

## SCHEDULE 1

### The common transit procedure

## PART 4

### General provision for the purposes of this Schedule

#### General interpretation <sup>F1</sup>...

58.—(1) In this Schedule—

- (a) an “application” to, or an “authorisation” given by, HMRC is governed by regulations under TCTA, Part 1;
- (b) the “competent” customs office or customs authority is the one responsible for the place in question;
- (c) a “declaration” is to be understood in the light of provision made for the purposes of the Convention by or under TCTA, Schedule 1 or, as the context requires, corresponding provision made for those purposes under the law of another common transit state;
- (d) “HMRC” means Her Majesty's Revenue and Customs;
- [<sup>F2</sup>(da) “import duty regulations” means the Customs (Import Duty) (EU Exit) Regulations 2018;]
- (e) “public notice” refers to one that must be published for the purposes in question by the Commissioners for Her Majesty's Revenue and Customs having regard to those purposes, and in such manner as they consider appropriate for those purposes;
- (f) “TCTA” means the Taxation (Cross-border Trade) Act 2018.

(2) A public notice in sub-paragraph (1)(e) must be in force so as to give effect to the purposes for which it must be published, but it may be amended, revoked or replaced by a further public notice. Stipulations in the public notice have effect as if made in these Regulations.

(3) A requirement for information under paragraph 36(4) has effect as if made under the Finance Act 1994, section 23 <sup>M1</sup> and to a person to whom that section applies.

#### Textual Amendments

**F1** Words in Sch. 1 para. 58 heading omitted (31.12.2020) by virtue of The Customs and Excise (Miscellaneous Provisions and Amendments) (EU Exit) Regulations 2019 (S.I. 2019/1215), regs. 1(2), 13(2)(c)(i); S.I. 2020/1643, reg. 2, Sch.

**F2** Sch. 1 para. 58(1)(da) inserted (31.12.2020) by The Customs and Excise (Miscellaneous Provisions and Amendments) (EU Exit) Regulations 2019 (S.I. 2019/1215), regs. 1(2), 13(2)(c)(ii); S.I. 2020/1643, reg. 2, Sch.

#### Commencement Information

**I1** Sch. 1 para. 58 in force at 31.12.2020 by S.I. 2020/1643, reg. 2, Sch.

#### Marginal Citations

**M1** 1993 c. 9.

**Changes to legislation:** There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Customs Transit Procedures (EU Exit) Regulations 2018. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

## Liability to import duty

**59.** Nothing in this Schedule affects any incurrence of liability to import duty from a common transit procedure, or the person liable, by or under TCTA, except that in situations covered by paragraph 4(4) or 29(3), first indent the [<sup>F3</sup>carrier or] recipient of the goods is also jointly and severally liable with any person liable by or under TCTA.

### Textual Amendments

**F3** Words in [Sch. 1 para. 59](#) inserted (31.12.2020) by [The Taxation \(Cross-border Trade\) \(Miscellaneous Provisions\) \(EU Exit\) Regulations 2019 \(S.I. 2019/486\)](#), regs. 1(3), **8(2)(k)**; [S.I. 2020/1643](#), reg. 2, [Sch.](#)

### Commencement Information

**I2** [Sch. 1 para. 59](#) in force at 31.12.2020 by [S.I. 2020/1643](#), reg. 2, [Sch.](#)

## Establishing the customs status of goods, etc.

**60.** For the purposes of the Convention, Appendix II, Article 8(2), 9(4), 9(7), 10(3) or 12(1), HMRC may carry out the functions of the “competent office”, “customs office”, or “customs office of departure” if in each respective case it is in [<sup>F4</sup>Great Britain].

### Textual Amendments

**F4** Words in [Sch. 1 para. 60](#) substituted (31.12.2020) by [The Customs \(Northern Ireland\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1605\)](#), regs. 1(1), **39(2)(mm)**; [S.I. 2020/1643](#), reg. 2, [Sch.](#)

### Commencement Information

**I3** [Sch. 1 para. 60](#) in force at 31.12.2020 by [S.I. 2020/1643](#), reg. 2, [Sch.](#)

**61.—(1)** A person able to be authorised under paragraph 18(2) may be authorised by HMRC to issue T2L or T2LF data for the purposes of the Convention without having to present this to HMRC for endorsement.

(2) Authorisation under sub-paragraph (1) only applies to a person who—

- (a) will regularly issue the data and use it for a proper purpose, and
- (b) is able to comply with any condition additional to sub-paragraph (a) which HMRC consider will be a justified condition of the authorisation if granted.

(3) The authorisation may stipulate that the front of the forms used in issuing the T2L or T2LF data and any continuation sheet or sheets must be—

- (a) stamped in advance with the stamp of the office referred to in the Convention, Appendix II, Article 15(1)(a) and signed by an official of that office; or
- (b) stamped by the authorised issuer in sub-paragraph (1) with a special metal stamp approved by the competent authorities and conforming to the specimen in the Convention, Appendix III, Annex B9. The stamp may be pre-printed on the forms if the printing is entrusted to a printer approved for that purpose.

(4) In the event of the misuse by any person of T2L or T2LF data issued under sub-paragraph (1), the authorised issuer shall be liable, without prejudice to any criminal proceedings, for the payment of duties and other charges payable in respect of goods carried under cover of such data, unless that issuer can satisfy HMRC that the authorised issuer took all necessary security measures required under the Convention, Appendix II, Article 16.

(5) The authorised issuer in sub-paragraph (1) may be authorised by HMRC not to sign such T2 or T2LF data issued using the special metal stamp in sub-paragraph (3)(b) which are drawn up by an electronic or automatic data processing system. Such authorisation is subject to the authorised issuer previously having given to HMRC a written undertaking acknowledging liability for the legal consequences arising from all such T2L and T2LF data.

(6) Each T2L or T2LF data drawn up in accordance with sub-paragraph (5) must contain in place of the authorised issuer's signature the endorsement: "Signature waived".

**Commencement Information**

**I4** Sch. 1 para. 61 in force at 31.12.2020 by [S.I. 2020/1643](#), [reg. 2](#), [Sch.](#)

**Co-operation with other customs services**

**62.** Provision corresponding to TCTA, section 26 applies where HMRC co-operates with other customs services (whether or not about import duty under TCTA) on matters of mutual concern for any of the purposes of this Schedule.

**Commencement Information**

**I5** Sch. 1 para. 62 in force at 31.12.2020 by [S.I. 2020/1643](#), [reg. 2](#), [Sch.](#)

**Business continuity procedure for the common transit procedure**

**63.** A public notice must stipulate the business continuity procedure for use by the holder of the common transit procedure, including an authorised consignor, in the event of a temporary failure of—

- (a) the electronic transit system in Parts 1 and 2;
- (b) the computerised system used by the holders of the procedure for making the declarations for the common transit procedure by means of electronic data-processing techniques;
- (c) the electronic connection between the computerised system used by the holders of the procedure for making the declarations for the common transit procedure by means of electronic data-processing techniques and the electronic transit system.

**Commencement Information**

**I6** Sch. 1 para. 63 in force at 31.12.2020 by [S.I. 2020/1643](#), [reg. 2](#), [Sch.](#)

**Guarantees: supplementary rules for the common transit procedure**

**64.—(1)** This paragraph supplements and modifies the provision mentioned in paragraph 29(1) (c) about guarantees for the purposes of each common transit procedure.

(2) For the purpose of calculating the amount of the guarantee, domestic goods carried subject to the common transit procedure must be treated as chargeable goods.

(3) The specified amount of the guarantee must correspond to an amount of customs debt which may become payable in connection with each common transit procedure in respect of which the guarantee is provided, in the period between the declaring of the goods for the common transit procedure and the discharge of that procedure.

**Changes to legislation:** There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Customs Transit Procedures (EU Exit) Regulations 2018. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

For the purpose of that calculation, account must be taken of the highest rates of customs debt [<sup>F5</sup>excluding duties under sections 30A(3) and 40A TCTA] applicable to goods of the same type in the United Kingdom, and of sub-paragraph (2).

HMRC must establish the specified amount for the purposes of a comprehensive guarantee in cooperation with the holder of the procedure, on the basis of the information on goods subject to the common transit procedure in the preceding 12 months, and on an estimate of the volume of intended common transit procedures as shown in particular by the commercial documentation and accounts of the holder of the procedure.

Where the information necessary to determine the specified amount for the purposes of a comprehensive guarantee is not available to HMRC, that amount is fixed according to the Convention, Appendix I, Article 74(2) third sub-paragraph and Appendix II, Article 22.

(4) [<sup>F6</sup>Except in cases covered by paragraph 18(4), at point (b) or paragraph 29(1A), only] the types and forms of guarantee stipulated in a public notice are acceptable for the purposes of this Schedule.

- <sup>F7</sup>(5) .....
- <sup>F7</sup>(6) .....
- <sup>F7</sup>(7) .....
- <sup>F7</sup>(8) .....
- <sup>F7</sup>(9) .....

(10) HMRC must approve a waiver to the requirement for a comprehensive guarantee in relation to a potential liability to pay a customs debt if satisfied that the person authorised to give the comprehensive guarantee—

- (a) draws up accounts in accordance with generally accepted accounting practice;
- (b) maintains reliable business records;
- (c) is solvent;
- (d) has in the preceding three years discharged any liability to pay any customs debt howsoever incurred in the United Kingdom;
- (e) has sufficient financial resources to meet the liability or potential liability not guaranteed as a result of the waiver;
- (f) maintains procedures to ensure that HMRC are notified of any breach of any Customs obligations;
- (g) allows HMRC officers access to all electronic and physical information systems maintained by that person;
- (h) maintains a logistical system that identifies chargeable goods and domestic goods and their location;
- (i) where the liability relates to agricultural goods, has satisfactory procedures to ensure compliance with any relevant regulatory obligation in relation to agricultural goods;
- (j) has satisfactory procedures in relation to archiving records; and
- (k) maintains satisfactory computer system security measures.

(11) Where an applicant holds an authorised economic operator authorisation pursuant to regulations under TCTA, section 22 the requirements set out in sub-paragraph (10)(a) to (k) are deemed to be met.

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(12) References to “import duty” and “Customs procedure” in [F8Part 10 of the import duty regulations] must be taken for the purposes of this Schedule as respective references to “customs debt” and “common transit procedure”.

#### Textual Amendments

- F5** Words in Sch. 1 para. 64 inserted (31.12.2020) by The Customs (Northern Ireland) (EU Exit) Regulations 2020 (S.I. 2020/1605), regs. 1(1), **39(2)(nn)**; S.I. 2020/1643, reg. 2, Sch.
- F6** Words in Sch. 1 para. 64(4) substituted (31.12.2020) by The Customs Transit Procedures (Amendment, etc) (EU Exit) Regulations 2020 (S.I. 2020/1491), regs. 1, **4(7)**; S.I. 2020/1643, reg. 2, Sch.
- F7** Sch. 1 para. 64(5)-(9) omitted (31.12.2020) by virtue of The Customs Transit Procedures (Amendment, etc) (EU Exit) Regulations 2020 (S.I. 2020/1491), regs. 1, **4(8)**; S.I. 2020/1643, reg. 2, Sch.
- F8** Words in Sch. 1 para. 64(12) substituted (31.12.2020) by The Customs and Excise (Miscellaneous Provisions and Amendments) (EU Exit) Regulations 2019 (S.I. 2019/1215), regs. 1(2), **13(2)(d)(iii)**; S.I. 2020/1643, reg. 2, Sch.

#### Commencement Information

- I7** Sch. 1 para. 64 in force at 31.12.2020 by S.I. 2020/1643, reg. 2, Sch.

### Provision for airlines

**65.**—(1) HMRC may authorise, in the case of air transport, the use of an electronic transport document as a declaration for the common transit procedure, provided it contains the particulars of such declaration and those particulars are available to the customs authorities for the place of departure and destination to allow the customs control of the goods and the discharge of the procedure.

(2) The authorisation in sub-paragraph (1) is subject to paragraph 18(1) to (3) (but only to the extent that it concerns paragraph 18(5) and (6)) and must only be granted where—

- (a) HMRC have consulted the customs authorities for the airports of departure and destination [F9other than HMRC] and have received no notification from either authority, within 45 days from the communication, that the applicant does not fulfil one or more of the conditions for granting the authorisation;
- (b) the applicant operates a significant number of flights between common transit state airports; and
- (c) the applicant demonstrates the ability to ensure that the particulars of the electronic transport document are available to the customs office of departure for the airport of departure and to the customs office of destination for the airport of destination, and that those particulars are the same.

(3) Expressions used in this paragraph have the same meaning as corresponding expressions in Part 2.

#### Textual Amendments

- F9** Words in Sch. 1 para. 65(2)(a) inserted (31.12.2020) by The Customs (Northern Ireland) (EU Exit) Regulations 2020 (S.I. 2020/1605), regs. 1(1), **39(2)(oo)**; S.I. 2020/1643, reg. 2, Sch.

#### Commencement Information

- I8** Sch. 1 para. 65 in force at 31.12.2020 by S.I. 2020/1643, reg. 2, Sch.

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**Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:**

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- Sch. 1 para. 6(2)(aa) inserted by [S.I. 2024/194 reg. 3\(2\)\(a\)](#)
- Sch. 1 para. 41(1)(aa) inserted by [S.I. 2024/194 reg. 3\(2\)\(c\)](#)
- Sch. 1 para. 45(1)(aa) inserted by [S.I. 2024/194 reg. 3\(2\)\(d\)](#)
- Sch. 1 para. 2(A5A) inserted by [S.I. 2024/672 reg. 4\(2\)\(a\)](#)
- Sch. 1 para. 2(A7)(A8) inserted by [S.I. 2024/672 reg. 4\(2\)\(b\)](#)
- Sch. 1 para. 27(A5A) inserted by [S.I. 2024/672 reg. 4\(3\)\(a\)](#)
- Sch. 1 para. 27(A7)(A8) inserted by [S.I. 2024/672 reg. 4\(3\)\(b\)](#)