

EXPLANATORY MEMORANDUM FOR EUROPEAN UNION LEGISLATION WITHIN THE SCOPE OF THE UK/EU WITHDRAWAL AGREEMENT AND THE WINDSOR FRAMEWORK

COMMISSION DELEGATED REGULATION (EU) 2023/1128 OF 24 MARCH 2023 AMENDING DELEGATED REGULATION (EU) 2015/2446 TO PROVIDE FOR SIMPLIFIED CUSTOMS FORMALITIES FOR TRUSTED TRADERS AND FOR SENDING PARCELS INTO NORTHERN IRELAND FROM ANOTHER PART OF THE UNITED KINGDOM

1. Submitted by HM Revenue and Customs 19/10/2023

SUBJECT MATTER

2. On 27 February 2023 the UK and EU agreed the Windsor Framework, providing a fundamentally new set of arrangements to restore the smooth flow of trade within the UK internal market. These arrangements were adopted at the Withdrawal Agreement Joint Committee on 24 March 2023, through the publication of Joint Committee Decision No 1/2023, with the EU's relevant internal implementing legislation published on the same day through Commission Delegated Regulation (EU) 2023/1128. The legal texts underpinning the package are available on Gov.uk¹ along with a Command Paper in which the Government set out the details of the Windsor Framework, published on 27 February 2023.
3. Some of the new arrangements are already in force. For example:
 - a. A new UK Internal Market Scheme (UKIMS) has replaced the previous UK Trader Scheme (UKTS). This significantly expands the number of businesses able to declare their goods "not at risk", alleviating the need to pay customs duty.
 - b. The new Duty Reimbursement Scheme which allows traders to reclaim customs duty paid by reference to the EU tariff on goods that can be shown not to have entered the EU.
4. Other arrangements will come into force from 30 September 2024, including a further set of benefits for traders moving their goods under the UKIMS, ensuring that goods intended for the UK internal market can move from Great Britain to Northern Ireland free of unnecessary paperwork, checks and duties.
5. Under the terms of the Windsor Framework, the EU agreed to make a number of changes to its own legislation in order to give effect to these arrangements. These changes are made through new Commission Delegated Regulation (EU) 2023/1128, adopted on 9 June 2023.
6. The amendments provide the legal basis to:

¹ [The Windsor Framework - GOV.UK \(www.gov.uk\)](https://www.gov.uk)

- a. Ensure that eligible goods will no longer move on the basis of international customs requirements, instead requiring only the provision of commercial information.
- b. Remove customs formalities for parcels of a non-commercial nature. This amendment covers parcels sent by private individuals from other parts of the UK to private individuals in Northern Ireland as well as parcels transported by authorised carriers from established UK economic operators (businesses) to private individuals in Northern Ireland. Formalities are also removed for parcels transported by authorised carriers that are returned to economic operators based in Northern Ireland from private individuals elsewhere in the UK. Carriers will instead be required to submit commercial data on these movements to HMRC.

SCRUTINY HISTORY

7. No recent relevant scrutiny has been identified in relation to this Delegated Regulation but other Explanatory Memoranda relevant to the Windsor Framework are:
 - a. (2023/0066 (NLE) COM(2023) 123 final/2 + ANNEXES 1 TO 3) A Proposal for a COUNCIL DECISION on the position to be taken on behalf of the European Union in the Joint Committee established by the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community as regards a decision to be adopted, and recommendations and joint and unilateral declarations to be made: Submitted on 21 March 2023.
 - b. (2023/0065 (NLE) COM (2023) 120 final) A Proposal for a COUNCIL DECISION on the position to be taken on behalf of the European Union in the Joint Consultative Working Group established by the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community as regards the amendment of its rules of procedure: Submitted on 21 March 2023.

MINISTERIAL RESPONSIBILITY

8. The Chancellor of the Exchequer has responsibility for UK policy on EU monetary and economic issues, including customs.

INTEREST OF THE DEVOLVED ADMINISTRATIONS

9. Customs is not a devolved matter, but UKG will continue to discuss matters where relevant with each of the devolved administrations.

LEGAL AND PROCEDURAL ISSUES

i. Legal Base:

The legal base for the Delegated Regulation, which amends Commission Delegated Regulation (EU) 2015/2446, is Articles 7(a), 131(a), 160 and 183) of Regulation (EU) No 952/2013 of the European Parliament and the Council of 9 October 2013. Regulation 952/2013 delegates to the Commission certain powers, in accordance with Article 290 TFEU, to adopt delegated regulations. Together, those Articles set out that the Commission is empowered to adopt delegated acts, in accordance with Article 284, to determine:

- (a) the common data requirements referred to in Article 6(2), taking into account the requirements of the legislation and the nature and purpose of the exchange and storage of information referred to in Article 6(1);
- (b) the cases where the obligation to lodge an entry summary declaration is waived, in accordance with point (b) of Article 127(2);
- (c) the cases where information may be lodged using means other than electronic data-processing techniques in accordance with Article 158(2); and
- (d) the conditions for granting the authorisation referred to in Article 182(1).

The procedure that the Commission is required to follow for delegated acts is set out in Article 284 of the UCC.

ii. Voting Procedure:

The Commission adopted the Delegated Act in accordance with the procedure set out in Article 284 of Regulation (EU) No 952/2013, under which it can enter into force if no objection is expressed by the Council or Parliament within two months of notification, or if they indicate that they will not object. To exercise their right of objection, a majority in the European Parliament is necessary, or a qualified majority in the Council.

iii. Timetable for adoption and implementation:

The Delegated Act entered into force 20 days after its publication in the *Official Journal of the European Union*. The publication date was 9 June 2023.

The provisions will apply from 30 September 2024, following the required declarations having been made at the Joint Committee as set out in Decision No 1/2023 of the Withdrawal Agreement Joint Committee; or from the first day of the following month after the last declaration is made.

POLICY AND LEGAL IMPLICATIONS

10. The amendments to the Delegated Regulation (EU) 2015/2446 will give effect to important aspects of the new arrangements for goods movements into Northern Ireland under the Windsor Framework. These changes will reduce burdens on businesses and individuals that were part of the old Northern Ireland Protocol, with regards to movements of goods from Great Britain to Northern Ireland.
11. As it stands, goods that are considered to be “not at risk” of moving into the EU, are not subject to the EU customs tariff. However, all goods moved by freight, even those “not at risk”, are currently subject to full customs procedural requirements.
12. These amendments provide a new basis for UK Internal Market Scheme (UKIMS) trusted traders to move their goods.
13. Eligibility criteria for UKIMS authorisation, which took effect on 30 September 2023 are far wider than UKTS criteria. Firstly, traders based anywhere in the UK, including those who do not have a fixed place of business in Northern Ireland, will be able to become authorised for UKIMS. Secondly, the commercial processing annual turnover threshold has also increased from £500,000 to £2m. Thirdly, even if traders are above that threshold, they will be eligible to move goods under the scheme if those goods are moved in connection with one of the approved purposes. They will be able to do this as intermediaries or if they sell on the eventual product. This will allow a much broader range of traders to be able to declare goods “not at risk” and use the new “green lane”.
14. As of 13 October 2023, HMRC has registered 2706 new traders for UKIMS who were not authorised under UKTS.
15. In addition to being relieved of customs duties, traders moving goods “not at risk” will be able to move their goods through the new “green lane”. They will benefit from a radically simplified process for goods movements, underpinned by the existing Trader Support Service (TSS). To do this the system will draw on existing data that businesses already hold and provide about the type of goods they are moving, allowing goods to move seamlessly. This removes the need for the burdensome 80-field supplementary declaration previously required after the goods had arrived in Northern Ireland.
16. The full ‘green lane’ arrangements will be in place from 30 September 2024. Ahead of that date there will continue to be intensive engagement with traders, hauliers and other stakeholders to support preparations for these new arrangements.

17. Also reflected in the amendments and as agreed under the Windsor Framework, there will be new arrangements in place for the movement of parcels which protect consumers from unnecessary customs requirements.
18. These will mean that there will be no customs declarations, tariffs, or presentation of goods to customs authorities when parcels are sent by or to consumers. There will also be no routine checks or controls applied to consignments, with interventions only on the basis of a risk-based, intelligence-led approach. Private individuals in Northern Ireland will be able to receive parcels sent by direct transport from friends, family or businesses in Great Britain as smoothly as they do now.
19. Information on these arrangements for parcels is provided below. Further guidance was published on 8 September 2023².
- Consumer-to-consumer parcel movements: For parcels sent from a consumer to a consumer, the relevant parcel carriers will provide data on the movement to HMRC.
 - Business-to-consumer and consumer-to-business parcel movements: Under the new authorised carrier scheme, the carrier will collect standard information required for parcel movements (such as the name and address of the recipient and content of the parcel) from the sending business in Great Britain (or the receiving business in Northern Ireland in the case of a consumer-to business movement).
 - Business-to-business movements: Business-to-business parcel movements will be in line with the same “green and red lane” process in place for freight. This means that, to use the “green lane” process, traders (either the sending or receiving business) will need to be authorised under UKIMS and meet the criteria for moving goods under this scheme.
20. As noted above, these new arrangements are not due to take effect until 30 September 2024. In addition to the recently published guidance, intensive work between Government and the parcel industry continues in relation to the detailed design of the requirements for authorised carriers ahead of that date.

² <https://www.gov.uk/government/publications/moving-parcels-from-great-britain-to-northern-ireland-under-the-windsor-framework-from-30-september-2024>

CONSULTATION

21. This Delegated Regulation is the result of bilateral UK and EU discussions. The Government consulted extensively with a broad range of stakeholders ahead of agreeing the Windsor Framework. This will continue in the months ahead of these new arrangements taking effect.

MINISTERIAL NAME AND SIGNATURE

A handwritten signature in blue ink, reading 'Victoria Atkins', with a stylized flourish at the end.

Victoria Atkins MP
Financial Secretary to the Treasury
HM Treasury