

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

First Delegated Legislation Committee

CUSTOMS TARIFF (ESTABLISHMENT) (EU EXIT)
(AMENDMENT) (NO. 2) REGULATIONS 2021

VALUE ADDED TAX (MISCELLANEOUS
AMENDMENTS AND REPEALS) (EU EXIT)
REGULATIONS 2021

Monday 19 July 2021

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The Committee consisted of the following Members:

Chair: MR PHILIP HOLLOBONE

Abbott, Ms Diane (*Hackney North and Stoke Newington*) (Lab)
 Andrew, Stuart (*Treasurer of Her Majesty's Household*)
 Antoniazzi, Tonia (*Gower*) (Lab)
 Carden, Dan (*Liverpool, Walton*) (Lab)
 Duguid, David (*Parliamentary Under-Secretary of State for Scotland*)
 † Freer, Mike (*Comptroller of Her Majesty's Household*)
 † Jones, Mr Marcus (*Vice-Chamberlain of Her Majesty's Household*)
 McKinnell, Catherine (*Newcastle upon Tyne North*) (Lab)
 Mann, Scott (*Lord Commissioner of Her Majesty's Treasury*)

Morris, James (*Lord Commissioner of Her Majesty's Treasury*)
 † Murray, James (*Ealing North*) (Lab/Co-op)
 † Norman, Jesse (*Financial Secretary to the Treasury*)
 † Rutley, David (*Lord Commissioner of Her Majesty's Treasury*)
 Thomson, Richard (*Gordon*) (SNP)
 Throup, Maggie (*Lord Commissioner of Her Majesty's Treasury*)
 † Twist, Liz (*Blaydon*) (Lab)
 † Williams, Craig (*Montgomeryshire*) (Con)

Kevin Maddison, *Committee Clerk*

† **attended the Committee**

First Delegated Legislation Committee

Monday 19 July 2021

[MR PHILIP HOLLOBONE *in the Chair*]

Customs Tariff (Establishment) (EU Exit) (Amendment) (No. 2) Regulations 2021

4.30 pm

The Chair: Before we begin, I remind hon. Members that Mr Speaker has stated that the wearing of masks is encouraged. *Hansard* colleagues would be most grateful if Members could send their speaking notes to hansardnotes@parliament.uk.

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

That the Committee has considered the Customs Tariff (Establishment) (EU Exit) (Amendment) (No. 2) Regulations 2021 (S.I. 2021, No. 661).

The Chair: With this it will be convenient to discuss the Value Added Tax (Miscellaneous Amendments and Repeals) (EU Exit) Regulations 2021 (S.I. 2021, No. 714).

Jesse Norman: It is a delight to serve under your chairmanship, Mr Hollobone. As the names of the statutory instruments may suggest, these are two extremely technical and small instruments, but they are important because they correct errors and omissions identified in EU exit legislation. They ensure that the law applies as intended and that businesses across the UK are treated fairly by VAT legislation.

I would like to turn first to the Value Added Tax (Miscellaneous Amendments and Repeals) (EU Exit) Regulations 2021. This instrument, together with the Value Added Tax Amendment (EU Exit) Regulations 2021, corrects errors and omissions identified by Her Majesty's Revenue and Customs in a review of VAT EU exit legislation. The instrument makes those changes in relation to the Value Added Tax Act 1994 and the Taxation (Cross-border Trade) Act 2018.

The amendments are needed to ensure that the VAT system continues to operate as required. First, the instrument removes an inadvertent extension of the zero rate to the transport of goods moving between Great Britain and Northern Ireland. It also confirms that the VAT zero rate applies only to the transport of goods exported from or imported into the UK. Secondly, the instrument ensures that businesses moving their own goods from Great Britain to Northern Ireland for non-business purposes are not hit with double taxation on those goods.

Thirdly, the instrument ensures that EU businesses selling goods that are delivered to Great Britain via Northern Ireland are liable for VAT, giving parity of treatment with goods delivered from the EU to Great Britain or from Northern Ireland to Great Britain. That approach is consistent with HMRC's published VAT guidance on Northern Ireland. Fourthly, the legislation corrects minor errors that do not obscure the legislative

intent but need to be remedied. Finally, the instrument repeals powers in preparation for a no-deal scenario that are no longer required.

It is important to add that there was an error in the original commencement date for this instrument, which was rectified by an amendment SI that was laid before the instrument took effect. As was always intended, the instrument will take effect from 1 August, alongside the Value Added Tax (Amendment) (EU Exit) Regulations 2021.

I now turn to the Customs Tariff (Establishment) (EU Exit) (Amendment) (No. 2) Regulations 2021. This instrument amends a minor part of a package of tariff legislation that was laid before the House on 16 December. The package ensured that the UK had a functioning customs regime in place at the end of the transition period. This instrument, which came into force on 10 June, corrects five tariff lines—relating to chemical products, vulcanised rubber gaskets and tropical fruit—in the reference document associated with the Customs Tariff (Establishment) (EU Exit) Regulations 2020. The errors mainly concerned missing tariff duties on goods omitted in the original tariff reference document. This SI resolves the issue by inserting the tariff rates. Traders were charged rates on the relevant goods as intended and as traders expected, although this was inadvertently achieved without a proper legal basis. HMRC will contact any traders who were charged those rates before this legislation came into effect. However, it is worth noting that the majority of those lines saw little or no trade. The vast majority of customs duties are being collected as intended.

The measures contained in these instruments are small yet significant changes that will play a critical part in ensuring that the tariff and customs regimes operate as required in future, and I commend them to the Committee.

4.35 pm

James Murray (Ealing North) (Lab/Co-op): Thank you, Mr Hollobone, for the opportunity to respond on behalf of the Opposition as we consider these two statutory instruments.

The Value Added Tax (Miscellaneous Amendments and Repeals) (EU Exit) Regulations 2021 make a number of changes to EU exit VAT legislation that was commenced at the end of the transition period, following the UK's exit from the EU. As set out in the explanatory notes, a review of EU exit VAT legislation identified a number of errors and omissions that need to be corrected to ensure that the VAT system continues to operate as required. They include minor changes to address missing or superfluous words, incorrect cross-references or formatting errors, for example. The instrument makes those corrections in relation to primary legislation.

Specifically, we understand that the instrument seeks to remove an inadvertent extension of the zero rate for the services—which are not covered by the Northern Ireland Protocol—of transport, handling and storage of imported and exported goods to movements of goods between Northern Ireland and Great Britain. We understand that the instrument deems that a movement of own goods from Great Britain to Northern Ireland that are wholly or partly for non-business purposes is treated as a zero-rated supply. This approach means

that VAT on the original purchase can be recovered, preventing double taxation through the business incurring two irrecoverable VAT charges—one on the original purchase and one on the movement into Northern Ireland.

The instrument makes further amendments to ensure the correct taxation of goods supplied from the EU to Great Britain that are transported via Northern Ireland. It does so by providing for the treatment of supplies of low-value imported goods—those sent in consignments valued at £135 or under—sold by businesses to customers in Great Britain. That provision relieves the import VAT due on the removal of the goods to the UK and instead provides that the place of supply of those goods is the UK. The instrument also makes the business, or an online marketplace if it facilitated the sale, responsible for accounting for VAT on that supply. Finally, the regulations also make minor changes to the Value Added Tax Act 1994 by repealing sections that have been made redundant by a change in policy.

We will not oppose this instrument. It is of course important that goods are appropriately taxed, that the appropriate regulations cover trade between Great Britain and Northern Ireland, that no business faces double taxation, and that our country's legislation is clear and correct. However, this Committee is being asked to correct mistakes and oversights, and to properly hold the Government to account, we need to understand the impact of those mistakes and oversights. The explanatory notes make it clear that the changes that we are being asked to consider have

“no, or no significant, impact on business, charities or voluntary bodies.”

However, that is not quite the same as confirming that the errors themselves have had no, or no significant, impact. I would therefore be grateful if the Minister set out what impact each of the unintended errors in legislation has had.

The Customs Tariff (Establishment) (EU Exit) (Amendment) (No. 2) Regulations 2021 correct typographical errors and add commodity codes and duty rates for a small number of goods in the tariff of the United Kingdom. By amending the establishment regulations—part of the legislation to ensure that the UK's customs, VAT and excise regimes were in place at the end of the implementation period—this instrument gives legal effect to an updated tariff reference document. We will of course not oppose minor changes to the commodity codes on two chemical compounds used for manufacturing, a subset of vulcanised rubber gaskets, and certain types of tropical fruit. However, this is not the first time we have been asked to sit in this room and correct errors in the tariff reference document. The explanatory notes state:

“There is no, or no significant, impact on business, charities or voluntary bodies.”

As with the other SI before us, that is not quite the same as confirming that the errors themselves have had no effect. I would be grateful if the Minister set out what impact these errors have had.

I am also conscious that, with repeated errors to the same tariff document being corrected, we need to know what the cumulative impact is of all the errors that have been made. Individual corrections or small sets of corrections might have no significant impact, but we do not know whether the same is true cumulatively of all

the corrections that we have been asked to make over many months. I would therefore be grateful if the Minister made a commitment that, if we are asked to make further corrections to the tariff reference document, he will ensure that the explanatory notes include an assessment of the impact of all corrections made since its adoption.

4.40 pm

Jesse Norman: I thank the hon. Member very much for his comments and for supporting this legislation. He correctly noted that the explanatory memorandum sets out—as, indeed, does the tax information impact note—that there was not expected to be any impact for the different bodies that he described, but he also raised the question of the tax impact. We are not aware of any, or any significant, tax impact, but as he might imagine, this is something over which HMRC will continue to keep a watching brief. As he will be aware, VAT is typically claimed through the chain of the system of value-added tax, so it is not a straightforward matter to assess whether there may have been some revenue loss. However, I take the point he raises, and he is right to ask the question.

On the issue of customs tariffs, I wish I could assure him that there will never be any mistakes of this kind in the future. With a body of tariffs of the scale that we are talking about—16,000 lines, in which a handful of mistakes have been discovered on this occasion—I do not think that will be possible. We have to be grown up about it and recognise that, with human error and an evolving situation, there may be moments when mistakes occur. Of course, it is absolutely the Government's intention, and that of the Department for International Trade and the Treasury, that they should be kept to an absolute minimum.

The hon. Member is right to ask whether there might be some cumulative impact. The numbers concerned are likely to be extremely modest, as we have described in this case and a previously, but whether there may have been a cumulative impact is a proper concern. I would certainly expect that, in the review of the policy by HMRC and the Department concerned, they would ask themselves whether the cumulative impact may be significant or, indeed, targeted in some area that was hitherto unsuspected. I am grateful to the hon. Member for raising the question and will make sure that it is pursued, after giving enough time for any possible impact to become quite substantial. I do not think we should expect that within a few months, or even potentially a year or two, but it is appropriate to ask the question when it looks as though the impacts may be substantial or—this is not a point he raised, but it is an important point—unexpectedly focused in some area that could lead to an unnecessary effect on that area, even if the overall impact was quite modest.

Question put and agreed to.

VALUE ADDED TAX (MISCELLANEOUS AMENDMENTS AND REPEALS) (EU EXIT) REGULATIONS 2021

Resolved,

That the Committee has considered the Value Added Tax (Miscellaneous Amendments and Repeals) (EU Exit) Regulations 2021 (S.I. 2021, No. 714).—(*Jesse Norman.*)

4.43 pm

Committee rose.

