

EXPLANATORY MEMORANDUM TO
THE CUSTOMS (PREFERENTIAL TRADE ARRANGEMENTS: ERROR IN
EVIDENCE OF ORIGIN) REGULATIONS 2024

2024 No. 166

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.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Declaration

- 2.1 Nigel Huddleston, Financial Secretary to the Treasury can confirm that this Explanatory Memorandum meets the required standard.
- 2.2 Julian Ainley, Deputy Director (Classification, Origin, Valuation and Tariff), at HMRC can confirm that this Explanatory Memorandum meets the required standard.

3. Contact

- 3.1 Stephen Lamprell at HMRC Telephone: 03000 592943 or email: dutyliability.policy@hmrc.gov.uk 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 This instrument obliges certain persons, such as United Kingdom (UK) exporters, to notify relevant persons if they become aware of errors in evidence they have provided to show that exported goods originate in the UK. It applies to the trade agreements listed in the Schedule to the instrument.

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 This instrument implements certain obligations arising from the UK's trade agreements listed in the Schedule to the instrument, concerning preferential duty treatment for UK goods that are imported to another country. These agreements make this preferential duty treatment subject to the provision of evidence that shows that goods originate in the UK. The accuracy of this evidence is essential for the effective

operation of these trade agreements. The agreements listed in the Schedule to this instrument oblige the UK to make legal provision requiring certain persons (referred to in the instrument as ‘evidence providers’) to notify other persons (referred to in the instrument as ‘evidence recipients’) where evidence they have provided to show that goods originate in the UK includes an error.

- 5.2 As a result of this instrument, an evidence provider will be required to notify an evidence recipient of material errors in evidence they have provided in connection with an agreement listed in the Schedule. This notification requirement will apply, for example, where a UK exporter has provided an overseas importer with a document showing that exported goods originate in the UK, and that UK exporter subsequently becomes aware of, or has reason to believe that there is, a material error in this document.
- 5.3 The instrument provides for matters concerning the timing, form, manner and content of the required notification to be set out in a public notice. It also provides for a penalty to be chargeable in cases where an evidence provider fails to satisfy this requirement, as well as provisions concerning review of, and appeals against, any such penalty.

What was the previous policy, how is this different?

- 5.4 To date, UK customs legislation has not included any explicit provision concerning notification of errors in evidence that has been provided to show that goods originate in the UK. This instrument makes the obligation clear for exporters trading under the relevant trade agreements listed in the Schedule.

6. Legislative and Legal Context

How has the law changed?

- 6.1 New legislation will impose the notification requirement described above on an evidence provider who is aware of, or has reason to believe that there is, a material error in evidence they have provided in connection with an agreement listed in the Schedule. Provision in relation to the timing, form, manner and content of the required notification will be set out in a public notice published by HMRC. The new legislation also includes provisions (based upon those already in effect for other customs matters) concerning the application of penalties for breaches of these requirements, and providing for the review of, and appeal against, any such penalties.

Why was this approach taken to change the law?

- 6.2 This instrument will formalise in domestic law requirements set out in the UK’s international trade agreements listed in the Schedule.
- 6.3 This instrument is made under powers at section 166A(2) of the Customs and Excise Management Act 1979 (CEMA). This permits the Commissioners of HMRC to make provision by regulations for the purposes of implementing any international obligations of the UK in relation to the movement of goods. Section 166C(2) of CEMA enables these regulations to make provision for requirements of an administrative nature (such as the timing, form, manner and content of the notification required by these regulations) to be specified by a public notice.

7. Consultation

Summary of consultation outcome and methodology

- 7.1 There has been no consultation on the requirements set out in this instrument. A requirement to notify errors in evidence that a person has provided is not expected to place onerous or unreasonable burdens on that person.

8. Applicable Guidance

- 8.1 Guidance will be updated at the time that these requirements come into effect. Further information and guidance can be found at gov.uk¹.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

- 9.1 An Impact Assessment has not been prepared for this instrument because the obligation is expected to affect only a very small number of businesses and is expected to apply only infrequently. The instrument does not therefore meet the financial threshold above which such an assessment is required.

Impact on businesses, charities and voluntary bodies

- 9.2 There is no, or no significant, impact on business, charities or voluntary bodies because the change is expected to affect a very small number of organisations.
- 9.3 The legislation does impact small or micro businesses.
- 9.4 No specific action is necessary to minimise regulatory burdens on small businesses as the instrument will only impose new requirements on business in very limited circumstances relating to the correction of errors.
- 9.5 The measure in this instrument will have no, or no significant, impact on the public sector.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

- 10.1 The approach to monitoring of this legislation is to keep customs rules under review through ongoing stakeholder engagement, to ensure that this instrument meets the policy objectives set out in section 5 of this Explanatory Memorandum.
- 10.2 The instrument does not include a statutory review clause as this instrument is not made by a Minister of the Crown.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

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

- 11.1 Provision in this instrument is made under powers at section 166A(2) CEMA. This permits the Commissioners of HMRC to make provision by regulations for the purposes of implementing any international obligations of the UK in relation to the movement of goods. This is the first exercise of these regulation-making powers.

¹ <https://www.gov.uk/government/collections/the-uks-trade-agreements>

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”).