

2021 No. 1156

CUSTOMS AND EXCISE

VALUE ADDED TAX

**The Free Zones (Customs, Excise and Value Added Tax)
Regulations 2021**

Made - - - at 11.00 a.m. on 18th October 2021

Laid before the House of Commons at 4.30 p.m. on 18th October 2021

Coming into force - - 8th November 2021

The Treasury make these Regulations in exercise of the powers conferred by sections 21(7), 23(3), (6) and (7), 32(7), (8), (10) and (13), 33(8), 34(1), (3) and (6) and 35(2) and (3)(d) of, and paragraphs 6 and 9 of Schedule 1, and paragraphs 1 to 4, 17 and 20 to 23 of Schedule 2 to, the Taxation (Cross-border Trade) Act 2018 (“the 2018 Act”)(**a**), sections 24(3) and 26(1) of the Finance Act 2003(**b**), and sections 30(4) and 96(9) of the Value Added Tax Act 1994 (“the VAT Act”)(**c**), and the Commissioners for Her Majesty’s Revenue and Customs make these Regulations in exercise of the powers conferred by sections 45(1) and (2) and 48(10) and (11) of the 2018 Act and section 16(3) and 96(1) of and paragraph 2A(2) of Schedule 11 to the VAT Act(**d**):

PART 1

INTRODUCTION

Citation and commencement

1. These Regulations may be cited as the Free Zones (Customs, Excise and Value Added Tax) Regulations 2021 and come into force on 8th November 2021.

(a) 2018 c. 22 (“the 2018 Act”).
(b) 2003 c. 14. Section 24 is cited for the meaning of “prescribed”. Section 26 was amended by paragraph 150 of Schedule 7 to the 2018 Act.
(c) 1994 c. 23 (“the VAT Act”).
(d) Section 96(1) of the VAT Act defines “the Commissioners” as meaning “the Commissioners of Customs and Excise” and “regulations” as meaning regulations made by the Commissioners under the Act. The functions of the Commissioners of Customs and Excise were transferred to the Commissioners for Her Majesty’s Revenue and Customs by section 5(1) of the Commissioners for Revenue and Customs Act 2005 (c. 11), section 50(1) of which provides that a reference to the Commissioners of Customs and Excise shall be taken as a reference to the Commissioners for Her Majesty’s Revenue and Customs. Section 16(3) of the VAT Act was inserted by section 43 of, and paragraphs 1 and 13 of Schedule 8 to, the 2018 Act. Paragraph 2A of Schedule 11 to the VAT Act was inserted by section 24(2) of the Finance Act 2002 (c. 23) and was amended by paragraph 97(3) of Schedule 8 to the 2018 Act. Section 96(1) of the VAT Act is cited for the meaning of “prescribed”. There are amendments but none is relevant.

PART 2 CUSTOMS

Amendment of the Customs (Import Duty) (EU Exit) Regulations 2018

2.—(1) The Customs (Import Duty) (EU Exit) Regulations 2018(a) are amended as follows.

(2) In regulation 2 (interpretation)—

- (a) the existing text becomes paragraph (1);
- (b) in that paragraph, in the appropriate places insert—

““customs warehouse” means premises owned, occupied or otherwise used by a person who is approved by HMRC under the special procedures regulations to operate the premises as a place to keep goods declared for a storage procedure(b);”;

““free zone” means an area in the United Kingdom designated as a special area for customs purposes under section 100A of CEMA 1979(c);”;

““free zone activity” means an activity falling within the description in regulation 3(2)(c) of the special procedures regulations (authorisation requirement);”;

““free zone business” means a person authorised to declare goods for a free zone procedure or to carry out a free zone activity and an authorisation as a free zone business is an authorisation to carry out one or both of those activities;”;

““responsible authority” means a person appointed as a responsible authority for a free zone under section 100A(3)(c) of CEMA 1979, and references to a responsible authority for a free zone are to a responsible authority so appointed in relation to that free zone;”;

““special procedures regulations” means the Customs (Special Procedures and Outward Processing) (EU Exit) Regulations 2018(d);”;

(c) after paragraph (1) insert—

“(2) In these Regulations—

- (a) a declaration of goods for “a customs warehouse procedure” is a declaration of goods for a storage procedure in a case where the goods are to be kept in a customs warehouse; and
- (b) a declaration of goods for “a free zone procedure” is a declaration of goods for a storage procedure in a case where the goods are to be kept in a free zone.”.

(3) In regulation 4(1) (notification of importation)—

- (a) after sub-paragraph (d), omit “or”; and
- (b) at the end insert—

“(f) where the goods are to be kept in a free zone—

- (i) a person authorised by HMRC to carry out a free zone activity in that free zone; or
- (ii) a responsible authority for that free zone.”.

(4) In regulation 15(2)(a) (eligibility of persons to make Customs declaration: UK establishment), for “storage procedure” substitute “customs warehouse procedure”.

(5) For regulation 16 (goods excluded from sections 2 to 4)(a) substitute—

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- (a) S.I. 2018/1248. Relevant amending instruments are S.I. 2019/108, 2019/1215, 2019/1346, 2020/1234, 2020/1449, and 2020/1552.
 - (b) “HMRC” is defined by section 37(1) of the Act as “Her Majesty’s Revenue and Customs”. See paragraph 2(1) of Schedule 2 to the 2018 Act for the meaning of goods declared for “a storage procedure”.
 - (c) “CEMA 1979” is defined by section 37(1) of the Act as “the Customs and Excise Management Act 1979” (c. 2). Section 100A was inserted by section 8 of, and Part 1 of Schedule 4 to, the Finance Act 1984 (c. 43).
 - (d) S.I. 2018/1249. There are amending instruments, but none is relevant.

“**16.**—(1) Subject to paragraphs (2) and (3), none of the provisions in sections 2 to 4 of this chapter apply to chargeable goods which are the subject of—

- (a) an application for repayment or remission of import duty which has not been rejected or determined;
- (b) a tariff suspension further to any regulations made under section 12 of the Act; or
- (c) a restriction on import imposed under an enactment.

(2) Regulations 22(4) or (4A), 26E, 27E, and 29(3C) and (5D) apply notwithstanding that the chargeable goods are the subject of a restriction falling within paragraph (1)(c).

(3) Regulations 27F and 29(5E) apply notwithstanding that the chargeable goods are the subject of any matter mentioned in paragraph (1)(a), (b) or (c).”.

(6) After regulation 27E (temporary admission procedure: NATO forces)(b) insert—

“Storage procedure: free zones

27F.—(1) A free zone business may make a Customs declaration for a free zone procedure by the conduct described in paragraph (2) in respect of goods that have been received in the free zone by or on behalf of the free zone business if—

- (a) the free zone business is authorised to declare goods for a free zone procedure;
- (b) the free zone business, or a person acting with their authority, has made an entry in that business’s commercial records containing the particulars specified in a notice published by HMRC;
- (c) any requirement to give a notification that goods are to be kept in a free zone under regulation 18D(1) of the special procedures regulations has been complied with; and
- (d) the case is not one set out in version 1 of the document dated 14 October entitled “Cases where goods cannot be declared by conduct or are not treated as declared for a free zone procedure on discharge of a transit procedure in a free zone”(c).

(2) The conduct referred to in paragraph (1) is where—

- (a) in a case where the free zone business has received the goods from a place outside the free zone, it has notified a responsible authority for that free zone that the goods have been received;
- (b) in a case where goods subject to a free zone procedure have been transferred from another free zone business within the free zone, the recipient free zone business has notified a responsible authority for that free zone of the transfer.

(3) A notification under paragraph (2) must—

- (a) contain the matters; and
- (b) be made in the form and manner,

specified in a notice published by HMRC.

(4) HMRC must publish—

- (a) a notice specifying the particulars referred to in paragraph (1)(b); and
- (b) a notice specifying the requirements referred to in paragraph (3).

(5) Regulation 23(2)—

(a) Regulation 16 was amended by S.I. 2020/1552.
(b) Regulation 27E was inserted by S.I. 2020/1552.
(c) The document is available electronically at <https://www.gov.uk/government/collections/customs-vat-and-excise-uk-transition-legislation-from-1-january-2021>. A person unable to access the documents electronically may access them, while government advice on social distancing and unnecessary travel applies, in hard copy by post free of charge on application to 0782417824 and otherwise by inspection free of charge at HMRC, 100 Parliament Street, London, SW1A 2BQ.

- (a) applies to a Customs declaration made by conduct described in paragraph (2)(a) only to the extent that a previous Customs declaration made in respect of the goods was a declaration for—
 - (i) a transit procedure, where the goods enter the free zone under that procedure; or
 - (ii) a free zone procedure; and
 - (b) does not apply to a Customs declaration made by conduct described in paragraph (2)(b).
- (6) Regulation 23(3) applies to a Customs declaration made by the conduct described in paragraph (2) as if sub-paragraph (b) of regulation 23(3) were omitted.”.
- (7) In regulation 29 (Customs declarations made by conduct: notification, acceptance and discharge)—
- (a) after paragraph (5D)(a) insert—

“(5E) Where a Customs declaration for a free zone procedure is made by conduct as provided by regulation 27F, acceptance of the Customs declaration is treated as occurring when the conduct described in regulation 27F(2)(a) or (b) occurs.”;
 - (b) in paragraph (6)(b), for “or (5D)” substitute “, (5D) or (5E)”.
- (8) In regulation 30(2) (definition: simplified Customs declaration process) insert at the end “or a free zone procedure”.
- (9) In regulation 35 (exceptions to requirement to make a supplementary Customs declaration)—
- (a) in paragraph (1), for “storage procedure” substitute “customs warehouse procedure”;
 - (b) in paragraph (2)(c)—
 - (i) for sub-paragraph (b) substitute—

“(b) the first declaration was not made—

 - (i) orally or by conduct; or
 - (ii) using the simplified Customs declaration process, or, if it was so made, the declaration included making a supplementary Customs declaration;”;
 - (ii) after sub-paragraph (g)(iii), omit “or”;
 - (iii) at the end insert—

“or;

 - (v) a free zone procedure.”.
- (10) In regulation 73(5)(b) (no significant effect on procedures), after “a transit procedure” insert “or a free zone procedure”.
- (11) For regulation 103 (goods presumed not to be domestic goods)(d) substitute—
- “**103.**—(1) Goods to which this paragraph applies are presumed not to be domestic goods unless the contrary is shown.
- (2) Paragraph (1) applies to—
- (a) goods that are in Great Britain because they have been imported; and
 - (b) goods that have been removed from a free zone otherwise than in accordance with regulation 18F of the special procedures regulations.”.

(a) Paragraph (5D) was inserted by S.I. 2020/1552.
 (b) Paragraph (6) was amended by S.I. 2019/1215 and 2020/1552.
 (c) Paragraph (2) was substituted by S.I. 2020/1234.
 (d) Regulation 103 was amended by S.I. 2019/1215, 2020/1605, 2021/380 and 2021/478.

Amendment of the Customs (Special Procedures and Outward Processing) (EU Exit) Regulations 2018

3.—(1) The Customs (Special Procedures and Outward Processing) (EU Exit) Regulations 2018(a) are amended as follows.

(2) In regulation 2 (interpretation)(b)—

(a) in paragraph (1), in the appropriate places insert—

““customs office” means premises used by HMRC for the purposes of exercising its functions under the Act;”;

““free zone activity” means an activity falling within the description in regulation 3(2)(c);”;

““free zone business” means a person authorised to declare goods for a free zone procedure or to carry out a free zone activity, and an authorisation as a free zone business is an authorisation to carry out one or both of those activities;”;

““responsible authority” means a person appointed as a responsible authority for a free zone under section 100A(3)(c) of CEMA 1979, and references to a responsible authority for a free zone are to a responsible authority so appointed in relation to that free zone;”;

(b) after paragraph (2) insert—

“(3) In these Regulations—

(a) a declaration of goods for “a customs warehouse procedure” is a declaration of goods for a storage procedure in a case where the goods are to be kept in a customs warehouse; and

(b) a declaration of goods for “a free zone procedure” is a declaration of goods for a storage procedure in a case where the goods are to be kept in a free zone.”.

(3) In regulation 3(2) (authorisation requirement)—

(a) in sub-paragraph (a), for “storage procedure” substitute “customs warehouse procedure”;

(b) after sub-paragraph (b)(iii), omit “or”;

(c) after sub-paragraph (b)(iv) insert—

“or

(v) a free zone procedure;

(c) any industrial, service or commercial activity in a free zone(c) that—

(i) relates to goods declared for a free zone procedure, including storing those goods in a free zone; and

(ii) is not an activity of a description specified in a notice published by HMRC.”.

(4) In regulation 9 (eligibility for authorisation or approval)—

(a) in paragraph (1)—

(i) after “The following criteria” insert “, and, where relevant, a criterion in paragraph (1A) or (1B),”;

(ii) in sub-paragraph (c), at the start insert “except where paragraph (1A) or (1B) applies,”;

(b) after paragraph (1) insert—

“(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

(a) Relevant amending instruments are S.I. 2019/486 and 2019/1215.

(b) Regulation 2 has been amended by S.I. 2020/1449, 2020/1605, 2021/380 and 2021/478.

(c) “Free zone” is defined for the purposes of Part 2 of Schedule 2 to the 2018 Act by paragraph 2(5) of that Part.

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.”;

(c) in paragraph (2)(a), after “declare goods for” insert “a free zone procedure.”;

(5) In regulation 10(1) (period for which an authorisation is to have effect), after “3(2)(b)” insert “(i) to (iv)”.

(6) In regulation 11(1) (retrospective authorisation), after “3(2)(b)” insert “(i) to (iv)”.

(7) In regulation 12 (declaration to be made in the name of the authorised person)—

(a) for paragraph (1) substitute—

“(1) Where paragraph (2) applies, a Customs agent may not make a declaration of goods for a free zone procedure, an inward processing procedure, an outward processing procedure, an authorised use procedure or a temporary admission procedure.”;

(b) after paragraph (2) insert—

“(3) A Customs agent may not, acting as an indirect agent, make a declaration for a storage procedure where the goods are to be kept in a private customs warehouse.”.

(8) Before regulation 14 (eligibility for approval to operate a customs warehouse) insert—

“SECTION 1
Customs warehouses”.

(9) In regulation 15 (approval to operate a customs warehouse)—

(a) in paragraph (3)—

(i) after “goods declared” insert “for a free zone procedure.”;

(ii) in sub-paragraph (b)—

(aa) for “storage procedure” substitute “customs warehouse procedure”;

(bb) before “inward processing procedure” insert “free zone procedure.”;

(b) in paragraph (6)—

(i) in sub-paragraph(b)(a), for “storage procedure” substitute “customs warehouse procedure”;

(ii) for sub-paragraph (c) substitute—

“(c) in relation to goods declared for a customs warehouse procedure, the approved person must notify any person keeping such goods in the warehouse of any permission to remove the goods from the warehouse contained in the approval notification.”.

(10) In regulation 16 (obligations relating to keeping goods in a customs warehouse)—

(a) in paragraph (1)—

(i) for “storage procedure where they are to be kept in a customs warehouse and” substitute “customs warehouse procedure that”;

(ii) after “in the warehouse” insert “in which the goods are to be kept”;

(b) in paragraph (2), for “storage procedure to be kept in a customs warehouse” substitute “customs warehouse procedure”.

(11) In regulation 17 (removal of goods from a customs warehouse)—

(a) in paragraph (1)—

(a) Paragraph (6)(b) was amended by S.I. 2019/1215.

- (i) for “storage procedure” substitute “customs warehouse procedure”; and
- (ii) for “the storage” substitute “that”;
- (b) for paragraph (6)(b)(a) substitute—
 - “(b) the warehouse and a place at which, in relation to those goods, a notification of export of goods from the United Kingdom^(b) must be given under regulation 51(4) of the Customs (Export) (EU Exit) Regulations 2019^(c)”;
- (c) omit paragraph (9).

(12) In regulation 18(1)(a) (usual forms of handling – changes in nature of goods), for “storage procedure to be kept in a customs warehouse” substitute “customs warehouse procedure”.

(13) After regulation 18 insert—

“SECTION 2
Free zones”

Authorisation as a free zone business

18A.—(1) An approval notification issued in relation to an authorisation as a free zone business must specify—

- (a) the free zone or free zones in which—
 - (i) goods declared for a free zone procedure may be kept; and
 - (ii) any other free zone activity may take place;
- (b) the authorised person;
- (c) if the person is authorised to declare goods for a free zone procedure, that they are so authorised; and
- (d) any free zone activities authorised.

(2) An authorisation to declare goods for a free zone procedure is subject to the requirements set out in regulation 18B and the conditions provided for in regulation 18C.

(3) An authorisation to carry out a free zone activity is subject to the conditions provided for in regulation 18C.

Authorisation to declare goods for a free zone procedure – requirements

18B.—(1) Where an authorisation to declare goods for a free zone procedure is granted, the following are requirements of the procedure—

- (a) in a case where the goods are outside a free zone when a declaration of those goods for a free zone procedure is accepted, the authorised person—
 - (i) once HMRC have accepted the declaration, ensures that the declared goods are moved directly to a free zone in which the goods are authorised to be kept; and
 - (ii) provides the responsible authority for that free zone with details of the declaration and any differences between the goods deposited and the goods declared;
- (b) the authorised person—
 - (i) stores, uses or processes the goods themselves or arranges for another free zone business to store, use or process the goods; and

(a) Paragraph (6)(b) was amended by S.I. 2019/486 and 2020/1605.

(b) See section 34(3) of the 2018 Act.

(c) S.I. 2019/108. There are amending instruments, but none is relevant.

- (ii) ensures such storage, use or processing takes place in accordance with the conditions of the authorisation of the free zone business carrying out those activities;
 - (c) where processing of the goods results in the production or manufacture of other goods in which the goods can be identified, the processing, or each individual processing operation, results in the production or manufacture of an approved quantity of the other goods; and
 - (d) the holder of the procedure does not export the goods or cause them to be exported where—
 - (i) the export is to a country or territory with whose government Her Majesty's government in the United Kingdom has made arrangements which contain provision for the rate of import duty applicable to goods, or any description of goods, originating from the country or territory to be lower than the applicable rate in the customs tariff in its standard form, within the meaning given in section 9(2) of the Act;
 - (ii) a United Kingdom proof of origin issued under any provision made under section 9 of the Act in relation to the goods has been obtained for the purpose of claiming the lower rate when the goods are imported into the country or territory referred to in paragraph (i); and
 - (iii) the arrangements are not of a description specified in a notice published by HMRC.
- (2) For the purposes of paragraph (1)(c), the methodology by which the approved quantity of the other goods is to be determined—
- (a) is to be specified in the approval notification; and
 - (b) is to be—
 - (i) chosen by the applicant, if an HMRC officer approves that choice; or
 - (ii) in all other cases, set by an HMRC officer.

Free zone businesses – conditions

18C.—(1) An authorisation as a free zone business is granted subject to conditions A to C and any other conditions specified under paragraph (6).

(2) Condition A is that the authorised person does not bring or cause to be brought into a free zone, or declare for a free zone procedure, goods of a description specified in a notice published by HMRC.

(3) HMRC—

- (a) must publish a notice specifying a description of the goods mentioned in paragraph (2); and
- (b) may specify a description of goods by reference to any matter or circumstance (including the manner in which a customs declaration may be made or is to be made in respect of them).

(4) Condition B is that the authorised person complies with any requirement of an HMRC officer that goods in the free zone are to be—

- (a) segregated, marked or otherwise identified; or
- (b) produced to an HMRC officer for examination.

(5) Condition C is that the authorised person does not cause or permit chargeable goods to be removed from the free zone otherwise than in accordance with regulation 18F.

(6) The authorisation is granted subject to such other conditions as may be specified in the approval notification issued in relation to the authorisation which may include conditions regarding (amongst other things)—

- (a) the type of goods the authorised person may—

- (i) bring into or keep in the free zone; or
- (ii) declare for a free zone procedure;
- (b) any activities that may be carried out in relation to the goods;
- (c) in relation to the keeping of goods in the free zone—
 - (i) the amount of time for which they may be kept;
 - (ii) the facilities in which they must be stored.

Notification that goods are to be kept in a free zone

18D.—(1) A notification that goods are to be kept in a free zone must be given to HMRC—

- (a) in relation to goods of a description specified in a notice published by HMRC; and
- (b) by the person specified in a notice published by HMRC.

(2) The notification referred to in paragraph (1) must—

- (a) contain the matters;
- (b) be accompanied by the documents
- (c) be made in the form and manner; and
- (d) be given within the period,

specified in a notice published by HMRC.

(3) A notice published under paragraph (1) or (2) may make different provision for different cases.

(4) If HMRC publish a notice under paragraph (1)(a), they must publish a notice under paragraphs (1)(b) and (2).

Control of other activities in free zones by responsible authority

18E.—(1) Subject to paragraph (5), a person must not carry out any industrial, commercial or service activity in a free zone unless HMRC have been notified of an intention to carry out that activity before it is commenced.

(2) The notification referred to in paragraph (1) must be made by—

- (a) a responsible authority for the free zone; or
- (b) another person specified in a notice published by HMRC.

(3) Any notification referred to in paragraph (1) must be—

- (a) made to the place;
- (b) made in the form and manner, including electronic; and
- (c) accompanied by the information, ,

specified in a notice published by HMRC.

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

(5) A notification is not required to be given, or is to be treated as given, in any case specified in a notice published by HMRC.

(6) Where HMRC receive notification of intention to carry out an activity specified in paragraph (1), HMRC may prohibit or restrict such an activity where an HMRC officer considers it appropriate for the purposes of ensuring the control of chargeable goods.

(7) Where HMRC prohibit or restrict an activity specified in paragraph (1), HMRC must notify the person who made the notification and, if different, the responsible authority, in writing (including electronic) of—

- (a) the prohibition or restriction on the activity; and

- (b) the reason for the prohibition or restriction.
- (8) A responsible authority for a free zone must take reasonable steps to ensure that—
- (a) no person carries out an activity involving the keeping of goods subject to a special customs procedure in the free zone if—
 - (i) a notification was required to be given to HMRC under paragraph (1) in relation to that activity and was not so given or treated as having been given;
 - (ii) HMRC have prohibited that activity under paragraph (6); or
 - (iii) the activity would not comply with the terms of any restriction imposed under paragraph (6);
 - (b) no person brings into the free zone goods of a description specified in a notice published under regulation 18C(2); and
 - (c) no person removes goods from a free zone in breach of regulation 18F(1).
- (9) A responsible authority must comply with any other requirements relating to the control of goods subject to a special customs procedure within a free zone that are imposed by an HMRC officer.
- (10) If a responsible authority fails to comply with the requirement in paragraph (8) or a requirement imposed by an HMRC officer under paragraph (9), the responsible authority is liable to any import duty arising from the breach of the requirement.

Removal of goods from free zones

18F.—(1) A person must not remove goods, or cause goods to be removed, from a free zone unless—

- (a) if the person removing the goods is not a responsible authority for that free zone, notification of the movement has been given to that responsible authority in accordance with paragraph (2); and
- (b) any of paragraphs (4) to (7) applies.

(2) The notification referred to in paragraph (1)(a) must be—

- (a) made by the person;
- (b) made in the form and manner, including electronic; and
- (c) accompanied by such information,

as specified in a notice published by HMRC.

(3) HMRC must publish a notice specifying the matters referred to in paragraph (2) and may make different provision for different cases.

(4) This paragraph applies where—

- (a) the goods have been declared for—
 - (i) an inward processing procedure;
 - (ii) an authorised used procedure;
 - (iii) a transit procedure;
 - (iv) a temporary admission procedure; or
 - (v) a customs warehouse procedure;
- (b) the procedure has not been discharged; and
- (c) the movement of goods out of the free zone takes place in accordance with the requirements relating to the procedure for which the goods have been declared.

(5) This paragraph applies where—

- (a) the goods have been declared for a free zone procedure; and
- (b) they are moved directly to—

- (i) a place from which they are exported;
 - (ii) a customs office at which a declaration for the purposes of discharging the free zone procedure may be accepted;
 - (iii) a location in Northern Ireland; or
 - (iv) another free zone in Great Britain.
- (6) This paragraph applies where the goods are domestic goods.
- (7) This paragraph applies where—
- (a) removal of the goods has been approved by an HMRC officer; and
 - (b) the movement takes place in accordance with any conditions of the approval.
- (8) Subject to paragraph (9), any person who removes chargeable goods from a free zone, or causes such a removal, in contravention of this regulation is liable to import duty on those goods.
- (9) Paragraph (8) does not apply where—
- (a) a person removes or causes goods to be removed from a free zone;
 - (b) the removal was not intended;
 - (c) the removal was caused by abnormal and unforeseeable circumstances beyond the control of that person; and
 - (d) notification of the removal is given to the responsible authority as soon as reasonably practicable.

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

18G.—(1) Subject to paragraph (2), an applicant for authorisation to declare goods for a free zone procedure may—

- (a) elect that any liability to import duty incurred in relation to processed goods resulting from processing while the goods are subject to the free zone procedure be determined by reference to the goods as they stood when the declaration was made; or
 - (b) reserve the right to elect, once the authorisation has been granted, that any liability to import duty incurred in relation to processed goods resulting from processing while the goods are subject to the free zone procedure be determined by reference to the goods as they stood when the declaration was made.
- (2) Paragraph (1) applies only to the extent that—
- (a) the processing under the free zone procedure consists of—
 - (i) qualifying processing activities as defined in paragraph 9(4) of Schedule 2 to the Act; or
 - (ii) the operations referred to in paragraph 11 of that Schedule (meaning of goods declared for “an inward processing procedure” in the supplementary form); and
 - (b) where the processing to be carried out is the use of production accessories, they are not—
 - (i) fuels or energy sources, other than those needed for the testing of processed goods or for the detection of faults in goods declared for the free zone procedure which need repair;
 - (ii) lubricants, other than those needed for the testing, adjustment or withdrawal of processed goods; or
 - (iii) equipment and tools;

(3) An election under paragraph (1) must be made in accordance with such additional requirements, if any, specified in a notice published by HMRC which may also specify amongst other things—

- (a) further conditions that must be satisfied before an election under paragraph (1) may be made; and
- (b) cases in which an election may not be made.

(4) An election under paragraph (1), once so made, has effect only if—

- (a) the processing takes place within the period specified in either—
 - (i) the authorisation; or
 - (ii) a notice given to the applicant; and
- (b) the processing takes place in accordance with the conditions of the applicant's authorisation.

(5) Determination of liability to import duty incurred in relation to processed goods resulting from processing under a free zone procedure is to be by reference to the goods as they stood when the declaration for the procedure was made where—

- (a) an election is made under paragraph (1); or
- (b) paragraph (6), (7) or (10) applies.

(6) This paragraph applies where—

- (a) the processed goods resulting from the processing of the goods are imported by the free zone business within one year after export of the processed goods or their removal from Great Britain to Northern Ireland; and
- (b) if a declaration of those goods for the free-circulation procedure had been accepted at the time of their release to the free zone procedure—
 - (i) the goods would have been subject to—
 - (aa) an additional amount of import duty under section 13, 14 or 15 of the Act;
 - (bb) a non-tariff trade policy measure; or
 - (cc) an agricultural policy measure; or
 - (ii) the importer of the goods would have been required to give a guarantee under paragraph 15(5) of Schedule 4 to the Act.

(7) Subject to paragraphs (8) and (9), this paragraph applies where, if a declaration of those goods for the free-circulation procedure were accepted at the time the authorisation to declare goods for a free zone procedure is granted—

- (a) the goods would have been subject to—
 - (i) an additional amount of import duty under section 13, 14 or 15 of the Act;
 - (ii) a non-tariff trade policy measure; or
 - (iii) an agricultural policy measure; or
- (b) the importer of the goods would have been required to give a guarantee under paragraph 15(5) of Schedule 4 to the Act.

(8) Paragraph (7) does not apply where—

- (a) the goods are not ones in relation to which, if a declaration of those goods for the free-circulation procedure were accepted at the time the authorisation is granted—
 - (i) an additional amount of import duty under section 13, 14 or 15 of the Act would be applicable; or
 - (ii) the importer of the goods would be required to give a guarantee under paragraph 15(5) of Schedule 4 to the Act; and

- (b) the aggregate value of goods to be declared for a free zone procedure to be processed under that procedure, by the applicant for authorisation, in that calendar year, for each classification code, does not exceed—
 - (i) in the case of sensitive goods, £135,000;
 - (ii) in all other cases, £270,000.

(9) Paragraph (7) does not apply where the goods—

- (a) are non-commercial goods or personal gifts;
- (b) are goods resulting from processing under an authorisation to declare goods for an inward processing procedure, the application for which was a case—
 - (i) in relation to which an examination of the available evidence was required for the purposes of regulation 20(1)(a); or
 - (ii) in relation to which an examination of the economic conditions was required for the purposes of Article 211(4)(b) of the UCC;
- (c) are to be processed into samples;
- (d) are to be reduced to waste and scrap;
- (e) are to be destroyed; or
- (f) are to be subject to recovery of parts or components.

(10) This paragraph applies where a liability to import duty has arisen as a result of a breach of the requirement at regulation 18B(1)(d).

Value of goods where there is a change in the goods

18H.—(1) Where regulation 18G applies, the value of the goods for the purposes of import duty is to be determined by reference to the quantity of the goods declared for the free zone procedure—

- (a) which, in accordance with a notice published by HMRC, are to be treated as present in the processed goods; and
- (b) for which import duty is incurred.

(2) HMRC must publish a notice specifying the methods for determining the matters referred to in paragraph (1) and may make different provision for different cases.

Consequences of determination of liability under regulation 18G

18I.—(1) Paragraph (2) applies where—

- (a) a liability to import duty is to be determined in accordance with regulation 18G(5);
- (b) any processing in relation to the goods while they were subject to a free zone procedure was an authorised use under regulation 32 at the time that the goods were released to a free zone procedure; and
- (c) at the time that the goods were released to a free zone procedure an application for authorisation to declare goods for an authorised use procedure by the person authorised to declare the goods for a free zone procedure would not have been prohibited by regulation 86(1) or (2) of the import duty regulations.

(2) Where this paragraph applies, the rate of import duty applicable to the goods is to be such rate as would have been applicable to those goods if they had been declared for an authorised use procedure and the declaration had been accepted by HMRC.

Usual forms of handling – changes in nature of goods

18J.—(1) Paragraph (2) applies where—

- (a) a declaration (“the first declaration”) of goods for a free zone procedure has been made;

- (b) there is a change in the goods by virtue of an operation that has been applied to the goods whilst the goods are subject to the procedure;
- (c) the operation is of a type—
 - (i) described in sub-paragraph (b) of paragraph 11 of Schedule 2 to the Act; and
 - (ii) specified in a notice published by HMRC as an operation constituting a usual form of handling of goods;
- (d) a further declaration (“the second declaration”) of goods for a different Customs procedure is made; and
- (e) a liability to import duty is incurred in respect of the goods by virtue of making the second declaration.

(2) Where this paragraph applies the declarant may elect in the second declaration that the liability be determined by reference to the goods as they stood when the first declaration was made.”.

(14) In regulation 22(3)(c)(a) (authorisation to declare goods for an inward processing procedure – conditions and requirements), after “export the goods” insert “or cause them to be exported”.

(15) In regulation 34(3) (waste and scrap)(b) for, “storage procedure to be kept in a customs warehouse” substitute “customs warehouse procedure”.

(16) In regulation 42 (transfer of rights and obligations)—

(a) in paragraph (5)—

- (i) in sub-paragraph (a), after “goods declared for” insert “a free zone procedure,”;
- (ii) in sub-paragraph (b), for “storage procedure to be kept in a customs warehouse” substitute “customs warehouse procedure”;

(b) in paragraph (9)—

- (i) in the definition of “obligations” insert after paragraph (a)—

“(aa) conditions to which an authorisation to carry out a free zone activity in relation to the goods is subject;”;
- (ii) in the definition of “rights” insert after paragraph (a)—

“(aa) any permissions contained in an authorisation to carry out a free zone activity relating to the goods;”.

(17) In regulation 43(1) (discharge of a special Customs procedure – supplementary provision), after “declare goods for” insert “a free zone procedure,”.

(18) In regulation 44 (record keeping)—

(a) for paragraph (1) substitute—

“(1) The persons specified in paragraph (2) must keep and preserve such records in such form and for such period as is specified in a notice published by HMRC in respect of goods that are—

- (a) subject to relevant non-transit Part 1 procedure; or
- (b) in a free zone.”;

(b) in paragraph (2)—

- (i) after sub-paragraph (b), omit “and”;
- (ii) for sub-paragraph (c) substitute—

“(c) any person handling, storing, producing, manufacturing, or applying a process to—

 - (i) goods released to a relevant non-transit Part 1 procedure; or

(a) Regulation 22(3)(c) was amended by S.I. 2019/486.

(b) Regulation 34(3) was amended by S.I. 2019/486.

- (ii) goods in a free zone.”;
- (iii) after sub-paragraph (c) insert—
 - “(d) responsible authorities; and
 - (e) any person selling or purchasing goods in a free zone in the course of a business.”;
- (c) in paragraph (4)—
 - (i) after sub-paragraph (a)(i), omit “and”;
 - (ii) after sub-paragraph (a)(ii) insert—
 - “(iii) specify that records must be kept, preserved or updated by way of making an entry in a system maintained by a responsible authority.”;
 - (iii) omit sub-paragraph (b).
- (19) In regulation 45 (authorisation to use equivalent goods)—
 - (a) in paragraphs (2)(c) and (d) and (6), after “declaration of goods for” insert “a free zone procedure or”;
 - (b) in paragraph (2)(d), after “the requirement at” insert “regulation 18B(1)(d) or”;
 - (c) in paragraphs (2)(e)(a) and (5), omit “to be kept in a customs warehouse”;
 - (d) in paragraph (2)(g), for “storage procedure to be kept in a customs warehouse” substitute “customs warehouse procedure”.
- (20) In regulation 46(1)(a) (equivalent goods)—
 - (a) after “declaration of goods for” insert “a free zone procedure or”;
 - (b) in paragraph (ii), for “the processing” substitute “any processing under the procedure”.
- (21) In regulation 47(1)(a)(i) (treatment of equivalent goods), omit “to be kept in a customs warehouse”.

Amendment of the Customs Transit Procedures (EU Exit) Regulations 2018

4.—(1) Schedule 1 (the Common Transit Procedure) to the Customs Transit Procedures (EU Exit) Regulations 2018(b) is amended as follows.

- (2) After paragraph 1(9)(b) (common transit procedure: preliminary)(c) insert—
 - “(c) a “free zone” are to an area in the United Kingdom designated as a special area for customs purposes under section 100A of the Customs and Excise Management Act 1979;
 - (d) a “free zone business” are to a person authorised to carry out an activity described in regulation 3(2)(b)(v) or (c) of the Customs (Special Procedures and Outward Processing) (EU Exit) Regulations 2018;
 - (e) a declaration of goods for a “free zone procedure” are to a declaration of goods for a storage procedure in a case where the goods are to be kept in a free zone.”.
- (3) In paragraphs 14 and 39 (consequences of common transit procedure discharge)—
 - (a) in sub-paragraph (3) for “A declaration” substitute “Except where sub-paragraph (4) applies, a declaration”;
 - (b) after sub-paragraph (3) insert—
 - “(4) This sub-paragraph applies where, immediately before the procedure is discharged—
 - (a) the chargeable goods that are subject to it—
 - (i) are in a free zone; and

(a) Paragraph (2)(e) was amended by S.I. 2019/486.

(b) S.I. 2018/1258. Relevant amending instrument is S.I. 2019/486. Regulation 2(2) is inserted by regulation 2(2)(c) of these regulations

(c) Paragraph 9 was inserted by S.I. 2019/486.

- (ii) have been received in the free zone by or on behalf of a free zone business;
 - (b) that free zone business is authorised to declare goods for a free zone procedure;
 - (c) that free zone business or a person acting with their authority has—
 - (i) made an entry into that business’s commercial records containing the particulars specified in a notice published by HMRC; and
 - (ii) notified a responsible authority for that free zone that the goods have been received;
 - (d) the case is not one set out in version 1 of the document dated 14 October entitled “Cases where goods cannot be declared by conduct or are not treated as declared for a free zone procedure on discharge of a transit procedure in a free zone” ;
 - (e) if a notification that goods are to be kept in a free zone was required under regulation 18D(1) of the Customs (Special Procedures and Outward Processing) (EU Exit) Regulations 2018, that notification has been given to HMRC; and
 - (f) the goods have not been declared for another customs procedure.
- (5) A notification under sub-paragraph (4)(c)(ii) must—
- (a) contain the matters; and
 - (b) be made in the form and manner,
- specified in a notice published by HMRC.
- (6) Where sub-paragraph (4) applies, the goods are treated on the discharge of the procedure as if they have been declared for a free zone procedure, and acceptance of the Customs declaration is treated as having occurred immediately.
- (7) HMRC must publish a notice specifying—
- (a) the particulars referred to in sub-paragraph (4)(c)(i); and
 - (b) the matters referred to in sub-paragraph (5).”.

Amendment of the Customs (Export) (EU Exit) Regulations 2019

5.—(1) The Customs (Export) (EU Exit) Regulations 2019(a) are amended as follows.

(2) In regulation 7 (export of goods deemed to be made in accordance with procedure for purposes of applicable export provisions)—

- (a) in paragraph (1), after “(2A)” insert “, (2B)”(b);
- (b) after paragraph (2A) insert—

“(2B) Goods in respect of which—

- (a) a declaration for a free zone procedure, within the meaning of regulation 2(2)(b) of CIDEER 2018(c), has been made;
- (b) that procedure has not been discharged;
- (c) either—
 - (i) an exit summary declaration has been made; or
 - (ii) an onward export notification has been given; and
- (d) an HMRC officer is satisfied that they may be exported from the United Kingdom and they are exported.”.

(3) In regulation 59B(d) (onward export notifications)—

(a) S.I. 2019/108 amended by S.I. 2019/486. There are other amending instruments but none are relevant
 (b) Regulation 7(2A) was inserted by S.I. 2019/486.
 (c) “CIDEER 2018” is defined in regulation 2 of S.I. 2019/108 and means the Customs (Import Duty) (EU Exit) Regulations 2018 (S.I. 2018/1249).
 (d) Part 8A containing regulations 59A to 59E was inserted by S.I. 2019/486.

- (a) for paragraph (1) substitute—
 - “(1) An onward export notification in respect of goods may only be given if paragraph (1A) or (1B) applies to the goods.”;
- (b) after paragraph (1) insert—
 - “(1A) This paragraph applies where—
 - (a) a temporary storage declaration has been made in respect of the goods;
 - (b) the goods are in a temporary storage facility;
 - (c) a Customs declaration has not been made in respect of the goods; and
 - (d) an export trans-shipment in respect of the goods has taken place, or the person giving the notification intends for it to take place, before the end of the period of 14 days beginning on the day on which the goods were presented to Customs on import.
 - (1B) This paragraph applies where—
 - (a) the goods have been declared for a free zone procedure within the meaning of regulation 2(2)(b) of CIDEER 2018;
 - (b) that procedure has not been discharged; and
 - (c) an exit summary declaration is not required in respect of the goods.”;
- (c) in paragraph (2), after “in respect of goods” insert “to which paragraph (1A) or (1B) applies”.
- (4) In regulation 59D (onward export notifications treated as withdrawn)—
 - (a) the existing text becomes paragraph (1);
 - (b) in the opening words of that paragraph, after “goods” insert “to which regulation 59B(1A) applies”;
 - (c) after that paragraph insert—
 - “(2) An onward export notification in respect of goods to which regulation 59B(1B) applies is treated as withdrawn if, after a period of 150 days beginning with the day on which the notification is given, the goods have not been exported.”.
- (5) In regulation 59E (onward export of goods)—
 - (a) at the end of paragraph (1) insert “and not withdrawn”;
 - (b) at the start of paragraph (2)(b) insert “in the case of goods to which regulation 59B(1A) applies,”.

Amendment of the Customs (Contravention of a Relevant Rule) Regulations 2003

6.—(1) The Customs (Contravention of a Relevant Rule) Regulations 2003(a) are amended as follows.

- (2) In regulation 2 (interpretation), after the definition of “Customs” insert—
 - ““designation order” has the meaning given by section 100A(5) of the Act(b).”.
- (3) In the table in the Schedule—
 - (a) under the heading “Special Procedures”—
 - (i) before the entry for regulation 8 insert—

“Regulation 3(1) and 3(2)(c)	The person who carries out	£2,500.”.
A person must not carry out	the activity.	

(a) S.I. 2003/3113. Relevant amending instruments are S.I. 2018/1260 and 2019/148. There are other amending instruments, but none is relevant.

(b) Section 100A was inserted by section 8 of, and Part 1 of Schedule 4 to, the Finance Act 1984 (c. 9).

a specified activity in a free zone related to goods declared for a free zone procedure unless they are authorised to do so.

(ii) after the entry for regulation 8 insert—

“Regulation 18E(1) Prohibition on carrying out any industrial, commercial or service activity in a free zone unless HMRC have been given prior notification.	The person who carries out the activity.	£2,500.
Regulation 18E(6) Prohibition or restriction imposed by HMRC on carrying out an industrial, service or commercial activity in a free zone.	The person who carries out the activity contrary to a prohibition or restriction.	£2,500.
Regulation 18E(8)(a) A responsible authority must take reasonable steps to ensure that no person carries out an activity involving the keeping of goods subject to a special customs procedure in a free zone if paragraph (i), (ii) or (iii) of regulation 18E(8)(a) applies.	The responsible authority that has failed to take reasonable steps to ensure the activity is not carried out.	£2,500.
Regulation 18E(8)(b) A responsible authority must take reasonable steps to ensure that no person brings goods into a free zone of a description specified in a notice published under regulation 18C(2).	The responsible authority that has failed to take reasonable steps to ensure that the goods were not brought into the free zone.	£2,500.
Regulation 18E(8)(c) A responsible authority must take reasonable steps to ensure that no person removes goods from a free zone in breach of regulation 18F(1).	The responsible authority that has failed to take reasonable steps to ensure that the goods were not removed.	£2,500.
Regulation 18E(9) Requirement relating to the control of goods subject to a special customs procedure within a free zone that is imposed by HMRC.	The responsible authority that has failed to comply with a requirement.	£2,500.
Regulation 18F(1) A person must not cause or permit goods to be removed	Person who removed or caused the goods to be removed in contravention of regulation 18F(1).	£2,500.

from a free zone unless the conditions provided for in regulation 18F(1) are met.

Designation order

Designation order	The responsible authority	£2,500.”.
Any condition or requirement contained in a designation order made under section 100A(5) of the Act.	who has breached the condition or failed to comply with the requirement.	

(b) after the entries under the heading “Customs agents”(a) insert—

“The Customs (Export) (EU Exit) Regulations 2019

Regulation 59B(1B), (2) and (3)	The person who was required to given the notification.	£2,500.”.
An onward export notification in respect of goods to which paragraph (1B) applies must be given to HMRC by a person mentioned in paragraph (3) before the goods are exported.		

PART 3

EXCISE GOODS

Amendment of the Excise Goods (Holding, Movement and Duty Point) Regulations 2010

7.—(1) The Excise Goods (Holding, Movement and Duty Point) Regulations 2010(b) are amended as follows.

(2) After Part 13 (irregularities in the course of a movement of excise goods under a duty suspension arrangement) insert—

“PART 14A

EXCISE GOODS IN FREE ZONES

Interpretation and application of Part 14A

85A.—(1) In this Part—

“authorised excise free zone business” means a person who is authorised as a free zone business who is also approved to operate a free zone excise warehouse in accordance with regulation 85C;

“free zone” means an area in the United Kingdom designated as a special area for customs purposes under section 100A of CEMA 1979;

(a) The entries relating to Customs agent were inserted by S.I. 2019/148.

(b) S.I. 2010/593, relevant amending instruments are S.I. 2019/13, S.I. 2019/474 and S.I. 2020/1559.

“free zone business” means a person authorised to declare goods for a free zone procedure or to carry out a free zone activity under the Customs (Special Procedures and Outward Processing) (EU Exit) Regulations 2018(a);

“free zone activity” means an activity falling within the description in regulation 3(2)(c) of the Customs (Special Procedures and Outward Processing) (EU Exit) Regulations 2018;

“free zone duty representative” means a revenue trader who has been approved to act as agent for overseas revenue traders under regulation 85D(3);

“free zone excise warehouse” means a place of security for the deposit, keeping and securing of excise goods in a free zone procedure;

“free zone procedure” means a storage procedure described in paragraph 2(1)(b) of Schedule 2 to the Taxation (Cross-border Trade) Act 2018;

“free zone registered owner” means a revenue trader who has been approved to deposit relevant excise goods that they own in a free zone excise warehouse under regulation 85D(2);

“overseas revenue trader” means a revenue trader who does not have a place of business in the United Kingdom;

“relevant excise goods” means excise goods other than—

- (a) hydrocarbon oil within the meaning of section 1 of the Hydrocarbon Oil Duties Act 1979(b);
- (b) bioethanol within the meaning of section 2AB of the Hydrocarbon Oil Duties Act 1979;
- (c) special energy products within the meaning of regulation 2 of the Excise Warehousing (Energy Products) Regulations 2004(c);
- (d) wine and made-wine within the meaning of section 1(4) and (5) of the Alcohol Liquor Duties Act 1979(d);

“revenue trader” has the meaning given in section 1 of the CEMA 1979.

(2) This Part does not apply in respect of excise goods in Northern Ireland.

Holding excise goods in a free zone etc.

85B.—(1) Excise goods declared for a free zone procedure must be deposited in a free zone excise warehouse operated by an authorised excise free zone business.

(2) Excise goods that are processed goods within the meaning of regulation 2(1) of the Customs (Special Procedures and Outward Processing) (EU Exit) Regulations 2018 and have been processed in accordance with a free zone procedure must be held in a free zone excise warehouse.

(3) Relevant excise goods must not be kept in a free zone excise warehouse for more than seventy-two hours (excluding bank holidays) from the time of deposit unless the owner of those goods is an authorised excise free zone business, a revenue trader who is a free zone registered owner or an overseas revenue trader represented by a free zone duty representative.

(4) The Commissioners may exempt a person from complying with paragraph (1), (2) or (3) if they consider that it is necessary to ensure the proper handling of excise goods in a

(a) S.I. 2018/1248; relevantly amended by these Regulations.

(b) 1979 c. 5; section 2AB was inserted by section 10 of the Finance Act 2004 (c. 12), there are other amendments but none are relevant.

(c) S.I. 2004/2064; amended by S.I. 2017/976, there are other amendments but none are relevant.

(d) 1979 c. 4; as amended by paragraph 1 of Schedule 1 to the Finance Act 1988 (c. 39), section 1 of the Finance Act 1995 (c. 4), section 5 of the Finance Act 1997 (c. 16), and paragraph 51 of Schedule 39 to the Finance Act 2012 (c. 14), there are other amendments but none are relevant.

free zone procedure having regard to the type of excise goods being declared or kept by the specified person and the facilities at the location concerned.

(5) Any exemption authorised under paragraph (4) must be given by the Commissioners in writing to the specified person to whom the exemption is to apply.

Authorisation to operate a free zone excise warehouse

85C.—(1) Any application to authorise a free zone business to operate a free zone excise warehouse must be included in an application for authorisation to carry out an activity in a free zone under the Customs (Special Procedures and Outward Processing) (EU Exit) Regulations 2018.

(2) The Commissioners may grant an application under paragraph (1) subject to such terms and conditions relating to storage conditions, permitted operations, record keeping, stock taking and other relevant matters as they think appropriate having regard to the nature of goods to be stored and the activities to be carried out in the warehouse concerned.

(3) A free zone business authorised under paragraph (1) to operate a free zone excise warehouse shall be known for the purposes of this Part as “an authorised excise free zone business”.

(4) An application under paragraph (1) may be made as a request for a variation of an existing free zone business approval under regulation 91 of the Customs (Import Duty) (EU Exit) Regulations 2018(a).

(5) The Commissioners may specify general terms and conditions applicable to authorised excise free zone businesses in a public notice.

(6) The Commissioners may at any time for reasonable cause revoke or vary the terms of approval of an authorised excise free zone business.

Approval of owners and duty representatives: terms and conditions

85D.—(1) The Commissioners may approve a revenue trader who wishes in the course of their business to deposit relevant excise goods that they own in a free zone excise warehouse subject to such terms and conditions regarding record keeping and other relevant matters as they think appropriate.

(2) A revenue trader who has been so approved shall be known as “a free zone registered owner”.

(3) The Commissioners may approve a revenue trader to act as agent for overseas revenue traders who wish to deposit relevant excise goods that they own in a free zone excise warehouse subject to such terms and conditions as the Commissioners think appropriate.

(4) A revenue trader who has been so approved shall be known as “a free zone duty representative”.

(5) The Commissioners may specify general terms and conditions applicable to free zone registered owners and free zone duty representatives in a public notice.

(6) The Commissioners may at any time for reasonable cause revoke or vary the terms of approval of a free zone registered owner or free zone duty representative.

Excise duty points and liability to pay

85E.—(1) If excise goods are deposited, kept, dealt with, removed or destroyed in a free zone excise warehouse in contravention of any of the terms and conditions imposed by or under regulations 85B, 85C or 85D—

(a) As applied by regulation 3(3) of S.I 2018/1249.

(a) the goods are treated as having been imported and an excise duty point arises under regulation 6(1)(d) at the time the contravention occurred or first came to the attention of the Commissioners, and

(b) paragraphs (2) and (3) apply.

(2) The person liable to pay the duty when an excise duty point arises under paragraph (1) is the authorised excise free zone business.

(3) Where more than one person is involved in the contravention leading to the excise duty point under paragraph (1), each person is jointly and severally liable to pay the duty.

(4) Where an excise duty point has arisen under paragraph (1) due to a contravention of regulation 85B(3) (keeping excise goods in a free zone excise warehouse for more than seventy-two hours) the authorised excise free zone business who is liable for the duty is relieved from liability to pay that duty if, immediately following the occurrence of the excise duty point, that person abandons those goods to the Commissioners.

(5) Where excise goods are abandoned to the Commissioners in accordance with paragraph (4) the person liable to pay the duty at the excise duty point is the owner of the goods at that excise duty point or (where applicable) the free zone duty representative.

Application of the Finance Act 1994 to this part

85F.—(1) The provisions of Part 1, Chapter 2 (appeals and penalties) of the Finance Act 1994 (“FA 1994”) apply in relation to contraventions of any requirements imposed by or under regulations 85B, C or D with the following modifications.

(2) A contravention referred to in paragraph (1) is to be treated as a default falling within section 12(2) FA 1994 (assessments).

(3) A decision whether or not and in which respects any person is to be or is to continue to be approved as an authorised excise free zone business under regulation 85C, a free zone registered owner under regulation 85D(1) or a free zone duty representative under regulation 85D(3), is to be treated as an “approval decision” under section 16A(2) of FA 1994.”.

PART 4

VALUE ADDED TAX

Amendment of Schedule 8 to the Value Added Tax Act 1994

8.—(1) Schedule 8 to the Value Added Tax Act 1994 (zero-rating) is amended as follows.

(2) In the table in Part 1 (index), in the appropriate place insert—

“Free zones	Group 22”
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(3) In Part 2 (the Groups) after Group 21 insert—

“GROUP 22—FREE ZONES

Item No

1. The supply by one free zone business (“A”) to another free zone business (“B”) of—

(a) free zone procedure goods, if—

(i) the supply of the goods would (apart from this provision) be taxable^(a) but not zero-rated, and

(a) “Taxable supply” is defined in section 4(2) of the VAT Act.

- (ii) A was authorised to make the supply;
- (b) a service wholly performed in the free zone on or in relation to free zone procedure goods by a person authorised to do so, if—
 - (i) the supply of the service would (apart from this provision) be taxable but not zero-rated, and
 - (ii) before a VAT invoice(a) is issued in respect of the supply, B notifies A in writing that this provision applies to the supply.

NOTES

- (1) “Free zone business” means a person who is—
 - (a) authorised to declare goods for a free zone procedure or to carry out a free zone activity, and
 - (b) registered under this Act or exempted from registration under paragraph 13 of Schedule 1A to this Act(b).
- (2) References to a person authorised to do a thing are references to a person authorised in accordance with the Special Procedures Regulations to do that thing.
- (3) “Special Procedures Regulations” means the Customs (Special Procedures and Outward Processing) (EU Exit) Regulations 2018(c).
- (4) “Free zone activity” and “free zone procedure” have the meanings given by the Special Procedures Regulations(d).
- (5) Goods are “free zone procedure goods” if they—
 - (a) are subject to a free zone procedure, or
 - (b) comprise goods within paragraph (a) that have been combined with domestic goods by a person authorised to do so.
- (6) “Domestic goods” has the meaning given by section 33 of the Taxation (Cross-border Trade) Act 2018(e).
- (7) “Free zone” means an area in the United Kingdom designated as a special area for customs purposes under section 100A of the Management Act(f).”.

Amendment of the Value Added Tax Regulations 1995

9. In regulation 14 (contents of VAT invoice) of the Value Added Tax Regulations 1995(g), after paragraph (1)(o) insert –

- “(p) where a VAT invoice relates in whole or in part to a supply falling within Item 1 of Group 22 of Schedule 8 to the Act(h) (free zones), the reference “free zone”.”.

Revocation of Regulation 27 of the Free Zone Regulations 1984

10. Regulation 27 (relief from import tax following supply to non-registered person) of the Free Zone Regulations 1984(i) is revoked.

(a) “VAT invoice” is defined in section 6(15) of the VAT Act as amended by section 24(4)(a) of Finance Act 2002 (c. 23).
 (b) Paragraph 13 of Schedule 1A was inserted by paragraph 1 of Schedule 28 to the Finance Act 2012 (c. 14).
 (c) S.I. 2018/1249.
 (d) See the definitions in regulation 2(1) and (3) of S. I. 2018/1249 inserted by regulation 3(2) of this instrument.
 (e) 2018 (c. 22); section 33 was amended by section 2(5) of, and paragraphs 1, 2 and 4 of Schedule 1 to, the Taxation (Post-transition Period) Act 2020 (c. 26).
 (f) The Management Act is defined in section 96(1) of the VAT Act as the Customs and Excise Management Act 1979 (c. 22). Section 100A was inserted by section 8 of, and Part 1 of Schedule 4 to, the Finance Act 1984 (c. 43).
 (g) S.I. 1995/2518; regulation 14(1) has been amended by S.I. 1996/1250, 2003/3220, 2007/2085, and 2012/2951.
 (h) Group 22 is inserted by regulation 8(3) of this instrument.
 (i) S.I. 1984/1177.

*Rebecca Harris
James Morris*

At 11.00 a.m. on 18th October 2021 Two of the Lords Commissioners of Her Majesty's Treasury

*Justin Holliday
Joanna Rowland*

At 10.00 a.m. on 18th October 2021 Two of the Commissioners for Her Majesty's Revenue and Customs

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision under the Taxation (Cross-border Trade) 2018 (c. 22), the Value Added Tax Act 1994 (c. 23) and the Finance Act 2003 (c. 14) in relation to the free zone special Customs procedure. A free zone is an area in the United Kingdom designated as a special area for customs purposes under section 100A of the Customs and Excise Management Act 1979 (c. 22) (“CEMA 1979”).

Part 1 makes provision in relation to citation and commencement.

Part 2 makes provision in relation to customs.

Regulation 2 amends the Customs (Import Duty) (EU Exit) Regulations 2018 (S.I. 2018/1248) to:

- specify the circumstances in which a declaration by conduct to a free zone procedure may be made, and how that declaration is to be made; and
- make provision for goods to be presumed not to be domestic goods where they have been removed from a free zone otherwise than in accordance with provision made by these Regulations.

Regulation 3 amends the Customs (Special Procedures and Outward Processing) (EU Exit) Regulations 2018 (S.I. 2018/1249). It makes provision in relation to:

- the authorisations required to declare goods for a free zone procedure or to carry out industrial, service or commercial activities including storing goods in a free zone;
- the requirements of the free zone procedure;
- the conditions attached to authorisations;
- requirements in relation to goods being brought into or removed from a free zone;
- the control of activities in free zones by responsible authorities;
- the determination of liability where processing of goods takes place within a free zone; and
- record keeping requirements applicable to businesses operating in free zones.

Regulation 4 amends the Customs Transit Procedures (EU Exit) Regulations 2018 (S.I. 2018/1258) to provide for goods to be treated as being declared for a free zone procedure where a transit procedure is discharged at the time when the goods are in a free zone and the other requirements set out in the Regulations are met.

Regulation 5 amends the Customs (Export) (EU Exit) Regulations 2019 (S.I. 2019/108) to provide that goods that are exported while they are subject to a free zone procedure and in relation to which an onward export notification or an exit summary declaration is made are deemed to have been made in accordance with a procedure for the purposes of the applicable export provisions.

Regulation 6 amends the Customs (Contravention of a Relevant Rule) Regulations 2003 (S.I. 2003/3113) to provide for penalties in relation to contraventions of the requirements in regulations 2 to 5.

Part 3 makes provision about excise goods in free zones.

Regulation 7 inserts new Part 14A into the Excise Goods (Holding, Movement and Duty Point) Regulations 2010 (S.I. 2010/593) (“the HMDP Regulations”).

New regulation 85A contains definitions and provides that Part 14A does not apply in respect of excise goods in Northern Ireland.

New regulation 85B provides that excise goods declared for a Customs free zone procedure or produced in such a procedure are to be kept in warehouses operated by authorised persons (“free zone excise warehouses”). Excise goods must not be kept for more than seventy-two hours other than the person keeping them is authorised to do so under these Regulations.

New regulation 85C provides that applications to operate free zone excise warehouses can be made only as part of an application to carry out activities in a free zone pursuant to the Customs (Special Procedures and Outward Processing) (EU Exit) Regulations 2018. The regulation makes general provisions about the making of such applications.

New regulation 85D makes general provision about the approval of revenue traders who wish to be able to store certain excise goods that they own in free zone excise warehouses and agents for such persons.

New regulation 85E provides if excise goods are deposited, kept, dealt with, removed or destroyed in contravention of the conditions imposed by the Regulations an excise duty point will arise under regulation 6(1)(d) of the HMDP Regulations and sets out who will be liable to pay the excise duty.

New regulations 85F applies Chapter 2 of Part 1 of the Finance Act 1994 (c. 9) to decisions made by HMRC under new Part 14A so that they will be treated in the same way as other decisions made under other excise legislation.

Part 4 makes provision in relation to VAT and free zones.

Regulation 8 inserts a new Group into Schedule 8 to the Value Added Tax Act 1994 to provide for a zero rate for specified supplies of goods and services in a free zone.

Regulation 9 amends regulation 14 of the Value Added Tax Regulations 1995 (S.I. 1995/2518) to provide for additional information to be included in invoices where such supplies are made.

Regulation 10 amends the Free Zone Regulations 1984 (S.I. 1984/1177) to revoke regulation 27, which is obsolete. Insofar as they applied in relation to customs and excise, the remainder of the Free Zones Regulations 1984 have ceased to have effect by virtue of the revocation of the powers under which they were made (sections 100B to 100D and 125 of CEMA 1979).

Any notices that are made under powers created or amended by these Regulations will be published at: <https://www.gov.uk/government/collections/customs-vat-and-excise-uk-transition-legislation-from-1-january-2021>. A person unable to access the notices electronically may access them, while government advice on social distancing and unnecessary travel applies, in hard copy by post free of charge on application to 07824178624, and otherwise by inspection free of charge at HMRC, 100 Parliament Street, London SW1A 2BQ.

A Tax Information and Impact Note covering this instrument will be published on the website at <https://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins>.

£6.90

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ISBN 978-0-34-822815-1



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