

1999 No. 1278

CUSTOMS AND EXCISE

**The Warehousekeepers and Owners of Warehoused Goods
Regulations 1999**

<i>Made - - - -</i>	<i>4th May 1999</i>
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The Commissioners of Customs and Excise, in exercise of the powers conferred upon them by sections 93(1), (2)(a) and (db), (3) and (5), 100G(1) and (4) and 100H(1)(a), (b), (c), (g), (k), (l) and (n) and (2) of the Customs and Excise Management Act 1979^(a), section 1 of the Finance (No. 2) Act 1992^(b) 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 Warehousekeepers and Owners of Warehoused Goods Regulations 1999 and shall come into force on 1st October 1999.

Interpretation

2. In these Regulations—

“the Act” means the Customs and Excise Management Act 1979;

“authorized warehousekeeper” has the meaning given in regulation 3 below;

“duty representative” has the meaning given in regulation 6 below;

“the initial period” means a period of seventy-two hours but, for the purpose of calculating seventy-two hours, hours comprised in any day that is a Saturday, Sunday, Christmas Day, Boxing Day, New Year’s Day, Good Friday or Easter Monday shall not be counted;

“occupier” means the occupier of an excise warehouse;

(a) 1979 c. 2; section 1(1) defines “the Commissioners”, “dutiable goods”, “excise duty point”, “excise warehouse”, “occupier”, “registered excise dealer and shipper”, “registered excise dealers and shippers regulations”, “revenue trader”, “warehoused” and “warehousing regulations”; section 93(2)(a) was amended by section 11(1) of, and paragraph 2 of Schedule 8 to, the Finance Act 1981 (c. 35); section 93(1) and (3) was amended by, and section 93(2)(db) was inserted by, section 3 of, and paragraph 2 of Schedule 2 to the Finance (No. 2) Act 1992 (c. 48); sections 100G and 100H were inserted by section 11(3) of, and Schedule 4 to, the Finance Act 1991 (c. 31); section 100H was amended by sections 1(5) and 3(1) of, and paragraph 6 of Schedule 1 and paragraph 4 of Schedule 2 to, the Finance (No.2) Act 1992.

(b) 1992 c. 48.

“operations” means operations that are permitted to be carried out on warehoused goods by or under warehousing regulations;

“registered owner” has the meaning given in regulation 5 below;

“relevant goods” means dutiable goods, other than hydrocarbon oil(a), on which excise duty has not been paid;

“relevant revenue trader” means any authorized warehousekeeper, registered owner, or duty representative.

PART II

APPROVAL AND REGISTRATION OF WAREHOUSEKEEPERS

Authorized warehousekeepers

3.—(1) For the purposes of sections 93(1) and 100G of the Act the Commissioners may approve occupiers of excise warehouses in accordance with the provisions of this Part of these regulations and register them as registered excise dealers and shippers in accordance with section 100G(2) of the Act.

(2) An occupier who has been so approved and registered shall be known as an authorized warehousekeeper.

(3) An authorized warehousekeeper may be approved and registered in respect of all the excise warehouses he occupies.

Revocation

4. If the Commissioners exercise their power to revoke their approval and registration of an occupier as an authorized warehousekeeper in accordance with section 100G(5) of the Act they shall also revoke his approval for the purposes of section 93(1) of the Act.

PART III

APPROVAL AND REGISTRATION OF OWNERS AND DUTY REPRESENTATIVES

Registered owners

5.—(1) For the purposes of section 100G of the Act, the Commissioners may approve revenue traders who wish to deposit relevant goods that they own in an excise warehouse and register them as registered excise dealers and shippers in accordance with section 100G(2) of the Act.

(2) A revenue trader who has been so approved and registered shall be known as a registered owner.

Duty representatives

6.—(1) For the purposes of section 100G of the Act, and subject to paragraph (3) below, the Commissioners may approve revenue traders who wish to act as the agent of revenue traders who deposit relevant goods that they own in an excise warehouse and register them as registered excise dealers and shippers in accordance with section 100G(2) of the Act.

(2) A revenue trader who has been so approved and registered shall be known as a duty representative.

(a) “Hydrocarbon oil” is defined in section 1(2) of the Hydrocarbon Oil Duties Act 1979 (c. 5) which Act, by section 27(2), is to be construed as one Act with the Customs and Excise Management Act 1979 (c. 2).

- (3) The Commissioners shall not approve a revenue trader as a duty representative unless he—
- (a) has a business establishment or other fixed establishment in the United Kingdom, or
 - (b) if he is an individual, has his usual place of residence in the United Kingdom.

PART IV

APPROVAL AND REGISTRATION : SUPPLEMENTARY PROVISIONS

Registration

7.—(1) The Commissioners shall furnish every relevant revenue trader with a certificate of registration.

(2) When a person ceases to be a relevant revenue trader he shall immediately destroy his certificate of registration.

(3) Every relevant revenue trader shall give notice in writing to the Commissioners of any change in the information contained in his certificate of registration within seven days of the change.

(4) Where—

- (a) any relevant revenue trader gives the Commissioners notice in writing of any change in the information contained in his certificate of registration, or
- (b) without any such notice having been given it appears to the Commissioners that his certificate of registration requires correction,

they shall, unless they revoke his approval and registration in accordance with section 100G(5) of the Act, furnish him with a corrected certificate of registration.

(5) Where in accordance with paragraph (4) above the Commissioners furnish any relevant revenue trader with a corrected certificate of registration he shall upon receiving that certificate destroy the original certificate that required correction.

Certificates of registration

8. Every certificate of registration shall contain the following particulars—

- (a) a unique reference number assigned to the relevant revenue trader by the Commissioners;
- (b) the name and (if different) the trading name of the relevant revenue trader;
- (c) the address of the relevant revenue trader's principal, or only place of business (including any postcode)—
 - (i) in the United Kingdom, or
 - (ii) in the case of a registered owner, if he does not have any place of business in the United Kingdom, elsewhere;
- (d) any conditions or restrictions imposed by the Commissioners in the exercise of their discretion under section 100G(4) of the Act;
- (e) if the relevant revenue trader is an authorized warehousekeeper, the address of every excise warehouse to which his approval and registration applies.

PART V

WAREHOUSING

Holding dutiable goods

9.—(1) Dutiable goods shall not be deposited in an excise warehouse or kept in an excise warehouse unless the occupier of that warehouse—

- (a) is an authorized warehousekeeper, and
 - (b) is permitted by the terms of his approval to hold dutiable goods of that class or description.
- (2) Relevant goods shall not be kept in an excise warehouse for more than the initial period beginning with their deposit in that warehouse unless the owner of those goods—
- (a) is not a revenue trader, or
 - (b) is the authorized warehousekeeper, or
 - (c) is a registered owner who resides or has a business establishment or other fixed establishment in the United Kingdom, or
 - (d) has a duty representative acting as his agent in respect of those goods.
- (3) Relevant goods shall not be sold whilst they are being kept in an excise warehouse unless the seller, or if the seller has a duty representative that representative, gives notice of the sale to the authorized warehousekeeper.

Application of section 98 of the Act

10. If the Commissioners revoke their approval of an occupier as an authorized warehousekeeper for the purposes of section 93(1)(a) of the Act section 98(3) and (3A) of the Act shall apply as if—

- (a) in subsection (3), for the words “the warehouse ceases to be approved” there were substituted “the Commissioners notified the authorized warehousekeeper that they have revoked his approval”,
- (b) in both subsections, as if the word “former” (in every place at which it occurs) were omitted, and
- (c) in subsection (3A)(b) for the words “warehouse were still a warehouse” there were substituted “occupier were still approved”.

PART VI

PRIVILEGES

Privileges of an authorized warehousekeeper

11.—(1) Subject to regulation 14 below, an authorized warehousekeeper shall be afforded the following privileges in respect of dutiable goods.

- (2) An authorized warehousekeeper may—
- (a) receive dutiable goods at his excise warehouse and keep them there;
 - (b) carry out operations on dutiable goods in his excise warehouse; and
 - (c) remove dutiable goods from his excise warehouse.

(3) An authorized warehousekeeper may exercise these privileges in relation to both dutiable goods that he owns and dutiable goods that are owned by others.

Privileges of a registered owner

12.—(1) Subject to regulation 14 below, a registered owner shall be afforded the following privileges in respect of relevant goods.

- (2) A registered owner may—
- (a) hold relevant goods that he owns in an excise warehouse; and
 - (b) buy relevant goods that are held in an excise warehouse.

Privileges of a duty representative

13.—(1) Subject to regulation 14 below, a duty representative shall be afforded the following privileges as agent for the owner or buyer of relevant goods.

- (2) A duty representative may—
- (a) on behalf of his principal, arrange for relevant goods to be held in an excise warehouse; and
 - (b) act as agent for the buyer of relevant goods that are held in an excise warehouse.

Exceptions

14.—(1) Regulation 11 above does not confer on any authorized warehousekeeper any privilege that would cause him to be in breach of—

- (a) any condition of approval that applies to his excise warehouse;
- (b) any condition or restriction imposed by or under warehousing regulations;
- (c) any condition or restriction imposed by or under registered excise dealers and shippers regulations;
- (d) any condition or restriction imposed under section 100G(4) of the Act; or
- (e) any condition or restriction imposed by or under Part VII of these regulations.

(2) Regulations 12 and 13 above do not confer on any registered owner or duty representative any privilege that would cause the breach of—

- (a) any condition of approval that applies to the excise warehouse in which relevant goods are or will be held;
- (b) any condition or restriction imposed by or under warehousing regulations;
- (c) any condition or restriction imposed by or under registered excise dealers and shippers regulations;
- (d) any condition or restriction imposed under section 100G(4) of the Act; or
- (e) any condition or restriction imposed by or under Part VII of these regulations.

PART VII

CONDITIONS AND RESTRICTIONS

General conditions and restrictions

15. The approval and registration of relevant revenue traders shall, in addition to any conditions or restrictions imposed on them by the Commissioners under section 100G(4) of the Act, be subject to the conditions and restrictions imposed by or under this Part of these regulations.

Security

16. The Commissioners may require any relevant revenue trader to provide such security, or further security, as they may think appropriate for the payment of any excise duty that is or may become due from him.

Conditions and restrictions that apply to authorized warehousekeepers

17.—(1) The approval and registration of every authorized warehousekeeper shall be subject to the conditions and restrictions prescribed in a notice published by the Commissioners and not withdrawn by a further notice.

(2) Subject to paragraph (3) below, if at the time when relevant goods are deposited in an excise warehouse either the owner of those goods is not a registered owner or the owner does not have a duty representative acting as his agent, an authorized warehousekeeper—

- (a) shall not keep those goods at his excise warehouse for longer than the initial period, and
- (b) shall not permit those goods to be entered for removal from his warehouse in accordance with regulation 16 of the Excise Warehousing (Etc.) Regulations 1988(a) for any purpose other than home use.

(a) S.I. 1988/809, relevant amending instrument is S.I. 1995/1046.

- (3) The restrictions imposed by paragraph (2) above shall not apply if–
- (a) the authorized warehousekeeper is the owner of the relevant goods, or
 - (b) the relevant goods are owned by a person who is not a revenue trader, or
 - (c) before the expiration of the initial period from the time when relevant goods are deposited in an excise warehouse–
 - (i) the owner of those goods is registered as a registered owner, or
 - (ii) the owner has a duty representative acting as his agent in respect of those goods.

Conditions and restrictions that apply to registered owners

18.—(1) The approval and registration of every registered owner shall be subject to the conditions and restrictions prescribed in a notice published by the Commissioners and not withdrawn by a further notice.

(2) Every registered owner shall, before arranging for relevant goods to be deposited in an excise warehouse, provide the authorized warehousekeeper with a copy of his certificate of registration.

(3) Every registered owner shall, before buying relevant goods that are in an excise warehouse, provide the authorized warehousekeeper with a copy of his certificate of registration.

(4) Where in accordance with regulation 7(4) above the Commissioners have furnished a registered owner with a corrected certificate of registration that owner shall, within seven days of his receiving it, provide a copy of it to every authorized warehousekeeper in whose excise warehouse his goods are deposited.

(5) Every registered owner whose registration is revoked shall immediately give written notice of that revocation to every authorized warehousekeeper in whose excise warehouse his goods are deposited.

Conditions and restrictions that apply to duty representatives

19.—(1) The approval and registration of every duty representative shall be subject to the conditions and restrictions prescribed in a notice published by the Commissioners and not withdrawn by a further notice.

(2) Every duty representative shall, before arranging for relevant goods to be deposited in an excise warehouse, provide the authorized warehousekeeper with a copy of his certificate of registration.

(3) Every duty representative shall, when acting for the buyer of relevant goods that are in an excise warehouse and before those goods are bought by his principal, provide the authorized warehousekeeper with a copy of his certificate of registration.

(4) Where in accordance with regulation 7(4) above the Commissioners have furnished a duty representative with a corrected certificate of registration that representative shall, within seven days of his receiving it, provide a copy of it to every authorized warehousekeeper in whose excise warehouse his principal's goods are deposited.

(5) Every duty representative whose registration is revoked shall immediately give written notice of that revocation to every authorized warehousekeeper in whose excise warehouse his principal's goods are deposited.

(6) A duty representative shall not act as agent for the owner or buyer of relevant goods if his principal–

- (a) has any business establishment or other fixed establishment in the United Kingdom, or
- (b) if he is an individual, has his usual place of residence in the United Kingdom.

PART VIII

EXCISE DUTY POINTS AND FORFEITURE

Excise duty points – warehoused goods

20.—(1) If dutiable goods are deposited in an excise warehouse in contravention of regulation 9(1) above, the time that they were deposited shall be the excise duty point for those goods.

(2) If dutiable goods are kept in an excise warehouse in contravention of regulation 9(1) above, the time when the occupier of that warehouse ceases to be an authorized warehousekeeper permitted by the terms of his approval to hold dutiable goods of that class or description shall be the excise duty point for those goods.

(3) If relevant goods are kept in an excise warehouse in contravention of regulation 17(2)(a) above, or are entered for removal in contravention of regulation 17(2)(b) above, the time that they were deposited shall be the excise duty point for those goods.

(4) The person liable to pay the duty at the excise duty point shall be the occupier of the excise warehouse in which the goods were deposited or kept.

(5) If more than one person occupies the excise warehouse in which the goods were deposited or kept, all the occupiers shall be jointly and severally liable to pay the duty at the excise duty point.

(6) Where relevant goods are kept in an excise warehouse in contravention of regulation 17(2)(a) above and in accordance with this regulation an authorized warehousekeeper is liable for the duty he shall be relieved from liability to pay that duty if, immediately following the excise duty point, he abandons those goods to the Commissioners.

(7) Where relevant goods are abandoned to the Commissioners in accordance with paragraph (6) above the person liable to pay the duty at the excise duty point shall be the owner of those goods at that excise duty point.

Excise duty points – ownership of goods

21.—(1) Subject to paragraph (2) below, if at any time after relevant goods are deposited in an excise warehouse either—

- (a) those goods cease to be owned by a registered owner, or
- (b) there is no duty representative acting as the owner's agent,

the time when those goods ceased to be owned by a registered owner or there ceased to be a duty representative acting as the owner's agent shall be the excise duty point for those goods.

(2) Paragraph (1) above shall not apply if—

- (a) the authorized warehousekeeper is the owner of the relevant goods, or
- (b) the relevant goods are owned by a person who is not a revenue trader.

(3) The persons jointly and severally liable to pay the duty at the excise duty point shall be—

- (a) the authorized warehousekeeper for the excise warehouse in which the goods were kept,
- (b) the owner of the goods immediately before the excise duty point,
- (c) if different, the owner of the goods immediately after the excise duty point, and
- (d) the duty representative of the owner of the goods immediately before the excise duty point.

Forfeiture

22.—(1) If dutiable goods are deposited or kept in an excise warehouse in contravention of regulation 9(1) or (2) above those goods shall be liable to forfeiture.

(2) If relevant goods are sold in contravention of regulation 9(3) above those goods shall be liable to forfeiture.

PART IX

CONSEQUENTIAL AMENDMENTS

Amendments to the Excise Goods (Holding, Movement, Warehousing and REDS) Regulations 1992

23.—(1) The Excise Goods (Holding, Movement, Warehousing and REDS) Regulations 1992(a) shall be amended as follows.

(a) S.I. 1992/3135, amended by S.I. 1993/1228.

(2) In regulation 2(1), for the definitions of “authorised warehousekeeper” and “REDS”, there shall be substituted—

““authorised warehousekeeper” means the occupier of an excise warehouse or a person who is registered under section 41A of the Alcoholic Liquor Duties Act 1979^(a),” and

““REDS” means a registered excise dealer and shipper approved and registered under section 100G of the Management Act except for a registered excise dealer and shipper on whom any privilege is conferred by the Warehousekeepers and Owners of Warehoused Goods Regulations 1999.”

(3) Regulation 4(2)(e) shall be omitted.

(4) In regulation 8, paragraphs (2) and (3) shall be omitted.

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4th May 1999

D. J. Howard
Commissioner of Customs and Excise

^(a) 1979 c. 4; section 41A was inserted by section 7(2) of the Finance Act 1991 (c. 31), and amended by section 1 of, and paragraph 10 of Schedule 1 to the Finance Act 1992 (c. 48) and by section 9 of, and paragraph 29 of Schedule 4 to the Finance Act 1994 (c. 9).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations come into force on 1st October 1999.

Purpose of the Regulations

These Regulations provide for the approval and registration of (i) excise warehousekeepers, (ii) owners of goods held in excise warehouses and (iii) duty representatives of owners of goods held in excise warehouses.

These Regulations implement Articles 11, 12 and 13 of Council Directive 92/12/EEC (O.J. No. L76, 23.3.92, p. 1).

The provisions in respect of owners of goods held in excise warehouses (and their duty representatives) enable the Commissioners to identify those persons who hold duty suspended excise goods in warehousing facilities provided by third parties.

Content of the Regulations

Regulations 3 and 4 provide for the approval of occupiers of excise warehouses as authorized warehousekeepers, their registration and the revocation of any such approval.

Regulations 5 and 6 require revenue traders who wish to hold goods (other than hydrocarbon oil) in an excise warehouse to be approved and registered by the Commissioners of Customs and Excise or to use the services of a duty representative.

Regulations 7 and 8 deal with the arrangements for the issue and amendment of registration certificates and their content.

Regulation 9 prohibits the deposit or keeping of goods in an excise warehouse except where the authorized warehousekeeper has been approved and registered and is permitted to keep goods of that class or description. It also imposes restrictions on the keeping of goods and the sale of goods in an excise warehouse and on the removal of goods from such a warehouse.

Regulation 10 deals with the consequences in respect of warehoused goods where the approval of an authorized warehousekeeper is revoked.

Regulations 11 to 13 detail the privileges afforded to authorized warehousekeepers, registered owners and duty representatives.

Regulation 14 confirms that the status of authorized warehousekeeper, registered owner or duty representative does not confer any privilege which would cause a breach of (i) any condition of approval of an excise warehouse, or (ii) any condition or restriction imposed by or under warehousing regulations or registered excise dealers and shippers regulations.

Regulations 15 to 19 detail the conditions and restrictions which apply to authorized warehousekeepers, registered owners and duty representatives.

Regulations 20 and 21 provide for new excise duty points and identify the persons liable to pay the duty when those duty points occur.

Regulation 22 provides for the forfeiture of warehoused goods where regulation 9 is contravened.

Regulation 23 deals with amendments to existing legislation as a consequence of the introduction of these Regulations.

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