



Taxation (Post-transition Period) Act 2020

2020 CHAPTER 26

An Act to make provision (including the imposition and regulation of new duties of customs) in connection with goods in Northern Ireland and their movement into or out of Northern Ireland; to make provision amending certain enactments relating to value added tax, excise duty or insurance premium tax; to make provision in connection with the recovery of unlawful state aid in relation to controlled foreign companies; and for connected purposes. [17th December 2020]

Most Gracious Sovereign

WE, Your Majesty's most dutiful and loyal subjects, the Commons of the United Kingdom in Parliament assembled, towards raising the necessary supplies to defray Your Majesty's public expenses, and making an addition to the public revenue, have freely and voluntarily resolved to give and to grant unto Your Majesty the several duties hereinafter mentioned; and do therefore most humbly beseech Your Majesty that it may be enacted, and be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Northern Ireland Protocol

1 Duty on goods removed to Northern Ireland

After section 40 of TCTA 2018 insert—

“40A Removal to Northern Ireland of at risk goods etc

- (1) A duty of customs is charged on the removal of goods to Northern Ireland from Great Britain if the goods—
- (a) are not domestic goods, or
 - (b) are at risk of subsequently being moved into the European Union.

- (2) For the purposes of this section “at risk of subsequently being moved into the European Union” has the meaning given by regulations made by the Treasury.
- (3) Duty under this section is charged in accordance with Union customs legislation as if the goods subject to the charge were brought into the customs territory of the European Union.

40B Duty under section 40A: supplementary

- (1) The Treasury may by regulations provide that, in relation to goods of a specified description, the following matters are to be determined in accordance with provision made by or under this Act (instead of in accordance with Union customs legislation)—
 - (a) whether goods in particular circumstances are chargeable to duty under section 40A;
 - (b) the amount of duty charged under that section;
 - (c) such other matters relating to the charging of duty under section 40A as may be specified.
- (2) The Treasury may by regulations make provision generally for the purposes of duty under section 40A.
- (3) The following are examples of provision that regulations under subsection (2) may make for the purposes of that duty—
 - (a) that section 40A(1) does not apply to goods of a specified description;
 - (b) provision about reliefs, repayment and remission (including provision for the recovery of amounts where any condition in connection with any relief, repayment or remission is not met);
 - (c) provision about (including provision modifying) the application of provision made by or under the customs and excise Acts (including provision made by or under this Act) to duty under section 40A or to goods removed to Northern Ireland from Great Britain;
 - (d) provision supplementing or modifying provisions of Union customs legislation that apply to that duty or to those goods;
 - (e) provision imposing checks, controls or administrative processes in connection with the removal of goods to Northern Ireland from Great Britain;
 - (f) provision regulating the unloading, landing, movement and removal of goods on their removal to Northern Ireland from Great Britain (including provision restricting the places in which such goods may enter Northern Ireland).
- (4) Regulations under this section that specify a description of goods may do so by reference to any matter or circumstance (including, for example, any matter or circumstance relating to any person concerned with the removal of such goods).
- (5) Section 40 (regulations) applies to regulations under this section and section 40A as it applies to regulations under section 39 other than the first regulations under that section.
- (6) In this section and in section 40A, reference to “Great Britain” is to be treated as including the territorial sea of the United Kingdom.

- (7) Expressions used in provision made by or under this section or section 40A that are defined for the purposes of Part 1 have the same meaning they have in that Part.”

2 Duty on goods imported into or removed from Northern Ireland

- (1) Part 1 of TCTA 2018 is amended as follows.
- (2) In section 1 (charge to import duty)—
- (a) the existing text becomes subsection (1);
 - (b) after that subsection insert—

“(2) Sections 30A and 30B make provision about the application of this Part to goods imported into the United Kingdom as a result of their entry into Northern Ireland.”
- (3) In section 2 (chargeable goods)—
- (a) the existing text becomes subsection (1);
 - (b) after that subsection insert—

“(2) But subsection (1) is subject to section 30A(4) (importation of goods: Northern Ireland).”
- (4) After section 30 insert—

“Northern Ireland

30A Importation of goods: Northern Ireland

- (1) Union goods imported into the United Kingdom as a result of their entry into Northern Ireland are to be treated for the purposes of this Part as if they were domestic goods.
- (2) Accordingly, such goods are not chargeable to import duty (but see section 30C).
- (3) Other goods imported into the United Kingdom as a result of their entry into Northern Ireland are not chargeable to import duty, but are chargeable to duty under this subsection.
- (4) Except as may be provided for by regulations made by the Treasury, such goods are not chargeable goods for the purposes of this Part.
- (5) Duty under subsection (3) is chargeable in accordance with Union customs legislation as if the goods subject to the charge were brought into the customs territory of the European Union.
- (6) Duty under subsection (3) is a duty of customs, and accordingly the revenues of that duty (as with import duty) are revenues of customs that HMRC Commissioners are responsible for collecting and managing.

30B Duty under section 30A(3): supplementary

- (1) The Treasury may by regulations provide that, in relation to goods of a specified description, the following matters are to be determined in accordance with provision made by or under this Act (instead of in accordance with Union customs legislation)—
 - (a) whether goods in particular circumstances are chargeable to duty under section 30A(3);
 - (b) the amount of duty charged under that subsection;
 - (c) such other matters relating to the charging of duty under that subsection as may be specified.
- (2) Regulations under subsection (1) may specify a description of goods by reference to any matter or circumstance (including, for example, any matter or circumstance relating to any person concerned with the importation of such goods).
- (3) The Treasury may by regulations make provision generally for the purposes of duty under section 30A(3).
- (4) The following are examples of provision that regulations under subsection (3) may make for the purposes of that duty—
 - (a) provision about reliefs, repayment and remission in relation to duty under section 30A(3) (including provision for the recovery of amounts where any condition in connection with any relief, repayment or remission is not met);
 - (b) provision about (including provision modifying) the application of provision made by or under the customs and excise Acts (including provision made by or under this Act) to duty under section 30A(3) or to goods imported into the United Kingdom as a result of their entry into the Northern Ireland;
 - (c) provision supplementing or modifying provisions of Union customs legislation that apply to that duty or to those goods.

30C Duty on potentially imported goods

- (1) A duty of customs is charged on the removal of goods to Great Britain from Northern Ireland if the goods are not qualifying Northern Ireland goods.
- (2) A duty of customs is charged on the removal of other goods to Great Britain from Northern Ireland if the main purpose, or one of the main purposes, of the removal is to—
 - (a) avoid any other duty chargeable as a result of this Act, or
 - (b) avoid any obligation in connection with such a duty.
- (3) The relevant import duty provisions apply for the purposes of duty charged under this section as if—
 - (a) any reference to chargeable goods were to goods removed to Great Britain from Northern Ireland,
 - (b) any reference to the importation of goods were to their removal to Great Britain from Northern Ireland,

- (c) in section 6(2), for “the United Kingdom” there were substituted “Great Britain”, and
 - (d) in section 16(2), for “export to the United Kingdom” there were substituted “removal to Great Britain”.
- (4) A provision is a “relevant import duty provision” if it is provision made by or under any of sections 3 to 28 and 34 and Schedules 1 to 6.
- (5) The Treasury may by regulations make provision generally for the purposes of duty under this section.
- (6) The following are examples of provision that regulations under subsection (5) may make for the purposes of that duty—
 - (a) that subsection (1) does not to apply to goods of a specified description (and if it does not, whether such goods are to be treated as “other goods” for the purposes of subsection (2));
 - (b) that subsection (3) does not apply, to such extent as may be specified, to goods of a specified description;
 - (c) that any reference in this Part to Great Britain is to be treated as including the territorial sea, or any specified area of the territorial sea, of the United Kingdom;
 - (d) provision about (including provision modifying) the application of provision made by or under the customs and excise Acts (including provision made by or under this Act) to duty under this section or to goods removed from Northern Ireland to Great Britain;
 - (e) provision imposing checks, controls or administrative processes in connection with the removal of goods to Great Britain from Northern Ireland (and such checks, controls and processes may be imposed for any purpose in connection with duty under this section despite any provision of any enactment whenever passed);
 - (f) provision regulating the unloading, landing, movement and removal of goods on their removal to Great Britain from Northern Ireland (including provision restricting the places in which such goods may enter Great Britain).
- (7) Regulations under this section that specify a description of goods may do so by reference to any matter or circumstance (including, for example, any matter or circumstance relating to any person concerned with the removal of such goods).”
- (5) Schedule 1 contains amendments to TCTA 2018 and other Acts in connection with the provisions of the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement that concern tax.

3 Value added tax in Northern Ireland

- (1) In VATA 1994, before section 41 insert—

“40A Northern Ireland Protocol

- (1) Schedule 9ZA—
 - (a) makes provision about a charge to VAT on acquisitions of goods in Northern Ireland from a member State, and

- (b) contains modifications of the other provisions of this Act in connection with the movement of goods between Northern Ireland and member States.
- (2) Schedule 9ZB—
- (a) makes provision about VAT charged on goods imported into the United Kingdom as a result of their entry into Northern Ireland,
 - (b) makes provision about the treatment, for the purposes of VAT, of goods that are removed from Northern Ireland to Great Britain and goods that are removed from Great Britain to Northern Ireland, and
 - (c) contains other provision relevant to the application of this Act in Northern Ireland.”
- (2) Part 1 of Schedule 2 inserts the Schedules referred to in the amendment made by subsection (1) into VATA 1994 and contains further amendments of that Act (as amended by TCTA 2018).
- (3) Part 2 of that Schedule makes amendments to other legislation in connection with the amendments made by Part 1.
- (4) Where a provision inserted into VATA 1994 as a result of Schedule 2 re-enacts (with or without modifications) provision repealed by TCTA 2018 (or by that Schedule), unless the contrary intention appears—
- (a) any reference in any provision made by or under an enactment to the repealed provision is to be construed as a reference to the re-enacted provision;
 - (b) any order or regulations that would otherwise cease to have effect as a result of the repeal continues to have effect as if made under the re-enacted provision (subject to any modifications made to that provision, and with such modifications to that order or those regulations as may be necessary).

4 Excise duty on the removal of goods to Northern Ireland

- (1) Where goods to which a relevant excise duty provision applies are removed to Northern Ireland from Great Britain, excise duty is charged on those goods under that provision.
- (2) Each of the following is a “relevant excise duty provision”—
- (a) section 5 of ALDA 1979 (spirits);
 - (b) section 36 of that Act (beer);
 - (c) section 37 of that Act (high strength beer);
 - (d) section 54 of that Act (wine);
 - (e) section 55 of that Act (made-wine);
 - (f) section 62 of that Act (cider);
 - (g) section 6 of HODA 1979 (hydrocarbon oil);
 - (h) section 6AA of that Act (biodiesel);
 - (i) section 6AB of that Act (bioblend);
 - (j) section 6AD of that Act (bioethanol);
 - (k) section 6AE of that Act (bioethanol blend);
 - (l) section 6AG of that Act (aqua methanol);
 - (m) section 6A of that Act (fuel substitutes);
 - (n) section 8 of that Act (road fuel gas);

- (o) section 2 of TPDA 1979 (tobacco products).
- (3) Subsection (1) does not apply to a removal of goods to which a relevant excise duty provision mentioned in paragraph (h), (j), (l) or (m) applies unless, prior to their removal, the goods were set aside for, or put to, a chargeable use (within the meaning of the relevant excise duty provision in question) by any person.
- (4) Subsection (1) does not apply to a removal of road fuel gas (within the meaning given by section 5 of HODA 1979) unless, prior to its removal from Great Britain the gas was—
 - (a) sent out from the premises of a person producing or dealing in road fuel gas, or
 - (b) set aside for use, or put to use, as fuel for a road vehicle (within the meaning of that Act) by any person.
- (5) Goods are removed to Northern Ireland when their entry in Northern Ireland would amount to an importation of excise goods within the meaning of Article 4 of the Union excise directive if—
 - (a) any reference in that Article to “excise goods” included any goods to which a relevant excise duty provision applies,
 - (b) the references in point 8 of that Article to “the territory of the Community” and “the Community” were to Northern Ireland, and
 - (c) the reference in point 6 of that Article to “special procedures as provided for under Regulation (EEC) No 2913/92” were to the procedures under Union customs legislation that correspond to those procedures.
- (6) In subsection (5)—
 - “the Union excise directive” means [Council Directive 2008/118/EC](#) of 16 December 2008 concerning the general arrangements for excise duty and repealing Directive [92/12/EEC](#);
 - “Union customs legislation” means provisions contained in “customs legislation” within the meaning of [Regulation \(EU\) No 952/2013](#) of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (see Article 5(2) of that Regulation), as they have effect as a result of section 7A of the European Union (Withdrawal) Act 2018.

5 Duty under section 4: supplementary

- (1) Any provision made by or under the customs and excise Acts that applies to, or in connection with, duty under a relevant excise duty provision by reference to the importation of goods applies to duty charged as a result of section 4(1) as if—
 - (a) any reference to the importation of goods (however framed) were to their removal to Northern Ireland from Great Britain, and
 - (b) any reference to the entry of any person or vehicle into the United Kingdom (however framed) were to the arrival of that person or vehicle in Northern Ireland.
- (2) The Treasury may by regulations made by statutory instrument make provision, for the purposes of duty charged as a result of section 4(1), about (including provision modifying) the application of the customs and excise Acts (including this section and section 4) to that duty or to goods that are, or may be, subject to that duty.
- (3) A statutory instrument containing regulations made under subsection (2) is subject to annulment in pursuance of a resolution of the House of Commons.

(4) In this section—

“the customs and excise Acts” has the meaning it has in CEMA 1979 (see section 1(1) of that Act);

“relevant excise duty provision” is to be construed in accordance with section 4(2).

(5) This section and section 4 have effect in relation to any removal of goods to Northern Ireland from Great Britain that commences on or after IP completion day.

(6) For the purposes of subsection (5), a removal of goods commences—

(a) in the case of goods carried by (which for these purposes includes where the goods constitute, or are within, accompanying baggage of) a person travelling from Great Britain to Northern Ireland on an aircraft or vessel, when the aircraft or vessel is scheduled to depart from the airport or port in Great Britain from which it departs, and

(b) in any other case, when the goods are dispatched from the place in Great Britain from which they are removed.

6 Rate of fuel duty on aviation gasoline

In section 6(1A)(aa) of HODA 1979 (rate of fuel duty on aviation gasoline), for “£0.3770” substitute “£0.3820”.

Other provision about value added tax

7 Online sales by overseas persons and low value importations

Schedule 3 makes provision for the purposes of value added tax in cases involving—

(a) supplies of goods by persons established outside the United Kingdom that are facilitated by online marketplaces;

(b) the importation into the United Kingdom of goods of a low value.

Insurance premium tax

8 Liability of insured in certain cases

In section 65 of FA 1994 (insurance premium tax: liability of insured in certain cases), for subsections (1A) and (1B) substitute—

“(1A) The condition mentioned in subsection (1)(b) above is that there are no arrangements in relation to the country or territory relating to insurance premium tax 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.”

Controlled foreign companies

9 Recovery of unlawful state aid

Schedule 4 makes provision in connection with the charging of amounts under Part 9A of TIOPA 2010 (the CFC charge in relation to controlled foreign companies) as if one of the exemptions in Chapter 9 of that Part (exemptions for profits from qualifying loan relationships) had not applied, in order to comply with [Commission Decision \(EU\) 2019/1352](#) of 2 April 2019 on the state aid SA.44896 implemented by the United Kingdom concerning the CFC Group Financing Exemption (referred to in that Schedule as “the Commission Decision”).

Final provisions

10 Interpretation

In this Act the following abbreviations are references to the following Acts—

ALDA 1979	Alcoholic Liquor Duties Act 1979
CEMA 1979	Customs and Excise Management Act 1979
FA, followed by a year	Finance Act of that year
F(No.2)A, followed by a year	Finance (No.2) Act of that year
HODA 1979	Hydrocarbon Oil Duties Act 1979
TCTA 2018	Taxation (Cross-border Trade) Act 2018
TIOPA 2010	Taxation (International and Other Provisions) Act 2010
TPDA 1979	Tobacco Products Duty Act 1979
VATA 1994	Value Added Tax Act 1994

11 Commencement

- (1) The following provisions come into force on the day on which this Act is passed—
 - (a) section 9 and Schedule 4,
 - (b) section 10,
 - (c) this section,
 - (d) section 12, and
 - (e) the remaining provisions of this Act so far as making provision for anything to be done by regulations or order.
- (2) Section 6 comes into force on 1 January 2021.
- (3) The remaining provisions of this Act come into force on such day as the Treasury may by regulations made by statutory instrument appoint.
- (4) The power of the Treasury to appoint a day under subsection (3) includes—
 - (a) a power to appoint different days for different purposes or areas, and

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- (b) a power to appoint a time on a day if the Treasury consider it appropriate to do so (including a time that has effect by reference to the coming into force of any other enactment).
- (5) The Treasury may by regulations made by statutory instrument make such consequential, supplementary, incidental, transitional, transitory or saving provision as the Treasury consider appropriate in connection with the coming into force of any provision of this Act.
- (6) Regulations under subsection (5) may make different provision for different purposes or areas.

12 Short title

This Act may be cited as the Taxation (Post-transition Period) Act 2020.

SCHEDULES

SCHEDULE 1

Section 2

CUSTOMS DUTIES ETC: AMENDMENTS RELATING TO THE NORTHERN IRELAND PROTOCOL

Amendments of TCTA 2018

- 1 TCTA 2018 is amended in accordance with paragraphs 2 to 11.
- 2 In section 3 (obligation to declare goods for a customs procedure on import), in subsection (3)(a) for “the United Kingdom” substitute “Great Britain”.
- 3 In section 32 (regulations), in subsection (9)(a) after “Part” insert “or under section 40A or 40B”.
- 4 (1) Section 33 (meaning of “domestic goods”) is amended as follows.
 - (2) In subsection (2)—
 - (a) omit the “or” after paragraph (a);
 - (b) in paragraph (b) for “discharged.” substitute “discharged, or”;
 - (c) after that paragraph insert—
 - “(c) the goods—
 - (i) are not Union goods and were removed to Northern Ireland (in the course of their importation into the United Kingdom or otherwise), and
 - (ii) were declared, in accordance with Union customs legislation, for a procedure corresponding to the free-circulation procedure or the authorised use procedure and that corresponding procedure has been discharged, while the goods were in Northern Ireland, in accordance with that legislation.”
 - (3) In subsection (3)—
 - (a) in paragraph (a), after “the United Kingdom” insert “as a result of the removal of the goods from Great Britain”;
 - (b) in the words after paragraph (b), after “then” insert “(subject to section 30A)”.
 - (4) In subsection (4), after “goods” insert “resulting from the removal of the goods from Great Britain”.
 - (5) After that subsection insert—
 - “(4A) Goods also cease to be domestic goods if they—
 - (a) are exported from the United Kingdom as a result of their removal from Northern Ireland, and
 - (b) are not of a description specified in regulations made by the Treasury,

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and the goods are then (subject to section 30A) chargeable goods until such time (if any) as they are next subject to a chargeable Customs procedure.

(4B) Regulations under subsection (4A)(b) may specify a description of goods by reference to any matter or circumstance (including, for example, any matter or circumstance relating to any person concerned with the export of such goods).”

- (6) In subsection (5), for “goods exported from the United Kingdom in accordance with the applicable export provisions” substitute “relevant exported goods”.
- (7) After that subsection insert—
- “(5A) For the purposes of subsection (5), exported goods are “relevant” if—
- (a) they were exported as a result of their removal from Northern Ireland, or
- (b) they were exported as a result of their removal from Great Britain and were so exported in accordance with the applicable export provisions.”
- 5 In section 36 (outward processing procedure), in subsection (2)—
- (a) in paragraph (a), after “the United Kingdom”, in the first place it occurs, insert “as a result of the removal of the goods from Great Britain”;
- (b) in paragraph (b), after “the United Kingdom” insert “and removed to Great Britain (whether in the course of that importation or otherwise)”.
- 6 In section 37 (minor definitions), in subsection (1), at the appropriate places insert—
- ““the customs and excise Acts” has the meaning it has in CEMA 1979 (see section 1(1) of that Act);”;
- ““qualifying Northern Ireland goods” has the meaning it has in the European Union (Withdrawal) Act 2018 (see section 8C(6) of that Act);”;
- ““Union customs legislation” means provisions contained in “customs legislation” within the meaning of Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (see Article 5(2) of that Regulation), as they have effect as a result of section 7A of the European Union (Withdrawal) Act 2018;”;
- ““Union goods” has the meaning it has in that Regulation;”.
- 7 In section 38 (table of definitions), in the table, at the appropriate places insert—
- | | |
|------------------------------------|-----------------|
| “the customs and excise Acts | section 37(1)”; |
| “qualifying Northern Ireland goods | section 37(1)”; |
| “Union goods | section 37(1)”; |
| “Union customs legislation | section 37(1)”. |
- 8 (1) Schedule 1 (customs declarations) is amended as follows.
- (2) In paragraph 1(4)—

- (a) in paragraph (a), after “United Kingdom” insert “, or removed to Northern Ireland,”;
 - (b) in paragraph (b), before “the export” insert “in the case of goods exported from the United Kingdom,”.
- (3) In paragraph 2(2)—
- (a) in paragraph (a), for the words from “in the United Kingdom” to the end substitute “in, or outside, a specified place”;
 - (b) in paragraph (b)—
 - (i) after “have” insert “, or do not have,”;
 - (ii) for “the United Kingdom or to a specified place outside the United Kingdom” substitute “a specified place”.
- 9 (1) Schedule 2 (special customs procedures) is amended as follows.
- (2) In paragraph 1(2)(a) for the words from “in the United Kingdom” to the end substitute “in, or outside, a specified place”.
- (3) In paragraph 5(1), for “the United Kingdom”, in each place it occurs, substitute “Great Britain”.
- (4) In paragraph 9—
- (a) in sub-paragraph (1)(a), for “there” substitute “in Great Britain”;
 - (b) in sub-paragraph (5)—
 - (i) after “provisions” insert “, or removed to Northern Ireland,”;
 - (ii) for “the United Kingdom” substitute “Great Britain”;
 - (c) in sub-paragraph (6)(a), for “the United Kingdom” substitute “Great Britain”.
- (5) In paragraph 11—
- (a) in paragraph (a), for “the United Kingdom, or” substitute “Great Britain,”;
 - (b) after that paragraph insert—
 - “(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”.
- (6) In paragraph 15, in paragraph (b), after “provisions” insert “or are removed to Northern Ireland”.
- (7) In paragraph 19, in sub-paragraph (3)(a) after “provisions” insert “or are removed to Northern Ireland”.
- 10 (1) Schedule 7 (import duty: consequential amendments) is amended as follows.
- (2) In paragraph 114, after “Part 1” insert “or section [40A](#) or [40B](#)”.
- (3) In paragraph 146—
- (a) the existing text becomes sub-paragraph (1);
 - (b) after that sub-paragraph insert—
 - “(2) Where the provisions of CEMA 1979 relating to transit sheds continue to have effect for any purpose (see paragraph [158](#)),

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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.”

- (4) In paragraph 150(3)(a)—
- (a) after “Part 1” insert “and sections 40A and 40B”;
 - (b) for “it applies” substitute “they apply”.
- (5) In paragraph 156—
- (a) for sub-paragraph (2) substitute—
 - “(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.”;
 - (b) in sub-paragraph (3)(b), after “Part 1” insert “and sections 40A and 40B”;
 - (c) for sub-paragraph (4) substitute—
 - “(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.””
- (6) After paragraph 157 insert—

“PART 4

SAVINGS AND MODIFICATIONS IN RELATION TO NORTHERN IRELAND

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 transhipment” 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
- (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).

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- (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 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 transhipment” 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—
 - (i) references to an EU instrument or an EU obligation were to the provisions of Union customs legislation,

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- (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.

(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).”

- 11 In Schedule 9 (excise duty amendments connected with withdrawal from EU), after paragraph 9 insert—

“Savings in relation to Northern Ireland

- 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.”

Isle of Man Act 1979

- 12 (1) The Isle of Man Act 1979 is amended as follows.
- (2) In section 8 (removal of goods from Isle of Man to United Kingdom), in subsection (2), before paragraph (a) insert—
- “(za) goods removed to Northern Ireland from the Isle of Man;”.
- (3) In section 9 (removal of goods from United Kingdom to Isle of Man), after subsection (1) insert—
- “(1A) Subsection (1) does not apply to goods removed from Northern Ireland to the Isle of Man.”

Finance (No.2) Act 1992

- 13 (1) Section 4 of F(No.2)A 1992 is amended as follows.
- (2) In subsection (1)—
- (a) for “the United Kingdom” substitute “Northern Ireland”;
 - (b) for “different” substitute “Northern Ireland and a member State or between”.
- (3) In subsection (1A), for “different” substitute “Northern Ireland and a member State or between”.
- (4) In subsection (2)—
- (a) in paragraph (a)—
 - (i) omit “EU” in the first place it occurs;

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- (ii) for “EU legislation” substitute “Union customs legislation (within the meaning of Part 1 of the Taxation (Cross-border Trade) Act 2018);
 - (b) in paragraph (b), for “EU legislation” substitute “provision of Union customs legislation”.
- (5) In subsection (5), omit the definition of “EU customs duty”.

SCHEDULE 2

Section 3

VALUE ADDED TAX: AMENDMENTS RELATING TO THE NORTHERN IRELAND PROTOCOL ETC

PART 1

AMENDMENTS OF VATA 1994

1 VATA 1994 is amended as follows.

New Schedules: VAT in Northern Ireland

2 After Schedule 9 insert—

“SCHEDULE 9ZA

Section 40A(1)

VAT ON ACQUISITIONS IN NORTHERN IRELAND FROM MEMBER STATES

PART 1

CHARGE TO VAT FOR ACQUISITIONS IN NORTHERN IRELAND FROM MEMBER STATES

Charge to VAT

- 1 (1) VAT is charged, in accordance with this Schedule, on the acquisition in Northern Ireland of goods from a member State—
- (a) by reference to the value of the acquisition as determined under Part 2 of this Schedule, and
 - (b) subject to paragraph 16, at the rate of VAT for the time being in force under section 2.
- (2) VAT charged on the acquisition of goods in Northern Ireland from a member State is a liability of the person who acquires the goods and (subject to provisions about accounting and payment) becomes due at the time of acquisition.
- (3) VAT charged on the acquisition of goods in Northern Ireland from a member State in accordance with this Schedule is referred to in this Schedule as “NI acquisition VAT”.

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- (4) References to VAT (without more) in this Act include NI acquisition VAT.
- (5) The Commissioners may by regulations make provision about (including provision modifying) the application of provision that applies to value added tax made by or under any enactment (including provision made by or under this Act) to NI acquisition VAT or to goods acquired in Northern Ireland from a member State.

Scope of NI acquisition VAT

- 2 (1) NI acquisition VAT is charged on any acquisition from a member State of any goods where—
 - (a) the acquisition is a taxable acquisition,
 - (b) it takes place in Northern Ireland,
 - (c) it is not in pursuance of a taxable supply (see section 4(2)), and
 - (d) the person who makes it is a taxable person or the goods acquired are subject to a duty of excise or consist in a new means of transport.
- (2) In this Act, a “taxable acquisition” means an acquisition of goods from a member State that—
 - (a) is not an exempt acquisition (see paragraph 17(5)), and
 - (b) falls within sub-paragraph (3) or is an acquisition of goods consisting in a new means of transport.
- (3) An acquisition of goods from a member State falls within this sub-paragraph if—
 - (a) the goods are acquired in the course or furtherance of—
 - (i) any business carried on by any person, or
 - (ii) any activities carried on otherwise than by way of business by any body corporate or by any club, association, organisation or other unincorporated body,
 - (b) it is the person who carries on that business or those activities who acquires the goods, and
 - (c) the supplier—
 - (i) is taxable in a member State at the time of the transaction in pursuance of which the goods are acquired, and
 - (ii) in participating in that transaction, acts in the course or furtherance of a business carried on by the supplier.

Meaning of acquisition of goods from a member State

- 3 (1) References in this Act to the acquisition of goods from a member State are to an acquisition of goods in pursuance of a transaction that—
 - (a) is a supply of goods (including anything treated for the purposes of this Act as a supply of goods), and
 - (b) involves the removal of the goods from a member State (whether by or under the direction of the supplier, the person who acquires the goods or any other person),

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and references in this Act, in relation to such an acquisition, to the supplier are to be construed accordingly.

- (2) Where the person with the property in any goods does not change in consequence of anything which is treated for the purposes of this Act as a supply of goods, that supply is to be treated for the purposes of this Act as a transaction in pursuance of which there is an acquisition by the person making the supply.
- (3) The Treasury may by regulations make provision about the circumstances in which an acquisition of goods is not to be treated as an acquisition of goods from a member State.

Time of acquisition

- 4 (1) For the purposes of this Act, the normal rule for determining the time that goods were acquired from a member State is that they are treated as being acquired on the earlier of—
 - (a) the 15th day of the month after the month in which the first removal of the goods occurs, and
 - (b) the day a relevant invoice is issued in respect of the transaction in pursuance of which the goods were acquired.
- (2) But—
 - (a) different rules apply to acquisitions to which Part 4 of Schedule 9ZB applies (warehouses), and
 - (b) the Commissioners may by regulations provide for different rules to apply in any case described in those regulations.
- (3) Regulations under sub-paragraph (2)(b) may include provision treating an acquisition as a series of acquisitions taking place at different times.
- (4) In sub-paragraph (1) “relevant invoice” means an invoice of a description prescribed by regulations made by the Commissioners.
- (5) For the purposes of this Act “first removal”, in relation to goods acquired, means the first removal of the goods in the course of the transaction in pursuance of which they are acquired.

Place of acquisition

- 5 (1) For the purposes of this Act, the normal rule for determining whether goods are acquired in Northern Ireland is that they are treated as being acquired in Northern Ireland if—
 - (a) they are acquired in pursuance of a transaction which involves their removal from a member State to Northern Ireland and which does not involve their removal from Northern Ireland, or
 - (b) they are acquired by a person who, for the purposes of their acquisition, makes use of a number assigned to the person for the purposes of VAT in the United Kingdom along with an NI VAT identifier (see paragraph 7).
- (2) But—

- (a) goods are not treated as being acquired in Northern Ireland by virtue of sub-paragraph (1)(b) where it is established in accordance with regulations made by the Commissioners that VAT—
 - (i) has been paid in a member State on the acquisition of those goods, and
 - (ii) fell to be paid by virtue of provisions of the law of that member State corresponding, in relation to that member State, to the provision made by sub-paragraph (1)(a), and
 - (b) different rules apply to acquisitions to which paragraph 16 or 17 of Schedule 9ZB applies.
- (3) If an acquisition of goods is not treated, for the purposes of this Act, as taking place in Northern Ireland it is treated for those purposes as an acquisition taking place outside Northern Ireland.
- (4) The Commissioners may by regulations make provision—
- (a) about the circumstances in which a person is to be treated as having made use of a number assigned to the person for the purposes of VAT in the United Kingdom along with an NI VAT identifier for the purposes of the acquisition of any goods, and
 - (b) for the refund, in prescribed circumstances, of NI acquisition VAT paid on acquisitions of goods in relation to which the conditions in sub-paragraph (2)(a)(i) and (ii) are met.

Acquisitions from persons belonging in member States

- 6 (1) Sub-paragraph (2) applies where—
- (a) a person (“the original supplier”) makes a supply of goods to a person who belongs in a member State (“the intermediate supplier”),
 - (b) that supply involves the removal of the goods from a member State and their removal to Northern Ireland but does not involve the removal of the goods from Northern Ireland,
 - (c) both that supply and the removal of the goods to Northern Ireland are for the purposes of the making of a supply by the intermediate supplier to another person (“the customer”) who is registered under this Act,
 - (d) neither of those supplies involves the removal of the goods from a member State in which the intermediate supplier is taxable at the time of the removal without also involving the previous removal of the goods to that member State, and
 - (e) there would be a taxable acquisition by the customer if the supply to the customer involved the removal of goods from a member State to Northern Ireland.
- (2) Where this sub-paragraph applies—
- (a) the supply by the original supplier to the intermediate supplier is ignored for the purposes of this Act, and
 - (b) the supply by the intermediate supplier to the customer is treated for the purposes of this Act, other than for the purposes of Part 8

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of this Schedule, as if it did involve the removal of the goods from a member State to Northern Ireland.

- (3) For the purposes of this Act, other than for the purposes of Part 8 of this Schedule, a supply of goods is treated as involving their removal from a member State to Northern Ireland, and is treated as not being a taxable supply if—
- (a) the supply is made by a person belonging in a member State to a person who is registered under this Act,
 - (b) the supply involves the installation or assembly of the goods at a place in Northern Ireland to which they are removed, and
 - (c) were the supply to be treated as described in the words before paragraph (a), there would be a taxable acquisition by the registered person.
- (4) But neither sub-paragraph (2) nor sub-paragraph (3) applies in relation to a supply unless—
- (a) in the case of sub-paragraph (2), the intermediate supplier, or
 - (b) in the case of sub-paragraph (3), the person making the supply,
- complies with such requirements to provide information to the Commissioners or to the person supplied as may be specified in regulations made by the Commissioners.
- (5) The requirements to provide information that may be specified in regulations include—
- (a) requirements to provide documents (for example, invoices);
 - (b) requirements to provide information or documents before a supply is made (as well as after);
 - (c) requirements as to the content and form of information or documents to be provided;
 - (d) requirements as to the manner in which information or documents are to be provided.
- (6) Where a taxable acquisition is treated as having been made by virtue of this paragraph, that acquisition is treated as taking place at the time referred to in paragraph 4(1)(b) (day on which invoice issued).
- (7) For the purposes of this paragraph a person belongs in a member State if—
- (a) the person is taxable in a member State,
 - (b) the person does not have any business establishment or other fixed establishment in Northern Ireland,
 - (c) the person's usual place of residence is not in Northern Ireland,
 - (d) the person is not identified for the purposes of VAT in Northern Ireland and is not required, as a result of regulations under paragraph 7, to make a request to be so identified, and
 - (e) the person does not have a VAT representative who is identified for the purposes of VAT in Northern Ireland in connection with acting on the person's behalf, and is not for the time being required to appoint one who would be identified for those purposes.

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- (8) In determining, for the purposes of sub-paragraph (7)(d), whether a person is required to be registered under this Act, ignore any supplies made by the person that would be ignored for the purposes of this Act if the person belonged in a member State and complied with the information requirements that would apply by virtue of sub-paragraph (4).
- (9) Where—
- (a) any goods are acquired from a member State in a case which corresponds, in relation to another member State, to the case described in sub-paragraph (1) in relation to Northern Ireland, and
 - (b) the person who acquires the goods is registered under this Act, is identified for the purposes of VAT in Northern Ireland and would be the intermediate supplier in relation to that corresponding case,
- the supply to that person of those goods and the supply by that person of those goods to the person who would be the customer in that corresponding case are to be ignored for the purposes of this Act.
- (10) References in this paragraph to a person being taxable in a member State do not include references to a person who is so taxable by virtue only of provisions of the law of that member State corresponding to the provisions of this Act by virtue of which a person who is not registered under this Act is a taxable person if the person is required to be so registered.

Identification of persons for the purposes of VAT in Northern Ireland

- 7 (1) The Commissioners may by regulations make provision for the identification of persons for the purposes of VAT in Northern Ireland.
- (2) In this Act “identified for the purposes of VAT in Northern Ireland” means identified in accordance with regulations under this paragraph.
- (3) A person may only be identified for the purposes of VAT in Northern Ireland if—
- (a) the person is registered under this Act, or
 - (b) the person acts on behalf of a person in relation to VAT in Northern Ireland as a VAT representative.
- (4) Regulations may make provision—
- (a) about the circumstances in which a person may request to be identified for the purposes of VAT in Northern Ireland;
 - (b) for a person to be required to request to be identified for the purposes of Northern Ireland VAT;
 - (c) about the circumstances in which the Commissioners may determine that a person is identified for the purposes of VAT in Northern Ireland otherwise than at the person’s request;
 - (d) requiring a person to notify the Commissioners of such matters as may be specified for the purpose of allowing

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- the Commissioners to ascertain whether a person should be identified for the purposes VAT in Northern Ireland;
- (e) about the circumstances in which a person is to be treated, for such purposes as may be specified, as if they were identified for the purposes of VAT in Northern Ireland (and which may include circumstances where the person is neither registered under this Act nor acting as a VAT representative);
 - (f) about the circumstances in which a person ceases to be identified for the purposes of VAT in Northern Ireland.
- (5) Regulations may also make provision—
- (a) about a specified means of communicating the fact of a person’s identification for the purposes of VAT in Northern Ireland (and that means is referred to in this Act as an “NI VAT identifier”);
 - (b) about the circumstances in which a person may use, or is required to use, an NI VAT identifier (for example, in connection with the making of a transaction or return).
- (6) In this paragraph “specified” means specified in regulations.

PART 2

VALUATION OF ACQUISITIONS

Valuation of acquisitions from member States

- 8 (1) For the purposes of this Act the value of any acquisition of goods from a member State is taken to be the value of the transaction in pursuance of which they are acquired.
- (2) Where goods are acquired from a member State otherwise than in pursuance of a taxable supply, the value of the transaction in pursuance of which they are acquired is to be determined for the purposes of sub-paragraph (1) in accordance with this Part, and for those purposes—
- (a) sub-paragraphs (3) to (5) have effect subject to paragraphs 9 to 13, and
 - (b) section 19 and Schedule 6 do not apply in relation to the transaction.
- (3) If the transaction is for a consideration in money, its value is taken to be such amount as is equal to the consideration.
- (4) If the transaction is for a consideration not consisting or not wholly consisting of money, its value is taken to be such amount in money as is equivalent to the consideration.
- (5) Where a transaction in pursuance of which goods are acquired from a member State is not the only matter to which a consideration in money relates, the transaction is deemed to be for such part of the consideration as is properly attributable to it.

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Transactions below market value

- 9 (1) Where, in the case of the acquisition of any goods from a member State—
- (a) the relevant transaction (see paragraph 13) is for a consideration in money,
 - (b) the value of the relevant transaction is (apart from this paragraph) less than the transaction’s open market value,
 - (c) the supplier and the person who acquires the goods are connected, and
 - (d) that person is not entitled under sections 25 and 26 to credit for all the VAT on the acquisition,
- the Commissioners may direct that the value of the relevant transaction is taken to be its open market value.
- (2) A direction under this paragraph must be given—
- (a) by notice in writing to the person by whom the acquisition in question is made, and
 - (b) within the period of 3 years commencing with the relevant time (see paragraph 13).
- (3) A direction given to a person under this paragraph in respect of a transaction may include a direction that the value of any transaction—
- (a) in pursuance of which goods are acquired by the person from a member State after the giving of the notice, or after such later date as may be specified in the notice, and
 - (b) as to which the conditions in paragraphs (a) to (d) of subparagraph (1) are satisfied,
- is to be taken to be its open market value.
- (4) For the purposes of this paragraph, the open market value of a transaction in pursuance of which goods are acquired from a member State is to be taken to be the amount which would fall to be taken as its value under paragraph 8(3) if it were for such consideration in money as would be payable by a person standing in no such relationship with any person as would affect that consideration.
- (5) Section 1122 of the Corporation Tax Act 2010 (“connected” persons) applies for the purpose of determining whether a person is connected with another for the purposes of this paragraph.
- (6) A direction under this paragraph may be varied or withdrawn by the Commissioners by a further direction given by notice in writing.

Value where goods subject to excise duty etc

- 10 (1) This paragraph applies, in such cases as the Commissioners may by regulations prescribe, to an acquisition—
- (a) of goods acquired in Northern Ireland from a member State,
 - (b) where those goods are charged with a relevant duty, and

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- (c) that is not an acquisition that is treated, by virtue of paragraph 16(7) of Schedule 9ZB, as taking place before the time which is the duty point (within the meaning given by paragraph 16(11) of that Schedule).
- (2) The value of the relevant transaction in relation to an acquisition to which this paragraph applies is the sum of the value of that transaction (apart from this paragraph) and the total amount of relevant duty charged that is not already reflected in the value of that transaction.
- (3) In this paragraph “relevant duty” in relation to an acquisition means—
 - (a) a duty of excise charged in connection with the removal of goods to Northern Ireland;
 - (b) any EU customs duty or agricultural levy of the European Union charged on that removal in accordance with any provision for the time being having effect for transitional purposes in connection with the accession of any State to the European Union.

Transfer or disposal for no consideration

- 11 (1) Where goods are acquired from a member State in pursuance of anything which is treated as a supply for the purposes of this Act as a result of paragraph 5(1) of Schedule 4 or paragraph 30 of Schedule 9ZB and there is no consideration, sub-paragraph (3) applies for determining the value of the relevant transaction.
- (2) Sub-paragraph (3) also applies for determining the value of the relevant transaction in the case of an acquisition by a supplier that is deemed to take place as a result of paragraph 60(2)(c) or 61(2)(c).
- (3) The value of the relevant transaction is taken to be—
 - (a) such consideration in money as would be payable by the supplier if the supplier were, at the time of the acquisition, to purchase goods identical in every respect (including age and condition) to the goods concerned,
 - (b) where the value cannot be ascertained in accordance with paragraph (a), such consideration in money as would be payable by the supplier if the supplier were, at that time, to purchase goods similar to, and of the same age and condition as, the goods concerned, or
 - (c) where the value cannot be ascertained in accordance with paragraph (a) or (b), the cost of producing the goods concerned if they were produced at that time.
- (4) For the purposes of sub-paragraph (3), the amount of consideration in money that would be payable by any person if the person were to purchase any goods is taken to be the amount that would be so payable after the deduction of any amount included in the purchase price in respect of VAT on the supply of the goods to that person.

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Foreign currency transactions

- 12 (1) Subject to the following provisions of this paragraph, where—
- (a) goods are acquired from a member State, and
 - (b) any sum relevant for determining the value of the relevant transaction is expressed in a currency other than sterling,
- then, for the purpose of valuing the relevant transaction, that sum is to be converted into sterling at the market rate which, on the relevant day, would apply in the United Kingdom to a purchase with sterling of that sum in the currency in question by the person making the acquisition.
- (2) Where the Commissioners have published a notice which, for the purposes of this paragraph, specifies—
- (a) rates of exchange, or
 - (b) methods of determining rates of exchange,
- a rate specified in or determined in accordance with the notice, as for the time being in force, applies (instead of the rate for which sub-paragraph (1) provides) in the case of any transaction in pursuance of which goods are acquired by a person who opts, in such manner as may be allowed by the Commissioners, for the use of that rate in relation to that transaction.
- (3) An option for the purposes of sub-paragraph (2) for the use of a particular rate or method of determining a rate—
- (a) may not be exercised by any person except in relation to all such transactions in pursuance of which goods are acquired by the person from a member State as are of a particular description or after a particular date, and
 - (b) may not be withdrawn or varied except with the consent of the Commissioners and in such manner as they may require.
- (4) In specifying a method of determining a rate of exchange, a notice published by the Commissioners under sub-paragraph (2) may allow a person to apply to the Commissioners for the use, for the purpose of valuing some or all of the transactions in pursuance of which goods are acquired by the person from a member State, of a rate of exchange which is different from any which would otherwise apply.
- (5) On an application made in accordance with provision contained in a notice under sub-paragraph (4), the Commissioners may authorise the use with respect to the applicant of such a rate of exchange, in such circumstances, in relation to such transactions and subject to such conditions as they think fit.
- (6) A notice published by the Commissioners for the purposes of this paragraph may be withdrawn or varied by a subsequent notice published by the Commissioners.
- (7) Where goods are acquired from a member State, the appropriate rate of exchange is to be determined for the purpose of valuing the relevant transaction by reference to the relevant time; and, accordingly, the day

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on which that time falls is the relevant day for the purposes of sub-paragraph (1).

Meaning of “relevant transaction” and “relevant time”

- 13 In this Part of this Schedule—
- “relevant transaction”, in relation to any acquisition of goods from a member State, means the transaction in pursuance of which the goods are acquired;
- “the relevant time”, in relation to any such acquisition, means—
- (a) if the person by whom the goods are acquired is not a taxable person and the time of acquisition does not fall to be determined in accordance with regulations made under paragraph 4(2)(b), the time of the first removal of the goods (see paragraph 4(5)), and
 - (b) in any other case, the time of acquisition.

PART 3

PAYMENT OF NI ACQUISITION VAT BY TAXABLE PERSONS

Input tax and output tax

- 14 (1) NI acquisition VAT is input tax in relation to the taxable person acquiring the goods in question if the goods are used or are to be used for the purpose of any business carried on or to be carried on by the person.
- (2) NI acquisition VAT is output tax in relation to the taxable person acquiring the goods in question (including VAT which is also to be counted as input tax by virtue of sub-paragraph (1)).
- (3) Subsections (5) to (6A) of section 24 (input tax and output tax) apply to NI acquisition VAT as they apply to VAT on the supply or importation of goods.

Payment of NI acquisition VAT

- 15 (1) A taxable person must account for and pay NI acquisition VAT by reference to prescribed accounting periods (see section 25(1)).
- (2) Subsections (2) to (6) of section 25 (payment by reference to accounting period and credit for input tax against output tax) contain provision relevant to the payment of NI acquisition VAT.
- (3) Subsection (7) of that section (power to make order excluding credit for VAT paid) applies to acquisitions in Northern Ireland from a member State as it applies to the supply of goods.
- (4) Section 26(1) has effect as if the reference to “input tax on supplies and importations” included input tax on acquisitions in Northern Ireland from a member State.

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- (5) That section and sections 26A to 28 contain further provision relevant to the payment of NI acquisition VAT.

PART 4

RELIEFS ETC

Reduced rate

- 16 (1) NI acquisition VAT is charged at the rate of 5% (instead of at the rate provided by section 2) if—
- (a) the acquisition in question is of goods the supply of which would be a supply of a description for the time being specified in Schedule 7A (charge at reduced rate), or
 - (b) the acquisition in question is of a description for the time being specified in regulations made by the Treasury for the purposes of this paragraph.
- (2) Regulations under this paragraph may provide that sub-paragraph (1)(a) does not apply to a description of a supply specified in Schedule 7A that is specified in those regulations.
- (3) The power to specify a description of an acquisition conferred by sub-paragraph (1)(b) may be exercised so as to describe an acquisition of goods by reference to matters unrelated to the characteristics of the goods.

Zero-rating and exempt acquisitions

- 17 (1) Section 30(3) (zero-rating) applies to an acquisition of goods in Northern Ireland from a member State as it would apply to an importation of those goods.
- (2) The Treasury may by regulations provide—
- (a) that sub-paragraph (1) does not apply to an acquisition of goods specified or described in the regulations;
 - (b) that no NI acquisition VAT is chargeable on an acquisition of goods specified or described in the regulations.
- (3) The Commissioners may by regulations provide for the zero-rating of supplies of goods, or of such goods as may be specified in the regulations, in cases where—
- (a) the supply in question involves both the removal of the goods from Northern Ireland and their acquisition in a member State by a person who is liable for VAT on the acquisition in accordance with provisions of the law of that member State corresponding, in relation to that member State, to the provisions of paragraph 2, and
 - (b) such other conditions, if any, as may be specified in the regulations or the Commissioners may impose are fulfilled.

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- (4) Section 30(10) applies to a supply of goods that has been zero-rated in pursuance of regulations made under sub-paragraph (3) as it applies to a supply of goods that has been zero-rated in pursuance of regulations made under section 30(8) or (9).
- (5) An acquisition of goods from a member State is an exempt acquisition if the goods are acquired in pursuance of an exempt supply (see section 31).

Refunds and reliefs

- 18 (1) Sections 33 to 33C, 33E and 34 apply to an acquisition of goods from a member State as they apply to a supply of those goods.
- (2) The Treasury may by order make provision for relieving from NI acquisition VAT if, or to the extent that, relief from VAT would be given by an order under section 37 (relief from VAT on importation) if the acquisition in question were an importation.
- (3) An order under sub-paragraph (2) may provide for relief to be subject to such conditions as appear to the Treasury to be necessary or expedient, which may include conditions—
 - (a) prohibiting or restricting the disposal of or dealing with the goods concerned;
 - (b) framed by reference to the conditions to which, by virtue of any order under section 37 in force at the time of the acquisition, relief under such an order would be subject in the case of an importation of the goods concerned.
- (4) Where relief from NI acquisition VAT given by an order under this paragraph was subject to a condition that has been breached or not complied with, the VAT becomes payable at the time of the breach or, as the case may be, at the latest time allowed for compliance.
- (5) Section 38 has effect as if after “by him” there were inserted “or on the acquisition of goods by that person from member States”.

Refunds in relation to new means of transport supplied to member States

- 19 (1) Where a person who is not a taxable person makes such a supply of goods consisting in a new means of transport that involves the removal of the goods to a member State from Northern Ireland, the Commissioners must, on a claim made in that behalf, refund to that person, as the case may be—
 - (a) the amount of any VAT on the supply of that means of transport to that person, or
 - (b) the amount of any VAT paid by that person on the acquisition of that means of transport from a member State or on its importation into the United Kingdom as a result of its entry into Northern Ireland.
- (2) But the amount of VAT that is to be refunded under this paragraph is not to exceed the amount that would have been payable on the supply

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involving the removal if it had been a taxable supply by a taxable person and had not been zero-rated.

- (3) A claim for refund of VAT under this paragraph must—
- (a) be made within such time and in such form and manner as may be specified in regulations made by the Commissioners,
 - (b) contain such information as may be specified in those regulations, and
 - (c) be accompanied by such documents as may be specified in those regulations.

PART 5

APPLICATION OF ACT TO ACQUISITIONS IN PARTICULAR CASES

Crown application

- 20 Subsections (3) and (4) of section 41 (application to the Crown) apply to NI acquisition VAT as they apply to VAT chargeable on the supply of goods.

Groups of companies

- 21 (1) Section 43 (groups of companies) applies to an acquisition of goods from a member State as it would apply to an importation of those goods as if the reference in subsection (1)(c) to section 38 were omitted.
- (2) Subsections (2) and (9) of section 44 (supplies to groups) apply to input tax on acquisitions as they apply to input tax on supplies.

Partnerships

- 22 (1) Subsection (1) of section 45 (partnerships) applies to persons carrying on in partnership activities, other than carrying on a business, in the course or furtherance of which they acquire goods from a member State as it applies to persons carrying on a business in partnership.
- (2) Subsections (2) and (5) of that section apply to a liability for NI acquisition VAT as they apply to VAT on the supply of goods or services.

Unincorporated bodies, personal representative etc

- 23 (1) In section 46 (business carried on in divisions or by unincorporated bodies, personal representatives etc) any reference to “a business” includes any activity in the course or furtherance of which any body corporate or any club, association, organisation or other unincorporated body acquires goods from a member State.
- (2) Subsection (3) of that section (no account to be taken in change of members of a club, association or organisation) applies in relation to the determination of whether goods are acquired from a member State by a club, association or organization mentioned in that subsection as it

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applies in relation to the determination of whether goods or services are supplied by such a club, association or organisation.

Agents

- 24 (1) Where goods are acquired from a member State by a person who is not a taxable person (“N”) and a taxable person (“T”) acts in relation to the acquisition and then supplies the goods in T’s own name as agent of N, the goods are to be treated for the purposes of this Act as acquired and supplied by T as principal.
- (2) Section 47 (agents) has effect as if—
- (a) the reference in subsection (2) to “subsection (1) above” were to “subsection (1) and paragraph 24(1) of Schedule 9ZA”;
 - (b) the reference in subsection (2A) to “subsection (1) above” were to “subsection (1) or paragraph 24(1) of Schedule 9ZA”.

VAT representatives

- 25 Subsection (1)(a) of section 48 (VAT representatives and security) applies to a person who, without being a taxable person, acquires goods in Northern Ireland from one or more member States as it applies to a person who, without being a taxable person, makes taxable supplies.

Margin schemes

- 26 Section 50A(5) (margin schemes) has effect as if after “supply,” there were inserted “acquisition”.

PART 6

ADMINISTRATION, COLLECTION AND ENFORCEMENT

Breaches of regulatory provisions

- 27 (1) Section 69(1) (breaches of regulatory provisions) applies to a failure to comply with a requirement imposed under paragraph 42, 52 or 65(1) or (2)(a) of this Schedule as it applies to a requirement imposed under the provisions mentioned in subsection (1)(a) of that section.
- (2) Section 69(2) has effect as if after “imposed under” there were inserted “paragraph 64 or 65(2)(b) of Schedule 9ZA or”.

Offences

- 28 (1) Any reference in section 72(1) or (8) (offences)—
- (a) to the evasion of VAT includes a reference to the obtaining of a refund under regulations made under paragraph 5(4) or under paragraph 19, and
 - (b) to the amount of VAT, in relation to such a refund, is to be construed as a reference to the amount falsely claimed by way of refund.

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- (2) Subsection (5) of section 72 applies to a claim for a refund under regulations made under paragraph 5(4) or under paragraph 19 as it applies to a claim for a refund under the provisions mentioned in paragraph (a) of that subsection.
- (3) Subsection (10) of that section applies where a person has reason to believe that NI acquisition VAT has been or will be evaded as it applies where a person has reason to believe that VAT on the supply of goods or services has been or will be evaded.

Failure to make returns

- 29 (1) Subsection (3) of section 73 (failure to make returns etc) applies to an amount which by reason of the cancellation of a person's registration under paragraph 43(2), 43(5) or 53(5) ought not to have been paid as it applies to an amount which ought not to have been paid by reason of the cancellation of a person's registration under any of the provisions mentioned in that subsection.
- (2) Subsection (7) of that section applies to the acquisition of goods from a member State by a taxable person as it applies to the supply of goods to a taxable person.

Interest on VAT

- 30 Paragraph (c) of Section 74(1) applies to a person who was, but should no longer have been, exempted from registration (under Part 8 of this Schedule) under paragraph 44 as it applies to a person who was, but should no longer have been, exempted from registration under any of the provisions mentioned in that paragraph.

Assessment in cases of acquisitions of certain goods by non-taxable persons

- 31 (1) Where a person who has, at a time when the person was not a taxable person, acquired in Northern Ireland from a member State any goods subject to a duty of excise or consisting in a new means of transport and—
 - (a) notification of that acquisition has not been given to the Commissioners by the person who is required to give one by regulations under paragraph 73(4) (whether before or after this paragraph comes into force),
 - (b) the Commissioners are not satisfied that the particulars relating to the acquisition in any notification given to them are accurate and complete, or
 - (c) there has been a failure to supply the Commissioners with the information necessary to verify the particulars contained in any such notification,the Commissioners may assess the amount of VAT due on the acquisition to the best of their judgment and notify their assessment to that person.

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- (2) An assessment under this paragraph must be made within the time limits provided for in section 77 and may not be made after the later of—
- (a) 2 years after the time when a notification of the acquisition of the goods in question is given to the Commissioners by the person who is required to give one by regulations under paragraph 73(4), and
 - (b) one year after evidence of the facts, sufficient in the opinion of the Commissioners to justify the making of the assessment, comes to their knowledge,
- but (subject to section 77) where further such evidence comes to the Commissioners' knowledge after the making of an assessment under this section, another assessment may be made under this paragraph, in addition to any earlier assessment.
- (3) Where an amount has been assessed and notified to any person under this paragraph, it is, subject to the provisions of this Act as to appeals, deemed to be an amount of VAT due from the person and may be recovered accordingly, unless, or except to the extent that, the assessment has subsequently been withdrawn or reduced.
- (4) For the purposes of this paragraph, notification to a personal representative, trustee in bankruptcy, trustee in sequestration, receiver, liquidator or person otherwise acting in a representative capacity in relation to the person who made the acquisition in question is to be treated as notification to that person.

Assessment of amounts due

- 32 Section 77 (time limits and supplementary assessments) has effect as if—
- (a) in subsection (1), in the words before paragraph (a), after “or 76” there were inserted “or paragraph 31 of Schedule 9ZA”;
 - (b) in paragraph (a) of that subsection, after “importation” there were inserted “or acquisition”;
 - (c) in subsection (4), after “importation” there were inserted “, acquisition”;
 - (d) in subsection (4C) after paragraph (a) there were inserted—
 - “(aza) paragraph 40 or 44(2) of Schedule 9ZA,
 - (azb) paragraph 50 of that Schedule,
 - (azc) regulations under paragraph 73(4) of that Schedule,”;
 - (e) in subsection (6), after “73(6)(b)” there were inserted “or paragraph 31(2)(b) of Schedule 9ZA”.

Credit for, or repayment of, overstated or overpaid VAT

- 33 In section 80 (credit for, or repayment of, overstated or overpaid VAT) has effect as if in subsection (3C) reference to VAT provisions included any provision of any EU instrument relating to VAT, or to any matter connected with VAT, that has effect in Northern Ireland as a result of section 7A of the European Union (Withdrawal) Act 2018 (general implementation of withdrawal agreement).

PART 7

APPEALS AND SUPPLEMENTARY PROVISION

Appeals

- 34 (1) The following matters are to be treated as if they were included in the list of matters in subsection (1) of section 83 (matters subject to appeal to the tribunal)—
- (a) the VAT chargeable on the acquisition of goods from a member State;
 - (b) any claim for a refund under any regulations made by virtue of paragraph 5(4) of this Schedule;
 - (c) any direction under paragraph 9 of this Schedule;
 - (d) the amount of any refunds under paragraph 19 of this Schedule;
 - (e) an assessment under paragraph 31 of this Schedule, or the amount of such an assessment;
 - (f) a decision of the Commissioners under paragraph 17 of Schedule 9ZB—
 - (i) as to whether or not a person is to be approved as a Northern Ireland fiscal warehousekeeper or the conditions from time to time subject to which the person is so approved,
 - (ii) for the withdrawal of any such approval, or
 - (iii) for the withdrawal of Northern Ireland fiscal warehouse status from any premises.
- (2) Section 84 (further provisions relating to appeals) has effect as if in subsection (4)(c), after “supply” there were inserted “, acquisition”.

Supplies spanning change of rate etc

- 35 (1) This paragraph applies where there is a change in the rate of VAT in force under section 2 or paragraph 16 of this Schedule or in the descriptions of exempt, zero-rated or reduced-rate acquisitions.
- (2) Where—
- (a) any acquisition of goods from a member State which is affected by the change would not have been affected (in whole or in part) if it had been treated as taking place at the time of the first removal of the goods (see paragraph 4(5)), or
 - (b) any acquisition of goods from a member State which is not so affected would have been affected (in whole or in part) if it had been treated as taking place at the time of that removal,
- the rate at which VAT is chargeable on the acquisition, or any question of whether it is an exempt, zero-rated or reduced-rate acquisition, is to be determined as at the time of the first removal of the goods, if the person making the acquisition so elects.

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- (3) References in this paragraph to a zero-rated acquisition is to an acquisition on which no NI acquisition VAT is charged as a result of provision made by or under paragraph 17 (zero-rating).
- (4) Reference in this paragraph to a reduced rate acquisition is to an acquisition on which NI acquisition VAT is charged at the rate in force under paragraph 16(1).

Failure of resolution under Provisional Collection of Taxes Act 1968

- 36 (1) Where—
- (a) by virtue of a resolution having effect under the Provisional Collection of Taxes Act 1968 NI acquisition VAT has been paid at a rate specified in the resolution by reference to a value determined under paragraph 8(3) of this Schedule, and
 - (b) by virtue of section 1(6) or (7) or 5(3) of that Act any of that VAT is repayable in consequence of the restoration of a lower rate,
- the amount repayable is to be the difference between the VAT paid by reference to that value at the rate specified in the resolution and the VAT that would have been payable by reference to that value at the lower rate.
- (2) Where—
- (a) by virtue of such a resolution NI acquisition VAT is chargeable at a rate specified in the resolution by reference to a value determined under paragraph 8(3) of this Schedule, but
 - (b) before the VAT is paid it ceases to be chargeable at that rate in consequence of the restoration of a lower rate,
- the VAT chargeable at the lower rate is to be charged by reference to the same value as that by reference to which NI acquisition VAT would have been chargeable at the rate specified in the resolution.
- (3) Section 90(3) (failure of resolution under Provisional Collection of Taxes Act 1968) has effect as if after “or 35” there were inserted “or paragraph 19 of Schedule 9ZA”.

Refund of VAT to Government of Northern Ireland

- 37 (1) Section 99 (refund of VAT to Government of Northern Ireland) applies to—
- (a) VAT charged on the acquisition of goods from a member State by the Government of Northern Ireland as it applies to VAT charged on the supply of goods or services to that Government, and
 - (b) any amount attributable to acquisitions of goods from a member State for the purpose of a business carried on by the Government of Northern Ireland as it applies to supplies for that purpose.

PART 8

REGISTRATION IN RESPECT OF ACQUISITIONS FROM MEMBER STATES

Liability to be registered

- 38 (1) A person who—
- (a) is not registered under this Act, and
 - (b) is not liable to be registered under Schedule 1 or 1A or Part 9 of this Schedule,
- becomes liable to be registered under this Part of this Schedule at the end of any month if, in the period beginning with 1 January of the year in which that month falls, that person had made relevant acquisitions whose value exceeds £85,000.
- (2) A person who is not registered or liable to be registered as mentioned in sub-paragraph (1)(a) and (b) becomes liable to be registered under this Part of this Schedule at any time if there are reasonable grounds for believing that the value of the person's relevant acquisitions in the following 30 days will exceed £85,000.
- (3) A person is treated as having become liable to be registered under this Part of this Schedule at any time when the person would have become so liable under the preceding provisions of this paragraph but for any registration which is subsequently cancelled under paragraph 43(2) or 53(5) of this Schedule, paragraph 13(3) of Schedule 1, paragraph 11 of Schedule 1A or paragraph 6(2) of Schedule 3A.
- (4) A person does not cease to be liable to be registered under this Part of this Schedule except in accordance with paragraph 39.
- (5) In determining the value of any person's relevant acquisitions for the purposes of this paragraph, so much of the consideration for any acquisition as represents any liability of the supplier, under the law of a member State, for VAT on the transaction in pursuance of which the acquisition is made, is to be disregarded.
- (6) In determining the value of a person's acquisitions for the purposes of sub-paragraph (1) or (2), acquisitions to which paragraph 19(6) of Schedule 9ZB (last acquisition or supply of goods before removal from Northern Ireland fiscal warehousing) applies are to be disregarded.
- 39 (1) A person who has become liable to be registered under this Part of this Schedule ceases to be so liable if at any time—
- (a) the person's relevant acquisitions in the year ending with 31 December last before that time did not have a value exceeding £85,000, and
 - (b) the Commissioners are satisfied that the value of the person's relevant acquisitions in the year immediately following that year will not exceed £85,000.

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- (2) But a person does not cease to be liable to be registered under this Part of this Schedule at any time if there are reasonable grounds for believing that the value of that person's relevant acquisitions in the following 30 days will exceed £85,000.

Notification of liability and registration

- 40 (1) A person who becomes liable to be registered under this Part of this Schedule must notify the Commissioners of the liability—
- (a) in the case of a liability under sub-paragraph (1) of paragraph 38, within 30 days of the end of the month when the person becomes so liable, and
 - (b) in the case of a liability under sub-paragraph (2) of that paragraph, before the end of the period by reference to which the liability arises.
- (2) The Commissioners must register any such person (whether or not the person notifies them) with effect from the relevant time or from such earlier time as may be agreed between the Commissioners and the person.
- (3) In this paragraph “the relevant time”—
- (a) in a case falling within sub-paragraph (1)(a), means the end of the month following the month at the end of which the liability arose, and
 - (b) in a case falling within sub-paragraph (1)(b), means the beginning of the period by reference to which the liability arose.

Entitlement to be registered etc

- 41 (1) Where a person who is not liable to be registered under this Act and is not already so registered satisfies the Commissioners that the person makes relevant acquisitions, the Commissioners must, if the person so requests, register the person with effect from the day on which the request is made or from such earlier date as may be agreed between the Commissioners and the person.
- (2) Where a person who is not liable to be registered under this Act and is not already so registered—
- (a) satisfies the Commissioners that the person intends to make relevant acquisitions from a specified date, and
 - (b) requests to be registered under this Part of this Schedule,
- the Commissioners may, subject to such conditions as they think fit to impose, register the person with effect from such date as may be agreed between the Commissioners and the person.
- (3) Conditions imposed under sub-paragraph (2) may—
- (a) be so imposed wholly or partly by reference to, or without reference to, any conditions prescribed for the purposes of this paragraph, and
 - (b) be subsequently varied by the Commissioners (whenever the conditions were imposed).

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- (4) Where a person who is entitled to be registered under paragraph 9 or 10 of Schedule 1 requests registration under this paragraph, the person is to be registered under that Schedule, and not under this Part of this Schedule.

Notification of matters affecting continuance of registration

- 42 (1) Any person registered under this Part of this Schedule who ceases to be registrable under this Act must notify the Commissioners of that fact within 30 days of the day on which the person ceases to be registrable.
- (2) A person registered under paragraph 41(2) must notify the Commissioners, within 30 days of the first occasion after the person's registration when the person makes a relevant acquisition, that the person has made that acquisition.
- (3) For the purposes of this paragraph a person ceases to be registrable under this Act where—
- (a) the person ceases to be a person who would be liable or entitled to be registered under this Act if the person's registration and any enactment preventing a person from being liable to be registered under different provisions at the same time were disregarded, or
 - (b) in the case of a person who (having been registered under paragraph 41(2)) has not been such a person during the period of the person's registration, the person ceases to have any intention of making relevant acquisitions.

Cancellation of registration

- 43 (1) Where a person registered under this Part of this Schedule satisfies the Commissioners that the person is not liable to be so registered, the Commissioners must, if the person so requests, cancel that registration with effect from the day on which the request is made or from such later date as may be agreed between the Commissioners and the person.
- (2) Where the Commissioners are satisfied that a person registered under this Part of this Schedule has ceased since the person's registration to be registrable under this Part of this Schedule, they may cancel that registration with effect from the day on which the person so ceased or from such later date as may be agreed between the Commissioners and the person.
- (3) Where the Commissioners are satisfied that a person who has been registered under paragraph 41(2) and is not for the time being liable to be registered under this Part of this Schedule—
- (a) has not begun, by the date specified in the person's request to be registered, to make relevant acquisitions, or
 - (b) has contravened any condition of the person's registration,
- the Commissioners may cancel the person's registration with effect from the date so specified or, as the case may be, the date of the contravention or from such later date as may be agreed between the Commissioners and the person.

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- (4) But the Commissioners may not, under sub-paragraph (1), (2) or (3), cancel a person's registration with effect from any time unless the Commissioners are satisfied that it is not a time when that person would be subject to a requirement, or in a case falling under sub-paragraph (2) or (3) a requirement or entitlement, to be registered under this Act.
- (5) Where the Commissioners are satisfied that, on the day on which a person was registered under this Part of this Schedule, the person—
- (a) was not registrable under this Part of this Schedule, and
 - (b) in the case of a person registered under paragraph 41(2), did not have the intention by reference to which the person was registered,
- the Commissioners may cancel that registration with effect from that day.
- (6) The registration of a person who—
- (a) is registered under paragraph 41, or
 - (b) would not, if the person were not registered, be liable or entitled to be registered under any provision of this Act except that paragraph,
- may not be cancelled with effect from any time before 1 January which is, or next follows, the second anniversary of the date on which the person's registration took effect.
- (7) But sub-paragraph (6) does not apply to cancellation under sub-paragraph (3) or (5).
- (8) In determining, for the purposes of sub-paragraphs (4) and (6), whether a person would be subject to a requirement, or would be entitled, to be registered at any time, so much of any provision of this Act as prevents a person from becoming liable or entitled to be registered when the person is already registered or when the person is so liable under any other provision is to be disregarded.
- (9) For the purposes of this paragraph, a person is registrable under this Part of this Schedule at any time when the person is liable to be registered under this Part of this Schedule or is a person who makes relevant acquisitions.

Exemption from registration

- 44 (1) Where a person who makes or intends to make relevant acquisitions satisfies the Commissioners that any such acquisition would be an acquisition in pursuance of a transaction which would be zero-rated if it were a taxable supply by a taxable person, the Commissioners may, if the person so requests and the Commissioners think fit, exempt the person from registration under this Part of this Schedule until it appears to the Commissioners that the request should no longer be acted upon or is withdrawn.
- (2) Where a person who is exempted under this paragraph from registration under this Part of this Schedule makes any relevant acquisition in pursuance of any transaction which would, if it were a taxable supply by

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a taxable person, be chargeable to VAT otherwise than as a zero-rated supply, the person must notify the Commissioners of the change within 30 days of the date the acquisition was made.

Power to vary specified sums by regulations

- 45 The Treasury may by regulations substitute for any of the sums for the time being specified in this Part of this Schedule such greater sums as the Treasury consider appropriate.

Notifications

- 46 Any notification required under this Part of this Schedule must be made in such form and manner and must contain such particulars as may be specified in regulations or by the Commissioners in accordance with regulations.

Meaning of relevant supply

- 47 For the purposes of this Part of this Schedule “relevant acquisition” means an acquisition that—
- (a) is a taxable acquisition (see paragraph 2(2)) of goods other than goods which are subject to a duty of excise or consist in a new means of transport, and
 - (b) is otherwise than in pursuance of a taxable supply and is treated, for the purposes of this Act, as taking place in Northern Ireland.

PART 9

REGISTRATION IN RESPECT OF DISTANCE SALES FROM THE EU TO NORTHERN IRELAND

Liability to be registered

- 48 (1) A person who—
- (a) is not registered under this Act, and
 - (b) is not liable to be registered under Schedule 1 or 1A,
- becomes liable to be registered under this Part of this Schedule on any day if, in the period beginning with 1 January of the year in which that day falls, that person has made relevant supplies whose value exceeds £70,000.
- (2) A person who is not registered or liable to be registered as mentioned in sub-paragraph (1)(a) and (b) becomes liable to be registered under this Part of this Schedule where—
- (a) the person has exercised any option, in accordance with the law of any member State where the person is taxable, for treating relevant supplies made by that person as taking place outside that member State,
 - (b) the supplies to which the option relates involve the removal of goods from that member State and, apart from the exercise of

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- the option, would be treated, in accordance with the law of that member State, as taking place in that member State, and
- (c) the person makes a relevant supply at a time when the option is in force in relation to that person.
- (3) A person who is not registered or liable to be registered as mentioned in sub-paragraph (1)(a) and (b) above becomes liable to be registered under this Part of this Schedule if the person makes a supply that—
- (a) is a supply of goods subject to a duty of excise,
 - (b) involves the removal of the goods to Northern Ireland by or under the directions of the person making the supply,
 - (c) is a transaction in pursuance of which the goods are acquired in Northern Ireland from a member State by a person who is not a taxable person,
 - (d) is made in the course or furtherance of a business carried on by the supplier, and
 - (e) is not anything which is treated as a supply for the purposes of this Act by virtue only of paragraph 5(1) of Schedule 4 or paragraph 30 of Schedule 9ZB.
- (4) A person is treated as having become liable to be registered under this Part of this Schedule at any time when the person would have become so liable under the preceding provisions of this paragraph but for any registration which is subsequently cancelled under paragraph 43(3) or 53(5) of this Schedule, paragraph 13(3) of Schedule 1, paragraph 11 of Schedule 1A, or paragraph 6(2) of Schedule 3A.
- (5) A person does not cease to be liable to be registered under this Part of this Schedule except in accordance with paragraph 49.
- (6) In determining for the purposes of this paragraph the value of any relevant supplies, so much of the consideration for any supply as represents any liability of the supplier, under the law of a member State, for VAT on that supply is to be disregarded.
- (7) For the purposes of sub-paragraphs (1) and (2), supplies to which section 18B(4) or paragraph 19(6) of Schedule 9ZB (last supply of goods before removal from fiscal warehousing) apply are to be disregarded.
- 49 (1) A person who has become liable to be registered under this Part of this Schedule ceases to be so liable if at any time—
- (a) the relevant supplies made by the person in the year ending with 31 December last before that time did not have a value exceeding £70,000 and did not include any supply in relation to which the conditions mentioned in paragraph 48(3) were satisfied, and
 - (b) the Commissioners are satisfied that the value of the person's relevant supplies in the year immediately following that year will not exceed £70,000 and that those supplies will not include a supply in relation to which those conditions are satisfied.
- (2) But a person does not cease to be liable to be registered under this Part of this Schedule at any time when such an option as is mentioned in paragraph 48(2) above is in force in relation to that person.

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Notification of liability and registration

- 50 (1) A person who becomes liable to be registered under this Part of this Schedule must notify the Commissioners of the liability within the period of 30 days after the day on which the liability arises.
- (2) The Commissioners must register any such person (whether or not the person has notified them) with effect from the day on which the liability arose or from such earlier time as may be agreed between the Commissioners and the person.

Request to be registered

- 51 (1) Where a person who is not liable to be registered under this Act and is not already so registered—
- (a) satisfies the Commissioners that the person intends—
- (i) to exercise an option such as is mentioned in paragraph 48(2) and, from a specified date, to make relevant supplies to which that option will relate,
- (ii) from a specified date to make relevant supplies to which any such option that the person has exercised will relate, or
- (iii) from a specified date to make supplies in relation to which the conditions mentioned in paragraph 48(3) will be satisfied, and
- (b) requests to be registered under this Part of this Schedule, the Commissioners may, subject to such conditions as they think fit to impose, register the person with effect from such date as may be agreed between the Commissioners and the person.
- (2) Conditions imposed under sub-paragraph (1) may—
- (a) be imposed wholly or partly by reference to, or without reference to, any conditions prescribed for the purposes of this paragraph, and
- (b) be subsequently varied by the Commissioners (whenever the conditions were imposed).
- (3) Where a person who is entitled to be registered under paragraph 9 or 10 of Schedule 1 requests registration under this paragraph, the person is to be registered under that Schedule, and not under this Part of this Schedule.

Notification of matters affecting continuance of registration

- 52 (1) Any person registered under this Part of this Schedule who ceases to be registrable under this Act must notify the Commissioners of that fact within 30 days of the day on which the person ceases to be registrable.
- (2) A person registered under paragraph 51 by reference to any intention to exercise any option or to make supplies of any description must notify the Commissioners within 30 days of exercising that option or, as the case may be, of the first occasion after registration when the person

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makes such a supply, that the person has exercised the option or made such a supply.

- (3) A person who has exercised an option mentioned in paragraph 48(2) which, as a consequence of the option's revocation or otherwise, ceases to have effect in relation to any relevant supplies by the person must notify the Commissioners, within 30 days of the option's ceasing so to have effect, that it has done so.
- (4) For the purposes of this paragraph, a person ceases to be registrable under this Act where—
- (a) the person ceases to be a person who would be liable or entitled to be registered under this Act if the person's registration and any enactment preventing a person from being liable to be registered under different provisions at the same time were disregarded, or
 - (b) in the case of a person who (having been registered under paragraph 51) has not been such a person during the period of the person's registration, the person ceases to have any such intention as is mentioned in sub-paragraph (1)(a) of that paragraph.

Cancellation of registration

- 53 (1) Where a person registered under this Part of this Schedule satisfies the Commissioners that the person is not liable to be so registered, the Commissioners must, if the person so requests, cancel that registration with effect from the day on which the request is made or from such later date as may be agreed between the Commissioners and the person.
- (2) Where the Commissioners are satisfied that a person who has been registered under paragraph 51 and is not for the time being liable to be registered under this Part of this Schedule—
- (a) has not, by the date specified in the person's request to be registered, begun to make relevant supplies, exercised the option in question or, as the case may be, begun to make supplies in relation to which the conditions mentioned in paragraph 48(3) are satisfied, or
 - (b) has contravened any condition of the person's registration,
- the Commissioners may cancel the person's registration with effect from the date so specified or, as the case may be, the date of the contravention or from such later date as may be agreed between the Commissioners and the person.
- (3) But the Commissioners may not, under sub-paragraph (1) or (2), cancel a person's registration with effect from any time unless the Commissioners are satisfied that it is not a time when that person would be subject to a requirement, or in a case falling under sub-paragraph (2) a requirement or entitlement, to be registered under this Act.
- (4) In determining for the purposes of sub-paragraph (3) whether a person would be subject to a requirement, or would be entitled, to be registered at any time, so much of any provision of this Act as prevents a person from becoming liable or entitled to be registered when the person is

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already registered or when the person is so liable under any other provision is to be disregarded.

(5) Where the Commissioners are satisfied that, on the day on which a person was registered under this Part of this Schedule, the person—

- (a) was not liable to be registered under this Part of this Schedule, and
- (b) in the case of a person registered under paragraph 51, did not have the intention by reference to which the person was registered,

the Commissioners may cancel that registration with effect from that day.

(6) The registration of a person who has exercised an option mentioned in paragraph 48(2) may not be cancelled with effect from any time before the 1 January which is, or next follows, the second anniversary of the date on which the person's registration took effect.

Power to vary specified sums by regulations

54 The Treasury may by regulations substitute for any of the sums for the time being specified in this Part of this Schedule such greater sums as the Treasury consider appropriate.

Notifications

55 Any notification required under this Part of this Schedule must be made in such form and manner and must contain such particulars as may be specified in regulations or by the Commissioners in accordance with regulations.

Meaning of relevant supply

56 For the purposes of this Part of this Schedule “relevant supply” means a supply of goods that—

- (a) involves the removal of the goods to Northern Ireland from a place outside the United Kingdom by or under the directions of the person making the supply,
- (b) does not involve the installation or assembly of the goods at a place in Northern Ireland,
- (c) is a transaction in pursuance of which goods are acquired in Northern Ireland from a member State by a person who is not a taxable person,
- (d) is made in the course or furtherance of a business carried on by the supplier, and
- (e) is neither an exempt supply nor a supply of goods which are subject to a duty of excise or consist in a new means of transport and is not anything which is treated as a supply for the purposes of this Act by virtue only of paragraph 5(1) of Schedule 4 or paragraph 30 of Schedule 9ZB.

PART 10

CALL-OFF STOCK ARRANGEMENTS

Where this Part of this Schedule applies

- 57 (1) This Part of this Schedule applies where—
- (a) goods forming part of the assets of any business are removed —
 - (i) from Northern Ireland for the purpose of being taken to a place in a member State, or
 - (ii) from a member State for the purpose of being taken to a place in Northern Ireland,
 - (b) the goods are removed in the course or furtherance of that business by or under the directions of the person carrying on that business (“the supplier”),
 - (c) the goods are removed with a view to their being supplied in the destination territory, at a later stage and after their arrival there, to another person (“the customer”),
 - (d) at the time of the removal the customer is entitled to take ownership of the goods in accordance with an agreement existing between the customer and the supplier,
 - (e) at the time of the removal the supplier does not have a business establishment or other fixed establishment in the destination territory,
 - (f) at the time of the removal the customer is identified for the purposes of VAT in accordance with the law of the destination territory and both the identity of the customer and the number assigned to the customer for the purposes of VAT by the destination territory are known to the supplier,
 - (g) as soon as reasonably practicable after the removal the supplier records the removal in the register provided for in Article 243(3) of [Council Directive 2006/112/EC](#) of 28 November 2006 on the common system of value added tax, and
 - (h) the supplier includes the number mentioned in paragraph (f) in the recapitulative statement provided for in Article 262(2) of [Council Directive 2006/112/EC](#).
- (2) For the purposes of this Part of this Schedule, where the destination territory is Northern Ireland, a customer is identified for the purposes of VAT in accordance with the law of the destination territory if the customer is registered under this Act and is identified for the purposes of VAT in Northern Ireland.
- (3) In this Part of this Schedule—
- “the destination territory” means—
- (a) in a case within paragraph (i) of sub-paragraph (1)(a), the member State concerned, and
 - (b) in a case within paragraph (ii) of sub-paragraph (1)(a), Northern Ireland, and

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“the origin territory” means—

- (a) in a case within paragraph (i) of sub-paragraph (1)(a), Northern Ireland, and
- (b) in a case within paragraph (ii) of sub-paragraph (1)(a), the member State concerned.

Removal of the goods not to be treated as a supply

- 58 The removal of the goods from the origin territory is not to be treated by reason of paragraph 30 of Schedule 9ZB as a supply of goods by the supplier.

Goods transferred to the customer within 12 months of arrival

- 59 (1) The rules in sub-paragraph (2) apply if—
- (a) during the period of 12 months beginning with the day the goods arrive in the destination territory the supplier transfers the whole property in the goods to the customer, and
 - (b) during the period beginning with the day the goods arrive in the destination territory and ending immediately before the time of that transfer no relevant event occurs.
- (2) The rules are that—
- (a) a supply of the goods in the relevant territory is deemed to be made by the supplier,
 - (b) the deemed supply is deemed to involve the removal of the goods from the origin territory at the time of the transfer mentioned in sub-paragraph (1),
 - (c) the consideration given by the customer for the transfer mentioned in sub-paragraph (1) is deemed to have been given for the deemed supply, and
 - (d) an acquisition of the goods by the customer in pursuance of the deemed supply is deemed to take place in the destination territory.
- (3) In sub-paragraph (2) and in paragraphs 60(2) and 61(2) “the relevant territory” means—
- (a) where the origin territory is Northern Ireland, the United Kingdom, or
 - (b) where the origin territory is a member State, that member State.
- (4) For the meaning of a “relevant event”, see paragraph 63.

Relevant event occurs within 12 months of arrival

- 60 (1) The rules in sub-paragraph (2) apply (subject to paragraph 62) if—
- (a) during the period of 12 months beginning with the day the goods arrive in the destination territory a relevant event occurs, and
 - (b) during the period beginning with the day the goods arrive in the destination territory and ending immediately before the time that relevant event occurs the supplier does not transfer the whole property in the goods to the customer.

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(2) The rules are that—

- (a) a supply of the goods in the relevant territory (see paragraph 59(3)) is deemed to be made by the supplier,
- (b) the deemed supply is deemed to involve the removal of the goods from the origin territory at the time the relevant event occurs, and
- (c) an acquisition of the goods by the supplier in pursuance of the deemed supply is deemed to take place in the destination territory.

(3) For the meaning of a “relevant event”, see paragraph 63.

Goods not transferred and no relevant event occurs within 12 months of arrival

61 (1) The rules in sub-paragraph (2) apply (subject to paragraph 62) if during the period of 12 months beginning with the day the goods arrive in the destination territory the supplier does not transfer the whole property in the goods to the customer and no relevant event occurs.

(2) The rules are that—

- (a) a supply of the goods in the relevant territory (see paragraph 59(3)) is deemed to be made by the supplier,
- (b) the deemed supply is deemed to involve the removal of the goods from the origin territory at the beginning of the day following the expiry of the period of 12 months mentioned in sub-paragraph (1), and
- (c) an acquisition of the goods by the supplier in pursuance of the deemed supply is deemed to take place in the destination territory.

(3) For the meaning of a “relevant event”, see paragraph 63.

Exception to paragraphs 60 and 61: goods returned to origin territory

62 The rules in paragraphs 60(2) and 61(2) do not apply if during the period of 12 months beginning with the day the goods arrive in the destination territory—

- (a) the goods are returned to the origin territory by or under the direction of the supplier, and
- (b) the supplier records the return of the goods in the register provided for in Article 243(3) of [Council Directive 2006/112/EC](#).

Meaning of “relevant event”

63 (1) For the purposes of this Part of this Schedule each of the following events is a relevant event—

- (a) the supplier forms an intention not to supply the goods to the customer (but see sub-paragraph (2)),

- (b) the supplier forms an intention to supply the goods to the customer otherwise than in the destination territory,
 - (c) the supplier establishes a business establishment or other fixed establishment in the destination territory,
 - (d) the customer ceases to be identified for the purposes of VAT in accordance with the law of the destination territory,
 - (e) the goods are removed from the destination territory by or under the directions of the supplier otherwise than for the purpose of being returned to the origin territory, or
 - (f) the goods are destroyed, lost or stolen.
- (2) But the event mentioned in paragraph (a) of sub-paragraph (1) is not a relevant event for the purposes of this Part of this Schedule if—
- (a) at the time that the event occurs the supplier forms an intention to supply the goods to another person (“the substitute customer”),
 - (b) at that time the substitute customer is identified for the purposes of VAT in accordance with the law of the destination territory,
 - (c) the supplier includes the number assigned to the substitute customer for the purposes of VAT by the destination territory in the recapitulative statement provided for in Article 262(2) of [Council Directive 2006/112/EC](#), and
 - (d) as soon as reasonably practicable after forming the intention to supply the goods to the substitute customer the supplier records that intention in the register provided for in Article 243(3) of [Council Directive 2006/112/EC](#).
- (3) Where the destination territory is Northern Ireland, the reference in sub-paragraph (2)(c) to the number assigned to the substitute customer for the purposes of VAT is to the number assigned to the substitute customer for the purposes of VAT in the United Kingdom along with an NI VAT identifier.
- (4) In a case where sub-paragraph (2) applies, references in this Part of this Schedule to the customer are to be then read as references to the substitute customer.
- (5) In a case where the goods are destroyed, lost or stolen but it is not possible to determine the date on which that occurred, the goods are to be treated for the purposes of this Part of this Schedule as having been destroyed, lost or stolen on the date on which they were found to be destroyed or missing.

Record keeping by the supplier

- 64 In a case where the origin territory is Northern Ireland, any record made by the supplier in pursuance of paragraph [57\(1\)\(g\)](#), [62\(b\)](#) or [63\(2\)\(d\)](#) must be preserved for such period not exceeding 6 years as the Commissioners may specify in writing.

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Record keeping by the customer

- 65 (1) In a case where the destination territory is Northern Ireland, the customer must as soon as is reasonably practicable make a record of the information relating to the goods that is specified in Article 54A(2) of [Council Implementing Regulation \(EU\) No. 282/2011](#) of 15 March 2011 laying down implementing measures for [Directive 2006/112/EC](#) on the common system of value added tax.
- (2) A record made under this paragraph must—
- (a) be made in a register kept by the customer for the purposes of this paragraph, and
 - (b) be preserved for such period not exceeding 6 years as the Commissioners may specify in writing.

PART 11

MODIFICATION OF OTHER SCHEDULES

Registration in respect of taxable supplies: UK establishment (Schedule 1)

- 66 (1) Paragraph 1 of Schedule 1 (registration in respect of taxable supplies: UK establishment) has effect as if—
- (a) the provisions mentioned in sub-paragraphs (4)(a) and (5) included paragraphs [43\(5\)](#) and [53\(5\)](#) of this Schedule (cancellation of registration);
 - (b) in sub-paragraph (7), after “are supplied” there were inserted “and any taxable supplies which would not be taxable supplies apart from paragraph [29\(1\)](#) of Schedule 9ZB”;
 - (c) in sub-paragraph (9)—
 - (i) after “section 18B(4)” there were inserted “or paragraph [19\(5\)](#) of Schedule 9ZB”;
 - (ii) after “supply” there were inserted “or acquisition”.
- (2) Paragraph 2 of that Schedule has effect as if in sub-paragraph (7), after paragraph (b) there were inserted—
- “(c) any acquisition of goods from a member State by one of the constituent members in the course of the activities of the taxable person is to be treated as an acquisition by that person;”.
- (3) Paragraph 4(3) of that Schedule has effect as if after “are supplied” there were inserted “and any taxable supplies which would not be taxable supplies apart from paragraph [29\(1\)](#) of Schedule 9ZB”.

Registration in respect of taxable supplies: non-UK establishment (Schedule 1A)

- 67 Paragraph 3 of Schedule 1A (registration in respect of taxable supplies: non-UK establishment) has effect as if the provisions mentioned in

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paragraphs (a) to (e) of that paragraph included paragraphs 43(5) and 53(5) of this Schedule.

Registration: disposals of assets where repayment is claimed (Schedule 3A)

- 68 Paragraph 1 of Schedule 3A (registration in respect of disposals of assets for which a VAT repayment is claimed) has effect as if—
- (a) in sub-paragraph (1), after “or 1A” there were inserted “or Part 8 or 9 of Schedule 9ZA”, and
 - (b) the provisions mentioned in sub-paragraph (2) included paragraphs 43(5) and 53(5) of this Schedule.

Valuation of supplies: special cases (Schedule 6)

- 69 (1) Paragraph 1A of Schedule 6 (valuation: special cases) has effect as if—
- (a) in sub-paragraph (4), in the definition of “motor dealer”, after “supplies of” there were inserted “, or acquiring in Northern Ireland from a member State”;
 - (b) in that sub-paragraph, in the definition of “stock in trade”—
 - (i) in paragraph (a) of that definition, after “supplied to” there were inserted “or acquired in Northern Ireland from a member State by”;
 - (ii) in paragraph (b) of that definition, after “supply” there were inserted “, acquisition”;
 - (c) in sub-paragraph (6)(a)—
 - (i) after “supplied” there were inserted “, acquired in Northern Ireland from a member State”;
 - (ii) after “supply” there were inserted “, acquisition”.
- (2) In paragraph 6(1) of that Schedule—
- (a) in paragraph (b), after “Schedule 4” there were inserted “or paragraph 30 of Schedule 9ZB”;
 - (b) in paragraph (c), for “that Schedule;” there were substituted “Schedule 4; or”;
 - (c) after that paragraph there were inserted—
 - “(d) paragraph 60(2)(a) or 61(2)(a) of Schedule 9ZA,”.

Zero-rating (Schedule 8)

- 70 Group 12 in Part 2 of Schedule 8 (zero-rating: drugs etc) has effect as if—
- (a) in Note (1), after “goods are” there were inserted “acquired from a member State”;
 - (b) in Note (5N), in paragraph (b), after “made a” there were inserted “reckonable zero-rated acquisition, or”;
 - (c) in Note (5O), in paragraph (b), after “zero-rated” there were inserted “acquisition or”;
 - (d) in Note (5T), after the definition of “in the required form” there were inserted—

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““reckonable zero-rated acquisition”, in relation to a motor vehicle, means an acquisition of the vehicle from a member State in a case where NI acquisition VAT is not chargeable as a result of item 2(f) or 2A.”

Exempt supplies (Schedule 9)

- 71 Group 14 in Part 2 of Schedule 9 (exemptions: supplies of goods where input tax cannot be recovered) has effect as if—
- (a) in paragraph (a) of item 1, after “supply to” there were inserted “or acquisition”;
 - (b) in Note (7)(a), after “supply to” there were inserted “or acquisition”;
 - (c) in Note (9)—
 - (i) in the words before paragraph (a), after “supply to” there were inserted “or acquisition”;
 - (ii) in paragraph (b), after “supply to” there were inserted “or acquisition”;
 - (d) in Note (10)—
 - (i) after “on a supply” there were inserted “, acquisition”;
 - (ii) after “that supply”, there were inserted “, acquisition”;
 - (e) in Note (15)—
 - (i) after “anything the supply” there were inserted “, acquisition”;
 - (ii) after “be a supply” there were inserted “, acquisition”.

Avoidance (Schedules 9A and 11A)

- 72 (1) Paragraph 1(5) of Schedule 9A (anti-avoidance provisions: groups) has effect as if, in paragraph (a), after “importation” there were inserted “or acquisition”.
- (2) Schedule 11A (disclosure of avoidance schemes) has effect as if the reference to VAT “incurred” by a taxable person in paragraph 2A(1)(b) included VAT on the acquisition by the person of any goods from a member State.

Accounting for VAT and payment of VAT (Schedule 11)

- 73 (1) Regulations under this paragraph may require the submission to the Commissioners by taxable persons, at such times and intervals, in such cases and in such form and manner as may be—
- (a) specified in the regulations, or
 - (b) specified by the Commissioners in accordance with the regulations,
- of statements containing such particulars of transactions in which the taxable persons are concerned and to which this sub-paragraph applies, and of the persons concerned in those transactions, as may be so specified.

- (2) Sub-paragraph (1) applies to transactions involving the movement of goods between a member State and Northern Ireland, or between member States.
- (3) Sections 65 and 66 (inaccuracies in, or and failure to submit, section 55A statements) apply to any statement which is required to be submitted to the Commissioners in accordance with regulations under sub-paragraph (1) as they apply to a section 55A statement.
- (4) Regulations under this paragraph may make provision in relation to cases where—
 - (a) any goods which are subject to a duty of excise or consist in a new means of transport are acquired in Northern Ireland from a member State by any person,
 - (b) the acquisition of the goods is a taxable acquisition and is not in pursuance of a taxable supply, and
 - (c) that person is not a taxable person at the time of the acquisition, for requiring the person who acquires the goods to give to the Commissioners such notification of the acquisition, and for requiring any VAT on the acquisition to be paid, at such time and in such form or manner as may be specified in the regulations or (in the case of the notification requirement) by the Commissioners in accordance with the regulations.
- (5) Regulations under this paragraph may provide for a notification required by virtue of sub-paragraph (4)—
 - (a) to contain such particulars relating to the notified acquisition and any VAT chargeable in relation to it as may be specified in the regulations or by the Commissioners in accordance with the regulations, and
 - (b) to be given, in prescribed cases, by the personal representative, trustee in bankruptcy, trustee in sequestration, receiver, liquidator or person otherwise acting in a representative capacity in relation to the person who makes that acquisition.
- (6) Regulations under this paragraph may provide for—
 - (a) the time when any invoice described in regulations under paragraph 4(1)(b) of this Schedule or paragraph 28(2)(b) of Schedule 9ZB is to be treated as having been issued;
 - (b) VAT accounted for and paid by reference to the date of issue of such an invoice to be confined to VAT on so much of the value of the supply or acquisition as is shown on the invoice.
- (7) Sub-paragraphs (1) to (4), (5) and (6) are to be treated, for the purposes of this Act, as if they were contained in paragraph 2 of Schedule 11.

Administration, collection and enforcement (Schedule 11)

- 74 (1) Paragraph 2 of Schedule 11 has effect as if—
- (a) in sub-paragraph (5A)(b), after “transport” there were inserted “acquired from a member State, or”;

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- (b) in sub-paragraph (5B)(a), after “chargeable on its” there were inserted “acquisition or”;
 - (c) in sub-paragraph (5D) in the definition of “relevant person”—
 - (i) before paragraph (b) there were inserted—
 - “(a) where the means of transport has been acquired in Northern Ireland from a member State, the person who so acquires it,”;
 - (ii) after paragraph (b) there were inserted—
 - “(c) in any other case—
 - (i) the owner of the means of transport at the time of its arrival in the United Kingdom, or
 - (ii) where it is subject to a lease or hire agreement, the lessee or hirer of the means of transport at that time.”
- (2) Paragraph 2(8) of Schedule 11 applies to NI acquisition VAT in respect of an acquisition by any person from a member State of dutiable goods as it applies to VAT in respect of any supply by a taxable person of dutiable goods.
- (3) Invoices described in regulations under paragraph 4(2)(b) of this Schedule or paragraph 28(2)(b) of Schedule 9ZB are items to which paragraph 3 of Schedule 11 applies (in addition to the items described in paragraph 3(2)(a) and (b) of that Schedule).
- (4) Paragraph 6 of Schedule 11 has effect as if—
- (a) after sub-paragraph (1) there were inserted—
 - “(1A) Every person who, at a time when the person is not a taxable person, acquires in Northern Ireland from a member State any goods which are subject to a duty of excise or consist in a new means of transport must keep such records with respect to the acquisition (if it is a taxable acquisition and is not in pursuance of a taxable supply) as the Commissioners may by regulations require.”;
 - (a) in sub-paragraph (2), after “sub-paragraph (1)” there were inserted “or (1A)”.
- (5) Paragraph 8(1) of Schedule 11 applies—
- (a) to goods in the possession of a person who acquires goods in Northern Ireland from a member State as it applies to goods in the possession of a person who supplies goods, and
 - (b) to goods in the possession of a Northern Ireland fiscal warehousekeeper as it applies to goods in the possession of a fiscal warehousekeeper.
- (6) Paragraph 14(1) has effect as if in paragraph (c), after “paragraph 5A” there were inserted “or paragraph 73(1) or (4) of Schedule 9ZA”.

PART 12

MODIFICATION OF OTHER ACTS

Diplomatic privileges etc

- 75 (1) The following provisions apply to NI acquisition VAT as they apply to value added tax charged in accordance with section 1(1)(c) of this Act—
- (a) section 2(5A) of the Diplomatic Privileges Act 1964 (application of Vienna Convention);
 - (b) paragraph 10(1A) of the Schedule to the Commonwealth Secretariat Act 1966 (immunities and privileges);
 - (c) section 1(8A) of the Consular Relations Act 1968 (application of Vienna Convention);
 - (d) paragraph 19(c) of Schedule 1 to the International Organisations Act 1968 (privileges and immunities);
 - (e) section 1(5) of the Diplomatic and other Privileges Act 1971 (refund of customs duties on hydrocarbon oil used for diplomatic or Commonwealth Secretariat purposes).
- (2) Section 8 of the Consular Relations Act 1968 applies to VAT charged on the acquisition of oil in Northern Ireland from a member State as it applies to VAT charged on the importation of oil.

Customs and Excise Duties (General Reliefs) Act 1979

- 76 Section 13 of the Customs and Excise Duties (General Reliefs) Act 1979 (power to provide reliefs for VAT etc) has effect as if, in subsection (4), in the definition of “value added tax” after “goods” there were inserted “or on the acquisition of goods from a member State”.

Vehicle Excise and Registration Act 1994

- 77 Section 8 of the Vehicle Excise and Registration Act 1994 (vehicles removed into UK) has effect as if, in subsection (2)—
- (a) in paragraph (a), after “United Kingdom” there were inserted “, or on the acquisition of the vehicle from a member State,”;
 - (b) in paragraph (c), after “charged on the” there were inserted “acquisition or”.

Finance Act 2008

- 78 (1) Paragraph 11 of Schedule 36 to the Finance Act 2008 (information and inspection powers) has effect as if—
- (a) in sub-paragraph (1), after paragraph (a) there were inserted—
 - “(b) premises are used in connection with the acquisition of goods from member States under taxable acquisitions and goods to be so acquired or documents relating to such goods are on those premises,”;

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- (b) in sub-paragraph (2), in paragraph (c), after “taxable supplies” there were inserted “, the acquisition of goods from member States under taxable acquisitions”.
- (2) Paragraph 34 of that Schedule has effect as if—
 - (a) in sub-paragraph (1), after paragraph (a) there were inserted—
 - “(b) the acquisition of goods from a member State,”;
 - (b) in sub-paragraph (4), after “Schedule 4” there were inserted “and paragraph 3 of Schedule 9ZA”.
- (3) Paragraph 1 of Schedule 41 to that Act has effect as if in the table there were inserted the following entries—

“Value added tax	Obligations under paragraphs 40 and 44(2) of Schedule 9ZA to VATA 1994 (obligations to notify liability to register and notify acquisition affecting exemption from registration).
Value added tax	Obligation under paragraph 50 of Schedule 9ZA to VATA 1994 (obligation to notify liability to register).
Value added tax	Obligation under regulations under paragraph 73(4) of Schedule 9ZA to VATA 1994 (obligation to give notification of acquisition of goods from a member State).”

- (4) For the purposes of paragraph 7 of that Schedule—
 - (a) in a case of a failure to comply with an obligation under regulations under paragraph 73(4) of this Schedule, the “potential lost revenue” is the value added tax on the acquisition to which the failure relates (instead of as provided for by paragraph 7(6) of that Schedule), and
 - (b) the “relevant period” in relation to a failure to comply with paragraph 44(2) of this Schedule is the period beginning on the date of the change or alteration concerned and ending on the date on which HMRC received notification of, or otherwise became fully aware of, that change or alteration.
- (5) In a case to which sub-paragraph (6) of paragraph 7 of that Schedule applies (whether as a result of sub-paragraph (3) of this paragraph or otherwise), the amount of the “potential lost revenue” as determined in accordance with that sub-paragraph is—
 - (a) if the amount of the tax mentioned in that sub-paragraph includes tax on an acquisition of goods from a member State, to be reduced by the amount of any VAT which HMRC are satisfied has been paid on the supply in pursuance of which the goods were acquired under the law of that member State, and
 - (b) if the amount of that tax includes tax chargeable as a result of paragraph 29 of Schedule 9ZB on a supply, to be reduced by the

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amount of any VAT which HMRC are satisfied has been paid on that supply under the law of a member State.

Finance Act 2016

- 79 Schedule 18 to the Finance Act 2016 (serial tax avoidance) has effect as if—
- (a) in paragraph 5(4), after paragraph (a) there were inserted—
 - “(b) VAT on the acquisition by the person of any goods from a member State,”;
 - (b) the references to VAT “incurred” by a taxable person in paragraphs 6(1)(b) and 36(7)(b) included VAT on the acquisition by the person of any goods from a member State.

Finance (No. 2) Act 2017

- 80 Schedule 17 to the Finance (No. 2) Act 2017 (disclosure of tax avoidance schemes: VAT and other indirect taxes) has effect as if—
- (a) the reference in paragraph 6(2)(b) to VAT “incurred” by a taxable person included VAT on the acquisition by the person of any goods from a member State;
 - (b) in paragraph 6(5), after paragraph (a) there were inserted—
 - “(b) VAT on the acquisition by the person of any goods from a member State,”.

PART 13

INTERPRETIVE PROVISIONS

Taxation under the laws of member States etc

- 81 (1) References in this Act, in relation to a member State, to the law of that member State are to be construed as confined to so much of the law of that member State as for the time being has effect for the purposes of any EU instrument relating to VAT.
- (2) References in this Act to a person being taxable in a member State are references to that person being taxable under so much of the law of that member State as makes provision for purposes corresponding, in relation to that member State, to the purposes of so much of this Act as makes provision as to whether a person is a taxable person.
- (3) The Commissioners may by regulations make provision for the manner in which any of the following are to be or may be proved for any of the purposes of this Act—
- (a) the effect of any provisions of the law of any member State;
 - (b) that provisions of any such law correspond, in relation to any member State, to any provision of this Act;
 - (c) that provisions of any such law have a purpose corresponding, in relation to any member State, to the purpose of any provision of this Act.

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- (4) The Commissioners may by regulations provide—
- (a) for a person to be treated for prescribed purposes of this Act as taxable in a member State only where the person has given such notification, and furnished such other information, to the Commissioners as may be prescribed;
 - (b) for the form and manner in which any notification or information is to be given or furnished under the regulations and what the notification or information must contain;
 - (c) for the proportion of any consideration for any transaction which is to be taken for the purposes of this Act as representing a liability, under the law of a member State, for VAT to be conclusively determined by reference to such invoices or in such other manner as may be prescribed.
- (5) In any proceedings (whether civil or criminal), a certificate of the Commissioners—
- (a) that a person was or was not, at any date, taxable in a member State, or
 - (b) that any VAT payable under the law of a member State has or has not been paid,
- is sufficient evidence of that fact until the contrary is proved, and any document purporting to be a certificate under this subsection is deemed to be such a certificate until the contrary is proved.

Territories included in references to member States etc

- 82 (1) The Commissioners may by regulations provide for the territory of the European Union, or for the member States, to be treated for any of the purposes of this Act as including or excluding such territories as may be prescribed.
- (2) Without prejudice to the generality of the powers conferred by sub-paragraph (1) and section 16, the Commissioners may, for any of the purposes of this Act, by regulations provide for prescribed provisions of any customs and excise legislation to apply in relation to cases where any territory is treated under sub-paragraph (1) as excluded from the territory of the European Union, with such exceptions and adaptations as may be prescribed.
- (3) In sub-paragraph (2) the reference to customs and excise legislation is a reference to any provision (whenever passed, made or adopted) which has effect in relation to, or to any assigned matter connected with, the importation or exportation of goods or movements of goods between Northern Ireland and Great Britain.
- (4) In sub-paragraph (3) “assigned matter” has the same meaning as in the Management Act.

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Meaning of “new means of transport”

- 83 (1) In this Act “means of transport” in the expression “new means of transport” means any of the following if they are intended for the transport of persons or goods—
- (a) any ship exceeding 7.5 metres in length;
 - (b) any aircraft the take-off weight of which exceeds 1550 kilograms;
 - (c) any motorized 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.
- (2) For the purposes of this Schedule a means of transport is to be treated as new, in relation to any supply or any acquisition from a member State, at any time unless at that time—
- (a) the period that has elapsed since its first entry into service is—
 - (i) in the case of a ship or aircraft, a period of more than 3 months, and
 - (ii) in the case of a land vehicle, a period of more than 6 months, and
 - (b) it has, since its first entry into service, travelled under its own power—
 - (i) in the case of a ship, for more than 100 hours,
 - (ii) in the case of an aircraft, for more than 40 hours, and
 - (iii) in the case of a land vehicle, for more than 6000 kilometres.
- (3) The Treasury may by order vary this paragraph—
- (a) 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 in sub-paragraph (1);
 - (b) by altering, omitting or adding to the provisions of sub-paragraph (2) for determining whether a means of transport is new.
- (4) The Commissioners may by regulations make provision specifying the circumstances in which a means of transport is to be treated for the purposes of this paragraph as having first entered into service.

VAT charged in a member State

- 84 Where the context requires it, references in this Schedule to VAT means value added tax charged in accordance with the law of a member State (instead of in accordance with this Act).

**SCHEDULE
9ZB**

Section 40A(2)

GOODS REMOVED TO OR FROM NORTHERN IRELAND AND SUPPLY RULES

PART 1

IMPORTATIONS

Importations

- 1 (1) The importation of Union goods into the United Kingdom as a result of their entry into Northern Ireland is not an importation for the purposes of value added tax.
- (2) Accordingly, no charge to VAT occurs on the importation of Union goods into the United Kingdom as a result of their entry into Northern Ireland (but see paragraph 1 of Schedule 9ZA, which imposes a charge to VAT on the acquisition of goods in Northern Ireland from a member State).
- (3) VAT on the importation of any other goods imported into the United Kingdom as a result of their entry into Northern Ireland is to be charged and payable as if it were relevant NI import duty (instead of as provided under section 1(4)).
- (4) Sub-paragraph (3) is to be taken as applying, in relation to any VAT chargeable on the importation of such goods—
 - (a) any provision of Union customs legislation that is relevant to the charging of relevant NI import duty, and
 - (b) any provision made by or under Part 1 of TCTA 2018 that is relevant to the charging of that duty.
- (5) Section 15 (meaning of “importation of goods” into the United Kingdom) applies to the importation of such goods as if—
 - (a) any reference to import duty were to relevant NI import duty;
 - (b) the references in subsections (2) and (3) to a Customs, storage, transit or inward processing procedure were to a procedure corresponding to such a procedure under Union customs legislation, and
 - (c) the reference in subsection (3)(b) to section 5(1) of, or paragraph 1(5) or 3(4) of Schedule 1 to, that Act included any provision (including any provision of Union customs legislation) corresponding to those provisions that may apply to those goods.
- (6) In section 16 (application of customs enactments)—
 - (a) subsection (1) applies to the importation of such goods as if the reference to “other enactments for the time being having effect generally in relation to duties of customs and excise charged by

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reference to the importation of goods into the United Kingdom” included any provision of Union customs legislation that applies in relation to relevant NI import duty, and

- (b) subsections (3) and (4) apply to sub-paragraph (4) of this paragraph as they apply to subsection (2) of that section.

(7) The Commissioners may by regulations—

- (a) supplement or modify any provision made by provision that applies to value added tax made by or under any enactment (including provision made by or under this Act or TCTA 2018) so far as it applies to VAT charged on the importation of goods into the United Kingdom as a result of their entry into Northern Ireland;
- (b) supplement or modify any provision of Union customs legislation so far as it applies to VAT charged on such an importation.

(8) In this Schedule—

“relevant NI import duty” means duty charged under section 30A(3) of TCTA 2018 (importation of goods: Northern Ireland), and in relation to goods of a description specified in regulations under section 30B(1) of that Act, means that duty as it would be charged if that description were not specified;

“Union customs legislation” means provisions contained in “customs legislation” within the meaning of [Regulation \(EU\) No 952/2013](#) of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (see Article 5(2) of that Regulation), so far as they apply by virtue of section 7A of the European Union (Withdrawal) Act 2018);

“Union goods” has the meaning it has in that Regulation.

Valuation of imports

- 2 (1) For the purposes of this Act, the value of goods imported into the United Kingdom as a result of their entry into Northern Ireland is their value as if determined for the purposes of relevant NI import duty, whether or not the goods are subject to that duty.
- (2) Accordingly, section 21(1) (value of imported goods) does not apply in relation to such goods.
- (3) Subsections (2) to (7) of section 21 apply in relation to such goods (and sub-paragraph (1) is subject to those subsections) as if—
 - (a) the reference in subsection (2) to the rules mentioned in subsection (1) of that section were to the rules mentioned in sub-paragraph (1);
 - (b) in subsection (2)(c), after “United Kingdom” there were inserted “or a member State”;
 - (c) the reference in subsection (2A) to the temporary admission procedure under Part 1 of TCTA 2018 were to the procedure that corresponds to that procedure under Union customs legislation.

PART 2

MOVEMENTS BETWEEN NORTHERN IRELAND AND GREAT BRITAIN

Movements between Northern Ireland and Great Britain

- 3 (1) A supply of goods that involves the removal of goods from Northern Ireland to Great Britain or vice versa is zero-rated (see section 30(1)) if such other conditions, if any, as may be specified in regulations or imposed by the Commissioners are fulfilled.
- (2) Where goods are removed from Northern Ireland to Great Britain, VAT is charged on the entry of those goods into Great Britain as if those goods had been imported into the United Kingdom.
- (3) Accordingly, any provision made by or under any enactment—
- (a) that is relevant to the charging of VAT on the importation of goods applies in relation to VAT charged as a result of sub-paragraph (2);
 - (b) that applies to an importation of goods for the purpose of value added tax applies to such a removal (and references in any such provision to imported goods are to be read as including goods that have been so removed).
- (4) Where goods are removed from Great Britain to Northern Ireland, VAT is charged on the entry of those goods into Northern Ireland as if those goods had been imported into the United Kingdom as a result of their entry (from a place outside the United Kingdom) into Northern Ireland.
- (5) Accordingly, any provision made by or under any enactment—
- (a) that is relevant to the charging of VAT on the importation of goods applies (as modified by or under Part 1 of this Schedule) in relation to VAT charged as a result of sub-paragraph (4);
 - (b) that applies to an importation of goods for the purposes of VAT applies (as modified by or under that Part) to such a removal (and references in this Act to imported goods are to be read as including goods that have been so removed).
- (6) Sub-paragraphs (3) and (5)—
- (a) do not apply so far as the context otherwise requires, and
 - (b) are subject to the other provisions of this Part of this Schedule.
- (7) The Treasury may by regulations—
- (a) supplement or modify any provision that applies to value added tax made by or under any enactment (including provision made by or under this Act or TCTA 2018) so far as it applies to VAT charged as a result of sub-paragraph (2) or (4);
 - (b) supplement or modify any provision of Union customs legislation so far as it applies to VAT charged as a result of sub-paragraph (4).

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Liability for VAT on movements between Great Britain and Northern Ireland

- 4 (1) This paragraph applies to a removal of goods from Northern Ireland to Great Britain or vice versa, instead of section 15 (general provision relating to imported goods).
- (2) Goods are treated as imported—
- (a) in the case of goods removed from Northern Ireland to Great Britain, when a liability to pay duty under section 30C of TCTA 2018 (duty on potentially imported goods) in respect of those goods is, or on the relevant assumptions would be, incurred, and
 - (b) in the case of goods removed from Great Britain to Northern Ireland, when a liability to pay duty under section 40A of TCTA 2018 (duty on certain goods removed to Northern Ireland) in respect of those goods is, or on the relevant assumptions would be, incurred.
- (3) Where the removal is made in the course of a taxable supply made by a taxable person, the taxable person is the person who is treated as having imported the goods.
- (4) Otherwise, each person who—
- (a) in the case of goods removed from Northern Ireland to Great Britain, is, or on the relevant assumptions would be, liable to pay duty under section 30C of TCTA 2018 in respect of those goods, or
 - (b) in the case of goods removed from Great Britain to Northern Ireland, is, or on the relevant assumptions would be, liable to pay duty under section 40A of TCTA 2018 in respect of those goods,
- is a person who is treated as having imported the goods.
- (5) For the purposes of this paragraph “the relevant assumptions” are—
- (a) in the case of goods removed from Northern Ireland to Great Britain, an assumption that duty under section 30C of TCTA 2018 is chargeable in respect of those goods,
 - (b) in the case of goods removed from Great Britain to Northern Ireland, an assumption that duty under section 40A of TCTA 2018 is chargeable in respect of those goods,
 - (c) in a case where there is no obligation to present the goods to customs on their arrival in the part of the United Kingdom to which they are removed, an assumption that there is such an obligation,
 - (d) an assumption that a liability to duty at a nil rate is replaced by a liability to duty at a higher rate, and
 - (e) an assumption that no relief from duty is available.
- (6) The Commissioners may by regulations make provision—
- (a) for any other person to be treated as importing the goods (instead of, or as well as, any person treated as importing the goods as a result of sub-paragraph (3) or (4));

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- (b) about (including provision modifying) the application, in relation to such a person, of any provision made by or under any enactment that has effect for the purposes of, or in connection with the enforcement of, any obligation to account for and pay VAT;
 - (c) for requiring any relevant person liable to VAT as a result of provision made by or under this paragraph to give to the Commissioners such notification of the removal of goods in question, and for such VAT to be paid, in such form or manner as may be specified in the regulations or by the Commissioners in accordance with the regulations.
- (7) A person is “relevant” for the purposes of sub-paragraph (6)(c) if the person was not a taxable person at the time they became liable to the VAT in question.
- (8) If two or more persons are treated as having imported goods those persons are jointly and severally liable to any VAT that is payable on the removal that is treated as an importation as a result of paragraph 3.
- (9) The preceding provisions of this paragraph, and any provision made under sub-paragraph (6)(a), are to be ignored in reading any reference to importation or to an importer in anything applied for the purposes of this Act by section 16(1) or (2).
- (10) But sub-paragraph (9) does not apply so far as the context otherwise requires or provision to the contrary is contained in regulations under section 16(3).

Valuation of goods removed from Northern Ireland to Great Britain

- 5 (1) This paragraph applies where goods are removed from Northern Ireland to Great Britain and—
- (a) the removal is in the course of a supply, or
 - (b) the last supply of those goods before their removal is zero-rated as a result of that removal.
- (2) Where this paragraph applies—
- (a) section 21 (value of imported goods) does not apply for the purpose of determining the value of those goods, and
 - (b) the value of those goods is to be treated as—
 - (i) in a case falling within sub-paragraph (1)(a), the value of the supply in accordance with section 19 and Schedule 6 (value of supply of goods), and
 - (ii) in a case falling within sub-paragraph (1)(b), the value of the last supply of those goods before their removal as determined in accordance with that section and that Schedule.

Relief for qualifying Northern Ireland goods

- 6 (1) No VAT is to be charged on the removal of qualifying Northern Ireland goods from Northern Ireland to Great Britain as a result of

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paragraph 3(2) unless the removal is made in the course of a taxable supply made by a taxable person.

- (2) But the relief provided by sub-paragraph (1) does not apply to a removal of qualifying goods from Northern Ireland to Great Britain if the last supply of those goods before their removal is zero-rated as a result of that removal.
- (3) Any VAT that is chargeable as a result of sub-paragraph (2) becomes chargeable from the later of—
 - (a) the time when the goods were treated as having been imported as a result of the removal, and
 - (b) the time at which that last supply becomes zero-rated.
- (4) In this paragraph “qualifying Northern Ireland goods” has the meaning it has in the European Union (Withdrawal) Act 2018 (see section 8C(6) of that Act).

Zero-rating of supplies made before declaration on removal

- 7 Item 1 of Group 13 of Schedule 8 (zero-rating)—
 - (a) applies to a supply of goods which are removed from Great Britain to Northern Ireland as if the reference to a Customs declaration were to such a declaration made for the purposes of Union customs legislation (rather than under Part 1 of TCTA 2018);
 - (b) does not apply to goods which are removed from Northern Ireland to Great Britain where no Customs declaration under Part 1 of TCTA 2018 is required to be made in respect of the removal of the goods.

PART 3

MODIFICATIONS IN RELATION TO EXPORTS

Movements of goods by charities

- 8 Subsection (5) of Section 30 (export by charities treated as supply in United Kingdom) has effect as if the reference to the export of goods—
 - (a) included the removal of goods from Great Britain to Northern Ireland, and
 - (b) did not include the export of goods from Northern Ireland to a place in the member States.

Goods exported from Northern Ireland

- 9 Section 30(6) (zero-rating of exports by supplier) has effect as if reference to the export of goods did not include the export of goods from Northern Ireland to a place in the member States.

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Zero-rating regulations

- 10 Subsection (8) of section 30 (power to zero-rate supplies where goods have been or are to be exported) has effect as if reference to the export of goods—
- (a) included the removal of goods from Northern Ireland to Great Britain, or vice versa, and
 - (b) did not include the export of goods from Northern Ireland to a place in the member States.

Zero-rating of supply of exported goods let on hire

- 11 Section 30(9) (zero-rating of supply of exported goods let on hire) has effect as if the reference to the export of goods did not include the export of goods from Northern Ireland to a place in the member States.

Application of section 30(10)

- 12 (1) Where a supply of goods has been zero-rated under paragraph 3(1), or as a result of regulations under section 30(8), on the basis that the goods have been or are to be removed from Northern Ireland to Great Britain, section 30(10) (forfeiture of goods found in the United Kingdom) applies in relation to that supply as if any reference to the United Kingdom were to Northern Ireland.
- (2) Where a supply of goods has been zero-rated under paragraph 3(1), or as a result of regulations under section 30(8), on the basis that the goods have been or are to be removed from Great Britain to Northern Ireland, section 30(10) applies in relation to that supply as if any reference to the United Kingdom were to Great Britain.

Relief from VAT on importation of goods

- 13 (1) Section 37 (relief from VAT on importation of goods) has effect as if any reference to the export of goods did not include the export of goods from Northern Ireland to a place in the member States.
- (2) That section has effect in relation to a removal of goods from Northern Ireland to Great Britain (which is treated as an importation as a result of paragraph 3(3)) as if any reference to the export of goods included their removal from Great Britain to Northern Ireland.
- (3) That section has effect in relation to a removal of goods from Great Britain to Northern Ireland (which is treated as an importation as a result of paragraph 3(5)) as if any reference to the export of goods included their removal from Northern Ireland to Great Britain.

Schedule 8: modifications to Group 13 and 15

- 14 (1) Item 3 of Group 13 of Schedule 8 (zero-rating) has effect as if the reference to goods for export did not include goods for export from Northern Ireland to a place in the member States.

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- (2) Group 15 of that Schedule has effect as if—
- (a) any reference to the export of goods did not include the export of goods from Northern Ireland to a place in the member States;
 - (b) any reference to the export of goods, other than the reference in item 3, included the removal of goods from Great Britain to Northern Ireland or vice versa;
 - (c) after item 3 there were inserted—
 - “3A The removal by a charity of goods donated to it—
 - (a) from Great Britain to Northern Ireland;
 - (b) from Northern Ireland to Great Britain.”

PART 4

WAREHOUSES

Modification of sections 18 and 18A

- 15 (1) Section 18 (place and time of supply) has effect as if—
- (a) every reference to the United Kingdom were to Great Britain, other than the references—
 - (i) in the phrases “taking place outside the United Kingdom” and “taking place in the United Kingdom”, and
 - (ii) in the definition of “warehouse” in subsection (6);
 - (b) in subsection (6)—
 - (i) in the definition of “the duty point”, in paragraph (b), after “import duty” there were inserted “or duty under section 30C of TCTA 2018”;
 - (ii) in the definition of “warehouse”, in paragraph (a), after “import duty” there were inserted “or duty under section 30C of TCTA 2018”.
- (2) Section 18A (fiscal warehousing) has effect as if the reference to “such place in the United Kingdom” in subsection (3) were to “such place in Great Britain”.

Place and time of supply: Northern Ireland warehouses

- 16 (1) A supply of goods, or an acquisition of goods in Northern Ireland from a member State, is treated as taking place outside the United Kingdom where—
- (a) the goods are subject to a Northern Ireland warehousing regime,
 - (b) they have been removed—
 - (i) from a place outside the member States, other than Northern Ireland, and have entered the territory of the European Union, or

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- (ii) from a place outside the member States and have entered Northern Ireland (which includes goods removed to Northern Ireland from Great Britain),
 - (c) the material time for their supply, or their acquisition in Northern Ireland, is while they are subject to that regime and before the duty point, and
 - (d) those goods are not, or are not mixed with, any dutiable goods which were produced or manufactured in Northern Ireland or acquired from a member State.
- (2) The Commissioners may by regulations provide that sub-paragraph (1) does not apply in circumstances specified or described in the regulations.
- (3) A supply of dutiable goods which were produced or manufactured in Northern Ireland or acquired from a member State, or a supply of a mixture of such goods and other goods, is treated as taking place outside the United Kingdom where the conditions in sub-paragraph (5) are met.
- (4) An acquisition in Northern Ireland from a member State of dutiable goods is treated as taking place outside the United Kingdom where those conditions are met.
- (5) Those conditions are—
- (a) that the goods are subject to a Northern Ireland warehousing regime,
 - (b) that the material time for the supply mentioned in sub-paragraph (3), or the acquisition mentioned in sub-paragraph (4), is while the goods are subject to that regime and before the duty point, and
 - (c) that the material time for any subsequent supply of those goods is also while the goods are subject to that regime and before the duty point.
- (6) Where—
- (a) the conditions in sub-paragraph (5)(a) and (b) are met in relation to a supply of goods mentioned in sub-paragraph (3) or an acquisition of goods mentioned in sub-paragraph (4),
 - (b) the condition in sub-paragraph (5)(c) is not met in relation to that supply or acquisition, and
 - (c) the supply or acquisition is treated as taking place within the United Kingdom,
- sub-paragraph (7) applies to the supply or acquisition.
- (7) Where this sub-paragraph applies to a supply or acquisition of goods, the supply or acquisition is treated as taking place at the earlier of—
- (a) the time when the goods are removed from the Northern Ireland warehousing regime, and
 - (b) the duty point.
- (8) Where sub-paragraph (7) applies to a supply of goods, any VAT payable on the supply must be paid—
- (a) at the time when the supply is treated as taking place, and
 - (b) by—

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- (i) the person who removed the goods from the Northern Ireland warehousing regime, or
 - (ii) the person who is required to pay any duty or agricultural levy in respect of the goods.
 - (9) The Commissioners may by regulations make provision for enabling a taxable person to pay the VAT the person is required to pay by virtue of sub-paragraph (8) at a time later than that provided for by that sub-paragraph.
 - (10) Regulations under sub-paragraph (9) may in particular make provision for either or both of the following—
 - (a) for the taxable person to pay the VAT together with the VAT chargeable on other supplies by the person of goods and services;
 - (b) for the taxable person to pay the VAT together with any duty of excise deferment of which has been granted to the person under section 127A of the Customs and Excise Management Act 1979, and the regulations may make different provision for different descriptions of taxable person and for different descriptions of goods.
 - (11) In this paragraph—
 - “dutiable goods” means any goods which are subject—
 - (a) to a duty of excise, or
 - (b) in accordance with any provision for the time being having effect for transitional purposes in connection with the accession of any State to the European Union, to any EU customs duty or agricultural levy of the European Union;
 - “the duty point”, in relation to any goods, means—
 - (a) in the case of goods which are subject to a duty of excise, the time when the requirement to pay the duty on those goods takes effect, and
 - (b) in the case of goods which are not so subject—
 - (i) the time when the requirement to pay duty charged under section 30A(3) of TCTA 2018 (importation of goods: Northern Ireland) on those goods takes effect,
 - (ii) the time when the requirement to pay duty charged under section 40A of TCTA 2018 (duty on goods potentially for export from Northern Ireland) on those goods takes effect, or
 - (iii) the time when any Community customs debt in respect of duty on the entry of the goods into the territory of the European Union would be incurred or, as the case may be, the corresponding time in relation to any such duty or levy as is mentioned in paragraph (b) of the definition of dutiable goods;
- “Northern Ireland warehouse” means any warehouse where goods may be stored in the United Kingdom or a member State without payment of any one or more of the following—

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- (a) duty charged under section 30A(3) of TCTA 2018 (importation of goods: Northern Ireland) or under section 40A of TCTA 2018 (duty on goods potentially for export from Northern Ireland);
 - (b) EU customs duty;
 - (c) any agricultural levy of the European Union;
 - (d) VAT on the importation of the goods into any member State;
 - (e) VAT on the importation of goods into the United Kingdom as a result of their entry into Northern Ireland;
 - (f) any duty of excise or any duty which is equivalent in a member State to a duty of excise.
- (12) References in this paragraph to goods being subject to a Northern Ireland warehousing regime are to goods being kept in a Northern Ireland warehouse or being transported between Northern Ireland warehouses (whether in the same country or different countries) without the payment in a country of any duty, levy or VAT; and references to the removal of goods from a warehousing regime are to be construed accordingly.

Northern Ireland fiscal warehouses

- 17 (1) The Commissioners may, if it appears to them proper, upon application approve any registered person as a Northern Ireland fiscal warehousekeeper, and such approval is subject to such conditions as the Commissioners impose.
- (2) Subject to those conditions and to regulations made under paragraph 25(6), such a person is entitled to keep a Northern Ireland fiscal warehouse.
- (3) “Northern Ireland fiscal warehouse” means a place in Northern Ireland in the occupation or under the control of a Northern Ireland fiscal warehousekeeper that the warehousekeeper has notified to the Commissioners as a Northern Ireland fiscal warehouse.
- (4) Retail premises may not be notified as a Northern Ireland fiscal warehouse.
- (5) A place notified under sub-paragraph (3) is a Northern Ireland fiscal warehouse from the later of—
- (a) the date the Commissioners received the notification, and
 - (b) the date specified in the notice from which the notification is to have effect.
- (6) A place ceases to be a Northern Ireland fiscal warehouse—
- (a) if that place ceases to be in the occupation or under the control of the Northern Ireland fiscal warehousekeeper, or
 - (b) if the Northern Ireland fiscal warehousekeeper notifies the Commissioners that the place is to cease to be a Northern Ireland fiscal warehouse.

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- (7) The Commissioners may in considering an application by a person to be a Northern Ireland fiscal warehousekeeper take into account any matter which they consider relevant, and may without prejudice to the generality of that provision take into account all or any one or more of the following—
- (a) the person’s record of compliance and ability to comply with the provisions made by or under this Act;
 - (b) the person’s record of compliance and ability to comply with the provisions made by or under the customs and excise Acts (as defined in the Management Act);
 - (c) the person’s record of compliance and ability to comply with Union customs legislation;
 - (d) the person’s record of compliance and ability to comply with the requirements of member States relating to VAT and duties equivalent to duties of excise;
 - (e) if the applicant is a company, the records of compliance and ability to comply with the matters set out in paragraphs (a) to (d) of its directors, persons connected with its directors, its managing officers, any shadow directors or any of those persons, and, if it is a close company, the records of compliance and ability to comply with the matters set out in those paragraphs of the beneficial owners of the shares of the company or any of them;
 - (f) if the applicant is an individual, the records of compliance and ability to comply with the matters set out in those paragraphs of any company of which the applicant is or has been a director, managing officer or shadow director or, in the case of a close company, a shareholder or the beneficial owner of shares.
- (8) For the purposes of paragraphs (e) and (f) of sub-paragraph (7)—
- (a) a person is “connected” with a director if that person is the director’s spouse or civil partner, or is a relative, or the spouse or civil partner of a relative, of the director or of the director’s spouse or civil partner;
 - (b) “managing officer” in relation to a body corporate, means any manager, secretary or other similar officer of the body corporate or any person purporting to act in any such capacity or as a director;
 - (c) “shadow director” has the meaning given by section 251 of the Companies Act 2006;
 - (d) “close company” has the meaning it has in the Corporation Tax Acts (see Chapter 2 of Part 10 of the Corporation Tax Act 2010).
- (9) Subject to sub-paragraph (10), a person approved under sub-paragraph (1) remains a Northern Ireland fiscal warehousekeeper until the person—
- (a) ceases to be a registered person, or
 - (b) notifies the Commissioners in writing that the person is to cease to be a Northern Ireland fiscal warehousekeeper.

Status: This is the original version (as it was originally enacted).

- (10) The Commissioners may if they consider it appropriate from time to time—
- (a) impose conditions on a Northern Ireland fiscal warehousekeeper in addition to those conditions, if any, imposed under sub-paragraph (1);
 - (b) vary or revoke any conditions previously imposed;
 - (c) withdraw approval of any person as a Northern Ireland fiscal warehousekeeper;
 - (d) withdraw Northern Ireland fiscal warehouse status from any premises.
- (11) Any application by or on behalf of a person to be a Northern Ireland fiscal warehousekeeper must be in writing and in such form as the Commissioners may direct and must be accompanied by such information as the Commissioners require.
- (12) Any approval by the Commissioners under sub-paragraph (1), and any withdrawal of approval or other act by them under sub-paragraph (10), must be notified to the fiscal warehousekeeper in writing and takes effect on such notification being made or on any later date specified for the purpose in the notification.
- (13) Without prejudice to the provisions of section 43 concerning liability for VAT, “registered person”, for the purposes of this paragraph, includes any person who under that section is for the time being treated as a member of a group.

Conversion of relevant fiscal warehouses etc

- 18 (1) Sub-paragraph (2) applies to any place in Northern Ireland that was a fiscal warehouse immediately before the coming into force of paragraph 17.
- (2) On the coming into force of that paragraph, a place to which this sub-paragraph applies becomes a Northern Ireland fiscal warehouse (and may cease to be in accordance with that paragraph).
- (3) On the coming into force of that paragraph, any fiscal warehousekeeper in relation to such a place immediately before the coming into force of that paragraph becomes a Northern Ireland warehousekeeper (and may cease to be in accordance with that paragraph).
- (4) But a person does not cease to be a fiscal warehousekeeper in relation to a place in Great Britain as a result of sub-paragraph (3).
- (5) Sub-paragraph (6) applies to a fiscal warehousekeeper who becomes a Northern Ireland fiscal warehousekeeper as a result of sub-paragraph (3).
- (6) Any condition imposed under section 18A(1) or (6) that, immediately before the coming into force of paragraph 17, applied to a fiscal warehousekeeper to whom this sub-paragraph applies, applies to that person as a Northern Ireland fiscal warehousekeeper as if imposed under paragraph 17 (and may be varied or revoked accordingly).

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(7) In this paragraph “fiscal warehouse” and “fiscal warehousekeeper” have the meaning they have in sections 18A to 18F (see section 18F).

Northern Ireland fiscal warehouses: relief

- 19 (1) Sub-paragraphs (5) and (6) apply where—
- (a) there is an acquisition of goods in Northern Ireland from a member State,
 - (b) those goods are eligible goods,
 - (c) either—
 - (i) the acquisition takes place while the goods are subject to a Northern Ireland fiscal warehousing regime, or
 - (ii) after the acquisition but before the supply, if any, of those goods which next occurs, the acquirer causes the goods to be placed in a Northern Ireland fiscal warehousing regime, and
 - (d) the acquirer, not later than the time of the acquisition, prepares and keeps a certificate that the goods are subject to a fiscal warehousing regime, or (as the case may be) that the acquirer will cause paragraph (c)(ii) to be satisfied.
- (2) A certificate prepared for the purposes of sub-paragraph (1)(d) must be kept for such period as the Commissioners may by regulations specify.
- (3) Sub-paragraphs (5) and (6) also apply where—
- (a) there is a supply of goods,
 - (b) those goods are eligible goods,
 - (c) either—
 - (i) that supply takes place while the goods are subject to a Northern Ireland fiscal warehousing regime, or
 - (ii) after that supply but before the supply, if any, of those goods which next occurs, the person to whom the former supply is made causes the goods to be placed in a Northern Ireland fiscal warehousing regime,
 - (d) in a case falling within paragraph (c)(ii), the person to whom the supply is made gives the supplier, not later than the time of the supply, a certificate that the person will cause paragraph (c)(ii) to be satisfied, and
 - (e) the supply is not a retail transaction.
- (4) A certificate under sub-paragraph (1)(d) or (3)(d) must be in such form as may be specified by regulations or by the Commissioners in accordance with regulations.
- (5) An acquisition or supply to which this sub-paragraph applies is treated for the purposes of this Act as taking place outside the United Kingdom if any subsequent supply of those goods is while they are subject to the Northern Ireland fiscal warehousing regime.
- (6) Where an acquisition or supply to which this sub-paragraph applies falls, for the purposes of this Act, to be treated as taking place in the United Kingdom that acquisition or supply is treated for the purposes of this Act

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as taking place when the goods are removed from the Northern Ireland fiscal warehousing regime.

- (7) Where—
- (a) sub-paragraph (6) applies to an acquisition or a supply,
 - (b) the acquisition or supply is taxable and not zero-rated, and
 - (c) the acquirer or supplier is not a taxable person but would be were it not for paragraph 1(9) of Schedule 1 and paragraphs 38(6) and 48(7) of Schedule 9ZA, or any of those provisions,
- VAT is chargeable on that acquisition or supply notwithstanding that the acquirer or the supplier is not a taxable person.
- (8) For the purposes of this paragraph, apart from sub-paragraph (6), an acquisition or supply is treated as taking place at the material time for the acquisition or supply.
- (9) In this paragraph “eligible goods” has the meaning it has in section 18B, but as if in section 18B(6)(b)—
- (a) in sub-paragraph (i)—
 - (i) after “import duty” there were inserted “, and any duty under section 30A(3) of TCTA 2018,”;
 - (ii) after “those Acts” there were inserted “or Union customs legislation”;
 - (b) in sub-paragraph (ii), after “section 1(1)(c)” there were inserted “(including any VAT chargeable on the movement of goods from Great Britain to Northern Ireland as a result of paragraph 3(4))”.
- (10) The Commissioners may by regulations provide that goods of a description specified in regulations are, for the purposes of this paragraph, to be treated—
- (a) where such goods are not of a description falling within Schedule 5A (goods eligible to be fiscally warehoused), as if they were;
 - (b) where such goods are of a description falling within that Schedule, as if they were not.
- (11) The Commissioners may by regulations provide for the zero-rating of supplies of goods, or of such goods as may be specified in regulations, in cases where—
- (a) the Commissioners are satisfied that the supply in question involves both—
 - (i) the removal of the goods from a Northern Ireland fiscal warehousing regime, and
 - (ii) their being placed in a warehousing regime in a member State, or in such member State or States as may be prescribed, where that regime is established by provisions of the law of that member State corresponding, in relation to that member State, to the provisions of this paragraph and paragraph 17, and
 - (b) such other conditions, if any, as may be specified in the regulations or the Commissioners may impose are fulfilled.

- (12) Section 30(10) (zero-rating) applies in relation to regulations made under sub-paragraph (11) as it applies to regulations made under section 30(8) or (9).

Modification of section 18B

- 20 Section 18B(5) (fiscally warehoused goods: relief) has effect as if after “Schedule 1” there were inserted “and paragraphs 38(6) and 48(7) of Schedule 9ZA, or any of those provisions”.

Northern Ireland warehouses and fiscal warehouses: services

- 21 (1) Section 18C has effect as if any reference to—
- (a) “a warehousing or fiscal warehousing regime” were to “a warehousing, Northern Ireland warehousing, fiscal warehousing, or Northern Ireland fiscal warehousing regime”;
 - (b) “a warehouse or a fiscal warehousekeeper” were to “a warehouse, Northern Ireland warehouse, fiscal or Northern Ireland fiscal warehousekeeper”;
 - (c) “a warehousing regime” were to “a warehousing or Northern Ireland warehousing regime”;
 - (d) “a fiscal warehousing regime” were to “a fiscal or Northern Ireland fiscal warehousing regime”.
- (2) Subsection (2) of that section has effect in relation to goods subject to a Northern Ireland warehousing or Northern Ireland fiscal warehousing regime as if the term “material time” had the meaning it has in this Part of this Schedule.
- (3) Subsection (3) of that section has effect in relation to goods subject to a Northern Ireland warehousing or Northern Ireland fiscal warehousing regime as if the term “duty point” had the meaning it has in paragraph 16.
- (4) Subsection (4)(b) of that section has effect in relation to goods subject to a Northern Ireland fiscal warehousing regime as if after “carried out under” there were inserted “Union customs legislation (within the meaning of Schedule 9ZB) or under”.

Removal from warehousing: accountability

- 22 (1) This paragraph applies to any supply to which paragraph 19(6) applies (supply treated as taking place on removal or duty point) and any acquisition to which paragraph 19(7) applies (acquisition treated as taking place on removal where acquirer not a taxable person).
- (2) Any VAT payable on the supply or acquisition must (subject to any regulations under sub-paragraph (3)) be paid—
- (a) at the time when the supply or acquisition is treated as taking place under the paragraph in question, and
 - (b) by the person by whom the goods are removed or, as the case may be, together with the excise duty, by the person who is required to pay that duty.

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- (3) The Commissioners may by regulations make provision for enabling a taxable person to pay the VAT the person is required to pay by virtue of sub-paragraph (2) at a time later than that provided by that sub-paragraph.
- (4) Regulations may make different provisions for different descriptions of taxable persons and for different descriptions of goods and services.

Deficiency in Northern Ireland fiscally warehoused goods

- 23 (1) Section 18E applies—
 - (a) to goods which have been subject to a Northern Ireland fiscal warehousing regime as it applies to goods which have been subject to a fiscal warehousing regime, and
 - (b) to a Northern Ireland fiscal warehousekeeper as it applies to a fiscal warehousekeeper.
- (2) In this paragraph “fiscal warehousekeeper” has the meaning it has in sections 18A to 18F (see section 18F).

Incorrect Northern Ireland fiscal warehousing certificates

- 24 (1) Where—
 - (a) a person who makes, or is to make, an acquisition of goods in Northern Ireland from a member State prepares a certificate for the purposes of paragraph 19(1)(d), and
 - (b) the certificate is incorrect,
 the person preparing the certificate is liable to a penalty.
- (2) The amount of the penalty is the amount of VAT actually chargeable on the acquisition.
- (3) A person is not liable to a penalty under sub-paragraph (1) if the person satisfies the Commissioners or, on appeal, a tribunal that there is a reasonable excuse for having prepared the certificate in question.
- (4) If a person is convicted of an offence (whether under this Act or otherwise) by reason of preparing an incorrect certificate for the purposes of paragraph 19(1)(d), the person is not liable to a penalty under sub-paragraph (1).
- (5) A penalty under sub-paragraph (1) is to be treated, for the purposes of sections 76 and 83 (assessments and appeals), as if it were a penalty under section 62 (incorrect certificates).
- (6) Section 62 has effect as if in subsection (1)(a)(ii), after “18C(1)(c)” there were inserted “or paragraph 19(3)(d) of Schedule 9ZB (Northern Ireland fiscal warehouses)”.

Supplementary provision

- 25 (1) In this Part of this Schedule—

“eligible goods” is to be construed in accordance with paragraph 19(9) and (10);

“material time”—

- (a) in relation to any acquisition or supply the time of which is determined in accordance with regulations under section 6(14) or paragraph 4(2)(b) of Schedule 9ZA, means such time as may be prescribed for the purpose of this paragraph by those regulations,
- (b) in relation to any other acquisition, means the time of the first removal of the goods (see paragraph 4(5) of that Schedule), and
- (c) in relation to any other supply, means the time when the supply would be treated as taking place in accordance with subsection (2) of section 6 if paragraph (c) of that subsection were omitted;

“Northern Ireland fiscal warehouse” is to be construed in accordance with paragraph 17;

“Northern Ireland fiscal warehousekeeper” is to be construed in accordance with that paragraph;

“Northern Ireland warehouse” has the meaning given by paragraph 16(11).

- (2) Any reference in this Part of this Schedule to goods being subject to a Northern Ireland fiscal warehousing regime is, subject to any regulations made under sub-paragraph (6), a reference to eligible goods being kept in a Northern Ireland fiscal warehouse or being transferred between Northern Ireland fiscal warehouses in accordance with such regulations; and any reference to the removal of goods from a Northern Ireland fiscal warehousing regime are to be construed accordingly.
- (3) Where as a result of an operation on eligible goods subject to a Northern Ireland fiscal warehousing regime they change their nature but the resulting goods are also eligible goods, the provisions of this Part of this Schedule apply as if the resulting goods were the original goods.
- (4) Where as a result of an operation on eligible goods subject to a Northern Ireland fiscal warehousing regime they cease to be eligible goods, on their ceasing to be so this Part applies as if they had at that time been removed from the regime; and for that purpose the proprietor of the goods is treated as if that person were the person removing them.
- (5) Where—
 - (a) any person ceases to be a Northern Ireland fiscal warehousekeeper, or
 - (b) any premises cease to have Northern Ireland fiscal warehouse status,

this Part of this Schedule applies as if the goods of which the person is the fiscal warehousekeeper, or the goods in the fiscal warehouse, as the case may be, had at that time been removed from the fiscal warehousing regime; and for that purpose the proprietor of the goods is to be treated as if the proprietor were the person removing them.

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- (6) The Commissioners may make regulations governing the deposit, keeping, securing and treatment of goods in a Northern Ireland fiscal warehouse, and the removal of goods from a Northern Ireland fiscal warehouse.
- (7) Regulations may, without prejudice to the generality of subparagraph (6), include provision—
- (a) in relation to—
 - (i) goods which are, have been or are to be subject to a Northern Ireland fiscal warehousing regime,
 - (ii) other goods which are, have been or are to be kept in Northern Ireland fiscal warehouses,
 - (iii) Northern Ireland fiscal warehouse premises, and
 - (iv) Northern Ireland fiscal warehousekeepers and their businesses,as to the keeping, preservation and production of records and the furnishing of returns and information by Northern Ireland fiscal warehousekeepers and any other persons;
 - (b) requiring goods deposited in a fiscal warehouse to be produced to or made available for inspection by an authorised person on the request of that authorised person;
 - (c) prohibiting the carrying out on Northern Ireland fiscally warehoused goods of such operations as the Commissioners may prescribe;
 - (d) regulating the transfer of goods from one Northern Ireland fiscal warehouse to another;
 - (e) concerning goods which, though kept in a Northern Ireland fiscal warehouse, are not eligible goods or are not intended by a relevant person to be goods in respect of which reliefs are to be enjoyed under this Part of this Schedule;
 - (f) prohibiting a Northern Ireland fiscal warehousekeeper from allowing goods to be removed from a Northern Ireland fiscal warehousing regime without payment of any VAT payable under paragraph 22 on or by reference to that removal and, if in breach of that prohibition the warehousekeeper allows goods to be so removed, making the warehousekeeper liable for the VAT jointly and severally with the remover,
- and may contain such incidental or supplementary provisions as the Commissioners think necessary or expedient.
- (8) Regulations may make different provision for different cases, including different provision for different Northern Ireland fiscal warehousekeepers or descriptions of Northern Ireland fiscal warehousekeeper, for Northern Ireland fiscal warehouses of different descriptions or for goods of different classes or descriptions or of the same class or description in different circumstances.

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Modification of other provisions

- 26 (1) Paragraph 3 of Schedule 6 (valuation: special cases) has effect in relation to goods whose supply involves their removal to Northern Ireland from a place outside the United Kingdom as if—
- (a) in sub-paragraph (1)(a)(ii), after “EU” there were inserted “customs duty or”;
 - (b) in sub-paragraph (1)(b), for “section 18(4)” there were substituted “paragraph 16(7) of Schedule 9ZB”;
 - (c) in sub-paragraph (2), for “section 18” there were substituted “paragraph 16 of Schedule 9ZB”.
- (2) Paragraph 2(8) of Schedule 11 has effect as if after “section 18” there were inserted “in relation to goods other than goods in Northern Ireland, or paragraph 16 of Schedule 9ZB in relation to goods in Northern Ireland”.
- (3) Section 702 of the Income Tax (Earnings and Pensions) Act 2003 (meaning of “readily convertible asset”) has effect as if in subsection (6) (a), in the definition of “warehousing regime”, after “Value Added Tax Act 1994 (c23)” there were inserted “or a Northern Ireland warehousing or Northern Ireland fiscal warehousing regime (within the meaning of paragraphs 16 to 25 of Schedule 9ZB to that Act)”.
- (4) Paragraph 11 of Schedule 36 to the Finance Act 2008 (power to inspect premises) has effect as if—
- (a) in sub-paragraph (1)(c), after “warehouse” there were inserted “or Northern Ireland fiscal warehouse”;
 - (b) in sub-paragraph (2)(c), after “warehousing” there were inserted “or Northern Ireland fiscal warehousing”.

PART 5

RULES RELATING TO PARTICULAR SUPPLIES

Supplies of gas, electricity or heat

- 27 (1) Paragraph 3(1) (zero-rating of supplies involving removal of goods from Northern Ireland to Great Britain or vice versa) does not apply to a supply of relevant goods.
- (2) In this paragraph “relevant goods” has the meaning it has in section 9A (reverse charge on gas, electricity, heat or cooling).

Time of supply involving both a supply and an acquisition

- 28 (1) Where any supply of goods involves both—
- (a) the removal of the goods from Northern Ireland, and
 - (b) their acquisition in a member State by a person who is liable for VAT on the acquisition in accordance with provisions of the law

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of that member State corresponding, in relation to that member State, to the provisions of paragraph 2, subsections (2), (4) to (6) and (10) to (12) of section 6 (time of supply) do not apply and the supply is treated for the purposes of this Act as taking place on whichever is the earlier of the days specified in sub-paragraph (2).

- (2) The days mentioned in sub-paragraph (1) are—
- (a) the 15th day of the month following that in which the removal in question takes place, and
 - (b) the day of the issue, in respect of the supply, of a VAT invoice or of an invoice of such other description as the Commissioners may by regulations prescribe.
- (3) Section 6(14) has effect as if after “section 55(4)” there were inserted “or paragraph 28 of Schedule 9ZB”.

Distance selling between EU and Northern Ireland: place of supply

- 29 (1) Goods whose place of supply is not determined under subsection (2) or (3) of section 7 (place of supply of goods) are treated as supplied in the United Kingdom where—
- (a) the supply involves the removal of the goods to Northern Ireland by or under the directions of the person who supplies them,
 - (b) the supply is a transaction in pursuance of which the goods are acquired in Northern Ireland from a member State by a person who is not a taxable person,
 - (c) the supplier—
 - (i) is liable to be registered under Part 9 of Schedule 9ZA, or
 - (ii) would be so liable if the supplier were not already registered under this Act or liable to be registered under Schedule 1 or 1A, and
 - (d) the supply is neither a supply of goods consisting in a new means of transport nor anything which is treated as a supply for the purposes of this Act by virtue only of paragraph 5(1) of Schedule 4 or paragraph 30 of Schedule 9ZB.
- (2) Goods whose place of supply is not determined under sub-paragraph (1) or subsection (2) or (3) of section 7 and which do not consist in a new means of transport are treated as supplied outside the United Kingdom where—
- (a) the supply involves the removal of the goods from Northern Ireland, by or under the directions of the person who supplies them, to a member State,
 - (b) the person who makes the supply is taxable in a member State, and
 - (c) provisions of the law of that member State corresponding, in relation to that member State, to the provisions made by sub-paragraph (1) make that person liable to VAT on the supply.

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- (3) But sub-paragraph (2) does not apply in relation to any supply in a case where the liability mentioned in sub-paragraph (2)(c) depends on the exercise by any person of an option in the United Kingdom corresponding to such an option as is mentioned in paragraph 48(2) unless that person has given, and has not withdrawn, a notification to the Commissioners that the person wishes supplies by that person to be treated as taking place outside the United Kingdom where they are supplies in relation to which the other requirements of sub-paragraph (2) are satisfied.
- (4) The Commissioners may by regulations provide that a notification for the purposes of sub-paragraph (3) is not to be given or withdrawn except in such circumstances, and in such form and manner, as may be prescribed.
- (5) For the purposes of this paragraph—
 - (a) where goods, in the course of their removal from a place in Northern Ireland to another place in Northern Ireland leave and re-enter Northern Ireland the removal is not to be treated as a removal from or to Northern Ireland, and
 - (b) where goods, in the course of their removal from a place in Northern Ireland to another place in the United Kingdom leave and re-enter the United Kingdom the removal is not to be treated as a removal from Northern Ireland.
- (6) Section 7 has effect as if the references in subsections (5A) to (7) to “the preceding provisions of this section” included sub-paragraphs (1) and (2) of this paragraph.

Removal of business assets to be treated as a supply of goods

- 30
- (1) A person carrying on a business makes a supply of goods where—
 - (a) the goods form part of the assets of that business,
 - (b) they are removed from Northern Ireland or a member State under the directions of that person, and
 - (c) the removal is in the course or furtherance of that business for the purpose of being taken to a place in—
 - (i) in the case of goods removed from Northern Ireland, a member State, or
 - (ii) in the case of goods removed from a member State, to another member State or to Northern Ireland.
 - (2) Sub-paragraph (1) applies to the removal of goods, whether or not that removal of the goods is, or is connected with, a transaction for consideration.
 - (3) Sub-paragraph (1) does not apply—
 - (a) to a case falling within paragraph 5(1) of Schedule 4 (matters to be treated as supply of goods or services),
 - (b) to the removal of goods from Northern Ireland where that removal is in the course of their removal from one part of Northern Ireland to another part of Northern Ireland,

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- (c) to the removal of goods from a member State where that removal is in the course of their removal from one part of a member State to another part of that member State,
 - (d) to goods which have been removed from a place outside the member States for entry into the territory of the European Union and are removed from a member State before the time when any Community customs debt in respect of any EU customs duty on their entry into that territory would be incurred,
 - (e) to goods which have been removed from a place outside the United Kingdom and the member States for entry into Northern Ireland and are removed from Northern Ireland before any duty under section 30A(3) of TCTA 2018 on their entry into Northern Ireland would be incurred, or
 - (f) to goods which have been removed from Great Britain to Northern Ireland and are removed from Northern Ireland before any duty under section 40A of TCTA 2018 on their entry into Northern Ireland would be incurred.
- (4) Sub-paragraph (1) is subject to paragraph 58 of Schedule 9ZA (call-off stock arrangements).

Application of section 43 (company groups) to goods in Northern Ireland

- 31 Subsection (1)(a) of Section 43 (disregard of supplies between members of groups) does not apply to a supply of goods if the goods are in Northern Ireland at the time they are supplied unless the supplier and the recipient each has a business establishment, or some other fixed establishment, in Northern Ireland.

PART 6

NORTHERN IRELAND AND THE ISLE OF MAN

Application of Part 2 of this Schedule

- 32 (1) Paragraph 3(1) (zero-rating of supply of goods removed from Great Britain to Northern Ireland and vice versa) applies to goods removed from Northern Ireland to the Isle of Man as they apply to goods removed from Northern Ireland to Great Britain.
- (2) The following provisions apply to goods removed to Northern Ireland from the Isle of Man as they apply to goods removed from Great Britain to Northern Ireland—
- (a) sub-paragraphs (4) and (5) of paragraph 3 (charge on goods removed from Great Britain to Northern Ireland);
 - (b) sub-paragraphs (6) and (7) of that paragraph (so far as they relate to sub-paragraph (4) or (5)).
- (3) Paragraph 4 (liability for VAT on movements between Great Britain and Northern Ireland) applies to goods removed to Northern Ireland from the Isle of Man as they apply to goods removed from Great Britain to Northern Ireland as if the references to a “taxable person” included a

person who is, or is required to be, registered under an Act of Tynwald for the purposes of any tax imposed by or under an Act of Tynwald which corresponds to VAT.

- (4) Paragraph 7 (zero-rating of supplies made before declaration on removal) applies to goods removed to Northern Ireland from the Isle of Man as it applies to goods removed from Great Britain to Northern Ireland.

Modifications in relation to exports: goods removed to Isle of Man

- 33 (1) Subsection (8) of section 30 (power to zero-rate supplies where goods have been or are to be exported) has effect as if reference to the export of goods included the removal of goods from Northern Ireland to the Isle of Man.
- (2) Where a supply of goods has been zero-rated as a result of paragraph 3(1) or regulations under section 30(8), on the basis that the goods have been or are to be removed from Northern Ireland to the Isle of Man, section 30(10) applies in relation to that supply as if any reference to the United Kingdom were to Northern Ireland.
- (3) Section 37 (relief from VAT on importation of goods) has effect in relation to a removal of goods to Northern Ireland from the Isle of Man (which is treated as an importation as a result of paragraphs 3(5) and 32(2)) as if any reference to the export of goods included their removal from Northern Ireland to the Isle of Man.
- (4) Group 15 of Schedule 8 (zero-rating) has effect as if—
- (a) any reference to the export of goods, other than the reference in item 3, included the removal of goods from Northern Ireland to the Isle of Man;
 - (b) the modification made by paragraph 14(2)(c) applied to the removal of goods to the Isle of Man from Northern Ireland as it applies to the removal of goods from Northern Ireland to Great Britain.

Warehouses

- 34 Part 4 (warehouses) has effect as if any reference to Great Britain included the Isle of Man (see also article 2 of the Value Added Tax (Isle of Man) Order 1982 which provides that this Act has effect as if the Isle of Man were part of the United Kingdom subject to the provisions of that Order).

Extent

- 35 Nothing in this Part of this Schedule is to be taken as extending to the Isle of Man.”

Other amendments of VATA 1994

- 3 In section 3 (taxable persons)—
- (a) in subsection (2), after “registration” insert “(and see also Parts 8 and 9 of Schedule 9ZA which contain further provisions about registration)”;

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- (b) in subsection (3)—
- (i) after “Schedules”, in the first place it occurs, insert “and Part 8 and 9 of Schedule 9ZA”;
 - (ii) after “Schedules”, in the second place it occurs, insert “or those Parts”.
- 4 In section 5 (meaning of supply), after subsection (3) insert—
- “(3A) An order under subsection (3) may provide that paragraph 30 of Schedule 9ZB does not apply, in such circumstances as may be described in the order, so as to make a removal of assets a supply of goods under that paragraph.”
- 5 (1) Section 9A (reverse charge on gas, electricity, heat or cooling supplied by persons outside the United Kingdom) is amended as follows.
- (2) In the heading, omit “supplied by persons outside the United Kingdom”.
 - (3) After subsection (1) insert—
 - “(1A) This section also applies if relevant goods are supplied by a person (“A”) to another person (“B”) for the purposes of any business carried on by B and—
 - (a) A is in Great Britain and B is registered under this Act and is identified for the purposes of VAT in Northern Ireland, or
 - (b) A is in Northern Ireland and B is so registered but is not so identified.”
 - (4) In subsection (5)—
 - (a) in paragraph (a), for “the United Kingdom”, in both places it occurs, substitute “Great Britain”,
 - (b) after that paragraph insert—
 - “(aa) gas supplied through a natural gas system situated within Northern Ireland or the territory of a member State or any network connected to such a system,”.
 - (5) In subsection (6), after “United Kingdom” insert “, in Great Britain or in Northern Ireland”.
- 6 In section 18A (fiscal warehousing)—
- (a) in subsection (4), omit the words after paragraph (f);
 - (b) after that subsection insert—
 - “(4A) For the purposes of paragraphs (e) and (f) of subsection (4)—
 - (a) a person is “connected” with a director if that person is the director’s spouse or civil partner, or is a relative, or the spouse or civil partner of a relative, of the director or of the director’s spouse or civil partner;
 - (b) “managing officer” in relation to a body corporate, means any manager, secretary or other similar officer of the body corporate or any person purporting to act in any such capacity or as a director;
 - (c) “shadow director” has the meaning given by section 251 of the Companies Act 2006;

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- (d) “close company” has the meaning it has in the Corporation Tax Acts (see Chapter 2 of Part 10 of the Corporation Tax Act 2010).”
- 7 (1) Omit section 14A and Schedule 4B (call-off stock arrangements).
- (2) In section 69 (breaches of regulatory provisions)—
- (a) in subsection (1)(a) for “, paragraph 5 of Schedule 3A or paragraph 9(1) or (2)(a) of Schedule 4B” substitute “or paragraph 5 of Schedule 3A”;
- (b) in subsection (2) omit “paragraph 8 or 9(2)(b) of Schedule 4B or”.
- (3) In section 97 (orders, rule and regulations), in subsection (4), in paragraph (a) for “or 28” substitute “, 28 or 40A”.
- (4) In Schedule 6 (valuation of supplies: special cases), in paragraph 6(1) omit paragraph (d) (and the “or” before it).
- (5) In consequence of the amendment made by sub-paragraph (1), the Value Added Tax Regulations 1995 (S.I. 1995/2518) are amended as follows—
- (a) in regulation 21 (interpretation of Part 4), omit paragraph (2);
- (b) omit regulation 22ZA;
- (c) in regulation 22B (EC sales statements: supplementary)—
- (i) in paragraph (1), for “more than one statement is to be submitted under regulations 22 to” substitute “statements are to be submitted under regulation 22 and 22A”;
- (ii) in paragraphs (2) and (3) omit “, 22ZA”.
- (6) Schedule 4B continues to have effect in relation to goods to which Schedule 4B applied (see paragraph 1 of that Schedule) immediately before its repeal.
- (7) Any other provision repealed, revoked or amended by or under this Act or TCTA 2018 at the same time as, or after, the repeal of Schedule 4B continues to have effect in relation to any deemed acquisition or supply of such goods arising as a result of that Schedule (as saved by paragraph (6)) as if the provision had not been so repealed, revoked or amended.
- (8) The savings in sub-paragraphs (6) and (7) do not apply to the provisions mentioned in sub-paragraph (9) in relation to goods to which Schedule 4B applied as a result of their removal from Great Britain for the purpose of being taken to a place in a member State.
- (9) Those provisions are—
- (a) paragraph 7(2)(c) of that Schedule;
- (b) the provisions of Part 4 of the Value Added Tax Regulations 1994 (S.I. 1994/2518) (EC sales statements).
- (10) Part 10 of Schedule 9ZA of VATA 1994 (as inserted by this Schedule) does not apply to goods in respect of which the savings in sub-paragraph (6) and (7) apply.
- 8 In Schedule 8 (zero-rating), in Group 18, in Note (2), in paragraph (a), for “a member State” substitute “the United Kingdom, a member State or an associated country (within the meaning given by Article 2(c) of that Regulation)”.

PART 2

AMENDMENTS OF OTHER LEGISLATION

F(No.2)A 2017

- 9 In section 48 of F(No.2)A 2017 (carrying on an imported goods fulfilment business)
-
- (a) in subsection (4) (as amended by TCTA 2018), after “section 15” insert “and paragraph 1 of Schedule 9ZB”;
 - (b) after that subsection insert—
 - “(4A) But goods that are treated as imported for the purposes of VATA 1994 as a result of paragraph 3 of Schedule 9ZB are not imported goods for the purposes of this Part.”

TCTA 2018

- 10 (1) Schedule 8 to TCTA 2018 (VAT amendments connected with withdrawal from EU) is amended as follows.
- (2) In paragraph 64(3)—
 - (a) at the end of paragraph (a) insert “and”;
 - (b) omit paragraph (c) (and the “and” before it).
 - (3) In paragraph 94, omit sub-paragraphs (2) and (9).
 - (4) In paragraph 114, in sub-paragraph (2)—
 - (a) in paragraph (a), for “second” substitute “third”;
 - (b) in paragraph (b), for “third” substitute “fourth”;
 - (c) in paragraph (c), for “fifth” substitute “sixth”.
 - (5) In paragraph 132, omit paragraph (k).

Value Added Tax (Place of Supply of Goods) Order 2004

- 11 (1) The Value Added Tax (Place of Supply of Goods) Order 2004 ([S.I. 2004/3148](#)) is amended as follows.
- (2) In article 9, in the definition of “relevant goods”—
 - (a) in paragraph (i), after “within” insert “Northern Ireland or”;
 - (b) after that paragraph insert—
 - “(ia) gas supplied through a natural gas system situated within Great Britain or any network connected to such a system.”
 - (3) In article 14—
 - (a) the existing text becomes paragraph (1);
 - (b) after that paragraph insert—
 - “(2) For the purposes of that section a person is in Great Britain if—
 - (a) the person has established their business or has a fixed establishment in Great Britain, or

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(b) in the absence of such a place of business or fixed establishment, the place where the person has their permanent address, or the place where they usually reside, is in Great Britain.

(3) For the purposes of that section a person is in Northern Ireland if—

(a) the person has established their business or has a fixed establishment in Northern Ireland, or

(b) in the absence of such a place of business or fixed establishment, the place where the person has their permanent address, or the place where they usually reside, is in Northern Ireland.”

Value Added Tax (Relief for European Research Infrastructure Consortia) Order 2012

12 In article 2 of the Value Added Tax (Relief for European Research Infrastructure Consortia) Order 2012 (S.I. 2012/2907)—

(a) in paragraph (1)—

(i) omit “from a place outside the member States”;

(ii) for “another” substitute “a”;

(b) in paragraph (2)(a) for “a member State” substitute “the United Kingdom, a member State or an associated country (within the meaning given by Article 2(c) of that Regulation)”.

Value Added Tax (Miscellaneous Amendments, Revocation and Transitional Provisions) (EU Exit) Regulations 2019

13 In the Value Added Tax (Miscellaneous Amendments, Revocation and Transitional Provisions) (EU Exit) Regulations 2019 (S.I. 2019/513), omit regulation 7.

SCHEDULE 3

Section 7

ONLINE SALES BY OVERSEAS PERSONS AND LOW VALUE IMPORTATIONS

PART 1

MAIN AMENDMENTS

Amendments to the Value Added Tax Act 1994

1 VATA 1994 is amended as follows.

2 After section 5 insert—

“5A Supplies of goods facilitated by online marketplaces: deemed supply

(1) This section applies where—

(a) a person (“P”) makes a taxable supply of goods in the course or furtherance of a business to another person (“R”),

Status: This is the original version (as it was originally enacted).

- (b) that supply is facilitated by an online marketplace, and
 - (c) the imported consignment condition is met.
- (2) For the purposes of this Act—
- (a) P is to be treated as having supplied the goods to the operator of the online marketplace, and
 - (b) the operator is to be treated as having supplied the goods to R in the course or furtherance of a business carried on by the operator.
- (3) The imported consignment condition is met where—
- (a) the supply of the goods to R involves those goods being imported,
 - (b) the intrinsic value of the consignment of which the goods are part is not more than £135, and
 - (c) the consignment of which the goods are part—
 - (i) does not contain excepted goods, and
 - (ii) is not a consignment in relation to which a postal operator established outside the United Kingdom has an obligation under an agreement with the Commissioners to pay any import VAT that is chargeable on the importation of that consignment into the United Kingdom.
- (4) For the purposes of subsection (3)(c)(i), “excepted goods” means goods of a class or description subject to any duty of excise whether or not those goods are in fact chargeable with that duty, and whether or not that duty has been paid on the goods.
- (5) The Commissioners may by regulations substitute a different figure for a figure that is at any time specified in subsection (3)(b).”
- 3 (1) Section 5A (supplies of goods facilitated by online marketplaces: deemed supply) (inserted by paragraph 2 of this Schedule) is amended as follows.
- (2) In subsection (1), for paragraph (c) substitute—
- “(c) one of the following applies—
- (i) the imported consignment condition is met, or
 - (ii) the supply of goods to R does not involve those goods being imported, but P is established outside the United Kingdom.”
- (3) After subsection (1) insert—
- “(1A) But this section does not apply in a case where P is established outside the United Kingdom and the imported consignment condition is not met if—
- (a) R is registered under this Act,
 - (b) R has provided the operator of the online marketplace with R’s VAT registration number, and
 - (c) the operator of the online marketplace has provided P with that number and details of the supply before the end of the relevant period.”
- (4) In subsection (5), after “regulations” insert “—
- (a) specify the details that must be provided for the purposes of subsection (1A)(c);
 - (b)”.

(5) After subsection (5) insert—

“(6) In this section—

“relevant period” means the period of 7 days beginning with the day on which the supply is treated as taking place under section 6 or such longer period as the Commissioners may allow in general or specific directions;

“VAT registration number” means the number allocated by the Commissioners to a person registered under this Act.”

4 (1) Section 7 (place of supply of goods) is amended as follows.

(2) Before subsection (6) insert—

“(5A) Goods whose place of supply is not determined under any of the preceding provisions of this section shall be treated as supplied outside the United Kingdom where the supply—

- (a) meets the imported consignment condition in section 5A; and
- (b) is deemed to be to the operator of an online marketplace.

(5B) Goods whose place of supply is not determined under any of the preceding provisions of this section shall be treated as supplied in the United Kingdom where—

- (a) they are supplied by a person in the course or furtherance of a business carried on by that person;
- (b) the supply involves the goods being imported;
- (c) the intrinsic value of the consignment of which the goods are part is not more than £135; and
- (d) the consignment of which the goods are part—
 - (i) does not contain goods of a class or description subject to any duty of excise whether or not those goods are in fact chargeable with that duty, and whether or not that duty has been paid on the goods; and
 - (ii) is not a consignment in relation to which a postal operator established outside the United Kingdom has an obligation under an agreement with the Commissioners to pay any import VAT that is chargeable on the importation of that consignment into the United Kingdom.”

(3) After subsection (9) insert—

“(9A) The Commissioners may by regulations substitute a different figure for a figure that is at any time specified in subsection (5B)(c).”

5 After section 7 insert—

“7AA Reverse charge on goods supplied from abroad

(1) This section applies where—

- (a) goods are supplied by a person (“A”) to another person (“B”),
- (b) B is registered under this Act,
- (c) the supply involves the goods being imported,

Status: This is the original version (as it was originally enacted).

- (d) the intrinsic value of the consignment of which the goods are part is not more than £135, and
 - (e) the consignment of which the goods are part—
 - (i) does not contain goods of a class or description subject to any duty of excise whether or not those goods are in fact chargeable with that duty, and whether or not that duty has been paid on the goods, and
 - (ii) is not a consignment in relation to which a postal operator established outside the United Kingdom has an obligation under an agreement with the Commissioners to pay any import VAT that is chargeable on the importation of that consignment into the United Kingdom.
- (2) This Act has effect as if, instead of there being a supply of the goods by A to B—
- (a) there were a supply of the goods by B in the course of furtherance of a business carried on by B, and
 - (b) that supply were a taxable supply.
- (3) The Commissioners may by regulations substitute a different figure for a figure that is at any time specified in subsection (1)(d).”
- 6 In section 16A(1) (postal packets) omit “(within the meaning of the Postal Services Act 2000)”.
- 7 (1) Section 37 (relief from VAT on importation of goods) is amended as follows.
- (2) For the heading, substitute “VAT on importation of goods: reliefs etc”.
- (3) Before subsection (1) insert—
- “(A1) No VAT is chargeable on the importation of goods to which section 7(5B) applies.”
- 8 In section 77B (joint and several liability: sellers identified as non-compliant by the Commissioners) omit subsections (9) and (12).
- 9 In section 77BA (joint and several liability: non-UK sellers in breach of Schedule 1A registration requirement) omit subsection (8).
- 10 In section 77C (joint and several liability under section 77B or 77BA: assessments) omit subsection (9).
- 11 In section 77D (joint and several liability under section 77B or 77BA: interest) omit subsection (8).
- 12 In section 77E (display of VAT registration numbers), in subsection (9) omit the definition of “online marketplace” and “operator”.
- 13 After section 77E insert—

“Liability of operators of online marketplaces for VAT in cases of deemed supply

77F Exception from liability under section 5A

- (1) This section applies where an amount of VAT is due from the operator of an online marketplace by virtue of section 5A.

Status: This is the original version (as it was originally enacted).

- (2) The operator is not liable for any amount of VAT in excess of the amount paid by R (as defined in section 5A) provided that the operator took—
- (a) all reasonable steps to ascertain the matters set out in subsection (3), and
 - (b) all other reasonable steps to satisfy itself that the amount charged was correct.
- (3) The matters are—
- (a) the place of establishment of the person making taxable supplies facilitated by the online marketplace;
 - (b) the location of the goods at the time of their supply.”

14 Before section 96 insert—

“95A Meaning of “online marketplace” and “operator” etc

(1) In this Act—

“online marketplace” means a website, or any other means by which information is made available over the internet, which facilitates the sale of goods through the website or other means by persons other than the operator (whether or not the operator also sells goods through the marketplace);

“operator”, in relation to an online marketplace, means the person who controls access to, and the contents of, the online marketplace provided that the person is involved in—

- (a) determining any terms or conditions applicable to the sale of goods,
- (b) processing, or facilitating the processing, of payment for the goods, and
- (c) the ordering or delivery, or facilitating the ordering or delivery, of the goods.

- (2) For the purposes of subsection (1), an online marketplace facilitates the sale of goods if it allows a person to—
- (a) offer goods for sale, and
 - (b) enter into a contract for the sale of those goods.

- (3) The Treasury may by regulations amend this section so as to alter the meaning of—
- “online marketplace”, and
“operator”.”

15 In section 96(1) (other interpretative provisions), at the appropriate places insert—

““postal operator” means a person who provides—

- (a) the service of conveying postal packets from one place to another by post, or
- (b) any of the incidental services of receiving, collecting, sorting and delivering postal packets;”;

““postal packet” means a letter, parcel, packet or other article transmissible by post;”.

16 (1) Schedule 8 (zero-rating) is amended as follows.

Status: This is the original version (as it was originally enacted).

(2) In Part 1 (index to zero-rated supplies of goods and services), at the appropriate place insert—

“Online marketplaces (deemed supply) | Group 21”.

(3) In Part 2 (the groups), after Group 20 insert—

“GROUP 21

ONLINE MARKETPLACES (DEEMED SUPPLY)

Item No.

- 1 A supply by a person established outside the United Kingdom that is deemed to be a supply to an operator of an online marketplace by virtue of section 5A, provided that the supply does not involve the goods being imported for the purposes of that section.”
- 17 (1) In Schedule 11 (administration, collection and enforcement), paragraph 6 (record keeping) is amended as follows.
- (2) Before sub-paragraph (5) insert—
- “(4A) In relation to a relevant taxable person, a duty under this paragraph to preserve records relating to a relevant taxable supply must be discharged by at least preserving the information contained in the records electronically.
- (4B) A relevant taxable person must make available to the Commissioners electronically on request any records preserved in accordance with sub-paragraph (4A).
- (4C) In sub-paragraph (4A) “relevant taxable supply” means a supply of goods where—
- (a) that supply is deemed to be a supply by an operator of an online marketplace by virtue of section 5A, or
- (b) the place of supply of those goods is determined by section 7(5B).
- (4D) In sub-paragraphs (4A) and (4B) “relevant taxable person” means a person who is a taxable person and who—
- (a) is the operator of an online marketplace,
- (b) is a person making taxable supplies of goods facilitated by an online marketplace, or
- (c) makes taxable supplies, the place of supply of which is determined by section 7(5B).”
- (3) In sub-paragraph (5), after “may by regulations make” insert “further”.

Amendment to the Value Added Tax (Imported Goods) Relief Order 1984

- 18 In Schedule 2 to the Value Added Tax (Imported Goods) Relief Order 1984 ([S.I. 1984/746](#)) (reliefs for goods of certain descriptions), omit Item 8 and Notes (2) and (3) in Group 8 (low value consignment relief).

Amendments to the Value Added Tax Regulations 1995

- 19 The Value Added Tax Regulations 1995 (S.I. 1995/2518) are amended as follows.
- 20 In regulation 13(1) (obligation to supply a VAT invoice), before sub-paragraph (2) insert—
- “(1C) Save as otherwise provided in these Regulations, where a registered person makes a taxable supply of goods to a person who is not a taxable person, if—
- (a) that supply is deemed to be a supply by an operator of an online marketplace by virtue of section 5A of the Act, or
- (b) the place of supply of those goods is determined by section 7(5B) of the Act,
- the registered person must provide the other person with a VAT invoice.”
- 21 (1) Regulation 13A (electronic invoicing) is amended as follows.
- (2) In paragraph (1) for “goods or services” substitute “services or relevant goods”.
- (3) After paragraph (4) insert—
- “(5) In this regulation, “relevant goods” means all goods other than goods—
- (a) the supply of which is deemed to be a supply by an operator of an online marketplace by virtue of section 5A of the Act, or
- (b) the place of supply of which is determined by section 7(5B) of the Act.”
- 22 (1) Regulation 15 (change of rate, credit notes) is amended as follows.
- (2) The existing text becomes paragraph (1).
- (3) In that paragraph, after “relates to a” insert “relevant”.
- (4) After that paragraph insert—
- “(2) In this regulation, “relevant supply” means a supply of goods or services other than a supply of goods to a person who is not a taxable person.”
- 23 (1) Regulation 15C (changes in consideration: debit notes and credit notes) is amended as follows.
- (2) In paragraph (1), at the end insert “, subject to paragraph (1A)”.
- (3) After paragraph (1) insert—
- “(1A) This regulation does not apply in relation to a case where the original supply was a supply of goods to a person who was not a taxable person.”
- 24 After regulation 16A insert—

Retailers’ and simplified invoices: exceptions

- “16B Regulations 16 and 16A do not apply in relation to a supply of goods if—
- (a) that supply is deemed to be a supply by an operator of an online marketplace by virtue of section 5A of the Act, or
- (b) the place of supply of those goods is determined by section 7(5B) of the Act.”

PART 2

AMENDMENTS AND MODIFICATIONS RELATING TO THE NORTHERN IRELAND PROTOCOL

Amendments to the Value Added Tax Act 1994

- 25 VATA 1994 is amended as follows.
- 26 In section 40A (Northern Ireland Protocol) (inserted by section 3 of this Act), after subsection (2) insert—
- “(3) Schedule 9ZC makes provision, as a result of the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement, about the application of this Act in cases involving—
- (a) supplies of goods by persons established outside the United Kingdom that are facilitated by online marketplaces, and
- (b) the importation of goods of a low value.”
- 27 (1) Schedule 9ZB (inserted by paragraph 2 of Schedule 2 to this Act) is amended as follows.
- (2) After paragraph 1(8) insert—
- “(9) This paragraph is subject to paragraph 4 of Schedule 9ZC.”;
- (3) After paragraph 4(10) insert—
- “(11) Sub-paragraphs (3) and (4) are subject to paragraph 4A of Schedule 9ZC.”
- 28 After that Schedule insert—

“SCHEDULE
9ZC

Section 40A(3)

ONLINE SALES BY OVERSEAS PERSONS AND LOW VALUE IMPORTATIONS: MODIFICATIONS RELATING TO THE NORTHERN IRELAND PROTOCOL

PART 1

MODIFICATION OF THIS ACT

- 1 References in the following provisions of this Act to goods being imported do not include goods imported into the United Kingdom as a result of their entry into Northern Ireland or goods treated as having been imported into the United Kingdom as a result of their being removed from Northern Ireland to Great Britain—
- (a) section 5A(3) (the imported consignment condition);
- (b) section 7(5B)(b) (place of supply of goods);
- (c) section 7AA(1)(c) (reverse charge on goods supplied from abroad).
- 2 Section 77F (exception from liability under section 5A) has effect as if—
- (a) in the heading, after “section 5A” there were inserted “or Part 1 of Schedule 9ZC”;

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- (b) in subsection (1), after “section 5A” there were inserted “or Part 1 of Schedule 9ZC”;
 - (c) in subsection (2), after “(as defined in section 5A” there were inserted “or Part 1 of Schedule 9ZC, as the case may be”.
- 3 (1) In Schedule 11, paragraph 6 has effect subject to the following modifications.
 - (2) Sub-paragraph (4C) has effect as if—
 - (a) the “or” at the end of paragraph (a) were omitted;
 - (b) after paragraph (b) there were inserted “, or
 - (c) Part 1 of Schedule 9ZC makes provision about who is treated as having imported those goods.”
 - (3) Sub-paragraph (4D) has effect as if—
 - (a) the “or” at the end of paragraph (b) were omitted;
 - (b) after paragraph (c) there were inserted “, or
 - (d) is treated as having imported goods under Part 1 of Schedule 9ZC.”
- 4 (1) Sub-paragraph (2) applies, instead of section 15(4) and (5) (as modified by paragraph 1 of Schedule 9ZB), where—
 - (a) goods are imported into the United Kingdom as a result of their entry into Northern Ireland in the course or furtherance of a business by a person (“P”),
 - (b) that importation is in the course of a taxable supply to a person (“R”) who—
 - (i) is not registered under this Act, or
 - (ii) is registered under this Act but who has not provided P or, where the supply is facilitated by an online marketplace, the operator of that marketplace, with R’s VAT registration number,
 - (c) the intrinsic value of the consignment of which the goods are part is not more than £135, and
 - (d) the consignment of which the goods are part—
 - (i) does not contain excepted goods, and
 - (ii) is not a consignment in relation to which a postal operator established outside the United Kingdom has an obligation under an agreement with the Commissioners to pay any import VAT that is chargeable on the importation of that consignment into the United Kingdom.
- (2) The person who is treated as having imported the goods is—
 - (a) in a case where the supply is facilitated by an online marketplace, the operator of the online marketplace, or
 - (b) in any other case, P.
- (3) In sub-paragraph (1)(b)(ii), “VAT registration number” means the number allocated by the Commissioners to a person registered under this Act.

Status: This is the original version (as it was originally enacted).

- (4) For the purposes of sub-paragraph (1)(d)(i), “excepted goods” means goods of a class or description subject to any duty of excise whether or not those goods are in fact chargeable with that duty, and whether or not that duty has been paid on the goods.
- (5) The Commissioners may by regulations substitute a different figure for a figure that is at any time specified in sub-paragraph (1)(c).

PART 2

MODIFICATION OF THE VALUE ADDED TAX (IMPORTED GOODS) RELIEF ORDER 1984

- 5 (1) In Schedule 2 to the Value Added Tax (Imported Goods) Relief Order 1984 (S.I. 1984/746) (reliefs for goods of certain descriptions), Group 8 (articles sent for miscellaneous purposes) has effect subject to the following modifications.
- (2) That Group has effect as if after item 7 there were inserted—
- “8 Any consignment of goods imported into the United Kingdom as a result of their entry into Northern Ireland (other than alcoholic beverages, tobacco products, perfumes or toilet waters) not exceeding £15 in value.”
- (3) That Group has effect as if after note (1) there were inserted—
- “(2) Item 8 does not apply in relation to any goods imported on mail order.
- (3) For the purposes of note (2)—
- “mail order” in relation to any goods means any transaction or series of transactions under which a seller (S) sends goods in fulfilment of an order placed remotely,
- “remotely” means by any means that do not involve the simultaneous physical presence of S and the person placing the order, and
- “seller” does not include any person acting otherwise than in a commercial or professional capacity.”

PART 3

REGISTRATION

Liability to be registered

- 6 (1) A person who is treated as having imported goods under Part 1 of this Schedule and—
- (a) is not registered under this Act, and
- (b) is not liable to be registered under Schedule 1, 1A or 9ZA to this Act,
- becomes liable to be registered under this Schedule at the point they are so treated.

Status: This is the original version (as it was originally enacted).

- (2) A person who is not registered or liable to be registered as mentioned in sub-paragraph (1)(a) and (b) becomes liable to be registered under this Schedule at any time if there are reasonable grounds for believing that the person will be treated as having imported goods under Part 1 of this Schedule in the following 30 days.
 - (3) A person is treated as having become liable to be registered under this Schedule at any time when the person would have become so liable under the preceding provisions of this paragraph but for any registration which is subsequently cancelled under paragraph 11(2) of this Schedule, paragraph 13(3) of Schedule 1, paragraph 11 of Schedule 1A, paragraph 6(2) of Schedule 3A or paragraph 43 or 53 of Schedule 9ZA.
 - (4) A person does not cease to be liable to be registered under this Schedule except in accordance with paragraph 7.
- 7
- (1) A person who has become liable to be registered under this Schedule ceases to be so liable at any time if the Commissioners are satisfied that the person is no longer a person who is, or will be, treated as having imported goods under Part 1 of this Schedule.
 - (2) But a person does not cease to be liable to be registered under this Schedule at any time if there are reasonable grounds for believing that the person will be treated as having imported goods under Part 1 of this Schedule in the following 30 days.

Notification of liability and registration

- 8
- (1) A person who becomes liable to be registered under this Schedule must notify the Commissioners of the liability—
 - (a) in the case of a liability under sub-paragraph (1) of paragraph 6, within 30 days of the person becoming so liable, and
 - (b) in the case of a liability under sub-paragraph (2) of that paragraph, before the end of the period by reference to which the liability arises.
 - (2) The Commissioners must register any such person (whether or not the person notifies them) with effect from the relevant time.
 - (3) In this paragraph “the relevant time”—
 - (a) in a case falling within sub-paragraph (1)(a), means the beginning of the day on which the liability arose, and
 - (b) in a case falling within sub-paragraph (1)(b), means the beginning of the period by reference to which the liability arose.

Entitlement to be registered etc

- 9
- (1) Where a person who is not liable to be registered under this Act and is not already so registered—
 - (a) satisfies the Commissioners that the person intends to make or facilitate a relevant supply from a specified date, and
 - (b) requests to be registered under this Schedule,

Status: This is the original version (as it was originally enacted).

the Commissioners may, subject to such conditions as they think fit to impose, register the person with effect from such date as may be agreed between the Commissioners and the person.

- (2) Conditions imposed under sub-paragraph (1) may—
- (a) be so imposed wholly or partly by reference to, or without reference to, any conditions prescribed for the purposes of this paragraph, and
 - (b) be subsequently varied by the Commissioners (whenever the conditions were imposed).
- (3) Where a person who is entitled to be registered under paragraph 9 or 10 of Schedule 1 requests registration under this paragraph, the person is to be registered under that Schedule, and not under this Schedule.

Notification of matters affecting continuance of registration

- 10 (1) Any person registered under this Schedule who ceases to be registrable under this Act must notify the Commissioners of that fact within 30 days of the day on which the person ceases to be registrable.
- (2) A person registered under paragraph 9(1) must notify the Commissioners, within 30 days of the first occasion after the person's registration when the person makes or facilitates a relevant supply, that the person has made or facilitated that supply.
- (3) For the purposes of this paragraph a person ceases to be registrable under this Act where—
- (a) the person ceases to be a person who would be liable or entitled to be registered under this Act if the person's registration and any enactment preventing a person from being liable to be registered under different provisions at the same time were disregarded, or
 - (b) in the case of a person who (having been registered under paragraph 9(1)) has not been such a person during the period of the person's registration, the person ceases to have any intention of making or facilitating relevant supplies.

Cancellation of registration

- 11 (1) Where a person registered under this Schedule satisfies the Commissioners that the person is not liable to be so registered, the Commissioners must, if the person so requests, cancel that registration with effect from the day on which the request is made or from such later date as may be agreed between the Commissioners and the person.
- (2) Where the Commissioners are satisfied that a person registered under this Schedule has ceased since the person's registration to be registrable under this Schedule, they may cancel that registration with effect from the day on which the person so ceased or from such later date as may be agreed between the Commissioners and the person.

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- (3) Where the Commissioners are satisfied that a person who has been registered under paragraph 9(1) and is not for the time being liable to be registered under this Schedule—
- (a) has not begun, by the date specified in the person’s request to be registered, to make or facilitate relevant supplies, or
 - (b) has contravened any condition of the person’s registration,
- the Commissioners may cancel the person’s registration with effect from the date so specified or, as the case may be, the date of the contravention or from such later date as may be agreed between the Commissioners and the person.
- (4) But the Commissioners may not, under sub-paragraph (1), (2) or (3), cancel a person’s registration with effect from any time unless the Commissioners are satisfied that it is not a time when that person would be subject to a requirement, or in a case falling under sub-paragraph (2) or (3) a requirement or entitlement, to be registered under this Act.
- (5) Where the Commissioners are satisfied that, on the day on which a person was registered under this Schedule, the person—
- (a) was not registrable under this Schedule, and
 - (b) in the case of a person registered under paragraph 9(1), did not have the intention by reference to which the person was registered,
- the Commissioners may cancel that registration with effect from that day.
- (6) In determining, for the purposes of sub-paragraph (4), whether a person would be subject to a requirement, or would be entitled, to be registered at any time, so much of any provision of this Act as prevents a person from becoming liable or entitled to be registered when the person is already registered or when the person is so liable under any other provision is to be disregarded.
- (7) For the purposes of this paragraph, a person is registrable under this Schedule at any time when the person is liable to be registered under this Schedule or is a person who makes or facilitates relevant supplies.

Notifications

- 12 Any notification required under this Part of this Schedule must be made in such form and manner and must contain such particulars as may be specified in regulations or by the Commissioners in accordance with regulations.

Meaning of relevant supply

- 13 For the purposes of this Part of this Schedule a supply is a “relevant supply” if the person making or facilitating it would be treated as having imported goods under Part 1 of this Schedule.

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Modification of the Finance Act 2008

- 14 Paragraph 1 of Schedule 41 to the Finance Act 2008 (penalties: failure to notify etc) has effect as if in the table there were inserted the following entry—

“Value added tax	Obligation under paragraph 8 of Schedule 9ZC to VATA 1994 (obligations to notify liability to register and notify matters affecting continuance of registration).”
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- 29 (1) Part 1 of Schedule 9ZC (inserted by paragraph 28) is amended as follows.
- (2) After paragraph 1 insert—
- “1A Section 5A has effect as if in subsection (1)(c)(ii) after “outside the United Kingdom” there were inserted “and prior to the supply the goods were located in Great Britain”.”
- (3) After paragraph 4 insert—
- “4A (1) Sub-paragraph (2) applies, instead of paragraph 4(3) and (4) of Schedule 9ZB, in relation to a removal of goods from Northern Ireland to Great Britain or, as the case may be, vice versa where—
- (a) the removal is in the course of a supply by a person established outside of the United Kingdom (“P”), and
 - (b) the supply is facilitated by an online marketplace.
- (2) The operator of the online marketplace is the person who is treated as having imported the goods.
- (3) But sub-paragraph (2) does not apply where the person to whom the goods are supplied (“R”)—
- (a) is registered under this Act,
 - (b) has provided the operator of the online marketplace with R’s VAT registration number, and
 - (c) the operator of the online marketplace has provided P with that number and details of the supply before the end of the relevant period.
- (4) In sub-paragraph (3)—
- “relevant period” means the period of 7 days beginning with the day on which the supply is treated as taking place under section 6 or such longer period as the Commissioners may allow in general or specific directions;
- “VAT registration number” means the number allocated by the Commissioners to a person registered under this Act.
- (5) The Commissioners may by regulations specify the details that must be provided for the purposes of sub-paragraph (3)(c).”

SCHEDULE 4

Section 9

RECOVERY OF UNLAWFUL STATE AID

TIOPA 2010 has effect as if—

- (a) after Chapter 21 of Part 9A there were inserted—

“CHAPTER 21A

RECOVERY OF UNLAWFUL STATE AID

371UFA Recovery of unlawful state aid

Schedule 7ZA makes provision in connection with [Commission Decision \(EU\) 2019/1352](#) of 2 April 2019 on the state aid SA.44896 implemented by the United Kingdom concerning the CFC Group Financing Exemption (referred to in that Schedule as “the Commission Decision”).”, and

- (b) after Schedule 7 there were inserted—

“SCHEDULE 7ZA

Section 371UFA

RECOVERY OF UNLAWFUL STATE AID

Recovery of unlawful state aid

- 1 (1) Any amount that would have been chargeable on a company as if it were corporation tax for a relevant accounting period of the company by virtue of this Part, if the company had not benefited from the unlawful state aid identified in the Commission Decision, is to be treated as chargeable on that company as if it were corporation tax for that relevant accounting period by virtue of this Part.
- (2) In this Schedule, such an amount is referred to as an “additional amount”.

Charging notice

- 2 (1) This paragraph applies where an officer of HMRC has reason to believe that an additional amount is chargeable on a company in respect of one or more of the company’s relevant accounting periods.
- (2) The officer may—
 - (a) make an assessment of the additional amounts which ought in their opinion to be charged on the company for each relevant accounting period, and
 - (b) give a notice (a “charging notice”) to that company requiring it to pay those amounts.
- (3) More than one charging notice may be given to a company in respect of a relevant accounting period.
- (4) A charging notice must—
 - (a) state the relevant accounting periods to which the notice applies,

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- (b) state the additional amounts required to be paid by the notice for each of those relevant accounting periods,
 - (c) set out the basis on which the officer has calculated the additional amounts,
 - (d) state the period within which payment must be made, and
 - (e) explain how interest is to be calculated in accordance with paragraph 8.
- (5) Where a charging notice is given to a company, the company must pay the additional amounts specified in the notice within the period of 30 days beginning with the day on which the notice is given to the company.
- (6) The payment of the amounts specified in the notice may not be postponed on any grounds, and so the amounts charged by the charging notice remain due and payable despite any appeal in respect of the notice.

Charging period

- 3
- (1) No charging notice may be given after the end of the charging period.
 - (2) The charging period is the period of 12 months beginning with the day on which Schedule 4 to the Taxation (Post-transition Period) Act 2020 comes into force.
 - (3) The Treasury may by regulations amend sub-paragraph (2) so as to extend the charging period if they consider it necessary to do so in order to give effect to the Commission Decision.
 - (4) The power in sub-paragraph (3) may be exercised more than once.

Consequential claims etc

- 4
- (1) An officer of HMRC may by notice (a “consequential amendment notice”) given to a company make any adjustment or amendment, in relation to the company, to any company tax return, self-assessment, discovery assessment, claim, election, application or notice (including a charging notice) relating to any accounting period which the officer considers is appropriate in consequence of—
 - (a) a charging notice,
 - (b) any claim, election, application, notice or other representation relating to a charging notice, or
 - (c) anything done by the Tribunal under paragraph 6(4) (powers of the Tribunal on an appeal).
 - (2) More than one consequential amendment notice may be given to a company in respect of an accounting period.
 - (3) Adjustments or amendments made in reliance on sub-paragraph (1) may (among other things) relate to—
 - (a) an additional amount charged on a company in a charging notice,
 - (b) any other part of the CFC charge charged on the company (if any),
 - (c) any other tax payable by the company, or

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- (d) any claim, election, application or notice relating to a matter within paragraph (a), (b) or (c).
- (4) In sub-paragraphs (1)(b) and (3)(d), the references to “any claim” include any claim for relief which a company may make in respect of an additional amount.
- (5) Where a consequential amendment notice reduces the amount which is chargeable on a company as the additional amount for a relevant accounting period—
 - (a) an officer of HMRC must exercise the power in sub-paragraph (1) so as to secure, so far as reasonably practicable, that relevant reliefs are treated in the same way as they were treated before any steps were taken under this Schedule in relation to them, and
 - (b) any amount which was overpaid must be repaid.
- (6) In sub-paragraph (5), “relevant reliefs” means so much of any reliefs previously taken into account in calculating the additional amount chargeable on the company for the relevant accounting period in question as are referable to the amount by which that additional amount is reduced.
- (7) Subject to sub-paragraph (8), paragraphs 61 to 64 of Schedule 18 to FA 1998 apply in relation to the following as they apply in relation to a discovery assessment—
 - (a) a charging notice, and
 - (b) a consequential amendment notice.
- (8) Paragraph 62(1)(a) of that Schedule is to be read as if the reference to one year from the end of the relevant accounting period were a reference to the period of 60 days beginning with the day on which the charging notice or consequential amendment notice is given.

Interaction with enquiries etc

- 5 (1) This Schedule applies in respect of an additional amount whether or not any functions in or under Schedule 18 to FA 1998 (company tax returns, assessments etc) have been exercised, or any other steps have been taken, in relation to that amount.
- (2) Where a company is required to pay an additional amount for a relevant accounting period in accordance with a charging notice—
 - (a) any discovery assessment ceases to have effect so far as it relates to that additional amount, and
 - (b) any claim, election, application or notice ceases to have effect so far as it relates to that discovery assessment.
- (3) Nothing in sub-paragraph (2)(b) prevents a company making or giving a new claim, election, application or notice, including in relation to any matter referred to in the discovery assessment mentioned in that sub-paragraph.
- (4) When giving a partial or final closure notice to a company in relation to an enquiry into the company’s tax return relating to a relevant accounting period, an officer of HMRC must take into account—

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- (a) any charging notice given to the company,
- (b) any claim, election, application or notice relating to such a charging notice, and
- (c) any consequential amendment notice given to the company.

Appeals

- 6 (1) A company may appeal against any of the following—
- (a) a charging notice, and
 - (b) a consequential amendment notice.
- (2) Notice of an appeal must be given to HMRC, in writing, within the period of 30 days beginning with the day on which the notice is given.
- (3) The notice of appeal must specify the grounds of appeal.
- (4) On an appeal under this paragraph, the Tribunal may—
- (a) confirm the notice to which the appeal relates,
 - (b) amend the notice, or
 - (c) cancel the notice.
- (5) References in Part 5 of TMA 1970 (appeals etc) to an assessment are to be read as including a charging notice or a consequential amendment notice, unless the context requires otherwise.

Payment of interest

- 7 (1) An officer of HMRC may give a notice (an “interest charging notice”) to a company requiring it to pay an amount of interest in relation to one or more additional amounts after they have been paid.
- (2) The amount of interest to be paid in relation to an additional amount is to be calculated in accordance with paragraph 8 (and not in accordance with provision made in or under section 87A of TMA 1970 (interest on overdue corporation tax etc) or section 178 of FA 1989 (setting of rates of interest)).
- (3) An interest charging notice must—
- (a) state the additional amount to which each amount of interest relates,
 - (b) explain how each amount of interest has been calculated, and
 - (c) state the period within which payment must be made.
- (4) An officer of HMRC may vary or cancel an interest charging notice.
- (5) Where an interest charging notice is given to a company, the company must pay the amounts specified in the notice within the period of 30 days beginning with the day on which the notice is given to the company.
- (6) The payment of those amounts may not be postponed on any grounds.

Calculation of interest payable in relation to an additional amount

- 8 (1) The interest which an additional amount carries is to be calculated in accordance with Chapter 5 of the Commission Regulation.

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- (2) For the purposes of Article 11(1) of the Commission Regulation—
 - (a) the reference to the date on which unlawful aid was first put at the disposal of the beneficiary is to be read as a reference to the date when an additional amount would have become due and payable by the company on which it is chargeable if the company had not benefited from the unlawful state aid identified in the Commission Decision, and
 - (b) the reference to the date of recovery of the aid is to be read as a reference to the date on which that additional amount is paid.
- (3) In this paragraph, “the Commission Regulation” means [Commission Regulation \(EC\) No. 794/2004](#) of 21 April 2004 implementing Council Regulation (EC) No. 659/1999 laying down detailed rules for the application of Article 93 of the EC Treaty.

Liability of related company

- 9 (1) This paragraph applies where the company on which an additional amount is (or would be) chargeable for a relevant accounting period in accordance with paragraph [1\(1\)](#) (the “original company”)—
 - (a) does not fully pay the additional amount before the date on which it must be paid in accordance with paragraph [2\(5\)](#),
 - (b) does not fully pay any interest on an additional amount before the date on which that interest must be paid in accordance with paragraph [7\(5\)](#),
 - (c) is in liquidation, in administration or in receivership, or
 - (d) has been dissolved.
- (2) Where this paragraph applies by virtue of sub-paragraph [\(1\)\(a\)](#) or [\(c\)](#), each related company of the original company is jointly and severally liable with the original company for—
 - (a) the additional amounts which are chargeable on the original company for each of its relevant accounting periods, and
 - (b) interest on those amounts.
- (3) Where this paragraph applies by virtue of sub-paragraph [\(1\)\(b\)](#), each related company of the original company is jointly and severally liable with the original company for interest on the additional amounts which are chargeable on the original company for each of its relevant accounting periods.
- (4) Where this paragraph applies by virtue of sub-paragraph [\(1\)\(d\)](#), each related company of the original company is jointly and severally liable for—
 - (a) the additional amounts which would have been chargeable on the original company for each of its relevant accounting periods if it had not been dissolved, and
 - (b) interest on those amounts.
- (5) Where a related company is liable for an additional amount or interest on an additional amount, an officer of HMRC may, for the purposes of giving effect to the Commission Decision, exercise any function under

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this Schedule in relation to the related company as if it were the original company in respect of which it is a related company.

- (6) In applying paragraphs 2 to 5 of this Schedule for the purposes of sub-paragraph (5), references to a relevant accounting period of a company are to be read as references to a relevant accounting period of the original company.
- (7) Where this paragraph applies by virtue of sub-paragraph (1)(a), sub-paragraphs (2) to (6) have effect only in relation to so much of the additional amount as was not paid by the original company before the date on which it had to be paid in accordance with paragraph 2(5).
- (8) Where this paragraph applies by virtue of sub-paragraph (1)(b), sub-paragraphs (2) to (6) have effect only in relation to so much of any interest on the additional amount as was not paid by the original company before the date on which it had to be paid in accordance with paragraph 7(5).
- (9) Where this paragraph applies by virtue of sub-paragraph (1)(c) or (d), sub-paragraphs (2) to (6) have effect only in relation to so much of the additional amount, or so much of any interest on the additional amount, as was not paid by the original company before the date on which sub-paragraph (1) (c) or (d) began to apply.
- (10) For the purposes of sub-paragraph (1)(c)—
 - (a) a company is “in liquidation” if it is in liquidation within the meaning of section 247 of the Insolvency Act 1986 or Part 3 of the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)), or a corresponding situation under the law of a country or territory outside the United Kingdom exists in relation to the company;
 - (b) a company is “in administration” if it is in administration within the meaning of Schedule B1 to the Insolvency Act 1986 or Schedule B1 to the Insolvency (Northern Ireland) Order 1989, or there is in force in relation to it under the law of a country or territory outside the United Kingdom any appointment corresponding to the appointment of an administrator under either of those Schedules;
 - (c) a company is “in receivership” if there is in force in relation to it an order for the appointment of an administrative receiver, a receiver and manager or a receiver under Chapter 1 or 2 of Part 3 of the Insolvency Act 1986 or Part 4 of the Insolvency (Northern Ireland) Order 1989, or any corresponding order under the law of a country or territory outside the United Kingdom.
- (11) In this paragraph, a company is a “related company” of an original company if—
 - (a) at any time when the original company benefited from the unlawful state aid identified in the Commission Decision, it was a member—
 - (i) of the same group as the original company,
 - (ii) of a consortium which at that time owned the original company, or
 - (iii) of the same group as a company which at that time was a member of a consortium owning the original company, and

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- (b) an officer of HMRC has given the company a notice informing the company that it is a related company for the purposes of this paragraph.
- (12) For the purposes of sub-paragraph (11)(a)—
- (a) a company is a member of a consortium if it is a member of a consortium within the meaning of Part 5 of CTA 2010, and
 - (b) a company is owned by a consortium if it is owned by a consortium within the meaning of that Part.
- (13) For the purposes of sub-paragraph (11)(a)(i), two companies are members of the same group if—
- (a) one is the 51% subsidiary of the other, or
 - (b) both are 51% subsidiaries of a third company.
- (14) For the purposes of sub-paragraph (11)(a)(iii), two companies are members of the same group if they are members of the same group of companies within the meaning of Part 5 of CTA 2010 (group relief).
- (15) An officer of HMRC may give a notice to a company for the purposes of sub-paragraph (11)(b) only if the officer considers that the company, by virtue of its relationship or a transaction with the original company, received a benefit or experienced an advantage, whether directly or indirectly, as a result of the unlawful state aid identified in the Commission Decision.

Variation of the Commission Decision

- 10
- (1) If the Commission Decision is revoked or annulled, the Treasury must by regulations make such provision as they consider appropriate for the purposes of securing, so far as reasonably practicable, that any company affected by this Schedule is put into the position it would have been in if—
 - (a) the Commission Decision had not been made, and
 - (b) this Schedule had not had effect.
 - (2) The duty in sub-paragraph (1) does not apply if there is, or the Treasury consider that there may be, a further decision within the meaning of Article 288 of the Treaty on the Functioning of the European Union which is to the same or similar effect as the Commission Decision.
 - (3) The Treasury may by regulations make such provision as they consider appropriate to take account of—
 - (a) any variation of the Commission Decision, or
 - (b) any further decision within the meaning of Article 288 of the Treaty on the Functioning of the European Union which is to the same or similar effect as the Commission Decision.
 - (4) The power to make regulations under this paragraph may (among other things) be exercised by modifying—
 - (a) this Part;
 - (b) provision made under this Part.
 - (5) In sub-paragraph (4), “modify” includes amend, repeal or revoke.

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Consequential modifications

- 11 Section 371UE (appeal affecting more than one person) has effect as if an appeal against a charging notice or a consequential amendment notice by virtue of paragraph 6(1) of this Schedule were a “relevant appeal” for the purposes of that section.

Management of the CFC charge for the purposes of the Commission Decision

- 12 (1) The application to the CFC charge of enactments applying generally to corporation tax by section 371UB (application of the Taxes Acts to the CFC charge) has effect subject to—
- (a) this Schedule, and
 - (b) any other modifications that are necessary to give effect to the Commission Decision.
- (2) Any relevant time limit is disapplied so far as necessary to give effect to the Commission Decision.
- (3) A time limit is relevant if it would otherwise have applied or had effect, by or under an enactment (apart from this Schedule), in connection with—
- (a) the CFC charge charged on a company,
 - (b) any other tax payable by that company,
 - (c) the tax liability of another company, or
 - (d) any adjustment, amendment, claim, election, application or notice relating to a matter within paragraphs (a) to (c).

Interpretation

- 13 (1) For the purposes of this Schedule, a relevant accounting period of a company is any accounting period of the company for corporation tax purposes during some or all of which the unlawful state aid identified in the Commission Decision was available (whether or not the company considers that it benefited from it).
- (2) Terms used in this Schedule which are defined or explained in Schedule 18 to FA 1998 have the same meaning in this Schedule as in that Schedule.
- (3) In this Schedule—
- “additional amount” has the meaning given by paragraph 1(2);
 - “charging notice” has the meaning given by paragraph 2(2)(b);
 - the “Commission Decision” means [Commission Decision \(EU\) 2019/1352](#) of 2 April 2019 on the state aid SA.44896 implemented by the United Kingdom concerning the CFC Group Financing Exemption;
 - “consequential amendment notice” has the meaning given by paragraph 4(1);
 - “HMRC” means Her Majesty’s Revenue and Customs;
 - “interest charging notice” has the meaning given by paragraph 7(1);
 - “officer of HMRC” means an officer of Revenue and Customs.”