House of Commons

Select Committee on Statutory Instruments

# First Report of Session 2026-27

HC 173-i

*The Customs (Northern Ireland) (EU Exit) (Amendment) Regulations 2026*

# Select Committee on Statutory Instruments

## Current membership

Sir Bernard Jenkin (Conservative; Harwich and North Essex) (Chair)

Lewis Atkinson (Labour; Sunderland Central)

Charlotte Cane (Liberal Democrat; Ely and East Cambridgeshire)

Helena Dollimore (Labour; Hastings and Rye)

Andrew Pakes (Labour; Peterborough)

David Pinto-Duschinsky (Labour; Hendon)

Gareth Snell (Labour; Stoke-on-Trent Central)

## 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.

## Publication

This Report, together with formal minutes relating to the Report, was Ordered by the House of Commons, on 2 June 2026, to be printed. It was published on 4 June 2026 by authority of the House of Commons.


Committee Reports are published on the Committee's website at www.parliament.uk/scsi and in print by Order of the House.

## Contacts

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# Contents

# Instruments reported

**At its meeting on 2 June 2026 the Committee scrutinised a number of instruments in accordance with Standing Orders. It was agreed that the special attention of the House of Commons should be drawn to one of those considered. The instrument and the grounds for reporting are given below. The relevant departmental memoranda is published as an appendix to this report.**

## 1 S.I. 2026/393: Reported for unjustifiable delay in laying before the House

### *The Customs (Northern Ireland) (EU Exit) (Amendment) Regulations 2026*

1.1 **The Committee draws the special attention of this House to these Regulations on the ground that there was unjustifiable delay in laying them before the House.**

1.2 These Regulations make various amendments to the Customs (Northern Ireland) (EU Exit) Regulations 2020 primarily to change an HMRC scheme that facilitates the reimbursement of duties charged on goods movements between Great Britain and Northern Ireland where they are deemed 'at risk' of entering the EU but ultimately remain outside of it.

1.3 The Regulations were made on 23 March 2026 but not laid before the House until 16 April, a 25-day delay. At the time of making the instrument, it also breached the 21-day rule by coming into force on 20 April 2026. The Committee was not aware of the making of this instrument until it received a copy on 16 April, alongside a second instrument, the Customs (Northern Ireland) (EU Exit) (Amendment) (No. 2) Regulations 2026 (S.I. 2026/418), which amends these Regulations to change the coming into force date from 20 April to 25 May 2026, meaning that they no longer breach the 21-day rule. In a covering letter also sent to the Committee dated 16 April (a copy of which is printed at Appendix 2), the Exchequer Secretary to His Majesty's Treasury explains that it only became clear when the Regulations were made that further time was required within the EU to ensure that the changes given effect by this instrument could be progressed jointly. The Exchequer Secretary says that this is of paramount importance in ensuring the continued efficacy of arrangements under the Windsor Framework. By making the second instrument, the Minister explains that the Department sought to account for the 21-day rule but it regrettably resulted in “the exceptional, delayed laying of the underlying Regulations”. The Committee asked the Department if it had anything further to add to the explanation set out in the Minister’s letter for the unjustified delay.

**1.4** In a memorandum printed at Appendix 1 and prepared by His Majesty’s Revenue and Customs on behalf of His Majesty’s Treasury, the Department confirms that it has nothing further to add to the Minister’s letter dated 16 April, other than to express regret once again over the circumstances which gave rise to this situation. As the Committee has stressed in reports on a number of occasions and set out in detail at paragraphs 2.2 to 2.14 of its First Special Report of Session 2017–19, Transparency and Accountability in Subordinate Legislation, laying an instrument before Parliament is not a meaningless formality but an important part of access to justice and the rule of law. The Committee reminds all Departments that once a statutory instrument has been made, it is law from that point on and Departments have a statutory duty under section 2(1) of the Statutory Instruments Act 1946 to immediately send the instrument for printing and publishing by the National Archives. The Committee notes the explanation provided by the Department within its letter as to the unusual circumstances surrounding these Regulations and the requirement to work with the EU to agree a new timetable to facilitate the changes being made. However, the Committee deprecates the decision to delay the laying of the Regulations while this took place. It is vital to the rule of law that law should not remain secret once it is made, even in circumstances such as these. The Committee welcomes the Department’s confirmation that steps have been taken to mitigate the risk of this situation recurring. **The Committee accordingly reports these Regulations for unjustifiable delay in laying before the House, acknowledged by the Department.**

# Instruments not reported

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

# Annex

## Instruments requiring affirmative approval

| S.I. Number | S.I. Title |
|---|---|
| **S.I. 2026/338** | The Vaping Duty Stamps (Requirements, Reviews and Appeals) Regulations 2026 |

## Draft instruments requiring affirmative approval

| S.I. Number | S.I. Title |
|---|---|
| **Draft** | The Scotland Act 1998 (Increase of Borrowing Limits) Order 2026 |
| **Draft** | The Climate Change Agreements (Administration, Energy-intensive Installations and Eligible Facilities) (Amendment and Revocation) Regulations 2026 |

## Instruments subject to annulment

| S.I. Number | S.I. Title |
|---|---|
| **S.I. 2026/214** | The Greenhouse Gas Emissions Trading Scheme Auctioning (Amendment) Regulations 2026 |

| S.I. Number | S.I. Title |
|---|---|
| **S.I. 2026/253** | The Customs (Tariff and Miscellaneous Amendments) (No. 2) Regulations 2026 |
| **S.I. 2026/331** | The Vaping Products (Production, Duty Stamps and Commencement) Regulations 2026 |
| **S.I. 2026/336** | The Income Tax (Digital Obligations) Regulations 2026 |
| **S.I. 2026/347** | The Taxes (Interest Rate) (Amendment) Regulations 2026 |
| **S.I. 2026/352** | The Corporate Interest Restriction (Electronic Communications) (Amendment) Regulations 2026 |
| **S.I. 2026/418** | The Customs (Northern Ireland) (EU Exit) (Amendment) (No. 2) Regulations 2026 |

# Appendix 1: Memorandum from His Majesty's Revenue and Customs

## S.I. 2026/393

### *The Customs (Northern Ireland) (EU Exit) (Amendment) Regulations 2026*

1. The Committee has asked HM Treasury for a memorandum on the following point:

   > *Does the Department have anything to add to its explanation for the unjustified delay in laying this instrument set out in the Minister's letter of 16 April 2026?*

2. This memorandum has been prepared by His Majesty's Revenue and Customs on behalf of HM Treasury.

3. We thank the Committee for the opportunity to provide additional information and do not have anything further to add to the Minister's letter of 16 April 2026, other than to once again express regret over the circumstances which gave rise to this situation, and to confirm that steps have been taken to mitigate the risk of this recurring.

**His Majesty's Revenue and Customs**

**26 May 2026**

# Appendix 2: Letter from His Majesty's Treasury

## S.I. 2026/393

### *The Customs (Northern Ireland) (EU Exit) (Amendment) Regulations 2026*

**1.** I write with regard to the circumstances surrounding the Customs (Northern Ireland) (EU Exit) (Amendment) Regulations 2026, (the 'underlying Regulations'), and the subsequent No.2 Regulations (the 'amending Regulations') both laid before the House today. The procedure for both Statutory Instruments is 'made negative' and they are Commons-only.

**2.** The underlying Regulations were made by the Lord Commissioners of HM Treasury on 23 March 2026 with an entry into force date of 20 April 2026. They support enhancements to an HMRC scheme that facilitates the reimbursement of duties that are charged on goods movements between Great Britain and Northern Ireland, where those are deemed 'at risk' of entering the EU yet remain outside of it. The facilitations under the Windsor Framework mean that only a small minority of goods incur those duties and these improvements will further reduce the exposure of businesses through simplifying administrative burdens.

**3.** The Government has for some time been undertaking discussions with the EU over improvements to the scheme, which require changes to domestic law. The EU maintains an interest in the Scheme's administration, from the perspective of safeguarding Northern Ireland's access to both the UK and EU markets and ensuring 'at risk' goods are subject to the correct duty treatment where they may enter the EU market.

**4.** It was therefore regrettable that, only following the underlying Regulations being made, did it become clear that additional time would be required for the completion of internal processes on the EU side so that we could proceed with the improvements jointly. On the basis of the risk that this would exceed the coming into force date for the underlying Regulations, the

Government worked to settle a new timetable with the EU to progress these changes, alongside the necessary amending legislation to give effect to it as soon as possible.

5. The Government has urgently taken forward the amending Regulations such that they have been laid today and come into force on 19 April 2026, amending the entry into force date for the underlying Regulations to 25 May 2026. Whilst the Government's approach has overall sought to account for the 21-day rule, I should emphasise my regret that these circumstances will still constitute a breach of the convention and for the exceptional, delayed laying of the underlying Regulations.

6. The scheme itself reflects the particular nature of the Windsor Framework, which is a unique set of arrangements designed to account for Northern Ireland's place in the UK and avoid a hard border on the island of Ireland. This requires careful joint working and engagement between EU and UK to be effective and durable for the businesses and people that rely on these arrangements. The circumstances surrounding this issue are therefore unique by their very nature, and the delay is not attributable to mere matters of Government administration or presentation. My full expectation is that there should be no repeat and, as the Committee would expect, my officials are looking urgently to ensure that lessons are learnt.

7. Finally, I would reassure traders that the scheme will continue to facilitate claims from traders made within three years of being notified of a duty liability under the terms of the Customs (Northern Ireland) (EU Exit) Regulations 2020. The new entry into force date balances our wish to implement these improvements as quickly as possible with the process of careful joint working described above. Once implemented, these improvements will improve access to the scheme and improve the experience of businesses using the scheme. Information on the eligibility requirements for claims to be made to the scheme remains available on GOV.UK, through which claims to the improved scheme will be able to be made by traders in the coming weeks.

**His Majesty's Treasury**

**16 April 2026**

# Formal Minutes

## Tuesday 2 June 2026

## Members present

Sir Bernard Jenkin (in the chair)

David Pinto-Duschinsky

Gareth Snell

## Report consideration

Draft Report (*First 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 1.4 read and agreed to.

Annex agreed to.

Papers were appended to the Report as Appendices 1 and 2.

*Resolved*, That the Report be the First Report of the Committee to the House.

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

## Adjournment

Adjourned to a day and time to be fixed by the Chair.

# List of Reports from the Committee during the current Parliament

All publications from the Committee are available on the publications page of the Committee's website.

## Session 2024–26

| Number | Title | Reference |
|---|---|---|
| 13th | Thirteenth Report of Session 2024–26 - 2 Statutory Instruments Reported | HC 294-xiii |
| 12th | Twelfth Report of Session 2024–26 - No Statutory Instruments Reported | HC 294-xii |
| 11th | Eleventh Report of Session 2024–26 - No Statutory Instruments Reported | HC 294-xi |
| 10th | Tenth Report of Session 2024–26 - No Statutory Instruments Reported | HC 294-x |
| 9th | Ninth Report of Session 2024–25 - No Statutory Instruments Reported | HC 294-ix |
| 8th | Eighth Report of Session 2024–25 - 1 Statutory Instrument Reported | HC 294-viii |
| 7th | Seventh Report of Session 2024–25 - 1 Statutory Instrument Reported | HC 294-vii |
| 6th | Sixth Report of Session 2024–25 - No Statutory Instruments Reported | HC 294-vi |
| 5th | Fifth Report of Session 2024–25 - No Statutory Instruments Reported | HC 294-v |
| 4th | Fourth Report of Session 2024–25 - 1 Statutory Instrument Reported | HC 294-iv |
| 3rd | Third Report of Session 2024–25 - No Statutory Instruments Reported | HC 294-iii |
| 2nd | Second Report of Session 2024–25 - No Statutory Instruments Reported | HC 294-ii |

| Number | Title | Reference |
|---|---|---|
| 1st | First Report of Session 2024–25 - 1 Statutory Instrument Reported | HC 294-i |