



House of Commons
Select Committee on
Statutory Instruments

**Twenty-Seventh Report
of Session 2019–21**

Drawing special attention to:

*Customs (Declarations) (Amendment and Modification) (EU Exit) Regulations
2020 (S.I. 2020/1234)*

*Ordered by the House of Commons
to be printed 9 December 2020*

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Select Committee on Statutory Instruments

Current membership

[Jessica Morden MP](#) (*Labour, Newport East*) (*Chair*)

[Dr James Davies MP](#) (*Conservative, Vale of Clwyd*)

[Paul Holmes MP](#) (*Conservative, Eastleigh*)

[John Lamont MP](#) (*Conservative, Berwickshire, Roxburgh and Selkirk*)

[Sir Robert Syms MP](#) (*Conservative, Poole*)

[Owen Thompson MP](#) (*Scottish National Party, Midlothian*)

[Liz Twist MP](#) (*Labour, Blaydon*)

Powers

The full constitution and powers of the Committee are set out in House of Commons Standing Order No. 151, available on the Internet via <https://www.parliament.uk/business/publications/commons/standing-orders-public11/>.

The Select Committee on Statutory Instruments (SCSI) is appointed to consider statutory instruments made in exercise of powers granted by Act of Parliament. It carries out the same duties as the Joint Committee on Statutory Instruments in respect of those instruments laid before and subject to proceedings in the House of Commons only.

The role of the SCSI, whose membership is drawn from the House of Commons, is to assess the technical qualities of each instrument that falls within its remit and to decide whether to draw the special attention of the House to any instrument on one or more of the following grounds:

- i that it imposes, or sets the amount of, a charge on public revenue or that it requires payment for a licence, consent or service to be made to the Exchequer, a government department or a public or local authority, or sets the amount of the payment;
- ii that its parent legislation says that it cannot be challenged in the courts;
- iii that it appears to have retrospective effect without the express authority of the parent legislation;
- iv that there appears to have been unjustifiable delay in publishing it or laying it before Parliament;
- v that there appears to have been unjustifiable delay in sending a notification under the proviso to section 4(1) of the Statutory Instruments Act 1946, where the instrument has come into force before it has been laid;
- vi that there appears to be doubt about whether there is power to make it or that it appears to make an unusual or unexpected use of the power to make;
- vii that its form or meaning needs to be explained;
- viii that its drafting appears to be defective;
- ix or on any other ground which does not go to its merits or the policy behind it.

The Committee usually meets weekly when Parliament is sitting.

Publications

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The reports of the Committee are published in print by Order of the House. All publications of the Committee are available on the Internet from www.parliament.uk/scsi.

Committee staff

The current staff of the Committee are Sue Beeby (Committee Operations Officer), Apostolos Kostoulas (Committee Operations Officer) and Luanne Middleton (Clerk). Advisory Counsel: Sarita Arthur-Crow, Klara Banaszak, Daniel Greenberg, and Vanessa MacNair.

Contacts

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Contents

Instruments reported	3
1 S.I. 2020/1234: Reported for requiring elucidation	3
Customs (Declarations) (Amendment and Modification) (EU Exit) Regulations 2020	3
Instruments not reported	4
Annex	4
Appendix	5
S.I. 2020/1234	5
Customs (Declarations) (Amendment and Modification) (EU Exit) Regulations 2020	5
Formal Minutes	6

Instruments reported

At the Committee's meeting on 9 December 2020 it scrutinised a number of instruments. It was agreed that the special attention of the House of Commons should be drawn to one of those considered in accordance with Standing Orders. The instrument and the grounds for reporting it are given below. The relevant departmental memorandum is published as an appendix to this report.

1 S.I. 2020/1234: Reported for requiring elucidation

Customs (Declarations) (Amendment and Modification) (EU Exit) Regulations 2020

1.1 The Committee draws the special attention of this House to these Regulations on the ground that they require elucidation in one respect.

1.2 These Regulations form part of the body of legislation designed to ensure that the United Kingdom has an efficient customs regime in place at the end of the EU withdrawal Implementation Period. The regulations which are amended by this instrument have been prospectively amended several times. The Committee asked Her Majesty's Revenue and Customs to explain why the Explanatory Memorandum asserts that "it is not possible to consolidate this legislation at this time" and when it is intended that such consolidation will be made. In a memorandum printed as an Appendix the Department explains that this body of secondary legislation may require further changes before 31 December depending on the outcome of negotiations with the European Union. The Committee acknowledges the current uncertainty but notes that lack of consolidated legislation makes it difficult for users to understand the legislation and to prepare for implementation. The Committee hopes that the Government will arrange for consolidation as soon as the pace of expected change slows sufficiently to make it reasonably practicable; in the meantime, **the Committee reports these regulations for requiring elucidation.**

Instruments not reported

The Committee has considered the instruments set out in the Annex to this Report, none of which was required to be reported.

Annex

Instruments requiring affirmative approval

S.I. 2020/1312 Value Added Tax (Miscellaneous Amendments to Acts of Parliament)
 (EU Exit) Regulations 2020

Instruments subject to annulment

S.I. 2020/1113 Value Added Tax (Refund of Tax to the Charter Trustees for
 Bournemouth and the Charter Trustees for Poole) Order 2020

Appendix

S.I. 2020/1234

Customs (Declarations) (Amendment and Modification) (EU Exit) Regulations 2020

1. In its letter to Her Majesty's Revenue and Customs of 25 November 2020, the Select Committee requested a memorandum on the following point:

Given that the regulations amended by this instrument have been prospectively amended several times, explain why the Explanatory Memorandum asserts that “it is not possible to consolidate this legislation at this time” and when it is intended that such consolidation will be made.

2. These Regulations form part of the significant programme of secondary legislation to be delivered by Her Majesty's Revenue and Customs (HMRC) by the end of the year relating to the UK's departure from the European Union. The original legislation was drafted to deal with the event that there would not be a deal with the EU by the 29 March 2019. This legislation has been required to be amended in light of issues arising following extensions which took place in order for an agreement to be reached with the EU. Following the ratification of the EU Withdrawal Agreement it is now necessary to again update this legislation prior to 31 December. What will be required to be delivered by this programme is dependent on the outcome of negotiations with the EU which are still ongoing and further changes will need to be made to these Regulations before 31 December. Consequently, it is not possible to deliver this legislation by consolidation at this time. HMRC has no current plans to consolidate.

Her Majesty's Revenue and Customs

30 November 2020

Formal Minutes

Wednesday 9 December 2020

Virtual Meeting

Members present:

Jessica Morden (*in the Chair*)

Dr James Davies Liz Twist

Paul Holmes Owen Thompson

John Lamont

Draft Report, proposed by the Chair, brought up and read.

Ordered, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1.1 to 1.2 agreed to.

Annex agreed to.

A Paper was appended to the Report as an Appendix.

Resolved, That the Report be the Twenty-Seventh Report of the Committee to the House.

Ordered, That the Chair make the Report to the House.

[Adjourned till Wednesday 16 December at 3.40 p.m.]