

**EXPLANATORY MEMORANDUM TO**  
**THE CUSTOMS (MISCELLANEOUS AMENDMENTS) (NO. 2) REGULATIONS**  
**2024**

**2024 No. 672**

**1. Introduction**

1.1 This explanatory memorandum has been prepared by His Majesty's Revenue and Customs (HMRC) on behalf of His Majesty's Treasury and is laid before the House of Commons by Command of His Majesty.

1.2 This memorandum contains information for the Select Committee on Statutory Instruments.

**2. Declaration**

2.1 Nigel Huddleston MP, Financial Secretary to the Treasury, confirms that this Explanatory Memorandum meets the required standard.

2.2 Sally Beggs, Deputy Director for Guidance, Stakeholder, Transit & Facilitations, at HMRC confirms that this Explanatory Memorandum meets the required standard.

**3. Contact**

3.1 Iram Akhtar/Angela Miles 03000 577021 or 03000 586966 or HMRC email: [cpsbriefingandco-ordinationteam@hmrc.gov.uk](mailto:cpsbriefingandco-ordinationteam@hmrc.gov.uk) can be contacted with any queries regarding the instrument.

**Part One: Explanation, and context, of the Instrument**

**4. Overview of the Instrument**

*What does the legislation do?*

4.1 The instrument introduces a number of changes to customs rules that apply for imported goods. These include changes to the rules concerning eligibility for relief, remission or repayment of customs duty. Other changes apply to goods being transported under the customs Transit procedure. This is a procedure which ensures customs duty is not chargeable on certain goods transported on an international journey until the goods reach their country of final destination. The changes in this instrument will ensure that HMRC can examine goods arriving under the customs Transit procedure, and concern the form and manner in which the information about these goods must be provided to HMRC. The instrument also makes various other corrections and updates to customs legislation concerning the import and export of goods.

*Where does the legislation extend to, and apply?*

4.2 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is United Kingdom.

4.3 The territorial application of this instrument (that is, where the instrument produces a practical effect) is United Kingdom.

## 5. Policy Context

### *What is being done and why?*

- 5.1 The instrument makes a change to the rules about when HMRC can remit or repay duty amounts in Great Britain (GB) on the basis that a lower rate of duty was available under tariff provisions concerning dumping, foreign subsidies and increases in imports. The change will require HMRC to refuse an application for remission or repayment where that lower rate of duty can no longer be applied at the time that the application is made. This change addresses a previous omission in legislation.
- 5.2 This instrument also makes changes to rules for goods arriving in GB under the customs Transit procedure that implement the internationally agreed Common Transit Convention (CTC)<sup>1</sup>. The effect of the CTC is that goods can move across multiple customs territories without customs duty being chargeable, until goods arrive at their destination territory. The changes will ensure that, where required by HMRC, goods arriving in GB under the customs Transit procedure, must be presented for examination. These changes also permit HMRC to specify in a public notice the form and manner in which certain information about these goods must be provided. These changes will allow HMRC to verify that the goods arriving in GB are as declared at the start of their international journey, and ensure that information required for this purpose is provided to HMRC in the appropriate form and manner.
- 5.3 The instrument also makes a number of minor corrections and updates to terminology and statutory cross-references.
- 5.4 In making these changes, regard has been had to the international arrangements to which His Majesty's Government is a party and, in particular, to the CTC.

### *What was the previous policy, how is this different?*

- 5.5 Under current rules, an application for remission or repayment of customs duty in GB must be refused by HMRC in certain cases where a lower rate of duty was previously available under certain tariff provisions, but can no longer be applied at the time that the application is made. These rules currently apply where lower rates of duty are available under preferential arrangements for goods imported from certain countries, and where the normal rate of duty chargeable has been suspended for a specified period by the UK government.
- 5.6 However, these same rules (concerning refusal of a remission or repayment application) did not apply in relation to lower rates of duty available under customs legislation concerning dumping, foreign subsidies and increases in imports. This change will extend the current rules concerning the refusal of an application for remission or repayment, so that they apply consistently for comparable tariff provisions, which provide for lower rates of duty to be applied.
- 5.7 Where goods subject to internationally agreed CTC Transit arrangements are intended to arrive at specified ports of entry in GB, certain information must be provided to HMRC before the goods arrive. This instrument ensures that in addition to information being provided, the goods must also be presented for examination on arrival in GB, where required by HMRC. It also allows HMRC flexibility to specify

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<sup>1</sup> Common Transit Convention (CTC):  
[https://assets.publishing.service.gov.uk/media/5c07bad4e5274a6a79afc46a/MS\\_14.2018\\_Conv\\_Common\\_Transit.pdf](https://assets.publishing.service.gov.uk/media/5c07bad4e5274a6a79afc46a/MS_14.2018_Conv_Common_Transit.pdf)

the form and manner in which information about these goods must be provided in a public notice.

## **6. Legislative and Legal Context**

### *How has the law changed?*

- 6.1 The main provisions in relation to customs duty are in the Taxation (Cross-border Trade) Act 2018 (TCTA), and the regulations made under that Act. These regulations include the Customs (Import Duty) (EU Exit) Regulations 2018 (S.I. 2018/1248) (the import duty regulations); the Customs (Special Procedures and Outward Processing) (EU Exit) Regulations 2018 (S.I. 2018/1249) (the special procedures regulations); the Customs Transit Procedures (EU Exit) Regulations (S.I. 2018/1258) (the transit regulations); the Customs (Export) (EU Exit) Regulations 2019 (S.I. 2019/108) (the export regulations); the Customs (Relief from a Liability to Import Duty and Miscellaneous Amendments) (EU Exit) Regulations 2020 (S.I. 2020/1431) (the reliefs regulations) and the Customs (Northern Ireland) (EU Exit) Regulations 2020 (S.I. 2020/1605) (the Northern Ireland regulations) – which are all amended by this instrument.
- 6.2 The import duty regulations set out provisions concerning remission and repayment of duty by HMRC, including cases in which an application for remission or repayment of duty can be made because a lower rate of duty is available. These regulations require that an application for remission or repayment must be rejected by HMRC in certain cases where the application concerns a lower rate of duty that was previously available under any of sections 9-12 of TCTA (concerning preferential duty rates, quotas and tariff suspension), but which can no longer be applied at the time the application is made. These rules concerning rejection of an application are being updated so they will also apply to remission or repayment applications in respect of lower rates of duty available under section 13 of TCTA (concerning duty chargeable in relation to dumping, foreign subsidies and increases in imports).
- 6.3 The special procedures regulations are being updated to replace a reference to ‘retained EU law’ with a reference to ‘assimilated law’ and to omit a reference to legislation that has now been repealed. This change is consistent with section 5 of the Retained EU Law (Revocation and Reform) Act 2023, which provides for UK legislation that was ‘retained EU law’ to be known as ‘assimilated law’ at all times after the end of 2023.
- 6.4 The transit regulations set out the rules to be followed for goods arriving in GB under various international Transit arrangements, including the CTC. This instrument updates the transit regulations to permit HMRC to notify carriers of goods that these new processes will apply, meaning goods may have to be presented to HMRC for examination. The legislation also updates provisions concerning the public notice published by HMRC that sets out the form and manner in which a movement reference number (MRN) in relation to goods arriving in GB should be provided. This update will enable HMRC to provide in a notice that the MRN must be supplied in the form of a reference number from a specified electronic system.
- 6.5 The export regulations are being updated to remove redundant provisions which prevented the use of certain types of export declarations in certain cases. The reliefs regulations are also being updated to correct a minor drafting error made by the Customs (Aerodromes and Miscellaneous Amendments) Regulations 2023 (S.I. 2023/1202).

- 6.6 The Northern Ireland regulations are amended by this instrument to update statutory references in respect of relief and repayment available to UK traders for duty chargeable in Northern Ireland, and to provide for the publication of a new version (1.1) of the ‘repayment and remission reference document’. This document sets out eligibility criteria and other rules that apply where repayment or remission of duty chargeable in Northern Ireland can be made on production of evidence to HMRC. The new version of this document will correct typographical and other errors in the current version. The sole impact of these amendments is to confirm the availability and application of the increased de minimis limits.

*Why was this approach taken to change the law?*

- 6.7 All of these changes amend rules set out in regulations in relation to customs duty made under powers in TCTA. Making these changes in primary legislation (such as the Finance Bill) would not be proportionate given that many of these changes are minor or technical, or are intended to correct and update other regulations. Similarly, none of the changes made by this instrument require consolidation or restatement of any of the instruments that are being amended. A single amending instrument to modify the various regulations is therefore the most appropriate approach to changing the law.

## **7. Consultation**

*Summary of consultation outcome and methodology*

- 7.1 HMRC has informally consulted businesses and representative groups about changes to the customs Transit rules. Elsewhere, the changes are either corrections, removal of redundant provisions or other updates for which consultation is not necessary.
- 7.2 A virtual reading room on the full draft instrument was conducted on 21 May 2024 with members of the Joint Customs Consultative Committee (JCCC), who were able to discuss the draft legislation with policy officials. The JCCC is a HMRC sponsored forum established to exchange views on, and discuss proposed changes to, customs rules.

## **8. Applicable Guidance**

- 8.1 Guidance has been or will be published on most of the matters covered in this instrument and will, where necessary, be updated before the changes take effect. Guidance can be found on GOV.UK<sup>2</sup>.

## **Part Two: Impact and the Better Regulation Framework**

## **9. Impact Assessment**

- 9.1 A Tax Information and Impact Note covering this instrument will be published on GOV.UK<sup>3</sup>.

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<sup>2</sup> Guidance: [www.gov.uk/government/publications/community-common-transit-and-tir-newsletters](http://www.gov.uk/government/publications/community-common-transit-and-tir-newsletters) and <https://www.gov.uk/guidance/how-to-apply-for-a-repayment-of-import-duty-and-vat-if-youve-overpaid-c285>

<sup>3</sup> Tax Information and Impact Note: <https://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins>

### *Impact on businesses, charities and voluntary bodies*

- 9.2 The impact on business, charities or voluntary bodies is not expected to be significant. The changes made by this instrument are mainly minor updates to the current rules. The changes to the transit regulations concerning examination of goods will affect non-compliant businesses only. These changes are expected to only affect the very small number of businesses who fail to present their goods for examination and the anticipated impact is considered to be proportionate and justifiable as part of the customs control necessary within customs Transit arrangements.
- 9.3 The legislation does impact small or micro businesses.
- 9.4 No measures are proposed to minimise the impact of the requirements on small or micro businesses (employing up to 50 people). The rules in this instrument are general customs rules that apply to all businesses importing goods.
- 9.5 There is no, or no significant, impact on the public sector.

## **10. Monitoring and review**

### *What is the approach to monitoring and reviewing this legislation?*

- 10.1 The approach to monitoring this legislation is to keep customs rules under review through ongoing stakeholder engagement, to ensure that this instrument meets the policy objectives set out in section 5 of this Explanatory Memorandum.

The instrument does not include a statutory review clause and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015, Nigel Huddleston MP, has made the following statement:

“a statutory review clause is not included in the instrument because the 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”.

## **Part Three: Statements and Matters of Particular Interest to Parliament**

## **11. Matters of special interest to Parliament**

- 11.1 The free issue procedure has been applied to this instrument so that it may be issued free of charge to anyone who purchased the Customs (Aerodromes and Miscellaneous Amendments) Regulations 2023 (S.I. 2023/1202). Regulation 6 of this instrument corrects defects identified in that instrument by the SCSi<sup>4</sup>. HMRC has complied with the requirement in paragraph 4.7.6 of SIP to consult with the S.I. Registrar on this matter.
- 11.2 The instrument refers to public notices published by HMRC under the transit regulations. These notices rely on section 32(8) of TCTA, which provides that any power to make regulations under Part 1 of TCTA includes a power to make provision by reference to things specified in a notice published in accordance with the regulations.
- 11.3 The instrument also provides for an updated version of a reference document: the repayment and remission reference document (version 1.1).

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<sup>4</sup> See the SCSi's Fifth Report of Session 2023–24 - Select Committee on Statutory Instruments: <https://publications.parliament.uk/pa/cm5804/cmselect/cmstatin/35-v/report.html>

11.4 The public notices and reference document referred to in this instrument can be found at Customs, VAT and Excise UK transition legislation from January 2021 – GOV.UK<sup>5</sup>

## **12. European Convention on Human Rights**

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

## **13. The Relevant European Union Acts**

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 (“relevant European Union Acts”). It does however relate to the withdrawal of the United Kingdom from the European Union because it includes changes that implement the Government’s approach to the European Union (EU) legislation that continued to have effect as domestic law after the UK left the EU (formerly known as ‘retained EU law’).

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<sup>5</sup> Customs, VAT and Excise UK transition legislation: <https://www.gov.uk/government/collections/customs-vat-and-excise-uk-transition-legislation-from-1-january-2021>