

EXPLANATORY MEMORANDUM TO

THE CUSTOMS (TARIFF AND RELIEFS) (AMENDMENT) (NO. 2) REGULATIONS 2022

2022 No. 981

1. Introduction

- 1.1 This explanatory memorandum has been prepared by HM Treasury and is laid before the House of Commons by Command of His Majesty.
- 1.2 This explanatory memorandum contains information for the Select Committee on Statutory Instruments.

2. Purpose of the instrument

- 2.1 This instrument makes amendments to subordinate legislation previously made under the Taxation (Cross-border Trade) Act 2018 (“TCTA”), which provided for the United Kingdom’s Customs, Value Added Tax (VAT) and Excise regimes.
- 2.2 This instrument updates a number of tariff reference documents. These are documents which detail the classifications and duty rates of goods that are included in the UK’s tariff schedule. Specifically, the reference documents updated in this instrument have been given legal effect by the following Regulations, as amended:
 - The Customs (Special Procedures and Outward Processing) (EU Exit) Regulations 2018 (S.I. 2018/1249).
 - The Customs Tariff (Establishment) (EU Exit) Regulations 2020 (S.I. 2020/1430).
 - The Customs (Reliefs from a Liability to Import Duty and Miscellaneous Amendments) (EU Exit) Regulations 2020 (S.I. 2020/1431).
- 2.3 This instrument makes a limited number of technical updates to the tariff classification nomenclature. All products listed in the tariff reference documents are provided with unique classifications, called commodity codes. This instrument makes technical amendments to some of these codes to ensure the UK’s tariff schedule is up to date and that goods imported will be subject to the correct classifications.
- 2.4 This instrument also corrects a small number of errors in “The Tariff of the United Kingdom” reference document. A summary of the corrections is detailed in section 7 below.
- 2.5 This instrument also makes a limited number of technical updates to the “Authorised Use: Eligible Goods and Authorised Uses” reference document (given legal effect by S.I. 2018/1249) and “Authorised Use: Eligible Goods and Rates” reference document (given legal effect by S.I. 2020/1431) to reflect recent changes in the UK’s tariff schedule.

3. Matters of special interest to Parliament

Matters of special interest to the Select Committee on Statutory Instruments

- 3.1 These Regulations are being issued free of charge to anyone who purchased S.I. 2018/1249, S.I. 2020/1430, S.I. 2020/1431, S.I. 2020/1432, S.I. 2021/63, S.I.

2021/380, S.I. 2021/520, S.I. 2021/661, S.I. 2021/870, S.I. 2021/1191, S.I. 2021/1489, S.I. 2022/615 and S.I. 2022/780. These Instruments gave effect to the “Tariff of the United Kingdom” and the “Authorised Use: Eligible Goods and Rates” reference documents, which these Regulations now update to correct errors identified in the previous versions of both reference documents. The Treasury has complied with the requirement to consult with the S.I. Registrar on this matter.

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is the whole of the United Kingdom.
- 4.2 The territorial application of this instrument is the whole of 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 The TCTA confers powers on HM Treasury to make provision in regulations for the purposes of establishing duties applicable to imports entering the UK.
- 6.2 Legislation was made under the TCTA which ensured that the UK has functioning Customs, VAT and Excise regimes. That legislation set out the associated rules of, and exceptions to, the UK’s applied MFN tariffs (also known as the “UK Global Tariff”) that have applied since 1 January 2021. When considering the rate of import duty that ought to apply to goods, HM Treasury has regard to the matters set out in section 8(5) and section 28 of the Act and the recommendation about the rate made to them by the Secretary of State under section 8(6). Section 19(1) of the TCTA gives powers to HM Treasury to make provisions by regulations that relieve imported goods of some, or all, of their import duty in cases where levying the normal duty is not considered appropriate.
- 6.3 This instrument amends parts of that package of legislation, to give legal effect to updated tariff reference documents.

7. Policy background

What is being done and why?

- 7.1 A package of tariff legislation was made under the TCTA and laid before Parliament on 16th December 2020 – and updated on 31st December 2020 - which ensured that the UK had a properly functioning customs regime.
- 7.2 As part of this package, the Customs Tariff (Establishment) (EU Exit) Regulations 2020 brought into effect the customs tariff of the UK by giving effect to “The Tariff of the United Kingdom” reference document. This document sets out the standard rate of import duty (the “UK Global Tariff”) and the general rules of classification that must be applied when determining the correct commodity code to apply to goods. The package of legislation also introduced exceptions to the standard rate of import duty – such as a tariff relief or tariff suspension – which were largely given effect by reference documents contained within that legislation.
- 7.3 An update is made to the “Tariff of the United Kingdom” reference document. The majority of changes introduced by this instrument concern commodity codes. These

codes are the method through which tariff rates are delivered and are subject to ongoing updates. This instrument reflects technical updates that have been made to around 26 commodity codes since previous legislation was laid. In the main, these technical updates do not result in a change of tariff, but a slight adjustment to the structure that delivers those same rates. In the case of gotu kola, a herb used in traditional medicine, these updates have led to the reclassification of a tariff line and a subsequent reduction in the associated goods' tariff rate. The Government is making these changes to avoid any unnecessary complications for traders.

- 7.4 An update is made to the “Authorised Use: Eligible Goods and Authorised Uses” reference document. The changes reflect recent changes in the UK Tariff and a process to ensure the correct classification of goods is delivered following any commodity code updates, as well as correcting any minor errors identified in the document during a comprehensive review of the document. The changes will update the list of goods which qualify for lower tariffs when imported for specific purposes. The goods impacted range from specific chemical products to certain wood products.
- 7.5 An update is made to the “Authorised Use: Eligible Goods and Rates” reference document. Again, the changes reflect recent changes in the UK Tariff as well as correct minor errors identified in the document during a comprehensive review of the document. The changes will clarify the lower tariffs charged when goods are imported for specific purposes.
- 7.6 This instrument updates the following existing legislation to ensure that these aforementioned changes are reflected in the relevant legislation:
- “The Tariff of the United Kingdom” is updated to version 1.11, dated 20th September 2022 in the Customs Tariff (Establishment) (EU Exit) Regulations 2020.
 - “Authorised Use: Eligible goods and rates” is updated to version 1.6, dated 20th September 2022 in the Customs (Reliefs from a Liability to Import Duty and Miscellaneous Amendments) (EU Exit) Regulations 2020.
 - “Authorised Use: Eligible Goods and authorised uses” is updated to version 2.6, dated 20th September 2022 in the Customs (Special Procedures and Outward Processing) (EU Exit) Regulations 2018.

8. European Union Withdrawal and Future Relationship

- 8.1 This instrument is not being made under the European Union (Withdrawal) Act 2018 and does not directly relate to the withdrawal of the United Kingdom from the European Union, but does amend legislation that was itself related because withdrawal required the UK to replace the EU’s customs regime with a UK-specific customs regime.

9. Consolidation

- 9.1 These regulations do not provide for any consolidation of existing legislation, and none is necessary in the circumstances.

10. Consultation outcome

- 10.1 No consultation in relation to this instrument has been undertaken. This instrument makes classification updates or corrections to minor errors identified in legislation to align with what is occurring operationally, and as policy intended. These changes are

consistent with the principles underlying the UK Global Tariff which were previously consulted on.

11. Guidance

- 11.1 Since the end of the Implementation Period, the UK Global Tariff has applied to all goods imported into the UK unless an exception applies, such as a tariff relief or tariff suspension, the goods are imported from countries that have tariff-free access granted unilaterally, or as part of a preferential trading arrangement. Further guidance is available at <https://www.gov.uk/guidance/duty-suspensions-and-tariff-quotas>.

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 An Impact Assessment has not been prepared for this instrument as it largely maintains the position of existing legislation, which were covered by an overarching Tax Information and Impact Note published last year:
<https://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins#uk-transition>.

13. Regulating small business

- 13.1 The legislation applies to activities that are undertaken by small businesses.
- 13.2 No specific action is proposed to minimise regulatory burdens on small businesses as the changes do not result in a change of tariff policy, but a slight adjustment to the structure that delivers the same tariff rates that are currently in place and one change in rate.

14. Monitoring & review

- 14.1 The approach to monitoring of this legislation is in line with the Government's general approach to tariff legislation, which are kept under review to ensure that it meets the policy objectives set out above in section 7 of this explanatory memorandum and ensures burdens on business are carefully monitored.
- 14.2 A statutory review clause is not included in these regulations because this instrument relates to a tax or duty, and therefore meets 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 Lizzie Durham at HM Treasury, email: lizzie.durham@hmtreasury.gov.uk, or Magdalena Bednarczyk, email: magdalena.bednarczyk@hmrc.gov.uk, can be contacted with any queries regarding the instrument.
- 15.2 Catherine Stewart, Deputy Director for Trade Policy, at HM Treasury can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Richard Fuller MP, Economic Secretary to the Treasury, can confirm that this Explanatory Memorandum meets the required standard.