



## Customs (Contravention of a Relevant Rule) (Amendment) Regulations 2014

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### Who is likely to be affected?

Individuals and businesses involved with International Trade who do not comply with their obligations.

### General description of the measure

The new penalties take account of the requirements set out in new legislation. The Customs (Contravention of Relevant Rule) Regulations 2003 provide civil penalties for contraventions of the Postal Packets (Customs and Excise) Regulations 1986. However, these Postal regulations were repealed in 2011 and replaced by the Postal Packets (Revenue and Customs) Regulations 2011. Therefore replacement penalties are required to maintain a robust customs civil penalty regime to encourage compliance with the new regulations

The Regulations also introduce new civil penalties where existing penalties have become obsolete, and to extend the range of contraventions of customs law to which civil penalties apply.

The Regulations will also provide for the issue of a customs civil penalty to travellers entering the UK from outside the EU who have failed to declare goods in excess of their allowance when stopped before clearing customs controls

### Policy objective

The new penalties are required to take account of the requirements set out in the new legislation and ensure that there is a robust customs civil penalty regime to encourage trade compliance.

This measure will ensure that there are effective sanctions to deal with non-compliance where criminal prosecution would not be appropriate.

### Background to the measure

Businesses that engage in international trade, or individuals that import or export goods privately, must comply with European Community and national legal requirements. Those that do not comply can be liable to a penalty under the Regulations. When faced with non-compliance all the circumstances are considered and the most appropriate response is used. There are other means of encouraging compliance, such as education, warnings, temporary withdrawal of concessions and amendment of authorisations. Penalties are not issued automatically or as a first resort, however, they encourage and improve compliance where criminal prosecution would not be appropriate. The use of regulatory civil penalties to underpin customs requirements is well-established and uncontroversial.

## Detailed proposal

### Operative date

It is intended that the Statutory Instruments will be made and laid before the House by Autumn 2014. The penalties will come into force 21 days after laying.

### Current law

The Customs (Contravention of Relevant Rule) Regulations 2003 are made under sections 26(1), (2), (3), (4) and 41 of the Finance Act 2003. They cover a range of contraventions relating to importations and their associated procedures and regimes.

Schedules to the regulations provide details of the relevant rules which, if breached, may be liable to a civil penalty.

The statutory schedules set the maximum penalty for the contravention of a customs provision at either £1,000 or £2,500. There are no fixed penalties. The minimum penalty is £250 which will be the first penalty in all but the most serious cases. Penalties for subsequent contraventions are issued in progressively larger amounts until the maximum is reached. The normal progression will be £250, £500, £1,000, with additional steps of £2,000 and £2,500 for the higher maximum. All penalties (including the minimum £250) are subject to reasonable excuse and mitigation consideration. In the majority of cases a Penalty Notice will not be issued without the trader first having had a warning letter.

### Proposed revisions

The Postal Packets (Customs and Excise) Regulations 2006 were repealed in 2011 and replaced by the Postal Packets (Revenue and Customs) Regulations 2011. Therefore replacement penalties are required to replace the contraventions currently listed in the Customs (Contravention of Relevant Rule) Regulations 2003

These Regulations have been reviewed and, where possible, simplified and there are new entries to introduce new civil penalties where existing penalties have become obsolete, and to extend the range of contraventions of customs law to which civil penalties apply where criminal prosecution would not be appropriate.

Finance Bill 2014 provides the legislative basis to introduce, by secondary legislation, the issue of a customs civil penalty to travellers entering the UK from outside the EU who have failed to declare goods in excess of their allowance when stopped before clearing customs controls. This Statutory Instrument is the legislative basis for that penalty. This penalty will be used in cases where we find there is no dishonest conduct, as an alternative to existing customs civil evasion penalties and existing criminal penalties, for use in the case of less serious contraventions, and to allow us more flexibility in our treatment of customers. As with all customs civil penalties there will be strict liability subject to reasonable excuse.

As a result of all these amendments, the penalties refer more precisely to the relevant provisions.

### Summary of impacts

|                              |  |         |         |         |         |
|------------------------------|--|---------|---------|---------|---------|
| <b>Exchequer impact (£m)</b> | 2014-15  | 2015-16 | 2016-17 | 2017-18 | 2018-19 |
|                              | Nil  | Nil     | Nil     | Nil     | Nil     |
|                              | This measure is not expected to have an Exchequer impact             |         |         |         |         |
| <b>Economic impact</b>       | The measure is not expected to have any significant economic impacts |         |         |         |         |

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| <b>Impact on individuals and households</b>                     | There is no impact on compliant individuals and stakeholders. The new measure introduces minor changes to already existing legislation and requirements. Detailed information is available to all individuals to ensure that they are aware of their duty free allowances when entering the UK from a Non-EU country with regards to the new s78 penalty. |
| <b>Equalities impacts</b>                                       | No equality impacts in relation to any protected characteristic have been identified in relation to these proposals.  |
| <b>Impact on business including civil society organisations</b> | This measure is expected to have a negligible impact on businesses. The new measure introduces a minor change to already existing legislation and requirements, which businesses, in general, are aware of and understand that the customs civil penalty regime will be updated to reflect these changes.   |
| <b>Operational impact (£m) (HMRC or other)</b>                  | As this is intended to only introduce penalties in specific circumstances, it is envisaged that the additional costs will be minimal for HMRC and Border Force.   |
| <b>Other impact</b>   | Other impacts have been considered and none have been identified.   |

### Monitoring and evaluation

This policy will be kept under review through communication with taxpayer groups affected by the measure.

In addition, there are well established statutory review procedures and the right to appeal to an independent Tribunal apply to all penalties. The Tribunal has power to quash or vary a penalty if they think HMRC has been unreasonable or if there was a reasonable excuse for the failure.

### Further advice

If you have any questions about this change, please contact by e-mail, [Karen.rourke@hmrc.gsi.gov.uk](mailto:Karen.rourke@hmrc.gsi.gov.uk) or by post to:

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Or by fax to 03000 594275

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### Declaration

Nicky Morgan MP, Financial Secretary to the Treasury, has read this Tax Information and Impact Note and is satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impacts of the measure.