

## EXPLANATORY MEMORANDUM TO

### THE VALUE ADDED TAX (MISCELLANEOUS AMENDMENTS AND REPEALS) (EU EXIT) (AMENDMENT OF COMING INTO FORCE DATE) REGULATIONS 2021

2021 No. 779

#### 1. Introduction

- 1.1 This explanatory memorandum has been prepared by Her Majesty's Revenue and Customs (HMRC) on behalf of Her Majesty's Treasury and is laid before the House of Commons by Command of Her Majesty.
- 1.2 This memorandum contains information for the Select Committee on Statutory Instruments.

#### 2. Purpose of the instrument

- 2.1 This instrument amends the Value Added Tax (Miscellaneous Amendments and Repeals) (EU Exit) Regulations 2021 (S.I. 2021/714) ("the Original Regulations") to correct the coming into force date from 1 July 2021 to 1 August 2021.

#### 3. Matters of special interest to Parliament

##### *Matters of special interest to the Select Committee on Statutory Instruments*

- 3.1 The Original Regulations were made and laid on 28 June 2021. They are subject to the made affirmative procedure and were intended to come into force on 1 August 2021. Unfortunately, due to a drafting error, the instrument that was made contained a coming into force date of 1 July 2021. The department apologises for this error and will consider what can be done to prevent such mistakes happening in future.
- 3.2 There is a linked negative instrument which was also made and laid on 28 June 2021, the Value Added Tax (Amendment) (EU Exit) Regulations 2021 (S.I. 2021/715). This comes into force on 1 August 2021.
- 3.3 The policy intention is that both instruments should come into force on that date. A small number of provisions in the negative instrument refer to paragraph 4(3A) of Schedule 9ZB to the Value Added Tax Act 1994, which is inserted by regulation 5(2)(a) of the Original Regulations.
- 3.4 This instrument corrects the coming into force date of the Original Regulations. It needs to be brought into force at the earliest date and time possible to avoid the provisions taking effect on 1 July 2021. Therefore, the convention of leaving 21 days between a statutory instrument being laid and coming into force will be breached.
- 3.5 The department considers that amending the coming into force date by way of a negative procedure instrument is the clearest way to correct the error promptly. It seeks to avoid the further confusion which could be caused by revoking the Original Regulations and making and laying a replacement instrument, particularly given the interaction with the Value Added Tax (Amendment) (EU Exit) Regulations 2021.

*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)*

- 3.6 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.

**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 This instrument amends the Original Regulations which were made and laid on 28 June 2021. Regulation 1 of those regulations incorrectly shows the coming into force date as 1 July 2021. This instrument amends that date to 1 August 2021.  
6.2 The procedure for free issue of these regulations has been applied and they are being issued free of charge to all known recipients of the Original Regulations.

**7. Policy background**

*What is being done and why?*

- 7.1 The Original Regulations were intended to come into force on 1 August 2021 alongside the Value Added Tax (Amendment) (EU Exit) Regulations 2021. Together those regulations address errors and omissions identified in a review of legislation introduced at the end of the transition period to ensure the correct operation of the Value Added Tax (VAT) system.  
7.2 The coming into force date for the Original Regulations was incorrectly shown as 1 July 2021 and this instrument corrects that.

**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 as the legislation it amends, and other legislation made under the Taxation (Cross-border Trade) Act 2018, will ensure that the UK's VAT regime operates as required after the transition period.

**9. Consolidation**

- 9.1 This instrument makes changes to the date on which the Original Regulations come into force. There are no plans to consolidate those regulations.

**10. Consultation outcome**

- 10.1 No consultation has been carried out. The instrument does not affect the scope of the measure being amended.

## **11. Guidance**

- 11.1 This instrument amends an error identified in the Original Regulations. Guidance related to the subjects covered by those regulations can be found at <https://www.gov.uk/government/publications/accounting-for-vat-on-goods-moving-between-great-britain-and-northern-ireland-from-1-january-2021> and [VAT notices in alphabetical order - GOV.UK \(www.gov.uk\)](#).

## **12. Impact**

- 12.1 There is no, or no significant, impact on business, charities or voluntary bodies.
- 12.2 There is no, or no significant, impact on the public sector.
- 12.3 A Tax Information and Impact Note covering the Original Regulations will be published on the website at [www.gov.uk/government/collections/tax-information-and-impact-notes-tiins](http://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins).

## **13. Regulating small business**

- 13.1 The Original Regulations, which are amended by this instrument, apply to activities that are undertaken by small businesses.
- 13.2 No specific action is proposed to minimise regulatory burdens on small businesses.
- 13.3 The basis for the final decision on what action to take to assist small businesses is that no mitigating action is proposed as the rules are, of necessity, of general application.

## **14. Monitoring & review**

- 14.1 This instrument amends the date on which the Original Regulations come into force. That instrument will be kept under review through communications with key stakeholder groups, including the Joint VAT Consultative Committee (made up of a wide range of tax, legal and business representative bodies), to ensure that it meets the policy objectives set out in section 7 above.
- 14.2 The Original Regulations do not include a statutory review clause because they relate to tax and therefore meet the requirements of the exemption set out in section 28(3)(a) of the Small Business, Enterprise and Employment Act 2015.

## **15. Contact**

- 15.1 Jack Fletcher at HMRC Telephone: 03000 585 852 or email: [jack.fletcher@hmrc.gov.uk](mailto:jack.fletcher@hmrc.gov.uk) can be contacted with any queries regarding the instrument.
- 15.2 Eileen Patching, Deputy Director for VAT Principles and Risk, Indirect Tax Directorate, 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.