

# PARLIAMENTARY DEBATES

HOUSE OF COMMONS  
OFFICIAL REPORT

Second Delegated Legislation Committee

CUSTOMS (AMENDMENTS AND  
MISCELLANEOUS PROVISIONS)  
REGULATIONS 2022

*Monday 27 June 2022*

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**Friday 1 July 2022**

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

*Chair:* YVONNE FOVARGUE

- |   |  |
|---|--|
| † Bacon, Mr Richard ( <i>South Norfolk</i> ) (Con)              | McDonald, Andy ( <i>Middlesbrough</i> ) (Lab)                      |
| † Baynes, Simon ( <i>Clwyd South</i> ) (Con)                    | † Mak, Alan ( <i>Lord Commissioner of Her Majesty's Treasury</i> ) |
| † Coutinho, Claire ( <i>East Surrey</i> ) (Con)                 | † Murray, James ( <i>Ealing North</i> ) (Lab/Co-op)                |
| † Dinéage, Dame Caroline ( <i>Gosport</i> ) (Con)               | † Robinson, Mary ( <i>Cheadle</i> ) (Con)                          |
| † Duddridge, James ( <i>Rochford and Southend East</i> ) (Con)  | † Trott, Laura ( <i>Sevenoaks</i> ) (Con)                          |
| † Eastwood, Mark ( <i>Dewsbury</i> ) (Con)                      | Turner, Karl ( <i>Kingston upon Hull East</i> ) (Lab)              |
| † Frazer, Lucy ( <i>Financial Secretary to the Treasury</i> )   | † Twist, Liz ( <i>Blaydon</i> ) (Lab)                              |
| † Gardiner, Barry ( <i>Brent North</i> ) (Lab)                  |  |
| † Grant, Peter ( <i>Glenrothes</i> ) (SNP)                      | Ian Bradshaw, <i>Committee Clerk</i>                               |
| † Hamilton, Mrs Paulette ( <i>Birmingham, Erdington</i> ) (Lab) | † <b>attended the Committee</b>                                    |

## Second Delegated Legislation Committee

Monday 27 June 2022

[YVONNE FOVARGUE *in the Chair*]

### Customs (Amendments and Miscellaneous Provisions) Regulations 2022

4.30 pm

**The Financial Secretary to the Treasury (Lucy Frazer):** I beg to move that,

That the Committee has considered the Customs (Amendments and Miscellaneous Provisions) Regulations 2022 (S.I. 2022, No. 615).

The regulations update the UK's tariff schedule and correct minor errors in previous secondary legislation. Specifically, this statutory instrument amends existing tariff legislation that was laid before the House on 16 December 2020 and through which the UK's first independent tariff schedule was implemented on 1 January 2021.

I want to highlight two aspects of the instrument. First, it updates a number of commodity codes—the classifications of goods within the tariff schedule—as laid out in a set of tariff reference documents. These are routine technical changes, which are needed to ensure that traders access the correct codes when trading in goods. Secondly, the instrument rectifies a small number of administrative errors in connection with three tariff lines for goods relating to chemical dyes used in pharmaceutical manufacturing, carpets and textile floor coverings. The errors relate to missing tariff duties on those goods in the legislation. For context, that is three out of about 16,000 tariff lines. Although traders were previously charged tariffs on the goods at the rates intended, and as traders expected, it was done inadvertently, without the three rates being set out formally in the tariff reference document.

After that was discovered during a review, systems were changed, so that traders were no longer charged tariffs on the goods, thereby ensuring that Her Majesty's Revenue and Customs was acting lawfully in the interim while the error in the legislation was corrected. This instrument inserts the intended rates into the legislation, allowing HMRC to collect these rates properly and lawfully from now on.

As trade did take place on the lines before the legislation was corrected, HMRC must reimburse traders who were charged rates that were not reflected in the legislation. It is in the process of doing so. More broadly, I emphasise that the vast majority of customs duties are being collected as intended.

**Peter Grant (Glenrothes) (SNP):** Can the Minister give us the gross figures for the total amounts overpaid and underpaid before the error was corrected?

**Lucy Frazer:** We are in the process of reimbursing a total of £1,382,000.90 to 601 traders incorrectly charged as a result of these errors.

In conclusion, this instrument updates the tariff schedule and makes limited corrections to address administrative errors. I hope that colleagues will join me in supporting the regulations, which I commend to the Committee.

4.33 pm

**James Murray (Ealing North) (Lab/Co-op):** Thank you, Ms Fovargue, for the opportunity to set out the Opposition's position on this statutory instrument.

As we heard from the Minister, this instrument intends to correct subordinate legislation previously made under the Taxation (Cross-border Trade) Act 2018. It seeks to amend errors and update tariff reference documents that detail the classification and duty of rates on goods included in the UK's tariff schedule.

We recognise that the areas covered by the statutory instrument are fairly specific, and as the Government are correcting errors, we will not oppose it. While we recognise that corrections and amendments need to be made where defects or errors have occurred, however, it is important that the Government support businesses and minimise further inconvenience, in particular at this difficult and uncertain time.

While we will not oppose the regulations, I want to clarify the impact on the businesses affected. In particular, as the Scottish National party spokesperson said, the explanatory memorandum makes it clear that until the errors were identified, importers may have been under the impression that the import duty was being lawfully applied and in line with stated policy. The notes confirm that HMRC is planning to refund affected traders who have consequently overpaid. Will the Minister expand on her response to the earlier intervention and explain the process by which affected traders will be refunded? Will the refund take place automatically, or will traders need to apply for it? I would also be grateful if the Minister set out in further detail exactly how many traders have been affected by overpayment and over what period, and how much overpaid revenue has been approved or needs to be funded.

Although the Labour party will not oppose the statutory instrument, it is important that we get clarity on exactly how those overpayments will be refunded and on how that refund will operate.

**Lucy Frazer:** I am happy to respond to those points. As I mentioned, those 601 traders were incorrectly charged a total of £1,382,000.90. We have contacted all traders who are owed, and we are in the process of reimbursing them. I am happy to write to the hon. Gentleman on the one question of his that I have not answered.

I am pleased that the hon. Gentleman will not oppose the statutory instrument. Of course, a small part of the SI deals with the three errors that have been identified in the 16,000 tariff lines—I emphasise that those are small errors. The instrument not only deals with those small errors, but updates the code as a whole, so it was necessary to bring it before the House. For all those reasons, I commend the regulations to the Committee.

4.36 pm

**Peter Grant:** Like the main Opposition party, the SNP will not oppose the regulations, because we actually think it is a good idea for Governments to admit when they have made a mistake and correct it at the earliest

opportunity. The Government seem to be quite selective about which mistakes they admit to and are willing to correct.

The Minister can point to the fact that there were only three very small errors for the number of lines that we are dealing with, but £1.3 million was overcharged. That is an average overcharge of £2,000 for 600 traders. We do not know what size those traders are, but a lot of the traders in my constituency—even some of the quite big ones—barely made a £2,000 profit last year. That amount of money might look quite trivial in the context of the total customs bill for the year, but it could be significant to traders who have been overcharged.

I asked earlier about underpayments, and the Minister did not answer my question. Have there been underpayments as well, and if so, of how much were they and what is happening with them? Will other traders be told that they have to pay more than they had expected, or will that amount be written off at public expense?

The Minister concentrates on the small percentage of errors in the legislation, but this is not the first time that I have spoken in a DL Committee through which the Government are attempting, for the second or third time, to correct errors in Brexit legislation. It is quite clear that the Government catastrophically misunderstood and underestimated the amount of work needed to put Britain back where it was before it left the European Union.

We cannot blame civil servants—they are human beings and make mistakes, especially when under pressure—but if this is what happens now, when the civil service is close to full staffing, how on earth do the Government think they will get by with 90,000 fewer civil servants? Where will those civil service cuts be made? I have not yet seen a Government Department

perform anywhere near the standards that they should reach, and for most of them, that is partly because they are understaffed, so I genuinely do not know why the Treasury or any other Department thinks that it can cut staffing by 20%, 30% or 40% without opening the door to errors that are much more catastrophic than the ones before the Committee.

4.39 pm

**Lucy Frazer:** I now have the answer for the hon. Member for Ealing North, which will save us from writing letters. HMRC has written to all the traders, so there is no need for them to apply.

Let me respond to a couple of the points made by the SNP spokesperson, the hon. Member for Glenrothes. We should have put a figure into the schedule, but we did not. Traders would have been expecting to pay the amount that would have been due in the ordinary course, but because the legislation does not include that figure, we cannot legally claim it. Those are amounts that traders would, in the normal course, pay to the Government. It is not that they have overpaid something that was incorrect or that they have been charged an excess amount; it is just that we cannot legally collect the sum, and that is why we are paying it back. I hope that answers his question about underpayment and overpayment.

Yes, we are paying back £1.3 million in respect of those errors, but the total tariff income that the statutory instrument deals with is £4.5 billion, so the errors are minor in the context of the whole. I commend the regulations to the Committee.

*Question put and agreed to.*

4.40 pm

*Committee rose.*





