EXPLANATORY MEMORANDUM TO

THE CUSTOMS (EXPORT DECLARTIONS) (AMENDMENT) REGULATIONS

2022 No. 588

1. Introduction

1.1 This explanatory memorandum has been prepared by HM Revenue and Customs (HMRC) 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 extends the ability for certain goods exported from the United Kingdom to support victims of the humanitarian crisis in Ukraine to be declared for export orally or by an individual carrying out certain specified conduct (a 'by conduct declaration') for a further 12 months (until 19 June 2023).

3. Matters of special interest to Parliament

Matters of special interest to the Select Committee on Statutory Instruments

3.1 This instrument amends the Customs (Export) (EU Exit) Regulations 2019 (SI 2019/108) (export regulations). The export regulations were previously amended by the Customs (Import and Export Declarations) (Amendment) Regulations 2022 (SI 2022/271) to allow for oral or by conduct export declarations to be made for certain goods being exported to support victims of the humanitarian crisis in Ukraine until the 19 June 2022 (the existing easement).

3.2 The instrument will come into force on the 18 June 2022 so that the existing easement can continue for a further 12 months without interruption.

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 movements into or out of Great Britain and Northern Ireland (where their application is in accordance with the Protocol on Ireland/Northern Ireland).

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 main provisions in relation to declarations and other customs formalities that apply where goods are exported from the United Kingdom as a result of their removal from Great Britain can be found in the Taxation (Cross-border Trade) Act 2018 (TCTA) and regulations made under that Act. In particular, the export regulations

(which this instrument amends) make provision in certain cases for declarations required in relation to the export of goods (declarations for the common export procedure) to be given orally to an officer of HMRC or to be made by an individual carrying out certain specified conduct. These export regulations also set out other rules that apply where such an oral or by conduct declaration is made.

6.2 The cases in which the export regulations provide for a declaration for the common export procedure to be made orally or by conduct include those specified in a document entitled 'List of Goods Applicable to Oral and By Conduct Declarations'.

6.3 The export regulations were previously amended by the Customs (Import and Export Declarations) (Amendment) Regulations 2022 (SI 2022/271) to provide for the existing easement which is time limited until the 19 June 2022.

7. Policy background

What is being done and why?

7.1 This instrument will extend the existing easement for a further 12 months.

7.2 The use of oral and by conduct declarations for goods intended to support those affected by the humanitarian crisis in Ukraine was originally time limited as the future development of the crisis in Ukraine and the ongoing need for such an easement was unclear. It is now apparent that humanitarian aid will be required in the region for the foreseeable future, so the easement is being extended for a further 12 months.

7.3 This simplification is intended to apply to most goods intended to support those affected by the humanitarian crisis. Detailed rules concerning eligibility are set out in the 'List of Goods Applicable to Oral and By Conduct declarations', updated by SI 2022/271 and found at this link: https://www.gov.uk/government/publications/list-of-goods-applicable-to-oral-and-by-conduct-declarations

7.4 When an oral or by conduct declaration for the common export procedure is made, this will continue to remove any requirement to complete and submit an electronic declaration prior to the export of the goods. It will also continue to remove other customs formalities in relation to the goods, such as the requirement to notify HMRC of the export.

8. European Union Withdrawal and Future Relationship

8.1 This instrument does not relate to withdrawal from the European Union.

9. Consolidation

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

10. Consultation outcome

10.1 No consultation has been carried out as the intention of the instrument is to extend an existing customs easement.

11. Guidance

11.1 All GOV.UK guidance relevant to this policy will be updated before this instrument comes into force.

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 full Impact Assessment has not been prepared for this instrument at the time of laying however a Tax Information and Impacting Note covering this instrument will be published on the gov.uk website in due course.

13. Regulating small business

13.1 The legislation applies to activities that are undertaken by small businesses, individuals, and organisations.

13.2 This legislation is not targeted at small businesses (employing up to 50 people) specifically, but its impact will reduce some of regulatory burdens by introducing oral and by conduct declarations for humanitarian aid to support the people affected by events in Ukraine.

13.3 The basis for the final decision on what action to take to assist small businesses and organisations is that the measure introduced by this instrument will provide simplified means of making the declaration that is required where certain goods are exported, and will also remove other customs formalities in relation to these goods.

14. Monitoring & review

14.1 HMRC will keep the use of the easement under review to ensure that it meets the policy objectives set out in section 9. In the event of misuse, evidence of non-compliance, or if there is no longer a need for the easement HMRC may introduce further legislation to remove the easement before 19 June 2023.

14.2 The instrument does not include a statutory review clause by virtue of the exemption set out in section 28(3)(a) of the Small Business, Enterprise and Employment Act 2015. That section sets out that there is an exemption where provisions are in connection with a tax or duty.

15. Contact

15.1 Alice Habisreutinger at HMRC Telephone: 07814937148 or email: alice.habisreutinger@hmrc.gov.uk can be contacted with any queries regarding the instrument.

15.2 Phil Bower and Sarah Khan, Deputy Directors for Customs Border Processes and Declarations, at the HMRC can confirm that this Explanatory Memorandum meets the required standard.

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