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STATUTORY INSTRUMENTS

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**1992 No. 3151**

**CUSTOMS AND EXCISE**

**The Excise Goods (Drawback) Regulations 1992**

*Made* - - - - *10th December 1992*  
*Laid before Parliament* *14th December 1992*  
*Coming into force* - - *1st January 1993*

The Commissioners of Customs and Excise, in exercise of the powers conferred upon them by section 2 of the Finance (No. 2) Act 1992<sup>(1)</sup> and of all other powers enabling them in that behalf, hereby make the following Regulations:

**PART I**  
**PRELIMINARY**

**Citation and commencement**

1. These Regulations may be cited as the Excise Goods (Drawback) Regulations 1992 and shall come into force on 1 January 1993.

**Application**

2.—(1) Subject to paragraph (2) below, these Regulations apply to goods chargeable with a duty of excise provided that those goods have not been, and will not be, consumed in the United Kingdom.

(2) These Regulations shall not apply—

- (a) to any goods exported from the United Kingdom if they are, at the time of their exportation, consigned to a place outside the Communities;
- (b) to chewing tobacco; and
- (c) to matches and mechanical lighters.

**Interpretation**

3. In these Regulations—

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(1) 1992 c. 48; section 2(5) defines Commissioners as meaning the Commissioners of Customs and Excise.

“accompanying document” and “certificate of receipt” have the meanings given in regulation 7 below;

“the Act” means the Customs and Excise Management Act 1979(2);

“business day” has the meaning given in section 92 of the Bills of Exchange Act 1882(3);

“duty” means duty of excise;

“eligible claimant” has the meaning given in regulation 5 below;

“eligible goods” and “planned destruction” have the meanings given in regulation 4 below;

“merchantable quality” has the meaning given in section 14 of the Sale of Goods Act 1979(4);

“registered excise dealers and shippers regulations”, “revenue trader” and “ware housing regulations” have the meanings given in section 1(1) of the Act(5).

## PART II

### ENTITLEMENT TO DRAWBACK

#### Eligible goods

4.—(1) A claim for drawback of duty may only be made in relation to eligible goods.

(2) Goods are eligible goods if duty has been paid and has not been remitted, repaid or drawn back and either—

- (a) those goods have been exported; or
- (b) subject to paragraph (3) below, those goods have been destroyed.

(3) Goods shall not be eligible goods if they are destroyed either—

- (a) accidentally unless—
  - (i) the goods were being exported and destruction took place after leaving the premises mentioned in paragraph (ii) of subparagraph (b) of regulation 7(1) but within the United Kingdom; or
  - (ii) the destruction was occasioned in any of the circumstances set out in Schedule 1 to these Regulations; or
- (b) otherwise than accidentally unless that destruction was a planned destruction.

(4) For the purpose of these Regulations “planned destruction”—

- (a) means the destruction of goods which, by reason of faulty manufacture or subsequent deterioration or contamination were at the time of their destruction not of merchantable quality provided that, save as the Commissioners may otherwise allow, that destruction was carried out in accordance with the provisions of Schedule 2 to these Regulations; and
- (b) includes denaturing to the satisfaction of the Commissioners.

#### Eligible claimants

5.—(1) A claim for drawback of duty may only be made by an eligible claimant.

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(2) 1979 c. 2.

(3) 1882 c. 61 (45 & 46 Vict); section 92 was amended by the Banking and Financial Dealings Act 1971 (c. 80), sections 3 and 4.

(4) 1979 c. 54.

(5) The definition of trader in section 1(1) was amended by the Finance Act 1981 (c. 35), section 11 and Schedule 8, paragraph 1 and the Finance Act 1991 (c. 31), section 11; the definition of excise dealers and shippers regulations was inserted by the Finance Act 1991, section 11.

- (2) A claimant is an eligible claimant if he is a revenue trader—
  - (a) in the course of whose business the export or, as the case may be, destruction took place; and
  - (b) in the case of planned destruction—
    - (i) who (except as the Commissioners may otherwise allow) paid the duty to be drawn back; and
    - (ii) whose business is not wholly or mainly the destruction of excise goods.

### PART III

#### CLAIMS, CONDITIONS AND CANCELLATION OF DRAWBACK

##### **General Conditions**

6.—(1) Without prejudice to any condition imposed by, or in accordance with section 133 of the Act, every claim for drawback shall, save as the Commissioners may otherwise allow, comply with the conditions imposed by these Regulations.

(2) No claim for drawback of duty shall be made unless, taken together with any other claim being made at the same time, the total amount of duty to be drawn back is at least £500; provided that if during the six months immediately preceding the date upon which the claim for drawback of duty is made the amounts of drawback of duty which could be claimed by the claimant amount in total to less than £500 this paragraph shall operate as if the reference to at least £500 were a reference to at least £50.

(3) No claim for drawback of duty shall be made if the event giving rise to the claim occurred more than three years after the duty on the goods in question was paid.

##### **Conditions to be complied with where goods are exported**

7.—(1) Where a claim for drawback of duty is made in relation to goods which have been exported the following conditions shall be complied with—

- (a) before export the claimant shall deliver to the Commissioners at such address as they shall specify notice in writing that he intends to claim drawback on goods which are to be exported;
- (b) a notice delivered in accordance with subparagraph (a) above shall contain the following particulars—
  - (i) the name and address of the claimant;
  - (ii) the address of the premises at which the goods to be exported may be inspected prior to export;
  - (iii) the description of the goods to be exported including their nature and quantity; and
  - (iv) the amount of duty paid in respect of those goods;
- (c) before export the goods shall be available for inspection by the Commissioners, at any reasonable time, for not less than two clear business days following the day upon which the notice mentioned in subparagraph (a) above was received by the Commissioners;
- (d) subject to paragraph (2) below, upon making a claim for drawback the claimant shall include with his claim a photocopy of the accompanying document which accompanied the goods and upon which the certificate of receipt was endorsed together with a photocopy of that certificate of receipt.

(2) A photocopy of the accompanying document and a photocopy of the certificate of receipt need not be included with a claim for drawback if the claimant satisfies the Commissioners that—

- (a) the goods have been exported to a place which is not excluded by virtue of regulation 2 above;
- (b) there is good and sufficient reason for not including either or both those photocopy documents with his claim; and
- (c) any excise duty which is, or will become due in the place to which those goods have been exported has been, or will be paid.

(3) In this regulation—

“accompanying document” means the document which in accordance with registered excise dealers and shippers regulations or, as the case may be, warehousing regulations is required to accompany the goods and will be endorsed with the certificate of receipt; and

“certificate of receipt” means the certificate of receipt which is endorsed on the accompanying document and is issued to the claimant by the consignee and which shall either contain the address of the consignee’s tax authorities responsible for excise duty and that authority’s reference number and date of acceptance of the consignee’s declaration guaranteeing payment of excise duty to that authority or be accompanied by another document giving those details.

### **Conditions to be complied with where goods are accidentally destroyed**

**8.** Where a claim for drawback of duty is made in relation to goods which have been accidentally destroyed the following conditions shall be complied with—

- (a) the claimant shall notify the Commissioners forthwith at such address as they shall specify that goods have been accidentally destroyed in circumstances where a claim for drawback of duty may be made;
- (b) notification given in accordance with subparagraph (a) above shall include particulars of the goods and the amount of duty paid in respect of those goods or, if that amount cannot immediately be ascertained, an estimate of the amount of the duty so paid; and
- (c) the claimant shall prove to the satisfaction of the Commissioners that the goods have been accidentally destroyed.

### **Payment of claim**

**9.—(1)** No drawbacks shall be payable unless it is shown to the satisfaction of the Commissioners that the claimant is an eligible claimant and that the goods are eligible goods.

(2) Without prejudice to section 133 of the Act, where the Commissioners are satisfied that duty may be drawn back in accordance with these Regulations they may set-off the amount due against any other debt then due to them from the claimant.

(3) If the Commissioners are not satisfied that the amount of duty claimed may be drawn back but are satisfied that some lesser amount of duty may be drawn back they may, in such circumstances as they see fit permit the drawback of that lesser sum.

### **Cancellation of drawback**

**10.—(1)** The Commissioners may, at any time, cancel drawback granted in accordance with these Regulations where they are satisfied that a contravention of any conditions (whether imposed by these Regulations or by or under section 133 of the Act) has taken place.

(2) Without prejudice to section 116 of the Act, where drawback has been cancelled in accordance with paragraph (1) above the person to whom drawback was paid or credited shall on demand made by the Commissioners be liable to repay to the Commissioners the sum so paid or credited.

New King's Beam House 22 Upper Ground  
London SE1 9PJ  
10th December 1992.

*Leonard Harris*  
Commissioner of Customs & Excise

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

## SCHEDULE 1

Regulation 4(3)(a)(ii)

### ACCIDENTAL DESTRUCTIONS: CIRCUMSTANCES IN WHICH GOODS MAY BE ELIGIBLE FOR DRAWBACK

Where the goods are destroyed by, or as a result of—

- (a) civil commotion;
- (b) riot;
- (c) terrorism;
- (d) war;
- (e) explosion;
- (f) earthquake;
- (g) any other fortuitous event; provided that, in the opinion of the Commissioners, it would not have been reasonable to insure the goods against the risk of destruction by or as a result of, that event.

## SCHEDULE 2

Regulation 4(4)

### PLANNED DESTRUCTION: CONDITIONS

#### **Conditions to be complied with before destruction**

1. The claimant shall deliver to the Commissioners at such address as they shall specify notice in writing of his intention to carry out a planned destruction of goods.

2. A notice delivered in accordance with paragraph 1 above shall contain the following particulars—

- (a) the name and address of the claimant;
- (b) the address of the premises at which the goods to be destroyed may be inspected prior to destruction;
- (c) the description of the goods to be destroyed including their nature and amount;
- (d) the amount of duty paid in respect of those goods;
- (e) the date and time when destruction will take place; and
- (f) the method of destruction which is to be employed.

3. The goods shall be available for inspection by the Commissioners at any reasonable time for not less than two clear business days following the day upon which the notice mentioned in paragraph 1 above was received by the Commissioners provided that if the place where the goods are available for inspection is different from the address mentioned in subparagraph (a) of paragraph 2 above for the reference to two clear business days in this paragraph there shall be substituted a reference to five clear business days.

#### **Conditions to be complied with at the time of destruction**

4. Destruction shall take place on the day and at the time appointed.

5. Destruction shall take place at the address mentioned in subparagraph (b) of paragraph 2 above; provided that the Commissioners may, on the application of the claimant, permit, subject to such conditions as they deem necessary or expedient, destruction to take place at a different address.

6. The claimant shall permit the Commissioners to attend the destruction.

7. The goods shall be destroyed in accordance with the method specified in the notice mentioned in paragraph 1 above save that if the Commissioners give notice that such method is not in their opinion satisfactory, the goods shall be destroyed in accordance with such other method as the Commissioners may approve.

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### EXPLANATORY NOTE

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

These Regulations come into force on 1st January 1993. They implement the reimbursement provisions of Council Directive [92/12/EEC](#) (OJ No. L76, 23.3.92, p. 1), they permit refunds in the circumstances mentioned in Council Directive [92/83/EEC](#) (OJ No. L316, 31.10.92, p. 21) and extend existing provision for drawback of excise duties on excise goods (other than chewing tobacco and matches and mechanical lighters). They permit claims for drawback—

- (a) where excise goods are exported to other member States;
- (b) where excise goods are destroyed because they are not of merchantable quality; and
- (c) in certain circumstances, where excise goods are accidentally destroyed.