

2004 No. 1003

CUSTOMS AND EXCISE

**The Excise Duty Points (Etc.)(New Member States) Regulations
2004**

<i>Made</i> - - - -	<i>1st April 2004</i>
<i>Laid before Parliament</i>	<i>1st April 2004</i>
<i>Coming into force</i> - -	<i>1st May 2004</i>

The Commissioners of Customs and Excise, in exercise of the powers conferred on them by sections 93(1), (2)(a), (fa), (fb), (3), 100G and 100H of the Customs and Excise Management Act 1979(a), sections 7(1)(a) and 1A(b) of the Tobacco Products Duty Act 1979(b) and sections 1 and 2 of the Finance (No 2) Act 1992(c), hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Excise Duty Points (Etc.)(New Member States) Regulations 2004 and come into force on 1st May 2004.

Interpretation

2.—(1) In these Regulations—

“cigarillo” means a cigar weighing no more than 3 grammes;

“own use” includes use as a personal gift;

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

(2) In these Regulations 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(d).

Excise duty point for tobacco products acquired in a new member State

3.—(1) The excise duty point for tobacco products acquired in a new member State is the time when the tobacco products are charged with duty.

(a) 1979 c. 2; section 1(1) defines “the Commissioners” and “excise duty point”; section 93(2)(a) was amended by the Finance Act 1981 (c. 35), Schedule 8 paragraph 2; section 93(1) and (3) were amended by, and sections 93(fa) and (fb) were inserted by, the Finance (No. 2) Act 1992 (c. 48), Schedule 2, paragraph 2; sections 100G and 100H were inserted by the Finance Act 1991 (c. 32) Schedule 4; section 100H was amended by the Finance (No. 2) Act 1992, Schedule 1, paragraph 6 and Schedule 2, paragraph 4.

(b) 1979 c. 7; section 7(1A) was added by sections 15(1) and (9) of the Finance Act 2000 (c. 17).

(c) 1992 c. 48; section 2 was amended by the Finance Act 1999 (c. 16), sections 11(1) and (2).

(d) S.I. 2003/1471.

(2) For the purposes of paragraph (1) above, tobacco products acquired in a new member State shall mean —

- (a) cigarettes acquired by a person in a country listed in Column 1 of the Schedule for his own use and transported by him to the United Kingdom;
- (b) cigars, cigarillos or smoking tobacco acquired by a person in the Czech Republic for his own use and transported by him to the United Kingdom; and
- (c) smoking tobacco acquired by a person in Estonia for his own use and transported by him to the United Kingdom.

Person liable to pay the duty

4. The person liable to pay the duty is the person holding the tobacco products at the excise duty point.

Payment of the duty

5.—(1) Subject to paragraph (2) below, the duty must be paid at the excise duty point.

(2) The Commissioners may, subject to such conditions as appear necessary for the protection of the revenue, dispense with the requirement imposed by paragraph (1).

Period for which regulation 3 shall apply

6.—(1) Regulation 3(2)(a) shall have effect in relation to cigarettes transported to the United Kingdom from a country listed in Column 1 of the Schedule on or before the date shown opposite that country in Column 2 of the Schedule.

(2) Regulation 3(2)(b) shall have effect on or before 31st December 2006.

(3) Regulation 3(2)(c) shall have effect on or before 31st December 2009.

Interpretation of other Regulations relating to excise goods

7.—(1) In the Regulations listed below, references to

- (a) Council Directive 92/12/EEC(a);
- (b) Commission Regulation (EEC) No 2719/92(b); and
- (c) Commission Regulation (EEC) No 2454/93(c)

shall be treated 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(d).

(2) The Regulations referred to in paragraph 1 above are —

- (a) the Excise Warehousing (Etc.) Regulations 1988(e);

(a) OJ No L76,23.3.1992, p1, to which there are amendments not relevant to these Regulations; 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 regulation 7(1).

(b) OJ No L 276,19.9.92, p1, as amended by Commission Regulation (EEC) No 2225/93 (OJ No L 198,7.8.1993,p5); Article 2(a)(2) of, and Annex I to, the Regulation are amended by paragraph 10 of Chapter 9 of Annex II to the Act of Accession referred to in regulation 7(1).

(c) OJ No L253,11.10.1993,p1, to which there are amendments not relevant to these Regulations; Chapter 19 of Annex II to the Act of Accession (referred to in regulation 7(1)) makes a number of minor consequential amendments to Commission Regulation (EEC) No 2454/93 as a result of the accession of the new member States.

(d) OJ No L 236,15.9.2003, p33.

(e) S.I. 1988/809, relevant amending instrument S.I. 2002/501.

- (b) the Excise Goods (Holding, Movement, Warehousing and REDS) Regulations 1992(a);
- (c) the Excise Goods (Drawback) Regulations 1995(b);
- (d) the Excise Goods (Sales on Board Ships and Aircraft) Regulations 1999(c);
- (e) the Excise Goods (Export Shops) Regulations 2000(d);
- (f) the Excise Duty Points (Duty Suspended Movements of Excise Goods) Regulations 2001(e); and
- (g) the Excise Goods (Accompanying Documents) Regulations 2002(f).

The Excise Goods (Holding, Movement, Warehousing and REDS) Regulations 1992

8. In regulation 4(1B)(a) of the Excise Goods (Holding, Movement, Warehousing and REDS) Regulations 1992(g) for the words “and San Marino” substitute “, San Marino and the United Kingdom Sovereign Base Areas of Akrotiri and Dhekelia”.

The Beer Regulations 1993

9. In regulation 15(1B)(a) of the Beer Regulations 1993(h) for the words “and San Marino” substitute “, San Marino and the United Kingdom Sovereign Base Areas of Akrotiri and Dhekelia”.

The Tobacco Products Regulations 2001

10. In regulation 12(1B)(a) of the Tobacco Products Regulations 2001(i) for the words “and San Marino” substitute “, San Marino and the United Kingdom Sovereign Base Areas of Akrotiri and Dhekelia”.

New King’s Beam House
22 Upper Ground
LONDON
SE1 9PJ
1st April 2004

Michael Eland
Commissioner of Customs and Excise

(a) S.I. 1992/3135, amended by S.I. 2002/501; there are other amending instruments but none is relevant.
 (b) S.I. 1995/1046.
 (c) S.I. 1999/1565.
 (d) S.I. 2000/645.
 (e) S.I. 2001/3022.
 (f) S.I. 2002/501.
 (g) Regulation 4(1B) was inserted by S.I. 2002/2692, regulation 2(3).
 (h) S.I. 1993/1228; regulation 15(1B) was inserted by S.I. 2002/2692, regulation 3(3).
 (i) S.I. 2001/1712; regulation 12(1B) was inserted by S.I. 2002/2692, regulation 4(3).

SCHEDULE

Regulation 3(2)(a) and 6(1).

<i>(1)</i>	<i>(2)</i>
<i>Country</i>	<i>Date on or before which Regulation 3(2)(a) shall apply</i>
Czech Republic Slovenia	31st December 2007
Hungary Poland Slovakia	31st December 2008
Estonia Latvia Lithuania	31st December 2009

EXPLANATORY NOTE

(This note is not part of these Regulations)

These Regulations and the Excise Duties (Travellers' Allowances and Personal Reliefs)(New Member States) Order 2004 (S.I. 2004/1002) 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 ("the new member States")(a). 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).

These Regulations come into force on 1st May 2004. They provide an excise duty point (the time when a requirement to pay excise duty takes effect) for tobacco products acquired in a new member State. Regulation 3 defines the term "tobacco products acquired in a new member State". Regulations 4 and 5 are concerned with the person liable to pay the duty and the time when the duty must be paid. Regulation 6 is concerned with the date on or before which the excise duty point will apply.

Regulation 7 updates references in the instruments listed in regulation 7(2) ("the Excise Regulations") to Commission Regulations (EEC) No 2719/92(d) and (EEC) No 2454/93(e) ("the Commission Regulations"), and to Council Directive 92/12/EEC(f) ("the Directive"). The application of certain Excise Regulations is defined by reference to the territorial application of the Directive. From 1st May 2004 the Directive will apply to the new member States and to the United Kingdom Sovereign Base Areas of Akrotiri and Dhekelia(g). Some Excise Regulations define the terms "accompanying administrative document" and "single administrative document" by reference to the Commission Regulations. The Act of Accession makes certain amendments to the Commission Regulations, including certain minor amendments relating to the accompanying administrative document and the single administrative document(h).

Regulations 8 – 10 amend regulation 4 of the Excise Goods (Holding, Movement, Warehousing and REDS) Regulations 1992(i), regulation 15 of the Beer Regulations 1993(j) and regulation 12 of the Tobacco Products Regulations 2001(k) (each of which provides an excise duty point for goods acquired by a person in another member State for his own use and transported by him) to provide an excise duty point for goods acquired in the United Kingdom Sovereign Base Areas of Akrotiri and Dhekelia(l).

A transposition note setting out how these Regulations affect 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 to the Act of Accession.
- (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) OJ No L276, 19.09.92, p 1, to which there are amendments not relevant to these Regulations.
- (e) OJ No L253,11.10.1993,p1, as amended by Commission Regulation (EEC) No 2225/93 (OJ No L 198,7.8.1993,p5).
- (f) OJ No L076, 23.03.92,p 1, to which there are amendments not relevant to these Regulations.
- (g) 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 regulation 7(1).
- (h) See paragraph 10 of Chapter 9 of, and Chapter 19 of, Annex II to the Act of Accession referred to in regulation 7(1).
- (i) S.I.1992/3135, relevant amending instrument S.I. 2002/2692.
- (j) S.I.1993/1228, relevant amending instrument S.I. 2002/2692.
- (k) S.I.2001/1712, relevant amending instrument S.I. 2002/2692.
- (l) See Protocol No. 3 to the Act of Accession referred to in regulation 7(1).

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