards of goods) is amended as follows.
- (2) Omit subsections (1) to (7).
- (3) In subsection (8)—
- (a) for “of which entry is required under this section” substitute “ which are required to be exported in accordance with the applicable export provisions ”, and
- (b) for the words from “before entry has” to “and where” substitute “ before the applicable export provisions have been complied with, and ”.
- (4) Omit subsections (10) to (12).

**Commencement Information**

**I175** Sch. 7 para. 49 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 50 Omit section 54 (acceptance of incomplete entry).

**Commencement Information**

**I176** Sch. 7 para. 50 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 51 Omit section 55 (correction and cancellation of entry).

**Commencement Information**

**I177** Sch. 7 para. 51 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 52 Omit section 56 (failure to export).

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**Commencement Information**

**I178** Sch. 7 para. 52 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

53 Omit section 57 (delivery of entry by owner of exporting ship etc).

**Commencement Information**

**I179** Sch. 7 para. 53 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

54 Omit section 58 (simplified clearance procedure).

**Commencement Information**

**I180** Sch. 7 para. 54 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

55 Omit section 58A (local export control).

**Commencement Information**

**I181** Sch. 7 para. 55 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

56 Omit section 58B (provisions supplementary to ss 58 and 58A).

**Commencement Information**

**I182** Sch. 7 para. 56 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

57 Omit section 58C (pipe-lines and export of ships and aircraft).

**Commencement Information**

**I183** Sch. 7 para. 57 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

58 Omit section 58D (operative date for Community purposes).

**Commencement Information**

**I184** Sch. 7 para. 58 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

59 Omit section 58E (authentication of Community customs documents).

**Commencement Information**

**I185** Sch. 7 para. 59 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

60 (1) Section 59 (restrictions on putting export goods alongside for loading) is amended as follows.

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- (2) In subsection (1), for the words from “to be entered outwards” to the end substitute “to be exported in accordance with the applicable export provisions”.
- (3) In subsection (2)(a) and (b), for “ship or aircraft” substitute “vehicle other than a road vehicle”.

**Commencement Information**

**I186** Sch. 7 para. 60 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 61 In section 60 (additional restrictions as to certain export goods), after subsection (1) insert—

“(1A) For the purposes of subsection (1), the reference to entering goods for exportation is to the doing of anything required to be done under provision made by or under Part 1 of the Taxation (Cross-border Trade) Act 2018 in connection with the export of the goods.”

**Commencement Information**

**I187** Sch. 7 para. 61 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 62 In section 60A (power to make regulations about stores), in subsection (1), for “ship or aircraft” substitute “ship, aircraft or railway vehicle”.

**Commencement Information**

**I188** Sch. 7 para. 62 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 63 (1) Section 61 (supplementary provision relating to stores) is amended as follows.
- (2) In subsection (5)(b), for “the master or commander and the owner of the ship or aircraft” substitute “the vehicle operator and the owner of the ship, aircraft or railway vehicle”.
- (3) In subsection (7)—
- (a) in the opening words—
- (i) for “ship or aircraft” substitute “ship, aircraft or railway vehicle”,
- (ii) for “any port or customs and excise airport for a destination outside the United Kingdom” substitute “the United Kingdom”, and
- (iii) for “cleared outwards” substitute “cleared for departure”,
- (b) in paragraph (b), for “ship's or aircraft's” substitute “vehicle's”, and
- (c) in the words after that paragraph, for “the master of the ship or the commander of the aircraft” substitute “the vehicle operator”.
- (4) In subsection (7A), for “the master of the ship or the commander of the aircraft” substitute “the vehicle operator”.

**Commencement Information**

**I189** Sch. 7 para. 63 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

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- 64 (1) Section 62 (information, documentation, etc as to export goods) is amended as follows.
- (2) Omit subsection (2).
- (3) In subsection (3), omit “or (2)”.
- (4) In subsection (4), omit “or (2)”.

**Commencement Information**

**I190** Sch. 7 para. 64 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 65 (1) Section 63 (entry outwards of exporting ships) is amended as follows.
- (2) In subsection (1)—
- (a) omit “to a place outside the member States”, and
- (b) for “those States” substitute “ the United Kingdom ”.
- (3) In subsection (2), for “the member States” substitute “ the United Kingdom ”.
- (4) In subsection (7), omit “or the member States”.

**Commencement Information**

**I191** Sch. 7 para. 65 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 66 (1) Section 64 (clearance outwards of ships and aircraft) is amended as follows.
- (2) For subsection (1) substitute—
- “(1) No vehicle other than a road vehicle is to depart from the United Kingdom until clearance for departure has been obtained from the proper officer.”
- (3) After subsection (1) insert—
- “(1A) The Commissioners may by regulations make provision disapplying the requirement to obtain clearance in specified circumstances.”
- (4) In subsection (6)—
- (a) for “ship or aircraft” substitute “ vehicle ”,
- (b) for “departs from any port or customs and excise airport” substitute “ departs from the United Kingdom ”, and
- (c) for “master or commander” substitute “ vehicle operator ”.
- (5) In subsection (7), for the words from “where any aircraft” to “that airport” substitute “ where any vehicle is required under this section to obtain clearance to depart the United Kingdom, any goods are loaded, or are waterborne for loading, into that vehicle ”.
- (6) In the heading, for “ships and aircraft” substitute “ vehicles ”.

**Commencement Information**

**I192** Sch. 7 para. 66 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

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- 67 (1) Section 65 (power to refuse or cancel clearance of ship or aircraft) is amended as follows.
- (2) In subsection (1)—
- (a) in the opening words, after “the Customs and Excise Acts 1979” insert “ or Part 1 of the Taxation (Cross-border Trade) Act 2018 ”,
- (b) in paragraph (a), for “ship or aircraft” substitute “ vehicle required to obtain clearance to depart the United Kingdom, ”, and
- (c) for paragraph (b) substitute—
- “(b) where clearance has been given in respect of a vehicle, any officer may at any time cancel the clearance before the vehicle has departed from the United Kingdom.”
- (3) In subsection (2)—
- (a) in the opening words, from the beginning to “may be served—” substitute “ Any cancellation may be made orally, electronically or otherwise in writing, and if made in writing (but not electronically) may be served on the vehicle operator— ”, and
- (b) in paragraph (c), for “ship or aircraft” substitute “ vehicle ”.
- (4) For subsection (3) substitute—
- “(3) Where a clearance is cancelled, it forthwith becomes void.”
- (5) In the heading, for “ship or aircraft” substitute “ vehicle ”.

**Commencement Information**

**I193** Sch. 7 para. 67 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 68 In section 66 (power to make regulations as to exportation, etc), in subsection (1)—
- (a) in paragraph (a), for “ships and aircraft respectively the loading and making waterborne for loading” substitute “ vehicles the loading (including making waterborne for loading) ”, and
- (b) in paragraph (b), for “Northern Ireland” substitute “ the United Kingdom ”.

**Commencement Information**

**I194** Sch. 7 para. 68 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 69 (1) Section 67 (offences in relation to exportation of goods) is amended as follows.
- (2) In subsection (1)—
- (a) in the opening words, for “ship or aircraft” substitute “ vehicle ”, and
- (b) in the words after paragraph (b)—
- (i) for “the master of the ship or the commander of the aircraft” substitute “ the vehicle operator ”, and
- (ii) for “ship or aircraft” substitute “ vehicle ”.
- (3) In subsection (4)—
- (a) in the opening words, omit “or brought to a customs and export station for exportation by land”,

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- (b) for paragraph (a) substitute—
  - “(a) goods in an excise warehouse or goods which have been declared for a storage procedure;”, and
- (c) in paragraph (c), after “not been paid” insert “ or goods which have been declared for an authorised use procedure or temporary admission procedure ”.

**Commencement Information**

**I195** Sch. 7 para. 69 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 70 In section 68 (offences in relation to exportation of prohibited or restricted goods), in subsection (5)—
- (a) for “the ship, aircraft or vehicle in which they were exported” substitute “ the vehicle in which they were exported ”, and
  - (b) for “both the owner of the ship, aircraft or vehicle and the master of the ship, commander of the aircraft or person in charge of the vehicle” substitute “ both the owner of the vehicle and the vehicle operator ”.

**Commencement Information**

**I196** Sch. 7 para. 70 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 71 For section 69 substitute—

**“69 Meaning of “coasting ship”**

- (1) In this Part “coasting ship” means any ship for the time being engaged in the trade of carrying goods coastwise—
  - (a) between places in the United Kingdom, or
  - (b) between a place in the United Kingdom and a place in the Isle of Man.
- (2) The Commissioners may from time to time give directions as to what trade by water—
  - (a) between places in the United Kingdom, or
  - (b) between a place in the United Kingdom and a place in the Isle of Man,is, or is not, to be deemed to be carrying goods coastwise.”

**Commencement Information**

**I197** Sch. 7 para. 71 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 72 Omit section 70 (coasting trade —exceptional provisions).

**Commencement Information**

**I198** Sch. 7 para. 72 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

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- 73 (1) Section 74 (offences in connection with carriage of goods coastwise) is amended as follows.
- (2) Omit subsection (1).
- (3) In subsection (2), for “sections 69 to 71” substitute “ section 71 ”.
- (4) Omit subsection (5).

**Commencement Information**

**I199** Sch. 7 para. 73 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 74 Omit section 75A (records relating to importation and exportation).

**Commencement Information**

**I200** Sch. 7 para. 74 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 75 Omit section 75C (records relating to goods subject to certain transit arrangements).

**Commencement Information**

**I201** Sch. 7 para. 75 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 76 (1) Section 77 (information in relation to goods imported or exported) is amended as follows.
- (2) In subsection (1)(a), for “an entry is required by regulation 5 of the Customs Controls on Importation of Goods Regulations 1991 or an entry or specification is required by or under this Act” substitute “ a declaration is required as a result of Part 1 of the Taxation (Cross-border Trade) Act 2018 ”.
- (3) In subsection (3)—
- (a) for “entry thereof” substitute “ a declaration in respect of the goods ”, and
- (b) for “declaration”, in each place, substitute “ statement ”.
- (4) In subsection (4), for “entry delivered” substitute “ declaration made ”.
- (5) In subsection (5)(a), for “entry delivered” substitute “ declaration made ”.

**Commencement Information**

**I202** Sch. 7 para. 76 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 77 Omit section 77C (information powers relating to goods subject to certain transit arrangements).

**Commencement Information**

**I203** Sch. 7 para. 77 in force for specified purposes at 13.9.2018, see s. 57(1)(a)



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78 (1) Section 78 (customs and excise control of persons entering or leaving the United Kingdom) is amended as follows.

(2) In subsection (1)—

- (a) in paragraph (b), for “chargeable” substitute “taxable”,
- (b) in the words after paragraph (b), after “by virtue of” insert “provision made by regulations under section 19 of the Taxation (Cross-border Trade) Act 2018 relating to any relief conferred on persons entering the United Kingdom or”, and
- (c) in the second sentence, for “subsection “chargeable goods” means” substitute “subsection “taxable goods” means”.

(3) Omit subsection (1B).

**Commencement Information**

**I204** Sch. 7 para. 78 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

79 (1) Section 80 (power to require information or production of documents where origin of goods exported is evidenced under EU law or practice) is amended as follows.

(2) In subsection (1), for “Community requirement or practice” substitute “requirement by or under any enactment”.

(3) In the heading, omit “under EU law or practice”.

**Commencement Information**

**I205** Sch. 7 para. 79 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

80 In section 82 (power to haul up revenue vessels, patrol coasts, etc), in subsection (2), after “railway” insert “or railway customs area”.

**Commencement Information**

**I206** Sch. 7 para. 80 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

81 (1) Section 85 (penalty for interfering with revenue vessels, etc) is amended as follows.

(2) In subsection (1), omit “ship, aircraft,”.

(3) In subsection (2), for “vessel, aircraft or vehicle” substitute “vehicle”.

**Commencement Information**

**I207** Sch. 7 para. 81 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

82 In section 88 (forfeiture of ship, aircraft or vehicle constructed, etc for concealing goods)—

- (a) in paragraph (c), for “a vehicle” substitute “any other vehicle”,
- (b) in that paragraph, for “any port or at any aerodrome” substitute “any port, railway customs area or aerodrome”, and

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- (c) in the words after that paragraph, for “or vehicle” substitute “ or other vehicle ”.

**Commencement Information**

**I208** Sch. 7 para. 82 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 83 In section 90 (forfeiture of ship or aircraft unable to account for missing cargo)—
- (a) after “port in the United Kingdom or the Isle of Man,” insert “ a railway vehicle has been within the limits of a railway customs area ”,
  - (b) for “master of the ship or commander of the aircraft” substitute “ vehicle operator ”, and
  - (c) for “the ship or aircraft” substitute “ the ship, railway vehicle or aircraft ”, and
  - (d) in the heading, after “ship” insert “ , railway vehicle ”.

**Commencement Information**

**I209** Sch. 7 para. 83 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 84 In section 92 (approval of warehouses), omit subsections (2) to (4).

**Commencement Information**

**I210** Sch. 7 para. 84 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 85 In section 93 (regulation of warehouses and warehoused goods), before subsection (1) insert—
- “(A1) In their application to warehouses, this section and sections 94, 95, 97 and 98 apply only to excise warehouses.”

**Commencement Information**

**I211** Sch. 7 para. 85 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 86 In section 98 (procedure on warehouse ceasing to be approved), for subsection (4) substitute—
- “(4) In this section “the prescribed period” means the period of 3 months.”

**Commencement Information**

**I212** Sch. 7 para. 86 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 87 (1) Section 99 (provisions as to deposit in Queen's warehouse) is amended as follows.
- (2) In subsection (1), after “the Customs and Excise Acts 1979” insert “ or Part 1 of the Taxation (Cross-border Trade) Act 2018 ”.
  - (3) In subsection (4)—

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- (a) in the opening words, after “the Customs and Excise Acts 1979” insert “ or Part 1 of the Taxation (Cross-border Trade) Act 2018 ”,
  - (b) in paragraph (a), after “thereon” insert “ has been paid ”,
  - (c) in the words after sub-paragraph (ii) of paragraph (b), omit the words from “and, in the case of goods” to the end, and
  - (d) after that paragraph insert “; and
    - (c) the requirements made by or under Part 1 of the Taxation (Cross-border Trade) Act 2018 have been complied with.”
- (4) In subsection (6), after “the Customs and Excise Acts 1979” insert “ or Part 1 of the Taxation (Cross-border Trade) Act 2018 ”.
- (5) In subsection (7), after “the Customs and Excise Acts 1979” insert “ or Part 1 of the Taxation (Cross-border Trade) Act 2018 ”.

**Commencement Information**

**I213** Sch. 7 para. 87 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 88 (1) Section 100 (general offences relating to warehouses and warehoused goods) is amended as follows.
- (2) In subsection (2)—
- (a) in paragraph (a), after “any goods which have been” insert “ declared for a storage procedure or ”,
  - (b) in paragraph (b), after “any goods which have been” insert “ declared for a storage procedure or ”,
  - (c) in paragraph (c), for “ship, aircraft or vehicle” substitute “ vehicle ”, and
  - (d) in paragraph (d), after “when they have been” insert “ declared for a storage procedure or ”.
- (3) After subsection (4) insert—
- “(5) In this section “warehouse”, except in the expression “Queen's warehouse”, means a customs warehouse or an excise warehouse.”

**Commencement Information**

**I214** Sch. 7 para. 88 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 89 In section 112 (power of entry upon premises, etc of revenue traders), in subsection (5), omit “vessels, aircraft”.

**Commencement Information**

**I215** Sch. 7 para. 89 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 90 Omit section 119 (delivery of imported goods on giving of security for duty).

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**Commencement Information**

**I216** Sch. 7 para. 90 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

91 Omit section 120 (regulations for determining origin of goods).

**Commencement Information**

**I217** Sch. 7 para. 91 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

92 (1) Section 121 (power to impose restrictions where duty depends on certain matters other than use) is amended as follows.

(2) Omit “(other than the use to be made of the goods)”.

(3) In the heading, omit “other than use”.

**Commencement Information**

**I218** Sch. 7 para. 92 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

93 Omit section 122 (regulations where customs duty depends on use).

**Commencement Information**

**I219** Sch. 7 para. 93 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

94 In section 123 (repayment of duty where goods returned or destroyed by importer), in subsection (1)(b)(i), for the words from “and for that purpose” to “this Act;” substitute “ and, if the export of the goods was required to be made in accordance with the applicable export provisions, the requirements were met; ”.

**Commencement Information**

**I220** Sch. 7 para. 94 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

95 (1) Section 124 (forfeiture for breach of certain conditions) is amended as follows.

(2) In subsection (1)(a), for “on” substitute “ by reference to ”.

(3) In subsection (2), for “or security”, in both places, substitute “ , security or other guarantee ”.

**Commencement Information**

**I221** Sch. 7 para. 95 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

96 Omit section 125 (valuation of goods for purpose of ad valorem duties).

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**Commencement Information**

**I222** Sch. 7 para. 96 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 97 (1) Section 129 (power to remit or repay duty on denatured goods) is amended as follows.
- (2) In subsection (1)—
- (a) omit paragraph (a) (together with the “or” at the end of it),
  - (b) in paragraph (b), for “a duty” substitute “ a duty of excise ”, and
  - (c) in the words following that paragraph, for “duty”, in both places, substitute “ duty of excise ”.
- (3) In subsection (1A)—
- (a) for “chargeable with a duty” substitute “ chargeable with a duty of excise ”, and
  - (b) omit “, in the application of that section in relation to a duty of excise,”.
- (4) Omit subsection (5).

**Commencement Information**

**I223** Sch. 7 para. 97 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 98 Omit section 130 (power to remit or repay duty on goods lost or destroyed, etc).

**Commencement Information**

**I224** Sch. 7 para. 98 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 99 (1) Section 131 (enforcement of bond in respect of goods removed without payment of duty) is amended as follows.
- (2) For “payment of duty” substitute “ payment of excise duty ”.
- (3) Omit “ship, aircraft,”.
- (4) In the heading, after “payment of” insert “ excise ”.

**Commencement Information**

**I225** Sch. 7 para. 99 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 100 In section 133 (general provisions as to claims for drawback), at the beginning insert—
- “(A1) This section applies in relation to any claim for drawback for the purposes of any excise duty.”

**Commencement Information**

**I226** Sch. 7 para. 100 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

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- 101 In section 134 (drawback and allowance on goods damaged or destroyed after shipment), at the beginning insert—

“(A1) This section applies only for the purposes of excise duty.”

**Commencement Information**

**I227** Sch. 7 para. 101 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 102 In section 135 (time limit on payment of drawback or allowance), after “in respect of any drawback or allowance” insert “ for the purposes of any excise duty ”.

**Commencement Information**

**I228** Sch. 7 para. 102 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 103 (1) Section 136 (offences in connection with claims for drawback, etc) is amended as follows.

- (2) In subsection (4), for “entry”, in both places, substitute “ any declaration ”.  
 (3) Omit subsection (6).

**Commencement Information**

**I229** Sch. 7 para. 103 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 104 (1) Section 137 (recovery of duties and calculation of duties, drawbacks, etc) is amended as follows.

- (2) In subsection (1), omit “customs or”.  
 (3) In subsection (2)—  
     (a) for “Any duty,” substitute “ Any excise duty or ”, and  
     (b) after “or rebate” insert “ in relation to excise duty ”.  
 (4) In the heading, after “of”, in both places, insert “ excise ”.

**Commencement Information**

**I230** Sch. 7 para. 104 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 105 (1) Section 141 (forfeiture of ships, etc used in connection with goods liable to forfeiture) is amended as follows.

- (2) In subsection (1)(a), omit “ship, aircraft.”.  
 (3) In subsection (2), omit “ship, aircraft.”.  
 (4) In subsection (3)—  
     (a) after paragraph (a) insert—  
         “(aa) any railway vehicle;”, and  
     (b) for “the master or commander” substitute “ the vehicle operator ”.

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**Commencement Information**

**I231** Sch. 7 para. 105 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 106 In section 154 (proof of certain other matters), in subsection (2)(c), (d) and (e), for “ship or aircraft” substitute “ ship, aircraft or railway vehicle ”.

**Commencement Information**

**I232** Sch. 7 para. 106 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 107 (1) Section 159 (power to examine and take account of goods) is amended as follows.

(2) In subsection (1)—

(a) after paragraph (a) insert—

“(aa) which are subject to the control of any officer of Revenue and Customs as a result of Part 1 of the Taxation (Cross-border Trade) Act 2018; or

(ab) which have been discharged from a Customs procedure under Part 1 of the Taxation (Cross-border Trade) Act 2018 so far as necessary for the purpose of verifying any Customs declaration or any document required to accompany it; or”,  
and

(b) in paragraph (d), for “entered” substitute “ declared ”.

(3) After subsection (4) insert—

“(4A) But, in the case of anything done for the purpose of verifying any Customs declaration or any document required to accompany it—

(a) the reference in subsection (4) to the proprietor of the goods is a reference to the declarant, and

(b) if, while the goods are being moved to a place for examination, an act which was not authorised by the Commissioners is, without reasonable excuse, done by any person in relation to the goods, the declarant is liable on summary conviction to a penalty of level 3 on the standard scale.

(4B) In subsection (4A) “the declarant”, in relation to a Customs declaration in respect of any goods, means—

(a) the person who has made the declaration, or

(b) the person on whose behalf it was made.”

**Commencement Information**

**I233** Sch. 7 para. 107 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 108 In section 160 (power to take samples), in subsection (4)—

(a) in the opening words, for “a duty of customs or excise” substitute “ a duty of excise ”, and

(b) in paragraph (a), for “are first entered on importation” substitute “ are imported ”.

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**Commencement Information**

**I234** Sch. 7 para. 108 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

109 After section 160 insert—

**“160ZA Examination of goods and samples: supplementary**

- (1) This section applies if, for the purpose of verifying any Customs declaration or any document required to accompany it—
  - (a) goods are examined under section 159, or
  - (b) a sample of any goods is taken under section 160.
- (2) The declarant is entitled to be present or represented when the goods are examined or the sample is taken.
- (3) The Commissioners may require the declarant to be present or represented when the goods are examined or the sample is taken, and a person who, without reasonable excuse, contravenes or fails to comply with a direction under this subsection is liable on summary conviction to a penalty of level 3 on the standard scale.
- (4) Once any goods have been examined or a sample from them has been taken (“the examined or sampled goods”), the Commissioners are entitled to regard the examined or sampled goods as representative of all the goods (“the declared goods”) in respect of which the declaration is made.
- (5) But if the declarant proves to the satisfaction of the Commissioners that the examined or sampled goods do not represent all the declared goods, the declarant may require the Commissioners to re-examine any of the declared goods or take a further sample from them.
- (6) If the declared goods are no longer under the control of the Commissioners, they may refuse the request if they are not satisfied that the declared goods have remained in the same condition as they were in when they ceased to be under the control of the Commissioners.
- (7) In this section “the declarant”, in relation to a Customs declaration in respect of any goods, means—
  - (a) the person who has made the declaration, or
  - (b) the person on whose behalf it was made.”

**Commencement Information**

**I235** Sch. 7 para. 109 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

110 In section 162 (power to enter land for or in connection with access to pipe-lines), after “the Customs and Excise Acts 1979” insert “ or by or under Part 1 of the Taxation (Cross-border Trade) Act 2018 ”.



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**Commencement Information**

**I236** Sch. 7 para. 110 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 111 (1) Section 163 (power to search vehicles or vessels) is amended as follows.
- (2) In subsection (1)—
- (a) in the opening words—
- (i) after “Customs and Excise Acts 1979” insert “ or Part 1 of the Taxation (Cross-border Trade) Act 2018 ”, and
- (ii) omit “or vessel”, and
- (b) in the words after paragraph (c), omit “or vessel”.
- (3) In subsection (2), in both places, omit “or vessel”.
- (4) In subsection (3), omit “This section shall apply in relation to aircraft as it applies in relation to vehicles or vessels but”.
- (5) In the heading, omit “or vessels”.

**Commencement Information**

**I237** Sch. 7 para. 111 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 112 In section 164 (power to search persons), in subsection (4)—
- (a) after paragraph (d) insert—
- “(da) any person in, entering or leaving a railway customs area;
- (db) any person who is on board a railway vehicle which—
- (i) is in a railway customs area,
- (ii) has entered the United Kingdom but has not yet arrived at a railway customs area in the course of its journey, or
- (iii) has left a railway customs area and has not yet left the United Kingdom in the course of its journey;”
- and
- (b) in paragraph (e), for “transit shed” substitute “ temporary storage facility ”.

**Commencement Information**

**I238** Sch. 7 para. 112 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 113 In section 166 (agents), after subsection (2) insert—
- “(3) For the purposes of import duty, this section has effect only to the extent that alternative provision has not been made by Part 1 of the Taxation (Cross-border Trade) Act 2018 (see, in particular, section 21 of that Act).”

**Commencement Information**

**I239** Sch. 7 para. 113 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

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- 114 In section 170 (penalty for fraudulent evasion of duty, etc), in subsection (2)(c), after “the Customs and Excise Acts 1979” insert “, or Part 1 [F18 or section 40A or 40B] of the Taxation (Cross-border Trade) Act 2018,”.

**Textual Amendments**

**F18** Words in Sch. 7 para. 114 inserted (17.12.2020 for specified purposes) by [Taxation \(Post-transition Period\) Act 2020 \(c. 26\)](#), s. 11(1)(e), [Sch. 1 para. 10\(2\)](#) (with [Sch. 2 para. 7\(7\)-\(9\)](#))

**Commencement Information**

**I240** Sch. 7 para. 114 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 115 In section 171 (general provisions as to offences and penalties), in subsection (5)—
- (a) for “the relevant time specified in section 43 above” substitute “ the time at which a liability to import duty is incurred ”, and
  - (b) for “as if the goods had been imported without entry at the time when the proceedings were commenced” substitute “ as if the time when the proceedings were commenced was the time at which the liability to import duty was incurred ”.

**Commencement Information**

**I241** Sch. 7 para. 115 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 116 In section 172 (regulations), in subsection (3), for “section 120” substitute “ section 5, 20, 22, 25, 26(1ZA), 35A or 64 ”.

**Commencement Information**

**I242** Sch. 7 para. 116 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 117 (1) Schedule 2A (supplementary provisions relating to the detention of things as liable to forfeiture) is amended as follows.
- (2) In paragraph 3(2)(d), for “a vehicle, the driver of the vehicle” substitute “ any other vehicle, the vehicle operator ”.
  - (3) In paragraph 4(2)(e), for “a vehicle, the driver of the vehicle” substitute “ any other vehicle, the vehicle operator ”.

**Commencement Information**

**I243** Sch. 7 para. 117 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

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### PART 3

#### AMENDMENTS OF OTHER ENACTMENTS

##### *Customs and Excise Duties (General Reliefs) Act 1979*

118 The Customs and Excise Duties (General Reliefs) Act 1979 is amended as follows.

**Commencement Information**

**I244** Sch. 7 para. 118 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

119 Omit section 1 (reliefs from customs duty for conformity with EU obligations and other international obligations, etc) and the italic heading before it.

**Commencement Information**

**I245** Sch. 7 para. 119 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

120 Omit section 2 (reliefs from customs duty referable to Community practices).

**Commencement Information**

**I246** Sch. 7 para. 120 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

121 Omit section 3 (power to exempt particular importations of certain goods from customs duty).

**Commencement Information**

**I247** Sch. 7 para. 121 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

122 Omit section 4 (administration of reliefs under section 1 and administration or implementation of similar Community reliefs).

**Commencement Information**

**I248** Sch. 7 para. 122 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

123 Omit section 5 (relief from customs duty of certain goods from Channel Islands) and the italic heading before it.

**Commencement Information**

**I249** Sch. 7 para. 123 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

124 In the italic heading before section 7, omit “miscellaneous” and “customs and”.

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**Commencement Information**

**I250** Sch. 7 para. 124 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 125 (1) Section 7 (power to provide for reliefs from duty and value added tax in respect of imported legacies) is amended as follows.
- (2) In subsection (1), after “reliefs from” insert “ excise ”.
- (3) In subsection (2)—
- (a) after “payment of” insert “ excise ”, and
- (b) after “by way of” insert “ excise ”.
- (4) Omit subsection (3).
- (5) In subsection (4)(a), omit “or any Community relief”.
- (6) In subsection (5)—
- (a) omit the definition of “Community relief”, and
- (b) for the definition of “duty” substitute—
- ““excise duty” means any duty of excise chargeable on goods and includes any addition to the duty by virtue of section 1 of the Excise Duties (Surcharges or Rebates) Act 1979;”.
- (7) In the heading, after “reliefs from” insert “ excise ”.

**Commencement Information**

**I251** Sch. 7 para. 125 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 126 In section 8 (relief from customs or excise duty on trade samples, labels, etc)—
- (a) in the opening words, omit “customs or”, and
- (b) in the heading, omit “customs or”.

**Commencement Information**

**I252** Sch. 7 para. 126 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 127 In section 9 (relief from customs or excise duty on antiques, prizes, etc)—
- (a) in the opening words, omit “customs or”, and
- (b) in the heading, omit “customs or”.

**Commencement Information**

**I253** Sch. 7 para. 127 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 128 Omit the italic heading before section 10.

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**Commencement Information**

**I254** Sch. 7 para. 128 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 129 In section 11 (relief from excise duty on certain foreign goods re-imported), in subsection (2), for “were entered for transit or transhipment” substitute “ were declared for a transit procedure under Part 1 of the Taxation (Cross-border Trade) Act 2018 ”.

**Commencement Information**

**I255** Sch. 7 para. 129 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 130 In section 12 (supply of duty-free goods to Her Majesty's ships), omit subsection (6).

**Commencement Information**

**I256** Sch. 7 para. 130 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 131 (1) Section 13 (power to provide, in relation to persons entering the United Kingdom, for reliefs from duty and value added tax and for simplified computation of duty and tax) is amended as follows.
- (2) In subsection (1)—
- (a) after “reliefs from” insert “ excise ”,
  - (b) after “payment of” insert “ excise ”, and
  - (c) after “by way of” insert “ excise ”.
- (3) Omit subsection (1A).
- (4) In subsection (2)—
- (a) after “by way of” insert “ excise ”, and
  - (b) after “elect that” insert “ excise ”.
- (5) In subsection (3)—
- (a) in paragraph (a), omit “, or any Community relief”, and
  - (b) in paragraph (b), after “relieved from” insert “ excise ”.
- (6) In subsection (3B)(b), after “any” insert “ excise ”.
- (7) In subsection (4)—
- (a) omit the definition of “Community relief”, and
  - (b) for the definition of “duty” substitute—
- ““excise duty” means any duty of excise chargeable on goods and includes any addition to excise duty by virtue of section 1 of the Excise Duties (Surcharges or Rebates) Act 1979;”.
- (8) In the heading—
- (a) after “reliefs from” insert “ excise ”, and
  - (b) after “computation of” insert “ excise ”.

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**Commencement Information**

**I257** Sch. 7 para. 131 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 132 (1) Section 13A (reliefs from duties and taxes for persons enjoying certain immunities and privileges) is amended as follows.
- (2) In subsection (1), for “duties of customs or excise,” substitute “ any relevant levy, any duty of excise, ”.
- (3) In subsection (3)(a), for “any duty of customs or excise,” substitute “ any relevant levy, any duty of excise, ”.
- (4) In subsection (6), for “ “duty of customs” includes” substitute “ “relevant levy” means ”.

**Commencement Information**

**I258** Sch. 7 para. 132 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 133 In section 13B (persons to whom section 13A applies), omit subsection (1)(c).

**Commencement Information**

**I259** Sch. 7 para. 133 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 134 In section 13C (offence where relieved goods used, etc, in breach of condition), in subsection (1)(a), for “any duty of customs or excise,” substitute “ any relevant levy, any duty of excise, ”.

**Commencement Information**

**I260** Sch. 7 para. 134 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 135 Omit section 14 (produce of the sea or continental shelf) and the italic heading before it.

**Commencement Information**

**I261** Sch. 7 para. 135 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 136 (1) Section 15 (false statements etc in connection with reliefs from customs duties) is amended as follows.
- (2) In subsection (1)—
- (a) in paragraph (a), for “customs duty under section 1 or 3 above or under an EU instrument; or” substitute “ import duty under regulations made under section 19 of the Taxation (Cross-border Trade) Act 2018, ”
- (b) omit paragraph (b), and
- (c) in the words after that paragraph, for “section 1, 3 or 4 above or an EU instrument” substitute “ Part 1 of that Act ”.

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**Commencement Information**

**I262** Sch. 7 para. 136 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

137 Omit section 16 (annual reports to Parliament).

**Commencement Information**

**I263** Sch. 7 para. 137 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

138 (1) Section 17 (orders and regulations) is amended as follows.

(2) In subsection (2)—

- (a) omit “2 or”, and
- (b) omit the words from “except where,” to the end of the subsection.

(3) In subsection (3)—

- (a) omit “1, 4”, and
- (b) omit “or regulations under section 14(3) above”.

(4) In subsection (4)—

- (a) omit “Subject to subsection (5) below”,
- (b) omit “1, 4”, and
- (c) after “relief from” insert “excise”.

(5) Omit subsection (5).

**Commencement Information**

**I264** Sch. 7 para. 138 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

*Isle of Man Act 1979*

139 The Isle of Man Act 1979 is amended as follows.

**Commencement Information**

**I265** Sch. 7 para. 139 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

140 In section 8 (removal of goods from Isle of Man to United Kingdom), for subsection (3) substitute—

“(3) The goods referred to in subsection (2)(a) above do not include goods which have been wholly or partly relieved from duty under, or which are not subject to duty by virtue of, any Isle of Man equivalent to—

- (a) provision made under section 19 of the Taxation (Cross-border Trade) Act 2018 relating to any relief conferred on persons entering the United Kingdom or under section 13 of the Customs and Excise Duties (General Reliefs) Act 1979, or
- (b) the temporary admission procedure under Part 1 of the Taxation (Cross-border Trade) Act 2018.

*Status: Point in time view as at 17/12/2020.*

*Changes to legislation: Taxation (Cross-border Trade) Act 2018 is up to date with all changes known to be in force on or before 21 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (3A) Where there are conditions which apply in connection with the goods being relieved from duty or not being subject to duty, the customs and excise Acts shall apply to the goods as if they were imported into the United Kingdom when they were imported into the Isle of Man and as if corresponding conditions apply to the goods under, or by virtue of, those Acts.”

**Commencement Information**

**I266** Sch. 7 para. 140 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 141 In section 9 (removal of goods from United Kingdom to Isle of Man), in subsection (5), for “or under any EU instrument” substitute “ or section 19 of the Taxation (Cross-border Trade) Act 2018 ”.

**Commencement Information**

**I267** Sch. 7 para. 141 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

*Finance Act 1994*

- 142 The Finance Act 1994 is amended as follows.

**Commencement Information**

**I268** Sch. 7 para. 142 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 143 In section 16 (appeals to tribunal), omit subsections (11) and (12).

**Commencement Information**

**I269** Sch. 7 para. 143 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 144 In section 17 (interpretation), in subsection (2)—
- (a) omit the definition of “the Community Customs Code”, and
  - (b) in the definition of “relevant duty”, for “means any EU customs duty” substitute “ means any customs duty ”.

**Commencement Information**

**I270** Sch. 7 para. 144 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 145 (1) Schedule 5 (decisions subject to review and appeal) is amended as follows.
- (2) For the italic heading before paragraph 1 substitute “ Taxation (Cross-border Trade) Act 2018 ”.
  - (3) In paragraph 1—
    - (a) in the opening words, from “, so far as” to “implementing that Code,” substitute “so far as they are made under any provision made by or under Part 1 of the Taxation (Cross-border Trade) Act 2018,”



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- (b) in paragraph (a), for “transhipment” substitute “transit”;
  - (c) after paragraph (a) insert—
    - “(aa) any decision as to whether or not consent to the amendment or withdrawal of any Customs or other declaration is to be given;”;
  - (d) for paragraph (e) substitute—
    - “(e) any decision, in any particular case, as to whether or not any licence, authorisation or approval is to be granted to any person (whether in respect of any premises, place or area or anything else);”;
  - (e) for paragraph (j) substitute—
    - “(j) any decision, in any particular case, as to whether or not a fee is to be charged to any person under regulations made under section 27 of the Taxation (Cross-border Trade) Act 2018 or as to the amount of any such fee;”;
  - (f) in paragraph (m), for “security”, in both places, substitute “security or other guarantee”; and
  - (g) in paragraph (n)—
    - (i) omit “customs duty or”, and
    - (ii) omit the words from “or to do any other thing” to the end,
  - (h) after paragraph (n) insert—
    - “(na) any decision as to the time at which or the period within which any obligation to pay any customs duty or to do any other thing required or authorised as a result of provision made by or under Part 1 of the Taxation (Cross-border Trade) Act 2018 is to be complied with;”;
  - (i) in paragraph (o)—
    - (i) for “varied or revoked” substitute “varied, suspended or revoked”, and
    - (ii) at the end insert “, and a decision as to whether or not a licence, authorisation or approval is to be suspended or revoked or the terms of a licence, authorisation or approval are to be varied”.
- (4) In paragraph 2(1)—
- (a) for paragraph (a) substitute—
    - “(a) any decision made under any regulations under section 20, 22 or 25 (approved wharf, examination station or temporary storage facility)—
      - (i) as to whether or not a mandatory condition is met;  
or
      - (ii) as to whether or not a discretionary condition is to be imposed, the terms of a discretionary condition or whether or not a discretionary condition is met;
  - and any reference to a mandatory condition is to a condition within subsection (1A)(a) of section 20, 22 or 25 and any reference to a discretionary condition is to a condition within subsection (1A)(b) of that section;”;
  - (b) after paragraph (g) insert—

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- “(ga) any decision consisting in the imposition of a requirement by virtue of subsection (3A) of section 33 or as to what is or is not to be approved for the purposes of paragraph (a) of that subsection;” and
- (c) omit paragraphs (j) and (k).

#### Commencement Information

**I271** Sch. 7 para. 145 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

#### *Terrorism Act 2000*

- 14<sup>F19</sup>(1) In Schedule 7 to the Terrorism Act 2000 (port and border controls), in paragraph 9—
- (a) in sub-paragraph (2C)(c), for “transit shed” substitute “ temporary storage facility ”,
  - (b) in sub-paragraph (3)(d), for “ “transit shed” ” substitute “ “temporary storage facility” ”, and
  - (c) in sub-paragraph (4)(d), for “transit shed” substitute “ temporary storage facility ”.

[<sup>F20</sup>(2) Where the provisions of CEMA 1979 relating to transit sheds continue to have effect for any purpose (see paragraph 158), the provision amended by sub-paragraph (1) continues to have effect, for that purpose, as if the amendments made by that sub-paragraph were not made.]

#### Textual Amendments

- F19** Sch. 7 para. 146 renumbered as Sch. 7 para. 146(1) (17.12.2020 for specified purposes) by [Taxation \(Post-transition Period\) Act 2020 \(c. 26\), s. 11\(1\)\(e\)](#), [Sch. 1 para. 10\(3\)\(a\)](#) (with Sch. 2 para. 7(7)-(9))
- F20** Sch. 7 para. 146(2) inserted (17.12.2020 for specified purposes) by [Taxation \(Post-transition Period\) Act 2020 \(c. 26\), s. 11\(1\)\(e\)](#), [Sch. 1 para. 10\(3\)\(b\)](#) (with Sch. 2 para. 7(7)-(9))

#### Commencement Information

**I272** Sch. 7 para. 146 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

#### *Finance Act 2003*

- 147 Part 3 of the Finance Act 2003 (taxes and duties on importation and exportation: penalties) is amended as follows.

#### Commencement Information

**I273** Sch. 7 para. 147 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 148 (1) Section 24 (introductory) is amended as follows.
- (2) In subsection (2), omit paragraphs (b), (c) and (e).
  - (3) In subsection (3), omit the definitions of “the European Union Customs Code”, “Community export duty”, “Community import duty”, “customs duty of a preferential tariff country” and “preferential tariff country”.

*Status: Point in time view as at 17/12/2020.*

*Changes to legislation: Taxation (Cross-border Trade) Act 2018 is up to date with all changes known to be in force on or before 21 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(4) Omit subsections (4) to (6).

#### Commencement Information

**I274** Sch. 7 para. 148 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

149 In section 25 (penalty for evasion), omit subsection (3).

#### Commencement Information

**I275** Sch. 7 para. 149 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

150 (1) Section 26 (penalty for contravention of relevant rule) is amended as follows.

(2) After subsection (5) insert—

“(5A) Where the conduct constituting a contravention of a relevant rule is a contravention of a condition imposed under regulations under section 20(1A), 22(1A) or 25(1A) of the Customs and Excise Management Act 1979—

- (a) the Treasury may by regulations provide that, in prescribed circumstances, there are to be deemed for the purposes of subsection (1) of this section to be further separate contraventions of the rule, and
- (b) the provision that may be made by the regulations includes provision replicating or applying, with or without modifications, any provision made by section 20A(1A) or (1B), 22A(1A) or (1B) or 25A(1A) or (1B) of the Customs and Excise Management Act 1979.”

(3) In subsection (8)—

(a) before paragraph (a) insert—

“(za) Part 1 [<sup>F21</sup>and sections 40A and 40B] of the Taxation (Cross-border Trade) Act 2018, as [<sup>F22</sup>they apply] in relation to the relevant tax or duty;”, and

(b) omit paragraphs (c) and (e).

(4) In subsection (9)—

(a) omit the definition of “Community customs rules”, and

(b) in the definition of “relevant international rules”, omit paragraph (b) (together with the “or” before it).

#### Textual Amendments

**F21** Words in Sch. 7 para. 150(3)(a) inserted (17.12.2020 for specified purposes) by [Taxation \(Post-transition Period\) Act 2020 \(c. 26\)](#), s. 11(1)(e), [Sch. 1 para. 10\(4\)\(a\)](#) (with [Sch. 2 para. 7\(7\)-\(9\)](#))

**F22** Words in Sch. 7 para. 150(3)(a) substituted (17.12.2020 for specified purposes) by [Taxation \(Post-transition Period\) Act 2020 \(c. 26\)](#), s. 11(1)(e), [Sch. 1 para. 10\(4\)\(b\)](#) (with [Sch. 2 para. 7\(7\)-\(9\)](#))

#### Commencement Information

**I276** Sch. 7 para. 150 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

*Status: Point in time view as at 17/12/2020.*

*Changes to legislation: Taxation (Cross-border Trade) Act 2018 is up to date with all changes known to be in force on or before 21 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- 151 In section 32 (no prosecution after demand notice for penalty under section 26)—
- (a) the existing text becomes subsection (1), and
  - (b) after that subsection insert—

“(2) Nothing in subsection (1) prevents the bringing of proceedings against a person for an offence under section 20A(1A), 22A(1A) or 25A(1A) of the Customs and Excise Management Act 1979 in circumstances where it is alleged that the person is liable to a penalty of an enhanced amount.”

**Commencement Information**

**I277** Sch. 7 para. 151 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 152 In section 38 (admissibility of certain statements and documents), omit subsection (3).

**Commencement Information**

**I278** Sch. 7 para. 152 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

*Income Tax (Trading and Other Income) Act 2005*

- 153 The Income Tax (Trading and Other Income) Act 2005 is amended as follows.

**Commencement Information**

**I279** Sch. 7 para. 153 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 154 In section 54 (trading income: penalties, interest and VAT surcharges), in subsection (2), in the entry relating to a penalty under section 25 or 26 of the Finance Act 2003, for “Customs, export and import duties” substitute “ Customs duties ”.

**Commencement Information**

**I280** Sch. 7 para. 154 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

- 155 In section 869 (general calculation rules, etc: penalties, interest and VAT surcharges), in subsection (4), in the entry relating to a penalty under section 25 or 26 of the Finance Act 2003, for “Customs, export and import duties” substitute “ Customs duties ”.

**Commencement Information**

**I281** Sch. 7 para. 155 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

*Borders, Citizenship and Immigration Act 2009*

- 156 (1) Section 7 of the Borders, Citizenship and Immigration Act 2009 (customs revenue functions of the Director) is amended as follows.

*Status: Point in time view as at 17/12/2020.*

*Changes to legislation: Taxation (Cross-border Trade) Act 2018 is up to date with all changes known to be in force on or before 21 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- [<sup>F23</sup>(2) In subsection (2)—
- (a) in paragraph (b), for “of Council Regulation (EC) No 384/96, as amended from time to time” substitute “ it has in Union customs legislation ”;
  - (b) in paragraph (c) for “of Council Regulation (EC) No 2026/97, as amended from time to time” substitute “ it has in Union customs legislation ”.]
- (3) In subsection (7)—
- (a) at the end of paragraph (aa) omit “and”, and
  - (b) after paragraph (aa) insert—
    - “(ab) Part 1 [<sup>F24</sup>and sections 40A and 40B] of the Taxation (Cross-border Trade) Act 2018, and”.
- [<sup>F25</sup>(4) In subsection (9), in paragraph (c), for “EU law” substitute “ retained EU law, or Union customs legislation, ”.
- (5) After that subsection insert—
- “(10) In this section “Union customs legislation” has the meaning it has in Part 1 of the Taxation (Cross-border Trade) Act 2018.”]

#### Textual Amendments

- F23** Sch. 7 para. 156(2) substituted (17.12.2020 for specified purposes) by [Taxation \(Post-transition Period\) Act 2020 \(c. 26\)](#), s. 11(1)(e), [Sch. 1 para. 10\(5\)\(a\)](#) (with [Sch. 2 para. 7\(7\)-\(9\)](#))
- F24** Words in Sch. 7 para. 156(3)(b) inserted (17.12.2020 for specified purposes) by [Taxation \(Post-transition Period\) Act 2020 \(c. 26\)](#), s. 11(1)(e), [Sch. 1 para. 10\(5\)\(b\)](#) (with [Sch. 2 para. 7\(7\)-\(9\)](#))
- F25** Sch. 7 para. 156(4)(5) substituted for Sch. 7 para. 156(4) (17.12.2020 for specified purposes) by [Taxation \(Post-transition Period\) Act 2020 \(c. 26\)](#), s. 11(1)(e), [Sch. 1 para. 10\(5\)\(c\)](#) (with [Sch. 2 para. 7\(7\)-\(9\)](#))

#### Commencement Information

- I282** Sch. 7 para. 156 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

#### Corporation Tax Act 2009

- 157 In section 1303 of the Corporation Tax Act 2009 (general calculation rules, etc: penalties, interest and VAT surcharges), in subsection (2), in the entry relating to a penalty under section 25 or 26 of the Finance Act 2003, for “Customs, export and import duties” substitute “ Customs duties ”.

#### Commencement Information

- I283** Sch. 7 para. 157 in force for specified purposes at 13.9.2018, see s. 57(1)(a)

*Status: Point in time view as at 17/12/2020.*

*Changes to legislation: Taxation (Cross-border Trade) Act 2018 is up to date with all changes known to be in force on or before 21 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## [<sup>F26</sup>PART 4

### SAVINGS AND MODIFICATIONS IN RELATION TO NORTHERN IRELAND

#### Textual Amendments

**F26** Sch. 7 Pt. 4 inserted (17.12.2020 for specified purposes) by [Taxation \(Post-transition Period\) Act 2020](#) (c. 26), s. 11(1)(e), [Sch. 1 para. 10\(6\)](#) (with [Sch. 2 para. 7\(7\)-\(9\)](#))

#### *Application of CEMA 1979 etc*

#### 158 (1) CEMA 1979—

- (a) continues to have effect, for any purpose in connection with duty under section 30A(3), as if the amendments made by Part 2 of this Schedule, other than the amendments made by paragraphs 4(4), 93 and 114, were not made, and
- (b) applies for any such purpose as if—
  - (i) references to an exportation of goods (however framed) included the exit of goods from Northern Ireland that are being removed to Great Britain,
  - (ii) references to the departure (however framed) of any goods, person or vehicle from the United Kingdom included a departure of those goods or that person or vehicle from Northern Ireland that is not also a departure from the United Kingdom,
  - (iii) references to “the customs territory of the European Union”, other than the reference in section 21(2), were to “Northern Ireland or the customs territory of the European Union”,
  - (iv) references to “EU customs duties” were to “duty under section 30A(3) of the Taxation (Cross-border Trade) Act 2018”,
  - (v) in section 63(1) and (2), after “place outside” there were inserted “ Northern Ireland and ” (and the reference to “those States” in section 63(1) included Northern Ireland),
  - (vi) in section 78(1B)—
    - (a) in the words before paragraph (a), for “another” there were substituted “ a ”, and
    - (b) in paragraphs (a) and (b)(ii) after “place outside” there were inserted “ Northern Ireland and ”,
  - (vii) in section 92(4)(a) and (b), before “member States” there were inserted “Northern Ireland or the”,
  - (viii) in section 125(1), for “an EU customs duty” there were substituted “ a duty of customs ”,
  - (ix) in subsection (1A) and (2)(a) of section 157, the words “other than the United Kingdom” were omitted,
  - (x) the following references to the United Kingdom were to Northern Ireland—
    - (a) the references in the definitions of “Community transit goods” and “transit or transshipment” in section 1(1);
    - (b) the references in sections 36(1), 55(4)(a), 63(2) to (4), 74, 78(1)(a) and (b), 96(4) and 134(2);

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- (c) the reference in the words after paragraph (b) of section 58C(3);
  - (d) the second reference in sections 67(1) and 78(2A);
  - (e) the first reference in sections 69(1) and 70(3), and
  - (xi) the following were omitted—
    - (a) sections 21(8), 35(9), 61(9), 63(7), 70(5), 74(5) and 78(1A);
    - (b) the words after paragraph (b) of the definition of “Community transit goods” in section 1;
    - (c) the words “and the Isle of Man” in sections 34(1), 36(1), 53(1), 64(1) and 66(1)(a) and (d);
    - (d) the words “or the Isle of Man” in section 43(5);
    - (e) the words “or between a place in the United Kingdom and a place in the Isle of Man” in section 69(1) and (3);
    - (f) the words “subject to subsection (1A) above,” in section 78(2A).
- (2) CEMA 1979 applies, for any purpose in connection with duty under section 30C, as if—
- (a) references to an importation of goods (however framed) included the entry of goods in Great Britain in the course of a removal of those goods to Great Britain from Northern Ireland,
  - (b) references to an exportation of goods (however framed) included the exit of goods from Great Britain that are being removed to Northern Ireland,
  - (c) references to the departure (however framed) of any goods, person or vehicle from the United Kingdom included a departure of those goods or that person or vehicle from Great Britain that is not also a departure from the United Kingdom, and
  - (d) references to the arrival of any goods, person or vehicle from a place outside the United Kingdom (however framed) included the arrival of those goods or that person or vehicle in Great Britain.
- (3) CEMA 1979—
- (a) continues to have effect, for any purpose in connection with duty under section 40A, as if the amendments made by Part 2 of this Schedule, other than the amendments made by paragraphs 4(4), 93 and 114, were not made, and
  - (b) applies for any such purpose as if—
    - (i) references to an importation of goods (however framed) included the entry of goods in Northern Ireland in the course of a removal of those goods to Northern Ireland from Great Britain,
    - (ii) references to an exportation of goods (however framed) included the exit of goods from Northern Ireland that are being removed to Great Britain,
    - (iii) references to the departure (however framed) of any goods, person or vehicle from the United Kingdom included a departure of those goods or that person or vehicle from Northern Ireland that is not also a departure from the United Kingdom,
    - (iv) references to the arrival of any goods, person or vehicle from a place outside the United Kingdom (however framed), except in

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section 78(2A), were to the arrival of those goods or that person or vehicle in Northern Ireland,

- (v) references to “the customs territory of the European Union”, other than the reference in section 21(2), were to “Northern Ireland or the Customs territory of the European Union”,
- (vi) references to “EU customs duties” were to “duty under section 40A of the Taxation (Cross-border Trade) Act 2018”,
- (vii) in section 63(1) and (2), after “place outside” there were inserted “ Northern Ireland and ” (and the reference to “those States” in section 63(1) included Northern Ireland),
- (viii) in section 78(1B)—
  - (a) in the words before paragraph (a), for “another” there were substituted “ a ”, and
  - (b) in paragraphs (a) and (b)(ii) after “place outside” there were inserted “ Northern Ireland and ”,
- (ix) in section 92(4)(a) and (b), before “member States” there were inserted “Northern Ireland or the”,
- (x) in section 125(1), for “an EU customs duty” there were substituted “ a duty of customs ”,
- (xi) in subsection (1A) and (2)(a) of section 157, the words “other than the United Kingdom” were omitted,
- (xii) the following references to “the United Kingdom” were to “Northern Ireland”—
  - (a) the references in the definitions of “Community transit goods” and “transit or transshipment” in section 1(1);
  - (b) the references in sections 36(1), 55(4)(a), 63(2) to (4), 74, 78(1)(a) and (b), 96(4) and 134(2);
  - (c) the reference in the words after paragraph (b) of section 58C(3);
  - (d) the second reference in sections 67(1) and 78(2A);
  - (e) the first reference in sections 69(1) and 70(3), and
- (xiii) the following were omitted—
  - (a) sections 21(8), 35(9), 61(9), 63(7), 70(5), 74(5) and 78(1A);
  - (b) the words after paragraph (b) of the definition of “Community transit goods” in section 1;
  - (c) the words “and the Isle of Man” in sections 34(1), 36(1), 53(1), 64(1) and 66(1)(a) and (d);
  - (d) the words “or the Isle of Man” in section 43(5);
  - (e) the words “or between a place in the United Kingdom and a place in the Isle of Man” in section 69(1) and (3);
  - (f) the words “subject to subsection (1A) above,” in section 78(2A).

(4) The Customs and Excise Duties (General Reliefs) Act 1979—

- (a) continues to have effect, for any purpose in connection with duty under section 30A(3) or 40A, as if the amendments made by Part 3 of this Schedule, other than the amendments made by paragraphs 123, 135 and 138(3)(b), were not made, and
- (b) applies for any such purpose as if—



*Status: Point in time view as at 17/12/2020.*

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- (i) references to an EU instrument or an EU obligation were to the provisions of Union customs legislation,
  - (ii) references to an importation of goods (however framed) included the entry of those goods in Northern Ireland in the course of a removal of those goods to Northern Ireland from Great Britain,
  - (iii) references to an exportation of goods (however framed) included the exit of goods from Northern Ireland that are being removed to Great Britain,
  - (iv) references to the entry of any person or vehicle into the United Kingdom (however framed) included the arrival of that person or vehicle in Northern Ireland, and
  - (v) in section 2 (reliefs from customs duty referable to Community practices), for “other” there were substituted “the”.
- (5) Part 1 of the Finance Act 1994—
- (a) continues to have effect, for any purpose in connection with duty under section 30A(3) or 40A, as if the amendments made by Part 3 of this Schedule, other than the amendments made by paragraphs 144(b) and 145(3)(d), (f) and (i), were not made,
  - (b) applies for any such purpose as if—
    - (i) references to an importation of goods (however framed) included the entry of goods in Northern Ireland in the course of a removal of those goods to Northern Ireland from Great Britain,
    - (ii) references to an exportation of goods (however framed) included the exit of goods from Northern Ireland that are being removed to Great Britain,
    - (iii) any reference to the Community Customs Code were to Union customs legislation, and
    - (iv) in section 12B(2)(a) (relevant time in case of assessment under section 61 of CEMA 1979) the reference to the United Kingdom were to Northern Ireland, and
  - (c) applies for any purpose in connection with duty under section 30C as if—
    - (i) references to an importation of goods (however framed) included the entry of goods in Great Britain in the course of a removal of those goods to Great Britain from Northern Ireland, and
    - (ii) references to an exportation of goods (however framed) included the exit of goods from Great Britain that are being removed to Northern Ireland.
- (6) Item 6 of Group 8 of Schedule 8 to the Value Added Tax Act 1994 has effect as if the reference to a temporary storage facility included a transit shed (within the meaning of CEMA 1979 as it has effect as a result of sub-paragraphs (1) and (3)).
- (7) Part 3 of the Finance Act 2003 continues to have effect, for any purpose in connection with duty under section 30A(3) or 40A, as if—
- (a) the amendments made by Part 3 of this Schedule, other than the amendments made by paragraphs 148(2) and (3), 149, 150(3)(a) and 152, were not made, and
  - (b) in section 26(8)(c), the words “Union export duty or Union import duty,” were omitted.

*Status: Point in time view as at 17/12/2020.*

*Changes to legislation: Taxation (Cross-border Trade) Act 2018 is up to date with all changes known to be in force on or before 21 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (8) This paragraph is subject to any provision made by regulations under section 30B(3), 30C(5) or 40B(2) about the application of the customs and excise Acts (which may, for example, include provision for the application of provisions of the customs and excise Acts either as amended or unamended by Parts 2 and 3 of this Schedule).]

## SCHEDULE 8

Section 43

### VAT AMENDMENTS CONNECTED WITH WITHDRAWAL FROM EU

#### PART 1

#### AMENDMENTS OF VALUE ADDED TAX ACT 1994

##### *Amendment of the Value Added Tax Act 1994*

- 1 The Value Added Tax Act 1994 is amended as follows.

**Commencement Information**

**I284** [Sch. 8 para. 1](#) in force at 16.12.2018 for specified purposes by [S.I. 2018/1362, reg. 2](#)

VALID FROM 31/12/2020

- 2 (1) Section 1 (imposition of charge to value added tax) is amended as follows.
- (2) Omit subsection (3).
- (3) In subsection (4)—
- (a) for “from places outside the member States” substitute “ into the United Kingdom ”, and
  - (b) for “a duty of customs” substitute “ import duty ”.

VALID FROM 31/12/2020

- 3 In section 2 (rate of VAT), in subsection (1)—
- (a) omit paragraph (b) (together with the “and” at the end of the paragraph), and
  - (b) in paragraph (c), omit “from a place outside the member States”.

VALID FROM 31/12/2020

- 4 Omit section 3A (supplies of electronic, telecommunication and broadcasting services: special accounting schemes).

*Status: Point in time view as at 17/12/2020.*

*Changes to legislation: Taxation (Cross-border Trade) Act 2018 is up to date with all changes known to be in force on or before 21 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

VALID FROM 31/12/2020

- 5 In Section 5 (meaning of supply: alteration by Treasury order), in subsection (3), in the words after paragraph (c), omit the words from “and may provide that paragraph 6” to the end.

VALID FROM 31/12/2020

- 6 (1) Section 6 (time of supply) is amended as follows.  
(2) Omit subsections (7) and (8).  
(3) In subsection (14), for “subsections (2) to (8)” substitute “ subsections (2) to (6) ”.

VALID FROM 31/12/2020

- 7 (1) Section 7 (place of supply of goods) is amended as follows.  
(2) In subsection (1), omit “14,”.  
(3) Omit subsections (4) and (5).  
(4) In subsection (6)(a), omit “from a place outside the member States”.  
(5) Omit subsection (9).  
(6) After subsection (11) insert—  
“(12) The Commissioners may by regulations provide that any rule for determining where a supply of goods is made is subject to such conditions relating to the notification of matters to the Commissioners, or such other conditions, as may be specified in the regulations.”

VALID FROM 31/12/2020

- 8 In section 7A (place of supply of services), for subsection (4) substitute—  
“(4) For the purposes of this Act a person is a relevant business person in relation to a supply of services if—  
(a) the person carries on a business, and  
(b) the services are not received by the person wholly for private purposes,  
whether or not the services are received in the course of business.”

VALID FROM 31/12/2020

- 9 In section 9 (place where supplier or recipient of services belongs), omit subsection (6).

*Status: Point in time view as at 17/12/2020.*

*Changes to legislation: Taxation (Cross-border Trade) Act 2018 is up to date with all changes known to be in force on or before 21 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

VALID FROM 31/12/2020

- 10 In section 9A (reverse charge on gas, electricity, heat or cooling supplied by persons outside the United Kingdom), in subsection (5)(a)—
- (a) for “situated within the territory of a member State” substitute “ in the United Kingdom ”, and
  - (b) for “such a system” substitute “ a natural gas system in the United Kingdom ”.

VALID FROM 31/12/2020

- 11 Omit sections 10 to 14 (acquisition of goods from member States) and the italic heading before those sections.

VALID FROM 31/12/2020

- 12 In the italic heading before section 15, omit “from outside the member States”.

VALID FROM 31/12/2020

- 13 For section 16 substitute—
- “16 Application of customs enactments**
- (1) The provision made by or under—
    - (a) the Customs and Excise Acts 1979 (as defined in the Management Act), and
    - (b) the other enactments for the time being having effect generally in relation to duties of customs and excise charged by reference to the importation of goods into the United Kingdom,
 apply (so far as relevant) in relation to any VAT chargeable on the importation of goods into the United Kingdom as they apply in relation to any duty of customs or excise.
  - (2) The provision made by section 1(4) for VAT on the importation of goods to be charged and payable as if it were import duty is to be taken as applying, in relation to any VAT chargeable on the importation of the goods, the provision made by or under Part 1 of TCTA 2018.
  - (3) The Commissioners may by regulations—
    - (a) provide for exceptions from the effect of subsection (1) or (2), or
    - (b) provide for the provision mentioned in subsection (1) or (2) to have effect with modifications specified in the regulations.
  - (4) Subsections (1) and (2) do not apply so far as the context otherwise requires.

*Status: Point in time view as at 17/12/2020.*

*Changes to legislation: Taxation (Cross-border Trade) Act 2018 is up to date with all changes known to be in force on or before 21 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(5) Regulations under section 105 of the Postal Services Act 2000 (which provides for the application of customs enactments to postal packets) may make special provision in relation to VAT.”

14 After that section insert—

**“16A Postal packets**

- (1) The Commissioners may by regulations impose a liability to VAT on a person outside the United Kingdom in respect of the entry of goods into the United Kingdom if the person sent, or arranged for the sending of, the goods to their recipient in a postal packet (within the meaning of the Postal Services Act 2000).
- (2) The regulations may—
  - (a) provide that a liability to VAT arises only in relation to goods of a value described in the regulations,
  - (b) provide that in cases specified in the regulations, other persons are jointly and severally liable for the VAT, and
  - (c) provide that the entry of the goods into the United Kingdom is not an importation for the purposes of this Act.
- (3) Among other provision that may be made by the regulations, the regulations may make provision—
  - (a) requiring persons to register under the regulations for the purpose of accounting for VAT imposed under the regulations,
  - (b) modifying the application of this Act in relation to cases dealt with by the regulations, and
  - (c) requiring persons to provide information to the Commissioners about the goods or the person who sent, or arranged for the sending of, the goods.
- (4) Regulations under this section may make different provision for different purposes.”

**Commencement Information**

**I285** Sch. 8 para. 14 in force at 16.12.2018 by S.I. 2018/1362, reg. 2

VALID FROM 31/12/2020

- 15
- (1) Section 17 (free zone regulations) is amended as follows.
  - (2) In subsection (1), omit “from places outside the member States”.
  - (3) In subsection (2), omit “Subject to any contrary provision made by any directly applicable Community provision,”.
  - (4) In subsection (5)(a), omit “into the United Kingdom”.

*Status: Point in time view as at 17/12/2020.*

*Changes to legislation: Taxation (Cross-border Trade) Act 2018 is up to date with all changes known to be in force on or before 21 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

VALID FROM 31/12/2020

- 16 (1) Section 18 (place and time of acquisition or supply) is amended as follows.
- (2) For subsection (1) substitute—
- “(1) A supply of goods which are subject to a warehousing regime is to be treated, for the purposes of this Act, as taking place outside the United Kingdom where —
- (a) those goods have been brought into the United Kingdom,
- (b) the material time of that supply is while those goods are subject to that regime and before the duty point, and
- (c) those goods are not mixed with any dutiable goods which were produced or manufactured in the United Kingdom.”
- (3) In subsection (2)—
- (a) omit paragraph (a) (together with the “or” at the end of it), and
- (b) in paragraph (b)(i), omit “or acquired from another member State”.
- (4) In subsection (3), omit “acquisition or” in both places.
- (5) In subsection (4)—
- (a) in the opening words, omit “acquisition or” in both places,
- (b) in paragraph (a), omit “acquisition or”, and
- (c) in paragraph (b), omit “in the case of a supply,”.
- (6) In subsection (6)—
- (a) in the definition of “dutiable goods”, in paragraph (b), omit “EU customs duty or”,
- (b) in the definition of “the duty point”, in paragraph (b)—
- (i) for the words from “any Community” to “be incurred” substitute “import duty is incurred in respect of the goods”,
- (ii) for the words from “the corresponding” to “duty or” substitute “the time a debt in respect of any”, and
- (iii) after “dutiable goods” insert “is incurred in respect of the goods”,
- (c) in the definition of “material time”—
- (i) in paragraph (a), omit “acquisition or” and “or 12(3)”, and
- (ii) omit paragraph (b) (but not the “and” at the end of the paragraph), and
- (d) in the definition of “warehouse”—
- (i) in the opening words, for “any member State” substitute “the United Kingdom”,
- (ii) for paragraph (a) substitute—
- “(a) import duty;”,
- (iii) in paragraph (c), omit “into any member State”, and
- (iv) in paragraph (d), omit the words from “or any duty” to the end.
- (7) In subsection (7)—
- (a) omit “(whether in the same or different member States)”, and
- (b) omit “in a member State”.

*Status: Point in time view as at 17/12/2020.*

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(8) In the heading, omit “acquisition or”.

VALID FROM 31/12/2020

- 17 In section 18A (fiscal warehousing), in subsection (4)—
- (a) in paragraph (b), omit “(as defined in the Management Act)”,
  - (b) omit paragraphs (c) and (d),
  - (c) in paragraph (e), for “(a) to (d)”, in both places it occurs, substitute “(a) and (b)”, and
  - (d) in paragraph (f), for “(a) to (d)” substitute “(a) and (b)”.

VALID FROM 31/12/2020

- 18 (1) Section 18B (fiscally warehoused goods: relief) is amended as follows.
- (2) Omit subsection (1).
  - (3) In subsection (2), omit “also”.
  - (4) In subsection (2A), omit “(1)(d) or”.
  - (5) In subsection (3), omit “acquisition or”.
  - (6) In subsection (4), omit “acquisition or” in both places.
  - (7) For subsection (5) substitute—

“(5) VAT is chargeable on a supply made by a person who is not a taxable person, but who would be were it not for paragraph 1(9) of Schedule 1, where—

    - (a) subsection (4) applies to that supply, and
    - (b) that supply is taxable and not zero-rated.”
  - (8) For subsection (6) substitute—

“(6) In this section “eligible goods” means goods—

    - (a) of a description falling within Schedule 5A,
    - (b) in the case of imported goods—
      - (i) upon which any import duty has been paid or deferred (by virtue of the customs and excise Acts or any subordinate legislation made under those Acts), and
      - (ii) upon which any VAT chargeable under section 1(1)(c) has been paid, or deferred (by virtue of the customs and excise Acts or any subordinate legislation made under those Acts), and
    - (c) in the case of goods subject to a duty of excise, upon which any excise duty has been paid or deferred under section 127A of the Management Act.”
  - (9) In subsection (7)—
    - (a) for “an acquisition or supply” substitute “a supply”, and

*Status: Point in time view as at 17/12/2020.*

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(b) for “the acquisition or supply” substitute “ the supply ”.

VALID FROM 31/12/2020

19 In section 18C (warehouses and fiscal warehouses: services), in subsection (4) (b), for “Community customs provisions or warehousing regulations” substitute “ the customs and excise Acts or any subordinate legislation made under those Acts ”.

VALID FROM 31/12/2020

20 (1) Section 18D (removal from warehousing: accountability) is amended as follows.  
 (2) In subsection (1), omit the words from “and any acquisition” to the end.  
 (3) In subsection (2)—  
 (a) in the opening words, omit “or acquisition”, and  
 (b) in paragraph (a), omit “or acquisition”.

VALID FROM 31/12/2020

21 In section 18F (sections 18A to 18E: supplementary), in subsection (1)—  
 (a) at the appropriate place insert—  
     ““the customs and excise Acts” has the same meaning as in the  
     Management Act;”,  
 (b) in the definition of “material time”—  
     (i) in paragraph (a), omit “acquisition or” and “or 12(3)”, and  
     (ii) omit paragraph (b), and  
 (c) omit the definition of “warehousing regulations”.

VALID FROM 31/12/2020

22 Omit section 20 (valuation of acquisitions from other member States).

VALID FROM 31/12/2020

23 (1) Section 21 (value of imported goods) is amended as follows.  
 (2) For subsection (1) substitute—  
     “(1) For the purposes of this Act, the value of imported goods is (subject to  
     subsections (2) to (4)) their value as if determined under TCTA 2018 for  
     the purposes of import duty (whether or not the goods are subject to import  
     duty).”  
 (3) In subsection (2)—



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- (a) in the opening words, omit “from a place outside the member States”, and
  - (b) in paragraph (c), omit “from a place outside the member States” and “or another member State”.
- (4) In subsection (2A)—
- (a) in paragraph (a), for “the procedure specified in subsection (2B) below” substitute “the temporary admission procedure under Part 1 of TCTA 2018”, and
  - (b) in paragraph (b), omit “from a place outside the member States”.
- (5) Omit subsection (2B).
- (6) In subsection (3), in paragraph (a), omit “from a place outside the member States”.
- (7) In subsection (4), omit “from a place outside the member States”.
- (8) In subsection (6D), for “any goods imported from outside the member States” substitute “imported goods”.

VALID FROM 31/12/2020

- 24 (1) Section 24 (input tax and output tax) is amended as follows.
- (2) In subsection (1)—
- (a) omit paragraph (b) (but not the “and” at the end of the paragraph), and
  - (b) in paragraph (c), omit “from a place outside the member States”.
- (3) In subsection (2), omit the words from “or on the acquisition” to the end.
- (4) In subsection (5)—
- (a) in the opening words—
    - (i) omit “, goods acquired by a taxable person from another member State”, and
    - (ii) omit “from a place outside the member States”, and
  - (b) in paragraph (a), omit “, acquisitions”.
- (5) In subsection (6)—
- (a) in paragraph (a)—
    - (i) omit “, VAT on the acquisition of goods by a taxable person from other member States”, and
    - (ii) omit “from places outside the member States”,
  - (b) in paragraph (b)—
    - (i) omit “or on the acquisition of goods by him from another member State”,
    - (ii) omit “from places outside the member States”, and
    - (iii) omit “, acquisition”, and
  - (c) in paragraph (c), omit “, acquisition”.

*Status: Point in time view as at 17/12/2020.*

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VALID FROM 31/12/2020

- 25 (1) Section 25 (payment by reference to accounting periods and credit for input tax against output tax) is amended as follows.
- (2) In subsection (1), omit paragraph (b) (together with the “and” before that paragraph).
- (3) In subsection (7)—
- (a) in the opening words, omit “, acquisitions”, and
  - (b) in paragraph (a), omit “acquired or” and, in both places, omit “, acquired”.

VALID FROM 31/12/2020

- 26 In section 26 (input tax allowable under section 25), in subsection (1), omit “, acquisitions”.

VALID FROM 31/12/2020

- 27 In section 27 (goods imported for private purposes), in subsection (1), omit “from a place outside the member States”.

VALID FROM 31/12/2020

- 28 (1) Section 29A (reduced rate) is amended as follows.
- (2) In subsection (1)(b), omit “acquisition or”.
- (3) For subsection (2) substitute—
- “(2) The reference in subsection (1) to an equivalent importation, in relation to any supply that is of a description for the time being specified in Schedule 7A, is a reference to any importation of any goods the supply of which would be such a supply.”

VALID FROM 31/12/2020

- 29 (1) Section 30 (zero-rating) is amended as follows.
- (2) In subsection (3), for the words from “acquired in the United Kingdom” to “importation,” substitute “ imported, no VAT shall be chargeable on their importation ”.
- (3) In subsection (5), omit “to a place outside the member States”.
- (4) In subsection (6)(a), omit “to a place outside the member States”.
- (5) In subsection (8), for paragraph (a) substitute—

*Status: Point in time view as at 17/12/2020.*

*Changes to legislation: Taxation (Cross-border Trade) Act 2018 is up to date with all changes known to be in force on or before 21 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

“(a) the Commissioners are satisfied that the goods have been or are to be exported to such places as may be specified in the regulations, and”.

(6) Omit subsection (8A).

(7) In subsection (9), for “removed from the United Kingdom” substitute “exported”.

(8) In subsection (10)—

- (a) in the opening words, for “subsection (8), (8A) or (9)” substitute “subsection (8) or (9)”,
- (b) in paragraph (a), omit “or otherwise removed from the United Kingdom”, and
- (c) in paragraph (b), for “subsection (6), (8), (8A) or (9)” substitute “subsection (6), (8) or (9)”.

VALID FROM 31/12/2020

- 30 (1) Section 31 (exempt supplies and acquisitions) is amended as follows.
- (2) In subsection (1), omit the words from “and an acquisition” to the end.
  - (3) In the heading, omit “and acquisitions”.

VALID FROM 31/12/2020

- 31 (1) Section 33 (refunds of VAT in certain cases) is amended as follows.
- (2) In subsection (1)—
    - (a) for paragraph (a) (together with the “and” at the end of the paragraph) substitute—
      - “(a) VAT is chargeable on the supply of goods or services to, or on the importation of goods by, a body to which this section applies, and”, and
    - (b) in paragraph (b), omit “, acquisition”.
  - (3) In subsection (2)—
    - (a) omit “or acquired” in both places, and
    - (b) omit “or acquisition”.

VALID FROM 31/12/2020

- 32 (1) Section 33A (refunds of VAT to museums and galleries) is amended as follows.
- (2) In subsection (1)—
    - (a) for paragraph (a) substitute—
      - “(a) VAT is chargeable on the supply of goods or services to, or on the importation of goods by, a body to which this section applies,”,
    - (b) in paragraph (b), omit “, acquisition”, and

*Status: Point in time view as at 17/12/2020.*

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(c) in paragraph (c), omit “acquisition or”.

(3) In subsection (4), omit “acquisition or”.

(4) In subsection (6), omit “or acquired” in both places.

(5) In subsection (8)(b)(ii), omit “acquisitions and”.

VALID FROM 31/12/2020

33 (1) Section 33B (refunds of VAT to Academies) is amended as follows.

(2) In subsection (1)—

(a) for paragraph (a) (together with the “and” at the end of the paragraph) substitute—

“(a) VAT is chargeable on the supply of goods or services to, or on the importation of goods by, the proprietor of an Academy, and”, and

(b) in paragraph (b), omit “, acquisition”.

(3) In subsection (3), omit “acquisition or”.

(4) In subsection (5), omit “or acquired” in both places.

(5) In subsection (6), omit “or acquisition”.

VALID FROM 31/12/2020

34 (1) Section 33C (refunds of VAT to charities within section 33D) is amended as follows.

(2) In subsection (2)—

(a) for paragraph (a) (together with the “and” at the end of the paragraph) substitute—

“(a) VAT is chargeable on the supply of goods or services to, or on the importation of goods by, a qualifying charity, and”, and

(b) in paragraph (b), omit “, acquisition”.

(3) In subsection (4)—

(a) for “supply, acquisition or” substitute “ supply or ”, and

(b) for “the acquisition or importation” substitute “ the importation ”.

(4) In subsection (5), omit “or acquired” in both places.

(5) In subsection (6), omit “or acquisition”.

VALID FROM 31/12/2020

35 (1) Section 33E (power to extend refunds of VAT to other persons) is amended as follows.

(2) In subsection (1)—

*Status: Point in time view as at 17/12/2020.*

*Changes to legislation: Taxation (Cross-border Trade) Act 2018 is up to date with all changes known to be in force on or before 21 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(a) for paragraph (a) (together with the “and” at the end of the paragraph) substitute—

“(a) VAT is chargeable on the supply of goods or services to, or on the importation of goods by, a specified person, and”, and

(b) in paragraph (b), omit “, acquisition”.

(3) In subsection (4), omit “, acquisition”.

(4) In subsection (5)—

(a) in paragraph (a), omit “acquisition or”, and

(b) in paragraph (b), omit “acquisition or”.

(5) In subsection (6), omit “or acquired” in both places.

(6) In subsection (7), omit “or acquisition”.

VALID FROM 31/12/2020

36 (1) Section 34 (capital goods) is amended as follows.

(2) In subsection (1), omit “, acquisition”.

(3) In subsection (2), omit “, acquired”.

VALID FROM 31/12/2020

37 (1) Section 35 (refund of VAT to persons constructing certain buildings) is amended as follows.

(2) In subsection (1)(c), omit “, acquisition”.

(3) Omit subsection (3).

VALID FROM 31/12/2020

38 Omit section 36A (relief from VAT on acquisition if importation would attract relief) and the italic heading before that section.

VALID FROM 31/12/2020

39 (1) Section 37 (relief from VAT on importation of goods) is amended as follows.

(2) In subsection (1)—

(a) omit “from places outside the member States”, and

(b) omit the words from “, if and so” to the end.

(3) In subsection (2)(a), omit “from a place outside the member States”.

(4) In subsection (3)—

*Status: Point in time view as at 17/12/2020.*

*Changes to legislation: Taxation (Cross-border Trade) Act 2018 is up to date with all changes known to be in force on or before 21 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (a) omit “from places outside the member States”, and
- (b) omit “from the United Kingdom or removed from any member State”.

(5) In subsection (4)—

- (a) in the opening words—
  - (i) omit “from places outside the member States”, and
  - (ii) omit “or otherwise removed from the United Kingdom”, and
- (b) omit paragraph (b).

VALID FROM 31/12/2020

- 40 In section 38 (importation of goods by taxable persons)—
- (a) omit “from a place outside the member States”, and
  - (b) omit “or on the acquisition of goods by him from other member States”.

VALID FROM 31/12/2020

- 41 In section 39 (repayment of VAT to those in business overseas), for subsections (1) and (2) substitute—
- “(1) The Commissioners may, by means of a scheme embodied in regulations, provide for the repayment, to persons carrying on business wholly outside the United Kingdom, of VAT which would be input tax of theirs if they were taxable persons in the United Kingdom.
- (2) The scheme may make different provision in relation to persons carrying on business in different places.”

VALID FROM 31/12/2020

- 42 Omit section 39A (applications for forwarding of VAT repayment claims to other member States).

VALID FROM 31/12/2020

- 43 Omit section 40 (refunds in relation to new means of transport supplied to other member States).

VALID FROM 31/12/2020

- 44 (1) Section 41 (application to the Crown) is amended as follows.
- (2) In subsection (3)—
- (a) omit “, on the acquisition of any goods by a Government department from another member State”,
  - (b) omit “from a place outside the member States”, and

*Status: Point in time view as at 17/12/2020.*

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(c) omit “, acquisition”.

(3) In subsection (4), omit “, acquisition”.

VALID FROM 31/12/2020

45 (1) Section 41A (supply of goods or services by public bodies) is amended as follows.

(2) In subsection (1), for the words from “body” to “taxable persons)” substitute “public authority”.

(3) For subsection (2) substitute—

“(2) Unless the supply is on such a small scale as to be negligible, it is to be treated for the purposes of this Act as a supply in the course or furtherance of a business if it is in respect of any of the following activities—

- (a) telecommunications services,
- (b) supply of water, gas, electricity or thermal energy,
- (c) transport of goods,
- (d) port or airport services,
- (e) passenger transport,
- (f) supply of new goods manufactured for sale,
- (g) engaging in transactions in respect of agricultural products in the exercise of regulatory functions,
- (h) organisation of trade fairs or exhibitions,
- (i) warehousing,
- (j) activities of commercial publicity bodies,
- (k) activities of travel agents,
- (l) running of staff shops, cooperatives, industrial canteens, or similar institutions, or
- (m) activities carried out by radio and television bodies which are of a commercial nature.”

(4) Omit subsection (4).

VALID FROM 31/12/2020

46 (1) Section 43 (groups of companies) is amended as follows.

(2) In subsection (1), for paragraph (c) substitute—

“(c) any VAT paid or payable by a member of the group on the importation of goods shall be treated as paid or payable by the representative member and the goods shall be treated, for the purposes of sections 38 and 73(7), as imported by the representative member;”.

(3) In subsection (1AA)—

- (a) in paragraph (a), omit “acquired or”,
- (b) in paragraph (b), omit “, acquisition”,
- (c) in paragraph (c)(ii), omit “, acquisition”, and

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(d) in the words after paragraph (c), omit “, acquisition”.

VALID FROM 31/12/2020

- 47 (1) Section 44 (supplies to groups) is amended as follows.
- (2) In subsection (2), in the opening words, omit “acquisitions and”.
- (3) In subsection (9), omit “acquisition or”.

VALID FROM 31/12/2020

- 48 (1) Section 45 (partnerships) is amended as follows.
- (2) In subsection (1)—
- (a) omit paragraph (b) (together with the “or” before it), and
  - (b) in the words after that paragraph, omit “or are acquired by such persons from another member State”.
- (3) In subsection (2), omit “or on the acquisition of goods by the partnership from another member State”.
- (4) In subsection (5), omit “or on the acquisition during that period by the firm of any goods from another member State”.

VALID FROM 31/12/2020

- 49 (1) Section 46 (business carried on in divisions or by unincorporated bodies, personal representatives etc) is amended as follows.
- (2) In subsection (3), omit “or whether goods are acquired by such a club, association or organisation from another member State”.
- (3) Omit subsection (6).

VALID FROM 31/12/2020

- 50 (1) Section 47 (agents etc) is amended as follows.
- (2) For subsection (1) substitute—
- “(1) Where goods are imported by a taxable person (“T”) who supplies them as agent for a person who is not a taxable person, then, if T acts in relation to the supply in T's own name, the goods are to be treated for the purposes of this Act as imported and supplied by T as principal.”
- (3) In subsection (4), after “through an agent,” insert “ acting in the agent's own name, ”.
- (4) Omit subsection (5).



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VALID FROM 31/12/2020

- 51 (1) Section 48 (VAT representatives and security) is amended as follows.
- (2) In subsection (1)(a), omit “or who acquires goods in the United Kingdom from one or more other member States”.
- (3) For subsections (1A) and (1B) substitute—
- “(1A) The condition mentioned in subsection (1)(ba) is that there are no arrangements in relation to the country or territory relating to VAT which—
- (a) have effect by virtue of an Order in Council under section 173 of the Finance Act 2006, and
- (b) contain provision of a kind mentioned in subsection (2)(a) and (b) of that section.”
- (4) Omit subsection (9).

VALID FROM 31/12/2020

- 52 In section 50A (margin schemes), in subsection (5), omit “, acquisition”.

VALID FROM 31/12/2020

- 53 In section 52 (trading stamp schemes)—
- (a) in the opening words—
- (i) for “sections 19 and 20 and Schedules 6 and 7” substitute “section 19 and Schedule 6”, and
- (ii) for “in those sections and Schedules)” substitute “in that section and Schedule)”,
- (b) omit paragraph (b) (together with the “or” before it), and
- (c) in the words after that paragraph—
- (i) omit “or acquired”, and
- (ii) omit “or under any scheme of an equivalent description which is in operation in another member State”.

VALID FROM 31/12/2020

- 54 In section 54 (farmers etc), for subsection (8) substitute—
- “(8) In this section “designated activities” means activities relating to farming, fisheries or forestry which are designated in an order made by the Treasury.”

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VALID FROM 31/12/2020

55 In section 55A (customers to account for tax on supplies of goods or services of a kind used in missing trader intra-community fraud), in the heading, omit “intra-community”.

VALID FROM 31/12/2020

56 In section 58 (general provisions relating to the administration and collection of VAT), for “92(6)” substitute “ 58ZA(5)(a) ”.

VALID FROM 31/12/2020

57 After section 58 insert—

**“58ZA International VAT arrangements**

- (1) The Commissioners may make regulations imposing obligations on taxable persons for the purpose of giving effect to international VAT arrangements.
- (2) The regulations may require the submission to the Commissioners by taxable persons of statements containing such particulars of—
  - (a) relevant transactions in which the taxable persons are concerned, and
  - (b) the persons concerned in those transactions,
 as may be specified in the regulations.
- (3) The regulations may provide for statements about relevant transactions to be submitted at such times and intervals, in such cases and in such form and manner as may be specified—
  - (a) in the regulations, or
  - (b) by the Commissioners in accordance with the regulations.
- (4) A transaction is a “relevant transaction” for the purposes of this section if information about it could be relevant to any international VAT arrangements.
- (5) If any international VAT arrangements have effect—
  - (a) any Schedule 11 information power is exercisable with respect to matters that are relevant to those arrangements as it is exercisable with respect to matters that are relevant for any of the purposes of this Act, and
  - (b) any power of an officer of Revenue and Customs to obtain information or documents under any enactment or subordinate legislation relating to VAT is exercisable in relation to matters which are relevant to those arrangements.

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- (6) The Commissioners may disclose information which is obtained as a result of subsection (5) (and no obligation of secrecy, whether imposed by statute or otherwise, prevents such disclosure) if—
- (a) the disclosure is required in accordance with the international VAT arrangements, and
  - (b) the Commissioners are satisfied that the recipient is bound, or has undertaken, both to observe rules of confidentiality which are no less strict than those applying to the information in the United Kingdom and to use the information only for the purposes contemplated by the arrangements.
- (7) Powers are exercisable as a result of subsection (5) only if the Commissioners have given (and not withdrawn) a direction in writing authorising their use (either generally or in relation to specified cases).
- (8) The Commissioners may not make regulations under this section, or give a direction under subsection (7), unless they consider that making the regulations or giving the direction would facilitate the administration, collection or enforcement of VAT.
- (9) In this section—
- “international VAT arrangements” means arrangements which—
    - (a) have effect by virtue of an Order in Council under section 173 of the Finance Act 2006, and
    - (b) relate to VAT or any tax corresponding to VAT imposed under the law of the territory, or any of the territories, in relation to which the arrangements have been made, and
  - “Schedule 11 information power” means any power of the Commissioners under Schedule 11 relating to—
    - (a) the keeping of accounts,
    - (b) the making of returns and the submission of other documents to the Commissioners,
    - (c) the production, use and contents of invoices,
    - (d) the keeping and preservation of records, and
    - (e) the furnishing of information and the production of documents.”

VALID FROM 31/12/2020

- 58 (1) Section 62 (incorrect certificates as to zero-rating etc) is amended as follows.
- (2) Omit subsection (1A).
  - (3) In subsection (2), omit paragraph (b).

VALID FROM 31/12/2020

- 59 (1) Section 65 (inaccuracies in EC sales statements or in statements relating to section 55A) is amended as follows.

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- (2) In subsection (1)—
- (a) in paragraph (a), for “an EC sales statement” substitute “ a section 55A statement ”,
  - (b) in paragraph (c), for “another EC sales statement” substitute “ another section 55A statement ”, and
  - (c) in paragraph (f), for “another EC sales statement” substitute “ another section 55A statement ”.
- (3) In subsection (2), for “an EC sales statement” substitute “ a section 55A statement ”.
- (4) In subsection (3), for “an EC sales statement” substitute “ a section 55A statement ”.
- (5) For subsections (6) and (7) substitute—
- “(6) In this section—
- “section 55A statement” means a statement which is required to be submitted to the Commissioners in accordance with regulations under paragraph 2(3A) of Schedule 11; and
- “submission date”, in relation to a section 55A statement, means whichever is the earlier of the last day for the submission of the statement to the Commissioners in accordance with those regulations and the day on which it was in fact submitted to them.”
- (6) For the heading substitute “ Inaccuracies in section 55A statements ”.

VALID FROM 31/12/2020

- 60 (1) Section 66 (failure to submit EC sales statement or statement relating to section 55A) is amended as follows.
- (2) In subsection (1), for “an EC sales statement” substitute “ a section 55A statement ”.
- (3) In subsection (2), for “any EC sales statement” substitute “ any section 55A statement ”.
- (4) In subsection (3)(b), for “any EC sales statement” substitute “ any section 55A statement ”.
- (5) In subsection (4)(b) for “any EC sales statement”, in both places it occurs, substitute “ any section 55A statement ”.
- (6) In subsection (7)—
- (a) in paragraph (a), for “an EC sales statement” substitute “ a section 55A statement ”, and
  - (b) in the words after paragraph (b), omit “, 75”.
- (7) For subsections (9) and (10) substitute—
- “(9) In this section, “section 55A statement” means a statement which is required to be submitted to the Commissioners in accordance with regulations under paragraph 2(3A) of Schedule 11.”
- (8) For the heading substitute “ Failure to submit section 55A statement ”.

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VALID FROM 31/12/2020

61 In section 69 (breaches of regulatory provisions), in subsection (1), in paragraph (a), omit “, paragraph 5 of Schedule 2, paragraph 5 of Schedule 3”.

VALID FROM 31/12/2020

62 In section 69C (transactions connected with VAT fraud), in subsection (6), in the words after paragraph (b)—  
(a) for “(whether before or after the coming into force of this section) in other cases” substitute “ in any other cases ”, and  
(b) after “VAT system” insert “ which were decided before the coming into force of section 42 of TCTA 2018 ”.

VALID FROM 31/12/2020

63 (1) Section 72 (offences) is amended as follows.  
(2) In subsection (2)—  
(a) in paragraph (b), for “35, 36 or 40” substitute “ 35 or 36 ”,  
(b) omit paragraph (c), and  
(c) in paragraph (ii), for “(b), (c) or (d)” substitute “ (b) or (d) ”.  
(3) In subsection (5), in paragraph (a)—  
(a) for “35, 36 or 40” substitute “ 35 or 36 ”, and  
(b) omit “for a refund under any regulations made by virtue of section 13(5)”.  
(4) In subsection (10)—  
(a) omit “, on the acquisition of the goods from another member State”, and  
(b) omit “from a place outside the member States”.

VALID FROM 31/12/2020

64 (1) Section 73 (failure to make returns etc) is amended as follows.  
(2) In subsection (3)(b), omit “, paragraph 6(2) of Schedule 2, paragraph 6(2) or (3) of Schedule 3”.  
(3) In subsection (7)—  
(a) in paragraph (a), omit “, acquired any goods from another member State”,  
[<sup>F27</sup>and]  
(b) in paragraph (b), omit “from a place outside the member States”, <sup>F28</sup>...  
<sup>F28</sup>(c) .....

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### Textual Amendments

- F27** Word in Sch. 8 para. 64(3)(a) inserted (17.12.2020 for specified purposes) by [Taxation \(Post-transition Period\) Act 2020 \(c. 26\)](#), s. 11(1)(e), **Sch. 2 para. 10(2)(a)** (with Sch. 2 para. 7(7)-(9))
- F28** Sch. 8 para. 64(3)(c) and word omitted (17.12.2020 for specified purposes) by virtue of [Taxation \(Post-transition Period\) Act 2020 \(c. 26\)](#), s. 11(1)(e), **Sch. 2 para. 10(2)(b)** (with Sch. 2 para. 7(7)-(9))

VALID FROM 31/12/2020

- 65 In section 74 (interest on VAT recovered or recoverable by assessment), in subsection (1)(c), omit “, under paragraph 8 of Schedule 3”.

VALID FROM 31/12/2020

- 66 Omit section 75 (assessments in cases of acquisitions of certain goods by non-taxable persons).

VALID FROM 31/12/2020

- 67 (1) Section 76 (assessment of amounts due by way of penalty, interest or surcharge) is amended as follows.
- (2) In subsection (1), in paragraph (a), for “, section 59A, paragraph 16F of Schedule 3B or paragraph 26 of Schedule 3BA” substitute “ or 59A ”.
- (3) Omit subsection (3A).
- (4) In subsection (5), omit “or (3A)” in both places.
- (5) Omit subsection (6).

VALID FROM 31/12/2020

- 68 Omit section 76A (section 76: cases involving special accounting schemes).

VALID FROM 31/12/2020

- 69 (1) Section 77 (assessments: time limits and supplementary assessments) is amended as follows.
- (2) In subsection (1)—
- (a) in the opening words, omit “, 75”, and
- (b) in paragraph (a), omit “or acquisition”.
- (3) In subsection (2), omit “or (3A)”.
- (4) In subsection (3), omit “or (3A)”.
- (5) In subsection (4), omit “, acquisition”.

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- (6) In subsection (4C)—
- (a) in paragraph (aa), after “Schedule 1A,” insert “ or ”, and
  - (b) omit paragraphs (b), (c) and (e) (together with the “or” before paragraph (e)).
- (7) In subsection (6), omit “or 75(2)(b)”.

VALID FROM 31/12/2020

- 70 In section 78A (assessment for interest overpayments), in subsection (7)(a), for “(6)” substitute “ (5) ”.

VALID FROM 31/12/2020

- 71 (1) Section 80 (credit for, or repayment of, overstated or overpaid VAT) is amended as follows.
- (2) In subsection (3C), in the definition of “VAT provisions”, in paragraph (a), for “, subordinate legislation or EU legislation” substitute “ or subordinate legislation ”.
- (3) In subsection (7), omit “(and paragraph 16I of Schedule 3B and paragraph 29 of Schedule 3BA)”.

VALID FROM 31/12/2020

- 72 In section 83 (appeals), in subsection (1)—
- (a) in paragraph (b)—
    - (i) omit “, on the acquisition of goods from another member State”, and
    - (ii) omit “from a place outside the member States”,
  - (b) omit paragraph (d),
  - (c) omit paragraph (j),
  - (d) in paragraph (p), omit sub-paragraph (iii) (together with the “or” before that sub-paragraph), and
  - (e) omit paragraph (w).

VALID FROM 31/12/2020

- 73 In section 84 (further provisions relating to appeals)—
- (a) in subsection (4)(c), omit “, acquisition”, and
  - (b) in subsection (6), omit “or (as the case requires) paragraph 26 of Schedule 3BA or paragraph 16F of Schedule 3B”.

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VALID FROM 31/12/2020

- 74 (1) Section 88 (supplies spanning change of rate etc) is amended as follows.
- (2) In subsection (1), omit “or exempt, zero-rated or reduced-rate acquisitions”.
- (3) Omit subsections (4) and (7).
- (4) For subsection (8) substitute—
- “(8) References in this section to a supply being a reduced-rate supply are references to a supply being one on which VAT is charged at the rate in force under section 29A.”

VALID FROM 31/12/2020

- 75 (1) Section 90 (failure of resolution under Provisional Collection of Taxes Act 1968) is amended as follows.
- (2) In subsection (1)—
- (a) in paragraph (a), omit the words from “or on the acquisition” to “20(3)”, and
- (b) in paragraph (b), omit “or acquisition”.
- (3) In subsection (2)—
- (a) in paragraph (a), omit the words from “or on the acquisition” to “20(3)”, and
- (b) in paragraph (b), omit “or acquisition”.
- (4) In subsection (3), for “, 35 or 40” substitute “ or 35 ”.

VALID FROM 31/12/2020

- 76 Omit section 92 (taxation under the laws of other member States etc).

VALID FROM 31/12/2020

- 77 Omit section 93 (territories included in references to other member States etc).

VALID FROM 31/12/2020

- 78 Omit section 95 (meaning of “new means of transport”).

VALID FROM 31/12/2020

- 79 (1) Section 96 (other interpretative provisions) is amended as follows.
- (2) In subsection (1)—



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- (a) omit the definition of “another member State”,
  - (b) at the appropriate place insert—
    - ““TCTA 2018” means the Taxation (Cross-border Trade) Act 2018;”, and
    - ““import duty” means import duty charged in accordance with Part 1 of TCTA 2018;”,
  - (c) omit the definition of “taxable acquisition”, and
  - (d) for the definition of “VAT” substitute—
    - ““VAT” means value added tax charged in accordance with this Act;”.
- (3) Omit subsection (3).

VALID FROM 31/12/2020

- 80 In section 99 (refund of VAT to Government of Northern Ireland)—
- (a) omit “, on the acquisition of any goods by that Government from another member State”,
  - (b) omit “from a place outside the member States”, and
  - (c) omit “, acquisitions”.

VALID FROM 31/12/2020

- 81 (1) Schedule 1 (registration in respect of taxable supplies: UK establishment) is amended as follows.
- (2) In paragraph 1—
- (a) in sub-paragraph (4)(a), omit “, paragraph 6(2) of Schedule 2, paragraph 6(3) of Schedule 3”,
  - (b) in sub-paragraph (5), omit “, paragraph 6(2) of Schedule 2, paragraph 6(3) of Schedule 3”,
  - (c) in sub-paragraph (7), omit “and any taxable supplies which would not be taxable supplies apart from section 7(4)”, and
  - (d) in sub-paragraph (9), omit “acquisition or”.
- (3) In paragraph 2(7), omit paragraph (c).
- (4) In paragraph 4(3), omit “and any taxable supplies which would not be taxable supplies apart from section 7(4)”.
- (5) In paragraph 13, omit sub-paragraph (8).

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- 82 (1) Schedule 1A (registration in respect of taxable supplies: non-UK establishment) is amended as follows.

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- (2) In paragraph 3, omit paragraphs (c) and (d) (but not the “or” at the end of paragraph (d)).
- (3) Omit paragraph 12.

VALID FROM 31/12/2020

- 83 Omit Schedule 2 (registration in respect of supplies from other member States).

VALID FROM 31/12/2020

- 84 Omit Schedule 3 (registration in respect of acquisitions from other member States).

VALID FROM 31/12/2020

- 85 In Schedule 3A (registration in respect of disposals of assets for which a VAT repayment is claimed), in paragraph 1—
- (a) in sub-paragraph (1), for “Schedule 1, 1A, 2 or 3” substitute “Schedule 1 or 1A”, and
  - (b) in sub-paragraph (2), for the words from “, paragraph 11 of Schedule 1A” to the end substitute “or paragraph 11 of Schedule 1A”.

VALID FROM 31/12/2020

- 86 Omit Schedule 3B (electronic, telecommunication and broadcasting services: non-Union scheme).

VALID FROM 31/12/2020

- 87 Omit Schedule 3BA (electronic, telecommunication and broadcasting services: Union scheme).

VALID FROM 31/12/2020

- 88 (1) Schedule 4 (matters to be treated as supply of goods or services) is amended as follows.
- (2) In paragraph 5(5)(a), omit “, acquisition”.
  - (3) Omit paragraph 6.
  - (4) In paragraph 8(2)(a), for the words from “, their acquisition” to the end substitute “or their importation into the United Kingdom”.

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- 89 (1) Schedule 4A (place of supply of services: special rules) is amended as follows.
- (2) In paragraph 3—
- (a) in sub-paragraph (3)—
- (i) in paragraph (b), for “in a country which is not a member State” substitute “outside the United Kingdom”, and
- (ii) in the words after that paragraph, for “in that country” substitute “outside the United Kingdom”, and
- (b) in sub-paragraph (4)(a), for “in a country which is not a member State” substitute “outside the United Kingdom”.
- (3) In the italic heading before paragraph 5, omit “: general”.
- (4) For paragraph 5 substitute—
- “5 A supply of restaurant or catering services is to be treated as made in the country in which the services are physically carried out.”
- (5) Omit paragraph 6 and the italic heading before it.
- (6) In paragraph 7—
- (a) in sub-paragraph (1)—
- (i) in paragraph (b), for “in a country which is not a member State” substitute “outside the United Kingdom”, and
- (ii) in the words after that paragraph, for “in that country” substitute “outside the United Kingdom”, and
- (b) in sub-paragraph (2)(a), for “in a country which is not a member State” substitute “outside the United Kingdom”.
- (7) In paragraph 8—
- (a) in sub-paragraph (3)—
- (i) in paragraph (b), for “in a country which is not a member State” substitute “outside the United Kingdom”, and
- (ii) in the words after that paragraph, for “in that country” substitute “outside the United Kingdom”, and
- (b) in sub-paragraph (4)(a), for “in a country which is not a member State” substitute “outside the United Kingdom”.
- (8) In paragraph 9—
- (a) in sub-paragraph (1)—
- (i) in paragraph (b), for “in a country which is not a member State” substitute “outside the United Kingdom”, and
- (ii) in the words after that paragraph, for “in that country” substitute “outside the United Kingdom”, and
- (b) in sub-paragraph (2)(a), for “in a country which is not a member State” substitute “outside the United Kingdom”.
- (9) In paragraph 9B—
- (a) in paragraph (b), for “outside the member States” substitute “outside the United Kingdom”, and

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- (b) in the words after that paragraph, for “wholly outside the member States” substitute “ outside the United Kingdom ”.
- (10) In paragraph 9C, in sub-paragraph (1)—
  - (a) in paragraph (b), for “outside the member States” substitute “ outside the United Kingdom ”, and
  - (b) in the words after that paragraph, for “wholly outside the member States” substitute “ outside the United Kingdom ”.
- (11) In paragraph 9D—
  - (a) in sub-paragraph (2)—
    - (i) in paragraph (b), for “outside the territories of the member States” substitute “ outside the United Kingdom ”, and
    - (ii) in the words after that paragraph, for “where it is used and enjoyed” substitute “ outside the United Kingdom ”, and
  - (b) in sub-paragraph (3)(a), for “outside the territories of the member States” substitute “ outside the United Kingdom ”.
- (12) In paragraph 9E—
  - (a) in sub-paragraph (3)—
    - (i) in paragraph (b), for “in a country which is not a member State” substitute “ outside the United Kingdom ”, and
    - (ii) in the words after that paragraph, for “in that country” substitute “ outside the United Kingdom ”, and
  - (b) in sub-paragraph (4)(a), for “in a country which is not a member State” substitute “ outside the United Kingdom ”.
- (13) In the italic heading before paragraph 11, omit “: general”.
- (14) In paragraph 11, omit sub-paragraph (3).
- (15) Omit paragraph 12 and the italic heading before it.
- (16) In the italic heading before paragraph 16, for “EC” substitute “ United Kingdom and the Isle of Man ”.
- (17) In paragraph 16—
  - (a) in sub-paragraph (1)(b), for “which is not a member State (other than the Isle of Man)” substitute “ other than the United Kingdom or the Isle of Man ”, and
  - (b) in sub-paragraph (2)(f)(i)—
    - (i) for “situated within the territory of a member State” substitute “ in the United Kingdom ”, and
    - (ii) for “such a system” substitute “ a natural gas system in the United Kingdom ”.

VALID FROM 31/12/2020

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|----|---|
| 90 | In Schedule 5A (goods eligible to be fiscally warehoused), for the heading of the second column substitute “ customs tariff (within the meaning of TCTA 2018) code ”. |
|----|---|

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VALID FROM 31/12/2020

- 91 (1) Schedule 6 (valuation: special cases) is amended as follows.
- (2) In paragraph 1A—
- (a) in sub-paragraph (4)—
- (i) in the definition of “motor dealer”, omit “or acquiring from another member State”, and
- (ii) in the definition of “stock in trade”, for paragraphs (a) and (b) substitute—
- “(a) produced by a motor manufacturer, or supplied to or imported by a motor dealer, for the purpose of resale, and
- (b) intended to be sold within 12 months of their production, supply or importation (as the case may require),” and
- (b) in sub-paragraph (6)(a)—
- (i) omit “, acquired from another member State,”, and
- (ii) omit “, acquisition”.
- (3) In paragraph 3, in sub-paragraph (1)(a), in sub-paragraph (ii), omit “EU customs duty or”.

VALID FROM 31/12/2020

- 92 Omit Schedule 7 (valuation of acquisitions from other member States: special cases).

VALID FROM 31/12/2020

- 93 In Schedule 7A (charge at reduced rate), in Group 3 (grant-funded installation of heating equipment or security goods or connection of gas supply), in paragraph 2(3) of the Notes to that Group, omit sub-paragraph (e).

VALID FROM 31/12/2020

- 94 (1) Schedule 8 (zero-rating) is amended as follows.
- <sup>F29</sup>(2) . . . . .
- (3) In Group 7 (international services)—
- (a) in the opening words of item 1—
- (i) omit “or acquired”,
- (ii) for “any of the member States” substitute “ the United Kingdom ”, and
- (iii) omit “to a place outside the member States”,
- (b) in paragraph (b) of item 1, for “member States” substitute “ United Kingdom ”, and
- (c) in item 2—

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- (i) in paragraph (a), omit “to a place outside the member States”, and
- (ii) in paragraph (c), for “member States” substitute “United Kingdom”.

(4) In Group 8 (transport)—

- (a) in item 5, for “member States” substitute “United Kingdom”,
- (b) in paragraph (a) of item 11, for sub-paragraphs (i) and (ii) substitute—
  - “(i) the transport of goods to or from a place—
    - (a) from which they are to be exported, or
    - (b) to which they have been imported,
  - (ii) the handling or storage of those goods at that place, or
  - (iii) the handling or storage of those goods in connection with their transport to or from that place, or”,
- (c) in item 12, after “enjoyed outside” insert “the United Kingdom or”,
- (d) omit item 13,
- (e) in Note (C1), omit the definition of “State institution”, and
- (f) omit Note (9).

(5) In Group 12 (drugs, medicines, aids for the disabled)—

- (a) in Note (1)—
  - (i) omit “acquired from another member State or”, and
  - (ii) omit “from a place outside the member States”,
- (b) in Note (5N), in paragraph (b), omit “reckonable zero-rated acquisition, or”,
- (c) in Note (5O)—
  - (i) in paragraph (b), omit “acquisition or”, and
  - (ii) in the words after paragraph (b), omit “or acquisition”, and
- (d) in Note (5T)—
  - (i) omit the definition of “reckonable zero-rated acquisition”, and
  - (ii) in the definition of “reckonable zero-rated importation”, omit “from a place outside the member States”.

(6) In Group 13 (imports, exports, etc)—

- (a) for item 1 substitute—
  - “1 The supply of imported goods before a Customs declaration has been made under Part 1 of TCTA 2018 in respect of those goods where the supplier and the purchaser of the goods have agreed that the purchaser will make the Customs declaration.”,
- (b) in item 3, omit “to places outside the member States”, and
- (c) in Note (5), omit the words from “, another member State, any” to the end.

(7) In Group 15 (charities etc), in item 3, omit “to a place outside the member States”.

(8) In Group 16 (clothing and footwear)—

- (a) in Note (4)(b), for sub-paragraphs (i) and (ii) substitute—

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- “(i) are manufactured to standards which satisfy the requirements of regulation 8(2) of the Personal Protective Equipment Regulations 2002, and
- (ii) bear the mark of conformity required by that regulation.”, and
- (b) in Note (4A)(b), for sub-paragraphs (i) and (ii) substitute—
  - “(i) is manufactured to standards which satisfy the requirements of regulation 8(2) of the Personal Protective Equipment Regulations 2002, and
  - (ii) bears the mark of conformity required by that regulation.”

F30(9) . . . . .

#### Textual Amendments

- F29** Sch. 8 para. 94(2) omitted (17.12.2020 for specified purposes) by virtue of Taxation (Post-transition Period) Act 2020 (c. 26), s. 11(1)(e), **Sch. 2 para. 10(3)** (with Sch. 2 para. 7(7)-(9))
- F30** Sch. 8 para. 94(9) omitted (17.12.2020 for specified purposes) by virtue of Taxation (Post-transition Period) Act 2020 (c. 26), s. 11(1)(e), **Sch. 2 para. 10(3)** (with Sch. 2 para. 7(7)-(9))

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- 95 (1) Schedule 9 (exemptions) is amended as follows.
- (2) In Group 5 (finance)—
    - (a) in item 9—
      - (i) in paragraph (i), for “another EEA state” substitute “an EEA state”, and
      - (ii) in paragraph (j), for “another EEA state” substitute “an EEA state”, and
    - (b) in Note (6), in the definition of “recognised collective investment scheme constituted in another EEA state”, for “another EEA state” substitute “an EEA state”.
  - (3) In Group 14 (supplies of goods where input tax cannot be recovered)—
    - (a) in paragraph (a) of item 1, omit “or acquisition”,
    - (b) in Note (7)(a), omit “or acquisition”,
    - (c) in Note (9)—
      - (i) in the opening words, omit “or acquisition”, and
      - (ii) in paragraph (b), omit “or acquisition”,
    - (d) in Note (10), omit “, acquisition” in both places, and
    - (e) in Note (15), omit “, acquisition” in both places.
  - (4) In Group 16 (supplies of services by groups involving cost sharing), in item 1, in paragraph (a), for the words from “in relation to” to the end substitute “is not carried on in the course or furtherance of carrying on a business,”.

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- 96 (1) Schedule 9A (anti-avoidance provisions: groups) is amended as follows.
- (2) In paragraph 1(5)(a), omit “acquisition or”.
- (3) In paragraph 6(10)(a), for “(6)” substitute “ (5) ”.

VALID FROM 31/12/2020

- 97 (1) Schedule 11 (administration, collection and enforcement) is amended as follows.
- (2) In paragraph 2—
- (a) omit sub-paragraphs (3) and (3ZA),
- (b) omit sub-paragraphs (4) and (5),
- (c) in sub-paragraph (5A), for paragraph (b) substitute—
- “(b) where notification of the arrival of a means of transport imported into the United Kingdom is required by virtue of paragraph (a), for requiring any VAT on its importation to be paid at such time and in such manner as may be specified in the regulations.”,
- (d) in sub-paragraph (5B)(a), omit “acquisition or”,
- (e) in sub-paragraph (5D)—
- (i) omit the definition of “means of transport”, and
- (ii) in the definition of “relevant person”—
- (a) omit paragraph (a),
- (b) in paragraph (b), omit “from a place outside the member States”, and
- (c) omit paragraph (c),
- (f) after sub-paragraph (5D) insert—
- “(5E) For the purposes of sub-paragraphs (5A) to (5D) “means of transport” means—
- (a) any ship which exceeds 7.5 metres in length,
- (b) any aircraft the take-off weight of which exceeds 1550 kilograms, or
- (c) any motorised land vehicle which—
- (i) has an engine with a displacement or cylinder capacity exceeding 48 cubic centimetres, or
- (ii) is constructed or adapted to be electrically propelled using more than 7.2 kilowatts,
- but only if the ship, aircraft or vehicle is intended for the transport of persons or goods.
- (5F) The Treasury may by order vary sub-paragraph (5E) by adding or deleting any ship, aircraft or vehicle of a description specified in the order to or from those which are for the time being specified there.”,
- (g) in sub-paragraph (8)—



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- (i) omit paragraph (b) (together with the “or” before it), and
- (ii) in the words after paragraph (b), omit “or acquisition”, and
- (h) omit sub-paragraph (9).

(3) In paragraph 2A(2), in paragraph (b), omit “or the law of another member State”.

(4) In paragraph 3(2), omit paragraph (c).

(5) In paragraph 6(1), omit the words from “, and every person who” to the end.

(6) For paragraph 8(1) substitute—

“(1) An authorised person may take samples from goods that are in the possession of either a person who supplies goods or a fiscal warehousekeeper if it appears necessary to do so—

- (a) to protect the revenue against mistake or fraud, and
- (b) to determine how the goods, or the material of which they are made, ought to be or to have been treated for the purposes of VAT.”

(7) In paragraph 14(1), in paragraph (c), for “2(3) or (4)” substitute “ 2(5A) ”.

VALID FROM 31/12/2020

- 98 In Schedule 11A (disclosure of avoidance schemes), in paragraph 2A, in sub-paragraph (2)—
- (a) omit paragraph (b) (but not the “and” at the end of the paragraph), and
  - (b) in paragraph (c), omit “from a place outside the member States”.

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*Effect of amendments made by this Part of this Schedule*

- 99 (1) If an amendment made by this Part of this Schedule to a provision of the Value Added Tax Act 1994 has the effect of removing a reference to the principal VAT directive or the implementing VAT regulation, the removal is not to be taken as implying that the directive or regulation is no longer relevant for determining the meaning and effect of that provision.
- (2) In this paragraph “the principal VAT directive” and “the implementing VAT regulation” have the same meaning as in section 42.

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VALID FROM 31/12/2020

## PART 2

### AMENDMENTS OF OTHER ENACTMENTS

#### *Diplomatic Privileges Act 1964*

- 100 In section 2 of the Diplomatic Privileges Act 1964 (application of Vienna Convention), in subsection (5A)—
- (a) for “10 or 15” substitute “ 1(1)(c) ”, and
  - (b) for “(acquisitions from other member States and importations from outside the European Union)” substitute “ (imposition of charge to value added tax on imported goods) ”.

#### *Commonwealth Secretariat Act 1966*

- 101 In paragraph 10 of the Schedule to the Commonwealth Secretariat Act 1966 (immunities and privileges), in sub-paragraph (1A)—
- (a) for “10 or 15” substitute “ 1(1)(c) ”, and
  - (b) for “(acquisitions from other member States and importations from outside the European Union)” substitute “ (imposition of charge to value added tax on imported goods) ”.

#### *Consular Relations Act 1968*

- 102 (1) The Consular Relations Act 1968 is amended as follows.
- (2) In section 1 (application of Vienna Convention), in subsection (8A)—
- (a) for “10 or 15” substitute “ 1(1)(c) ”, and
  - (b) for “(acquisitions from other member States and importations from outside the European Union)” substitute “ (imposition of charge to value added tax on imported goods) ”.
- (3) In section 8 (refund of customs duty on hydrocarbon oils), in subsection (1), omit “or acquisition from another member State”.

#### *International Organisations Act 1968*

- 103 In paragraph 19 of Schedule 1 to the International Organisations Act 1968 (privileges and immunities), in sub-paragraph (c)—
- (a) for “10 or 15” substitute “ 1(1)(c) ”, and
  - (b) for “(acquisitions from other member States and importations from outside the European Union)” substitute “ (imposition of charge to value added tax on imported goods) ”.

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*Diplomatic and other Privileges Act 1971*

- 104 In section 1 of the Diplomatic and other Privileges Act 1971 (refund of customs duties on hydrocarbon oil used for diplomatic or Commonwealth Secretariat purposes), in subsection (5)—
- (a) for “10 or 15” substitute “ 1(1)(c) ”, and
  - (b) for “(acquisitions from other member States and importations from outside the European Union)” substitute “ (imposition of charge to value added tax on imported goods) ”.

*Customs and Excise Duties (General Reliefs) Act 1979*

- 105 In section 13 of the Customs and Excise Duties (General Reliefs) Act 1979 (power to provide, in relation to persons entering the United Kingdom, for reliefs from duty and value added tax and for simplified computation of duty and tax), in subsection (4), in the definition of “ value added tax ”, omit the words from “from places outside” to the end.

*Finance Act 1994*

- 106 In the Finance Act 1994, in Schedule 5 (decisions subject to review and appeal), in paragraph 9B, for “third country goods” substitute “ imported goods ”.

*Vehicle Excise and Registration Act 1994*

- 107 In section 8 of the Vehicle Excise and Registration Act 1994 (vehicles removed into UK), in subsection (2)—
- (a) for paragraph (a) substitute—
    - “(a) that any value added tax charged on any supply involving the removal of the vehicle into the United Kingdom has been or will be paid or remitted,”
  - (b) in paragraph (b), omit “from a place outside the member States”, and
  - (c) in paragraph (c), omit “acquisition or”.

*Finance Act 2003*

- 108 The Finance Act 2003 is amended as follows.
- 109 In section 24 (taxes and duties on importation and exportation: penalties), in subsection (3), in the definition of “import VAT”, for “from places outside the member States” substitute “ into the United Kingdom ”.
- 110 In section 26 (penalty for contravention of relevant rule), in subsection (8), omit paragraph (d).

*Finance Act 2007*

- 111 (1) Paragraph 1 of Schedule 24 to the Finance Act 2007 (penalties for errors) is amended as follows.
- (2) In the table, omit the third entry relating to VAT (return under a special scheme).
  - (3) Omit sub-paragraphs (4A) to (4C).

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### *Finance Act 2008*

- 112 The Finance Act 2008 is amended as follows.
- 113 (1) Schedule 36 (information and inspection powers) is amended as follows.
- (2) In paragraph 11—
- (a) in sub-paragraph (1), omit paragraph (b) (but not the “or” at the end of that paragraph), and
- (b) in sub-paragraph (2), in paragraph (c), omit the words from “, the acquisition” to “acquisitions”.
- (3) In paragraph 34—
- (a) in sub-paragraph (1)—
- (i) omit paragraph (b) (but not the “or” at the end of that paragraph), and
- (ii) in paragraph (c), omit “from a place outside the member States”, and
- (b) in sub-paragraph (4), omit “, 11”.
- (4) In paragraph 63, in sub-paragraph (3), omit paragraph (b) (but not the “and” at the end of that paragraph).
- 114 (1) Schedule 41 (penalties: failure to notify and certain VAT and excise wrongdoing) is amended as follows.
- (2) In paragraph 1, in the table—
- (a) omit the [<sup>F31</sup>third] entry relating to Value Added Tax (obligation to notify under Schedule 2 to the Value Added Tax Act 1994),
- (b) omit the [<sup>F32</sup>fourth] entry relating to Value Added Tax (obligations to notify under Schedule 3 to the Value Added Tax Act 1994), and
- (c) omit the [<sup>F33</sup>sixth] entry relating to Value Added Tax (obligation to notify under regulations made under paragraph 2(4) of Schedule 11 to the Value Added Tax Act 1994).
- (3) In paragraph 7—
- (a) omit sub-paragraph (5),
- (b) in sub-paragraph (6)—
- (i) for “any other” substitute “ a ”, and
- (ii) omit “, but subject to sub-paragraph (8)”,
- (c) in sub-paragraph (7), in paragraph (a), omit “, paragraph 8(2) of Schedule 3 to that Act”, and
- (d) omit sub-paragraph (8).

#### **Textual Amendments**

- F31** Word in Sch. 8 para. 114(2)(a) substituted (17.12.2020 for specified purposes) by *Taxation (Post-transition Period) Act 2020 (c. 26)*, s. 11(1)(e), **Sch. 2 para. 10(4)(a)** (with Sch. 2 para. 7(7)-(9))
- F32** Word in Sch. 8 para. 114(2)(b) substituted (17.12.2020 for specified purposes) by *Taxation (Post-transition Period) Act 2020 (c. 26)*, s. 11(1)(e), **Sch. 2 para. 10(4)(b)** (with Sch. 2 para. 7(7)-(9))
- F33** Word in Sch. 8 para. 114(2)(c) substituted (17.12.2020 for specified purposes) by *Taxation (Post-transition Period) Act 2020 (c. 26)*, s. 11(1)(e), **Sch. 2 para. 10(4)(c)** (with Sch. 2 para. 7(7)-(9))

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#### *Finance Act 2009*

- 115 The Finance Act 2009 is amended as follows.
- 116 In section 101 (late payment interest on sums due to HMRC), omit subsections (10) and (11).
- 117 In section 108 (suspension of penalties during currency of agreement for deferred payment), in the table in subsection (5), in the entry relating to value added tax, omit “ or under paragraph 16F of Schedule 3B, or paragraph 26 of Schedule 3BA, to that Act ”.
- 118 (1) Schedule 55 (penalty for failure to make returns etc) is amended as follows.
- (2) In paragraph 1—
- (a) in sub-paragraph (4), in the definition of “filing date”, omit “(or, in the case of a return mentioned in item 7AA or 7AB of the Table, to the tax authorities to whom the return is required to be delivered)”, and
- (b) in the table, omit items 7AA and 7AB (returns relating to Schedules 3BA and 3B to the Value Added Tax Act 1994).
- (3) In paragraph 13A, in sub-paragraph (1), for “7A to 7B” substitute “ 7A, 7B ”.
- 119 In paragraph 1 of Schedule 56 (penalty for failure to make payments on time), in the table—
- (a) omit items 6BA and 6BB (amounts payable under returns relating to Schedules 3B and 3BA to the Value Added Tax Act 1994), and
- (b) omit items 13AA and 13AB (amounts assessed under section 73(1) of the Value Added Tax Act 1994 by virtue of Schedules 3B and 3BA of that Act).

#### *Finance Act 2011*

- 120 In paragraph 45 of Schedule 23 to the Finance Act 2011 (power to obtain data: meaning of “tax”), in sub-paragraph (3), omit paragraph (b) (together with the “and” before that paragraph).

#### *Finance Act 2016*

- 121 In Schedule 18 to the Finance Act 2016 (serial tax avoidance)—
- (a) in paragraph 5(4)—
- (i) omit paragraph (b) (but not the “and” at the end of the paragraph), and
- (ii) in paragraph (c), omit “from a place outside the member States”,
- (b) in paragraph 6(2)—
- (i) omit paragraph (b) (but not the “and” at the end of the paragraph), and
- (ii) in paragraph (c), omit “from a place outside the member States”, and
- (c) in paragraph 36(8)—
- (i) omit paragraph (b), and
- (ii) in paragraph (c), omit “from a place outside the member States”.

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*Finance (No. 2) Act 2017*

- 122           The Finance (No. 2) Act 2017 is amended as follows.
- 123   (1) Section 48 (carrying on a third country goods fulfilment business) is amended as follows.
- (2) In subsection (1)—
- (a) in the opening words, for “a third country goods” substitute “ an imported goods ”,
- (b) in paragraph (a)—
- (i) for “third country goods” substitute “ imported goods ”, and
- (ii) for “established in a Member State” substitute “ UK-established ”, and
- (c) in paragraph (b)—
- (i) for “third country goods” substitute “ imported goods ”, and
- (ii) for “established in a Member State” substitute “ UK-established ”.
- (3) In subsection (3), for “a third country goods” substitute “ an imported goods ”.
- (4) For subsections (4) and (5) substitute—
- “(4) Goods are “imported goods” if they have been imported into the United Kingdom for the purposes of VATA 1994 (as to which, see section 15).
- (5) A person is “UK-established” if the person's business establishment is in the United Kingdom as determined for the purposes of section 9 of VATA 1994.”
- (5) In the heading, for “a third country goods” substitute “ an imported goods ”.
- 124           In section 49 (requirement for approval), in subsections (1) to (3) and (5), for “a third country goods” substitute “ an imported goods ”.
- 125           In section 50 (register of approved persons), in subsection (3), for “a third country goods” substitute “ an imported goods ”.
- 126           In section 51 (regulations relating to approval, registration etc), in subsection (1) (d), for “a third country goods” substitute “ an imported goods ”.
- 127           In section 53 (offence), in subsections (1)(a) and (2)(a), for “a third country goods” substitute “ an imported goods ”.
- 128           In section 54 (forfeiture), in subsections (1)(a) and (2)(b), for “a third country goods” substitute “ an imported goods ”.
- 129           In section 55 (penalties), in subsection (1), for “a third country goods” substitute “ an imported goods ”.
- 130   (1) Schedule 13 (third country goods fulfilment businesses: penalty) is amended as follows.
- (2) In paragraph 1(1)(a), for “a third country goods” substitute “ an imported goods ”.
- (3) In the heading of the Schedule, for “Third country goods” substitute “ Imported goods ”.
- 131           In Schedule 17 (disclosure of tax avoidance schemes: VAT and other indirect taxes), in paragraph 6—

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- (a) in sub-paragraph (3)—
  - (i) omit paragraph (b), and
  - (ii) in paragraph (c), omit “from a place outside the member States”, and
- (b) in sub-paragraph (5)—
  - (i) omit paragraph (b), and
  - (ii) in paragraph (c), omit “from a place outside the member States”.

*Consequential repeals*

132 In consequence of the amendments made by the other provisions of this Schedule, the following are repealed or revoked—

- (a) in the Finance Act 1996, paragraphs 3, 4, 6, 7, 14 and 15 of Schedule 3,
- (b) in the Postal Services Act 2000, paragraph 22 of Schedule 8,
- (c) in the Finance Act 2001, section 100(2) and paragraph 4(4) and (5) of Schedule 31,
- (d) in the Finance Act 2002, section 25,
- (e) in the Finance Act 2003, section 23 and Schedule 2,
- (f) in the Finance Act 2006, section 19(3) and (4),
- (g) in the Finance Act 2009, section 78,
- (h) in the Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009, paragraph 227 of Schedule 1,
- (i) in the Corporation Tax Act 2010, paragraph 285(c) of Schedule 1,
- (j) in the Finance Act 2012—
  - (i) paragraphs 14, 15 and 17 of Schedule 28, and
  - (ii) paragraphs 2(2), 9, 10 and 12(3), (6) and (7) of Schedule 29,
- <sup>F34</sup>(k) .....
- (l) in the Finance Act 2014, sections 103 and 104(4) and Schedule 22,
- (m) in the Bankruptcy (Scotland) Act 2016 (Consequential Provisions and Modifications) Order 2016, paragraph 12(3) and (8) of Schedule 1,
- (n) in the Finance Act 2016, section 123(12), and
- (o) in the Value Added Tax (Increase of Registration Limits) Order 2017, article 4.

**Textual Amendments**

**F34** Sch. 8 para. 132(k) omitted (17.12.2020 for specified purposes) by virtue of Taxation (Post-transition Period) Act 2020 (c. 26), s. 11(1)(e), Sch. 2 para. 10(5) (with Sch. 2 para. 7(7)-(9))

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## SCHEDULE 9

Section 50

### EXCISE DUTY AMENDMENTS CONNECTED WITH WITHDRAWAL FROM EU

VALID FROM 31/12/2020

#### *Customs and Excise Management Act 1979*

- 1           The Customs and Excise Management Act 1979 is amended as follows.
- 2           In section 101 (excise licences), in subsection (4), after “the Customs and Excise Acts 1979” insert “ or made by regulations under section 45 of the Taxation (Cross-border Trade) Act 2018 ”.
- 3           (1) Section 157 (bonds and security) is amended as follows.
- (2) Omit subsection (1A).
- (3) In subsection (2)—
- (a) in paragraph (a), for the words from “either” to “United Kingdom” substitute “ on behalf of Her Majesty ”, and
- (b) omit the sentence after paragraph (c).
- (4) In consequence of the amendments made by this paragraph, in section 27 of the Finance Act 2000, omit subsections (3), (5) and (6).

VALID FROM 31/12/2020

#### *Hydrocarbon Oil Duties Act 1979*

- 4           The Hydrocarbon Oil Duties Act 1979 is amended as follows.
- 5           (1) Section 13AC (use of rebated kerosene for private pleasure-flying) is amended as follows.
- (2) After subsection (6) insert—
- “(6A) In this section “private pleasure-flying” means the use of an aircraft otherwise than for commercial purposes by—
- (a) the owner of the aircraft, or
- (b) any other person entitled to use it.
- (6B) For the purposes of subsection (6A), the cases in which an aircraft is to be regarded as used for commercial purposes include any case where—
- (a) consideration is provided by any person for the use of the aircraft (whether for the carriage of passengers or goods or for the supply of services or otherwise), or
- (b) the aircraft is used for the purposes of any public authority.
- (6C) Regulations may provide for other cases in which use of an aircraft is treated as being, or not being, private pleasure-flying for the purposes of this section.”



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- (3) In subsection (7), omit the definition of “private pleasure-flying”.
- 6 (1) Section 14E (rebated heavy oil and bioblend: private pleasure craft) is amended as follows.
- (2) Omit subsection (7A).
- (3) After that subsection insert—
- “(7B) In this section “private pleasure craft” means any aircraft or vessel used otherwise than for commercial purposes by—
- (a) the owner of the aircraft or vessel, or
- (b) any other person entitled to use it.
- (7C) For the purposes of subsection (7B), the cases in which an aircraft or vessel is to be regarded as used for commercial purposes include any case where—
- (a) consideration is provided by any person for the use of the aircraft or vessel (whether for the carriage of passengers or goods or for the supply of services or otherwise), or
- (b) the aircraft or vessel is used for the purposes of any public authority.
- (7D) Regulations may provide for other cases in which any aircraft or vessel is treated as being, or not being, a private pleasure craft for the purposes of this section.”
- (4) In subsection (8), omit the definition of “private pleasure craft”.
- (5) In consequence of the amendment made by sub-paragraph (2), omit section 189 of the Finance Act 2012.

VALID FROM 31/12/2020

*Tobacco Products Duty Act 1979*

- 7 In section 5 of the Tobacco Products Duty Act 1979 (retail price of cigarettes), in subsection (1A)(a), for “a member State” substitute “ the United Kingdom ”.

VALID FROM 31/12/2020

*Finance Act 1994*

- 8 (1) In section 12 of the Finance Act 1994 (assessments to excise duty), omit subsection (2A).
- (2) In consequence of the amendment made by sub-paragraph (1), omit regulation 9 of the Excise Duty Points (Duty Suspended Movements of Excise Goods) Regulations 2001.

*Status: Point in time view as at 17/12/2020.*

*Changes to legislation: Taxation (Cross-border Trade) Act 2018 is up to date with all changes known to be in force on or before 21 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

VALID FROM 31/12/2020

*Finance Act 2008*

- 9 In Schedule 41 to the Finance Act 2008 (penalties: failure to notify and certain VAT and excise wrongdoing), in the table in paragraph 1, in the final entry relating to excise duties, for “Article 79 of Council Regulation 2913/92/EEC” substitute “ Part 1 of the Taxation (Cross-border Trade) Act 2018 ”.

*[<sup>F35</sup>Savings in relation to Northern Ireland*

**Textual Amendments**

**F35** Sch. 9 para. 10 and cross-heading inserted (17.12.2020 for specified purposes) by [Taxation \(Post-transition Period\) Act 2020 \(c. 26\)](#), s. 11(1)(e), **Sch. 1 para. 11** (with Sch. 2 para. 7(7)-(9))

- 10 The provisions amended by this Schedule continue to have effect—
- (a) for any purpose in connection with duty charged as a result of section 4(1) of the Taxation (Post-transition Period) Act 2020, and
  - (b) in relation to goods in Northern Ireland,
- as if those provisions were not so amended.]

**Status:**

Point in time view as at 17/12/2020.

**Changes to legislation:**

Taxation (Cross-border Trade) Act 2018 is up to date with all changes known to be in force on or before 21 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.