



Modernisation of ship and aircraft stores

Who is likely to be affected?

Airlines, the shipping industry, especially the cruise ship industry, and those businesses engaged in the supply of ship and aircraft stores.

General description of the measure

The measure will amend the law to clarify that surplus stores can remain on board a ship or aircraft without payment of duty and make provision for the introduction of procedures to account for duty retrospectively on stores consumed in port or on an intra-UK flight and impose penalties for failing to do so. It will also make provision to allow the Commissioners for Her Majesty's Revenue & Customs (HMRC) to make regulations for an authorisation procedure to control goods moving from warehouses to be shipped as stores, in order to address an area of revenue risk, and to specify the circumstances in which goods can be shipped or carried as stores without payment of duty. These circumstances will include the journeys on which stores can be shipped or carried without payment of duty. The measure also imposes a penalty for contravening any provision of the regulations.

Policy objective

The measure will update the legislation relating to ship and aircraft stores to provide flexibility to facilitate trade practices and increase controls on areas of revenue risk. This will enable HMRC and Border Force to work with the industry to improve compliance and is in line with our wider commitment to bring customs and excise law up to date to protect customs and excise revenues.

Background to the measure

In August 2011 HMRC issued a consultative document, *Modernising Customs and Excise Law*. This highlighted the need to bring customs and excise law up to date to protect revenues, reduce the tax gap and better reflect modern trade practices. HMRC announced that it was the intention to reassess requirements and legislation currently used to control ships' and aircraft duty free stores to improve compliance in this area.

The measure will simplify the processes and procedures relating to ships' stores, making it easier for our customers to fully understand their obligations, whilst tackling diversion and the illegal landing of stores.

This measure will put current practices relating to ship and aircraft stores on a firm legal base and enable HMRC and Border Force to work with the industry to improve compliance through the introduction of stronger control measures. It will also enable HMRC to introduce future changes to processes by secondary legislation enabling trade and HMRC to respond quickly and flexibly to changes in business requirements.

Detailed proposal

Operative date

The power to make Regulations will come into force on the date that Finance Bill 2014 receives Royal Assent. The other provisions will come into force by an appointed day order to coincide with the coming into force of the Regulations. This is expected to be a date in late summer 2014.

Current law

The Customs & Excise Management Act (CEMA) 1979 section 1(4) and section 1(4)(A) provide in what circumstances goods for sale on a ship or aircraft can be treated as stores.

CEMA section 39 provides that surplus stores may be entered for warehousing for future use as stores.

CEMA section 61(1) provides that HMRC may direct the quantity of goods that may be carried in a ship or aircraft as stores, the description of vessel on which goods carried as stores may be used in a port without payment of duty, and the quantity of such goods, and the authorisation to be obtained for the supply and carriage of, and the procedure to be followed, in supplying, any goods as stores.

CEMA section 61 (2) to (4) specify the descriptions of vessel on which goods can be shipped as stores without payment of duty.

Proposed revisions

Legislation will be introduced in Finance Bill 2014 to amend section 1(4) of CEMA to provide that goods for sale to persons carried on a ship or aircraft will be treated as stores if they are to be sold by retail in the course of a journey made by the ship or aircraft. The reference to 'relevant journey' is omitted and s 1(4A) repealed. The journeys on which stores can be shipped or carried without payment of duty will be specified in Regulations.

Section 39 of CEMA is amended to clarify that surplus stores can remain on board a ship or aircraft without payment of duty.

Section 61(1) to (4) of CEMA are replaced with regulation making powers to specify the circumstances when goods can be shipped or carried as stores without payment of duty and the authorisation to be obtained, to impose conditions or restrictions on the supply, shipping or carriage of such goods and the procedure to be followed in supplying such goods. The regulations may also make provision requiring duty to be paid on goods shipped or carried as stores without payment of duty where those goods are consumed in port or on an intra-UK journey and the way in which, and time at which, such duty has to be paid.

The measure will also impose a penalty if a person contravenes any provision of the regulations. It will also introduce a penalty for a failure to make a return required by the new regulations and pay the duty due.

Summary of impacts

Exchequer impact (£m)	2013-14	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.					
Economic impact	This measure is not expected to have any significant economic impacts.					
Impact on individuals and households	There is no impact on compliant individuals and stakeholders.					
Equalities impacts	No equality impacts in relation to any protected characteristic have been identified in relation to these proposals.					

Impact on business including civil society organisations	This measure is expected to have a negligible impact on most businesses. The cruise ship and airline industry will benefit from the introduction of procedures to account for duty retrospectively on stores consumed in port or on an intra-UK flight. New Regulations for an authorisation procedure to control goods moving from warehouses to be shipped as stores will impose some new requirements but will impact on a small number of specific businesses. The introduction of penalties will not affect compliant businesses.
Operational impact (£m) (HMRC or other)	The measure provides legal powers to underpin and support existing operational practice. There will only be a minimal cost to HMRC and Border Force.
Other impacts	<p><u>Small and micro business assessment:</u> the majority of businesses affected are likely to be medium to large businesses in the airline and shipping industry. The vast majority of small and micro businesses will not be affected by the measure as only a small number of businesses in general supply stores, most of whom are large or medium size.</p> <p>Other impacts have been considered and none have been identified.</p>

Monitoring and evaluation

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

Further advice

If you have any questions about this change, please contact Karen Rourke on 01702 361934 (email: karen.rourke@hmrc.gsi.gov.uk).

1 Customs and excise: goods carried as stores

Schedule 1 contains provision about goods shipped or carried as stores on ships or aircraft.

SCHEDULE 1

Section 1

GOODS SHIPPED OR CARRIED AS STORES ON SHIPS OR AIRCRAFT

Meaning of “stores”

- 1 (1) Section 1 of CEMA 1979 (interpretation) is amended as follows.
- (2) In subsection (4)(a)(i), for “relevant journey” substitute “journey made by the ship or aircraft”.
- (3) Omit subsection (4A).

Surplus stores

- 2 In section 39 of CEMA 1979 (entry of surplus stores), for subsection (1) substitute –
 - “(1) Surplus stores of any ship or aircraft –
 - (a) may remain on board the ship or aircraft without payment of duty; or
 - (b) may be entered for warehousing, notwithstanding that they could not lawfully be imported as merchandise.This is subject to subsection (2) below.”

Power to make regulations about stores

- 3 In CEMA 1979, after section 60 insert –
 - “**60A Power to make regulations about stores**
 - (1) The Commissioners may by regulations make provision in relation to goods for use on a ship or aircraft as stores.
 - (2) The provision that may be made by regulations under subsection (1) includes –
 - (a) provision permitting, in specified circumstances, goods to be shipped or carried as stores without payment of duty or on drawback;
 - (b) provision requiring authorisation to be obtained, in specified circumstances, for goods to be shipped or carried as stores as mentioned in paragraph (a) above;
 - (c) provision about obtaining such authorisation;
 - (d) provision enabling such authorisation to be withdrawn in specified circumstances;
 - (e) provision imposing, or enabling the Commissioners to impose, conditions or restrictions on the supply, shipping or carriage of goods as stores as mentioned in paragraph (a) above;

- (f) provision as to any procedure to be followed in supplying goods to be shipped or carried as stores as mentioned in paragraph (a) above.
 - (3) Regulations made by virtue of subsection (2)(a) may include—
 - (a) provision requiring duty to be paid on goods shipped or carried as stores without payment of duty or on drawback where those goods are—
 - (i) consumed on a journey of a specified description; or
 - (ii) consumed in specified circumstances in port;
 - (b) provision as to the persons by whom such duty is payable; and
 - (c) provision about the way in which, and the time at which, such duty is to be paid.
 - (4) The provision that may be made by regulations under this section includes—
 - (a) different provision for different cases; and
 - (b) incidental, supplemental, consequential or transitional provision or savings.
 - (5) In this section “specified” means—
 - (a) specified in regulations made under this section; or
 - (b) specified by the Commissioners under such regulations.”
- 4 (1) Section 61 of CEMA 1979 (provisions as to stores) is amended as follows.
- (2) Omit subsections (1) to (4).
 - (3) In subsection (5), for the words from “for use on a voyage” to “duty” substitute “without payment of duty”.
 - (4) After subsection (5) insert—

“(5A) But subsection (5) above does not apply where the goods are entered for warehousing in accordance with section 39.”
 - (5) In subsection (6), omit “for use”.
 - (6) The heading of section 61 becomes “**Supplementary provision relating to stores**”.
- 5 In consequence of the provision made by paragraph 4, in section 103 of F(No.2)A 1987 (consumption in port of goods transhipped for use as stores etc), omit subsections (1), (2) and (4) to (7).

Penalties and enforcement

- 6 In CEMA 1979, after section 60A (inserted by paragraph 3 above) insert—
- “60B Failure to comply with regulations under section 60A**
- (1) This section applies if a person fails to comply with—
 - (a) any provision made by or under regulations under section 60A; or
 - (b) any condition or restriction imposed under such regulations.

- (2) The person’s failure to comply shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties) (but see subsection (4)).
- (3) Any goods in respect of which the person fails to comply with the provision, condition or restriction are liable to forfeiture.
- (4) Subsection (2) does not apply if, as a result of the failure, the person is liable to pay a penalty under Schedule 55 to the Finance Act 2009 (penalty for failure to make returns etc) or Schedule 56 to that Act (penalty for failure to make payments on time).”

7 In Schedule 55 to FA 2009 (penalty for failure to make returns etc), in the Table in paragraph 1, after item 20 insert –

“20A	Excise duties	Return under regulations under section 60A of the Customs and Excise Management Act 1979”.
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8 In Schedule 56 to FA 2009 (penalty for failure to make payments on time), in the Table in paragraph 1, after item 11G insert –

“11GA	Excise duties	Amount payable under regulations under section 60A of the Customs and Excise Management Act 1979 (except an amount falling within item 17A, 23 or 24).	The date determined by or under regulations under section 60A of the Customs and Excise Management Act 1979 as the date by which the amount must be paid”.
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Commencement

- 9 (1) Any power to make regulations conferred by virtue of this Schedule comes into force on the day on which this Act is passed.
- (2) So far as not already brought into force by virtue of sub-paragraph (1), the amendments made by this Schedule come into force in accordance with provision contained in an order made by statutory instrument by the Commissioners for Her Majesty’s Revenue and Customs.
- 10 (1) Schedule 55 to FA 2009 (including the amendments of that Schedule made by Schedule 10 to F(No.3)A 2010) is taken to have come into force for the purposes of section 60A of CEMA 1979 on the date on which paragraph 7 of this Schedule comes into force.
- (2) Schedule 56 to FA 2009 (including the amendments of that Schedule made by Schedule 11 to F(No.3)A 2010) is taken to have come into force for the purposes of section 60A of CEMA 1979 on the date on which paragraph 8 of this Schedule comes into force.

EXPLANATORY NOTE

GOODS SHIPPED OR CARRIED AS STORES ON SHIPS OR AIRCRAFT

SUMMARY

1. Clause [X] and Schedule [Y] will update the legislation relating to ship and aircraft stores to provide flexibility to facilitate trade practices and increase controls on areas of revenue risk. This will enable HM Revenue & Customs (HMRC) and Border Force to work with the Industry to improve compliance and is in line with our wider commitment to bring customs and excise law up to date to protect customs and excise revenues

DETAILS OF THE SCHEDULE

2. Paragraph 1(1) of the Schedule introduces the amendment to section 1 of the Customs and Excise Management Act (CEMA) 1979.

3. Paragraph 1(2) removes the reference to ‘relevant journey’ in section 1(4)(a)(i) of CEMA and replaces it with a ‘journey made by the ship or aircraft’.

4. Paragraph 1(3) removes section 1(4A) of CEMA which defines “relevant journey” for the purposes of section 1(4).

5. Paragraph 2 substitutes subsection (1) to section 39 of CEMA with a new subsection to provide that surplus stores may remain on board a ship or aircraft without payment of duty or be entered for warehousing

6. Paragraph 3 introduces a new section 60A to CEMA, which provides a new power to make regulations about stores.

7. New subsection (1) of section 60A provides that the Commissioners may make regulations in relation to goods for use on a ship or aircraft stores.

8. New subsection (2) of section 60A provides for what can be included in the regulations.

9. New subsection (2)(a) provides that the regulations may specify the circumstances when goods can be shipped or carried as stores without payment of duty or on drawback.

10. New subsection (2)(b) provides that the regulations may include provision requiring authorisation to be obtained, in specified circumstances, for goods to be shipped or carried as stores without payment of duty.

11. New subsection (2)(c) provides that the regulations may include provision about obtaining such authorisation.
12. New subsection (2)(d) provides that the regulations may include provision about the circumstances when such authorisation can be withdrawn.
13. New subsection (2)(e) provides that the regulations may include provision imposing, or enabling the Commissioners to impose, conditions and restrictions on the supply, shipping or carriage of goods as stores without payment of duty.
14. New subsection (2)(f) provides that the regulations may include provision about the procedures to be followed when supplying goods to be shipped or carried as stores without payment of duty.
15. New subsection 3 of section 60A sets out that where the regulations provide for goods to be shipped or carried as stores without payment of duty, they may also include provision requiring duty to be paid on such goods where they are consumed on a journey of a specified description or consumed in specified circumstances in port. Further provisions are made about the persons by whom such duty is payable and the way in which, and the time at which, it is to be paid.
16. New subsection 4 of section 60A provides that the regulations may make different provision for different cases and incidental, supplemental, consequential or transitional provisions or savings.
17. New subsection 5 of section 60A provides that ‘specified’ in the section means specified in the regulations or specified by the Commissioners under the regulations.
18. Paragraph 4 amends the heading to section 61 of CEMA, omits subsections (1) to (4) of that section (which are replaced by the regulation making powers in new section 60A) and makes some consequential amendments.
19. Paragraph 5 amends section 103 of the Finance (No. 2) Act 1987 by removing subsections (1), (2) and (4) to (7).
20. Paragraph 6 introduces a new section 60B to CEMA to provide for penalties when any provision made by or under the regulations, or any condition or restriction imposed under the regulations, are contravened and to provide that any goods in respect of which a person contravenes a provision of the regulations are liable to forfeiture.
21. New subsection 60B(1) provides that the new section 60B to CEMA applies if a person contravenes any provision made by or under the regulations made under section 60A or any condition or restriction imposed under the regulations.
22. New subsection 60B(2) provides that the contravention will attract a penalty under section 9 of the Finance’ Act 1994.

23. New subsection 60B(3) provides that any goods in respect of which a person fails to comply with a provision, or a condition or restriction, imposed by or the regulations are liable to forfeiture.
24. New subsection 60B(4) provides that a person is not liable to a penalty under section 9 of the Finance Act 1994 if that person is liable to a penalty under Schedule 55 or 56 to the Finance Act 2009.
25. Paragraph 7 amends Schedule 55 to the Finance Act 2009 by inserting a new item 20A in the Table in paragraph 1 of that Schedule to provide for a penalty for a failure to make a return under regulations under new section 60A of CEMA.
26. Paragraph 8 amends Schedule 56 to the Finance Act 2009 by inserting a new item 11GA in the Table in paragraph 1 of that Schedule to provide for a penalty for a failure to make payments under regulations under new section 60A of CEMA on time.
27. Paragraph 9 contains commencement provisions and provides that the power to make regulations in the Schedule comes into force on Royal Assent and that the other amendments made by the Schedule come into force in accordance with provisions in an order made by the Commissioners for HMRC.
28. Paragraph 10 contains commencement provisions and provides that the amendments to Schedules 55 and 56 to the Finance Act 2009 come into force when paragraphs 7 and 8 of the Schedule are brought into force by an order made by the Commissioners for HMRC.

BACKGROUND NOTE

29. The Schedule will amend the law to clarify that surplus stores can remain on board a ship or aircraft without payment of duty and make provision for the introduction of procedures to account for duty retrospectively on stores consumed in port or on an intra-UK flight and impose penalties for failing to do so. It will also make provision to allow the Commissioners for HMRC to make regulations for an authorisation procedure to control goods moving from warehouses to be shipped as stores, in order to address an area of revenue risk, and to specify the circumstances in which goods can be shipped or carried as stores without payment of duty. These circumstances will include the journeys on which stores can be shipped or carried without payment of duty. The measure also imposes a penalty for contravening any provision, or condition or restriction, imposed by or under the regulations.
30. If you have any questions about this change, or comments on the legislation, please contact Karen Rourke on 01702 361934 (email: karen.rourke@hmrc.gsi.gov.uk).