

**EXPLANATORY MEMORANDUM TO**  
**THE POSTAL PACKETS (REVENUE AND CUSTOMS) REGULATIONS**  
**2011**

**2011 No. 3036**

1. This explanatory memorandum has been prepared by Her Majesty's Revenue and Customs and is laid before the House of Commons by Command of Her Majesty.

It contains information for the Select Committee on Statutory Instruments.

2. **Purpose of the instrument**

2.1 To replace the Postal Packets (Customs and Excise) Regulations 1986 ("the 1986 Regulations") and the Postal Packets (Revenue and Customs) Regulations 2007 ("the 2007 Regulations") with a single set of regulations that reflect European law and address current operational needs as well as the existence of postal operators other than the Royal Mail.

3. **Matters of special interest to the Select Committee on Statutory Instruments**

3.1 None

4. **Legislative Context**

4.1 Section 105 of the Postal Services Act 2000 allows the Treasury to make Regulations for the application of customs and excise provisions to postal packets. The 1986 Regulations and the 2007 Regulations are both made under section 105, and the new Regulations will also be made under that section. The 1986 Regulations comprise the customs rules applicable to postal packets carried by 'universal service providers' (currently, in the United Kingdom, only the Royal Mail is a 'universal service provider') while the 2007 Regulations extend the application of section 105 to postal packets brought into the United Kingdom by postal operators that are not universal service providers .

5. **Territorial Extent and Application**

5.1 This instrument applies to all of the United Kingdom.

6. **European Convention on Human Rights**

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

## **7. Policy background**

7.1 The 1986 Regulations deal with customs requirements and procedures for goods imported or exported in the post. Some of the provisions are unnecessary because they duplicate directly applicable EU law in Council Regulation 2913/92/EEC. Further, by requiring customs declarations for postal packets moving within the EU, the 1986 Regulations are contrary to the principle of the customs union, as laid down in the treaties. The 1986 Regulations do not apply to packets being sent out of the EU by operators other than Royal Mail. Finally, the 1986 Regulations do not allow the customs authorities to examine postal packets other than at places appointed for the purpose (currently offices of exchange). The conflict with European law renders the United Kingdom vulnerable to infringement proceedings while the remaining shortcomings hamper operational effectiveness.

7.2 The new Regulations will remedy these shortcomings as well as making clear that the customs authorities retain their power to refuse customs clearance of parcels which bear an incorrect declaration or no declaration at all.

7.3 It is intended that the new power to open packets at places other than an office of exchange will be used only in exceptional circumstances, to be set out in a Memorandum of Understanding between the United Kingdom Border Agency and Royal Mail.

## **8. Consultation outcome**

8.1 The proposed measures (including draft Regulations) were submitted for consultation to Royal Mail and fast parcel operators on 1 December 2010. All were broadly content with them although, in the case of Royal Mail, that was subject to the negotiation of Memorandum of Understanding as described in paragraph 7.3 above. We received some drafting amendments from the Office of Parliamentary Counsel and decided to put the revised draft Regulations out for consultation together with a Tax Impact Information Note. The consultation period finished on 12 December and we have received no comments.

## **9. Guidance**

9.1 The Enforcement Handbook and internal guidance (C7-3) will be amended to reflect the new measure.

## **10. Impact**

10.1 There are no new impacts on business. The legislation does not impact on charities or voluntary bodies.

10.2 There is no impact on the public sector.

10.3 A Tax Impact Information Note has been prepared for this instrument.

**11. Regulating small business**

11.1 The legislation does not impact on small businesses.

**12. Monitoring & review**

12.1 These regulations will be reviewed every year to ensure that they reflect relevant developments.

**13. Contact**

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