EXPLANATORY MEMORANDUM TO

THE POSTAL PACKETS (REVENUE AND CUSTOMS) REGULATIONS 2007

2007 No. 2195

1. This explanatory memorandum has been prepared by the Commissioners for Her Majesty's Revenue and Customs and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 The instrument ensures that customs and excise legislation and powers apply to international movements of goods by post, where they are consigned by a postal operator other than the Royal Mail acting in its capacity as a universal service provider in connection with the provision of universal postal services under the Postal Service Act 2000.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Background

4.1 The provisions governing postal services are held in the Postal Services Act 2000.

4.2 Section 105 of the Postal Service Act 2000 ("PSA 2000") provides the Treasury, on recommendation of the Commissioners of Customs and Excise (now the Commissioners of Revenue and Customs) and the Secretary of State (for Business Enterprise and Regulatory Reform), with the power to make regulations that enactments in force in relation to customs and excise shall apply to the international movements of postal packets specified in the regulations.

4.3 The 1986 Regulations specified that, section 16 of the Post Office Act 1953 (subsequently repealed and replaced by section 105 of the PSA 2000) applied to all postal packets, other than postcards posted in the United Kingdom. In effect this meant that customs and excise enactments applied to all international movements of postal packets with the exception of postcards.

4.4 Following the deregulation of the postal service by the PSA 2000 consequential amendments were made to the 1986 Regulations under the Postal Services Act 2000 (Consequential Modifications No.1) Order 2001 (S.I. 2001 No. 1149). Those amendments included the insertion of a definition of 'postal packet' which limited the definition already set out in section 125 of the PSA 2000 to a letter, parcel, packet or other article transmissible by post, conveyed by a universal service provider in connection with the provision of a universal postal service.

4.5 Universal postal service is defined in section 4 of the PSA 2000 as providing at least one delivery and collection of post every working day to the home or premises of every individual or other person, conveying postal packets from one place to another and incidental services as well as a registered post service. Only

the Royal Mail, where they provide a universal postal service, meets this definition.

4.6 The effect of the revised definition of 'postal packet' in the 1986 Regulations therefore meant that section 105 of the PSA 2000 (and therefore customs and excise enactments) applied only to the Royal Mail.

4.7 With the deregulation of the postal services, private postal operators other than the Royal Mail now also consign postal packets. A lacuna therefore exists in respect of HM Revenue and Customs' powers to examine postal packets carried by postal operators other than the Royal Mail where they are providing a universal postal service.

4.8 The purpose of these regulations is to remove the lacuna in the law and apply customs and excise enactments to the international movement of goods in postal packets carried by postal operators irrespective of whether or not they are universal service providers providing a universal postal service.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

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

7. Policy background

7.1 Following the deregulation of the postal service, the purpose of this instrument is to rectify a lacuna in the law so that all international movements of postal packets are subject customs and excise enactments irrespective of whether or not they are consigned by the Royal Mail or another private postal operator.

7.2 No policy changes in the United Kingdom result from this Instrument.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

9. Contact

Kerrie Spendiff at the HM Revenue and Customs Tel: 020 7147 2270 or e-mail: kerrie.spendiff@hmrc.gsi.gov.uk can answer any queries regarding the instrument.