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PART 1

CARBON BORDER ADJUSTMENT MECHANISM

Introduction

1 Introduction to CBAM

- (1) A tax called the carbon border adjustment mechanism (“CBAM”) is to be charged in accordance with this Part.
- (2) In this Part—
 - (a) sections 2 to 9 and Schedule 1 set out the charge to CBAM (and include exemptions and relief);
 - (b) section 10 and Schedules 2 and 3 provide for the administration and enforcement of CBAM;
 - (c) section 11 and Schedule 4 provide for criminal offences relating to CBAM;
 - (d) sections 12 to 16 make general provision.

The charge

2 Charge to CBAM

- (1) CBAM is charged on the emissions embodied in a CBAM good when the good is imported into the United Kingdom.
- (2) In this Part, “CBAM good” means a good specified by Schedule 1 (but see section 4(3)).
- (3) Schedule 1 specifies the following kinds of goods—
 - (a) aluminium goods;
 - (b) cement;
 - (c) fertilisers;
 - (d) hydrogen;
 - (e) iron and steel goods.

3 Importation

- (1) For the purposes of this Part, a reference to a good being imported into the United Kingdom is a reference to—
 - (a) the first time a good is imported as described in this section, and
 - (b) if a good is imported as described in this section and subsequently exported from the United Kingdom, the next time the good is imported as described in this section.
- (2) If a CBAM good is chargeable to import duty under section 1 of TCTA 2018, it is imported when liability to import duty is incurred in respect of the good.

- (3) If a CBAM good is chargeable to duty under section 30C of TCTA 2018, it is imported when liability to that duty is incurred in respect of the good.
- (4) If a CBAM good is chargeable to duty under section 30A(3) or 40A(1)(a) of TCTA 2018, it is imported when liability to that duty is incurred in respect of the good.
- (5) If a CBAM good is—
 - (a) a Union good that is imported into the United Kingdom as a result of its entry into Northern Ireland and not excluded by regulations made by the Treasury,
 - (b) a good that is imported into the United Kingdom from the Isle of Man and not excluded by regulations made by the Treasury, or
 - (c) a domestic good by virtue of section 36(6) of TCTA 2018,it is imported at the time of importation for the purposes of the customs and excise Acts.
- (6) For the purposes of determining, in accordance with subsection (5), when a CBAM good is imported into the United Kingdom from the Isle of Man, section 8 of the Isle of Man Act 1979 (removal of goods from the Isle of Man) has effect as if, in subsection (2) of that Act, at the end of paragraph (c), there were inserted “; or
 - (d) goods which are CBAM goods.”

4 Goods processed under a special customs procedure

- (1) Subsection (2) applies where—
 - (a) a CBAM good has been declared for a special customs procedure,
 - (b) the CBAM good is processed under the procedure,
 - (c) the processing produces a good that is not a CBAM good, and
 - (d) that good is imported into the United Kingdom.
- (2) When the good that is not a CBAM good is first imported as described in section 3, CBAM is charged on so much of the emissions embodied in that good as were embodied in the CBAM good when it was declared for the special customs procedure.
- (3) References in this Part to a CBAM good include a reference to a good imported in the circumstances described in subsection (1).
- (4) In this section, “special customs procedure” means—
 - (a) a special Customs procedure (within the meaning of section 3(4) of TCTA 2018);
 - (b) a special procedure provided for by Title 7 of UCC 2013, other than the outward processing procedure.

5 Person liable: the importer

- (1) The person liable to CBAM on the emissions embodied in a CBAM good is the importer.

- (2) If a CBAM good is imported as described in section 3(2) or (3), the importer is –
 - (a) if liability to import duty, or duty under section 30C of TCTA 2018, is incurred when a declaration for a Customs procedure is accepted, or when there is a breach of a requirement relating to the procedure –
 - (i) the person in whose name the declaration for the procedure was made, or
 - (ii) if the declaration was made on behalf of another person, the person on whose behalf the declaration was made, or
 - (b) if paragraph (a) does not apply, the person on whose behalf the good is imported.
- (3) If a CBAM good is imported as described in section 3(4), the importer is –
 - (a) if liability to duty under section 30A(3) or 40A(1)(a) of TCTA 2018 is incurred when a Union customs declaration in respect of the good is accepted, or when there is a breach of a requirement relating to the procedure for which it is accepted –
 - (i) the declarant, or
 - (ii) if the declaration was made on behalf of another person, the person on whose behalf the declaration was made, or
 - (b) if paragraph (a) does not apply, the person on whose behalf the good is imported.
- (4) If a CBAM good is imported as described in section 3(5), the importer is the person on whose behalf the good is imported.
- (5) In this section –
 - “Customs procedure” means a procedure set out in section 3(3) of TCTA 2018;
 - “declarant”, in relation to a Union customs declaration, has the meaning given by Article 5(15) of UCC 2013;
 - “Union customs declaration” means a customs declaration for the purposes of UCC 2013.

6 Exemptions

- (1) CBAM is not charged on the emissions embodied in a CBAM good if the importer –
 - (a) is, at the time the good is imported, neither registrable nor registered (see Part 2 of Schedule 2), or
 - (b) is importing the good otherwise than in the course of a business.
- (2) CBAM is not charged on the emissions embodied in a CBAM good if –
 - (a) the place of origin of the good is the United Kingdom for the purposes of the customs tariff in its standard form (see section 17(1) to (6) of TCTA 2018);
 - (b) the good is imported as described in section 3(2) or (3) and returned goods relief is available in respect of the good;

- (c) the good is imported as described in section 3(4) and relief under Article 203 of UCC 2013 (returned goods) is available in respect of the good;
 - (d) the good is within section 3(5)(a) and was –
 - (i) exported from the United Kingdom as a Union good as a result of its removal from Northern Ireland, and
 - (ii) imported into the United Kingdom as described in section 3(5)(a) not more than 3 years later, in the state in which it was exported (see Article 203(5) of UCC 2013);
 - (e) the good is imported as described in section 3(5)(b) and returned goods relief would be available in respect of it if liability to import duty were incurred by reference to its importation into the United Kingdom.
- (3) In this section –
- “customs tariff in its standard form” means the customs tariff, as defined in section 8 of TCTA 2018, as it has effect without regard to any provision made under sections 9 to 15 or section 19(4) of that Act;
- “returned goods relief” means relief for import duty available –
- (a) by virtue of the UK Reliefs document, and
 - (b) by reference to the fact the good is being returned to the United Kingdom, or Great Britain, having previously been exported;
- “UK Reliefs document” has the meaning given by regulations under section 19 of TCTA 2018.

7 Embodied emissions

- (1) In this Part, “emissions embodied in a CBAM good” means emissions that are attributable to the production of a CBAM good.
- (2) The Treasury may by regulations make provision about what it means for emissions to be attributable to the production of a CBAM good.
- (3) Regulations under subsection (2) may (among other things) make provision about emissions that are emitted in the course of an activity carried out in connection with the production of –
 - (a) a CBAM good, or
 - (b) material used to produce a CBAM good.
- (4) See paragraphs 10 and 11 of Schedule 2 for provision about how to determine and evidence emissions embodied in a CBAM good.

8 Rate

- (1) CBAM is charged at an amount equal to the sectoral domestic price applicable in respect of the CBAM good multiplied by the number of tonnes of carbon dioxide equivalent emissions embodied in the CBAM good.
- (2) The “sectoral domestic price” applicable in respect of a CBAM good is the price calculated and published by the Treasury for –
 - (a) the CBAM sector in which the good falls, and

- (b) the quarter in which the liability to CBAM is incurred in respect of the good.
- (3) The Treasury must calculate and publish the sectoral domestic price for each CBAM sector for each quarter (“quarter Q”) as follows—

Step 1

Calculate the average price per tonne of specified emissions under the UK Emissions Trading Scheme in the quarter preceding quarter Q (the “average ETS price”)—

- (a) by reference to auction clearance prices for UK ETS allowances at auctions during the quarter preceding quarter Q, or
- (b) if no allowances were sold at auction during that quarter, as provided in regulations under subsection (5).

Step 2

Multiply the average ETS price by the sectoral direct emissions produced in the previous scheme year.

Step 3

Reduce that amount by a percentage equal to the percentage of sectoral direct emissions that were covered by free UK ETS allowances allocated to installations that produce goods falling within the CBAM sector in the previous scheme year.

Step 4

Multiply the sectoral indirect emissions produced in the previous scheme year by the sum of the average ETS price and the carbon price support rate.

Step 5

Add the figures resulting from Step 3 and Step 4 and divide that amount by the sum of sectoral direct emissions and sectoral indirect emissions produced, in each case, in the previous scheme year.

- (4) In this section—

“auction” means an auction under the Greenhouse Gas Emissions Trading Scheme Auctioning Regulations 2021 (S.I. 2021/484);

“auction clearing price”, in relation to a UK ETS allowance, has the same meaning as in those Regulations (see regulation 7);

“carbon price support rate” means a rate, expressed per tonne of carbon dioxide equivalent emissions, that is equivalent to the rates specified in paragraph 42A of Schedule 6 to FA 2000 for quarter Q;

“CBAM sector” means the commodity codes set out under a single heading in the Table in Schedule 1 other than the commodity codes that the Table indicates are excepted;

“sectoral direct emissions” means in relation to a CBAM sector—

- (a) the specified emissions that were emitted in the course of regulated activities carried out in the United Kingdom to produce goods falling within the CBAM sector, or

- (b) for the purposes of Step 3, the specified emissions that were emitted in the course of regulated activities carried out at installations in the United Kingdom that produce goods falling within the CBAM sector;

“sectoral indirect emissions” mean, in relation to a CBAM sector, the specified emissions that were emitted in the course of producing the electricity that was used in the course of regulated activities carried out in the UK to produce goods falling within the CBAM sector;

“free UK ETS allowance” means an allowance allocated free of charge under Part 4A of the UK ETS Order;

“installation” has the meaning given by article 4 of the UK ETS Order;

“previous scheme year” means—

- (a) the scheme year preceding the year in which quarter Q falls, or

- (b) the most recent scheme year preceding the year in which quarter Q falls for which there are complete figures,

and “scheme year” has the meaning given by article 4 of the UK ETS Order;

“producing electricity” means producing electricity at any installation (whether or not it is the same installation at which the electricity is consumed);

“quarter” means a period of 3 months ending at the end of March, June, September or December;

“regulated activity” and “specified emissions” have the meaning given by paragraph 3 of Schedule 2 to the UK ETS Order;

“UK ETS allowance” means an allowance created under the UK ETS Order (see article 18);

“UK ETS Order” means the Greenhouse Gas Emissions Trading Scheme Order 2020 (S.I. 2020/1265).

- (5) The Treasury may by regulations make further provision about the calculation of the sectoral domestic price.

- (6) In this section—

- (a) references to a good falling within a CBAM sector are references to the good falling within one of the commodity codes comprising the sector;

- (b) references to emissions are references to tonnes of carbon dioxide equivalent emissions;

- (c) references to regulated activities carried out to produce goods include regulated activities consisting in the production of heating and cooling consumed during the regulated activities.

9 Carbon price relief

- (1) The amount of CBAM charged on emissions may be reduced under this section if another monetary amount is payable in relation to the emissions, whether the amount is—

- (a) in the form of taxation, or
 - (b) in exchange for allowances (however expressed) under an emissions trading scheme.
- (2) The Treasury may by regulations make provision about relief under this section, including provision—
 - (a) describing which monetary amounts may generate relief,
 - (b) about when a monetary amount is to be treated as being payable in relation to emissions, and how the emissions are to be identified, and
 - (c) about determining the amount of relief.
- (3) In this Part, “carbon price” means a monetary amount of a kind described in regulations under subsection (2)(a).
- (4) Regulations under subsection (2) may (among other things) make provision—
 - (a) for the amount of relief to be determined by reference to averages, estimates, assumptions or by reference to information provided by a third party;
 - (b) to take account of other reliefs, allowances, offsets or similar relating to a carbon price;
 - (c) about cases where two or more carbon prices are payable in relation to the same emissions;
 - (d) for the amount of relief to differ depending on where the carbon price is payable;
 - (e) specifying periods by reference to which calculations or measurements are to be made.
- (5) In this section, references to an amount being payable in relation to emissions includes a reference to—
 - (a) an amount that indirectly relates to emissions, and
 - (b) an amount having been payable, or that is going to become payable, in relation to emissions.

Administration and enforcement

10 Administration and enforcement

- (1) Schedule 2 makes provision for the administration and enforcement of CBAM.
- (2) Schedule 3 contains supplementary amendments of other legislation relating to the enforcement of CBAM.

11 Criminal offences

Schedule 4 makes provision for criminal offences relating to CBAM.

*General***12 Emissions: meaning etc**

- (1) In this Part, “emissions” means emissions of greenhouse gases (within the meaning of section 92 of the Climate Change Act 2008) into the atmosphere that are attributable to human activity.
- (2) For the purposes of this Part, “emissions” are determined or expressed in tonnes of carbon dioxide equivalent.
- (3) The Commissioners may by regulations make provision about the determination of carbon dioxide equivalents for different greenhouse gases.

13 Interpretation

- (1) In this Part—
 - “business” includes any activity of a government department or other public authority, or of a charity, that is carried out for commercial purposes;
 - “CBAM good”: see section 2;
 - “CEMA 1979” means the Customs and Excise Management Act 1979;
 - “the Commissioners” means the Commissioners for His Majesty’s Revenue and Customs;
 - “the customs and excise Acts” has the meaning given by section 1 of CEMA 1979;
 - “FA” means Finance Act;
 - “HMRC” means His Majesty’s Revenue and Customs;
 - “import”: see section 3;
 - “import duty” has the meaning given by section 1 of TCTA 2018;
 - “importer”: see section 5;
 - “registered person” and “registrable person”: see paragraph 2(10) of Schedule 2;
 - “TCTA 2018” means the Taxation (Cross-border Trade) Act 2018;
 - “working day” means any day other than—
 - (a) a Saturday or Sunday, or
 - (b) a day that is a bank holiday in any part of the United Kingdom under the Banking and Financial Dealings Act 1971;
 - “UCC 2013” means Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code, as it has effect by virtue of section 7A of the European Union (Withdrawal) Act 2018;
 - “UK Emissions Trading Scheme” has the meaning given in Article 16 of the Greenhouse Gas Emissions Trading Order 2020 (S.I. 2020/1265);
 - “Union good” has the meaning given by Article 5(23) of UCC 2013;
 - “VATA 1994” means the Value Added Tax Act 1994.
- (2) In this Part—

- (a) a person imports a CBAM good only if the person is “the importer” of the good (within the meaning of section 5);
 - (b) references to the production of goods include the manufacture of goods;
 - (c) references to the processing of goods have the same meaning as in TCTA 2018 (see section 37(4) of that Act).
- (3) The Treasury may by regulations make such amendments to this Part as they consider appropriate in consequence of UCC 2013, or any legislation replacing it, being amended or replaced.

14 Power to make provision for linked emissions trading schemes

- (1) The Treasury may by regulations amend this Part for the purpose of—
- (a) excluding emissions embodied in goods that originate from a country or territory with a linked emissions trading scheme from the charge to CBAM;
 - (b) providing that such goods are to be disregarded when calculating the aggregate value of imports for the purposes of Part 2 of Schedule 2 (registration).
- (2) In this section, “a country or territory with a linked emissions scheme” means—
- (a) a country or territory that has entered into arrangements with the United Kingdom for the purpose of linking its emissions trading scheme with the UK Emissions Trading Scheme, or
 - (b) a country or territory that has entered into arrangements with a country or territory of a kind referred to in paragraph (a) for the purpose of linking its emissions trading scheme with that country or territory’s emissions trading scheme.

15 Regulations and notices

- (1) Regulations under this Part—
- (a) may make different provision for different purposes;
 - (b) may include incidental, consequential, supplementary or transitional provision.
- (2) Regulations under this Part may make provision by reference to things specified in a notice that is—
- (a) published by the Treasury or the Commissioners in accordance with the regulations, and
 - (b) not withdrawn by a further notice.
- (3) Regulations under this Part are to be made by statutory instrument.
- (4) A statutory instrument containing regulations under section 12(1) (linked emission trading schemes) is subject to the affirmative procedure.

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- (5) A statutory instrument containing regulations under any of the following provisions is subject to the made affirmative procedure—
 - (a) section 8(5) (rate of CBAM);
 - (b) section 9(2) (carbon price relief);
 - (c) paragraph 60 of Schedule 2 (amount of penalties).
 - (6) A statutory instrument containing regulations under paragraph 2(3) of Schedule 1 and section 8 of TCTA 2018 is subject to the procedure under section 32 of TCTA 2018 that applies by virtue of the instrument containing regulations section 8 of TCTA 2018.
 - (7) A statutory instrument containing regulations under this Part, other than regulations in respect of which subsection (4), (5) or (6) applies, is subject to the negative procedure.
 - (8) Subsection (7) does not apply to a statutory instrument containing only regulations under section 16 (transitory provision).
 - (9) Where a statutory instrument is subject to the affirmative procedure, it may not be made unless a draft of the instrument has been laid before and approved by a resolution of the House of Commons.
 - (10) Where a statutory instrument is subject to the made affirmative procedure—
 - (a) it must be laid before the House of Commons after being made, and
 - (b) it ceases to have effect at the end of the period of 28 days beginning with the day on which the instrument is made, unless within that period the instrument is approved by a resolution of the House of Commons.
 - (11) Where a statutory instrument is subject to the negative procedure, it is subject to annulment in pursuance of a resolution of the House of Commons.
 - (12) Where a statutory instrument ceases to have effect as a result of subsection (10), that does not—
 - (a) affect the validity of anything previously done under the instrument, or
 - (b) prevent the making of a new statutory instrument.
 - (13) In calculating the period of 28 days for the purposes of subsection (10), no account is to be taken of any whole days that fall within a period during which—
 - (a) Parliament is dissolved or prorogued, or
 - (b) the House of Commons is adjourned for more than 4 days.
 - (14) Any provision that may be included in regulations in a statutory instrument under this Part subject to the negative procedure may be included in regulations in a statutory instrument subject to the affirmative procedure or the made affirmative procedure.
 - (15) Any provision that may be included in regulations in a statutory instrument under this Part subject to the made affirmative procedure may be included in regulations in a statutory instrument subject to the affirmative procedure.

- (16) A notice published by the Treasury or the Commissioners under this Part may be withdrawn by a further notice.

16 Commencement and transitory provision

- (1) This Part has effect in relation to goods imported into the United Kingdom on or after 1 January 2027.
- (2) The Treasury may by regulations modify the effect of—
- (a) paragraph 2(4) of Schedule 2 as regards any person who triggers registration in 2027 or 2028;
 - (b) paragraph 6(2) or (3) or 7(2) for the purposes of the first accounting period in respect of CBAM.
- (3) Provision included in regulations under this section by virtue of section 15(1)(b) may modify the effect of any enactment.

SCHEDULES

SCHEDULE 1

Section 2

CBAM GOODS

- 1 The goods specified by this Schedule are goods within a commodity code set out in the following Table, other than those within a commodity code that the Table indicates are excepted.

Commodity code	Classification
Aluminium goods	
7601	Unwrought aluminium
7603	Aluminium powders and flakes
7604	Aluminium bars, rods and profiles
7605	Aluminium wire
7606	Aluminium plates, sheets and strip, of a thickness exceeding 0.2 mm
7607	Aluminium foil (whether or not printed or backed with paper, paper-board, plastics or similar backing materials) of a thickness (excluding any backing) not exceeding 0.2 mm
7608	Aluminium tubes and pipes
7609	Aluminium tube or pipe fittings (for example, couplings, elbows, sleeves)
7610	Certain Aluminium structures (excluding prefabricated buildings of heading 9406) and parts of structures (for example, bridges and bridge-sections, towers, lattice masts, roofs, roofing frameworks, doors and windows and their frames and thresholds for doors, balustrades, pillars and columns); aluminium plates, rods, profiles, tubes and the like, prepared for use in structures
7611	Aluminium reservoirs, tanks, vats and similar containers, for any material (other than compressed or liquefied gas), of a capacity exceeding 300 litres, whether or not lined or heat-insulated, but not fitted with mechanical or thermal equipment

Commodity code	Classification
7612	Aluminium casks, drums, cans, boxes and similar containers (including rigid or collapsible tubular containers), for any material (other than compressed or liquefied gas), of a capacity not exceeding 300 litres, whether or not lined or heat-insulated, but not fitted with mechanical or thermal equipment
7613	Aluminium containers for compressed or liquefied gas
7614	Stranded wire, cables, plaited bands and the like, of aluminium, not electrically insulated
7616	Other articles of aluminium
Cement	
2507 00 80	Other kaolinic clays
2523 10	Cement clinkers
2523 21	White Portland cement, whether or not artificially coloured
2523 29	Other Portland cement
2523 30	Aluminous cement
2523 90	Other hydraulic cements
Fertilisers	
2808 00	Nitric acid; sulphonitric acids
2814	Ammonia, anhydrous or in aqueous solution
2834 21	Nitrates of potassium
3102	Mineral or chemical fertilisers, nitrogenous
3105 <i>Except: 3105 60</i>	Mineral or chemical fertilisers containing two or three of the fertilising elements nitrogen, phosphorus and potassium; other fertilisers; goods of this chapter in tablets or similar forms or in packages of a gross weight not exceeding 10 kg <i>Except:</i> Mineral or chemical fertilisers containing the two fertilising elements phosphorus and potassium
Hydrogen	
2804 10	Hydrogen
Iron and steel goods	

Commodity code	Classification
2601 12	Agglomerated
72	Iron and steel
<i>Except:</i>	<i>Except:</i>
7202 21	Ferro-silicon
7202 30	Ferro-silico-manganese
7202 50	Ferro-silico-chromium
7202 70	Ferro-molybdenum
7202 80	Ferro-tungsten and ferro-silico-tungsten
7202 91	Ferro-titanium and ferro-silico-titanium
7202 92	Ferro-vanadium
7202 93	Ferro-niobium
7202 99 10	Ferro-phosphorus
7202 99 30	Ferro-silico-magnesium
7202 99 80	Other
7204	Ferrous waste and scrap; remelting scrap ingots and steel
7301	Sheet piling of iron or steel, whether or not drilled, punched or made from assembled elements; welded angles, shapes and sections, of iron or steel
7302	Railway or tramway track construction material of iron or steel, the following: rails, check-rails and rack rails, switch blades, crossing frogs, point rods and other crossing pieces, sleepers (cross-ties), fish- plates, chairs, chair wedges, sole plates (base plates), rail clips, bedplates, ties and other material specialised for jointing or fixing rails
7303	Tubes, pipes and hollow profiles, of cast iron
7304	Tubes, pipes and hollow profiles, seamless, of iron (other than cast iron) or steel
7305	Other tubes and pipes (for example, welded, riveted or similarly closed), having circular cross-sections, the external diameter of which exceeds 406.4 mm, of iron or steel
7306	Other tubes, pipes and hollow profiles (for example, open seam or welded, riveted or similarly closed), of iron or steel
7307	Tube or pipe fittings (for example, couplings, elbows, sleeves), of iron or steel
7308	Structures (excluding prefabricated buildings of heading 9406) and parts of structures (for example, bridges and bridge-sections, lock- gates, towers, lattice masts, roofs, roofing frameworks, doors and windows and their frames and thresholds for doors, shutters, balustrades, pillars and

Commodity code	Classification
	columns), of iron or steel; plates, rods, angles, shapes, sections, tubes and the like, prepared for use in structures, of iron or steel
7309	Reservoirs, tanks, vats and similar containers for any material (other than compressed or liquefied gas), of iron or steel, of a capacity exceeding 300 litres, whether or not lined or heat-insulated, but not fitted with mechanical or thermal equipment
7310	Tanks, casks, drums, cans, boxes and similar containers, for any material (other than compressed or liquefied gas), of iron or steel, of a capacity not exceeding 300 litres, whether or not lined or heat-insulated, but not fitted with mechanical or thermal equipment
7311	Containers for compressed or liquefied gas, of iron or steel
7318	Screws, bolts, nuts, coach screws, screw hooks, rivets, cotters, cotter pins, washers (including spring washers) and similar articles, of iron or steel
7326	Other articles of iron or steel

- 2 (1) In this Schedule “commodity code” means a code assigned to a classification of goods by the Goods Classification Table.
- (2) Regulations under section 8 of TCTA 2018 about determining within which commodity code a good falls apply for the purposes of CBAM.
- (3) The Commissioners may by regulations make such amendments to the Table in paragraph 1 as they consider appropriate in consequence of the Goods Classification Table, or a document replacing it, being amended or replaced.
- (4) In this paragraph, references to the Goods Classification Table are references to the Goods Classification Table as defined in regulations under section 8 of TCTA 2018.

SCHEDULE 2

Section 10

ADMINISTRATION OF CBAM

PART 1

INTRODUCTION

- 1 (1) The Commissioners are responsible for the collection and management of CBAM.
- (2) In this Schedule—
 - (a) Part 2—
 - (i) requires a person to register with HMRC for the purposes of CBAM if the person triggers registration, and
 - (ii) makes further provision relating to registration and de-registration;
 - (b) Part 3 makes provision about the payment of CBAM, accounting periods and returns;
 - (c) Part 4 makes provision about the determination and evidencing of emissions embodied in a CBAM good and relief under section 9;
 - (d) Part 5 confers power to make regulations about the measurement of weight;
 - (e) Part 6 makes provision about records;
 - (f) Part 7 makes provision about group treatment;
 - (g) Part 8 makes provision about the artificial separation of business activities;
 - (h) Part 9 makes provision about death, incapacity and insolvency;
 - (i) Parts 10 and 11 make provision about the recovery of CBAM and repayments;
 - (j) Parts 12 and 13 make provision about penalties, reviews and appeals relating to CBAM.

PART 2

REGISTRATION

Duty to register with HMRC

- 2 (1) A person must register with HMRC if the person triggers registration.
- (2) A person triggers registration if—
 - (a) it is the first of day of the month and, during the preceding 12 months, the person imported into the United Kingdom CBAM goods with an aggregate value of £50,000 or more in the course of a business, or
 - (b) the person is expected to import into the United Kingdom, in the course of a business, CBAM goods with an aggregate value of £50,000 or more before the end of a period of 30 days.

- (3) For the purposes of sub-paragraph (2)–
 - (a) disregard any CBAM good–
 - (i) in respect of which section 6(2) applies (goods originating in the United Kingdom and returned goods), or
 - (ii) that has been subject to the charge to CBAM by operation of section 4 (special customs procedures) and subsequently exported from the United Kingdom;
 - (b) if a good is, or would be, subject to the charge to CBAM by operation of section 4 (special customs procedures) the value of the good is taken to be the amount of its value that is attributable to the CBAM good that entered, or would enter, the special customs procedure.
- (4) A person who triggers registration must register before the end of the period of 30 days beginning with the day on which the person first triggered registration.
- (5) When registering, a person must provide–
 - (a) information specified by the Commissioners in regulations, and
 - (b) a declaration that the person believes the information provided to be complete and correct.
- (6) An officer of Revenue and Customs may require a person to–
 - (a) provide such information that the officer considers necessary in order to determine whether the person is required to register under this paragraph, and
 - (b) provide that information within such period as the officer considers reasonable.
- (7) If it appears to an officer of Revenue and Customs that a person has triggered registration under this paragraph and has failed to register before the end of the period of 30 days in sub-paragraph (4), the officer may register the person.
- (8) If an officer of Revenue and Customs registers a person under sub-paragraph (7), the officer must notify the person of this.
- (9) The Commissioners may specify in a notice published by them the way in which a person is to register, provide information and make a declaration under this paragraph.
- (10) For the purposes of this Part of this Act–
 - (a) a person is a “registered person” if the person–
 - (i) has registered, or been registered by an officer of Revenue and Customs, under this paragraph, and
 - (ii) has not been de-registered (see paragraph 3);
 - (b) a person is a “registrable person” if the person–
 - (i) has triggered registration under this paragraph, but
 - (ii) has not registered, or been registered by an officer of Revenue and Customs, under this paragraph;

- (c) references to registering or a registration are to registering or a registration under this paragraph.

De-registration

- 3 (1) An officer of Revenue and Customs must de-register a registered person if the officer is satisfied that—
 - (a) the person is not required to be registered and either—
 - (i) the person has requested that they be de-registered, or
 - (ii) the person has not been required to be registered at any time in the period of 12 months ending with the day on which the officer of Revenue and Customs de-registers the person, or
 - (b) the person was not required to be registered on the day on which they registered and has not been required to be registered since, but this is subject to sub-paragraph (2).
- (2) An officer of Revenue and Customs may decide not to de-register a person if—
 - (a) there are outstanding amounts of CBAM, or amounts recoverable on the basis that they are amounts of CBAM, due from the person,
 - (b) there are one or more outstanding returns under Part 3 of this Schedule due from the person, or
 - (c) the officer considers that the person will be required to be registered before the end of the period of 12 months beginning with the day on which the person would otherwise be de-registered.
- (3) For the purposes of this paragraph, a person is “required to be registered” on a day if—
 - (a) the person triggers registration on the day, or
 - (b) on the first day of the month in which the day falls, the person triggered registration under paragraph 2(2)(a).
- (4) An officer of Revenue and Customs de-registers a person by issuing the person with a notice of de-registration.
- (5) A notice of de-registration must specify when the de-registration takes effect (which may be in the past).
- (6) A request under sub-paragraph (1)(a) must be made in the way specified in a notice published by the Commissioners.
- (7) If a person has requested under sub-paragraph (1)(a) that they be de-registered and the request is rejected, an officer of Revenue and Customs must issue the person with a notice—
 - (a) informing them that their request has been rejected, and
 - (b) giving reasons.

Notification of changed or incorrect information

- 4 (1) A registered person must notify HMRC if—

- (a) information they provided under paragraph 2 changes, or
 - (b) they discover that such provided information is incorrect.
- (2) The notification must be given before the end of the period of 30 days beginning with the day on which the information changed or they discovered that the information is incorrect.
- (3) The notification must be given in the way specified in a notice published by the Commissioners.

Value of CBAM goods

- 5 The Commissioners may by regulations make provision about determining the value of CBAM goods for the purposes of this Part of this Schedule.

PART 3

PAYMENT, ACCOUNTING PERIODS AND RETURNS

Payment and accounting periods

- 6 (1) A registered or registrable person must account for and pay CBAM in respect of each accounting period.
- (2) The accounting periods are the periods of 3 months ending at the end of March, June, September and December.
- (3) Payment in respect of an accounting period must be made before the end of the last working day of the second month after the end of the accounting period.
- (4) Payment must be made by a method specified in a notice published by the Commissioners.

Returns

- 7 (1) A registered or registrable person must make a return to HMRC for each accounting period.
- (2) A return under this paragraph must be made by the end of the last working day of the second month after the end of the accounting period to which it relates.
- (3) The Commissioners may by regulations make provision about what is to be included in a return under this paragraph.
- (4) The Commissioners may specify in a notice published by them—
- (a) the way in which the return is to be made;
 - (b) that a digital facility provided by HMRC must be used to calculate the amount of CBAM shown in the return, subject to such exceptions as may be specified in the notice.

- 8 (1) A person who has made a return under paragraph 7 may amend the return by notice to HMRC (and may further amend the return by further notice to HMRC) only in order to correct an error.
- (2) No amendment may be made to replace information on the emissions embodied in CBAM goods determined using default values with such information determined in accordance with regulations under paragraph 10 of Schedule 2.
- (3) The Commissioners may specify in a notice published by them—
- (a) the way in which an amendment is to be made, and
 - (b) by when it must be made.

Power to change accounting periods and deadlines

- 9 The Commissioners may by regulations amend—
- (a) paragraph 6(2) or (3) or 7(2);
 - (b) item 5 in the table in paragraph 2(1) of Schedule 24 to FA 2021 (which relates to penalties for a failure to make returns under paragraph 7 of this Schedule) in consequence of an amendment under this paragraph of paragraph 6(2).

PART 4

DETERMINATION AND EVIDENCE OF EMISSIONS AND CARBON PRICE RELIEF

- 10 (1) The Commissioners may by regulations make provision about how emissions embodied in CBAM goods are to be determined and evidenced.
- (2) Regulations under this paragraph may (among other things)—
- (a) make different provision in relation to different goods, sectors, places, circumstances or activities;
 - (b) make provision about measurement, sampling or analysis;
 - (c) make provision by reference to information or technical standards published by a third party (including by an international organisation);
 - (d) make provision about the treatment of gaps in data or measurement;
 - (e) provide for the use of estimates or standard values or factors (including how estimates are to be made or standard values or factors are to be determined);
 - (f) make provision about the treatment of anything used or done in the course of activities in the course of which the emissions were emitted;
 - (g) make provision requiring information to be verified by a specified person or body.
- 11 (1) The Treasury may by notice set default values that may be used for determining the emissions embodied in CBAM goods.
- (2) Default values set under this paragraph may (among other things)—

- (a) vary depending on where the emissions embodied in a CBAM good were emitted;
 - (b) be in respect of any portion of the emissions embodied in a CBAM good.
- (3) A default value may be set at a level that ensures that there would not be an advantage to any person liable to CBAM in using the value instead of determining the emissions embodied in a CBAM good in accordance with regulations under paragraph 10.
- (4) In sub-paragraph (3), “advantage” includes an advantage arising from—
 - (a) the emissions embodied in a CBAM good being lower if determined using default values;
 - (b) not bearing the cost of determining or verifying emissions in accordance with regulations under paragraph 10.
- 12 (1) The Commissioners may by regulations make provision about how relief under section 9 (carbon price relief) is to be determined and evidenced.
- (2) Regulations under sub-paragraph (1) may (among other things)—
 - (a) make different provision in relation to different goods, sectors, places, circumstances or activities or by reference to where a carbon price is payable;
 - (b) make provision requiring information to be verified by a specified person or body or by reference to information provided by a third party;
 - (c) make provision about currency conversion.

PART 5

MEASUREMENT OF WEIGHT

- 13 (1) The Commissioners may by regulations make provision about the measurement of weight for the purposes of CBAM.
- (2) Regulations under this paragraph may (among other things) include provision about—
 - (a) how weight is to be measured;
 - (b) the time at which weight is to be measured;
 - (c) how weight is to be evidenced;
 - (d) agreements between HMRC and particular persons about how weight is to be measured or evidenced, including provision for HMRC to disregard the terms of an agreement in circumstances set out in the regulations;
 - (e) an officer of Revenue and Customs making their own assessment or best judgement of weight in relation to CBAM goods and substituting that assessment or judgement for the assessment or judgement of any other person;
 - (f) an officer of Revenue and Customs inspecting or weighing CBAM goods or samples;

- (g) the assessment of weight by an officer of Revenue and Customs being based on estimates or assumptions.

PART 6

RECORDS

General requirements

- 14 (1) The Commissioners may by regulations require specified persons—
 - (a) to keep, for purposes connected with CBAM, records of specified matters, and
 - (b) to preserve records for a specified period.
- (2) Regulations under sub-paragraph (1) may provide that a duty to preserve records under the regulations may be discharged by preserving them, or the information contained in them, in any form and by any means, subject to any conditions or exceptions specified in the regulations.
- (3) The period specified in regulations under sub-paragraph (1) may not exceed—
 - (a) in a case where the records relate to an accounting period, 6 years beginning with the day after the end of the accounting period to which the records relate, or
 - (b) in any other case, 6 years beginning with the day on which the records are created.
- (4) In this paragraph, “specified” means specified in regulations under this paragraph.

Directions

- 15 (1) An officer of Revenue and Customs may direct a registered or registrable person—
 - (a) to keep such records as are specified in the direction;
 - (b) to preserve those records for a specified period.
- (2) The officer may not give a direction under sub-paragraph (1) unless they have reasonable grounds for believing that the records specified in the direction might assist in identifying CBAM goods in respect of which CBAM might not be paid.
- (3) A direction under sub-paragraph (1)—
 - (a) must be in writing,
 - (b) must specify the consequences under Part 12 of this Schedule of a failure to comply with a requirement imposed by the direction, and
 - (c) may be revoked or replaced by a further direction.
- (4) The period specified in a direction under sub-paragraph (1)(b) may not exceed 6 years.

PART 7

GROUP TREATMENT

Consequences and meaning of group treatment

- 16 (1) If, at a time when a body corporate is treated as a member of a group, the body corporate is –
- (a) liable to pay an amount of CBAM, or
 - (b) under another kind of obligation, or has a qualifying entitlement, relating to CBAM,
- the liability, obligation or entitlement is to be treated as being assumed by the representative member.
- (2) For the purposes of sub-paragraph (1) –
- (a) an obligation, or a qualifying entitlement, “relating to CBAM” is an obligation or qualifying entitlement under provision made by or under this Part of this Act;
 - (b) a “qualifying entitlement” of a body corporate is an entitlement arising after the body corporate and the representative member of the group began to be treated as members of the same group.
- (3) All the bodies corporate who are treated as members of a group when any amount of CBAM becomes due from the representative member, together with any bodies corporate who become treated as members of the group while any such amount remains unpaid, are jointly and severally liable for the amount due from the representative member.
- (4) In this paragraph, “an amount of CBAM” includes an amount recoverable on the basis that it is an amount of CBAM.
- 17 For the purposes of paragraph 16 –
- (a) a body corporate is to be treated as a member of a group at any time in relation to which it falls to be treated as such in accordance with the following provisions of this Part of this Schedule, and
 - (b) the representative member of a group at any time is the body corporate which falls to be treated as such in accordance with those provisions.

Bodies eligible for group treatment

- 18 (1) Two or more bodies are eligible to be treated as members of a group (“eligible bodies”) if –
- (a) they are all bodies corporate,
 - (b) at least one of the bodies has an established place of business in the United Kingdom, and
 - (c) they are all under the same control.
- (2) A body is eligible to be the representative member of a group if the body –
- (a) is resident in the United Kingdom, or

- (b) has a permanent establishment in the United Kingdom.
- (3) A body is not an eligible body in relation to a group if it is—
 - (a) a member of another group, or
 - (b) a body of a description specified in a notice published by the Commissioners for the purposes of this paragraph.
- 19 For the purposes of paragraph 18—
 - (a) two or more bodies are under the same control if—
 - (i) one of them controls each of the others,
 - (ii) one person (whether a body corporate or an individual) controls all of them, or
 - (iii) two or more individuals carrying on a business in partnership control all of them;
 - (b) a body corporate controls another body corporate if—
 - (i) it is empowered by legislation to control that body's activities, or
 - (ii) it is that body's holding company within the meaning of section 1159 of and Schedule 6 to the Companies Act 2006;
 - (c) an individual controls, or individuals control, a body corporate only if they would be that body's holding company within the meaning of those provisions, if they were a company.

Application for group treatment

- 20 (1) Two or more eligible bodies may apply to an officer of Revenue and Customs to be treated as members of a group.
- (2) An application under this paragraph must specify which body is to be the representative member.
- (3) Where an officer of Revenue and Customs receives an application under this paragraph, the officer must, by notice to the applicants or the body that is to be the representative member—
 - (a) confirm whether they accept or refuse the application, and
 - (b) if they accept the application, specify a date from which the applicants are to be treated as members of a group.
- (4) The officer must give the notice within the period of 90 days beginning with the day on which the application is received.
- (5) The date mentioned in sub-paragraph (3)(b) must be within that period.
- (6) The officer may only refuse an application under this paragraph if—
 - (a) it appears to the officer that the application—
 - (i) has been made in respect of a body that is not an eligible body, or
 - (ii) specifies as the representative body a body that is not eligible to be the representative body, or

- (b) the officer considers it necessary to refuse the application for the protection of the revenue.

Applications to modify or terminate group treatment

- 21 (1) Where two or more bodies corporate are treated as members of a group, the representative member may apply to an officer of Revenue and Customs to—
 - (a) treat another eligible body as a member of the group;
 - (b) change which member of the group is the representative member;
 - (c) terminate the treatment of any or all of the bodies as a member of the group.
- (2) Where an officer of Revenue and Customs receives an application under this paragraph, the officer must, by notice to the applicant and, in a case within sub-paragraph (1)(b), the proposed new representative member—
 - (a) confirm whether the officer accepts or refuses the application, and
 - (b) if they accept the application, specify a date from which the thing applied for has effect.
- (3) The officer must give the notice within the period of 90 days beginning with the day on which the application is received.
- (4) The date mentioned in sub-paragraph (2)(b) must be within that period.
- 22 (1) An officer of Revenue and Customs may only refuse an application under paragraph 21(1)(a) or (b) if they consider it necessary to refuse the application for the protection of the revenue.
- (2) An officer of Revenue and Customs may only refuse an application under paragraph 21(1)(c) if—
 - (a) the case is not one in respect of which the power under paragraph 23 to terminate group treatment may be exercised, and
 - (b) the officer considers it necessary to refuse the application for the protection of the revenue.

Termination of group treatment by HMRC

- 23 An officer of Revenue and Customs may, by notice given to bodies corporate that are treated as members of a group, terminate the treatment of any or all of the bodies as a member of the group from the time specified in the notice where—
 - (a) it appears to the officer that they are not an eligible body or eligible bodies in relation to the group, or
 - (b) the officer considers it necessary to do so for the protection of the revenue.
- 24 (1) The time specified in a notice under paragraph 23(a) in relation to a body may be a time before the giving of the notice but must not be before the time when the body ceased to be an eligible body.

- (2) The time specified in a notice under paragraph 23(b) must not be a time before the day on which the notice is given to the members.

Termination of group treatment of representative member

- 25 (1) Where –

- (a) a body corporate ceases to be treated as a member of a group under paragraph 21(1)(c) or 23,
- (b) immediately before that time the body was the representative member of the group,
- (c) immediately after that time there are two or more bodies corporate who will continue to be treated as members of the group, and
- (d) none of those bodies becomes the representative member under paragraph 21(1)(b),

an officer of Revenue and Customs must, by notice given to such one of the bodies mentioned in paragraph (c) as the officer considers appropriate, substitute that body as the representative member from the time specified in the notice.

- (2) The time specified in a notice under this paragraph may be a time before the giving of the notice.

Notifications relating to eligibility

- 26 (1) If a body corporate that is treated as a member of a group ceases to be an eligible body, the body must notify HMRC before the end of the period of 30 days beginning with the day after the day on which it ceases to be an eligible body.
- (2) If body corporate that is the representative member of a group ceases to be eligible to be the representative member, the body must notify HMRC before the end of the period of 30 days beginning with the day after the day on which it ceases to be eligible to be the representative member.

Correction of applications and notifications under this Part

- 27 (1) This paragraph applies where a body corporate has made an application or notification under this Part of this Schedule.
- (2) If –
- (a) the information provided in the application or notification changes, or
 - (b) the body discovers that the information provided is incorrect,
- the body must notify HMRC as soon as reasonably practicable and in any event before the end of the period of 30 days beginning with the day after the day on which the information changes or the body discovers that the information is incorrect (as the case may be).
- (3) A notification under this paragraph must be made in the way specified in a notice published by the Commissioners.

Applications and notifications under this Part

- 28 An application or notification under this Part of this Schedule must be made in the way, and must include any information or declaration, specified in a notice published by the Commissioners.

PART 8

ARTIFICIAL SEPARATION OF BUSINESS ACTIVITIES

- 29 (1) This paragraph applies for the purpose of preventing the maintenance or creation of any artificial separation of business activities carried on by two or more persons resulting in an avoidance of CBAM.
- (2) An officer of Revenue and Customs may make a direction naming any person if they are satisfied that –
- (a) the person is importing CBAM goods into the United Kingdom in the course of a business,
 - (b) the activities in the course of which the person does so form only part of certain activities, the other activities being carried on concurrently or previously (or both) by one or more other persons,
 - (c) the activities carried on by those persons have been, or are, artificially separated, having regard to whether the persons carrying on those activities are connected within the meaning of section 1122 of CTA 2010 (“connected” persons), and
 - (d) if all the activities of those persons were taken into account, a single person carrying on that business would at the time of the direction be required to register under paragraph 2.
- (3) The effect of a direction under sub-paragraph (2) is that for the purposes of this Part of this Act –
- (a) the persons named in the direction are to be treated as a single taxable person (“the taxable person”) carrying on the activities of a business described in the direction,
 - (b) the taxable person is deemed to have registered on the date of the direction or on such earlier or later date as may be specified in the direction –
 - (i) in the name of one of the persons named in the direction nominated jointly by them in writing to the officer of Revenue and Customs who made the direction within the period of 14 days beginning with the date of the direction, or
 - (ii) if no such name is nominated, in such name as may be determined by the officer;
 - (c) the importation of CBAM goods by, or on behalf of, a person named in the direction in the course of the activities carried on by the taxable person is to be treated as the importation of CBAM goods in the course of a business by the taxable person;

- (d) each person named in the direction is jointly and severally liable for any CBAM due from the taxable person;
 - (e) any failure by the taxable person to comply with any requirement imposed by or under this Part of this Act is to be treated as a failure by each person named in the direction severally.
- (4) The earliest date a direction may specify under sub-paragraph (3)(b) is the date on which the persons named in the direction would, if they were treated as a single taxable person on that date, have first triggered registration under paragraph 2.
- (5) Sub-paragraph (6) applies where, after a direction is made under sub-paragraph (2), it appears to an officer of Revenue and Customs that—
 - (a) a person who was not named in the direction is importing CBAM goods in the course of activities which should be regarded as part of the activities of the business described in the direction, or
 - (b) a person who is named in the direction should no longer be named in the direction.
- (6) The officer of Revenue and Customs may by direction modify the earlier direction so that—
 - (a) it names the person mentioned in sub-paragraph (5)(a), or
 - (b) the person mentioned in sub-paragraph (5)(b) is removed from the earlier direction (as the case may be).
- (7) A modification under sub-paragraph (6)(a) comes into force on—
 - (a) the date on which the person began to import CBAM goods in the course of activities which should be regarded as part of the activities of the business described in the direction, or
 - (b) if later, the date on which the single taxable person referred to in the earlier direction is deemed to have registered.
- (8) A modification under sub-paragraph (6)(b) comes into force on the date specified in the direction.
- (9) A direction under sub-paragraph (2), and any determination under sub-paragraph (3)(b)(ii), must be given to each person named in the direction.
- (10) A direction under sub-paragraph (6)(a) must be given to each person named in the earlier direction as modified.
- (11) A direction under sub-paragraph (6)(b) must be given to—
 - (a) each person named in the earlier direction as modified, and
 - (b) the person being removed from the earlier direction.
- (12) A registered person is to be treated as no longer being a registered person from such time as they begin to form part of a single taxable person under a direction under this paragraph.

PART 9

DEATH, INCAPACITY AND INSOLVENCY

- 30 (1) This paragraph applies where a registered person, who is an individual, is deceased or incapacitated and another person (P) carries on the business to which the registered person's registration relates.
- (2) Where this paragraph applies, P must notify HMRC of their carrying on of the business before the end of the period of 21 days beginning with the day on which they began to carry on the business.
- (3) The notification must—
- (a) be accompanied by evidence of P's authority to carry on the business;
 - (b) include information, and be accompanied by evidence about, the death or incapacitation of the registered person.
- (4) The Commissioners may specify in a notice published by them—
- (a) the particular items of information to be included in, and evidence to accompany, the notification;
 - (b) the way in which the notification is to be given.
- (5) Where this paragraph applies, HMRC may treat P as if they were the registered person for the purposes of CBAM for a period of up to 6 months beginning with the day on which the period under sub-paragraph (2) ends.
- (6) An officer of HMRC may extend the period under sub-paragraph (5) as they think fit by notice in writing to P.
- 31 (1) This paragraph applies where a registered person is subject to an insolvency procedure and a person ("P") acts as an insolvency office holder in relation to that registered person.
- (2) Where this paragraph applies, P must notify HMRC of the insolvency procedure as soon as reasonably practicable and in any event before the end of the period of 21 days beginning with the day on which they began to act as the insolvency office holder in relation to the matter.
- (3) The notification must be accompanied by evidence of P's authority to act as the insolvency office holder in relation to the matter.
- (4) The Commissioners may specify in a notice published by them—
- (a) the particular items of evidence to accompany the notification;
 - (b) the way in which the notification is to be given.
- (5) Where this paragraph applies, HMRC may, on and after the relevant day, treat P as if they were the registered person for the purposes of CBAM. In this sub-paragraph "the relevant day" means the day on which the 21-day period under sub-paragraph (2) ends.
- (6) Where P is treated under sub-paragraph (5) as if they were the registered person—

- (a) any liability of the registered person to pay CBAM which arose at a time before the date on which the insolvency procedure began continues to be payable by the registered person;
 - (b) any liability of the registered person to pay CBAM which arises at a time on or after the date on which the insolvency procedure began is to be regarded as an expense of that procedure (unless the procedure is within sub-paragraph (7)(b)(vii)).
- (7) In this paragraph—
- (a) “insolvency office holder” means—
 - (i) an administrative receiver;
 - (ii) an administrator;
 - (iii) a liquidator;
 - (iv) a receiver appointed by the courts or by a mortgagee;
 - (v) a trustee in bankruptcy;
 - (vi) a trustee (or interim trustee) in the sequestration of an estate;
 - (vii) a person acting in an equivalent capacity under the law of a country or territory outside the United Kingdom;
 - (b) “insolvency procedure” means—
 - (i) administration;
 - (ii) administrative receivership;
 - (iii) bankruptcy;
 - (iv) receivership;
 - (v) sequestration;
 - (vi) winding up;
 - (vii) an equivalent procedure under the law of a country or territory outside the United Kingdom.

PART 10

RECOVERY

Recovery as a debt due

- 32 CBAM is recoverable as a debt due to the Crown.

Assessments of amounts of CBAM

- 33 (1) Sub-paragraph (2) applies where it appears to an officer of Revenue and Customs that—
- (a) any period is an accounting period by reference to which a registered or registrable person is liable to CBAM,
 - (b) an amount of CBAM for which the person is liable to account by reference to that period has become due, and
 - (c) there has been a relevant default by the person (see sub-paragraph (3)).

- (2) The officer of Revenue and Customs –
- (a) may –
 - (i) in a case where the amount of CBAM due from the person for that period cannot be ascertained, assess the amount due from the person for that period to the best of their judgement;
 - (ii) in any other case, assess the amount due from the person for that period, and
 - (b) where such an assessment is made, must notify the person of that amount.
- (3) The following are “relevant defaults” –
- (a) a failure to comply with a requirement of paragraph 2 (registration) or paragraph 4 (updating or correcting registration information);
 - (b) the provision, in purported compliance with paragraph 2 or 4, of incomplete or incorrect information;
 - (c) a failure to make a return required by paragraph 7;
 - (d) a failure to keep documents, or provide facilities, necessary to verify returns required by paragraph 7;
 - (e) the submitting, in purported compliance with paragraph 7, of an incomplete or incorrect return;
 - (f) a failure to comply with a requirement imposed under paragraph 14 or by paragraph 15 (keeping and preserving records);
 - (g) a failure to provide HMRC with complete or accurate information in complying with any requirement imposed by or under this Part of this Act;
 - (h) an unreasonable delay in complying with a requirement, where the failure to comply would be a default within any of paragraphs (a) to (g).
- 34 (1) Sub-paragraph (2) applies where –
- (a) an officer of Revenue and Customs has made an assessment under paragraph 33(2) for an accounting period as a result of a person’s failure to submit a return for that period,
 - (b) the CBAM assessed has been paid but no proper return has been made for that period, and
 - (c) as a result of a failure to make a return for a later accounting period, an officer of Revenue and Customs makes another assessment (“the later assessment”) under paragraph 33(2) in relation to the later period.
- (2) The officer of Revenue and Customs may, if the officer considers it appropriate in light of the absence of a proper return for the earlier period, specify in the later assessment an amount of CBAM due that is greater than the amount that they would have considered to be appropriate had they had regard only to the later period.

Supplementary assessments

- 35 (1) Sub-paragraph (2) applies where –
- (a) an assessment has been notified to a person under paragraph 33(2), and
 - (b) it appears to an officer of Revenue and Customs that the amount which ought to have been assessed as due exceeds the amount that has already been assessed.
- (2) The officer of Revenue and Customs –
- (a) may make a supplementary assessment of the amount of CBAM due from the person to the best of their judgement, and
 - (b) where such an assessment is made, must notify the person of that amount.

Further provision about assessments under paragraphs 33 and 35

- 36 (1) An amount assessed and notified to a person under paragraph 33 or 35 is recoverable on the basis that it is an amount of CBAM due from that person.
- (2) But sub-paragraph (1) does not apply if, or to the extent that, the assessment has been withdrawn or reduced.

Time limits for assessments

- 37 (1) An assessment under paragraph 33 or 35 may not be made after the relevant time.
- (2) Except in a case within sub-paragraph (3) the relevant time is the earlier of –
- (a) the end of the period of 4 years from the end of the accounting period to which the assessment relates, or
 - (b) the end of the period of 1 year beginning with the day on which evidence of facts, sufficient in the opinion of the officer of Revenue and Customs making the assessment to justify making it, comes to the knowledge of any officer of Revenue and Customs.
- (3) Where an assessment of an amount due from a person is made in a case involving loss of CBAM –
- (a) brought about deliberately by the person, or
 - (b) attributable to a failure by the person to comply with a requirement of paragraph 2 or 4,
- the relevant time is the end of the period of 20 years from the end of the accounting period to which the assessment relates.
- (4) In sub-paragraph (3) the reference to a loss brought about by a person includes a reference to a loss brought about by another person acting on behalf of that person.

PART 11

REPAYMENTS

Repayments of overpaid tax

- 38 (1) This paragraph applies where a person (P) has paid an amount to the Commissioners by way of CBAM which was not tax due.
- (2) The Commissioners are liable, on the making of a claim by P, to repay the amount.
- (3) A claim under this paragraph must be made in the way, and be supported by the information, specified in a notice published by the Commissioners.
- (4) Except as provided by this paragraph, the Commissioners are not liable to repay any amount paid by way of CBAM by reason of the fact that it was not tax due.
- (5) This paragraph is subject to paragraph 39.

Supplementary provision about repayment etc

- 39 (1) The Commissioners are not liable, on any claim for a repayment of CBAM, to repay any amount –
- (a) paid more than 4 years before the making of the claim;
 - (b) if, or to the extent that, any person has become entitled to a tax credit in respect of that amount.
- (2) It is a defence to any claim for repayment of an amount of CBAM that the repayment of that amount would unjustly enrich the claimant.
- 40 (1) This paragraph applies where –
- (a) an amount has been paid by way of CBAM which (apart from paragraph 39(2)) would fall to be repaid to a person (P), and
 - (b) the whole or a part of the cost of the payment of that amount to the Commissioners has, for practical purposes, been borne by a person other than P.
- (2) Where loss or damage has been, or may be, incurred by P as a result of mistaken assumptions made in P's case about the operation of any provisions relating to CBAM, that loss or damage is to be disregarded, except to the extent of the quantified amount, in the making of a relevant determination.
- (3) In sub-paragraph (2) –
- (a) “the quantified amount” means the amount (if any) which is shown by P to constitute the amount that would appropriately compensate P for loss or damage shown by P to have resulted, for any business carried on by P, from the making of the mistaken assumptions;
 - (b) a “relevant determination” means a determination for the purposes of paragraph 39(2) as to –

- (i) whether or to what extent the repayment of an amount would enrich P, or
 - (ii) whether or to what extent any enrichment of P would be unjust.
- (4) The reference in sub-paragraph (2) to provisions relating to CBAM is a reference to –
 - (a) any provision made by or under any enactment which relates to the tax or to any matter connected with it, or
 - (b) any notice published by the Commissioners under or for the purposes of any such provision.

Reimbursement arrangements

- 41 (1) The Commissioners may by regulations provide for reimbursement arrangements to be disregarded for the purposes of paragraph 39(2) except where the arrangements –
- (a) contain such provision as may be required by the regulations, and
 - (b) are supported by such undertakings to comply with the provisions of the arrangements as may be required by the regulations to be given to the Commissioners.
- (2) In this paragraph “reimbursement arrangements” means arrangements for the purposes of a claim to a repayment of CBAM which –
- (a) are made by a person for the purpose of securing that the person is not unjustly enriched by the repayment of any amount in pursuance of the claim, and
 - (b) provide for the reimbursement of a person who has for practical purposes borne the whole or any part of the cost of the original payment of that amount to the Commissioners.
- (3) Regulations under this paragraph may (among other things) make provision requiring reimbursement arrangements to contain provision –
- (a) requiring a reimbursement for which the arrangements provide to be made within a specified period after the repayment to which it relates;
 - (b) for the repayment of amounts to the Commissioners where those amounts are not reimbursed in accordance with the arrangements;
 - (c) requiring interest paid by the Commissioners on any amount repaid by them to be treated in the same way as that amount for the purposes of any requirement under the arrangements to make reimbursement or to repay the Commissioners;
 - (d) requiring records of a specified description relating to the arrangements to be kept and produced to the Commissioners, or to an officer of Revenue and Customs;
 - (e) imposing obligations on specified persons for the purposes of provision made under paragraphs (a) to (d).
- (4) Regulations under this paragraph may –

- (a) make provision about the form, manner and timing of undertakings given to the Commissioners in accordance with the regulations;
- (b) provide for those matters to be determined by the Commissioners in accordance with the regulations.

Assessment for excessive repayment

- 42 (1) Sub-paragraph (3) applies where—
- (a) an amount has been paid at any time to a person by way of a repayment of CBAM, and
 - (b) the amount paid exceeded the amount which the Commissioners were liable at that time to repay to that person.
- (2) Sub-paragraph (3) also applies where a person is liable to pay any amount to the Commissioners in pursuance of an obligation imposed by regulations under paragraph 41(3)(b), (c) or (e).
- (3) The Commissioners may—
- (a) to the best of their judgement, assess the amount of the excess (in a case within sub-paragraph (1)) or the amount due (in a case within sub-paragraph (2)), and
 - (b) where such an assessment is made, notify the amount to the person.
- (4) Subject to sub-paragraph (5), where—
- (a) an assessment is made on any person under this paragraph in respect of a repayment of CBAM, and
 - (b) the Commissioners have power under Part 10 of this Schedule to make an assessment on that person as to an amount of CBAM due from that person,
- the assessments may be combined and notified to the person as one assessment.
- (5) A notice of a combined assessment under sub-paragraph (4) must separately identify the amount being assessed in respect of repayments of CBAM.

Supplementary assessments

- 43 (1) Sub-paragraph (2) applies where—
- (a) an assessment has been notified to a person under paragraph 42, and
 - (b) it appears to an officer of Revenue and Customs that the amount which ought to have been assessed as due exceeds the amount that has already been assessed.
- (2) The officer of Revenue and Customs may—
- (a) on or before the last day on which the assessment under paragraph 42 could have been made (see paragraph 45), make a supplementary assessment of the amount of CBAM due from the person, and
 - (b) where such a supplementary assessment is made, notify the amount to that person.

Further provision about assessments under paragraphs 42 and 43

- 44 (1) Where an amount has been assessed and notified to a person under paragraph 42 or 43, it is recoverable on the basis that it is an amount of CBAM due from that person.
- (2) But sub-paragraph (1) does not have effect if, or to the extent that, the assessment has been withdrawn or reduced.

Time limit for assessments

- 45 An assessment under paragraph 42 or 43 may not be made more than 2 years after evidence of facts, sufficient in the opinion of the officer of Revenue and Customs making the assessment to justify making it, comes to the knowledge of any officer of Revenue and Customs.

PART 12

PENALTIES

Penalties payable in connection with this Schedule

- 46 This Part of this Schedule provides for penalties payable in connection with this Schedule, as follows –
- (a) paragraph 47 amends Schedule 41 to FA 2008 to impose a penalty for a failure to register with, or provide information to, HMRC under paragraph 2 of this Schedule;
 - (b) paragraph 48 amends Schedule 24 to FA 2021 to impose a penalty for a failure to make a return under paragraph 7 of this Schedule;
 - (c) paragraph 49 amends Schedule 24 to FA 2007 to impose a penalty for errors in returns under paragraph 7 of this Schedule and in other documents;
 - (d) paragraph 50 amends Schedule 26 to FA 2021 to impose a penalty for a failure to pay CBAM;
 - (e) paragraph 51 imposes a penalty for failing to make a notification under –
 - (i) paragraph 4 (changed or incorrect registration information);
 - (ii) paragraph 26 or 27 (group treatment);
 - (iii) Part 9 (death, incapacity or insolvency);
 - (f) paragraph 52 imposes a penalty for failing to keep or preserve records under Part 6 of this Schedule or regulations under that Part.
- 47 (1) Schedule 41 to FA 2008 (penalties: failure to notify and certain VAT and excise wrongdoing) is amended in accordance with sub-paragraphs (2) and (3).

- (2) In the table in paragraph 1 (failure to notify etc), after the entry related to climate change levy, insert –

“Carbon border adjustment mechanism	Obligation of a person under paragraph 2 of Schedule 2 to FA 2026.”
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- (3) In paragraph 7, after sub-paragraph (9) insert –

“(10) In the case of a relevant obligation under paragraph 2 of Schedule 2 to FA 2026 (which relates to carbon border adjustment mechanism), the potential lost revenue is the amount of the tax (if any) for which P is liable for the period –

- (a) beginning with the end of the period specified in paragraph 2(4) of Schedule 2 of FA 2026, and
- (b) ending with the day on which P registers under paragraph 2 of Schedule 2 to FA 2026 or HMRC otherwise becomes fully aware of P’s obligation to register.”

- (4) Paragraph 16(1) of Schedule 41 to FA 2008 (penalties: failure to notify etc) has effect in its application to CBAM as if for “shall” there were substituted “may”.

- 48 In Schedule 24 to FA 2021 (penalties for failure to make returns etc), in the Table in paragraph 2(1), after item 4 insert –

5 Carbon border adjustment mechanism	Return under paragraph 7 of Schedule 2 to FA 2026
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- 49 (1) In the table in paragraph 1 of Schedule 24 to FA 2007 (penalties for errors), after the entry relating to climate change levy, insert –

“Carbon border adjustment mechanism	Return under paragraph 7 of Schedule 2 to FA 2026.”
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- (2) Paragraph 13(1) of Schedule 24 to FA 2007 (penalties for errors) has effect in its application to CBAM as if for “shall” there were substituted “may”.

- 50 In Schedule 26 to FA 2021 (penalties for failure to pay tax), in paragraph 1(1), after the table relating to value added tax insert –

“Carbon border adjustment mechanism

1	Amount of CBAM payable under paragraph 6 of Schedule 2 to FA 2026 (except an amount within item 2, 3 or 4)	The date determined by paragraph 6 of Schedule 2 to FA 2026 as the date by which the amount must be paid
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“Carbon border adjustment mechanism

2	Amount of CBAM shown in an assessment made by HMRC in default of a return (see paragraph 3)	The date by which the amount would have been required to be paid if it had been shown in the return in question
3	Amount of CBAM shown in an amendment of a return	The date falling 30 days after the date on which the amendment is made
4	Amount of CBAM shown in an assessment made by HMRC otherwise than in default of a return (see paragraph 3)	The date falling 30 days after the date on which the assessment is made”.

- 51 (1) A person (P) is liable to a penalty if P fails to comply with a requirement to make a notification under—
- (a) paragraph 4 (changed or incorrect registration information);
 - (b) paragraph 26 or 27 (group treatment);
 - (c) Part 9 (death, incapacity or insolvency).
- (2) The penalty is—
- (a) a fixed penalty of £500, and
 - (b) a daily penalty of £40 for each day on which P continues to fail to make the required notification after the last day on which P was permitted to do so.
- 52 A person (P) is liable to a penalty of £500 if P fails to comply with a requirement to keep or preserve a record under Part 6 of this Schedule or regulations under that Part.
- 53 (1) But a penalty is not payable under paragraph 51 or 52 if—
- (a) P satisfies an officer of Revenue and Customs or, on appeal, the tribunal that there is a reasonable excuse for the failure, or
 - (b) the penalty would subject P to double jeopardy.
- (2) For the purpose of sub-paragraph (1)(a)—
- (a) an insufficiency of funds is not a reasonable excuse,
 - (b) where P relies on any other person to do anything, that is not a reasonable excuse unless P took reasonable care to avoid the failure, and
 - (c) where P had a reasonable excuse for the failure but the excuse has ceased, P is to be treated as having continued to have the excuse only if the failure is remedied without unreasonable delay after the excuse ceased.
- (3) For the purpose of sub-paragraph (1)(b), the penalty would subject P to double jeopardy if, by reason of the conduct constituting the failure, P has been—

- (a) convicted of an offence, or
- (b) assessed to a penalty other than under paragraph 51 or 52.

Penalties under paragraphs 51 or 52: administration and supplementary provision

- 54 The following paragraphs of this Part of this Schedule apply in relation to a penalty under paragraph 51 or 52.
- 55 (1) Where a person is liable to a penalty, an officer of Revenue and Customs –
- (a) may assess the amount of the penalty, and
 - (b) where such an assessment is made, must notify the person of the amount.
- (2) Sub-paragraph (3) applies where –
- (a) an officer of Revenue and Customs has made an assessment of a penalty, and
 - (b) it appears to the officer that the amount which ought to have been assessed exceeds the amount that has already been assessed.
- (3) The officer may –
- (a) may make a supplementary assessment of the amount of the penalty, and
 - (b) where such an assessment is made, must notify the person of that amount.
- (4) An amount assessed and notified to a person under sub-paragraph (1) or (3) is recoverable on the basis that it is an amount of CBAM due from that person.
- (5) But sub-paragraph (4) does not apply if, or to the extent that, the assessment has been withdrawn or reduced.
- (6) The fact that conduct giving rise to a penalty has ended before an assessment is made under sub-paragraph (1) or (3) does not affect the power of an officer of Revenue and Customs to make such an assessment.
- 56 (1) Sub-paragraph (2) applies where –
- (a) an officer of Revenue and Customs assesses a person to an amount of penalty under paragraph 55(1) or (3), and
 - (b) the person is also assessed under Part 10 of this Schedule for an accounting period to which the conduct attracting the penalty relates.
- (2) The assessments under paragraph 55(1) or (3) and under Part 10 of this Schedule may be combined and notified to the person as one assessment.
- (3) A notice of a combined assessment under sub-paragraph (2) must separately identify the penalty being assessed.
- 57 (1) Where an assessment is made under paragraph 55(1) or (3) to an amount of daily penalty under paragraph 51(2)(b), the notification of that amount must specify a date, not later than the day on which the notification is given, to which the amount is assessed.

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- (2) If the failure attracting the penalty continues after that date, a further assessment or further assessments may be made under paragraph 55(1) or (3) in respect of the continued failure.
- (3) Sub-paragraph (4) applies where –
- (a) a notification of an amount of a penalty specifies a date under sub-paragraph (1), and
 - (b) the failure in question is remedied within such period as may for the purpose of this sub-paragraph be specified in the notification.
- (4) The failure is to be deemed to be remedied on the date specified under sub-paragraph (1).
- 58 (1) An officer of Revenue and Customs assessing a penalty or, on appeal, the tribunal may reduce the penalty to such amount (including nil) as they think proper.
- (2) On an appeal relating to a penalty reduced by an officer of Revenue and Customs under sub-paragraph (1), the tribunal may cancel the whole or any part of the officer's reduction.
- 59 (1) An assessment under paragraph 55(1) or (3) may not be made after the end of the relevant period.
- (2) Except in a case within sub-paragraph (3), the relevant period is the period of 4 years beginning with the day on which the failure attracting the penalty began.
- (3) Where an assessment under paragraph 55(1) or (3) is made in a case involving loss of CBAM –
- (a) brought about deliberately by the person liable to the penalty, or
 - (b) attributable to a failure by that person to comply with a requirement under Part 2 of this Schedule,
- the relevant period is the period of 20 years beginning with the day on which the failure attracting the penalty began.
- (4) In sub-paragraph (3) the reference to a loss brought about by a person includes a reference to a loss brought about by another person acting on behalf of that person.

Penalties under paragraphs 51 and 52: power to amend in light of inflation

- 60 The Treasury may by regulations amend paragraph 51 or 52 so as to substitute for an amount for the time being specified there another amount that takes account of inflation.

PART 13

REVIEWS AND APPEALS

Appealable decisions

- 61 (1) A person may appeal against a decision of the Commissioners or an officer of Revenue and Customs in respect of any of the following matters –
- (a) where a person has made a return under paragraph 7 (returns) in respect of an accounting period –
 - (i) whether or not the person is liable to pay an amount of CBAM for that period;
 - (ii) the amount of CBAM payable by the person for that period;
 - (b) the registration, or de-registration, of a person under Part 2 of this Schedule;
 - (c) whether to treat a person as if they were a registered person for the purposes of CBAM under paragraph 30(5) or 31(5);
 - (d) whether to extend such treatment under paragraph 30(6);
 - (e) whether the Commissioners are liable to repay an amount to a person under paragraph 38(2) or the amount of such a repayment;
 - (f) whether or not the repayment of an amount under paragraph 38(2) is excessive (see paragraph 42);
 - (g) the amount that a person is liable to pay the Commissioners to comply with an obligation under paragraph 41(3)(b), (c) or (e);
 - (h) whether a person is liable to a penalty under paragraph 51 or 52 or the amount of such a penalty;
 - (i) the period by reference to which payments of CBAM are to be made.
- (2) A person may also appeal against the following directions of the Commissioners or an officer of Revenue and Customs –
- (a) a direction under paragraph 15;
 - (b) a direction under paragraph 29(2) or (6);
 - (c) a determination on an application under Part 7 of this Schedule for group treatment or a determination to terminate group treatment under that Part.
- (3) In sub-paragraph (1), “amount of CBAM” includes an amount recoverable on the basis that it is an amount of CBAM.
- (4) In the following provisions of this Part of this Schedule, “decision” means a decision, determination or direction within sub-paragraph (1) or (2).

Offer of a review to a person notified of a decision

- 62 (1) HMRC must offer a person who has been notified of a decision that they may appeal against (“the addressee”) a review of the decision.
- (2) The offer of a review must be made by notice given to the addressee at the same time as the decision is notified to the addressee.

- (3) The addressee has 30 days, beginning with the date of the document notifying the addressee of the decision, to accept the offer (if the addressee chooses to) by notifying HMRC.
- (4) The offer is to be treated as withdrawn if the addressee appeals against the decision.
- (5) This paragraph does not apply in relation to a decision consisting of a conclusion of a review.

Right of other persons to require review

- 63 (1) A person, other than the addressee, who has the right to appeal against a decision (“the interested person”) may require a review of the decision by notifying HMRC.
- (2) But that right to require a review ceases if the person appeals against the decision.
- (3) A notification under sub-paragraph (1) must be made within the period of 30 days beginning with the day on which the interested person becomes aware of the decision.

Review

- 64 (1) An officer of Revenue of Customs must review a decision if—
 - (a) the addressee has notified HMRC under paragraph 62 accepting the offer of a review, or
 - (b) the interested person has notified HMRC under paragraph 63 that they require a review.
- (2) But the officer must not review, or must stop reviewing, a decision if the addressee or interested person appeals against the decision.

Extension of time to trigger review

- 65 (1) An officer of Revenue and Customs may by notice extend the period in which the addressee or the interested person may trigger a review of a decision.
- (2) The period is extended to the end of the period of 30 days beginning with—
 - (a) the date of the notice, or
 - (b) any other date set out in the notice or a further notice.
- (3) For the purposes of this paragraph and paragraph 66 (review out of time), the period in which the addressee or the interested person may trigger a review of a decision means—
 - (a) in relation to the addressee, the 30 days for the addressee to accept the offer of a review of the decision mentioned in paragraph 62(3),
 - (b) in relation to the interested person, the period of 30 days for the person to require a review of the decision mentioned in paragraph 63(3), or

- (c) a period mentioned in paragraph (a) or (b) as extended (or most recently extended) under this paragraph.

Review out of time

- 66 (1) This paragraph applies if the addressee or the interested person –
- (a) has not triggered a review of a decision in time, and
 - (b) makes a request to HMRC in writing for a review out of time.
- (2) An officer of Revenue and Customs must review the decision if the officer is satisfied that the addressee or the interested person –
- (a) has a reasonable excuse for not triggering a review of the decision in time, and
 - (b) made the request without unreasonable delay after the excuse had ceased to apply.
- (3) But the officer must not review, or must stop reviewing, a decision if the addressee or the interested person appeals against the decision.
- (4) For the purposes of this paragraph –
- (a) the addressee triggers a review of a decision in time by accepting under paragraph 62 a review of the decision in the period in which the addressee may trigger a review of a decision;
 - (b) the interested person triggers a review of a decision in time by requiring under paragraph 63 a review of the decision in the period in which that person may trigger a review of a decision.
- (5) See paragraph 65(3) (extension of time to trigger review) for provision about the period in which the addressee or the interested person may trigger a review of a decision.

The review

- 67 (1) This paragraph applies if an officer of Revenue and Customs is required to undertake a review under paragraph 64 or 66.
- (2) The nature and extent of the review are to be such as appear appropriate to the officer in the circumstances.
- (3) For the purposes of sub-paragraph (2), the officer must have regard to steps taken before the beginning of the review by –
- (a) the decision-maker in reaching the decision, and
 - (b) any person in seeking to resolve disagreement about the decision.
- (4) The review must take account of any representations made by the addressee, or the interested person, at a stage which gives the officer a reasonable opportunity to consider them.
- (5) The review may conclude that the decision is to be –
- (a) upheld,
 - (b) varied, or
 - (c) cancelled.

- (6) The officer must give the addressee, or the interested person, notice of the conclusions of the review and their reasoning before the end of –
 - (a) the period of 45 days beginning with the relevant date, or
 - (b) such other period as the officer and the addressee, or the officer and the interested person, may agree.
- (7) In sub-paragraph (6), “the relevant date” means –
 - (a) in a case falling within paragraph 62, the date HMRC received the addressee’s notification accepting the offer of a review,
 - (b) in a case falling within paragraph 63, the date HMRC received notification from the interested person requiring a review, or
 - (c) in a case falling within paragraph 66, the date on which the officer decided they were under a duty to undertake the review.
- (8) Where an officer of Revenue and Customs is required to undertake a review but does not give notice of the conclusions within the period specified in sub-paragraph (6), the review is to be treated as having concluded that the decision is upheld.
- (9) If sub-paragraph (8) applies, the officer must notify the addressee, or the interested person, of the conclusion which the review is treated as having reached.

Bringing of appeals

- 68 (1) An appeal under paragraph 61 is to be made to the tribunal before –
- (a) the end of the period of 30 days beginning with –
 - (i) in a case where the addressee is the appellant, the date of the document notifying the addressee of the decision to which the appeal relates, or
 - (ii) in a case where a person other than the addressee is the appellant, the day on which that person becomes aware of the decision, or
 - (b) if later, the end of the period in which the appellant may trigger a review of the decision (interpreted in accordance with paragraph 65(3)).
- (2) But this is subject to sub-paragraphs (3) to (5).
- (3) In a case where a review of the decision is required under paragraph 64 –
- (a) an appeal may not be made until the conclusion date, and
 - (b) any appeal is to be made within the period of 30 days beginning with that date.
- (4) In a case where a review of the decision is requested under paragraph 66 –
- (a) an appeal may not be made –
 - (i) unless an officer of Revenue and Customs has notified the addressee, or the interested person, as to whether or not a review will be undertaken, and

- (ii) if an officer of Revenue and Customs has notified the addressee, or the interested person, that a review will be undertaken, before the conclusion date;
 - (b) any appeal where paragraph (a)(ii) applies is to be made within the period of 30 days beginning with the conclusion date;
 - (c) if an officer of Revenue and Customs has notified the addressee, or the interested person, that a review will not be undertaken, an appeal may be made only if the tribunal gives permission to do so.
- (5) In a case where paragraph 67(8) applies, any appeal is to be made at any time in the period beginning with the end of the applicable period in paragraph 67(6) and ending with the date 30 days after the conclusion date.
- (6) An appeal may be made after the end of any period specified by this paragraph if the tribunal gives permission to do so.
- (7) In this paragraph, “conclusion date” means the date of the document notifying the conclusions of the review.

Further provision about appeals

- 69 (1) An appeal under paragraph 61 relating to a decision that an amount is due from a person may not be considered by the tribunal unless the amount which HMRC have determined to be due has been paid to or deposited with the Commissioners.
- (2) But sub-paragraph (1) does not apply if—
- (a) HMRC are satisfied or, if HMRC are not satisfied but the tribunal has decided, on the application of the appellant, that the requirement to pay or deposit the amount would cause the appellant to suffer hardship, and
 - (b) the appellant has paid or deposited such other amount (if any) by way of security as HMRC or, as the case may be, the tribunal consider appropriate.
- (3) Notwithstanding sections 11 and 13 of the Tribunals, Courts and Enforcement Act 2007, the decision of the tribunal as to the issue of hardship is final.

Determination on appeal

- 70 (1) Where, on an appeal under paragraph 61—
- (a) it is found that an assessment in respect of the appellant is an assessment for an amount that is less than it ought to have been, and
 - (b) the tribunal give a direction specifying the correct amount,
- the assessment has effect as an assessment of the amount specified in the direction and (without prejudice to any power under this Schedule to reduce the amount of interest payable on the amount of an assessment) as if it were an assessment notified to the appellant in that amount at the same time as the original assessment.

- (2) On an appeal under paragraph 61, the powers of the tribunal in relation to any decision include a power, where the tribunal allows an appeal on the ground that the decision-maker could not reasonably have arrived at the decision, either –
- (a) to direct that the decision, so far as it remains in force, is to cease to have effect from such time as the tribunal may direct, or
 - (b) to require an officer of Revenue and Customs to conduct, in accordance with the directions of the tribunal, a review or a further review of the original decision as appropriate.
- (3) Where, on an appeal under paragraph 61, the tribunal find that a liability to a penalty or to an amount of interest arises, the tribunal must not give any direction for the modification of the amount payable in respect of that liability except –
- (a) in exercise of a power conferred on the tribunal by Part 12 of this Schedule (penalties), or
 - (b) for the purpose of making the amount payable conform to the amount due in accordance with this Part of this Act.
- (4) Sections 85 and 85B of VATA 1994 (settling of appeals by agreement and payment of tax where there is a further appeal) apply in relation to an appeal under paragraph 61 of this Schedule as they apply to an appeal under section 83 of VATA 1994, reading –
- (a) references to section 83 of that Act as references to paragraph 61 of this Schedule, and
 - (b) the references to value added tax as references to CBAM.

Interpretation

- 71 In this Part of this Schedule –
- “the addressee”: see paragraph 62(1);
 - “the interested person”: see paragraph 63(1);
- and references to appealing against a decision are to appealing against the decision under paragraph 61.

PART 14

INTERPRETATION

- 72 In this Schedule, “the tribunal” means the First-tier Tribunal or, where determined by or under Tribunal Procedure Rules, the Upper Tribunal.

SCHEDULE 3

Section 10

CBAM: SUPPLEMENTARY AMENDMENTS RELATING TO ENFORCEMENT

Information and inspection powers

- 1 (1) Schedule 36 to FA 2008 (information and inspection powers) is amended as follows.
- (2) In the table in paragraph 61A(2) (definition of involved third parties), after item 14 insert –

“15	A person involved (in any capacity) in the production, or importation to or exportation from the United Kingdom, of CBAM goods (within the meaning of section 2 of FA 2026) or in connected activities	Documents relating to matters in which the person is or has been involved	Carbon border adjustment mechanism
16	A person involved (in any capacity) in the supply, storage purchase, sale or transportation of CBAM goods (within the meaning of section 2 of FA 2026)	Documents relating to matters in which the person is or has been involved	Carbon border adjustment mechanism”

- (3) In paragraph 63(1) (definition of tax), after paragraph (k) insert –
“(ka) carbon border adjustment mechanism”.

Disclosure of tax avoidance schemes

- 2 In paragraph 2(1) of Schedule 17 to F(No.2)A 2017 (disclosure of tax avoidance schemes: definition of indirect tax), after “climate change levy” insert –
“carbon border adjustment mechanism”.

Serial tax avoidance

- 3 In paragraph 4(2) of Schedule 18 to FA 2016 (serial tax avoidance: definition of indirect tax), after “climate change levy” insert –
“carbon border adjustment mechanism”.

SCHEDULE 4

Section 11

OFFENCES RELATING TO CBAM

PART 1

FRAUDULENT EVASION

- 1 (1) A person commits an offence if the person is knowingly concerned in, or in the taking of steps with a view to, the fraudulent evasion (by that person or another person) of CBAM.
- (2) The reference in sub-paragraph (1) to the evasion of CBAM includes a reference to obtaining—
- (a) relief relating to CBAM, or
 - (b) a repayment of CBAM,
- in circumstances where there is no entitlement to it.
- (3) A person guilty of an offence under this paragraph is liable—
- (a) on summary conviction in England and Wales—
 - (i) to imprisonment for a term not exceeding the general limit in a magistrates' court,
 - (ii) to a fine not exceeding £20,000 or (if greater) three times the total of the amounts of CBAM that were, or were intended to be, evaded, or
 - (iii) to both;
 - (b) on summary conviction in Scotland—
 - (i) to imprisonment for a term not exceeding 12 months,
 - (ii) to a fine not exceeding the statutory maximum or (if greater) three times the total of the amounts of CBAM that were, or were intended to be, evaded, or
 - (iii) to both;
 - (c) on summary conviction in Northern Ireland—
 - (i) to imprisonment for a term not exceeding 6 months,
 - (ii) to a fine not exceeding the statutory maximum or (if greater) three times the total of the amounts of CBAM that were, or were intended to be, evaded, or
 - (iii) to both;
 - (d) on conviction on indictment—
 - (i) to imprisonment for a term not exceeding 14 years,
 - (ii) to a fine, or
 - (iii) to both.
- (4) In sub-paragraph (3), the references to the amounts of CBAM that were, or were intended to be, evaded include—
- (a) the amounts of any relief relating to CBAM, and
 - (b) the amounts of any repayment of CBAM,

which were, or were intended to be, obtained in circumstances when there were no entitlement to them.

- (5) In determining for the purposes of sub-paragraph (3) the amounts of CBAM that were, or were intended to be, evaded, no account is to be taken of the extent to which any liability to tax of a person would be, or would have been, reduced by the amount of any relief relating to CBAM or repayment of CBAM to which the person was, or would have been, entitled.

PART 2

MISSTATEMENT

- 2 (1) A person commits an offence if, for purposes connected with CBAM, the person—
- (a) produces or provides, causes to be produced or provided, or otherwise makes use of any document which is false in a material particular, and
 - (b) does so intending to deceive any person or to secure that a machine will respond to the document as if it were a true document.
- (2) A person commits an offence if, in providing any information under any provision made by or under this Part of this Act, the person—
- (a) makes a statement which the person knows to be false in a material particular, or
 - (b) recklessly makes a statement which is false in a material particular.
- (3) A person guilty of an offence under this paragraph is liable—
- (a) on summary conviction in England and Wales—
 - (i) to imprisonment for a term not exceeding 6 months,
 - (ii) to a fine not exceeding £20,000, or
 - (iii) to both;
 - (b) on summary conviction in Scotland—
 - (i) to imprisonment for a term not exceeding 6 months,
 - (ii) to a fine not exceeding the statutory maximum, or
 - (iii) to both;
 - (c) on summary conviction in Northern Ireland—
 - (i) to imprisonment for a term not exceeding 6 months,
 - (ii) to a fine not exceeding the statutory maximum, or
 - (iii) to both;
 - (d) on conviction on indictment—
 - (i) to imprisonment for a term not exceeding 14 years,
 - (ii) to a fine, or
 - (iii) to both.
- (4) In the case of an offence under this paragraph where—
- (a) the document referred to in sub-paragraph (1) is a return required under Part 3 of Schedule 2, or

- (b) the information referred to in sub-paragraph (2) is contained in or otherwise relevant to such a return,
the maximum amount of the fine on summary conviction is the greater of £20,000 or the statutory maximum (as the case may be), and the amount equal to three times the sum of the amounts (if any) by which the return understates any person’s liability to CBAM.
- (5) In sub-paragraph (4) the reference to the amount by which a return understates a person’s liability to CBAM is the sum of –
- (a) the amount (if any) by which the person’s gross liability is understated, and
 - (b) the amount (if any) by which any entitlements of the person to relief relating to CBAM and repayments of CBAM is overstated.
- (6) In sub-paragraph (5) “gross liability” means liability to CBAM before any deduction is made in respect of any entitlements to relief relating to CBAM and repayments of CBAM.