
STATUTORY INSTRUMENTS

2010 No. 593

**The Excise Goods (Holding, Movement
and Duty Point) Regulations 2010**

PART 13

**IRREGULARITIES IN THE COURSE OF A MOVEMENT OF
EXCISE GOODS UNDER A DUTY SUSPENSION ARRANGEMENT**

Interpretation of Part 13

79. In this Part “irregularity” has the meaning given by Article 10(6) of the Directive.

Irregularity occurring or detected in the United Kingdom

80.—(1) This regulation applies where—

- (a) excise goods are moved under a duty suspension arrangement; and
- (b) in relation to those goods and that movement, there is an irregularity which occurs or is detected in the United Kingdom.

(2) Where an irregularity occurs in the United Kingdom, the excise goods are released for consumption in the United Kingdom at the time of the irregularity or, where it is not possible to establish when the irregularity occurred, the time when the irregularity is detected or first comes to the attention of the Commissioners.

(3) Where an irregularity is detected in the United Kingdom but it is not possible to establish in which Member State the irregularity occurred, it shall be deemed to have occurred in the United Kingdom and at the time it is detected or first comes to the attention of the Commissioners.

(4) Where the circumstances mentioned in paragraphs (2) or (3) apply, and the goods were dispatched from another Member State, the Commissioners must inform the competent authorities of that State.

Failure of excise goods to arrive at their destination

81.—(1) This regulation applies where—

- (a) there is a movement of excise goods under a duty suspension arrangement;
- (b) the movement starts in the United Kingdom;
- (c) the movement is not discharged by the arrival of the goods at their stated destination; and
- (d) no irregularity is detected in the course of the movement.

(2) Where this regulation applies an irregularity shall be deemed to have occurred, and the goods accordingly released for consumption, in the United Kingdom at the time when the movement started.

(3) Paragraph (2) does not apply if, within four months of the start of the movement, the person (“P”)—

- (a) who guaranteed payment of the duty in accordance with regulation 39; or
- (b) where no guarantee was required, the consignor of the goods,

satisfies the Commissioners that—

- (a) the goods have arrived at their stated destination; or
- (b) there has been an irregularity in another Member State.

(4) If, at the time P is informed by the Commissioners that the excise goods have not arrived at their stated destination, P does not know, or could not reasonably have known, that the goods have not so arrived, P may, no later than one month after that time, provide evidence to satisfy the Commissioners that—

- (a) the goods have arrived at their stated destination; or
- (b) there has been an irregularity in another Member State.

(5) Where the Commissioners are satisfied with any evidence provided in accordance with paragraph (4), paragraph (2) does not apply.

(6) In this regulation “stated destination” means the destination stated in—

- (i) the electronic administrative document or, as the case may be, fallback electronic administrative document;
- (ii) the document that is required by regulation 62 (simplified procedures for certain movements of alcoholic liquors) to accompany the goods (in the case of a movement that takes place in accordance with that regulation);
- (iii) the document that is required by regulation 63 (simplified procedures for certain movements of tobacco products) to accompany the goods (in the case of a movement that takes place in accordance with that regulation); or
- (iv) the accompanying administrative document (in the case of a movement that takes place under cover of such a document).

(7) In paragraph (6) “accompanying administrative document” means—

- (i) the accompanying administrative document specified in Annex I to Commission Regulation (EEC) No 2719/92 or any document that in accordance with Article 2 of that Regulations replaces that document; or
- (ii) a document specified by Commission Regulation (EEC) No 436/2009.

Repayment of excise duty

82.—(1) This regulation applies where—

- (a) an irregularity is deemed to have occurred in the United Kingdom in accordance with regulation 80(3) or 81(2);
- (b) within three years of the start of the movement the Commissioners ascertain that the irregularity actually occurred in another Member State; and
- (c) either duty in relation to that irregularity has been paid in the Member State where the irregularity actually occurred or no duty was due under the laws of that Member State.

(2) Where this regulation applies, the person who paid the duty at the excise duty point is entitled to claim a repayment of that duty from the Commissioners.

(3) Such a claim must be made in writing to the Commissioners and include full particulars, including evidence to satisfy the Commissioners that either the duty has been paid in the Member

State in which the irregularity actually occurred or that no duty was due under the laws of that Member State.

(4) For the purposes of paragraph (2), section 137A(1) of CEMA 1979(1) shall be modified so as to apply to any amounts paid by way of duty and not be limited to duty which is not due to the Commissioners.

(1) Section 137A was inserted by the Finance Act 1995 (c. 4), section 20(1) and has been amended by the Finance Act 1997 (c. 16), Schedule 5, Part 2, paragraph 5(1) and the Finance Act 2001 (c. 9), Schedule 3, paragraph 15.