EXPLANATORY MEMORANDUM TO

THE SHIP'S REPORT, IMPORTATION AND EXPORTATION BY SEA (AMENDMENT) REGULATIONS 2024

2024 No. 9

1. Introduction

1.1 This explanatory memorandum has been prepared by His Majesty's Revenue and Customs (HMRC) and is laid before Parliament by Command of His Majesty.

2. Purpose of the instrument

2.1 This instrument changes the customs arrangements for goods arriving in Great Britain (GB) from the Republic of Ireland (RoI), where declarations are required. It ensures that goods brought into Great Britain (GB) by sea from RoI can only be removed from certain places of arrival in GB after they have been released to the UK market, or with the permission of HMRC. The effect will be that goods arriving in GB from RoI will be treated the same way as goods that are imported from other European Union (EU) countries.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Extent and Territorial Application

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

4.2 The application of this instrument (that is where the instrument produces a practical effect) is Great Britain.

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 This instrument amends a provision inserted to the Ship's Report, Importation and Exportation by Sea Regulations 1981 (S.I. 1981/1260) (Ship's Report Regulations) by the Customs Importation (Miscellaneous Provisions and Amendment) (EU Exit) Regulations 2021 (S.I. 2021/1312).

6.2 These Ship's Report Regulations are made under powers in the Customs and Excise Management Act 1979 (CEMA). CEMA, and regulations made under CEMA, operate alongside the Taxation (Cross-border Trade) Act 2018 (TCTA) and regulations made under TCTA, to set out rules that apply where goods are imported to the UK. This TCTA legislation sets out rules in relation to customs duty and includes the Customs (Import Duty) (EU Exit) Regulations 2018 (S.I. 2018/1248) (Import Duty Regulations).

6.3 Regulation 131(2) and 131F(3) of these Import Duty Regulations require a customs declaration to be pre-lodged before goods board a ship, train or aircraft destined for certain places of arrival in the UK.

6.4 The Customs Importation (Miscellaneous Provisions and Amendment) (EU Exit) Regulations 2021 (S.I. 2021/1312) amended the Ship's Report Regulations to provide that goods for which a pre-lodged declaration was required by regulation 131(2) or 131F(3) of the Import Duty Regulations should not be removed from the port or border location they arrive at unless they have been discharged from the free-circulation procedure or their movement is approved by an HMRC officer. Approval is treated as granted, at relevant border locations, to take the goods to an Inland Border Facility (IBF) where the goods are required to undergo customs checks.

6.5 Further amendments were made by the Customs Importation (Miscellaneous Provisions and Amendment) (EU Exit) (Amendment) Regulations 2021 (S.I. 2021/1442) to exclude goods that had been in the RoI or NI immediately prior to arriving in GB from these requirements.

6.6 This instrument comes within the scope of section 46(2) of the United Kingdom Internal Market Act 2020. Special regard has been given to Northern Ireland's place in the UK internal market and customs territory in accordance with subsection (1) of that section.

7. Policy background

What is being done and why?

7.1 Full customs controls were introduced from 1 January 2022 for goods entering GB from most EU countries. They were not introduced for goods entering GB from RoI to maintain continuity for Northern Ireland businesses (who routinely move goods using this route) while discussions between the UK and EU on the operation of the old Northern Ireland Protocol were continuing.

7.2 Following agreement of the Windsor Framework, the Government announced in the Border Target Operating Model (BTOM) that full customs controls would be introduced for goods arriving from RoI from 31 January 2024 and that legal protections for unfettered access would be further strengthened, to avoid burdens on both direct NI to GB movements and indirect movements via RoI.

7.3 From that date, transitional customs easements will no longer be available for goods being imported from RoI and existing customs import requirements will be removed for the vast majority of qualifying Northern Ireland goods which pass through RoI on the way to GB, to further reduce the burden for Northern Ireland businesses using this route.

7.4 This instrument, alongside the Taxation (Cross-Border Trade) (Miscellaneous Amendments) Regulations 2024, implements these arrangements.

7.5 This instrument imposes restrictions relating to the movement of goods arriving in GB from RoI, where the Import Duty Regulations require a customs declaration to be lodged before the goods arrive in GB. It therefore applies only where goods from RoI arrive at specified locations in GB. These specified locations are Roll-on Roll-Off (Ro-Ro) and "other listed" border locations as defined in the Import Duty Regulations.

7.6 Imported goods arriving at these specified locations are usually not permitted to leave that location unless they have been released to the free-circulation procedure

(allowing the goods to be made available in the UK market) or their movement is approved by an HMRC officer. The changes in this instrument end special arrangements which excepted goods arriving in GB from RoI from these restrictions, so they are treated the same as other goods imported from the EU.

7.7 As explained above, these requirements will not apply to the vast majority of qualifying Northern Ireland goods which will not require customs declarations.

8. European Union Withdrawal and Future Relationship

8.1 This instrument is not being made under the European Union (Withdrawal) Act but relates to the withdrawal of the UK from the EU because it concerns the operation of the UK's customs regime following the UK's withdrawal from the EU.

9. Consolidation

9.1 No consolidation of existing legislation is considered appropriate at this time, but this will be kept under review.

10. Consultation outcome

10.1 The Government undertook engagement with businesses in Northern Ireland and the Devolved Administrations on the border arrangements announced in the BTOM. Further engagement and communications activities are being undertaken with stakeholders ahead of the new customs arrangements taking effect from 31 January 2024, including representative bodies and crown dependencies.

10.2 The effect of these measures is to align the rules for goods imported to the UK from RoI with those which apply for imports from other EU countries.

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 significant impact on business, charities or voluntary bodies. These measures align the rules for goods imported to the UK from RoI with those which apply for imports from other EU countries.

12.2 There is no, or no significant, impact on the public sector.

12.3 A Tax Information and Impact Note covering this instrument will be published on the gov.uk website at https://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins.

13. Regulating small business

13.1 The legislation applies to activities that are undertaken by small businesses.

13.2 No specific action is proposed to minimise regulatory burdens on small businesses (employing up to 50 people).

13.3 The basis for the final decision on what action to take to assist small businesses is that the measure in this instrument removes a transitional easement that was always intended to be temporary and ensures the customs requirements for imports from RoI are the same as those goods imported from other EU countries.

14. Monitoring & review

14.1 HMRC will keep the instrument under review through ongoing stakeholder engagement to ensure that it meets the Government's policy objectives.

14.2 A statutory review provision is not included within this instrument by virtue of the exemption set out in section 28(3)(a) of the Small Business, Enterprise and Employment Act 2015. This section sets out that there is an exemption where provisions are in connection with a tax or duty.

15. Contact

15.1 Ben Dudley at HMRC email: benjamin.dudley@hmrc.gov.uk can be contacted with any queries regarding the instrument.

15.2 Phil Bower, Deputy Director for Customs Coordination, Controls and Declarations, at HMRC can confirm that this Explanatory Memorandum meets the required standard.

15.3 Nigel Huddleston MP, Financial Secretary to the Treasury, can confirm that this Explanatory Memorandum meets the required standard.