EXPLANATORY MEMORANDUM TO

THE CUSTOMS (CONTRAVENTION OF A RELEVANT RULE) (MAXIMUM PENALTY) (AMENDMENT) ORDER 2026

2026 No. [XXXX]

1. Introduction

1.1 This Explanatory Memorandum has been prepared by HM Revenue and Customs ("HMRC") on behalf of HM Treasury and is laid before the House of Commons by Command of His Majesty.

2. Declaration

2.1 Rt Hon James Murray MP, Financial Secretary to the Treasury and Paymaster General confirms that this Explanatory Memorandum meets the required standard.

2.2 Phil Bower, Deputy Director for Customs, Controls and Declarations, at HMRC confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 George Phillips-Miller at the HMRC can be contacted by email at the following address with any queries regarding the instrument: cpsbriefingandco-ordinationteam@hmrc.gov.uk.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 The instrument amends section 26(5) of the Finance Act 2003 (c. 14) ("the 2003 Act") to increase the maximum civil penalty amount that customs regulations can provide is applicable where a prescribed customs rule is breached. The maximum amount in section 26(5) is increased from £2,500 to £10,000.

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 the United Kingdom.

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

5. Policy Context

What is being done and why?

5.1 Financial civil penalties may be imposed by HMRC where a person fails to comply with obligations in relation to customs. These penalties promote compliance with customs rules and enable HMRC to respond appropriately to those who contravene these rules. Contraventions of rules in relation to customs duty that may lead to the imposition of a civil penalty by HMRC are set out in the Customs (Contravention of a Relevant Rule) Regulations 2003 (S.I. 2003/3113) ("the Penalty Regulations"). These include (among others) the removal of imported goods from HMRC control without permission, a failure to present or declare imported goods in accordance with the rules

or a failure on the part of a person approved to operate port facilities to ensure appropriate infrastructure is available so that customs formalities can be carried out. Civil penalties are intended to be an effective and proportionate deterrent to discourage non-compliance with customs rules.

5.2 In June 2026, as part of a range of measures concerning the simplification, modernisation and fairness of the tax system[1], the Government announced its intention to strengthen the customs civil penalty framework, including by reviewing the maximum potential amount for customs civil penalties to further deter non-compliance, particularly for breaches of approval conditions relating to essential customs infrastructure at border locations.

5.3 Taking into account inflation and an ever-evolving UK customs regime with the growth of ports and airports, the government considers that a maximum penalty amount applicable under the Penalty Regulations of £10,000 will introduce more proportionate sanctions to support compliance with customs obligations and controls.

What was the previous policy, how is this different?

5.4 Under previous rules, which have applied since 2003, the maximum civil penalty amount that the Penalty Regulations could provide for in response to the contravention of a relevant customs rule was £2,500. This maximum is increased to £10,000.

6. Legislative and Legal Context

How has the law changed?

6.1 Section 26 of the 2003 Act contains regulation making powers to specify certain customs rules as 'relevant rules'; the contravention of these relevant rules gives rise to financial civil penalties. The powers in section 26 are for prescribing the rules, the person(s) who may be liable to a penalty for contravention of each rule and the amount of the penalty applicable to the contravention of each rule. These matters are specified in the Penalty Regulations. However, the amount of the penalty that may be prescribed in respect of the contravention of any particular rule is capped by the maximum amount specified in section 26(5).

6.2 Section 26(5) of the 2003 Act previously provided that the maximum penalty amount that may be specified in regulations must not exceed £2,500. Section 26(5) is updated to substitute a new maximum amount of £10,000.

6.3 Further regulations will be necessary under the powers in section 26 of the 2003 Act to increase any particular penalty above £2,500. Following the amendment of the maximum penalty cap in section 26(5) by this instrument, the Government intends to make further regulations to increase the penalty amounts for the contravention of specific rules above £2,500.

Why was this approach taken to change the law?

6.4 This is the only possible approach to make the necessary changes. Section 26(7) of the 2003 Act provides a power for HM Treasury to substitute, by Order made by statutory instrument, a new amount in section 26(5).

[1] https://www.gov.uk/government/collections/taxupdate-2026-simplification-modernisation-and-fairness

7. Consultation

Summary of consultation outcome and methodology

7.1 The change concerns the maximum penalty amount that may apply where a relevant customs rule is contravened. The government does not consider that formal consultation is appropriate for this change.

7.2 To support ongoing engagement with those affected, a virtual reading room was held on the draft instrument on 4 June 2026 with members of the Joint Customs Consultative Committee (JCCC), to provide more details on the draft legislation and provide members with an opportunity to ask questions. The JCCC is an HMRC-sponsored forum established to exchange views on, and to discuss proposed changes to, customs rules.

8. Applicable Guidance

8.1 Guidance will be updated as necessary before the changes take effect. Guidance can be found on the GOV.UK website[2].

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument because this instrument does not give rise to any impact on businesses, individuals or other customers. It only enables provision to be made through future legislation. Any impacts arising from this future legislation will be assessed as necessary at the appropriate time.

Impact on businesses, charities and voluntary bodies

9.2 There is no, or no significant, impact on business, charities or voluntary bodies. This measure does not increase any particular penalty above £2,500, it only enables provision to be made through future legislation.

9.3 The legislation does not impact small or micro businesses.

9.4 There is no, or no significant, impact on the public sector because this measure will only increase the maximum penalty amount, while the process of issuing penalties will remain unchanged.

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 the rules under review through ongoing stakeholder engagement and compliance activity, to ensure that the instrument meets the policy objective outlined in section 5 of this Explanatory Memorandum.

10.2 The instrument does not include a statutory review clause and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015, the Financial Secretary to the Treasury has made the following statement:

[2] https://www.gov.uk/government/publications/customs-civil-penalties

"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 None.

12. European Convention on Human Rights

12.1 The Financial Secretary to the Treasury has made the following statement regarding Human Rights:
"In my view the provisions of the Customs (Contravention of a Relevant Rule) (Maximum Penalty) (Amendment) Order 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").