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STATUTORY INSTRUMENTS

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**1998 No. 202**

**CUSTOMS AND EXCISE**

**The Excise Duty Point (External and Internal  
Community Transit Procedure) Regulations 1998**

<i>Made</i>	- - - -	<i>2nd February 1998</i>
<i>Laid before Parliament</i>		<i>3rd February 1998</i>
<i>Coming into force</i>	- -	<i>25th February 1998</i>

The Commissioners of Customs and Excise, in exercise of the powers conferred on them by sections 100G and 100H of the Customs and Excise Management Act 1979<sup>(1)</sup> and section 1 of the Finance (No. 2) Act 1992<sup>(2)</sup>, and all other powers enabling them in that behalf, hereby make the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the Excise Duty Point (External and Internal Community Transit Procedure) Regulations 1998 and shall come into force on 25th February 1998.

**Interpretation**

2. In these Regulations:

- (a) “Community Customs Code” means Council Regulation (EEC) No. 2913/92 dated 12 October 1992<sup>(3)</sup>;
- (b) “excise duty point” has the meaning given by section 1 of the Finance Act (No. 2) Act 1992;
- (c) “excise goods” means goods charged with excise duty by or under an enactment;
- (d) “external Community transit procedure” means the movement referred to in article 91(2) at subparagraph (a) of the Community Customs Code, in respect of which articles 91 to 97 of that Code and articles 341 to 380 and 382 to 388 of the Implementing Regulation make provision;

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(1) 1979 c. 2; sections 100G and 100H were inserted by the Finance Act were inserted by the Finance Act 1991 (c. 31) section 11 and Schedule 4, and amended by the Finance (No. 2) Act 1992 (c. 48) section 1(5) and Schedule 1 paragraph 6, section 3 and Schedule 2 paragraph 4 and section 82 and Schedule 18; section 1(1) defines “the Commissioners” as meaning the Commissioners of Customs and Excise.

(2) 1992 c. 48.

(3) OJ L.302, 19.10.92, page 1; article 4(7) was amended by article 1(2)(b) of the European Parliament and Council Regulation (EC) No. 82/97 dated 19 December 1996 (OJ L.17, 21.1.97, page 1).

- (e) “Implementing Regulation” means Commission Regulation (EEC) No. 2454/93 dated 2 July 1993(4); and
- (f) “internal Community transit procedure” means the movement referred to in article 163(2) at subparagraph (a) of the Community Customs Code, in respect of which article 163(3) of that Code and article 381, and articles 382 to 388 of the Implementing Regulation make provision.

### **Non-application of the REDS Regulations to the external and internal Community transit procedure**

3. Regulations 4 to 6 and 8 to 11 of the Excise Goods (Holding, Movement, Warehousing and REDS) Regulations 1992(5) shall not apply in respect of excise goods which are subject to the external or internal Community transit procedure.

### **Excise duty point for breaches of the external Community transit procedure**

4.—(1) Paragraph (2) below applies if:

- (a) excise goods are subject to the external Community transit procedure; and
- (b) in respect of those goods;
  - (i) a customs debt is incurred, as determined by article 203 or, in cases other than those referred to in that article, 204 of the Community Customs Code; and
  - (ii) the place where the events from which that customs debt arises occur is in the United Kingdom, as determined by article 215 of that Code and article 378 of the Implementing Regulation.

(2) The excise duty point shall be the time, as determined by article 203, or, as the case may be, article 204, specified by paragraph (1)(b)(i) above and which governs the time of the incurrence of the customs debt, when the customs debt mentioned in that paragraph is incurred.

### **Excise duty point for breaches of the internal Community transit procedure**

5.—(1) In this Regulation:

- (a) “action” means any act or omission, in relation to the goods described in paragraph (2)(a) below and to the performance and discharge of the obligation to present those goods to the office of destination designated for the particular internal Community transit procedure movement of the goods, which is inconsistent with the performance and discharge of that obligation; and
- (b) “relevant time” means
  - (i) the time when the office of departure in the United Kingdom accepted the declaration for the internal Community transit procedure; or
  - (ii) as the case may be, the time when a transit advice note was given to an office of transit in the United Kingdom.

(2) Paragraph (3) below applies if:

- (a) excise goods are subject to the internal Community transit procedure; and

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(4) OJ L.253, 11.10.93, page 1; relevant amendments are: article 368 was amended by article 1(14) of Commission Regulation (EC) No. 3254/94 dated 19 December 1994 (OJ L.346, 31.12.94, page 1); the following articles were amended by articles (specified in the following brackets) of Commission Regulation (EC) No. 482/96 dated 19 March 1996 (OJ L.70, 20.3.96, page 4): 348(1(8)), 356(1(9)), 360 to 362(1(10)), 368(1(11)), 376(1(12)) and 380(1(13)); and article 361 was amended by article 1 of Council Regulation (EC) No. 2153/96 dated 25 October 1996 (OJ L.289, 12.11.96, page 1).

(5) S.I.1992/3135.

- (b) an action occurs in the United Kingdom provided that:
  - (i) the evidence appertaining to the action establishes that the place of the action is in the United Kingdom; or
  - (ii) where that evidence does not establish the place of the action, the provisions of article 378(1) of the Implementing Regulation are used, for the purposes of this regulation, to determine the place of the action as if the reference in that article to “offence or irregularity” is a reference to “action”, and the action is deemed by virtue of using the article in that way to have been committed or to have occurred in the United Kingdom.
- (3) The excise duty point shall be
  - (a) the time when the action occurs in the United Kingdom where the evidence, described in paragraph 2(b)(i) above, establishes the place of the action as being in the United Kingdom; or
  - (b) the relevant time where the provisions of article 378(1) are used in the circumstances specified by and required by paragraph 2(b)(ii) above.

**Person liable to pay the excise duty**

- 6.—(1) This regulation applies if there is an excise duty point by virtue of regulation 4 above.
- (2) A person specified by subparagraph (a) or (b) of paragraph (3) below, having the specified connection with the excise goods, shall be liable to pay the excise duty relating to the excise duty point.
- (3) For the purposes of paragraph (2) above, the person is:
- (a) any person who is a debtor in respect of the customs debt, giving rise to the excise duty point, as determined by the article of the Community Customs Code specified by regulation 4(1)(b)(i) above which governs that customs debt;
  - (b) any other person who, in relation to the excise goods that are the subject of the excise duty point, at any time in the period:
    - (i) starting with the charging of those goods with excise duty; and
    - (ii) ending with the incurrance of the customs debt specified by subparagraph (a) above, brings about, or assists in bringing about, that customs debt.
- 7.—(1) This regulation applies if there is an excise duty point by virtue of regulation 5 above.
- (2) A person specified by subparagraph (a) or (b) of paragraph (3) below, having the specified connection with the excise goods, shall be liable to pay the excise duty relating to the excise duty point.
- (3) For the purposes of paragraph (2) above, the person is:
- (a) any person who, in respect of the particular internal Community transit procedure in relation to which there is an excise duty point by virtue of regulation 5 above, is the principal for that particular procedure, as governed by article 96 and article 163(3) of the Community Customs Code;
  - (b) any other person who, in relation to the excise goods that are the subject of the excise duty point, at any time in the period:
    - (i) starting with the charging of those goods with excise duty; and
    - (ii) ending with the time of the occurrence of the action described by paragraph (2)(b) of regulation 5 above, brings about, or assists in bringing about, that action.

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8. Where more than one person is liable to pay the excise duty by virtue of regulation 6 above, or 7 above, each person shall be jointly and severally liable to pay the excise duty with the other person or, as the case may be, with each of the others.

**Payment of the excise duty**

9.—(1) The Commissioners may require in writing a person liable to pay the excise duty by virtue of regulation 6 above, or 7 above, to pay that duty and, where they do so require, they shall specify in that written requirement the amount of duty that is to be paid.

(2) A person required in accordance with paragraph (1) above to pay the excise duty shall pay immediately to the Commissioners the amount of excise duty specified by them upon receipt by that person of the written requirement specifying that amount.

New King's Beam House 22 Upper Ground  
London SE1 9PJ  
2nd February 1998

*D. J. Howard*  
Commissioner of Customs & Excise

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## EXPLANATORY NOTE

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

### **Purpose of the Regulations**

These Regulations come into force on 25th February 1998.

They provide for an excise duty point (ie the time when excise duty is payable by a person) in respect of excise goods subject to the external Community transit procedure where, because of a breach of that procedure, there is incurred in the United Kingdom a customs debt (ie the Community customs duty charged on those goods becomes payable), by virtue of article 203 or 204 of the Community Customs Code (Council Regulation (EEC) No. 2913/92 of 12th October 1992 establishing the Community Customs Code: OJ L.302, 19.10.92, page 1).

The Regulations also provide for an excise duty point in respect of excise goods subject to the internal Community transit procedure where there are breaches of that procedure.

### **Content of the Regulations**

Regulation 2 defines various terms and phrases used in the Regulations.

Regulation 3 disapplies specified regulations of the Excise Goods (Holding, Movement, Warehousing and REDS) Regulations 1992/3135, including regulation 4 which establishes an excise duty point, similar to that provided by these Regulations, which applies in circumstances which are more limited than those dealt with by these Regulations.

Regulation 4 provides an excise duty point for breaches of the external Community transit procedure, while regulation 5 provides an excise duty point for breaches of the internal Community transit procedure.

Regulation 6 specifies the person liable to pay the excise duty in the case of a regulation 4 excise duty point, while regulation 7 specifies the person liable to pay the excise duty in the case of a regulation 5 excise duty point.

Regulation 8 provides that each of the persons who are liable to pay the excise duty by reason of an excise duty point, governed by regulation 4, or 5, shall be jointly and severally liable for the debt.

Regulation 9 governs the time when the person liable to pay the excise duty is required to pay that duty to the Commissioners of Customs and Excise.