

EXPLANATORY MEMORANDUM TO
THE CUSTOMS (DECLARATION MODIFICATION) REGULATIONS 2021
2021 No. 695

1. Introduction

- 1.1 This explanatory memorandum has been prepared by HM Revenue and Customs (HMRC) and is laid before Parliament by Command of Her Majesty.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

- 2.1 This instrument makes amendments to Commission Delegated Regulation (EU) 2015/2446 supplementing certain provisions of the Union Customs Code as it forms part of retained European Union (EU) law, to enable customs procedures to operate in a more compliant manner, in terms of combating smuggling more effectively.
- 2.2 The instrument will amend retained EU law by removing the waivers from the obligation to lodge an entry summary or a pre-departure declaration for travellers carrying high value commercial goods in a ‘goods vehicle’. Such declarations are required to enable customs authorities to carry out risk analysis for safety and security purposes.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 This instrument removes the waivers from the obligation to lodge the declarations described in paragraph 2.2 above that are set out in retained EU law at Articles 104 and 245 of the Commission Delegated Regulation in respect of accompanied commercial goods which are carried by goods vehicles and which have a value in excess of £1,500.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

- 3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is the United Kingdom.
- 4.2 The territorial application of this instrument is the United Kingdom.
- 4.3 The provisions of this instrument apply: to goods imported into Great Britain from outside the United Kingdom; to goods entering Great Britain from Northern Ireland that do not qualify for unfettered access; and to goods exported from the United Kingdom out of Great Britain.

5. European Convention on Human Rights

5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

6. Legislative Context

6.1 The changes proposed in this instrument are not in relation to customs duty, but to safety and security requirements. The instrument is being made using the power provided at section 166A(1) of the Customs and Excise Management Act 1979, which was inserted by section 21 of the European Union (Future Relationship) Act 2020 and is the first use of the power.

6.2 The new requirements will come into force from 1 July 2021, but, in line with the extension of the staging in of customs controls, will continue to be subject to:

- the waiver on entry summary declaration requirements for goods imported into Great Britain from the European Union until 1 January 2022, and
- the waivers that apply to exit summary declarations in respect of pallets, containers and means of transport exported to the European Union and goods carried in roll-on roll-off vehicles, until 1 October 2021.

7. Policy background

What is being done and why?

7.1 This instrument will require travellers importing or exporting commercial goods having a value in excess of £1,500 which they are carrying in a goods vehicle to make an entry summary declaration (for imports) or a pre-departure declaration (for exports). Information from these declarations is used to risk assess goods for safety and security threats. The risk assessment facilitates the movement of legitimate goods and provides information for targeting dangerous goods, such as drugs and firearms, before they arrive at or depart from the Great Britain port of entry or exit.

7.2 If this requirement was placed on travellers accompanying low-value goods (which do not require a full customs declaration) the additional administrative burden would be disproportionate. Introducing this requirement for travellers accompanying commercial goods in a goods vehicle over this value threshold is judged to be the best way to balance the need to address security risks while still minimising the administrative burdens for travellers accompanying their goods.

7.3 Travellers importing high value goods must make a full customs declaration, often through the services of an intermediary, therefore making an entry summary declaration would represent only a limited additional administrative burden. For affected exports this instrument ensures that a declaration must be made within the time limits prescribed in retained EU law, to enable a timely risk assessment to be carried out.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

8.1 This instrument is not being made under the European Union (Withdrawal) Act but relates to the withdrawal of the United Kingdom from the European Union because it will ensure that the United Kingdom's customs regime operates as required following the end of the transition period.

9. Consolidation

9.1 No consolidation is planned, but that will be kept under review.

10. Consultation outcome

10.1 No formal consultation regarding this instrument has taken place.

10.2 A virtual reading room on the full draft instrument was conducted on 4 June 2021 with members of the Joint Customs Consultative Committee, who were able to discuss the draft legislation with policy officials. The Joint Customs Consultative Committee is an HMRC-sponsored forum established to exchange views on and discuss proposed changes to customs procedures and documentation relating to the entry and clearance of goods.

11. Guidance

11.1 There is already guidance for traders accompanying commercial goods into or out of the UK at: <https://www.gov.uk/guidance/bringing-commercial-goods-into-great-britain-in-your-baggage> and <https://www.gov.uk/guidance/taking-commercial-goods-out-of-great-britain-in-your-baggage>.

12. Impact

12.1 The impact on business, charities or voluntary bodies is that commercial goods above the value of £1,500 which are brought into Great Britain by a traveller in a goods vehicle will now require a safety and security declaration.

12.2 All travellers carrying such goods must currently submit a full customs declaration and often traders will already be using the services of a customs agent to meet these obligations. Therefore, requiring a safety and security declaration to be completed for these movements is anticipated to bring only a limited additional administrative burden. This instrument will have negligible impact on travellers taking such goods out of Great Britain.

12.3 There is no, or no significant, impact on the public sector.

12.4 An Impact Assessment has not been prepared for this instrument because the provisions are anticipated to have only a limited additional administrative burden.

13. Regulating small business

13.1 The legislation applies to activities that are undertaken by small businesses and individual traders.

13.2 No specific action is proposed to minimise regulatory burdens on small businesses (employing up to 50 people).

13.3 The basis for the final decision on what action to take to assist small businesses is that HMRC will issue clear guidance outlining the changes set out in this instrument and the potential impacts.

14. Monitoring & review

14.1 HMRC will keep the instrument under review to ensure that it meets the policy objectives set out in section 7.

14.2 As this instrument is not made by a Minister of the Crown, no review clause is required.

15. Contact

15.1 Anis Chowdhury at HMRC Telephone: 03000 586 045 or email: anis.chowdhury@hmrc.gov.uk can be contacted with any queries regarding the instrument.

15.2 Matthew Sabourin, Deputy Director for Customs Declarations Policy, at HMRC can confirm that this Explanatory Memorandum meets the required standard.

15.3 The Rt Hon Jesse Norman MP, Financial Secretary to the Treasury, can confirm that this Explanatory Memorandum meets the required standard.