

2004 No. 1002

CUSTOMS AND EXCISE

The Customs and Excise Duties (Travellers' Allowances and Personal Reliefs)(New Member States) Order 2004

Made - - - - 1st April 2004

Laid before the House of Commons 1st April 2004

Coming into force - - 1st May 2004

Approved by the House of Commons

The Commissioners of Customs and Excise, in exercise of the powers conferred on them by sections 7, 13(1) and 13(3) of the Customs and Excise Duties (General Reliefs) Act 1979(a), hereby make the following Order:

Citation and commencement

1. This Order may be cited as the Customs and Excise Duties (Travellers' Allowances and Personal Reliefs)(New Member States) Order 2004 and shall come into force on 1st May 2004.

Interpretation

2.—(1) In this Order —

“relevant tobacco products” means, in relation to each specified country, goods of the descriptions and in the quantities shown opposite that country in Column 2 of the Schedule;

“smoking tobacco” means hand rolling tobacco or other smoking tobacco;

“specified country” means a country listed in Column 1 of the Schedule.

(2) In this Order references to “cigarettes”, “cigars”, “hand rolling tobacco” and “other smoking tobacco” are references to the products described in the Tobacco Products (Descriptions of Products) Order 2003(b).

Relief from duty of excise

3. Subject to the following provisions of this Order, a person who has travelled from a specified country shall, on entering the United Kingdom, be relieved from payment of excise duty on relevant tobacco products acquired in that country and which he has transported.

(a) 1979; c. 3; section 7 was amended by the Finance Act 1984 (c. 43), sections 4(1) and (3); section 13 was amended by the Finance Act 1984, section 15 and by the Finance (No 2) Act 1992 (c.48), Schedule 1, paragraph 8 and Schedule 3, paragraph 93; section 18(2) applies the definition of “the Commissioners” in section 1(1) of the Customs and Excise Management Act 1979 (c. 2) as meaning the Commissioners of Customs and Excise.

(b) S.I. 2003/1471.

Condition of relief

4.—(1) The reliefs afforded under this Order are subject to the condition that the goods in question, as indicated by their nature or quantity or otherwise, are not held for a commercial purpose nor are used for such purpose; and if that condition is not complied with in relation to any goods, those goods shall, unless the non-compliance was sanctioned by the Commissioners, be liable to forfeiture.

(2) If the goods in question are not duty and tax paid in the specified country at the time of acquisition, or the duty and tax that was paid will be or has been reimbursed, refunded or otherwise dispensed with, those goods are to be regarded as being held for a commercial purpose.

Period in which article 3 shall have effect

5. Article 3 shall have effect in relation to a specified country on or before the date shown opposite that country in Column 3 of the Schedule.

Interpretation of The Customs and Excise Duties (Personal Reliefs for Goods Permanently Imported) Order 1992 and The Travellers' Allowances Order 1994

6. The references to Council Directive 77/388/EEC(a) and Council Directive 92/12/EEC(b) contained in —

- (a) The Customs and Excise Duties (Personal Reliefs for Goods Permanently Imported) Order 1992(c); and
- (b) The Travellers' Allowances Order 1994(d)

are to be construed as references to those instruments as amended, modified or otherwise affected by the Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded(e).

New King's Beam House
22 Upper Ground
London
SE1 9PJ
1st April 2004

Commissioner of Customs and Excise

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- (a) OJ No L145,13.6.1977, p1, Article 3 was replaced by Article 1(1) of Council Directive 91/680/EEC (OJ No L376,31.12.91, p1), there are other amending instruments but none is relevant; Article 3 of the Directive gives a description of the Directive's territorial application; that description includes a reference to Article 227(now 299) of the EC Treaty; paragraphs 1 and 6(b) of that Article have been amended by Article 19 of, and Protocol No 3 to, the Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic (OJ NO L236,15.9.2003,p33).
 - (b) OJ No L76,23.3.1992, p1, to which there are no relevant amendments; Article 2 of the Directive gives a description of the Directive's territorial application; that description includes a reference to Article 227 (now 299) of the EC Treaty; paragraphs 1 and 6(b) of that Article have been amended by Article 19 of, and Protocol No 3 to, the Act of Accession referred to in footnote (a) above.
 - (c) S.I. 1992/3193.
 - (d) S.I.1994/955, to which there are amendments not relevant to this Order.
 - (e) OJ No L236,15.9.2003, p33.

SCHEDULE

Articles 3 and 5

<i>(1)</i>	<i>(2)</i>	<i>(3)</i>
<i>Specified Country</i>	<i>Relevant tobacco products</i>	<i>Date on or before which Order shall have effect</i>
Czech Republic	200 Cigarettes OR 50 Cigars OR 100 Cigarillos (cigars weighing no more than 3 grammes each) OR 250 grammes of smoking tobacco	31st December 2006 (in relation to relevant tobacco products other than cigarettes) 31st December 2007 (in relation to cigarettes)
Slovenia	200 Cigarettes	31st December 2007
Hungary Poland Slovakia	200 Cigarettes	31st December 2008
Estonia	200 Cigarettes OR 250 grammes of smoking tobacco	31st December 2009
Latvia Lithuania	200 Cigarettes	31st December 2009

EXPLANATORY NOTE

(This note is not part of the Order)

This Order and the Excise Duty Points(Etc.)(New Member States) Regulations 2004 (S.I. 2004/1003) give effect to derogations contained in the Act concerning the Accession of the Czech Republic, Cyprus, Estonia, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia to the European Union(a)(“the new member States”). Existing member States can maintain quantitative limits on the amount of cigarettes or other tobacco products which may be brought into their territory, without further excise duty payment, from new member States who have obtained derogations from Council Directive 92/79/EEC (regarding the approximation of taxes on cigarettes)(b) and Council Directive 92/80/EEC (on the approximation of taxes on manufactured tobacco other than cigarettes)(c).

This Order comes into force on 1st May 2004. It grants relief from excise duty on relevant tobacco products acquired in a specified country and which are transported to the United Kingdom by the person who acquired them. The specified countries are listed in Column 1 of the Schedule and the nature and quantity of the products to which the relief applies are, in relation to each specified country, listed opposite that country in Column 2 of the Schedule. To qualify for the relief the goods must not be imported, or used, for a commercial purpose. The relief, in relation to each specified country, applies on or before the date shown opposite that country in Column 3 of the Schedule.

The Order also updates references in The Customs and Excise Duties (Personal Reliefs for Goods Permanently Imported) Order 1992(d) and The Travellers' Allowances Order 1994(e) to Council Directive 77/388/EEC(f) and Council Directive 92/12/EEC(g). The territorial application of the Orders is defined by reference to the territorial application of the Directives. From 1st May 2004 the Directives will apply to the territory of the new member States and to the United Kingdom Sovereign Base Areas of Akrotiri and Dhekelia.

A transposition note setting out how this Order affects the implementation of the requirements of Council Directive 92/12/EEC is available at www.hmce.gov.uk.

A full Regulatory Impact Assessment has not been produced for this instrument, as it has no impact on the costs of business, charities or voluntary bodies.

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- (a) OJ No L236,15.9.2003, p33. See paragraphs 2 and 3 of Chapter 5 of Annex V, paragraphs 3 and 4 of Chapter 7 of Annex VI, paragraph 2 of Chapter 7 of Annex VII, paragraph 2 of Chapter 8 of Annex IX, paragraph 2 of Chapter 7 of Annex X, paragraph 2 of Chapter 9 of Annex XII, paragraph 2 of Chapter 6 to Annex XIII and paragraph 2 of Chapter 7 of Annex XIV.
- (b) OJ No L 316,31.10.92,p8, as amended by Council Directive 1999/81/EC and Council Directive 2002/10/EC.
- (c) OJ No L 316,31.10.92, p10, as amended by Council Directive 1999/81/EC and Council Directive 2002/10/EC.
- (d) S.I.1992/3193.
- (e) S.I.1994/955, to which there are amendments not relevant to this Order.
- (f) OJ No L 145,13.6.1977,p 1, Article 3 was replaced by Article 1(1) of Council Directive 91/680/EEC (OJ No L376,31.12.91, p1), there are other amending instruments but none is relevant; Article 3 of the Directive gives a description of the Directive's territorial application; that description includes a reference to Article 227(now 299) of the EC Treaty; paragraphs 1 and 6(b) of that Article have been amended by Article 19 of, and Protocol No 3 to, the Act of Accession referred to in footnote (a) on page 3 above.
- (g) OJ No L 076, 23.03.92,p 1, to which there are no relevant amendments; Article 2 of the Directive gives a description of the Directive's territorial application; that description includes a reference to Article 227 (now 299) of the EC Treaty; paragraphs 1 and 6(b) of that Article have been amended by Article 19 of, and Protocol No 3 to, the Act of Accession referred to in footnote (a) on page 3 above.

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