

Notices Made Under the Customs (Special Procedures and Outward Processing) (EU Exit) Regulations 2018

This document provides the notices that, with effect from the 2 January 2019, are made under The Customs (Special Procedures) (EU Exit) Regulations 2018. These notices cover matters that are relevant to application and authorisation to use the Authorised Use, Inward Processing, Outward Processing and Temporary Admission procedures. They are listed in the numerical order of the regulations that provide the relevant notice making powers.

Establishment Rules

With regard to the establishment requirements for the Authorised Use and Inward Processing procedures:

The following text has force of law by virtue of Regulation 9(2)(c) of the Customs (Special Procedures and Outward Processing) (EU Exit) Regulations 2018.

Authorisation to declare goods for an Inward Processing or an Authorised Use procedure can be granted to a person who is not established in the United Kingdom where the goods are not part of a series of goods imported by the applicant and, in the opinion of an HMRC officer:

- The goods are non-commercial goods or personal gifts, or the declaration of the goods for the procedure is incidental to any business carried on by the declarant; or,
- The declaration of the goods for the procedure will have no economic effect in the United Kingdom.

Economic Conditions

With regard to the economic conditions for the Inward Processing procedure:

The following paragraphs have the force of law, by virtue of Regulations 20(1) and 20(2)(b) of The Customs (Special Procedures and Outward Processing) (EU Exit) Regulations 2018.

1. The cases of a description specified for the purposes of Regulation 20(1) of The Customs (Special Procedures and Outward Processing) (EU Exit) Regulations 2018 are:

- (a) Where the calculation of the amount of import duty is made in accordance with regulation 23 of the The Customs (Special Procedures and Outward Processing) (EU Exit) Regulations 2018 and both of the conditions below apply:
 - HMRC is aware of evidence that the essential interests of producers of goods in the United Kingdom would be adversely affected by an authorisation to declare the goods for an inward processing procedure;
 - The operation to be carried out is not of a type at paragraph (2)(a) to (f) below.
- (b) Where the calculation of the amount of import duty is not made in accordance with Regulation 23 of the The Customs (Special Procedures and Outward Processing) (EU Exit) Regulations 2018 and both of the conditions below apply:
 - If the goods to be declared for an inward processing procedure were declared for the free-circulation procedure:
 - i. the goods would be subject to a non-tariff trade policy measure, an agricultural policy measure or an additional amount of import duty

- by virtue of section 13, 14 or 15 of the Taxation(Cross-border Trade) Act 2018; or
 - ii. the importer of the goods would be required to give a guarantee under paragraph 15(5) of Schedule 4 to that Act.
 - The operation to be carried out is not of a type at paragraph (2)(h), (i),(m),(p) or (s) below.
- (c) Where the calculation of the amount of import duty is not made in accordance with regulation 23 of The Customs (Special Procedures and Outward Processing) (EU Exit) Regulations 2018 and all of the conditions below apply:
 - If the goods to be declared for an inward processing procedure were declared for the free-circulation procedure:
 - i. the goods would not be subject to a non-tariff trade policy measure, an agricultural policy measure or an additional amount of import duty by virtue of section 13, 14 or 15 of the Taxation(Cross-border Trade) Act 2018; or
 - ii. the importer of the goods would not be required to give a guarantee under paragraph 15(5) of Schedule 4 to that Act.
 - HMRC is aware of evidence that the essential interests of producers of goods in the United Kingdom would be adversely affected by an authorisation to declare the goods for an inward processing procedure.
 - The operation to be carried out is not of a type at paragraph (2)(g) to (s) below.

2. The operations specified for the purposes of Regulation 20(2)(b) of the Customs (Special Procedures and Outward Processing)(EU Exit) Regulations 2018 are:

- (a) The processing of goods that are not sensitive goods;
- (b) Repair;
- (c) The processing of goods directly or indirectly put at the disposal of the applicant to declare goods for an inward processing procedure, carried out according to specifications on behalf of a person established outside the United Kingdom, generally against payment of processing costs alone;
- (d) The processing of durum wheat into pasta;
- (e) The declaration of goods for an inward processing procedure within the limits of the quantity determined on the basis of a balance in accordance with Article 18 or Regulation (EU) 510/2015;
- (f) The processing of sensitive goods in any of the following situations:
 - unavailability of goods produced in the United Kingdom sharing the same classification code, the same commercial quality and technical characteristics as the goods intended to be imported for the processing operations envisaged;
 - differences in price between goods produced in the United Kingdom and those intended to be imported, where comparable goods cannot be used because their price would not make the proposed commercial operation economically viable;
 - contractual obligations where comparable goods do not conform to the contractual requirements of the non-United Kingdom purchaser of the processed products, or where, in accordance with the contract, the processed products must be obtained from the goods intended to be declared for an inward processing procedure, in order to comply with

provisions concerning the protection of industrial or commercial property rights;

- 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 £135,000.
- (g) The processing of goods to ensure their compliance with technical requirements for their release for the free-circulation procedure;
- (h) The processing of non-commercial goods or personal gifts;
- (i) The processing of 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 20(1)(a) of the Customs (Special Procedures and Outward Processing)(EU Exit) Regulations 2018; or
 - in relation to which an examination of the economic conditions was required for the purposes of Article 211(4) (b) of the UCC.
- (j) The processing of solid and fluid fractions of palm oil, coconut oil, fluid fractions of coconut oil, palm kernel oil, fluid fractions of palm kernel oil, babassu oil or castor oil into products which are not destined for the food sector;
- (k) The processing of goods into products to be incorporated in or used for civil aircraft for which an airworthiness certificate has been issued;
- (l) The processing into products benefitting from relief provided under section 19 of the Taxation (Cross-border Trade) Act for weapons and military equipment;
- (m) The processing of goods into samples;
- (n) The processing of any electronic type of components, parts, assemblies or any other materials into information technology products;
- (o) The processing of goods falling within classification codes 2707 or 2710 into products falling within classification codes 2707, 2710 or 2902;
- (p) The reduction to waste and scrap, destruction, recovery of parts or components;
- (q) Denaturing;
- (r) An operation constituting usual forms of handling of goods as specified in a notice published by HMRC;
- (s) 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 -:
- in the case of sensitive goods, £135,000;
 - in all other cases £270,000,

except where, if the goods to be declared for an inward processing procedure were declared for the free-circulation procedure:

- i. the goods would not be subject to a non-tariff trade policy measure, an agricultural policy measure or an additional amount of import duty by virtue of section 13, 14 or 15 of the Taxation(Cross-border Trade) Act 2018: or
- ii. the importer of the goods would not be required to give a guarantee under paragraph 15(5) of Schedule 4 to that Act.

Record Keeping

With regard to keeping records in relation to the operation of the Outward Processing procedure or a Special Procedure:

This following paragraphs have the force of law, by virtue of Regulation 44(3) of The Customs (Special Procedures and Outward Processing) (EU Exit) Regulation 2018.

1. The records to be kept and preserved are those which are appropriate to the operation and discharge of the following procedures:
 - a storage procedure, under which goods can be kept in a premises approved by HMRC (customs warehouse);
 - an inward or outward processing procedure;
 - an authorised use procedure; or
 - a temporary admission procedure.

2. Records to be kept and preserved should contain information and particulars which will enable the control of the procedure by HMRC, including the identification of goods, whether goods are domestic or chargeable and details of any movements of goods.

3. So far as appropriate to the relevant person, the records to be kept and preserved must include the following:
 - Details of any authorisation under which the goods have been declared for the relevant procedure;
 - A Master Reference Number (MRN) issued by HMRC or, where it does not exist, any other number or code identifying the Customs declaration of goods for the procedure;
 - Information about the manner in which the procedure was discharged;
 - Data that unequivocally allows the identification of documents, other than Customs declarations, which are relevant to the declaration of goods for the procedure;
 - Data that unequivocally allows the identification of documents relevant to the discharge of the procedure;
 - Particulars of marks, identifying numbers, number and kind of packages, the quantity and usual commercial or technical description of the goods and, where relevant, the identification marks of the container necessary to identify the goods;
 - The location of goods and information about any movement thereof;
 - Whether the goods are domestic or chargeable;
 - Particulars of any usual forms of handling and, where applicable, the new classification code resulting from that operation;
 - Particulars of temporary admission or authorised use;
 - Particulars of inward processing or outward processing including information about the nature of the processing or the subjection of the goods to a supplementary form operation;

- The costs for storage or any operations constituting usual forms of handling of goods;
- Where appropriate, the rate of yield, approved quantity of goods resulting from processing and the approved methodology used;
- Particulars enabling customs control of the use of equivalent goods;
- Where accounting segregation is required, information about type of goods including domestic or chargeable status, whether they are equivalent goods and, where appropriate, the origin of the goods;
- Where appropriate, particulars of any transfer of rights and obligations;
- Where the records are not part of the main accounts for customs purposes, a reference to those main accounts;
- Any additional information for special cases, as requested by HMRC for justified reasons.

4. A person subject to the requirements of these paragraphs shall update a record at the time when any information that is to be kept and preserved under these paragraphs is first known to them, or as soon as possible thereafter.

However, where goods declared for a storage procedure are moved from a customs warehouse in order to be exported, records shall be updated to provide information about the export of the goods:

- within 100 days of the goods being removed from the customs warehouse; or
- within such longer period agreed with HMRC.

5. Records may be kept and preserved in any form sufficient to enable any HMRC officer to control the procedure and to enable the person subject to these requirements to demonstrate that the conditions and requirements of the procedure have been satisfied.

6. Records must be kept and preserved for a minimum of three years unless elsewhere specified.

7. HMRC may waive any of the requirements set out above in particular cases.

8. In the case of temporary admission, records shall be kept only if a person is notified of this requirement by HMRC.

9. An authorised economic operator is deemed to comply with the requirements set out in these paragraphs insofar as their records in relation to the relevant procedure are, in the opinion of an HMRC officer, appropriate.

10. These paragraphs apply in addition to any requirements for the keeping and preservation of accounts and records by customs traders that are set out elsewhere.

Equivalent Goods

With regard to the importation of equivalent goods for the Inward Processing procedure:

The following paragraphs have the force of law, by virtue of Regulation 45(6) of The Customs (Special Procedures and Outward Processing) (EU Exit) Regulations 2018.

Special provisions concerning equivalent goods

An equivalent goods authorisation in relation to the declaration of goods for an inward processing procedure is subject to the conditions set out below in relation to the identified goods.

Reference below to goods that are imported are to imported goods as set out at paragraph 23(1) of Schedule 2 to the Taxation (Cross-border Trade) Act 2018. References to goods that are domestic are to equivalent domestic goods as defined at paragraph 23(2) of that Schedule.

(1) Rice

Rice classified under classification code 1006 shall not be equivalent goods unless it falls within the same classification code as the imported goods. Nevertheless, for rice with a length not exceeding 6.0 mm and a length to width ratio equal to or more than 3:1 and for rice with a length equal to or less than 5.2 mm and a length/width ratio equal to or more than 2:1 equivalence shall be established by determination of the length to width ratio only. The measurement of the grains shall be done in accordance with Annex I Part II to Regulation 1308/2013.

(2) Wheat

Equivalent goods may be used only between wheat harvested outside the United Kingdom and discharged from the free-circulation procedure in the United Kingdom and imported wheat of the same classification code, having the same commercial quality and the same technical characteristics.

However, the use of equivalent goods is permitted between domestic and imported durum wheat, provided it is for the production of pasta falling within classification codes 1902 11 00 and 1902 19.

(3) Sugar

The use of equivalent goods is permitted between imported raw cane sugar (classification codes 1701 13 90 and/or 1701 14 90) and sugar beet (classification code 1212 91 80) under the condition that processed goods falling within classification code 1701 99 10 (white sugar) are obtained.

The equivalent quantity of raw cane sugar of standard quality as defined in point III of Part B of Annex III to Regulation (EU) No 1308/2013 shall be calculated by multiplying the quantity of white sugar by the coefficient 1.0869565.

The equivalent quantity of raw cane sugar not of standard quality shall be calculated by multiplying the quantity of white sugar with a coefficient obtained by dividing 100 by the yield of raw cane sugar. The yield of raw cane sugar shall be calculated as set out in point III of Part B of Annex III to Regulation (EU) No 1308/2013.

(4) Live animals and meat

Equivalent goods may not be used for live animals or meat.

(5) Maize

The use of equivalent goods between domestic and imported maize is possible only in the following cases and subject to the following conditions:

- In the case of maize for use in animal feed, the use of equivalent goods is possible provided that a customs control system is set up to ensure that the imported maize is in fact used for processing into animal feed;
- In the case of maize used in the manufacture of starch and starch products, the use of equivalent goods is possible between all varieties with the exception of maizes rich in amylopectin (wax-like maize or 'waxy' maize) which are only equivalent between themselves;
- In the case of maize used in the manufacture of meal products, the use of equivalent goods is possible between all varieties with the exception of maizes of the vitreous type ('Plata' maize of the 'Duro' type, 'Flint' maize) which are only equivalent between themselves.

(6) Olive oil

A. Use of equivalent goods is permitted only in the following cases and under the following conditions:

1. Virgin olive oil:

- (a) between domestic extra virgin olive oil falling within classification code 1509 10 90 which corresponds to the description in Point 1(a) of Part VIII of Annex VII to Regulation (EU) No 1308/2013 and imported extra virgin olive oil of the same classification code, provided that the processing operation produces extra virgin olive oil falling within the same classification code and satisfying the requirements of the said Point 1(a);
- (b) between domestic virgin olive oil falling within classification code 1509 10 90 which corresponds to the description in Point 1(b) of the Part VIII of Annex VII to Regulation (EU) No 1308/2013 and imported virgin olive oil of the same classification code, provided that the processing operation produces virgin olive oil falling within the same classification code and satisfying the requirements of the said Point 1(b);
- (c) between domestic lampante virgin olive oil falling within classification code 1509 10 10 which corresponds to the description in Point 1(c) of the Part VIII of Annex VII to Regulation (EU) No 1308/2013 and imported lampante virgin olive oil of the same classification code, provided that the processed goods are:
 - refined olive oil falling within classification code 1509 90 00 which corresponds to the description in Point 2 of Part VIII of the above mentioned Annex VII; or
 - olive oil falling within classification code 1509 90 00 which corresponds to the description in Point 3 of Part VIII of the said

Annex VII and is obtained by blending with domestic virgin olive oil falling within classification code 1509 10 90.

2. Olive-pomace oil:

Between domestic unrefined olive-pomace oil falling within classification code 1510 00 10 which corresponds to the description in Point 4 of Part VIII of Annex VII to Regulation (EC) No 1234/2007 and imported unrefined olive-pomace oil of the same classification code, provided that the olive-pomace oil processed goods falling within classification code 1510 00 90 and corresponding to the description in Point 6 of Part VIII of the said Annex VII is obtained by blending with domestic virgin olive oil falling within classification code 1509 10 90.

B. The blendings referred to in Point A.1(c) second indent and Point A.2, with imported virgin olive oil, used in an identical manner, are authorised only where the arrangements for the control of the procedure are organised in a manner that makes it possible to identify the proportion of imported virgin olive oil in the total quantity of blended oil exported.

C. The processed goods must be put into immediate packaging of 220 litres or less. By way of derogation, in the case of agreed containers of 20 tonnes maximum, HMRC will allow the exportation of the oils found in the preceding points on condition that there is systematic control of the quality and quantity of the exported goods.

D. Equivalence shall be checked by using commercial records to verify the quantity of oils used for blending and, for the purpose of verifying the quality concerned, by comparing the technical characteristics of samples of the imported oil taken when it was declared for an inward processing procedure with the technical characteristics of the samples of the domestic oil used taken when the processed goods concerned were processed against the technical characteristics of the samples taken at the time of actual exportation of the processed goods. Samples shall be taken in accordance with international standards EN ISO 5555 (sampling) and EN ISO 661 (sending of samples to laboratories and preparation of samples for tests). The analysis shall be carried out with reference to the parameters in Annex I to Commission Regulation (EEC) No 2568/91.

(7) Milk and milk products

Use of equivalent goods is permitted under the following conditions:

- The weight of each component of milk dry matter, milk fat matter and milk protein of the imported goods shall not exceed the weight of each of these components in the domestic goods.

However, where the economic value of the goods intended to be declared for an inward processing procedure is determined by only one or two of the above mentioned components, the weight may be calculated on the basis of this or these component(s). An authorisation for the use of equivalent goods shall specify the details, notably the reference period for which the total weight has to be calculated. This reference period will not exceed 4 months.

The weight of the relevant component(s) of the goods intended to be declared for an inward processing procedure and of the equivalent goods shall be indicated in the relevant customs

declarations and required supporting documentation, to enable HMRC to control the equivalence on the basis of those elements.