

# PARLIAMENTARY DEBATES

HOUSE OF COMMONS  
OFFICIAL REPORT

First Delegated Legislation Committee

DRAFT FINANCE ACT 2003, PART 3  
(AMENDMENT) ORDER 2018

*Monday 26 March 2018*

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**Friday 30 March 2018**

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**The Committee consisted of the following Members:**

*Chair:* PHILIP DAVIES

† Baron, Mr John (*Basildon and Billericay*) (Con)  
 † Benyon, Richard (*Newbury*) (Con)  
 † Dodds, Anneliese (*Oxford East*) (Lab/Co-op)  
 † Double, Steve (*St Austell and Newquay*) (Con)  
 † Hall, Luke (*Thornbury and Yate*) (Con)  
 Johnson, Diana (*Kingston upon Hull North*) (Lab)  
 † Keegan, Gillian (*Chichester*) (Con)  
 Mann, John (*Bassetlaw*) (Lab)  
 † Mann, Scott (*North Cornwall*) (Con)  
 † Metcalfe, Stephen (*South Basildon and East  
 Thurrock*) (Con)

Rimmer, Ms Marie (*St Helens South and Whiston*)  
 (Lab)  
 † Rutley, David (*Lord Commissioner of Her Majesty's  
 Treasury*)  
 † Shuker, Mr Gavin (*Luton South*) (Lab/Co-op)  
 † Siddiq, Tulip (*Hampstead and Kilburn*) (Lab)  
 † Smith, Jeff (*Manchester, Withington*) (Lab)  
 † Stride, Mel (*Financial Secretary to the Treasury*)  
 † Walker, Thelma (*Colne Valley*) (Lab)

Rob Page, *Committee Clerk*

† **attended the Committee**

# First Delegated Legislation Committee

Monday 26 March 2018

[PHILIP DAVIES *in the Chair*]

## Draft Finance Act 2003, Part 3 (Amendment) Order 2018

4.30 pm

**The Financial Secretary to the Treasury (Mel Stride):** I beg to move,

That the Committee has considered the draft Finance Act 2003, Part 3 (Amendment) Order 2018.

May I say what a pleasure it is to serve under your capable chairmanship, Mr Davies? The order provides for a technical amendment to part 3 of the Finance Act 2003, which makes provision for civil financial penalties where there has been a failure to comply with a duty, obligation, requirement or condition in specified tax legislation.

One such piece of tax legislation is the Community customs code: the body of European legislation that lays down the rules and procedures applicable to goods brought into or taken out of the customs territory. In May 2016, it was replaced by the Union customs code, more commonly known as the UCC. As a result, the Finance Act 2003 is out of date and its references to “Community customs code” need to be changed to “Union customs code”.

The order ensures that UK domestic law cross-refers to the most recent version of EU legislation with which it was intended to operate. It does not seek to alter materially the scope of the power to impose penalties; the underlying substantial legislation will remain the same.

The order is particularly important because it continues to preserve the capability of our customs officers to issue a civil financial penalty when there has been a breach of a duty obligation, requirement or condition of the Union customs code, which is an important part of HM Revenue and Customs’ overall compliance strategy. I therefore commend the order to the Committee.

4.31 pm

**Anneliese Dodds (Oxford East) (Lab/Co-op):** It is a pleasure to serve with you in the Chair, Mr Davies. It is also a pleasure, as always, to sit across from the Minister, to whom I am grateful for his explanation of the measure.

Before this sitting, I attempted to access the tax information and impact note for this measure—the TIIN system is very good—and the most likely candidate appeared to be that entitled “Finance Act 2003: updates to Part 3”, published on 22 February. However, that refers to the draft statutory instrument being laid before the House of Commons on 5 March. It is not clear whether that is the right one. Perhaps this is more a point for the civil servants than the Minister, but could they not direct those interested to the exact URL for the TIIN concerned in the links of different tax-related

SIs rather than to the generic TIIN webpage? Surely that would help all of us who want to look very closely at all the measures we cover in SI Committees and access the relevant information.

The measure at hand is an uncomplicated one, effectively substituting references to the Union customs code for mentions of the previous Community customs code. I do, however, have a couple of brief questions. First, as I understand it, and as the Minister has mentioned, the UCC came into action during spring 2016, so it is unclear why the changes to the Act were not made until now. That seems like a rather large time gap. Perhaps he can enlighten us and reassure us that all civil administrative financial penalties applied between spring 2016 and the current day will not be subject to any challenge as a result.

Secondly, I have found it difficult to access accurate information about how many civil administrative financial penalties have been levied over time. That is surely relevant, given that any effective customs regime needs to include the potential for fines to be levied when behaviour has not been in line with the law. However, the capacity of HMRC to do that currently—let alone in the future—does not appear to have been adequately thought through by the Government, let alone put into place.

The Minister probably recalls that during debate in the Taxation (Cross-border Trade) Bill Committee I indicated the rather extreme challenges facing HMRC—a number of colleagues and industry representatives also did so—especially if in the future it will be required to deliver a new approach to customs, including a potentially unique -in-the-world, highly experimental customs partnership. That would be coming on stream very soon after the implementation of the new customs declaration service system, and all at a time when HMRC’s headcount has been cut substantially compared with 2010.

As I put it in the Bill Committee, the customs function in the UK is arguably already overstretched. The Government have maintained that comparative analysis of its capacity is not possible, but perhaps they have not looked at the World Customs Organisation’s annual reports. The latest one suggests that the UK has about 5,000 customs officers. The Government—in fact, the Minister said this to me in Committee—have committed to providing, potentially, another 5,000, so doubling the number of customs officers. However, even with the existing load of customs declarations to process, each of the customs officers currently in HMRC has to process more than 15,000 customs declarations per annum. That is the number averaged across the workforce, and it is about 10 times as many as every US and Canadian customs officer, 15 times as many as their German counterparts and more than 30 times as many as their Australian counterparts. As I noted in Committee, although there may be issues with comparability, they would have to be enormous if that large gap could be accounted for simply through different reporting conventions.

All this is highly relevant to the statutory instrument, because we need to know that it can feasibly be implemented by an already overstretched HMRC. To finish, I ask the Minister what his assessment is of the ability of HMRC currently to detect activity that ignores, bends or breaks

the customs rules and to ensure that that activity is effectively sanctioned through the use of civil administrative penalties.

4.36 pm

**Mel Stride:** I thank the shadow Minister, as always, for her participation on these occasions. I had thought that this might be a very short Committee, given that this is a highly technical change. As always, however, the hon. Lady raised important points, which I will go through.

First, the hon. Lady raised the TIIN and its accessibility—whether the URL was correct. I will have to get back to her on that, but I will certainly look into it because I recognise the importance of those assessments to her. I point out that there is no change in the scope or the penalties involved in this particular case or, indeed, in the manner of operation of this particular regime. However, it is right that that information should be properly accessible.

The hon. Lady asked why it had taken so long—since 2016, in fact—to bring in this measure. The answer is that until recently the legal advice, such as it was, was that there was not actually a requirement to make this change as the cross-reference was fairly obvious. However, more recent advice has suggested that we should make the change.

The hon. Lady asked about the number of penalties issued under this regime. Between March 2015 and 2016 a total of 466 penalties were issued, with a total value of £577,712; since the UCC was introduced, in 2016-17, 345 penalties have been issued.

The hon. Lady asked about the capacity of HMRC to handle the penalties and this particular regime. I point her to the fact that HMRC, as she knows, has an outstanding record on avoidance, evasion and non-compliance: £175 billion has been brought in or protected since 2010, and we have one of the lowest tax gaps, at 6%, in the world. I am confident that it is well resourced for this. She asked specifically about the number of HMRC staff who will be available. As she mentioned, there will be up to 5,000 additional staff, given the Brexit changes and the customs changes that are to follow. That is not a figure that the Treasury has brought forward; it is a figure that the head of HMRC has come forward with. We and my right hon. Friend the Chancellor of the Exchequer have made it clear that we will ensure that sufficient funding and resources are available for HMRC to carry out the important work that it will have, going forward. That is why last year about £45 million was made available to HMRC for Brexit-related matters and, in the recent spring statement, the Chancellor made it clear that a further £260 million will be made available for the next year.

The hon. Lady referred to the number of cases being handled by customs officers in the United States and Canada. Of course, those are different regimes, with different elements to them, but perhaps it is just indicative of the efficiency of HMRC and customs that they cover such a large amount of work with an efficient number of personnel. On that note, I hope that we can agree the order.

*Question put and agreed to.*

4.40 pm

*Committee rose.*





