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2020 No. 138

**The Customs and Excise (Special Customs Procedures)
(Bailiwick of Guernsey) Regulations, 2020**

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Coming into operation

See regulation 56.

Laid before the States

, 2021

THE COMMITTEE FOR HOME AFFAIRS, in exercise of the powers conferred on it by sections 15, 73A and 79 of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972^a and all other powers enabling it in that behalf, hereby makes the following Regulations:-

PART 1

AUTHORITY TO MAKE A CUSTOMS DECLARATION

Customs declaration for a special customs procedure

^a Ordres en Conseil Vol. XXIII, p. 573; amended by Ordres en Conseil Vol. XXIV, p. 87; Vol. XXXI, p. 278; Vol. XXXIII, p. 217; Order in Council No. X of 2004; No. II of 2010; No. XIV of 2007; No. XV of 2012; No. VI of 2019; Ordinance No. XXXIII of 2003; No. XXIX of 2004; Nos. XXXV and XLVIII of 2007; No. VII of 2008; No. XLIII of 2013; No. IX of 2016; No. XXIX of 2020; G.S.I. No. 56 of 2008; G.S.I. No. 76 of 2009; G.S.I. No. 97 of 2010; G.S.I. No. 42 of 2011; G.S.I. No. 54 of 2012; G.S.I. No. 53 of 2013; G.S.I. No. 61 of 2014; G.S.I. No. 70 of 2015; G.S.I. No. 46 of 2016; G.S.I. No. 81 of 2017; and No. 56 of 2018; and No. 103 of 2019; the Customs and Excise (Brexit) (Amendment) (Bailiwick of Guernsey) Regulations, 2020.

1. (1) A person may not declare goods for a special customs procedure unless that person is authorised to do so in accordance with these Regulations.

(2) An authorisation for the purposes of paragraph (1) requires –

- (a) an application for an authorisation to be made in accordance with Part 2, or
- (b) a person in whose name goods are declared for a special customs procedure to be treated as making an application for an authorisation in accordance with Part 3.

(3) For the purposes of these Regulations, "a special customs procedure" means -

- (a) an inward processing procedure,
- (b) an authorised use procedure, or
- (c) a storage procedure.

(4) For the avoidance of doubt, a person declaring goods for special customs procedure is entering the goods by making an entry for a customs procedure within the meaning of section 15(1) of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972 ("the 1972 Law").

PART 2

APPLICATION FOR AUTHORISATION

Application for authorisation.

2. An authorisation under regulation 1(2)(a) requires an application which must be made to the Chief Revenue Officer and –

- (a) includes details identifying the applicant,
- (b) be made in the form and manner, and
- (c) be accompanied by such information,

as directed by the Chief Officer of Customs and Excise.

Cases in which an application for authorisation may not be made.

3. (1) A person may not make an application for authorisation if –
- (a) the application is in respect of the same matter as a previous authorisation,
 - (b) notice was given as provided by regulation 7(8) that the previous authorisation was treated as if it had never been granted, and
 - (c) the application is made within a period of three years of the date of the notice.
- (2) A person may not make an application for authorisation if –

- (a) the application is in respect of the same matter as a previous authorisation,
- (b) the previous authorisation was revoked for failure to comply with the conditions of the authorisation, and
- (c) the application is made within a period of one year of the date of the revocation.

(3) For the purposes of paragraph (2)(b), "**conditions**" means the requirements, and any conditions imposed, under regulation 4(6) or Part 6 (procedure-specific rules).

Chief Revenue Officer to consider the application.

4. (1) Before the end of the specified period following the date on which an application, or purported application, for authorisation is received by the Chief Revenue Officer, the Chief Revenue Officer must notify -

- (a) the person making the application (the "applicant"), that the application is one that falls to be determined and the result of that determination, or
- (b) the person making the purported application (the "purported applicant"), that the purported application does not fall to be determined because, for the reasons set out in the notification –
 - (i) the purported application has not been made in accordance with regulation 2, or

- (ii) the purported application cannot be made as it is contrary to regulation 3.

(2) Where the Chief Revenue Officer decides that the application is one that falls to be determined and will require notification under paragraph (1)(a), the Chief Revenue Officer must determine, in accordance with the provisions of these regulations, whether the application –

- (a) is granted, or
- (b) is refused for the reasons set out in the refusal notification.

(3) Subject to paragraph (4), the specified period is –

- (a) in relation to an application for authorisation to declare goods for –
 - (i) an inward processing procedure, or
 - (ii) an authorised use procedure,

30 days after the date on which the application was received by the Chief Revenue Officer,

- (b) in relation to an application for approval to operate premises as a place for keeping good declared for a

storage procedure, 60 days after the date on which the application was received by the Chief Revenue Officer.

(4) The specified period may be extended in the following cases for the following periods –

- (a) where the application is an application for authorisation to declare goods for an inward process procedure in relation to which an examination of the available evidence is required for the purposes of regulation 18(1)(a), the specified period may be extended by a further period of up to one year,
- (b) in any other case, where the Chief Revenue Officer notifies the applicant stating the reason for the extension, the specified period may be extended by a further period of up to 30 days,
- (c) where the Chief Revenue Officer suspects the applicant has been involved in a breach of a customs obligation and an investigation is being conducted in relation to that breach, the specified period may be extended by a further period of up to nine months on notification to the applicant (unless such notification would be likely to jeopardise the investigation), and
- (d) where the applicant makes a request in writing, stating the reasons for the request, the Chief Revenue Officer may agree to extend the specified period by such

further period as the Chief Revenue Officer considers reasonable in the circumstances.

(5) Where an application for authorisation is granted, the approval notification of the authorisation issued to the person who is authorised to make a customs declaration for a special customs procedure (an "authorised person") must specify –

- (a) the date from which the authorisation has effect,
- (b) the date, if any, on which the authorisation will cease to have effect, and
- (c) any conditions to which the authorisation is subject,

and "authorisation" in this Part means an authorisation granted under this regulation.

(6) The authorisation is subject to compliance with conditions specified in or under these Regulations.

(7) If an application for authorisation is not granted or refused as required by this regulation, the application is treated as refused.

Appeal where the Chief Revenue Officer fails to consider an application.

5. (1) An applicant or purported applicant may appeal to the Committee in a case where the Chief Revenue Officer has failed to comply with regulation 4.

(2) Upon consideration of the appeal, the Committee may direct the Chief Revenue Officer, in a case where it is satisfied that the Chief Revenue Officer acted unreasonably, to consider the application, or purported application, as mentioned in regulation 4 within such further period as is specified by the Committee.

(3) The appeal must be made within 30 days following the expiry of the specified period (including such period as extended) referred to in regulation 4.

Notification of Chief Revenue Officer of change of circumstances relating to an authorisation to declare goods for a special customs procedure.

6. An authorised person must notify the Chief Revenue Officer as soon as reasonably practicable if –

- (a) that person fails to meet any condition to which the authorisation is subject,
- (b) that person ceases to satisfy any eligibility criteria which applied when the authorisation was granted, or
- (c) there are any material changes since the application was made concerning –
 - (i) the details relating to the applicant, or
 - (ii) the information required to accompany the application.

Amendment, suspension or revocation, etc. of an authorisation.

7. (1) An authorisation granted under regulation 4 may be suspended or revoked, as appropriate in the opinion of the Chief Revenue Officer, if –

- (a) the authorised person fails to meet any condition to which the authorisation is subject, or
- (b) the authorised person ceases to satisfy any eligibility criteria which applied when the authorisation was granted.

(2) An authorisation may be amended, suspended or revoked, as appropriate in the opinion of the Chief Revenue Officer, if –

- (a) the authorised person makes an application in writing to the Chief Revenue Officer for the authorisation to be amended, suspended or revoked,
- (b) the authorised person has been involved in a breach of a customs obligation,
- (c) it is necessary in consequence of an enactment, or a determination of a court or tribunal in relation to an enactment, relevant to the activities carried on pursuant to the authorisation, or
- (d) it is necessary in consequence of a change of circumstances of the authorised person relevant to the activities carried on pursuant to the authorisation.

(3) An authorisation may be suspended if the Chief Revenue Officer has reasonable grounds for believing that –

- (a) the (purported) application for approval was deficient in some respect,
- (b) the applicant knew, or ought reasonably to have known, of the deficiency, and
- (c) the Chief Revenue Officer considers that the authorisation would not have been granted if the deficiency was known at the time it was granted.

(4) Subject to paragraph (5), an authorisation may be suspended under this regulation for such period as the Chief Revenue Officer thinks reasonable in the circumstances but must not exceed 60 days unless the authorised person agrees to a longer period.

(5) Where a Chief Revenue Officer suspects that an authorised person has been involved in a breach of a Customs obligation and an investigation is being conducted in relation to that breach, the authorisation may be suspended for a period of up to nine months.

(6) The amendment, suspension or revocation of an authorisation takes effect from the date specified in a notice given by the Chief Revenue Officer to the authorised person (and, accordingly, does not affect anything already done by any person before that date in reliance on the authorisation).

- (7) The Chief Revenue Officer may not specify a date –
- (a) before the notice is given unless the Chief Revenue Officer and the person both agree that such a date may be given, and
 - (b) that falls more than one year after the date on which the notice is given.

(8) Where the grounds under paragraph (3) are established, an authorisation is to be treated as if it had never been granted if the Chief Revenue Officer gives a notice to the applicant notifying them of the effect of this regulation.

PART 3
TREATMENT OF A DECLARATION AS AN APPLICATION FOR
AUTHORISATION

Treatment of a declaration as an application for authorisation

8. (1) Subject to regulation 15, a person in whose name goods are declared for a special customs procedure is to be treated as making an application for authorisation under regulation 1(2)(b) where –

- (a) that person is not so authorised and either –
 - (i) that person gives a Bailiwick single guarantee in accordance with Part 9, or
 - (ii) there is no requirement for a person to give a guarantee by virtue of regulation 54, and

- (b) the declaration –
 - (i) is not one to which regulation 9 applies,
 - (ii) is of a type specified in paragraph (2), and
 - (iii) is made in accordance with –
 - (A) the Customs and Excise (Importation) (Customs Declaration) Regulations 2020, and
 - (B) any provision that applies by virtue of Part 6.

(2) The specified types of declaration are a declaration of goods for–

- (a) an inward processing procedure where the goods are not sensitive goods,
- (b) an authorised use procedure.

Cases where a declaration is not to be treated as an application for authorisation.

9. (1) Where paragraph (2) applies, a declaration of goods for the special customs procedure is not to be treated as an application for authorisation under regulation 8.

(2) This paragraph applies where, by virtue of regulation 21, liability to import duty is to be determined by reference to the goods as they stood when the declaration was made.

Determination of a declaration treated as an application for authorisation.

10. (1) Where a declaration is to be treated by regulation 8 as an application for authorisation, the application is to be determined in accordance with this regulation and regulation 4 does not apply.

(2) Where the eligibility criteria set out in regulation 11 are met, acceptance of the declaration by the Chief Revenue Officer under the Customs and Excise (Importation) (Customs Declaration) Regulations 2020, is to be treated as grant of authorisation.

(3) An authorisation treated as granted by paragraph (2) only authorises the making of that declaration.

(4) An authorisation treated as granted by paragraph (2) shall be subject to the provisions of a notice published by the Chief Officer of Customs and Excise concerning matters that will apply to the authorisation and that would have been included in an approval notification had the authorisation been granted under regulation 4.

(5) If the declaration is not accepted by the Chief Revenue Officer, the application is to be treated as refused.

PART 4
AUTHORISATION

Eligibility for authorisation.

11. (1) The following criteria ("the eligibility criteria") must be met before an authorisation is granted under regulations 4 or 10 to declare goods for a special customs procedure –

- (a) the applicant must be established in the Bailiwick, except where paragraph (2) applies,
- (b) a customs 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 the use of the procedure, and
- (c) a customs officer must be satisfied that the applicant will exercise proper conduct of the operations necessary to comply with the requirements of the procedure.

(2) This paragraph applies where –

- (a) the application is for an authorisation to declare goods for an inward processing procedure or an authorised use procedure, and
- (b) in the opinion of a customs officer it is appropriate to grant authorisation to a person established outside the Bailiwick taking into considerations factors specified in

a notice published by the Chief Officer of Customs and Excise.

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

(4) For the purposes of paragraph (1)(c), the matters that a customs officer may take into account include, but are not limited to –

(a) whether, in the opinion of a customs 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 payment of duty or of a Customs obligation, which in the opinion of a customs 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 a customs 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, relevant goods and domestic goods and facilitate compliance with Customs obligations.

Period for which an authorisation is to have effect.

12. The period for which an authorisation to declare goods for a special customs procedure is to have effect must not be longer than –

- (a) in the case of procedures relating to sensitive goods, three years beginning with the date from which the authorisation is to have effect, or
- (b) in all other cases, five years beginning with the date from which the authorisation is to have effect.

Retrospective authorisation.

13. (1) An approval notification issued in relation to an authorisation to declare goods for a special customs admission procedure may provide that the authorisation has effect from a time before the application for it is made ("retrospective authorisation") in accordance with this regulation.

(2) Paragraph (1) applies even where the goods for which authorisation to make a declaration is sought are not available for examination by a customs officer at the time at which the application for authorisation is received by the Chief Revenue Officer.

(3) The Chief Revenue Officer may grant retrospective authorisation only if -

(a) the Chief Revenue Officer is satisfied that -

(i) the applicant has an economic need for retrospective authorisation to be granted,

(ii) the application for retrospective authorisation is not made for the purposes of -

(A) avoiding, or enabling any other person to avoid, any customs obligation,

(B) preventing a liability to import duty or charges being incurred by any person,
or

- (C) preventing the application of any non-tariff trade policy measures,

that would have applied had the application been made before the time from which the authorisation is to have effect,

- (iii) either –

- (A) the goods can be identified in the applicant's accounts and records from the date on which the authorisation is to have effect, or

- (B) such identification is not required for the purposes of demonstrating compliance with obligations imposed by or under the customs Laws or the excise Laws,

- (iv) the applicant's accounts and records identify sufficiently the movement of, and transactions in, relevant and domestic goods so as to enable the applicant to comply with the obligations imposed by or under these regulations, or any other customs Laws concerning the special customs procedure for which retrospective authorisation is sought, and

- (v) the applicant and the Chief Revenue Officer are able to take all steps required to ensure that records and other documentation reflect any grant of retrospective authorisation including, where necessary, the withdrawal or amendment of customs declarations,
- (b) in the period of three years ending immediately before the date that the Chief Revenue Officer received the application no previous retrospective authorisation was granted to the applicant to declare goods for the same special customs procedure to which the application seeks retrospective authorisation, and
- (c) where the application is for renewal of authorisation in relation to the same kind of goods and operation, the application was submitted within three years of the expiry of the authorisation for which renewal is sought.

(4) Subject to paragraph (6), where the application is for renewal of an authorisation for the same kind of goods the approval notification may provide that the authorisation has effect from the date on which the authorisation for which renewal is sought expired.

(5) Subject to paragraph (6), where the application is not for a renewal of an authorisation for the same kind of goods –

- (a) if the application for authorisation does not relate to sensitive goods, the approval notification may provide

that the authorisation has effect from a date within the period of a year before the date on which the application for authorisation is received by the Chief Revenue Officer,

- (b) if the application for authorisation relates to sensitive goods, the approval notification may provide that the authorisation has effect from a date up to three months before the date on which the application was received by the Chief Revenue Officer,

where, in the opinion of the Chief Revenue Officer, there are exceptional circumstances justifying that earlier date.

- (6) In all cases, the approval notification must not provide that the authorisation has effect from a date earlier than exit day.

PART 5 DECLARATIONS

A customs declaration for a special customs procedure

14. A person authorised under regulations 4 or 10 may make a customs declaration for special customs procedure in accordance with this Part.

15. (1) Where paragraph (2) applies, a customs agent may not make a declaration of goods for –

- (a) an inward processing procedure,

- (b) an authorised use procedure, or
 - (c) a storage procedure where the goods are to be kept in a private customs warehouse.
- (2) This paragraph applies where –
- (a) the principal of the agent is authorised to declare goods for the relevant procedure,
 - (b) the agent is not so authorised, and
 - (c) the agent intends to act as an indirect agent on behalf of the principal.

16. A customs declaration must be made in accordance with the Customs and Excise (Importation) (Customs Declarations) Regulations, 2020.

PART 6
PROCEDURE-SPECIFIC RULES

CHAPTER 1
INWARD PROCESSING PROCEDURE

Eligibility for authorisation - inward processing procedure

17. The Chief Revenue Office may grant an application for authorisation under regulations 4 and 10 to declare goods for an inward processing procedure only if a customs officer is satisfied that –

- (a) if the goods were declared for the procedure either –
 - (i) it would not be economically viable, following processing of the goods in accordance with the authorisation, to restore the goods to their condition at the time of the declaration, or
 - (ii) liability for import duty would be determined by virtue of regulation 24 by reference to the goods as they stood when the declaration was made,

- (b) use of the procedure could not result in circumvention of –
 - (i) a quota to which the goods are subject for the purposes of section 11 of the 2018 Act, or
 - (ii) any provision of, or any provision of or under regulations made under, section 5 of the Customs and Cross-Border Trade (General and Enabling Provisions) (Bailiwick of Guernsey) Law, 2018 for determining the place of origin of the goods for the purposes of the customs Laws, and

- (c) where the processing to be carried out is the use of production accessories, the production accessories are not –

- (i) fuels or energy sources, other than those needed for the testing of processed goods or for the declaration of faults in goods declared for the procedure which need repair,
- (ii) lubricants, other than those needed for the testing, adjustment or withdrawal of processed goods, or
- (iii) equipment and tools.

Economic condition – inward processing procedure

18. (1) Where an application for authorisation to declare goods for an inward processing procedure is a case of a description specified in a notice published by the Chief Revenue Officer, an authorisation may be granted only if –

- (a) a customs officer is satisfied, on the basis of an examination of the available evidence, that the essential interests of producers of goods in the Island would not be adversely affected by the granting of the authorisation, or
- (b) paragraph (2) applies.

(2) This paragraph applies where –

- (a) the Chief Revenue Officer is not aware of any evidence that the essential interest of the producers of goods in

the Island would be adversely affected by an authorisation to make a customs declaration for an inward processing procedure, and

- (b) the authorisation concerns an operation which is not of a type specified in a notice published by the Chief Officer of Customs and Excise.

Authorisation to make a customs declaration for an inward processing procedure

19. (1) An approval notification issued under regulation 4(5) in relation to an authorisation to declare goods for an inward processing procedure must specify –

- (a) the goods, or types of goods, to which the authorisation applies,
- (b) the processing to which the goods are to be subject ("specified processing"), and
- (c) the date by which the procedure must be discharged ("the discharge date").

(2) Where -

- (a) goods ("intended imported goods") are to be imported into the Island in order to be processed there,
- (b) the intended imported goods are to be declared for an inward processing procedure,

- (c) equivalent domestic goods are to be subject to the specified processing in place of the intended imported goods, and
- (d) the goods resulting from the processing are exported before the intended imported goods are imported,

the approval notification issued in relation to an authorisation to declare the intended imported goods for an inward processing procedure must specify the period within which the intended imported goods are to be declared.

(3) The period specified under paragraph (2) must not be longer than 6 months beginning with the date after the date of any acceptance of such export declaration as may be provided for under section 24 of the Principal Law for the goods resulting from the processing.

(4) The period specified under paragraph (2) may be extended at the request of the authorised person, but the amended authorisation must not permit a declaration to be made more than 12 months after the date of any acceptance of an export declaration referred to in paragraph (3).

(5) In cases where paragraph (2) does not apply, an approval notification issued in relation to an authorisation to make a customs declaration for an inward processing procedure may specify that goods released to the procedure, and processed goods resulting from processing of those goods, are to be treated as if, on the discharge date, the goods had been declared for the free-circulation procedure and the Chief Revenue Officer had accepted that declaration if, on that date –

- (a) the goods have not been declared for another special customs procedure or the free circulation procedure,
- (b) the goods have not been exported, and
- (c) the applicant has requested that the goods are to be so treated.

(6) The Chief Revenue Officer must not make the specification referred to in paragraph (5) where, under any enactment, the goods are subject to a prohibition from, or restriction on, declaring them for the free-circulation procedure.

Authorisation to declare goods for an inward processing procedure – conditions and requirements.

20. (1) An authorisation to declare goods for an inward processing procedure is subject to the condition that –

- (a) no evidence is presented to the Chief Revenue Officer that the essential interests of producers of goods in the Island are likely to be adversely affected by –
 - (i) where the authorisation has been used to declare the goods, the further use of the authorisation,
 - (ii) in all other cases, the use of the authorisation,
or

(b) where such evidence is presented to the Chief Revenue Officer, a customs officer is satisfied, on the basis of an examination of the available evidence, that the essential interests of producers of goods in the Island would not be adversely affected by –

(i) where the authorisation has been used to declare the goods, the further use of the authorisation,

(ii) in all other cases, the use of the authorisation.

(2) An authorisation to declare goods for an inward processing procedure is granted subject to such other conditions as may be specified in the approval notification issued in relation to the authorisation.

(3) Where an authorisation to declare goods for an inward processing procedure is granted the following requirements apply –

(a) the authorised person must process the goods themselves or arrange for the processing to be carried out,

(b) where the 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, must result in the production or manufacture of an approved quantity of the other goods, and

(c) the holder of the procedure must not export the goods 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 2018 Act,

(ii) those arrangements have been extended to the Bailiwick, and

(ii) a 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).

(4) For the purposes of paragraph (3)(b), 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 a customs officer approves that choice, or
 - (ii) in all other cases, set by a customs officer.

Inward processing procedure

21. A declaration of goods for an inward processing procedure may be –

- (a) a declaration in the standard form (in accordance with by regulation 22), or
- (b) a declaration in the supplementary form (in accordance with by regulation 23).

22. (1) A declaration of goods for an inward processing procedure in the standard form is a declaration –

- (a) that the goods are to be imported into the Island in order to be processed there,
- (b) that the processing is to take place during a temporary period,
- (c) that the processing is to consist of qualifying processing activities, and

(d) that the processing of the goods is to be carried out in accordance with requirements imposed on any person by these Regulations.

(2) The temporary period during which the processing is to take place is the period specified in a notice given to the person making the declaration by a customs officer.

(3) That period may be subsequently extended (or further extended) by another notice given as mentioned in paragraph (2).

(4) For the purposes of this paragraph processing "consists of qualifying processing activities" in relation to any goods if -

(a) the processing is the repair of the goods,

(b) the processing of the goods ("the imported goods") results in the production or manufacture of other goods in which the imported goods can be identified,

(c) the processing is the use of production accessories, or

(d) the processing is the destruction of the goods.

(5) If an inward processing procedure in the standard form has effect in relation to any goods, the goods may be exported in accordance with the applicable export provisions for a temporary period for processing outside the Island without discharging the procedure.

(6) The inward processing procedure in the standard form is not discharged in accordance with paragraph (5) only if –

- (a) the processing of the goods outside the Island is carried out in accordance with requirements imposed on any person under these Regulations,
- (b) the processing takes place during a period specified in a notice given to the person making the declaration by a customs officer (and paragraph (3) also applies for the purposes of this paragraph), and
- (c) any other specified conditions are met.

23. A declaration of goods for an inward processing procedure in the supplementary form is a declaration –

- (a) that the goods are to be subject to any operation designed to secure that they comply with requirements that must be met before the goods can lawfully be released for free circulation in the Island, or
- (b) that the goods are to be subject to any operation designed to preserve them, improve their appearance or marketable quality or otherwise prepare them for distribution or resale.

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

24. (1) An applicant for authorisation to declare goods for an inward processing procedure may –

- (a) elect that any liability to import duty incurred in relation to processed goods resulting from processing under the 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 under the procedure be determined by reference to the goods as they stood when the declaration was made.

(2) Determination of liability to import duty incurred in relation to processed goods resulting from processing under an inward processing 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),
- (b) paragraph (3) or (4) applies, or
- (c) the liability is incurred as a result of a breach of the requirement specified in regulation 20(3)(c).

(3) This paragraph applies where –

- (a) the processed goods resulting from the processing of the goods are imported by the holder of the procedure within one year after export of the processed goods,
 - (b) if a declaration of those goods for the free-circulation procedure had been accepted at the time of their release to the inward processing procedure –
 - (i) the goods would have been subject to –
 - (A) an additional amount of import duty under section 13, 14 or 15 of the 2018 Act,
 - (B) a non-tariff trade 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 2018 Act, and
 - (c) the application for authorisation to declare the goods for an inward processing procedure was not a case in relation to which an examination of the available evidence was required for the purposes of regulation 18(1)(a).
- (4) Subject to paragraphs (5) and (6), this paragraph applies where

- (a) the application for authorisation to declare the goods for an inward processing procedure is not a case in relation to which an examination of the available evidence is required for the purposes of regulation 18(1)(a), and
 - (b) if a declaration of those goods for the free-circulation procedure were accepted at the time the authorisation is granted –
 - (i) the goods would be subject to –
 - (A) an additional amount of import duty under section 13, 14 or 15 of the 2018 Act,
 - (B) a non-tariff trade policy measure, or
 - (ii) the importer of the goods would be required to give a guarantee under paragraph 15(5) of Schedule 4 to the 2018 Act.
- (5) Paragraph (4) 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 2018 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 2018 Act, and
- (b) the aggregate value of goods to be declared for an inward processing 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.
- (6) Paragraph (4) does not apply where the goods –
 - (a) are non-commercial goods or personal gifts,
 - (b) are goods resulting from processing under a previous authorisation, the application for which was a case in relation to which an examination of the available evidence was required for the purposes of regulation 18(1)(a), or
 - (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.

Value of goods where there is a change in the goods.

25. (1) Where regulation 24(2) 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 inward processing procedure –

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

(2) The Chief Officer of Customs and Excise 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 24.

26. (1) Paragraph (2) applies where –

- (a) a liability to import duty is to be determined in accordance with regulation 24(2),
- (b) the specified processing, within the meaning given in regulation 24(1)(b), in relation to the goods was an

authorised use under regulation 28 at the time that the goods were released to an inward processing procedure, and

- (c) at the time that the goods were released to an inward processing procedure an application for authorisation to declare the goods for an authorised use procedure by the person authorised to declare the goods for an inward processing procedure would not have been prohibited by regulation 3(1) or (2).

(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 the Chief Revenue Officer.

Temporary export of goods released to an inward processing procedure.

27. (1) Where an inward processing procedure in the supplementary form has effect in relation to any goods and paragraph (2) applies, the goods may be exported, in accordance with the applicable export provisions, for a temporary period without discharging the procedure.

(2) This paragraph applies where –

- (a) the goods are exported for subjection to an operation described in regulation 23 ("a relevant operation") carried out outside the Island,
- (b) the operation is carried out –

- (i) in accordance with requirements imposed on any person by a notice published by the Chief Officer of Customs and Excise, and
- (ii) during a period specified in a notice given to the person making the declaration by a customs officer.

(3) The period referred to in paragraph (2)(b)(ii) may be subsequently extended (or further extended) by another notice given as mentioned in that sub-paragraph.

(4) The Chief Officer of Customs and Excise must publish a notice setting out the requirements imposed on any person in accordance with which –

- (a) the subjection of goods to a relevant operation outside the Island must be carried out for the purposes of paragraph (2)(b)(i), and
- (b) the processing of goods outside the Island must be carried out for the purposes of regulation 22(6)(a).

(5) A notice published under paragraph (4) may make different provision for different cases.

CHAPTER 2
AUTHORISED USE PROCEDURE

Authorised uses.

28. (1) A declaration of goods for an authorised use procedure is a declaration that the goods are to be subject to any of the uses identified as authorised uses in the authorised use document.

(2) In this regulation, "the authorised use document" means a document published for the purposes of this Chapter by the Chief Officer of Customs and Excise.

Authorisation to declare goods for an authorised use procedure.

29. (1) An approval notification issued under regulation 4 in relation to an authorisation to declare goods for an authorised use procedure must specify -

- (a) the use to which the goods are to be subject ("a specified authorised use"), and
- (b) where the only economically viable use of the goods is a specified authorised use, the requirements that must be met in relation to the authorised procedure in respect of those goods.

(2) An approval notification of the kind mentioned in paragraph (1) may provide for different specified authorised uses for different goods.

(3) Where an authorisation to declare goods for an authorised use procedure is granted under regulation 4 and 10 and paragraph (1)(b) does not apply, the following requirements apply -

- (a) the authorised person must put the goods to a specified authorised use in the Island, and
- (b) any specified authorised use of the goods must result in such quantity of other goods as may be –
 - (i) specified in the approval notification, or
 - (ii) determined by reference to a methodology specified in the approval notification

(4) Where an authorisation to declare goods for an authorised use procedure is granted and the goods are suitable for repeated use, the authorised person is subject to such requirements in respect of the goods, and for such period, as may be specified in the approval notification.

(5) Any period specified under paragraph (4) must not be longer than two years from the date the goods were first put to a specified authorised use.

(6) An authorisation to declare goods for an authorised use procedure is granted subject to such other conditions as may be specified in the approval notification issued in relation to the authorisation.

Waste and scrap

30. (1) Waste and scrap resulting from the destruction of goods released to an authorised use procedure –

- (a) is not to be regarded as domestic goods, and

(b) is to be treated as imported into the Island on the date of destruction.

(2) Waste and scrap of the kind referred to in paragraph (1) is to be treated, from the date of destruction, as being released to a storage procedure to be kept in a customs warehouse.

CHAPTER 3 STORAGE PROCEDURE

Meaning of goods declared for a storage procedure.

31. A declaration of goods for "a storage procedure" is a declaration that the goods are to be kept in premises appointed by the Committee as a customs warehouse in accordance with section 7(3) of the 1972 Law.

Eligibility for approval to operate a customs warehouse.

32. (1) This regulation applies to a person who owns, operates or otherwise uses premises which the person intends to operate as a customs warehouse.

(2) The Chief Revenue Officer may approve the person to operate the premises as a customs warehouse only if a customs officer is satisfied that—

(a) the person will use the premises, or will only permit the premises to be used, primarily for the storage of goods,

(b) the person has a satisfactory logistical system to record the movement of goods into, within and out of the premises,

- (c) where the person intends to operate premises as a public customs warehouse, there is sufficient potential trade for a public customs warehouse to be viable, and
- (d) where the person intends to operate premises as a private customs warehouse, there would be sufficient benefit to the applicant to justify approval.

Approval to operate a customs warehouse.

33. (1) A notification of approval by the Chief Revenue Officer to operate premises as a customs warehouse must specify –

- (a) the premises,
- (b) the approved person, and
- (c) whether the premises are to be operated as a public customs warehouse or a private customs warehouse.

(2) The warehouse is not to be used for any processing of goods other than –

- (a) an operation of a type –
 - (i) described in sub-paragraph (b) of regulation 23, and

(ii) specified in a notice published by Chief Officer of Customs and Excise as an operation constituting a usual form of handling of goods, or

(b) processing authorised under paragraph (3).

(3) The approval may authorise the taking place in the warehouse of the processing of goods declared for an inward processing procedure or for an authorised use procedure where a customs officer is satisfied that –

(a) the holder of the procedure in relation to the goods or the approved person of the warehouse has an economic need for the processing to be carried out in the warehouse, and

(b) control by any customs officer of the goods subject to the storage procedure and goods subject to, as the case may be, the inward processing procedure or authorised use procedure would not be adversely affected by the authorisation to carry out the processing in the warehouse.

(4) An approval must not authorise the keeping of goods other than relevant goods in the customs warehouse unless –

(a) the other goods to be kept in the warehouse are domestic goods, and

- (b) a customs officer is satisfied that –
 - (i) the approved person has viable commercial reasons for the storage of domestic goods alongside goods declared for a storage procedure, and
 - (ii) control by any customs officer of any relevant goods stored in the warehouse would not be adversely affected by storage of domestic goods.

(5) The approval must require accounting segregation in accordance with a notice made under regulation 42 where –

- (a) the approval permits domestic goods to be stored in the warehouse, and
- (b) it is not possible, without incurring disproportionate cost, to identify –
 - (i) whether any goods stored are domestic goods or chargeable goods, and
 - (ii) the customs procedure for which any relevant goods have been declared.

(6) The approval is granted subject to the following conditions –

- (a) retail sales of goods from the warehouse are not permitted other than as specified in the approval notification,
- (b) the approved person must not allow goods to leave the warehouse unless they are removed in accordance with regulation 35,
- (c) the approved person must notify any person keeping goods declared for a storage procedure in the warehouse of any permission contained in the approval notification to remove such goods from the warehouse,
- (d) the approved person must notify the Chief Revenue Officer without delay of any breach by any person who is a holder of a procedure of any requirement imposed by or under the customs Laws in relation to goods kept by the person in the warehouse, and
- (e) such other conditions as may be specified in the approval notification.

(7) The approval may be granted subject to conditions regarding (amongst other things) –

- (a) the type of goods which may be kept in the warehouse,

- (b) the activities that are permitted to be carried out in the warehouse,
- (c) the amount of time for which particular goods may be kept in the warehouse, and
- (d) the facilities in which particular goods must be stored whilst kept in the warehouse.

(8) Where the approved person breaches a requirement imposed under these Regulations in relation to the keeping of goods in the warehouse, the approved person is liable to any import duty arising as a result of that breach unless the approval specifies otherwise.

Obligations relating to keeping goods in a customs warehouse

34. (1) A person must not declare goods for a storage procedure where they are to be kept in a customs warehouse and are not of a type which may be kept in the warehouse under the conditions of the approval.

(2) Subject to paragraph (3), where goods have been declared for a storage procedure to be kept in a customs warehouse the person in whose name the goods have been declared must –

- (a) ensure that the goods declared are moved directly to the customs warehouse named in the declaration once the Chief Revenue Officer has accepted the declaration, and

- (b) provide the approved person with details of the declaration and any differences between the goods deposited and the goods declared.

(3) In paragraph (2), where the person in whose name the goods have been declared is acting as an indirect agent, the reference to the person in whose name goods have been declared is to be read as a reference to the person on whose behalf the goods have been declared.

(4) A holder of the procedure who keeps goods in a customs warehouse must not –

- (a) cause or permit those goods to be removed from the warehouse unless they are removed in accordance with regulation 35, or
- (b) carry out, arrange or permit any processing of the goods other than as permitted under regulation 33(2).

Removal of goods from a customs warehouse

35. (1) No person may remove from a customs warehouse goods declared for a storage procedure which have not been discharged from the storage procedure ("declared goods") unless –

- (a) permitted under this regulation, or
- (b) permitted by the approval notification relating to that customs warehouse.

(2) Declared goods may be permanently removed from a customs warehouse if the removal has been approved by the Chief Revenue Officer.

(3) Declared goods may be temporarily removed from a customs warehouse if –

(a) the purpose of removing the goods is to undertake an operation of a type –

(i) described in sub-paragraph (b) of regulation 33, and

(ii) specified in a notice published by the Chief Revenue Officer as an operation constituting a usual form of handling of goods, and

(b) the removal has been approved by the Chief Revenue Officer.

(4) Paragraph (5) applies where –

(a) a person removes declared goods from a customs warehouse,

(b) the removal was not intended, and

(c) the removal was caused by abnormal and unforeseeable circumstances beyond the person's control.

(5) Where this paragraph applies –

- (a) approval by the Chief Revenue Officer for the removal is not required, but
- (b) the person must notify the Chief Revenue Officer that the removal has occurred.

(6) Declared goods may be removed from a customs warehouse where the goods move between –

- (a) premises operated as customs warehouses and identified in the same approval,
- (b) the warehouse and the customs office at which goods must be made available for examination following notification by the Chief Revenue Officer that the goods have been released for export, or
- (c) the warehouse and a customs office at which a declaration for the purposes of discharging the storage procedure may be accepted.

(7) Any movement of goods under paragraph (6) must be completed within –

- (a) 30 days beginning with the day after the day on which the goods are removed from the customs warehouse, or
- (b) any longer period permitted by a customs officer.

(8) Any person removing declared goods from a customs warehouse in contravention of this regulation is liable to import duty on those goods.

(9) In this regulation "customs office" means premises used by the Chief Revenue Officer for the purposes of exercising its functions under these Regulations.

Usual forms of handling – changes in nature of goods

36. (1) Paragraph (2) applies where –

- (a) a declaration ("the first declaration") of goods for a storage procedure to be kept in a customs warehouse 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 regulation 23, and

- (ii) specified in a notice published by the Chief Officer of Customs and Excise as an operation constituting a usual form of handling of goods,
- (d) a further declaration ("the second declaration") of the 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.

PART 7 GENERAL RULES

Transfer of rights and obligations

37. (1) Where paragraph (2) applies, a person to whom rights and obligations in relation to goods declared for a special customs procedure are transferred ("**the transferee**") is subject to such requirements of that procedure as are specified in accordance with paragraph (7).

- (2) This paragraph applies where –
 - (a) the Chief Revenue Officer grants –
 - (i) an application –

- (A) for authorisation to declare goods for a special customs procedure that includes an approval to transfer to the transferee some or all of the rights and obligations that relate to relevant declared goods, or
 - (B) to amend an authorisation under regulation 7, or
 - (ii) an application specified in paragraph (3)(a) and one of the applications specified in paragraph (3)(b), and
 - (b) an agreement is made for a transfer of rights and obligations to take place.
- (3) The specified applications are –
- (a) an application made by the authorised person or a holder of procedure for approval to transfer to the transferee some or all of the rights and obligations that relate to relevant declared goods, and
 - (b) an application made by a person –
 - (i) for approval to receive some or all of the rights and obligations that relate to relevant declared goods, or

- (ii) under regulation 7(2)(a) to amend that person's authorisation in order to approve the person to receive such rights and obligations.

(4) For the purposes of Part 2 of these Regulations, the transfer of rights and obligations that relate to relevant declared goods is to be treated as a matter requiring approval in accordance with that Part.

(5) The Chief Revenue Officer may only grant an application referred to in paragraphs (2)(a)(i) and (3) where –

- (a) in the case of goods declared for an inward processing procedure or an authorised used procedure the transferee meets the eligibility criteria set out in regulation 11 for the authorisation to declare goods for procedure to which the rights and obligations specified in the application relate,
- (b) in the case of goods declared for a storage procedure to be kept in a customs warehouse, the transferee is established in the Bailiwick.

(6) The Chief Revenue Officer may grant an application referred to in paragraph (3) subject to such conditions as may be specified in the approval notification issued.

(7) An approval notification issued in relation to an application referred to in paragraph (2)(a)(i) or (3) must specify the rights and obligations to be transferred.

(8) Where the transferee breaches –

(a) a requirement imposed by or under the Customs Laws in respect of import duty on the transferee as holder of the procedure, or

(b) an obligation transferred by virtue of this regulation,

the transferee is liable to any import duty arising as a result of that breach.

(9) In this regulation –

"obligations", in relation to relevant declared goods, includes –

(a) conditions to which the authorisation to declare the relevant declared goods for the special customs procedure is subject, and

(b) any other requirements in relation to the procedure imposed by or under the Customs Laws,

"relevant declared goods" means goods declared for the special customs procedure,

"rights", in relation to relevant declared goods, includes –

- (a) any permissions contained in an authorisation to declare the relevant declared goods for the special customs procedure, and
- (b) any rights in relation to those goods conferred by or under the Customs Laws.

Discharge of special Customs procedures: rules applicable to all procedures

38. (1) The provision under these Regulations in relation to goods declared for a special customs procedure has effect from the time at which the goods are released to the procedure until the time at which the procedure is discharged in accordance with this regulation or regulation 39.

(2) A special customs procedure is discharged if the goods are declared for another special Customs procedure or the free circulation procedure and the Chief Revenue Officer accepts that declaration.

(3) Directions given by the Chief Revenue Officer may require a special customs procedure to be discharged before a date specified in, or determined in accordance with, the directions.

- (4) If –
- (a) the procedure is not discharged before that date, and
 - (b) a customs officer gives a notice under this subparagraph to the person who declared the goods for the procedure,

the goods are treated for the purposes of this Part as if, at the time at which the notice is given, that person had declared the goods for the free-circulation procedure and the Chief Revenue Officer had accepted that declaration.

- (5) Directions under this paragraph –
 - (a) may be given generally by the Chief Officer of Customs and Excise or in relation to the particular case concerned by a customs officer, and
 - (b) if given generally, may be given by way of a public notice given by the Chief Officer of Customs and Excise.

Discharge of special Customs procedures: rules applicable to particular procedures.

39. (1) This paragraph specifies further cases in which particular special customs procedures are discharged.

(2) A storage procedure, an inward processing procedure or an authorised use procedure is discharged if -

- (a) the goods are exported from the Island in accordance with the applicable export provisions,
- (b) the goods are destroyed, or
- (c) the goods are liable to forfeiture.

(3) In addition, an authorised use procedure in respect of any goods is discharged if the requirements imposed by or under these Regulations in relation to the procedure are met in respect of the goods.

Discharge of special Customs procedures: other provision.

40. (1) Despite the provision made by regulation 38 or 39, a special customs procedure in respect of any goods is not discharged if a liability to import duty is incurred in respect of the goods while the procedure has effect and –

- (a) a guarantee has not been given in accordance with Part 9 that has effect in relation to the goods, or
- (b) if no guarantee is given, the import duty has not been paid.

(2) If a special customs procedure in respect of any goods is prevented from being discharged as a result of sub-paragraph (1) (and only as a result of that sub-paragraph), that does not prevent the goods from also being released to another special customs procedure.

Discharge of a special Customs procedure – supplementary provision.

41. (1) An approval notification in relation to an authorisation to declare goods for an inward processing procedure or an authorised use procedure may specify that it is a requirement that the authorised person supplies to the Chief Revenue Officer –

- (a) such information in relation to the discharge of the procedure as may be specified in the approval notification, and

(b) in such manner and at such time as may be so specified.

(2) The evidence which is to be required, or is to be sufficient, for the purposes of showing that a special customs procedure has been discharged, is to be determined by a customs officer in accordance with a notice published by the Chief Revenue Officer.

(3) Where goods released to a special customs procedure are placed together with other goods and are destroyed, the goods destroyed, for the purposes of showing the procedure has been discharged under regulation 39(2)(b), are

-

(a) where a customs officer is satisfied that the holder of the procedure has provided sufficient evidence as to the goods which were subject to the procedure that have been destroyed, those goods, or

(b) where a customs officer is not so satisfied, such proportion of the goods placed together as is determined in accordance with a notice published by the Chief Officer of Customs and Excise.

(4) Paragraph (5) applies where –

(a) two or more declarations of goods of the same type are made for a special customs procedure using a single authorisation, and

- (b) some of those goods –
 - (i) are exported from the Bailiwick in accordance with the applicable export provisions,
 - (ii) are destroyed,
 - (iii) are declared for another customs procedure, or
 - (iv) are, in the case of goods declared for an authorised use procedure, subject to an authorised use.

(5) Where this paragraph applies, for the purposes of showing that a special customs procedure has been discharged –

- (a) the event described in paragraph (4)(b) must have taken place in relation to the actual goods declared for the procedure where –
 - (i) a customs officer consents to a request from the approved person, the authorised person or the holder of the procedure that this should be the case, or
 - (ii) a customs officer is of the opinion that the amount of import duty which would be applicable to the goods would, as a result of treatment in accordance with sub-paragraph

(b), be lower than the amount applicable to them if the event described in paragraph (4)(b) had taken place in relation to the actual goods declared, or

(b) in all other cases, the goods referred to in paragraph (4)(b) are to be treated as having been declared under the earliest of the declarations referred to in paragraph (4)(a).

(6) A notice published under this regulation may make different provision for different cases.

Record keeping

42. (1) The persons specified in paragraph (2) must keep and preserve such records in respect of goods that are subject to a relevant special customs procedure, and in such form, as specified in a notice made by the Chief Officer of Customs and Excise.

(2) The specified persons are -

(a) any person authorised to declare a special customs procedure specified in regulation 3(2),

(b) any holder of a procedure, and

(c) any person handling, storing, producing, or manufacturing, or applying a process to, goods released to a relevant special customs procedure.

(3) The Chief Officer of Customs and Excise must publish a notice specifying –

- (a) the records to be kept and preserved under paragraph (1),
- (b) the form in which they are to be kept, and
- (c) the period for which they must be kept and preserved.

(4) A notice published under paragraph (3) may –

- (a) specify that the records must be updated within a specified period after the occurrence of a specified event, and
- (b) make different provision for different cases, and

Authorisation to use equivalent goods

43. (1) Subject to paragraph (2), an approval or authorisation to declare goods for a special customs procedure under regulation 4 may authorise requirements in relation to the relevant procedure to be met by reference to equivalent goods ("an equivalent goods authorisation").

(2) An equivalent goods authorisation must not be granted –

- (a) where, in the opinion of a customs officer control by any customs officer of the goods to be declared for the

relevant special customs procedure could not be satisfactorily exercised if an equivalent goods authorisation were granted,

(b) in relation to a declaration of goods for an inward processing procedure where the goods are only to be subject to an operation of a type that is –

(i) described in sub-paragraph (b) of regulation 23, and

(ii) specified in a notice published by the Chief Officer of Customs and Excise as an operation constituting a usual form of handling,

(c) in relation to a declaration of goods for an inward processing procedure where the export of the processed goods that would result from the processing under the procedure would constitute a breach of the requirement at regulation 20(3)(c),

(d) in relation to a declaration of goods for a storage procedure to be kept in a storage warehouse, an inward processing procedure, or an authorised use procedure where, if the goods were declared for the free-circulation procedure –

(i) they would be subject to an additional amount of import duty by virtue of section 13, 14 or 15 of the 2018 Act, or

(ii) the importer of the goods would be required to give a guarantee under paragraph 15(5) of Schedule 4 to the 2018 Act,

(e) in relation to a declaration of goods for a storage procedure to be kept in a customs warehouse where the goods are sensitive goods, or

(f) in relation to a declaration of goods for a relevant special customs procedure where the goods or the equivalent goods have been genetically modified or contain elements that have undergone genetic modification.

(3) A relevant special customs procedure authorisation may authorise equivalent goods to be stored together with other goods where –

(a) the equivalent goods can be identified by such method as the Chief Revenue Officer may specify in the approval notification, or

(b) where it is not possible to identify the equivalent goods without incurring disproportionate cost, the approval notification specifies that it is a requirement of the procedure that the authorised person carries out

accounting segregation in accordance with a notice made under regulation 42 (record keeping).

(4) It is a condition of an equivalent goods authorisation in relation to the declaration of goods for an inward processing procedure or a storage procedure to be kept in a customs warehouse that –

- (a) goods which are organic must not be replaced by goods which are not organic, and
- (b) goods which are not organic must not be replaced by goods which are organic.

(5) An equivalent goods authorisation in relation to the declaration of goods for an inward processing procedure is subject to any conditions set out in a notice published by the Chief Officer of Customs and Excise concerning –

- (a) rice,
- (b) wheat,
- (c) sugar,
- (d) live animals and meat,
- (e) maize,
- (f) olive oil, and

(g) milk and milk products.

(6) A notice published under paragraph (6) may make different provision for different cases.

(7) In this regulation "organic" means coming from or related to organic production.

Meaning of "equivalent goods"

44. (1) For the purposes of these Regulations –

(a) in relation to a declaration of goods for an inward processing procedure the following are to be regarded as equivalent domestic goods –

(i) goods at a more advanced stage of manufacture than the imported goods,

(ii) where the processing consists of repair –

(A) new goods where the imported goods are used goods, and

(B) goods that are newer goods, or goods in less need of repair, than the imported goods, and

(iii) goods with –

- (A) technical characteristics the same as, or similar to, those of the imported goods, and
 - (B) the same classification code and the same commercial quality as the imported goods,
- (b) in all other cases, goods are not to be regarded as equivalent domestic goods unless the goods have the same –
- (i) classification code,
 - (ii) commercial quality, and
 - (iii) technical characteristics,

as the imported goods.

(2) For the purposes of paragraph (1), goods have the same commercial quality as the imported goods or the goods they are replacing if a reasonable purchaser would consider the equivalent goods to be of the same standard as the imported goods or the goods they are replacing.

(3) In this regulation "imported goods" means goods to be declared for a relevant special customs procedure.

Treatment of equivalent goods

45. (1) Paragraph (2) applies where –
- (a) there is a declaration of goods –
 - (i) for a storage procedure to be kept in a customs warehouse, or
 - (ii) for an inward processing procedure, and
 - (b) the requirements in relation to the relevant procedure are to be met by reference to equivalent domestic goods in accordance with these Regulations.
- (2) Where this paragraph applies –
- (a) on the date on which the declaration of the goods for the procedure is accepted by the Chief Revenue Officer–
 - (i) the goods are to be treated for the purposes of section 1 of the Customs and Cross-Border Trade (General and Enabling Provisions) (Bailiwick of Guernsey) Law, 2018 as if they had been simultaneously released to, and discharged from, the procedure, and
 - (ii) the goods are to be regarded as domestic goods,
 - (b) the equivalent domestic goods –

- (i) are not to be regarded as domestic goods from the date on which the declaration of the goods for the relevant procedure is accepted by the Chief Revenue Officer ("the date of acceptance"), and
- (ii) are to be treated for the purposes of section 1 of the Customs and Cross-Border Trade (General and Enabling Provisions) (Bailiwick of Guernsey) Law, 2018 as imported into the Island on the date of acceptance.

(3) Paragraphs (4) and (5) apply where –

- (a) there is a declaration of goods for an authorised use procedure, or
- (b) the requirements in relation to the procedure are to be met by reference to equivalent domestic goods in accordance with these Regulations.

(4) Where this paragraph applies, the goods are to be treated as if they had been simultaneously released to, and discharged from, the relevant procedure where –

- (a) the declaration of the goods for the procedure is accepted by the Chief Revenue Officer, and

- (b) the requirements in relation to the procedure were met by reference to the equivalent domestic goods.

(5) Where this paragraph applies, the goods are to be treated as if they had been discharged from the procedure on the date on which the equivalent domestic goods are exported from the Bailiwick where –

- (a) the declaration of the goods for the procedure is accepted by the Chief Revenue Officer,
- (b) the requirements in relation to the procedure were not met by reference to the equivalent domestic goods at the time of the declaration of the goods,
- (c) the procedure has not been discharged in accordance with regulations 38 or 39, and
- (d) the equivalent domestic goods are exported from the Bailiwick.

Animals

46. (1) An animal born in the Bailiwick is not to be regarded as a domestic good if –

- (a) the mother was part of a consignment of goods declared for a storage procedure or an inward processing procedure,

- (b) the animal was born before the procedure was discharged, and
- (c) the total market value of animals born to mothers in that consignment before the procedure was discharged is £90 or more ("**the threshold**").

(2) An animal which is not to be regarded as a domestic good under paragraph (1) is treated as imported into the Bailiwick on the later of –

- (a) the date the threshold in paragraph (1)(c) is reached, and
- (b) the date the animal is born.

(3) The animal is to be treated for the purposes of section 1 of the Customs and Cross-Border Trade (General and Enabling Provisions) (Bailiwick of Guernsey) Law, 2018 as being released on that date to the customs procedure to which the animal's mother has been released.

PART 8
RELIEFS
LIABILITY TO DUTY

When liability to import duty incurred.

47. (1) If relevant goods are declared for –
- (a) a storage procedure,

- (b) an inward processing procedure,

the general rule is that a liability to import duty is not incurred by reference to the importation of the goods.

- (2) This rule is subject to the following two exceptions –

- (a) if there is no entitlement to make the customs declaration concerned, a liability to import duty is incurred at the time the (purported) declaration is made, and

- (b) if there is a breach by any person of any requirement relating to the procedure, a liability to import duty is incurred at the time at which the breach first occurs.

- (3) In the case of goods declared for an authorised use procedure –

- (a) a liability to import duty is incurred at the time the declaration is accepted by the Chief Revenue Officer,

- (b) if there is an entitlement to make the declaration for the procedure, the rate of import duty is lower than the normal rate,

- (c) if there is no such entitlement, the liability is at the normal rate, and

- (d) if there is a breach of a requirement relating to the procedure, a further liability to import duty arises at the time of the breach at the normal rate reduced to take account of the amount of any earlier liability.

(4) In the case of goods declared for an inward processing procedure, see also regulation 24.

(5) In this section any reference to the breach of a requirement relating to a special customs procedure is to –

- (a) a breach, occurring while the procedure has effect, of the terms of the declaration for the procedure or of any other requirement imposed in relation to the procedure by or under these Regulations, or
- (b) a breach, occurring at any time after the declaration was made, of any other requirement imposed by a customs officer in relation to the goods for which the declaration was made.

(6) In this section "the normal rate" means the rate that, at the time of the declaration or breach (as the case may be), would be applicable if any relevant rates provided for in the authorised use document issued for the purposes of Chapter 2 of Part 6 were ignored.

PART 9 GUARANTEES

Guarantees

48. (1) A guarantee in respect of a liability or potential liability to pay import duty and excise duty required by or under the customs Laws or the excise Laws must –

- (a) guarantee the payment of the specified amount in respect of a liability to which the guarantee applies,
- (b) be in a form specified by public notice issued by the Chief Officer of Customs and Excise, and
- (c) be for a period approved by the Chief Revenue Officer.

(2) The Chief Revenue Officer may require that a guarantee extends to the payment of any charges in relation to the specified amount.

(3) A guarantor may cancel a guarantee by notice to the Chief Revenue Officer specifying the date on which the guarantee will cease to have effect which must be at least 15 days after the date on which the notice is received by the Chief Revenue Officer.

Guarantors.

49. (1) A guarantor must be –

- (a) approved by the Chief Revenue Officer, or
- (b) a guaranteeing association.

(2) The Chief Revenue Officer may only approve a guarantor under paragraph (1)(a) where the guarantor is established in the Bailiwick.

(3) A guarantor may only guarantee the liability to import duty and excise duty of another person.

(4) The Chief Revenue Officer may revoke an approval under paragraph (1)(a) where the requirement under paragraph (2) is no longer met and, where the Chief Revenue Officer does so, the Chief Revenue Officer must give notice of the revocation to any person whose payment in relation to a liability or potential liability to pay import duty and excise duty is guaranteed by that guarantor.

(5) The Chief Officer of Customs and Excise may publish a public notice specifying persons treated as approved as a guarantor under this regulation.

Single and comprehensive guarantees.

50. (1) In respect of a liability or potential liability to import duty and excise duty –

(a) a guarantee (a "**Bailiwick single guarantee**") may be given in respect of particular goods declared for a special customs procedure, or

(b) a guarantee (a "**Bailiwick comprehensive guarantee**") may be given in respect of all goods declared for special customs procedures in one or more calendar months.

(2) A person may give a Bailiwick comprehensive guarantee in respect of a liability to import duty and excise duty only if authorised to do so by the Chief Revenue Officer.

(3) A person may only be authorised to give a Bailiwick comprehensive guarantee if –

- (a) the person is established in the Bailiwick,
- (b) the person, and any directors or senior employees of that person, have not been involved in a breach of an obligation relating to a customs obligation, which in the opinion of the Chief Revenue Officer is –
 - (i) a serious breach having regard to the circumstances, nature and number of breaches, and
 - (ii) relevant to the suitability of that person to give a Bailiwick comprehensive guarantee,
- (c) the person, and any directors or senior employees of that person, have no criminal conviction which in the opinion of the Chief Revenue Officer is –
 - (i) serious having regard to the type of conviction, and

- (ii) relevant to the suitability of that person to give a Bailiwick comprehensive guarantee, and
- (d) the person is –
 - (i) a regular user of the special customs procedure in relation to which the Bailiwick comprehensive guarantee will be used, or
 - (ii) in the opinion of the Chief Revenue Officer, a suitable person to give a Bailiwick comprehensive guarantee taking account of that person's financial standing and practical experience.

(4) For the purposes of paragraph (3)(d)(i), a person is a regular user of a special customs procedure if that person has used that procedure on at least three occasions in the 12 month period preceding the application for authorisation.

Meaning of "specified amount".

51. (1) For the purposes of this Part, the "specified amount" is –
- (a) in relation to a Bailiwick single guarantee, the maximum amount of import duty and excise duty that is likely to be payable in respect of the particular goods declared for a customs procedure, or
 - (b) in relation to a Bailiwick comprehensive guarantee, the maximum amount of import duty and excise duty that

is likely to be payable in any calendar month for which the guarantee subsists, having regard to the business of the person authorised to give the guarantee, in particular in relation to goods imported into the Bailiwick in the previous 12 months and proposed importations in the next 12 months.

(2) If the amount of the liability or potential liability to import duty and excise duty exceeds the specified amount of the guarantee, the person liable or potentially liable to that import duty and excise duty must notify the Chief Revenue Officer as soon as practicable on becoming aware of the shortfall.

(3) The Chief Officer of Customs and Excise may by notice to the person required to give the guarantee in respect of a liability to import duty and excise duty, amend the specified amount with effect from a date specified in the notice but not less than 15 days from the date the notice is given.

Specified amount: reduced amounts and waivers in relation to Bailiwick comprehensive guarantees.

52. (1) Subject to paragraph (2), the Chief Revenue Officer must approve a reduction in the specified amount in relation to a Bailiwick comprehensive guarantee to 50% of the specified amount determined under regulation 51(1)(b) if satisfied that the person authorised to give the Bailiwick 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 import duty and excise duty, and
- (e) has sufficient financial resources to meet the liability or potential liability not guaranteed by the reduced comprehensive guarantee.

(2) The Chief Revenue Officer must not approve a reduction in the specified amount under paragraph (1) unless –

- (a) the person, and any directors or senior employees of that person, have not been involved in a breach of an obligation relating to a customs obligation, which in the opinion of the Chief Revenue Officer is –
 - (i) a serious breach having regard to the circumstances, nature and number of breaches, and
 - (ii) relevant to the suitability of that person to give a reduced Bailiwick comprehensive guarantee,
- (b) the person, and any directors or senior employees of that person, have no criminal conviction which in the opinion of the Chief Revenue Officer is –

- (i) serious having regard to the type of conviction, and
 - (ii) relevant to the suitability of that person to give a reduced Bailiwick comprehensive guarantee, and
- (c) the person is –
 - (i) a regular user of the customs procedure to which the Bailiwick comprehensive guarantee will be used, or
 - (ii) in the opinion of the Chief Revenue Officer, a suitable person to give a reduced Bailiwick comprehensive guarantee taking account of that person's financial standing and practical experience.

(3) For the purposes of paragraph (2)(c)(i), a person is a regular user of the procedure if that person has used the procedure on at least three occasions in the 12 month period preceding the application for authorisation.

(4) The Chief Revenue Officer must approve a reduction in the specified amount in relation to a comprehensive guarantee to 30% of the specified amount determined under regulation 51(1)(b) if satisfied that the person authorised to give the comprehensive guarantee -

- (a) meets the conditions in paragraphs (1) and (2), and

- (b) maintains procedures to ensure that the Chief Revenue Officer is notified of any breach of any Customs obligation.

(5) The Chief Revenue Officer must approve a waiver to the requirement for a comprehensive guarantee in relation to a potential liability to pay import duty and excise duty if satisfied that the person authorised to give the comprehensive guarantee -

- (a) meets the conditions in paragraphs (1), (2) and (4)(b), and
- (b) allows customs officers access to all electronic and physical information systems maintained by that person,
- (c) maintains a logistical system that identifies relevant goods and domestic goods and their location,
- (d) where the liability relates to agricultural goods, has satisfactory procedures to ensure compliance with any relevant regulatory obligation in relation to agricultural goods,
- (e) has satisfactory procedures in relation to archiving records, and

- (f) maintains satisfactory computer system security measures.

Discharge of guarantees.

53. (1) A guarantee is regarded as discharged in full –

- (a) if all the liability to which the guarantee relates and, where regulation 48(2) (guarantee in relation to charges) applies, any charges in relation to that liability, is paid in full, or
- (b) where the potential liability to which the guarantee relates has been extinguished on the discharge of a special customs procedure,
- (c) where the potential liability to which the guarantee relates has been extinguished on the transfer of rights and obligations under regulation 37 (transfer of rights and obligations).

(2) A person required to give a guarantee or a guarantor may apply to the Chief Revenue Officer to discharge a guarantee in part where part of the liability to import duty and excise duty to which the guarantee relates and, where regulation 48(2) applies, any charges, have been discharged.

(3) An application under paragraph (2) must state -

- (a) the goods to which the application relates,

- (b) the amount of the liability to import duty and excise duty,
 - (c) the amount which has been paid in respect of the liability, and
 - (d) the location of the goods.
- (4) An application must –
- (a) include details identifying the applicant,
 - (b) be made to the place,
 - (c) be made in the form and manner, including by electronic means, and
 - (d) be accompanied by such information, as directed by the Chief Revenue Officer.
- (5) By no later than 30 days after the date on which an application is received by the Chief Revenue Officer, the Chief Revenue Officer must notify the applicant that the application –
- (a) is accepted and the guarantee is discharged in part, specifying the amount of the liability discharged and the goods in respect of which the liability relates, or
 - (b) is rejected for the reasons set out in the notification.

(6) If an acceptance or rejection is not made as required by paragraph (5) the application is deemed to be rejected.

Cases where no guarantee is required.

54. (1) Notwithstanding any provision in these Regulations to the contrary, a person is not required to give a guarantee in respect of a liability to pay import duty and excise duty if –

- (a) the person liable is the civil service of a Bailiwick Member or a universal postal service provider and the liability or potential liability arose in the course of carrying out the duties or functions of that civil service or provider,
- (b) the liability relates to goods subject to an inward processing procedure where regulation 19(2) (authorisation to declare goods for an inward processing procedure) applies.

(2) The Committee may direct that the requirement to give a guarantee under regulation 48 shall not apply in other circumstances, provided that such directions identify –

- (a) the circumstances,
- (b) the goods or classes of goods, and
- (c) the person or persons,

concerned and to which the requirement will be disapplied.

(3) For the purposes of this regulation –

(a) **"Bailiwick Member"**, and

(b) **"civil service"**,

have the same meaning as in the Post Office (Bailiwick of Guernsey) Law, 2001^b.

PART 10
MISCELLANEOUS AND FINAL

Interpretation.

55. (1) Unless the context requires otherwise, in these Regulations -

"the 2018 Act": see paragraph (2),

"applicable export provisions" has the same meaning as in the Customs and Excise (Customs Export Declarations) Regulations, 2020,

"domestic goods" has the same meaning as in the Customs Transit Procedures (Bailiwick of Guernsey) Regulations, 2019^c,

^b Ordres en Conseil Vol. XLI, p515; there are amendments not relevant to these Regulations.

^c G.S.I. No. 42 of 2019.

"**exit day**" has the meaning given in European Union (Brexit) (Bailiwick of Guernsey) Law, 2018,

"**non-tariff trade policy measures**" has the meaning given in the Customs (Special Procedures and Outward Processing) (EU Exit) Regulations 2018,

"**relevant goods**" means goods that are liable to a charge of customs or excise duty,

"**relevant operation**" has the meaning given by regulation 23;

"**sensitive goods**" means the goods of a type listed in a document published by the Chief Officer of Customs and Excise,

(2) References to provisions of the 2018 Act are to those provisions of the Taxation (Cross-border Trade) Act 2018^d, but only to the limited extent that they have effect from time to time in the Bailiwick through operation, and by virtue, of Import Duties (Tariff and Related Provisions) (Bailiwick of Guernsey) Ordinance, 2019 and any other enactment.

Citation and commencement.

56. These Regulations may be cited as the Customs and Excise (Special Customs Procedures) (Bailiwick of Guernsey) Regulations, 2020, and shall come into

^d An Act of the UK Parliament (2018 c.22).

force immediately upon the commencement of the Customs and Excise (Brexit)
(Amendment) (Bailiwick of Guernsey) Regulations, 2020.

Dated this 14 day of December, 2020

A handwritten signature in black ink, consisting of a vertical line with a loop at the top and a diagonal stroke extending to the right.

R. G. PROW
President of the Committee for Home Affairs
For and on behalf of the Committee

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made by the Committee for Home Affairs under the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972, and make provision in respect of special customs procedures, defined in the Regulations as an inward processing procedure, an authorised use procedure, or a storage procedure.

These Regulations come into force on "exit day" within the meaning of the European Union (Brexit) (Bailiwick of Guernsey) Law, 2018.

