



# Memorandum D11-8-6

Ottawa, March 12, 2020

## Interpretation of Section 3 of the *Imported Goods Records Regulations*

### In Brief

This amendment updates the Canada Border Services Agency's policy regarding the keeping of records in accordance with Section 3 of the [Imported Goods Records Regulations](#) (Regulations), and updates the text of the attestation required under subparagraph 3(a.1).

This memorandum explains the Canada Border Services Agency's (CBSA) policy regarding Section 3 of the [Imported Goods Records Regulations](#) (Regulations) for commercial goods that have been released free of duty or at a reduced rate of duty based upon their intended use in the manner specified in the tariff item.

### Legislation

[Customs Act](#)

[Customs Tariff](#)

[Imported Goods Records Regulations](#)

[Refund of Duties Regulations](#)

## Guidelines and General Information

### General considerations for the keeping of records regarding conditional relief tariff items

1. While proof of actual use is not required to be provided at the time of importation, Section 40(1) of the [Customs Act](#) (Act) requires that importers maintain records in respect of imported goods, make the records available upon request and answer truthfully any questions asked about the records.
2. As specified in Section 2(1) of the [Imported Goods Records Regulations](#) (Regulations), such records must be maintained for six years following importation.

### Released free of duty

3. Section 3 of the [Regulations](#) relates to imported goods “*that have been **released** free of duty or at a reduced rate of duty*” under a conditional relief tariff item (i.e., a tariff item under which the relief or reduction in the rate of duty is conditional on a particular use, or other requirement with respect to the goods). Thus, “*released free of duty or at a reduced rate of duty*” means that when goods are accounted for, at or after release, they are duty-free or subject to a reduced rate of duty.
4. Section 32(1) of [the Act](#) requires that goods be accounted for, and all duties paid, prior to the release of goods. However, section 32(2) of the Act allows for goods to be accounted for after release in specified circumstances. The requirement to keep records that demonstrate that the goods are capable of satisfying any condition(s) for the relief of duty are entirely distinct and separate from whether such records actually demonstrate that the condition(s) of relief have been met. The documentation required to support a refund claim demonstrating that the goods have been used in the manner specified under a conditional relief tariff item is listed in paragraph 29 of the [Refund of Duties Regulations](#).

### Section 3(a)

5. Section 3(a) of the [Regulations](#) requires the importer or owner of goods to maintain a certificate or other record that proves the actual use made of imported goods subject to the conditional relief of duties.
6. Documentation to prove actual use must:
  - (i) identify the importation of the good (e.g., transaction number, applicable conditional relief tariff item number);
  - (ii) provide the user's name, address and occupation; and
  - (iii) state the actual use made, or to be made, of the goods.
7. Imported goods subject to the conditional relief of duties that are sold by the importer to a purchaser that then uses them in a qualifying manner may still meet the conditions for the relief of duty. However, the importer must obtain and keep the required certificate or record signed by the purchaser affirming its use of the goods.

### Paragraph 3(a.1)

8. The [Regulations](#) were amended on April 1, 2015, retroactive to June 28, 2013 to add Paragraph 3(a.1). It relates specifically and exclusively to goods that have been released free of duty when claiming the benefits of tariff item 9948.00.00. It stipulates that the record required to substantiate actual use under conditional relief under tariff item 9948.00.00 is "*an attestation signed by the person who imports the goods or causes them to be imported*".
9. The attestation of actual use must provide:
  - (a) the name, address and occupation of the person signing the attestation;
  - (b) the intended use of the commercial goods; and
  - (c) sufficient detail to confirm the goods meet the terms of tariff item 9948.00.00 (i.e., that they are "articles" and that they are "for use in" a good enumerated in the tariff item); see [Memorandum D10-14-51 - Tariff Classification Policy: Tariff Item 9948.00.00](#) for further details).

### Section 3(b)

10. Section 3(b) of the [Regulation](#) requires that importers produce records that duties owing have been paid if goods that were imported duty-free, or a reduced rate of duty, were not used in a qualifying manner.

### Additional Information

11. Please consult [Memorandum D11-8-5 - Conditional Relief Tariff Items](#) for further information about the use of conditional relief tariff items, including the documentary requirements for requests for refund.
12. For certainty regarding the tariff classification of a product, importers may request an Advance Ruling for tariff classification. Details on how to make such a request are found in CBSA [Memorandum D11-11-3, Advance Rulings for Tariff Classification](#).
13. An Advance Ruling does not in any way address the record keeping obligations including any obligations to demonstrate actual use nor, does it address the obligation satisfy the conditions for relief.
14. For more information on CBSA programs, within Canada call the Border Information Service at **1-800-461-9999**. From outside Canada call 204-983-3500 or 506-636-5064. Long distance charges will apply. Agents are available Monday to Friday (08:00 – 16:00 your local time / except statutory holidays). TTY is also available within Canada: **1-866-335-3237**.

**Appendix**

**Attestation**

(Insert the importer name, address and contact information)

(Insert the broker or agent name and address [if applicable])

**Description of Goods**

(Insert the description of the article [e.g., product name, model number, etc.]

**Attestation**

The above described article is classified under (insert the tariff classification number), with the conditional relief benefits of 9948.

I, (insert name of the individual signing the attestation) in the occupation of (insert occupation of the individual signing the attestation) hereby attest that the above described article has been imported into Canada to be “for use in” a good listed in 9948

Date:

Signature:

<b>References</b>	
<b>Issuing Office</b>	Trade and Anti-dumping Programs Directorate
<b>Headquarters File</b>	HS 9948.00
<b>Legislative References</b>	<a href="#"><i>Customs Act</i></a> <a href="#"><i>Imported Goods Records Regulations</i></a> <a href="#"><i>Customs Tariff</i></a> <a href="#"><i>Refund of Duties Regulations</i></a>
<b>Other References</b>	<a href="#">D11-8-5</a> , <a href="#">D11-11-3</a> , <a href="#">D17-2-1</a> Forms <a href="#">B2</a>
<b>Superseded Memorandum D</b>	D11-8-6 dated August 19, 2015