

**EXPLANATORY MEMORANDUM TO
THE EXCISE DUTIES (SMALL NON-COMMERCIAL CONSIGNMENTS) RELIEF
(AMENDMENT) (REVOCATION) REGULATIONS 2007**

2007 No. 2092]

1. This explanatory memorandum has been prepared by Her Majesty's Revenue and Customs and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 The Excise Duties (Small Non-Commercial Consignments) Relief Regulations 1986 (S.I. 1986/938) (the "1986 Regulations") have been revoked by the Finance Act 2007. This instrument revokes the three Regulations which amended the 1986 Regulations.

3. Matters of special interest to the Joint Committee on Statutory Instruments

None

4. Legislative Background

4.1 The 1986 Regulations provided that no excise duty was payable on the importation of small quantities of unaccompanied excise goods.

4.2 The judgement in the ECJ case *Staatssecretaris van Financien v BF Joustra* (2006) Case C-5/05 ("the Joustra judgement") confirmed that any excise goods not transported personally by a private individual are deemed to be for commercial purposes and are therefore liable to excise duty in the Member State of importation.

4.3 The 1986 Regulations were revoked by section 111 of the Finance Act 2007. This instrument revokes the three Regulations which amended the 1986 Regulations.

5. Extent

This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 The Joustra judgement confirmed that only products acquired and transported personally by private individuals were exempt from excise duty in the Member State of importation. Moreover, such products must be intended for private use only.

7.2 The 1986 Regulations have therefore been revoked in order to fulfil the obligation to remove reliefs granted to intra EU consignments.

7.3 This instrument revokes the three Regulations which amended the 1986 Regulations in order to update the statute book, and to prevent people being misled by the presence of Regulations which amended the revoked 1986 Regulations.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

8.2 The impact on the public sector is negligible.

9. Contact

Chris Mountford at Her Majesty's Revenue and Customs Tel: 0161 827 0362 or e-mail: chris.mountford@hmrc.gsi.gov.uk can answer any queries regarding the instrument.