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STATUTORY INSTRUMENTS

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**1991 No. 2725**

**CUSTOMS AND EXCISE**

**The Customs Warehousing Regulations 1991**

*Made* - - - - *4th December 1991*  
*Laid before Parliament* *11th December 1991*  
*Coming into force* - - *1st January 1992*

The Commissioners of Customs and Excise, being a Department designated for the purposes of section 2(2) of the European Communities Act 1972<sup>(1)</sup> in relation to customs matters of the European Communities<sup>(2)</sup>, in exercise of the powers conferred upon them by the said section 2(2) and of all other powers enabling them in that behalf, hereby make the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the Customs Warehousing Regulations 1991 and shall come into force on 1st January 1992.

**Interpretation**

2. In these Regulations—

“the Act” means the Customs and Excise Management Act 1979<sup>(3)</sup>;

“the customs and excise Acts” has the same meaning as in section 1(1) of the Act;

“relevant Community provision” means any provision of a Community Regulation specified in the first and second columns of the Schedule.

**Amendment of the Customs and Excise Management Act 1979**

3.—(1) Subject to regulation 4 below the Act shall be amended as follows.

(2) In section 1(1) (interpretation)—

(a) the definition of “customs warehouse” shall be omitted; and

(b) there shall be inserted the following definition:

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(1) 1972 c. 68.  
(2) S.I. 1977/980.  
(3) 1979 c. 2.

““victualling warehouse” means a place of security approved by the Commissioners under subsection (2) (whether or not it is also a place approved under subsection (1) of section 92 below).”

(3) In section 27 (officers' powers of boarding), there shall be inserted after subsection (1)(4) the following—

“(1A) For the purposes of subsection (1) above “customs warehouse” means a victualling warehouse or a place approved by the Commissioners under Article 3 of Commission Regulation (EEC) No. 2561/90.”

3.—(4) In section 92(5) (approval of warehouses)—

(a) for subsection (2) there shall be substituted the following—

“(2) Functions with respect to the approval of warehouses for the purposes of Article 38 of Commission Regulation (EEC) No. 3665/87(6) shall be exercised by the Commissioners; and a warehouse approved by them for such purposes is referred to in this Act as a “victualling warehouse”.”

(b) in subsection (3), for “customs” there shall be substituted “victualling”; and

(c) in subsection (4), for “customs warehouse” there shall be substituted “victuall ing warehouse”.

(5) In section 98(4) (definition of prescribed period for purposes of procedure when warehouse ceases to be approved) for “customs warehouse” there shall be substituted “victualling warehouse”.

### Value Added Tax

4. The amendments made to the Act by regulation 3 above shall not have effect in relation to the application of the Act by virtue of section 24(1) of the Value Added Tax Act 1983(7).

### Offences, penalty and forfeiture

5. In the event of any contravention or failure to comply with—

(a) any relevant Community provision; or

(b) any requirement or condition imposed by or under any such provision; or

(c) any undertaking given pursuant to any such provision or requirement,

the person responsible for the contravention or failure shall be liable on summary conviction to a penalty of level 3 on the standard scale(8) together with a penalty of £40 for each day on which such contravention or failure continues; and any goods in respect of which such offence was committed shall be liable to forfeiture.

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(4) Section 27(1) was amended by the Finance Act 1983 (c. 28), Section 7(4) and by the Finance Act 1987 (c. 16), section 7(1).

(5) Section 92(2)(b) was substituted by the Finance Act 1988 (c. 39), section 9(1).

(6) OJ No. L351, 14.12.87, p. 1. This Regulation has been amended by Commission Regulation (EEC) No. 3494/88 (OJ No. L306, 11.11.88, p. 24), Commission Regulation (EEC) No. 3993/88 (OJ No. L354, 22.12.88, p. 22), Commission Regulation (EEC) No. 3947/89 (OJ No. L379, 28.12.89, p. 29), Commission Regulation (EEC) No. 354/90 (OJ No. L38, 10.2.90, p. 34), Commission Regulation (EEC) No. 1615/90 (OJ No. L152, 16.6.90, p. 33) and Commission Regulation (EEC) No. 189/91 (OJ No. L20, 26.1.91, p. 28).

(7) 1983 c. 55.

(8) The levels of the penalties on the standard scale currently in force are set out in S.I. 1984/447 (England and Wales), 1984/526 (Scotland) and S.R. (N.I.) 1984 No. 253 (Northern Ireland). Those penalties are increased by section 17 of the Criminal Justice Act 1991 (c. 53) with effect from a date to be appointed by the Secretary of State under section 102 of that Act.

## Supplementary

6.—(1) Section 139 of and Schedule 3 to the Act<sup>(9)</sup> (detention, seizure and condemnation of goods) shall apply to any goods liable to forfeiture under regulation 5 above as if the goods were liable to forfeiture under the customs and excise Acts.

(2) Sections 144 to 148 and 150 to 155 of the Act<sup>(10)</sup> (proceedings for offences, mitigation of penalties, proof and other matters) shall apply in relation to offences and penalties under regulation 5 above and proceedings for such offences or for condemnation of any thing as being forfeited under that regulation as they apply in relation to offences and penalties and proceedings for offences or for condemnation under the customs and excise Acts.

King's Beam House, 22 Upper Ground, London SE1 9PJ

4th December 1991

*Alexander W. Russell*  
Commissioner of Customs and Excise

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(9) Section 139(7) was amended by the Criminal Justice Act 1982 (c. 48), section 46, by the Criminal Procedure (Scotland) Act 1975 (c. 21), section 289G (which was inserted by the Criminal Justice Act 1982, section 54), and by S.I. 1984/703 (N.I.3).

(10) Section 147(2) was amended by the Magistrates' Courts Act 1980 (c. 43), section 154 and Schedule 7 paragraph 176; section 147(5) was repealed by the Criminal Justice Act 1982 (c. 48), section 77 and Schedule 14 paragraph 42 and section 78 and Schedule 16; section 151 was amended by the Magistrates' Courts Act 1980, section 154 and Schedule 7 paragraph 177; section 153(4) was inserted by the Finance Act 1981 (c. 35), section 11 and Schedule 8 Part I paragraph 9.

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

## SCHEDULE

Regulation 2

## RELEVANT COMMUNITY PROVISIONS

(1) <i>Community Regulation</i>	(2) <i>Relevant Provision</i>	(3) <i>Subject matter of Provision</i>
Council Regulation (EEC) No. 2503/88(11)	Article 8(a)	Warehousekeeper to ensure that goods in warehouse are not removed from customs supervision.
	Article 8(b)	Warehousekeeper to fulfil obligations arising from storage of goods.
	Article 8(c)	Warehousekeeper to comply with conditions of authorization.
	Article 14	Designated person to keep stock records in approved form and at disposal of customs authority.
	Article 19	Temporary removal needs authorization. Article 20 Transfer needs authorization.
Commission Regulation (EEC) No. 2561/90(12)	Article 13	Failure to make presentation of goods and lodge declaration. Article 24 Authorized use of simplified procedures.
	Articles 34, 35 and 59	Authorization for usual forms of handling.
	Article 39	Inventory to be furnished when required.
	Articles 40–43	Treatment without customs approved formalities.
	Articles 44–49	Provisions concerning release for free circulation.
	Articles 50–55	Provisions concerning export.
	Articles 60–62	Requirement for export declaration.
Article 64	Customs status and identification of Community goods.	

(11) OJ No. L225, 15.8.88, p. 1.

(12) OJ No. L246, 10.9.90, p. 1. This Regulation has been amended by Commission Regulation (EEC) No. 2485/91 (OJ No. L228, 17.8.91, p. 34).

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

From 1st January 1992 the approval and administration of customs warehouses will be governed by Council Regulation (EEC) No. 2503/88 and Commission Regulation (EEC) No. 2561/90, except in the case of victualling warehouses which will continue to be approved under section 92(2) of the Customs and Excise Management Act 1979 for the purposes of Article 38 of Commission Regulation (EEC) No. 3665/87.

These Regulations substitute a new subsection for section 92(2) and amend section 1 (interpretation) to the effect that provisions of the 1979 Act which hitherto applied to all customs warehouses will apply only to victualling warehouses. This is with the exception of the powers of search conferred by section 27 which will operate in respect of warehouses approved under the EC Regulations as well as victualling warehouses. The provisions which will lose their application to customs warehouses will continue to operate where appropriate for excise purposes and, under regulation 4 of these Regulations, for the warehousing of goods on which value added tax is chargeable on importation.

Certain other consequential amendments are made to the 1979 Act.

These Regulations provide for penalties and forfeiture for contravention of requirements set out in the EC instruments.