EXPLANATORY MEMORANDUM TO

THE CARBON BORDER ADJUSTMENT MECHANISM (CALCULATION OF CBAM RATE AND DETERMINATION OF CARBON PRICE RELIEF) REGULATIONS 2026

2026 No. 809

1. Introduction

1.1 This Explanatory Memorandum has been prepared by His Majesty's Revenue and Customs (HMRC), on behalf of HM Treasury (HMT), 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 Dan Tomlinson MP, Exchequer Secretary to the Treasury, confirms that this Explanatory Memorandum meets the required standard.

2.2 Judith Kelly, Deputy Director for Indirect Taxes, at HMRC confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Peter Connell at the Carbon Border Adjustment Mechanism (CBAM) team in HMRC can be contacted by email at the following address with any queries regarding the instrument: cbampolicyteam@hmrc.gov.uk.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 Finance Act 2026 (FA 2026) includes provisions that will introduce CBAM from 1 January 2027. CBAM is a new tax which will ensure that highly traded, carbon intensive goods which are imported into the United Kingdom (UK) face a comparable carbon price to that paid by manufacturers producing the same goods in the UK. It will apply to specific goods across the following five industrial sectors; aluminium, cement, fertiliser, hydrogen, iron and steel.

4.2 These regulations make provision relating to the calculation of CBAM rate and how to determine carbon price relief. They provide details about how the CBAM rate is to be calculated by HMT for imported goods within scope of CBAM, and for how any relief is to be given where a carbon price has already been paid in the country of production. In particular, the regulations set out the requirements for determining the sectoral domestic carbon price, and the conditions and process for calculating and claiming carbon price relief.

4.3 The regulations also make provision about the verification of information used to support a claim for carbon price relief, including requirements relating to accreditation of verifiers and the evidence that importers must hold where relief is claimed. These provisions are intended to support the accurate calculation of CBAM liabilities and to

ensure that relief is available only where a CBAM good has been subject to a qualifying carbon price.

Where does the legislation extend to, and apply?

4.4 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is the UK.

4.5 The territorial application of this instrument (that is, where the instrument produces a practical effect) is the UK.

5. Policy Context

What is being done and why?

5.1 CBAM aims to ensure UK decarbonisation policy delivers genuine global emissions reductions by preventing carbon leakage (the movement of production and associated emissions from one country to another due to different levels of decarbonisation effort through carbon pricing) of the sectors in scope. By taxing embodied emissions, it reduces the risk of emissions being displaced overseas and supports UK industry confidence to invest in achieving net zero emissions.

5.2 Part 5 of FA 2026 creates the charge to CBAM and the enabling powers, while these regulations supplement that and are necessary for the operation of the tax, providing the detailed operational provisions necessary to administer the tax and to support compliance across CBAM.

5.3 In particular, these regulations:

- clarify two of the steps involved in the calculation of the sectoral domestic carbon price applicable in respect of a CBAM good, which is one element of the calculation of CBAM rate set out in section 149 FA 2026,
- set out the conditions for claiming carbon price relief and define what qualifying carbon pricing schemes are, including the requirements to be satisfied to be regarded as such,
- set out the requirements relating to verification of certain data used in the calculation of the effective carbon price and the accreditation of verifiers, and impose an obligation on importers to obtain a carbon pricing verification form completed by the verifier, where they intend to claim carbon price relief,
- make provision about the calculation of the effective carbon price for a CBAM good and the calculation of the carbon price relief due,
- address the conversion of carbon price relief into sterling,
- make provision about record keeping requirements in relation to the calculation of carbon price relief.

5.4 The regulations delegate technical and administrative provision in some areas to notices. This is appropriate to ensure that the operation of CBAM can keep pace with developments in the sectors in scope, global approaches to carbon emissions, and systems used by HMRC to administer the tax.

What was the previous policy, how is this different?

5.5 Prior to the introduction of CBAM, embodied carbon emissions in goods which are imported into the UK were not subject to tax. The government is introducing CBAM to ensure that highly traded, carbon intensive goods which are imported into the UK face a comparable carbon price to that paid were the same goods produced by manufacturers in the UK. This instrument establishes the statutory framework needed to implement the new tax regime.

6. Legislative and Legal Context

How has the law changed?

6.1 At Budget 2025, following several rounds of consultation on the detailed policy design, the government confirmed that it would legislate to introduce CBAM. Part 5 of FA 2026 provides the primary legislative framework for CBAM and enables the introduction of the tax from 1 January 2027. These regulations are made under HMT powers in sections 149(6), 150(2) and 157(2) of FA 2026, and HMRC powers in section 154(4) and 157(2) of FA 2026, and paragraphs 12(1) and 14(1) of Schedule 17 to FA 2026, and this is the first use of those powers. The regulations provide the detailed framework necessary for the operation of CBAM, including conditions for claiming carbon price relief, how this should be calculated and associated record keeping obligations.

6.2 These regulations should be read in conjunction with the Carbon Border Adjustment Mechanism (Administrative Provisions) Regulations 2026 and the System Boundaries Document V1.00. Those regulations provide further information on more technical elements of CBAM which may be relevant to liable persons (for example requirements for registration, returns, reimbursement arrangements and associated record keeping obligations). The Systems Boundaries Document is a reference document that defines which direct emissions and production processes are relevant for CBAM goods. Further secondary legislation, to be laid later this year, will set out the calculation of embodied emissions, amongst other matters. Together these regulations and the notices made under them give effect to the CBAM framework established by FA 2026.

6.3 These regulations do not create enforcement mechanisms in relation to the obligations it imposes on importers claiming carbon price relief. The reason for this is that importers will not be entitled to relief where the conditions in regulation 5 are not met. Penalties for failing to comply with CBAM obligations, including in relation to these regulations, are provided for in Part 11 of Schedule 17 to FA 2026.

Why was this approach taken to change the law?

6.4 CBAM is a new tax introduced by Part 5 of FA 2026 and these regulations are made under the powers identified at paragraph 6.1 above as a proportionate and appropriate way of proceeding.

7. Consultation

Summary of consultation outcome and methodology

7.1 The government consulted on the policy design of CBAM in Spring 2024[1] and received 340 written responses from businesses, organisations, and individuals across a wide range of sectors. The government's response to the consultation was published on the 30 October 2024[2].

[1] Consultation on the policy design of CBAM: https://assets.publishing.service.gov.uk/media/65fc11fef1d3a0001132ac6f/Introduction_of_a_UK_carbon_border_adjustment_mechanism_from_January_2027.docx.pdf

[2] Response to Consultation: https://assets.publishing.service.gov.uk/media/679cb194a9ee53687470a2fa/Introduction_of_a_UK_Carbon_Border_Adjustment_Mechanism_from_January_2027_-_Government_response_to_the_policy_design_consultation.pdf

7.2 Responses to this consultation informed the development of the policy which was reflected in the primary legislation that was published for technical consultation between March and July 2025 ahead of its inclusion in FA 2026. Alongside this consultation, the government published a CBAM policy update outlining policy decisions taken since the publication of the October 2024 consultation response.

7.3 A technical consultation on a draft of this instrument was also conducted between 10 February and 24 March 2026. This sought feedback from stakeholders on the drafting of this legislation to ensure that it delivers the policy correctly and effectively for the tax to operate as intended and provide for administrative matters. Draft notices which will have force of law were also published alongside this draft instrument to support understanding of how CBAM legislation fits together as a whole. The overall consensus from the consultation responses was that the instrument met the policy intent. Responses mainly repeated policy design concerns that had been raised in the earlier consultations and were outside the scope of the consultation. As such there have been minimal changes to the text of the instrument as consulted on. These include:

- Adding a definition of "tonne" into regulation 2.
- Expanding regulation 6 to make it more explicit that a scheme can still be considered a qualifying carbon pricing scheme where all of the criteria in regulation 6 are met, even if the scheme as a whole does not impose a cost in all instances and where it allows obligations to be fulfilled by other means.
- Amending regulation 13 to clarify the elements of the formula in paragraph (1) and the intended use of the notice power in paragraph (2).

7.4 All consultations were open to the public and it was highlighted that they were of particular interest to: UK importers of goods from the aluminium, cement, fertiliser, hydrogen, and iron and steel sectors; downstream producers that use these goods in their supply chains; respondents to previous consultations; and international partners with an interest in CBAM policy. HMRC and HMT utilised established networks to bring the consultations to the attention of stakeholders who they believed would have an interest, to maximise visibility and responses from impacted sectors.

7.5 During the development of the secondary legislation, HMRC continued to engage with stakeholders through ongoing discussions and the CBAM Joint Industry Working Group. CBAM is a reserved matter under the UK's devolution settlements and formal consent from devolved governments is not required.

8. Applicable Guidance

8.1 Relevant guidance can be found on GOV.UK[3].

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A Tax Information and Impact Note covering this instrument was published on 26 November 2025[4] alongside the Budget and remains an accurate summary of the impacts that apply to this instrument.

[3] CBAM Guidance: https://www.gov.uk/government/collections/carbon-border-adjustment-mechanism
[4] Tax Information and Impact Note: https://www.gov.uk/government/publications/introduction-of-carbon-border-adjustment-mechanism

Impact on businesses, charities and voluntary bodies

9.2 The impact on businesses, charities and voluntary bodies is as follows. The overall administrative impact of CBAM, including the provisions contained within the instrument, will have a significant impact on an estimated 10,000 businesses importing CBAM goods into the UK. The high-level design and implementation of the tax has been subject to extensive consultation and continued engagement with stakeholders to understand and reduce administrative burdens where possible.

9.3 There will be one-off costs to businesses to familiarise themselves with the requirements, train staff and set up new systems. There will also be a one-off cost associated with the time taken to register for CBAM where required. In addition, there will be ongoing costs to businesses to collate and report to HMRC information about the CBAM goods they have imported in order to complete their CBAM tax returns, including claiming any carbon price relief they are entitled to.

9.4 Overseas businesses exporting to the UK may face higher comparative administrative costs in the event that they have their emissions and information relevant for carbon price relief verified. They may then pass on these administrative costs to importers of CBAM goods to the UK. However, where verified information is provided, this can enable importers to reduce their CBAM liability. These administrative costs are likely to be lower for imports from countries which already have a carbon pricing scheme as they will already have some infrastructure to measure emissions, albeit at an installation rather than product level. It is estimated that 80% of CBAM goods imported into the UK are exported from countries which already have a carbon pricing scheme. Administrative costs have also been partially mitigated by allowing businesses to use default emissions values for reporting on the emissions embodied within their CBAM goods.

9.5 Small and medium sized enterprises (SMEs) may also face proportionately higher administrative costs than larger importers. However, to mitigate against disproportionate administrative burdens relative to the carbon leakage risk CBAM seeks to address, only those businesses triggering registration in accordance with paragraph 2 of Schedule 17 to the FA 2026 (through importing CBAM goods with a value of £50,000 or more over a given period of time) will be required to register, submit returns, and pay any tax due. HMRC estimate that over 80% of otherwise affected importers will be excluded from CBAM altogether. Of those removed by this threshold, over 70% are SMEs.

9.6 This instrument is not expected to have a significant impact on charities, voluntary bodies, micro businesses or the public sector, unless they are liable for CBAM, in which event they will be subject to the impacts as set out above.

9.7 Throughout the process of designing CBAM, the government has sought to minimise impacts on those liable for CBAM as much as possible by aligning the requirements with existing tax processes that businesses should be familiar with, limiting obligations to what is necessary to achieve the policy objective, and will be publishing clear guidance to support compliance. A complete exemption for small and micro businesses has not been adopted, as it would undermine CBAM's effective and proportionate operation. Differing requirements based on business size would create supply chain inconsistencies, increase evasion and non-compliance risks, and complicate enforcement—reducing effectiveness and potentially distorting the market. This approach balances the need for a consistent and enforceable duty regime with the Better Regulation Framework principle that regulatory burdens should be minimised and justified by the policy objective.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 Consideration will be given to evaluating the policy's impact on mitigation of carbon leakage risk by combining external research and HMRC administrative data. This will enable the government to keep the effectiveness of CBAM under review after implementation.

10.2 The instrument does not include a statutory review clause. As per section 28(3)(a) of the Small Business, Enterprise and Employment Act 2015, Dan Tomlinson MP has made the following statement: "a review clause is not required as the regulations make provision related to a duty."

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 This instrument makes provision for certain matters to be specified in a notice published by HMT or HMRC. FA 2026 includes the power at section 157(2) for regulations made under Part 5 of that Act to make provision by reference to things specified in a notice that is published by the Treasury or the Commissioners in accordance with those regulations and not withdrawn by a further notice. The notices made under this instrument will be published on GOV.UK[5] no later than the date on which the relevant provisions of the instrument come into force.

12. European Convention on Human Rights

12.1 The Exchequer Secretary to the Treasury has made the following statement regarding Human Rights: "In my view the provisions of the Carbon Border Adjustment Mechanism (Calculation of CBAM Rate and Determination of Carbon Price Relief) Regulations 2026 are compatible with the Convention rights".

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").

[5] CBAM collections page: https://www.gov.uk/government/collections/carbon-border-adjustment-mechanism