

STATUTORY INSTRUMENTS

2018 No. 1249

The Customs (Special Procedures and Outward Processing) (EU Exit) Regulations 2018

PART 2

Authorisation and Approval

Eligibility for authorisation or approval

9.—(1) The following criteria [^{F1}, and, where relevant, a criterion in paragraph (1A) or (1B),] (“the eligibility criteria”) must be met before an authorisation or approval is granted to carry out an activity specified in regulation 3(2)—

- (a) the applicant must be established in the United Kingdom, except where—
 - (i) the application is for authorisation to declare goods for a temporary admission procedure; or
 - (ii) paragraph (2) applies;

^{F2}(b)

- (c) [^{F3}except where paragraph (1A) or (1B) applies,] an HMRC officer must be of the opinion that it is possible to exercise control of any goods declared under the authorisation sought without the effects being disproportionate to the benefit to the applicant of use of the procedure; and
- (d) an HMRC officer must be satisfied that the applicant will exercise proper conduct of the operations necessary to comply with the requirements of the procedure.

[^{F4}(1A) Where an application is for approval to operate premises as a place to keep goods declared for a customs warehouse procedure, an HMRC officer must be of the opinion that it is possible to exercise control of any goods that have been declared for a storage procedure and are to be kept in the premises to which the approval relates without the effects being disproportionate to the benefit to the applicant.

(1B) Where an application is for authorisation to carry out a free zone activity, an HMRC officer must be of the opinion that it is possible to exercise control of the goods in relation to which the activity is carried out without the effects being disproportionate to the benefit to the applicant.]

(2) This paragraph applies where—

- (a) the application is for authorisation to declare goods for [^{F5}a free zone procedure,] an inward processing procedure or an authorised use procedure; and
- (b) in the opinion of an HMRC officer it is appropriate to grant authorisation to a person established outside the United Kingdom taking into consideration factors specified in a notice published by HMRC.

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

(4) For the purposes of considering whether the applicant will exercise proper conduct of operations necessary to comply with the requirements of the relevant non-transit Part 1 procedure, the matters that an HMRC officer may take into account include (for example)—

- (a) whether, in the opinion of an HMRC officer, the applicant's financial standing makes the applicant suitable to carry out the activity for which authorisation is sought;
- (b) whether the applicant, or any directors or senior employees of the applicant, has been involved in a breach of an obligation relating to tax or of a Customs obligation, which in the opinion of an HMRC officer is—
 - (i) a serious breach having regard to the circumstances and nature of any breach and the number of any breaches; and
 - (ii) relevant to the suitability of the applicant to carry out the activity for which authorisation is sought;
- (c) whether the applicant, or any directors or senior employees of the applicant, has any criminal conviction which in the opinion of the HMRC officer is—
 - (i) serious having regard to the type of conviction; and
 - (ii) relevant to the suitability of the applicant to carry out the activity for which authorisation is sought;
- (d) whether the applicant maintains a logistical system and records that identify sufficiently the movement of, and transactions in, chargeable goods and domestic goods and facilitate compliance with Customs obligations;
- (e) whether—
 - (i) the applicant meets any professional standards of competence specified in a notice published by HMRC under regulation 93(2) of the import duty regulations; or
 - (ii) in the opinion of an HMRC officer, the applicant's practical experience makes the applicant suitable to carry out the activity for which authorisation is sought.

(5) An authorised economic operator within the meaning given in section 22(2) of the Act is deemed to satisfy the requirement specified in paragraph (1)(d) unless, in the opinion of an HMRC officer, consideration is required of matters relating to the exercise of proper conduct of operations that were not considered at the time when the applicant was authorised as an authorised economic operator.

Textual Amendments

- F1** Words in [reg. 9\(1\)](#) inserted (8.11.2021) by [The Free Zones \(Customs, Excise and Value Added Tax\) Regulations 2021 \(S.I. 2021/1156\)](#), regs. 1, **3(4)(a)(i)**
- F2** [Reg. 9\(1\)\(b\)](#) omitted (21.3.2019) by virtue of [The Customs \(Import Duty, Transit and Miscellaneous Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/326\)](#), regs. 1(3)(b), **14(2)**
- F3** Words in [reg. 9\(1\)\(c\)](#) inserted (8.11.2021) by [The Free Zones \(Customs, Excise and Value Added Tax\) Regulations 2021 \(S.I. 2021/1156\)](#), regs. 1, **3(4)(a)(ii)**
- F4** [Reg. 9\(1A\)\(1B\)](#) inserted (8.11.2021) by [The Free Zones \(Customs, Excise and Value Added Tax\) Regulations 2021 \(S.I. 2021/1156\)](#), regs. 1, **3(4)(b)**
- F5** Words in [reg. 9\(2\)\(a\)](#) inserted (8.11.2021) by [The Free Zones \(Customs, Excise and Value Added Tax\) Regulations 2021 \(S.I. 2021/1156\)](#), regs. 1, **3(4)(c)**

Modifications etc. (not altering text)

- C1** Pts. 1-3 applied (with modifications) (31.12.2020) by [The Customs \(Northern Ireland\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1605\)](#), regs. 1(1), **33**; [S.I. 2020/1643](#), reg. 2, Sch.

C2 Reg. 9(1)(a) modified (31.12.2020) by The Customs (Crown Dependencies Customs Union) (EU Exit) Regulations 2019 (S.I. 2019/385), regs. 1(2), **4(4)** (with reg. 2); S.I. 2020/1643, reg. 2, Sch.

Changes to legislation:

There are currently no known outstanding effects for the The Customs (Special Procedures and Outward Processing) (EU Exit) Regulations 2018, Section 9.