EXPLANATORY MEMORANDUM TO

THE EXCISE DUTIES (MISCELLANEOUS AMENDMENTS AND REVOCATIONS) REGULATIONS 2024

2024 No. 1262

1. Introduction

1.1 This explanatory memorandum has been prepared by His Majesty's Revenue and Customs (HMRC) 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 James Murray MP, Exchequer Secretary to the Treasury, confirms that this Explanatory Memorandum meets the required standard.

2.2 Andrew Higgins, Deputy Director for Excise and Environmental Taxes, at HMRC confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Wendy Longworth at HMRC, email: wendy.longworth@hmrc.gov.uk, telephone: 03000587927 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 Regulations make various amendments relating to excise duty.

4.2 Regulation 2 amends the Warehousekeepers and Owners of Warehoused Goods Regulations 1999 ("WOWGR") to remove the requirement that revenue traders may only store goods in an excise warehouse for longer than 72 hours if they are an authorised warehousekeeper, a registered owner or they have a duty representative, and makes consequential amendments on that change.

4.3 Regulation 3 amends the Excise Goods (Export Shops) Regulations 2000 to allow a person who purchases goods from an export shop with the intention of exporting the goods to return the goods to the export shop.

4.4 Regulations 4 makes miscellaneous and consequential amendments to the Excise Goods (Holding, Movement and Duty Point) Regulations 2010 ("HMDP"), by simplifying specific regulations that apply to the holding and movement of excise goods like alcohol, tobacco, and fuels.

4.5 Regulations 5 and 7 to 10 make consequential changes on the amendments to WOWGR.

4.6 Regulation 6 makes changes consequential on the amendments to regulation 57 HMDP

Where does the legislation extend to, and apply?

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

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

5. Policy Context

What is being done and why?

5.1 This instrument deals with the simplification of The Warehousekeepers and Owners of Warehoused Goods Regulations 1999 (WOWGR) and miscellaneous amendments to UK excise law. Regulations relating to WOWGR and freezone changes come into force on 3 March 2025. The rest of the changes come into force on 23 December 2024.

5.2 Regulations 2, 4(7) to 4(11), 5 and 7 to 10 deal with the simplification of WOWGR and consequential amendments to other legislation, including making equivalent changes to freezone provisions. HMRC's targeted informal WOWGR consultation in 2023 concluded that the weaknesses identified in WOWGR, along with the additional controls introduced by The Alcohol Wholesaler Registration Scheme (AWRS), have reduced the rationale for WOWGR, and that its overall value as an anti-fraud measure has diminished. The existing scheme should be simplified, removing those parts that are unnecessary and may in themselves create confusion or duplication, the 72 Hour Rule duty point and Registered Owners/Duty Representatives requirements.

5.3 Regulation 3 amends the Excise Goods (Export Shops) Regulations 2000 to set out that goods can be returned to an export shop and entered back to the excise warehouse in excise duty suspension, where a passenger with valid travel document purchases duty free goods and fails to leave with them from the UK.

5.4 Regulation 4 covers changes to Customs Supervised Exports (CSE) which will ensure a change of destination (for example to allow the goods to return to an excise warehouse if the export is cancelled) under this simplification by amending regulation 63A of the Excise Goods (Holding, Movement and Duty Point) Regulations 2010. It also includes changes to simplified movements which will permit alcohol and tobacco products to be moved from a customs warehouse to an excise warehouse on the same site without the need to record the movement on the Excise Movement and Control System (EMCS). This is to ensure that this simplification has a specific basis in law to align with the approach taken to cover movement simplifications in legislation.

5.5 Regulations 4 (together with regulation 6) also includes changes to provisions dealing with the electronic administrative document (eAD) to align the legislation across the UK.

What was the previous policy, how is this different?

5.6 The previous policy had a requirement that revenue traders may only store goods in an excise warehouse for longer than 72 hours if they were an authorised warehousekeeper, a registered owner or they appointed a duty representative. HMRC have now removed that requirement and made consequential amendments on that change which includes free zones. Previously if a person purchased excise goods from an export shop with the intention of exporting the goods but were subsequently unable to travel there was ambiguity on whether they could return those goods to the export shop; HMRC have now clarified the legal basis for this. HMRC used to insist that

businesses in GB used EMCS for low-risk movements. The changes HMRC are making align the legislation between GB and NI on the documentation that must accompany goods being moved in duty suspension. The other excise changes have no material impact on HMRC's processes and systems.

6. Legislative and Legal Context

How has the law changed?

6.1 Obligations in relation to warehoused goods and goods in freezones are set out in WOWGR and in Part 14A of the Excise Goods (Holding, Movement and Duty Point) Regulations 2010 (S.I. 2010/593) (HMDP) respectively. This regulation simplifies obligations in both instruments. Regulations 7 to 10 omit or revoke provisions which amended WOWGR and are now redundant. Regulation 5 amends the Excise Duties (Northern Ireland Miscellaneous Modifications and Amendments) (EU Exit) Regulations 2020 to provide that WOWGR and the amendments made to it by this instrument apply to the whole of the UK.

6.2 Regulation 11 of the Excise Goods (Export Shops) Regulations 2000 provides for circumstances in which goods can be removed from an export shop without this giving rise to a duty point. Regulation 3 of this instrument amends those circumstances to include cases where a person returns goods to an export shop.

6.3 The HMDP set out the general arrangements for the holding and movement of excise goods for the UK. HMDP, together with other UK legislation, implemented the provisions of Council Directive 2008/118/EEC (the Horizontal Excise Directive).

6.4 HMDP is amended to:

- simplify the information that must be provided by a consignor to a person moving goods within the UK under regulation 57 (regulation 6 makes consequential provision to the Excise Duties (Northern Ireland etc. Miscellaneous Modifications and Amendments (EU Exit) Regulations 2022);
- allow goods that are due to leave the territory of the UK in accordance with regulation 63A to instead be moved to a tax warehouse, subject to certain conditions;
- allow alcoholic products and tobacco products to be moved from a customs warehouse to a tax warehouse without being under the cover of an electronic administrative document, subject to the conditions in new regulation 63B.

6.5 Regulations elating WOWGR and free zone changes (regulations 2, 4(7) to (11), 5 and 7 to 10), come into force on 3 March 2025. The rest of the instrument comes into force on 23 December 2024.

Why was this approach taken to change the law?

6.6 Making these changes by statutory instrument is the most proportionate legislative approach given the minor and technical nature of these administrative updates to earlier regulations.

7. Consultation

Summary of consultation outcome and methodology

7.1 No formal consultation has been carried out as the changes are largely administrative in nature and are required to be implemented to simplify excise rules.

7.2 This instrument makes procedural changes requiring an amendment to current guidance, which will be published in advance of this instrument being laid.

8. Applicable Guidance

8.1 Guidance on storing and moving excise goods is available on the gov.uk website[1]. All public notices made under new powers provided for by this instrument will also be published electronically at this address. Anyone unable to access the notices electronically may request them in a hard copy free of charge by contacting HMRC's Excise Helpline on 0300 200 3700.

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 the gov.uk website[2].

Impact on businesses, charities and voluntary bodies

9.2 There is no, or no significant, impact on business, charities or voluntary bodies because the changes are expected to have a negligible impact on businesses who wish to store duty suspended goods in an excise warehouse. Removing Owner of Goods and Duty Representatives will make it easier for new entrants by removing the regulatory burden and one-off costs associated with registering with HMRC and represents simplification.

9.3 The legislation does impact small or micro businesses.

9.4 There is no, or no significant, impact on the public sector because the legislation simplifies existing legislation.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 HMRC will not be monitoring or evaluating this legislation as its impact on businesses is negligible. The administrative changes made by this legislation are of a minor nature and simplify existing legislation.

10.2 As this instrument is not made by a Minister of the Crown, no review clause is required.

[1] Guidance on storing and moving excise goods: https://www.gov.uk/guidance/receiving-storing-and-moving-excise-goods

[2] Tax Information and Impact Note: https://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 Provisions of this instrument sub-delegate power to the Commissioners for HMRC to specify certain matters in a public notice. The authority for such sub-delegation is section 48(11)(b) of the Taxation (Cross-border Trade) Act 2018 (c. 22), which provides that the power to make regulations under section 45 of that Act includes power to make provision by reference to things specified in a notice published in accordance with the regulations.

11.2 This instrument combines provisions under section 45 TCTA and provision relating to excise duty under another enactment that is subject to annulment in pursuance of either House of Parliament. In accordance with section 48(7) TCTA, this instrument is subject to annulment in pursuance of a resolution of the House of Commons only.

11.3 This instrument corrects minor defects in the numbering of regulation 63A(2) of S.I. 2011/2225. As this instrument makes separate amendments to that regulation, it was felt to be appropriate to correct those defects in this SI rather than seek to use a correction slip. HMRC has consulted with the SI Registrar as to whether the free issue procedure is appropriate to remedy these defects and the Registrar has agreed that it is appropriate.

12. European Convention on Human Rights

12.1 As the instrument is subject to 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”).