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Fifth Delegated Legislation Committee

CUSTOMS MISCELLANEOUS NON-FISCAL
PROVISIONS AND AMENDMENTS ETC. (EU EXIT)
REGULATIONS 2020

Thursday 21 January 2021

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The Committee consisted of the following Members:

Chair: DR RUPA HUQ

Andrew, Stuart (*Treasurer of Her Majesty's Household*)

Clarke-Smith, Brendan (*Bassetlaw*) (Con)

Cryer, John (*Leyton and Wanstead*) (Lab)

† Davies, David T. C. (*Monmouth*) (Con)

Fovargue, Yvonne (*Makerfield*) (Lab)

Gwynne, Andrew (*Denton and Reddish*) (Lab)

Jones, Mr Marcus (*Vice-Chamberlain of Her Majesty's Household*)

† Norman, Jesse (*Financial Secretary to the Treasury*)

† Phillipson, Bridget (*Houghton and Sunderland South*) (Lab)

† Pursglove, Tom (*Corby*) (Con)

Richards, Nicola (*West Bromwich East*) (Con)

† Smith, Jeff (*Manchester, Withington*) (Lab)

Stafford, Alexander (*Rother Valley*) (Con)

Thompson, Owen (*Midlothian*) (SNP)

Throup, Maggie (*Lord Commissioner of Her Majesty's Treasury*)

Williams, Craig (*Montgomeryshire*) (Con)

Winter, Beth (*Cynon Valley*) (Lab)

Sarah Ioannou, *Committee Clerk*

† **attended the Committee**

Fifth Delegated Legislation Committee

Thursday 21 January 2021

[DR RUPA HUQ *in the Chair*]

Customs Miscellaneous Non-Fiscal Provisions and Amendments etc. (EU Exit) Regulations 2020

11.30 am

The Chair: Before we begin, I remind Members about social distancing. There are clearly marked indications; where there is a tick, you can sit. On Mr Speaker's advice, we must all wear masks in Committee when we are not speaking. Our *Hansard* colleagues would like any speeches to be sent to hansardnotes@parliament.uk.

The Financial Secretary to the Treasury (Jesse Norman): I beg to move,

That the Committee has considered the Customs Miscellaneous Non-Fiscal Provisions and Amendments etc. (EU Exit) Regulations 2020 (S.I., 2020, No. 1624).

What an unexpected pleasure to see you in the Chair, Dr Huq. I welcome you to the Panel of Chairs. The instrument came into force at the end of the transition period and is subject to the urgent made affirmative procedure. The instrument has already taken effect, but still requires approval by both Houses.

Under the European Union withdrawal agreement and the Northern Ireland protocol, certain provisions of EU law continue to apply in Northern Ireland after the end of the transition period. In Great Britain, those provisions are modified to reflect the fact that the UK has left the EU. Previous amendments to the relevant legislation applied across the whole of the UK; however, further changes were needed to address the specific arrangements for Northern Ireland.

The instrument amends and modifies three areas of legislation. The first is legislation relating to customs safety and security procedures, including entry summary declarations and the registration of businesses for movements from Northern Ireland to Great Britain. The second is the application of the Customs and Excise Management Act 1979—CEMA—and the Finance Act 1994 to movements between Northern Ireland and Great Britain for non-duty purposes. Finally, the statutory instrument ensures that Her Majesty's Revenue and Customs can continue to collect and process trade statistics data in the same way as before the United Kingdom left the EU.

Entry summary declarations contain safety and security information about the movement of goods. Declarations need to be submitted to HMRC, and are then risk-assessed before the goods arrive at the border. Those assessments are used in conjunction with intelligence-led targeting by Border Force in order to protect the security of the UK. The instrument removes the requirement for an entry summary declaration for the movement of qualifying Northern Ireland goods from Northern Ireland into Great Britain, in line with the UK's wider commitments on unfettered access.

The instrument also retains the requirement of an entry summary declaration for the movement of non-qualifying Northern Ireland goods from Northern Ireland into Great Britain. Non-qualifying Northern Ireland goods include those that are not in free circulation in Northern Ireland, such as those subject to customs procedures—for example, inward processing—and goods that are in duty suspension or in an authorised temporary storage facility before they are moved to Great Britain. It also includes the trade of goods subject to specific obligations binding on the United Kingdom and the EU, such as those on endangered species or conflict diamonds.

Those changes are necessary in order to allow safety and security declaration requirements to be maintained for non-qualifying Northern Ireland goods that move into Great Britain from Northern Ireland, while simultaneously allowing appropriate Northern Ireland traders to maintain unfettered access to the rest of the United Kingdom market. Anti-avoidance measures are also in place to deter businesses from re-routing goods via Northern Ireland, if they do so in order to avoid United Kingdom duty or import formalities.

In addition, the legislation states that for goods arriving by sea from Ireland, the Channel Islands or other nearby ports, where an entry summary declaration is required, that declaration must be submitted two hours before the vessel arrives at a port in Great Britain. Without that amendment, earlier submission would be required, which would be impractical given the relatively short duration of crossings. It also aligns the declaration time limits to those already in place for the same sea movements in the opposite direction.

Moreover, the instrument requires economic operators to obtain a UK economic operation registration and identification number, otherwise known as a UK EORI number, to move non-qualifying Northern Ireland goods from Northern Ireland into Great Britain. An economic operator is a person who, through the course of their business, is involved in customs activity covered by customs legislation. It is necessary for those operators to have a UK EORI number starting with GB in order to make declarations or to get a customs decision in Great Britain. Registration is via a quick and simple process, and an EORI number will usually be issued straight away. This instrument also ensures that penalties apply to failures to comply with the requirements to submit an entry summary declaration, including the need to be registered for a UK EORI number.

I turn now to the second area of legislation covered by this statutory instrument, which is the regulations relating to the Customs and Excise Management Act 1979, otherwise known as CEMA, and the Finance Act 1994. CEMA is the principal Act covering enforcement provisions relating to customs.

First, CEMA provisions that relate to movements between the Republic of Ireland and Northern Ireland are revoked by this statutory instrument. That is because CEMA has already been amended to reflect the Taxation (Cross-border Trade) Act 2018, whereas EU rules concerning the movement of goods continue to apply to those movements under the Northern Ireland protocol.

Secondly, this instrument allows CEMA enforcement powers—for example, the ability to seize and detain goods—to be used for the purpose of enforcing prohibitions and restrictions on the movement of goods, people and vehicles, between Great Britain and Northern Ireland, where there is no connection to customs duty.

This instrument also ensures that the enforcement provisions at chapter III, part 1 of the Finance Act 1994 can be used in relation to the export of restricted or prohibited goods, as appropriate. Those include HMRC's powers to require the production of documents, or to remove documents, or enter premises. That applies in Northern Ireland for the movement of goods from Northern Ireland to Great Britain.

Finally, I turn to the area of trade statistics. This statutory instrument makes minor amendments to the law on statistical data collected on the trade of goods between the United Kingdom and members of the EU, in order to take account of the Northern Ireland protocol. That is important in order to meet international reporting requirements. The instrument ensures that the legislation works properly, both in Northern Ireland, where EU statistical rules will continue to apply as a result of the Northern Ireland protocol, and in Great Britain, where they will not. As a result, HMRC will be able to continue to collect and process trade statistics in the same way as before the United Kingdom left the EU.

These are technical but important customs regulations. They help to ensure that goods can continue to move smoothly and safely between Northern Ireland and Great Britain and that matters related to those movements can continue as anticipated. I hope that colleagues will join me in supporting the customs regulations, and I commend them to the Committee.

11.37 am

Bridget Phillipson (Houghton and Sunderland South) (Lab): It is a pleasure to see you in the Chair this morning, Dr Huq.

Throughout all discussions of the arrangements to be in place following the end of the Brexit transition period, we in the Opposition have recognised that it is crucial to handle those that relate to Northern Ireland with care—to protect the protocol and the people of Northern Ireland. We have repeatedly called for any technical challenges that arise on trade between Northern Ireland and Great Britain to be dealt with through the EU-UK Joint Committee. We believe it is right for outstanding issues to be resolved in that way, and we therefore support today's statutory instrument and the technical amendments it makes following decisions of the Joint Committee.

Such an approach stands in stark contrast to that which the Government followed in the latter months of last year, when Ministers threatened to act unilaterally, break international law and undermine the Northern Ireland protocol. It is hard to overstate the damage caused by the Government's reckless behaviour, which undoubtedly damaged trust among our partners around the world, and suggested that Ministers were prepared to put narrow political considerations above our long-term obligations. Today, I would welcome the Minister confirming, and providing unqualified reassurance, that all future technical challenges posed on trade between Northern Ireland and Great Britain, such as that which this SI deals with, will also be dealt with through the Joint Committee.

We support today's SI, but its content suggests that some of the Prime Minister's promises about how trade will operate after the end of the transition period have been exaggerated. That will not surprise many of us, who are used to the Prime Minister's operating style.

However, it has real implications for businesses, if they make preparations based on the Prime Minister's promises that turn out not to match the reality of the situation.

On 8 November 2020, the *Belfast Telegraph* reported that the Prime Minister had told Northern Ireland businesses that they could put customs declarations forms "in the bin", because there would be "no barriers", of any kind, to trade across the Irish Sea. Yet the third regulation in today's SI introduces a modification to ensure that an entry summary declaration will be required for the movement of goods from Northern Ireland into Great Britain, where those goods are subject to customs duty under section 30C of the Taxation (Cross-border Trade) Act 2018. Will the Minister explain how that modification made by regulation 3 is consistent with the Prime Minister's comments reported last November?

More broadly, it is worth pointing out that the SI impacts only trade moving from Northern Ireland to Great Britain and that trade in the opposite direction, coming from Great Britain, is now facing a whole suite of customs and regulatory checks that the Prime Minister promised no Government could ever accept. The Government should reflect on their shambolic approach, which has led to so many empty supermarket shelves and to Northern Irish lorries being stuck in Great Britain or returning empty.

Ministers knew that there would be difficulties—indeed, they established the Trader Support Service to guide businesses that move goods between Great Britain and Northern Ireland through any changes—but they have let businesses down. The Trader Support Service was supposed to have up to 70 staff answering queries, yet it appears to be overwhelmed. It apparently cost £355 million to set up, but the Northern Ireland Affairs Committee heard earlier this month that phones called by traders were being left to ring off the hook. That is clearly unacceptable, and my colleagues have written to the Cabinet Office Minister to demand that the Government get a grip. I ask this Minister, as he is responsible for HMRC, what commitment he can give to traders that the Trader Support Service will be fully staffed with trained customs experts to meet the demands that businesses are undoubtedly facing.

As the Minister will know, people in Northern Ireland already have half the discretionary income of households in Great Britain, and they now face both a lack of choice and price rises as a result of disruption to trade. That is unacceptable when the UK Government could step in to support supply chains and avoid disruption, so I urge the Minister to commit to doing so.

We in the Opposition are happy to support the content of today's SI, but its context raises a number of important questions about trade between Great Britain and Northern Ireland, and I would welcome the Minister addressing them in his response.

11.41 am

Jesse Norman: I thank the hon. Member for Houghton and Sunderland South for her comments and also for her party's support for this important legislation. She asked a question about the Joint Committee. As she will be aware, the present statutory instrument relates to trade between Northern Ireland and Great Britain, which is a UK matter, but general relationships as regards the Northern Ireland protocol and the relationships with the EU in relation to that, are being handled by the

[*Jesse Norman*]

Joint Committee, and I would expect them to continue to be handled in that way, and appropriately so—it seems that that mechanism is working well.

The hon. Member asked a question about, as it were, the level of regulation being applied to movements across the border. I can remind her—she knows—that the Government made a commitment to unfettered access, and unfettered access for qualifying goods, as discussed, is what we have. There are, of course, non-qualifying goods and goods in duty suspension, and it has always been understood that goods for which duty has not yet been collected are ones that will need to be covered. And of course there are other things—conflict diamonds and the rest—which are governed by international agreements that already exist and which are being honoured.

The hon. Member described the situation as regards Great Britain-Northern Ireland trade as “shambolic”. I do not think that is true at all. The picture so far, in these relatively early days, has been actually rather good. Goods are continuing to move effectively between Great Britain and Northern Ireland. There are no significant queues at Northern Irish ports, and individual issues are being quickly addressed by UK authorities. The freight levels that are going into and out of Northern Ireland ports are good and are close to or at the normal

levels pre-Christmas, and volumes remain significantly higher than on GB-Ireland routes. The grace periods for businesses that are operating are working well. And Northern Ireland retailers report broadly adequate stock levels.

The hon. Member mentioned the Trader Support Service. Of course concerns that she has and she raises here will be carefully attended to by HMRC and she is right to put those concerns on the public record. I will say to her that the Trader Support Service now has 28,000 businesses signed up. Of course, it largely handles trade going into Northern Ireland, which is outside the purview of this statutory instrument, but I can inform her that since 1 January more than 99% of Trader Support Service-processed declarations have been completed within 15 minutes. The vast majority of calls are answered within 30 seconds. And the service has directly supported more than 12,000 consignments. I do not think that is consistent with the picture that she paints. Of course, it is an evolving and dynamic situation, but I think we can say that so far the arrangements put in place have been effective and are working fairly well. With that, I commend the statutory instrument to the Committee.

Question put and agreed to.

11.45 am

Committee rose.

