

2010 No. 593

EXCISE

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

<i>Made - - - - -</i>	<i>3rd March 2010</i>
<i>Laid before Parliament</i>	<i>5th March 2010</i>
<i>Coming into force</i>	
<i>Regulations 7(1)(g) and 35(c)</i>	<i>1st January 2011</i>
<i>Remainder</i>	<i>1st April 2010</i>



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The Commissioners for Her Majesty's Revenue and Customs make the following Regulations in exercise of the powers conferred by sections 93(1), (2)(a), (e), (fa), (fb), (fc), (3), (4), (5) and (5A), 100G, 100H, 118A(1) and (2) and 127A of the Customs and Excise Management Act 1979^(a),

(a) 1979 c. 2; section 1(1) defines "the Commissioners"; the definition of "the Commissioners" was substituted by the Commissioners for Revenue and Customs Act 2005 (c. 11), Schedule 4, paragraph 22(b); section 93(2)(a) was amended by the Finance Act 1981 (c. 35), Schedule 8, paragraph 2; section 93(1) was substituted, section 93(3) amended and section 93(2)(fa), (fb) and (fc) and (5A) 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. 31), Schedule 4; section 100H was amended by the Finance (No. 2)

sections 41A(7), 49(1)(d) and (g), 56(1)(b) and (d), 62(5)(b) and (d), 77(1)(a) and (e) of, and paragraphs 3 and 4 of Schedule 2A to, the Alcoholic Liquor Duties Act 1979(a), sections 21(1), (2) and (2A), and 23C(2) and (3) of, and paragraphs 3, 11, 19 and 25 of Schedule 3 to, the Hydrocarbon Oil Duties Act 1979(b), sections 7(1)(a), (b), (ba) and (1A) and 9(2) of the Tobacco Products Duty Act 1979(c), sections 1 and 2 of the Finance (No.2) Act 1992(d), section 5(2) and (3) of the Finance Act 1995(e) and section 2(2) of, and paragraph 1A of Schedule 2 to, the European Communities Act 1972(f).

The Commissioners for Her Majesty's Revenue and Customs have been designated(g) for the purposes of section 2(2) of the European Communities Act 1972 in relation to excise matters of the EU(h) and payment of excise duty; and it appears to them that it is expedient for the references in these Regulations to Commission Regulation (EEC) No. 3649/92(i), Commission Regulation (EC) No. 31/96(j), Commission Regulation (EC) No. 436/2009(k) and Commission Regulation (EC) No. 684/2009(l) to be construed as references to those Regulations as amended from time to time.

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- Act 1992, Schedule 1, paragraph 6 and Schedule 2, paragraph 4 and by the Finance Act 2002(c. 23), Schedule 3, Part 1, paragraph 2; section 118A(1) and (2) was inserted by the Finance Act 1991, Schedule 5; section 127A was inserted by the Finance Act 1983 (c. 28), section 6 and amended by the Finance (No. 2) Act 1992, Schedule 1, paragraph 7.
- (a) 1979 c. 4; section 41A was inserted by the Finance Act 1991, section 7(2) and subsection (7) has been amended by the Finance (No.2) Act 1992, Schedule 1, paragraph 10 and Schedule 18, Part 1. Section 49 was substituted by the Finance Act 1991, Schedule 2, paragraph 14. Section 77(1)(a) and (e) was amended by the Finance Act 1995 (c. 4), Schedule 2, paragraph 5. Schedule 2A was inserted by the Finance Act 2004 (c. 12), section 4(2). Section 4(2) of the Alcoholic Liquor Duties Act 1979 provides for that Act to be construed as one Act with the Customs and Excise Management Act 1979 (c. 2), and section 4(3) applies the definitions in that latter Act. Section 1(1) of the Customs and Excise Management Act 1979 (amended by the Commissioners for Revenue and Customs Act 2005) defines "the Commissioners".
- (b) 1979 c. 5; section 27(3) applies the definition of "the Commissioners" (amended by the Commissioners for Revenue and Customs Act 2005) in section 1(1) of the Customs and Excise Management Act 1979. Section 21 was amended by the Finance Act 1993 (c. 34), Schedule 23, Part 1(4), the Finance Act 1994 (c. 9), Schedule 4, paragraph 55 and the Finance Act 2004, section 6(3). Section 23C was inserted by the Finance Act 2004, section 13. Paragraph 11 of Schedule 3 was amended by the Finance Act 1985 (c. 54), Schedule 4, paragraph 4.
- (c) 1979 c. 7; section 7(1)(b) was amended, and section 7(1)(ba) and (1A) inserted, by the Finance Act 2000 (c. 17), section 15(5),(6) and (9). Section 9(2) was inserted by the Finance Act 2006 (c. 25), section 2(2). Section 10(3) applies the definition of "the Commissioners" (amended by the Commissioners for Revenue and Customs Act 2005) in section 1(1) of the Customs and Excise Management Act 1979.
- (d) 1992 c. 48; section 1(7) defines "the Commissioners" as "the Commissioners of Customs and Excise". The functions of the Commissioners of Customs and Excise were transferred to the Commissioners for Her Majesty's Revenue and Customs by section 5 of the Commissioners for Revenue and Customs Act 2005. Section 50(1) of that Act provides that a reference to the Commissioners of Customs and Excise shall be taken as a reference to the Commissioners for Her Majesty's Revenue and Customs. Section 2 was amended by the Finance Act 1998 (c. 36), Schedule 2, paragraph 6 and the Finance Act 1999 (c. 16), section 11(1) and (2).
- (e) 1995 c. 4. Section 5(8) provides for the section to be construed as one with the Alcoholic Liquor Duties Act 1979 (c. 4). Section 4(2) of that Act provides for it to be construed as one Act with the Customs and Excise Management Act 1979, and section 4(3) applies the definitions in that latter Act. Section 1(1) of the Customs and Excise Management Act 1979 (amended by the Commissioners for Revenue and Customs Act 2005) defines "the Commissioners".
- (f) 1972 c. 68; paragraph 1A of Schedule 2 was inserted by the Legislative and Regulatory Reform Act 2006 (c. 51), section 28. Section 2(2) was amended by the Legislative and Regulatory Reform Act 2006, section 27(1)(a) and the European Union (Amendment) Act 2008 (c. 7), the Schedule, Part 1.
- (g) S.I. 1980/865 (excise matters of the European Communities) and S.I. 1982/529 (payment of excise duty). These instruments designate the Commissioners of Customs and Excise. The functions of the Commissioners of Customs and Excise were transferred to the Commissioners for Her Majesty's Revenue and Customs by section 5 of the Commissioners for Revenue and Customs Act 2005. Section 50(1) of that Act provides that a reference to the Commissioners of Customs and Excise shall be taken as a reference to the Commissioners for Her Majesty's Revenue and Customs.
- (h) Section 3(6) of the European Union (Amendment) Act 2008 provides that a reference in an instrument to all or any of the Communities shall, in the application of the instrument after the coming into force of the Act, be treated as being a reference to the EU.
- (i) OJ No L 369, 18.12.1992, p 17.
- (j) OJ No L 008, 11.01.1996, p 11.
- (k) OJ No L 128, 27.05.2009, p 15.
- (l) OJ No L 197, 29.7.2009, p 24.

PART 1

PRELIMINARY

Citation, commencement and effect

1. These Regulations may be cited as the Excise Goods (Holding, Movement and Duty Point) Regulations 2010.
2. They come into force on 1st April 2010 except that—
 - (a) Part 4 (UK registered consignors), regulation 7(1)(g) and regulation 35(c) come into force on 1st January 2011;
 - (b) regulation 39(1)(a), in so far as it applies to a UK registered consignor, only has effect on or after 1st January 2011;
 - (c) regulation 39(1)(b), in so far as it requires compliance with the procedures in Part 6 (exports of excise goods under duty suspension arrangements) or Part 8 (movements of excise goods wholly within the United Kingdom under duty suspension arrangements) only applies to movements of excise goods that start on or after 1st January 2011.

Interpretation

3.—(1) In these Regulations—

“accompanying document” means, subject to paragraph (2), the document specified in the Annex to Commission Regulation (EEC) No. 3649/92 on a simplified accompanying document for the intra-Community movement of products subject to excise duty which have been released for consumption in the Member State of dispatch (as amended from time to time) or any document that in accordance with Article 2 of that Regulation replaces that document;

“ALDA 1979” means the Alcoholic Liquor Duties Act 1979;

“authorised warehousekeeper” means—

- (a) in relation to the United Kingdom—
 - (i) the occupier of an excise warehouse who is approved in accordance with regulations made under section 93(1) of CEMA 1979;
 - (ii) a person who is registered under section 41A or 47 of ALDA 1979(a);
 - (iii) a person who holds an excise licence under section 54(2) or 55(2) of ALDA 1979;
 - (iv) a person who is registered in accordance with section 62(2) of ALDA 1979;
 - (v) the occupier of premises registered for the manufacture or safe storage of tobacco products in accordance with regulations made under section 7(1)(b) or (ba) of TPDA 1979(b); and
- (b) in relation to another Member State, a person authorised by the competent authorities of that Member State, in the course of that person’s business, to produce, process, hold, receive or dispatch excise goods under a duty suspension arrangement in a tax warehouse;

“business day” means any day except—

- (a) Saturday, Sunday, Good Friday or Christmas Day(c);

(a) Section 47 was substituted by the Finance Act 1991 (c. 31), section 7(3) and amended by the Finance Act 1994 (c. 9), Schedule 4, paragraph 32 and the Finance Act 2008 (c. 9), Schedule 41, paragraph 25(c)(i).

(b) 1979 c. 7; section 7(ba) was inserted by the Finance Act 2000 (c. 17), section 15(6).

(c) This follows the Bills of Exchange Act 1882 (c. 61) section 92(a) as read with the Banking and Financial Dealings Act 1971 (c.80), section 3 (1).

- (b) a bank holiday^(a) under the Banking and Financial Dealings Act 1971^(b);
- (c) a day appointed by Royal proclamation as a public fast or thanksgiving day^(c);
- (d) a day declared by an order under section 2 of the Banking and Financial Dealings Act 1971 to be a non-business day^(d);

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

“the Commissioners” means the Commissioners for Her Majesty’s Revenue and Customs;

“computerised system” means the system referred to in Article 1 of Decision No. 1152/2003/EC of the European Parliament and of the Council on computerising the movement and surveillance of excisable products^(e);

“customs and excise Acts” has the meaning given in section 1(1) of CEMA 1979;

“customs office of exit” has the meaning given by Article 4(4d) of Council Regulation (EEC) 2913/92 establishing the Community Customs Code^(f);

“customs suspensive procedure or arrangement” has the meaning given by article 4(6) of the Directive;

“the Directive” means Council Directive 2008/118/EC concerning the general arrangements for excise duty and repealing Directive 92/12/EEC^(g);

“distance selling arrangement” means an arrangement where—

- (a) a person (“the vendor”), in another Member State, sells or agrees to sell excise goods that have been released for consumption in that State, to a person (“the purchaser”) in the United Kingdom;
- (b) those goods are dispatched by or to the order of the vendor to the purchaser or a person nominated by the purchaser and consigned to an address in the United Kingdom;
- (c) those goods will be charged with duty on their importation into the United Kingdom; and
- (d) the purchaser is not a revenue trader^(h).

“duty” means any excise duty;

“duty deferment arrangement” means any provision made by or under the customs and excise Acts that permits the payment of excise duty to be deferred;

“duty suspension arrangement” means a tax arrangement applied to the production, processing, holding or movement of excise goods not covered by a customs suspensive procedure or arrangement, excise duty being suspended;

“electronic administrative document” means the electronic administrative document referred to in Article 21(2) of the Directive;

“energy products” means the products mentioned in Article 2(1) of Council Directive 2003/96/EC restructuring the Community framework for the taxation of energy products and electricity⁽ⁱ⁾;

“EU” and “territory of the EU” means the territories of the Member States;

“EU requirements” means—

(a) This follows the Bills of Exchange Act 1882 (c. 61) section 92(b), which was amended by the Banking and Financial Dealings Act 1971 (c. 80), section 4 (4).

(b) 1971 c.80: section 1 of and Schedule 1 to that Act relate to bank holidays. Schedule 1 was amended by the St Andrew’s Day Bank Holiday (Scotland) Act 2007 (asp 2).

(c) This follows the Bills of Exchange Act 1882 (c.61), section 92(c).

(d) This follows the Bills of Exchange Act 1882 (c.61), section 92(d), which was inserted by the Banking and Financial Dealings 1971 (c.80). Section 4(3) of the latter Act makes further provision about such orders.

(e) OJ No L 162, 1.7.2003, p 5.

(f) OJ No L 302, 19.10.1992, p1; article 4(4d) was inserted by article 1(1) of European Parliament and Council Regulation (EC) 648/2005 (OJ No L 117, 4.5.2005, p 13).

(g) OJ No L 9, 14.1.2009, p 12.

(h) “Revenue trader” is defined in section 1(1) of the Customs and Excise Management Act 1979.

(i) OJ No L 283, 31.10.2003, p 51.

- (a) in the case of an accompanying document, the requirements set out in Articles 1 to 5 of Commission Regulation (EEC) No. 3649/92 (as amended from time to time) and the explanatory notes set out on the reverse of copy 1 in the Annex;
- (b) in the case of a draft electronic administrative document and an electronic administrative document, the requirements set out in Articles 2 and 3 of, and Table 1 of Annex 1 to, Commission Regulation (EC) No. 684/2009 implementing Council Directive 2008/118/EC as regards the computerised procedures for the movement of excise goods under suspension of excise duty (as amended from time to time) and, in the case of dispatches from the United Kingdom, data elements in that Table numbered (c) and (f) of Group 9, (a) of Group 14, Group 15 and (p) of Group 17;
- (c) in the case of an exemption certificate, the requirements set out in the explanatory notes on the reverse of the certificate in the Annex to Commission Regulation (EC) No.31/96 on the excise duty exemption certificate (as amended from time to time);
- (d) in the case of a fallback accompanying document, the requirements set out in Article 8(1) of Commission Regulation (EC) No. 684/2009 (as amended from time to time) and, in the case of dispatches from the United Kingdom, the data elements required to be displayed include the data elements numbered (c) and (f) of Group 9, (a) of Group 14, Group 15 and (p) of Group 17 of Table 1 of Annex 1 to that Regulation;
- (e) in the case of a fallback report of receipt and a fallback report of export, the requirements set out in Article 8(3) of Commission Regulation (EC) No. 684/2009 (as amended from time to time);
- (f) in the case of a report of receipt and a report of export, the requirements set out in Article 2 of, and Table 6 of Annex 1 to, Commission Regulation (EC) No. 684/2009 (as amended from time to time);

“excise duty” means—

- (a) in relation to the United Kingdom, a duty of excise charged by or under an enactment on excise goods (and, in these Regulations, “UK excise duty” shall be construed accordingly); and
- (b) in relation to a Member State other than the United Kingdom, a similar charge imposition or levy;

“excise goods” means goods falling within Article 1(1) of the Directive and chewing tobacco;

“exempt consignee” means a consignee referred to in Article 12(1) of the Directive;

“exemption certificate” means the document set out in the Annex to Commission Regulation (EC) No.31/96 or any such certificate that is adapted pursuant to Article 2 of that Regulation;

“fallback accompanying document” means the paper document referred to in Article 26(1)(a) of the Directive;

“fallback report of export” means the paper document referred to in Article 27(2) of the Directive;

“fallback report of receipt” means the paper document referred to in Article 27(1) of the Directive;

“Member State” and “territory of a Member State” means the territory of each Member State of the EU to which the Treaty on European Union^(a) and the Treaty on the Functioning of the European Union^(b) are applicable in accordance with Articles 52 and 355 of those Treaties respectively—

- (a) excluding the Island of Heligoland and the territory of Büsingen in the Federal Republic of Germany, Livigno, Campione d’Italia and the waters of Lake Lugano in the Italian Republic, Ceuta, Melilla and the Canary Islands in the Kingdom of Spain, the Åland Islands in the Republic of Finland, the Channel Islands, the overseas departments of the

(a) OJ No C 115, 09.05.08 p.1

(b) OJ No C 115, 09.05.08 p.1

French Republic and the European territories for whose external relations a Member State is responsible; but

- (b) including the Principality of Monaco, San Marino, the United Kingdom Sovereign Base Areas of Akrotiri and Dhekelia and the Isle of Man,

and “another Member State” means a Member State other than the United Kingdom and the Isle of Man;

“own use” does not include use for the purposes of any trade or business;

“place of direct delivery” means—

- (a) in the case of a place in the United Kingdom, a place to which excise goods are consigned from another Member State and which has been designated by an authorised warehousekeeper in the United Kingdom or a UK registered consignee (other than a temporary registered consignee);
- (b) in the case of a place in another Member State, a place to which excise goods are consigned from the United Kingdom and which has been designated by an authorised warehousekeeper or a registered consignee in the Member State where the place is situated;

“place of importation” means the place where excise goods are when they are released for free circulation in accordance with Article 79 of Council Regulation 2913/92/EEC;

“registered commercial importer” has the meaning given by regulation 70(2);

“registered consignee” —

- (a) in relation to a consignee in the United Kingdom, means a person who is approved and registered in accordance with Part 3 of these Regulations; and
- (b) in relation to a consignee in another Member State, has the meaning given by Article 4(9) of the Directive;

“registered consignor” —

- (a) in relation to a consignor in the United Kingdom, means a person who is approved and registered in accordance with Part 4 of these Regulations; and
- (b) in relation to a consignor in another Member State, has the meaning given by Article 4(10) of the Directive;

“report of export” means a report completed by the competent authorities of a Member State in which the customs office of exit is situated using the computerised system certifying that excise goods have left the territory of the EU;

“report of receipt” means a report submitted by the consignee of excise goods using the computerised system to the competent authorities of the Member State of destination confirming that the goods have been received;

“tax representative” has the meaning given by regulation 76(2);

“tax warehouse” means –

- (a) in relation to a place situated in the United Kingdom—
 - (i) an excise warehouse(a);
 - (ii) any premises registered under section 41A or 47 of ALDA 1979;
 - (iii) any premises in respect of which a person holds an excise licence under section 54(2) or 55(2) of ALDA 1979;
 - (iv) any premises in respect of which a person is registered in accordance with section 62(2) of ALDA 1979;
 - (v) any premises registered for the manufacture or safe storage of tobacco products in accordance with regulations made under section 7(1)(b) or (ba) of TPDA 1979; and

(a) “Excise warehouse” is defined in section 1(1) of the Customs and Excise Management Act 1979.

- (b) in relation to a place situated in another Member State, a place where excise goods are produced, processed, held, received or dispatched under duty suspension arrangements by an authorised warehousekeeper in that Member State in the course of that person’s business;

“temporary registered consignee” means a UK registered consignee who only occasionally imports excise goods from another Member State under duty suspension arrangements and whose authorisation is limited to a single movement of a specified quantity of such goods from a single consignor for a specified period;

“tobacco products” has the meaning given in section 1(1) of TPDA 1979;

“TPDA 1979” means the Tobacco Products Duty Act 1979;

“transporter” means the person carrying out the first transportation of excise goods in a movement of such goods;

“UK registered consignee” has the meaning given by regulation 22(2);

“UK registered consignor” has the meaning given by regulation 30(2);

“unique administrative reference code” means a code assigned to an electronic administrative document;

“vendor” means the vendor in a distance selling arrangement.

(2) In any case where, under an exemption granted in accordance with Article 40 of the Directive, a person is entitled to use, and uses, a document specified by Commission Regulation (EC) No. 436/2009 laying down detailed rules for the application of Council Regulation (EC) No 479/2008 as regards the vineyard register, compulsory declarations and the gathering of information to monitor the wine market, the documents accompanying consignments of wine products and the wine sector registers to be kept (as amended from time to time)—

- (a) in substitute for an accompanying document—
 - (i) references in these Regulations to an accompanying document are to be treated as references to a document specified by that Regulation, and
 - (ii) references in these regulations to EU requirements are to be treated as references to the requirements set out in Articles 23, 26 to 30, 32 and 35 of, and the instructions for completion in Annex VI to, that Regulation;
- (b) in substitute for an electronic administrative document—
 - (i) provisions in these Regulations that relate to electronic administrative documents and the computerised system shall not apply, and
 - (ii) the document accompanying the goods must comply with the requirements of that Regulation.

(3) For the purposes of these Regulations a movement of excise goods under a duty suspension arrangement—

- (a) starts when the goods—
 - (i) leave a tax warehouse (where the consignor is an authorised warehousekeeper), or
 - (ii) are released for free circulation in accordance with Article 79 of Regulation (EEC) 2913/92 (where the consignor is a registered consignor), and
- (b) ends—
 - (i) except where sub-paragraph (ii) applies, when the consignee takes delivery of the goods, or
 - (ii) in a case where the goods were dispatched to a place from where they will leave the territory of the EU, when they have so left.

(4) In these Regulations references to chewing tobacco are references to the product described in regulation 8 of the Tobacco Products (Descriptions of Products) Order 2003(a).

(a) S.I. 2003/1471.

Application to energy products

4. In the case of energy products, Parts 6, 7, 10 and 11 of these Regulations only apply to the energy products mentioned in Article 20(1) of Council Directive 2003/96/EC.

PART 2

EXCISE DUTY POINTS AND PAYMENT OF THE DUTY

Goods released for consumption in the United Kingdom-excise duty point

5. Subject to regulation 7(2), there is an excise duty point at the time when excise goods are released for consumption in the United Kingdom.

6.—(1) Excise goods are released for consumption in the United Kingdom at the time when the goods—

- (a) leave a duty suspension arrangement;
- (b) are held outside a duty suspension arrangement and UK excise duty on those goods has not been paid, relieved, remitted or deferred under a duty deferment arrangement;
- (c) are produced outside a duty suspension arrangement; or
- (d) are charged with duty at importation unless they are placed, immediately upon importation, under a duty suspension arrangement.

(2) In paragraph (1)(d) “importation” means—

- (a) the entry into the United Kingdom of excise goods other than EU excise goods, unless the goods upon their entry into the United Kingdom are immediately placed under a customs suspensive procedure or arrangement; or
- (b) the release in the United Kingdom of excise goods from a customs suspensive procedure or arrangement.

(3) In paragraph (2)(a) “EU excise goods” means excise goods imported into the United Kingdom from another Member State which have been produced or are in free circulation in the EU at that importation.

7.—(1) For the purposes of regulation 6(1)(a), excise goods leave a duty suspension arrangement at the earlier of the time when—

- (a) they leave any tax warehouse in the United Kingdom or are otherwise made available for consumption (including consumption in a tax warehouse) unless—
 - (i) they are dispatched to one of the destinations referred to in regulation 35(1)(a); and
 - (ii) are moved in accordance with the conditions specified in regulation 39;
- (b) they are consumed;
- (c) they are received by a UK registered consignee;
- (d) they are received by an exempt consignee in cases where the goods are dispatched from another Member State;
- (e) the premises on which the goods are deposited cease to be a tax warehouse;
- (f) they are received at a place of direct delivery in the United Kingdom;
- (g) they leave a place of importation in the United Kingdom unless—
 - (i) they are dispatched to one of the destinations referred to in regulation 35(1)(a); and
 - (ii) are moved in accordance with the conditions specified in regulation 39;
- (h) there is an irregularity in the course of a movement of the goods under a duty suspension arrangement which occurs, or is deemed to occur, in the United Kingdom;

- (i) there is any contravention of, or failure to comply with, any requirement relating to the duty suspension arrangement; or
 - (j) they are found to be deficient or missing from a tax warehouse.
- (2) An excise duty point does not occur at the time when excise goods leave a duty suspension arrangement—
- (a) by virtue of paragraph (1)(a) or (g), if they are delivered for export, shipment as stores or removal to the Isle of Man;
 - (b) by virtue of paragraph (1)(j), if it is shown to the satisfaction of the Commissioners that the absence of, or deficiency in, the goods is due to a legitimate cause.
- (3) For the purposes of paragraph (1)(c) and (f), where tobacco products are received after 11.59 a.m. on a day upon which an increase in the rate of duty chargeable on those products takes effect the time of receipt is deemed to be the time at which that increase takes effect.
- (4) In paragraph (1)(h), “irregularity” has the meaning given by Article 10(6) of the Directive.
- (5) For the purposes of paragraph (1)(i), the sale of tobacco products that are eligible for home use to a person who is not a manufacturer is a contravention of a requirement of duty suspension arrangements.
- (6) In paragraph (5) “manufacturer” has the meaning given in regulation 3(1) of the Tobacco Products Regulations 2001(a).

Goods released for consumption in the United Kingdom—persons liable to pay

8.—(1) Subject to regulation 9, the person liable to pay the duty when excise goods are released for consumption by virtue of regulation 6(1)(a) (excise goods leaving a duty suspension arrangement) is the authorised warehousekeeper, the UK registered consignee or any other person releasing the excise goods or on whose behalf the excise goods are released from the duty suspension arrangement.

(2) In the case of an irregular departure from a tax warehouse any other person involved in that departure is jointly and severally liable to pay the duty with the persons specified in paragraph (1).

9.—(1) The person liable to pay the duty when excise goods are released for consumption by virtue of an irregularity in the course of a movement of the goods under a duty suspension arrangement which occurs, or is deemed to occur, in the United Kingdom is—

- (a) in a case where a guarantee was required in accordance with regulation 39, the person who provided that guarantee;
- (b) in a case where no guarantee was required—
 - (i) the authorised warehousekeeper of dispatch (where the excise goods were dispatched from a tax warehouse in the United Kingdom); or
 - (ii) the UK registered consignor (where the excise goods were dispatched upon their release for free circulation in the United Kingdom in accordance with Article 79 of Council Regulation 2913/92/EEC).

(2) Any other person who participated in the irregularity and who was aware, or should reasonably have been aware, that it was an irregularity, is jointly and severally liable to pay the duty with the persons specified in paragraph (1).

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

10.—(1) The person liable to pay the duty when excise goods are released for consumption by virtue of regulation 6(1)(b) (holding of excise goods outside a duty suspension arrangement) is the person holding the excise goods at that time.

(2) Any other person involved in the holding of the excise goods is jointly and severally liable to pay the duty with the person specified in paragraph (1).

(a) S.I. 2001/1712; relevant amending instruments are S.I. 2003/1523, 2006/2368.

11.—(1) The person liable to pay the duty when excise goods are released for consumption by virtue of regulation 6(1)(c) (production of excise goods outside a duty suspension arrangement) is the person producing the excise goods.

(2) In the case of irregular production of excise goods, any other person involved in their production is jointly and severally liable to pay the duty with the person specified in paragraph (1).

12.—(1) The person liable to pay the duty when excise goods are released for consumption by virtue of regulation 6(1)(d) (importation of excise goods that have not been produced or are not in free circulation in the EU) is the person who declares the excise goods or on whose behalf they are declared upon importation.

(2) In the case of an irregular importation any person involved in the importation is liable to pay the duty.

(3) Where more than one person is involved in the irregular importation, each person is jointly and severally liable to pay the duty.

Goods already released for consumption in another Member State—excise duty point and persons liable to pay

13.—(1) Where excise goods already released for consumption in another Member State are held for a commercial purpose in the United Kingdom in order to be delivered or used in the United Kingdom, the excise duty point is the time when those goods are first so held.

(2) Depending on the cases referred to in paragraph (1), the person liable to pay the duty is the person—

- (a) making the delivery of the goods;
- (b) holding the goods intended for delivery; or
- (c) to whom the goods are delivered.

(3) For the purposes of paragraph (1) excise goods are held for a commercial purpose if they are held—

- (a) by a person other than a private individual; or
- (b) by a private individual (“P”), except in a case where the excise goods are for P’s own use and were acquired in, and transported to the United Kingdom from, another Member State by P.

(4) For the purposes of determining whether excise goods referred to in the exception in paragraph (3)(b) are for P’s own use regard must be taken of—

- (a) P’s reasons for having possession or control of those goods;
- (b) whether or not P is a revenue trader;
- (c) P’s conduct, including P’s intended use of those goods or any refusal to disclose the intended use of those goods;
- (d) the location of those goods;
- (e) the mode of transport used to convey those goods;
- (f) any document or other information relating to those goods;
- (g) the nature of those goods including the nature or condition of any package or container;
- (h) the quantity of those goods and, in particular, whether the quantity exceeds any of the following quantities—

10 litres of spirits,

20 litres of intermediate products (as defined in article 17(1) of Council Directive 92/83/EEC^(a)),

(a) OJ No L 316, 31. 10. 92, p 21.

90 litres of wine (including a maximum of 60 litres of sparkling wine)
110 litres of beer,
3200 cigarettes,
400 cigarillos (cigars weighing no more than 3 grammes each),
200 cigars,
3 kilogrammes of any other tobacco products;

- (i) whether P personally financed the purchase of those goods;
- (j) any other circumstance that appears to be relevant.

(5) For the purposes of the exception in paragraph (3)(b)—

- (a) “excise goods” does not include any goods chargeable with excise duty by virtue of any provision of the Hydrocarbon Oil Duties Act 1979 or of any order made under section 10 of the Finance Act 1993(a);
- (b) “own use” includes use as a personal gift but does not include the transfer of the goods to another person for money or money’s worth (including any reimbursement of expenses incurred in connection with obtaining them).

(6) Paragraphs (1) and (2) do not apply—

- (a) where the excise duty point and the person liable to pay the duty are prescribed by the Excise Goods (Sales on Board Ships and Aircraft) Regulations 1999(b); or
- (b) in the case of chewing tobacco.

14.—(1) Where goods chargeable with excise duty by virtue of any provision of the Hydrocarbon Oil Duties Act 1979, or any order made under section 10 of the Finance Act 1993, are—

- (a) acquired by a private individual in another Member State; and
- (b) transported to the UK by that individual or on his behalf,

the excise duty point is the time when those goods are charged with duty at importation.

(2) The person liable to pay the duty is the person holding the goods at the excise duty point.

15. Where chewing tobacco is imported into the United Kingdom having been consigned from another Member State, unless it is placed immediately upon importation under a duty suspension arrangement, —

- (a) the excise duty point is the time the chewing tobacco is received by the importer, owner or other person beneficially interested in it; and
- (b) that person is the person liable to pay the duty.

16.—(1) Where excise goods are imported under a distance selling arrangement the excise duty point is the time when they are charged with duty at importation.

(2) The person liable to pay the duty is any tax representative of the vendor in the United Kingdom.

(3) In any case where a tax representative has not been appointed to act for the vendor, the person liable to pay the duty is—

- (a) the vendor; or
- (b) where the vendor has not, before the goods are dispatched to the United Kingdom, notified the Commissioners of the pending importation and guaranteed payment of the UK excise duty on the goods, the consignee of the goods.

(a) 1993 c. 34; section 10 was amended by the Finance Act 2004 (c. 12).
(b) S.I. 1999/1565; relevant amendments are made by S.I. 2010/592

17.—(1) Where an irregularity occurs in the course of a movement of excise goods already released for consumption the excise duty point is the time specified in regulation 84(2) or, as the case may be, 84(3).

(2) The person liable to pay the duty is—

- (a) the person who provided the guarantee in accordance with regulation 69(1); or
- (b) in the case of a movement under a distance selling arrangement, the vendor or the vendor's tax representative in the United Kingdom.

(3) Any other person who participated in the irregularity that caused the occurrence of the excise duty point is jointly and severally liable to pay the duty with the persons specified in paragraph (2).

(4) In a case where no guarantee was provided—

- (i) any person who participated in the irregularity is liable to pay the duty; and
- (ii) where more than one person participated in the irregularity, each person is jointly and severally liable to pay the duty.

(5) In this regulation “irregularity” has the meaning given by article 38(4) of the Directive.

Contravention of conditions or requirements—duty point and persons liable to pay

18.—(1) The excise duty point for excise goods in respect of which there is a failure to comply with any condition subject to which any relief from payment of duty on those goods was conferred is the time of that failure to comply.

(2) The person liable to pay the duty is the person holding the excise goods at the excise duty point.

19.—(1) The excise duty point for excise goods in respect of which there has been a contravention described in any of paragraphs (2) to (5) is the time specified in paragraph (6).

(2) For excise goods to which Part 6 applies (exports of excise goods under duty suspension arrangements) the contraventions are—

- (a) the removal of goods from a tax warehouse in contravention of regulation 41(2) (completion of draft electronic administrative document for exports of excise goods under duty suspension arrangements);
- (b) the removal of goods from a tax warehouse in contravention of regulation 50(2) (procedure for exports when computerised system unavailable).

(3) For excise goods to which Part 8 applies (movement of excise goods wholly within the United Kingdom under duty suspension arrangements) the contraventions are—

- (a) a failure to comply with regulation 57(2) (completion of draft electronic administrative document for movements of excise goods under duty suspension arrangements wholly within the United Kingdom);
- (b) a failure to comply with regulation 60(2) (procedure for movement of excise goods under duty suspension arrangements wholly within the United Kingdom when computerised system unavailable).

(4) For excise goods to which Part 9 applies (simplified procedures for movements of excise goods wholly within the United Kingdom under duty suspension arrangements) the contraventions are—

- (a) a failure to comply with the conditions specified in regulation 62(3) (simplified procedures for certain movements of alcoholic liquors); and
- (b) a failure to comply with the conditions specified in regulation 63(3) (simplified procedure for certain movements of tobacco products).

(5) For excise goods to which Part 11 applies (imports of excise goods after release for consumption in another member state) the contravention is the failure by the person making the

delivery of the goods, the person holding the goods intended for delivery or the recipient of the goods to comply with regulation 69(1) (requirements).

(6) The excise duty point is—

- (a) for excise goods to which Part 6 applies, the time when the goods were removed from the tax warehouse;
- (b) for excise goods to which Parts 8 and 9 apply, the time when the goods were removed from the tax warehouse or, as the case may be, the place of importation; and
- (c) for excise goods to which Part 11 applies, the time when the goods were first held for a commercial purpose in the United Kingdom.

(7) The person liable to pay the duty when an excise duty point specified —

- (a) in paragraph (6)(a) occurs is the authorised warehousekeeper;
- (b) in paragraph (6)(b) occurs is the authorised warehousekeeper or, as the case may be, the UK registered consignor;
- (c) in paragraph (6)(c) occurs is the person making the delivery of the goods, the person holding the goods intended for delivery or the person shown as the recipient of the goods in the accompanying document.

(8) Any person whose conduct caused a contravention described in this regulation so that there was an excise duty point is jointly and severally liable to pay the excise duty at that excise duty point with the person specified in paragraph (7).

Time of payment of the duty

20.—(1) Subject to—

- (a) the provisions of these Regulations and any other regulations made under the customs and excise Acts about accounting and payment;
- (b) any relief conferred by or under the customs and excise Acts; or
- (c) any duty deferment arrangement,

duty must be paid at or before an excise duty point.

(2) In a duty deferment arrangement the time when the duty must be paid is the time specified by that arrangement.

Destruction and loss of excise goods

21.—(1) This regulation applies where—

- (a) there is a relevant event that—
 - (i) occurs in the United Kingdom; or
 - (ii) where it is not possible to determine where the event occurred, is detected in the United Kingdom; and
- (b) the occurrence of the relevant event is proven to the satisfaction of the Commissioners.

(2) A “relevant event” means the total destruction or irretrievable loss of excise goods as a result of—

- (a) the nature of the goods;
- (b) unforeseeable circumstances;
- (c) force majeure; or
- (d) authorisation by the competent authorities of a Member State.

(3) If, at the time of the relevant event,—

- (a) the excise goods were under a duty suspension arrangement, the occurrence of the event shall not be considered as a release for consumption; or

- (b) the excise goods had already been released for consumption in another Member State, the occurrence of the event shall not give rise to an excise duty point under regulation 16(1) or 17(1).

(4) For the purposes of this regulation goods are considered totally destroyed or irretrievably lost when they are rendered unusable as excise goods.

PART 3

UK REGISTERED CONSIGNEES

Approval and registration

22.—(1) For the purposes of section 100G of CEMA 1979 the Commissioners may approve revenue traders who wish in the course of their business to import excise goods from another Member State under duty suspension arrangements and register them as excise dealers and shippers in accordance with section 100G(2) of CEMA 1979.

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

23.—(1) The Commissioners must furnish every UK registered consignee with a certificate of registration.

(2) When a person ceases to be a UK registered consignee that person must immediately destroy the certificate of registration.

(3) A UK registered consignee must give notice in writing to the Commissioners of any change in the information contained in the consignee's certificate of registration within seven days of the change.

(4) Where—

- (a) a UK registered consignee gives notice in accordance with paragraph (3); or
- (b) without any such notice having been given it appears to the Commissioners that a consignee's certificate of registration requires correction,

they must, unless they revoke the consignee's approval and registration in accordance with section 100G(5) of CEMA 1979, furnish the consignee with a corrected certificate of registration.

(5) Where, in accordance with paragraph (4), the Commissioners furnish a UK registered consignee with a corrected certificate of registration the consignee must, upon receiving that certificate, destroy the original certificate that required correction.

Certificates of Registration

24. Every certificate of registration must contain the following particulars—

- (a) a unique reference number assigned to the UK registered consignee by the Commissioners;
- (b) the name and (if different) the trading name of the UK registered consignee;
- (c) the address of the UK registered consignee's place of business (including any postcode) in the United Kingdom;
- (d) any conditions or restrictions imposed by the Commissioners in the exercise of their discretion under section 100G(4) of CEMA 1979.

Conditions, restrictions and requirements

25. The approval and registration of UK registered consignees, in addition to any conditions or restrictions imposed on them by the Commissioners under section 100G(4) of CEMA 1979, is subject to the conditions and restrictions prescribed in a notice published by the Commissioners.

26. A UK registered consignee may neither hold nor dispatch excise goods under a duty suspension arrangement.

27. A UK registered consignee (other than a temporary registered consignee) who has arranged the importation of excise goods from another Member State under duty suspension arrangements must comply with the following requirements—

- (a) before the goods are dispatched to the registered consignee provide a guarantee satisfactory to the Commissioners securing payment of the UK excise duty chargeable on those goods;
- (b) immediately after the goods have been received by the registered consignee or, as the case may be, at the place of direct delivery, enter in a record the date of receipt of those goods and the quantity and description of those goods;
- (c) consent to any check enabling the Commissioners to satisfy themselves that the goods have been received; and
- (d) in accordance with regulation 28, account for and pay the duty due.

Accounting and payment

28.—(1) A UK registered consignee (other than a temporary registered consignee) must each month make a return to the Commissioners on a form provided by them for the purpose or approved by them.

(2) The UK registered consignee must declare in the return the duty due in the month to which the return relates.

(3) The duty due is the duty the UK registered consignee is liable to pay by virtue of Part 2 of these Regulations.

(4) The return must be made and, subject to any duty deferment arrangements, the duty due must be paid no later than the end of the fourth day immediately following the end of the month to which it relates.

(5) But if one of those days is not a business day the return and, subject to any duty deferment arrangements, payment of the duty due must be made no later than the end of the third consecutive business day following the end of the month to which it relates.

Temporary registered consignees

29. In respect of each consignment of excise goods imported by a temporary registered consignee, that consignee must—

- (a) before the goods are dispatched —
 - (i) inform the Commissioners of the expected dispatch in such form and manner as they may require;
 - (ii) supply such further particulars about the consignment as the Commissioners may require; and
 - (iii) pay the UK excise duty chargeable on those goods or provide a guarantee satisfactory to the Commissioners securing payment of the duty;
- (b) as soon as the goods are received—
 - (i) inform the Commissioners of the arrival of the goods; and
 - (ii) pay any duty that has not been paid in such manner as the Commissioners may direct.

PART 4

UK REGISTERED CONSIGNORS

Approval and Registration

30.—(1) For the purposes of section 100G of CEMA 1979 the Commissioners may approve revenue traders who wish to only dispatch excise goods under duty suspension arrangements upon their release for free circulation in accordance with Article 79 of Council Regulation 2913/92/EEC and register them as excise dealers and shippers in accordance with section 100G(2) of CEMA 1979.

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

31.—(1) The Commissioners must furnish every UK registered consignor with a certificate of registration.

(2) When a person ceases to be a UK registered consignor that person must immediately destroy the certificate of registration.

(3) A UK registered consignor must give notice in writing to the Commissioners of any change in the information contained in the consignor's certificate of registration within seven days of the change.

(4) Where—

- (a) a UK registered consignor gives notice in accordance with paragraph (3); or
- (b) without any such notice having been given it appears to the Commissioners that a consignor's certificate of registration requires correction,

they must, unless they revoke the consignor's approval and registration in accordance with regulation 100G(5) of CEMA 1979, furnish the consignor with a corrected certificate of registration.

(5) Where, in accordance with paragraph (4), the Commissioners furnish a UK registered consignor with a corrected certificate of registration the consignor must, upon receiving that certificate, destroy the original certificate that required correction.

Certificates of Registration

32. Every certificate of registration must contain the following particulars—

- (a) a unique reference number assigned to the UK registered consignor by the Commissioners;
- (b) the name and (if different) the trading name of the UK registered consignor;
- (c) the address of the UK registered consignor's place of business (including any postcode) in the United Kingdom;
- (d) any conditions or restrictions imposed by the Commissioners in the exercise of their discretion under section 100G(4) of CEMA 1979.

Conditions and restrictions

33. The approval and registration of UK registered consignors, in addition to any conditions or restrictions imposed on them by the Commissioners under section 100G(4) of the Act, is subject to the conditions and restrictions prescribed in a notice published by the Commissioners.

PART 5
HOLDING AND MOVEMENT OF EXCISE GOODS UNDER DUTY
SUSPENSION ARRANGEMENTS

Holding of excise goods under duty suspension arrangements

34. Excise goods may be deposited and kept under duty suspension arrangements only in a tax warehouse.

Moving excise goods under duty suspension arrangements

35. Excise goods of a certain class or description may only be imported into or exported from the United Kingdom under duty suspension arrangements if they are—

- (a) dispatched from a tax warehouse to—
 - (i) another tax warehouse approved in relation to excise goods of that class or description;
 - (ii) a registered consignee who has been registered in relation to excise goods of that class or description;
 - (iii) a place from where they will leave the territory of the EU;
 - (iv) an exempt consignee where the goods are dispatched from the United Kingdom to another Member State or are dispatched from another Member State to the United Kingdom;
- (b) dispatched by a registered consignor in another Member State from the place of importation to any of the destinations referred to in paragraph (a); or
- (c) dispatched by a UK registered consignor from the place of importation to any of the destinations referred to in paragraph (a), other than a UK registered consignee.

36. An authorised warehousekeeper or UK registered consignee whose terms of approval so allow may import excise goods under duty suspension arrangements to a place of direct delivery in the United Kingdom.

37. Excise goods of a certain class or description may only be moved wholly within the United Kingdom under duty suspension arrangements if they are—

- (a) dispatched from a tax warehouse to—
 - (i) another tax warehouse approved in relation to excise goods of that class or description;
 - (ii) a place from where they will leave the territory of the EU; or
- (b) dispatched by a UK registered consignor from the place of importation to either of the destinations referred to in paragraph (a).

38.—(1) For the protection of the revenue the Commissioners may by notice in writing addressed to a packager or a registered brewer registered under section 41A(1) of ALDA 1979, restrict or prohibit the movement of beer without payment of duty from the premises in respect of which the packager or brewer is registered under that section to—

- (a) other premises in respect of which any person is registered under that section; or
- (b) an excise warehouse.

(2) In this regulation —

“beer” has the meaning given in section 1(3), but subject to any orders made under section 1(10), of ALDA 1979;

“registered brewer” has the meaning given in section 47(1) of that Act;

“packager” has the meaning given in section 4(1) of that Act.

Movement conditions

39.—(1) Except for movements between tax warehouses which the Commissioners may specify in a notice, excise goods may not be moved under duty suspension arrangements unless—

- (a) the risks inherent in the movement are covered by an approved guarantee provided by the authorised warehousekeeper of dispatch, the registered consignor or any other person the Commissioners may allow in accordance with paragraph (2) which secures such amount of the duty chargeable on the goods as the Commissioners may require; and
- (b) the procedures in Part 6, Part 7, Part 8 or, as the case may be, Part 9 of these Regulations are complied with.

(2) Subject to such conditions as they may specify in a notice the Commissioners may allow the guarantee referred to in paragraph (1)(a) to be provided by —

- (a) the transporter or carrier of the excise goods;
- (b) the owner of the excise goods; or
- (c) the consignee of the excise goods.

(3) In paragraph (1)(a) “approved” means approved by the Commissioners.

PART 6

EXPORTS OF EXCISE GOODS UNDER DUTY SUSPENSION ARRANGEMENTS

Application of Part 6

40.—(1) This Part applies to the movement of excise goods dispatched to another Member State—

- (a) from a tax warehouse in the United Kingdom; or
- (b) by a UK registered consignor,

under duty suspension arrangements.

(2) Except for regulation 45, it only applies to a movement which starts after 31st December 2010.

Electronic administrative document for exports of excise goods under duty suspension arrangements

41.—(1) Subject to regulation 50, a movement of excise goods to which this Part applies must take place under cover of an electronic administrative document.

(2) Before the excise goods are dispatched, the consignor must complete a draft electronic administrative document that complies with the EU requirements and send it to the Commissioners using the computerised system.

(3) The Commissioners must carry out an electronic verification of the data in the draft electronic administrative document.

(4) Where the data in the document are invalid, the Commissioners must, using the computerised system, inform the consignor of that fact without delay.

(5) Where the data in the document are valid, the Commissioners must assign to the document a unique administrative reference code and, using the computerised system, inform the consignor of that code.

(6) In a case where the excise goods are dispatched to—

- (a) a tax warehouse;

- (b) a registered consignee;
- (c) an exempt consignee; or
- (d) a place of direct delivery,

in another Member State, the Commissioners must, using the computerised system, send the electronic administrative document to the competent authorities of that Member State without delay.

(7) In a case where the excise goods are dispatched to a place in another Member State from where they will leave the territory of the EU the Commissioners must send the electronic administrative document to the competent authorities of that Member State.

(8) The consignor of the excise goods must provide the person accompanying the goods during the course of the movement with —

- (a) a printed version of the electronic administrative document; or
- (b) any other commercial document on which the unique administrative reference code is clearly stated.

(9) The person accompanying the goods must, on request, make one of the documents mentioned in paragraph (8) available for presentation to the competent authorities of a Member State during the course of the movement.

Electronic administrative document for exports of excise goods under duty suspension arrangements - supplementary provisions

42.—(1) The consignor may, using the computerised system, cancel the electronic administrative document at any time before the excise goods leave the tax warehouse from where they are to be dispatched or the place of importation.

(2) A consignor wishing to cancel an electronic administrative document must comply with the requirements of Article 4(1) of Commission Regulation (EC) No. 684/2009 (completion of draft cancellation message).

(3) During the course of a movement the consignor may, using the computerised system, amend the destination shown on the electronic administrative document.

(4) A destination may only be amended if the new destination is—

- (a) another tax warehouse;
- (b) a registered consignee in another Member State;
- (c) a place from where the goods will leave the territory of the EU; or
- (d) a place of direct delivery in another Member State.

(5) A consignor wishing to amend the destination must comply with the requirements of Article 5(1) of Commission Regulation (EC) No. 684/2009 (completion of draft change of destination message).

(6) The data elements in the fields of the draft change of destination message that the consignor is required to complete in accordance with Article 5(1) of Commission Regulation (EC) No. 684/2009 include the data elements numbered (f) in Group 2, (a) in Group 7 and Group 8 of Table 3 in the Annex to that Regulation.

Exemption certificates

43. Without prejudice to regulation 41(1), excise goods dispatched—

- (a) from a tax warehouse in the United Kingdom; or
- (b) by a UK registered consignor,

to an exempt consignee in another Member State must be accompanied by an exemption certificate that complies with the EU requirements.

Export of energy products by sea-notification of consignee

44.—(1) This regulation applies to the export of energy products by sea.

(2) Where, at the time the consignor is required to send a draft electronic administrative document in accordance with regulation 41(2), the consignee is not known, the Commissioners may allow the name of the consignee to be omitted from the draft document.

(3) As soon as the consignee is known and, in any event, no later than the time when the consignee takes delivery of the products or, as the case may be, the time when the products leave the territory of the EU, the consignor must notify the name of the consignee to the Commissioners using the computerised system.

Splitting a movement of energy products

45.—(1) This regulation only applies to a movement of energy products which starts after 31st December 2011.

(2) The Commissioners may allow a consignor to split a movement of energy products exported to another Member State under a duty suspension arrangement into two or more movements.

(3) But a movement may only be split if—

- (a) the total quantity of energy products does not change;
- (b) the splitting is carried out in another Member State that permits such a procedure;
- (c) the consignor, using the computerised system, informs the competent authorities of that Member State of the place where the splitting is carried out.

(4) A consignor wishing to split a movement must comply with the requirements of Article 6(1) of Commission Regulation (EC) No. 684/2009 (completion of draft splitting operation message).

(5) The data elements in the fields of the draft splitting operation message that the consignor is required to complete in accordance with Article 6(1) of Commission Regulation (EC) No. 684/2009 include the data elements numbered (a) in Group 7, Group 8 and (p) in Group 10 of Table 5 in the Annex to that Regulation.

Report of export from territory of the EU

46.—(1) This regulation applies where excise goods have been dispatched from a place in the United Kingdom to a place from where they will leave the territory of the EU.

(2) If the customs office of exit is in another Member State the Commissioners must, when they receive a report of export from the competent authorities of that Member State, send it to the consignor using the computerised system.

(3) A report of export shall constitute proof that the movement of the excise goods referred to in the report has ended.

(4) If the customs office of exit is in the United Kingdom the Commissioners must, on the basis of an endorsement drawn up by that office certifying that the excise goods have left the territory of the EU, give notice to the consignor that the goods have so left.

(5) A notice given in accordance with paragraph (4) shall constitute proof that the movement of those goods has ended.

47.—(1) This regulation applies where excise goods have been dispatched from another Member State to a place in the United Kingdom from where they will leave the territory of the EU.

(2) Subject to regulation 48(1), the Commissioners must, on the basis of the endorsement drawn up by the customs office of exit certifying that the excise goods have left the territory of the EU, complete a report of export that complies with the EU requirements and, using the computerised system, send it to the competent authorities of the Member State from where the goods were dispatched.

Report of export from territory of the EU when computerised system unavailable

48.—(1) Where, due to the unavailability of the computerised system, a report of export cannot be completed in accordance with regulation 47(2), the Commissioners must, except in cases which they consider are duly justified, send to the competent authorities in the Member State from where the excise goods were dispatched, a fallback report of export that complies with the EU requirements.

(2) As soon as the computerised system is restored the Commissioners must complete a report of export in accordance with regulation 47(2) and send it to the competent authorities in the Member State from where the excise goods were dispatched.

Report of receipt of excise goods exported under duty suspension arrangements

49.—(1) This regulation applies where excise goods have been dispatched to—

- (a) a tax warehouse;
- (b) a registered consignee;
- (c) an exempt consignee; or
- (d) a place of direct delivery,

in another Member State.

(2) When the Commissioners receive a report of receipt they must send it to the consignor using the computerised system.

(3) A report of receipt shall constitute proof that the movement of the excise goods referred to in the report has ended.

(4) Without prejudice to paragraph (3), an endorsement by the competent authorities of the Member State to which the excise goods have been dispatched that the goods have reached their stated destination shall constitute proof that the movement of those goods has ended.

(5) If the Commissioners receive a fallback report of receipt they must send it to the consignor or keep it available for the consignor.

(6) In paragraph (4), “stated destination” means the destination stated in the electronic administrative document or, as the case may be, fallback accompanying document.

Procedure for exports of excise goods under duty suspension arrangements when computerised system unavailable

50.—(1) This regulation applies when the computerised system is unavailable.

(2) Excise goods may only be moved from a tax warehouse or place of importation in the United Kingdom to another Member State under duty suspension arrangements if—

- (a) the consignor notifies the Commissioners before the goods leave the warehouse or place of importation; and
- (b) the goods are accompanied by a fallback accompanying document that complies with the EU requirements.

(3) Before the goods leave the warehouse or place of importation the Commissioners may require the consignor to—

- (a) provide a copy of the fallback accompanying document;
- (b) verify the data contained in that document; and
- (c) provide information on the reasons for the unavailability of the computerised system (if the consignor is responsible for that unavailability).

(4) As soon as the computerised system is restored the consignor must, in accordance with regulation 41(2), complete a draft electronic administrative document and send it to the Commissioners.

(5) The Commissioners must, in accordance with regulation 41(3), carry out a verification of the data in the document.

(6) If the data are valid, regulation 41(5) to (9) shall apply and the electronic administrative document shall replace the fallback accompanying document.

(7) If the data are invalid, the movement shall be treated as taking place under cover of the fallback accompanying document.

(8) The consignor must keep a copy of the fallback accompanying document.

Procedure for exports of excise goods under duty suspension arrangements when computerised system unavailable - supplementary provisions

51.—(1) If, in accordance with regulation 42(3) the destination shown on the electronic administrative document is amended, the consignor must, before the destination is amended, notify the Commissioners of the new destination.

(2) As soon as the computerised system is restored, the consignor must notify the Commissioners of the new destination using the computerised system.

(3) If, in accordance with regulation 45(2), a movement of energy products is split, the consignor must, before the splitting takes place, notify the Commissioners of the place where the splitting is to be carried out.

(4) As soon as the computerised system is restored, the consignor must, using the computerised system, notify the competent authorities of the Member State in which the splitting is to occur of the place where the splitting is to be carried out or, if it has already occurred, where it was carried out.

(5) Where paragraph (1) or (3) applies, the consignor must ensure that the information notified to the Commissioners is in the form required by Article 8(2) of Commission Regulation (EC) 684/2009.

(6) Where paragraph (1) applies, the information must include the data elements numbered (f) in Group 2, (a) in Group 7 and Group 8 of Table 3 in the Annex to that Regulation.

(7) Where paragraph (3) applies, the information must include the data elements numbered (a) in Group 7, Group 8 and (p) in Group 10 of Table 5 in the Annex to that Regulation.

PART 7

IMPORTS OF EXCISE GOODS UNDER DUTY SUSPENSION ARRANGEMENTS

Application of Part 7

52.—(1) This Part applies to the movement of excise goods dispatched from another Member State to the United Kingdom under duty suspension arrangements.

(2) But this Part does not apply to such a movement that is initiated before 1st January 2011 under cover of the formalities set out in Article 18 of Council Directive 92/12 (EEC) of 25th February 1992.

Electronic administrative document for imports of excise goods under duty suspension arrangements

53.—(1) A movement to which this Part applies must take place under cover of an electronic administrative document or a fallback accompanying document.

(2) A printed version of the electronic administrative document, the fallback accompanying document or any other commercial document on which the unique administrative reference code is clearly stated, must accompany the goods.

(3) Whilst the goods remain in the custody or under the control of the person accompanying the goods, that person must, upon request, produce or cause to be produced to the Commissioners one of the documents referred to in paragraph (2).

Report of receipt of excise goods imported under duty suspension arrangements

54.—(1) Subject to regulation 55, and except in cases which the Commissioners consider are duly justified, on receipt of any excise goods to which this Part applies the consignee of those goods must, using the computerised system, send to the Commissioners without delay, and in any event no later than five business days after their receipt by the consignee or, as the case may be, their arrival at a place of direct delivery (or within such other period as the Commissioners may allow), a report of receipt that complies with the EU requirements.

(2) Paragraph (1) does not apply where the consignee is an exempt consignee.

(3) The Commissioners must carry out an electronic verification of the data in the report of receipt.

(4) Where the data in the report of receipt are invalid, the Commissioners must, using the computerised system, inform the consignee of that fact without delay.

(5) Where the data in the report of receipt are valid, the Commissioners must, using the computerised system —

- (a) register the report;
- (b) notify the consignee that it has been registered; and
- (c) send it to the competent authorities of the Member State from where the excise goods were dispatched.

Report of receipt of excise goods imported under duty suspension arrangements when computerised system unavailable

55.—(1) Where, due to the unavailability of the computerised system, a report of receipt cannot be sent in accordance with regulation 54(1), the consignee must, except in cases which the Commissioners consider are duly justified, send to the Commissioners a fallback report of receipt that complies with the EU requirements.

(2) Where such a fallback report of receipt is received by the Commissioners they must send a copy of it to the competent authorities of the Member State from where the excise goods were dispatched.

(3) As soon as the computerised system is restored the consignee must send a report of receipt to the Commissioners and regulation 54(3) to (5) shall apply to that report.

PART 8

MOVEMENTS OF EXCISE GOODS WHOLLY WITHIN THE UNITED KINGDOM UNDER DUTY SUSPENSION ARRANGEMENTS

Application of Part 8

56. This Part applies to the movement of excise goods, other than energy products, under duty suspension arrangements where—

- (a) the movement starts in the United Kingdom after 31st December 2010;
- (b) the movement ends in the United Kingdom;
- (c) the goods do not at any time leave the United Kingdom during the course of the movement; and
- (d) a simplified procedure under Part 9 of these Regulations does not apply.

Electronic administrative document for movements of excise goods under duty suspension arrangements wholly within the United Kingdom

57.—(1) Subject to regulation 60, a movement of excise goods to which this Part applies must take place under cover of an electronic administrative document.

(2) Before the excise goods are dispatched, the consignor must complete a draft electronic administrative document that complies with the EU requirements and send it to the Commissioners using the computerised system.

(3) The Commissioners must carry out an electronic verification of the data in the draft electronic administrative document.

(4) Where the data in the document are invalid, the Commissioners must, using the computerised system, inform the consignor of that fact without delay.

(5) Where the data in the document are valid, the Commissioners must assign to the document a unique administrative reference code and, using the computerised system, inform the consignor of that code.

(6) If the excise goods are dispatched to a tax warehouse the Commissioners must, using the computerised system, send the electronic administrative document to the authorised warehousekeeper of that warehouse.

(7) The consignor of the excise goods must provide the person accompanying the goods during the course of the movement with —

- (a) a printed version of the electronic administrative document; or
- (b) any other commercial document on which the unique administrative reference code is clearly stated.

(8) Whilst the goods remain in the custody or under the control of the person accompanying the goods, that person must, upon request, produce or cause to be produced to the Commissioners one of the documents referred to in paragraph (7).

Electronic administrative document for movements of excise goods under duty suspension arrangements wholly within the United Kingdom-supplementary provisions

58.—(1) The consignor may, using the computerised system, cancel the electronic administrative document at any time before the excise goods leave the tax warehouse from where they are to be dispatched or the place of importation.

(2) A consignor wishing to cancel an electronic administrative document must comply with the requirements of Article 4(1) of Commission Regulation (EC) No. 684/2009 (completion of draft cancellation message).

(3) During the course of a movement the consignor may, using the computerised system, amend the destination shown on the electronic administrative document.

(4) A destination may only be amended if the new destination is—

- (a) another tax warehouse;
- (b) a registered consignee in another Member State;
- (c) a place from where the goods will leave the territory of the EU; or
- (d) a place of direct delivery in another Member State.

(5) A consignor wishing to amend the destination must comply with the requirements of Article 5(1) of Commission Regulation (EC) No. 684/2009 (completion of draft change of destination message).

(6) The data elements in the fields of the draft change of destination message that the consignor is required to complete in accordance with Article 5(1) of Commission Regulation (EC) No. 684/2009 include the data elements numbered (f) in Group 2, (a) in Group 7 and Group 8 of Table 3 in the Annex to that Regulation.

Report of receipt of excise goods moved under duty suspension arrangements wholly within the United Kingdom

59.—(1) Subject to regulation 61, on receipt of the excise goods the consignee must, using the computerised system, send to the Commissioners without delay, and in any event no later than five business days after receipt of the goods (or within such other period as the Commissioners may allow), a report of receipt that complies with the EU requirements.

(2) The Commissioners must carry out an electronic verification of the data in the report of receipt.

(3) Where the data in the report of receipt are invalid, the Commissioners must, using the computerised system, inform the consignee of that fact without delay.

(4) Where the data in the report of receipt are valid, the Commissioners must, using the computerised system —

- (a) register the report;
- (b) notify the consignee that it has been registered; and
- (c) send it to the consignor.

(5) A report of receipt shall constitute proof that the movement of the excise goods referred to in the report has ended.

(6) Without prejudice to paragraph (5), an endorsement by the Commissioners that the goods have reached their stated destination shall constitute proof that the movement of those goods has ended.

(7) In paragraph (6) “stated destination” means the destination stated in the electronic administrative document or, as the case may be, fallback accompanying document.

Procedure for movement of excise goods under duty suspension arrangements wholly within the United Kingdom when computerised system unavailable

60.—(1) This regulation and regulation 61 apply when the computerised system is unavailable.

(2) Excise goods may only be moved from a tax warehouse or place of importation under duty suspension arrangements if—

- (a) the consignor notifies the Commissioners before the goods leave the warehouse or place of importation; and
- (b) the goods are accompanied by a fallback accompanying document that complies with the EU requirements.

(3) Before the goods leave the warehouse or place of importation the Commissioners may require the consignor to—

- (a) provide a copy of the fallback accompanying document;
- (b) verify the data contained in that document; and
- (c) provide information on the reasons for the unavailability of the computerised system (if the consignor is responsible for that unavailability).

(4) As soon as the computerised system is restored the consignor must, in accordance with regulation 57(2), complete a draft electronic administrative document and send it to the Commissioners.

(5) The Commissioners must, in accordance with regulation 57(3), carry out a verification of the data in the draft electronic administrative document.

(6) If the data are valid, regulation 57(5) to (8) shall apply and the electronic administrative document shall replace the fallback accompanying document.

(7) If the data are invalid, the movement shall be treated as taking place under cover of the fallback accompanying document.

(8) The consignor must keep a copy of the fallback accompanying document.

Report of receipt of excise goods moved under duty suspension arrangements wholly within the United Kingdom when computerised system unavailable

61.—(1) Where, due to the unavailability of the computerised system, a report of receipt cannot be sent in accordance with regulation 59(1), the consignee must send to the consignor a fallback report of receipt that complies with the EU requirements.

(2) As soon as the computerised system is restored the consignee must send a report of receipt to the Commissioners and regulation 59(2) to (4) shall apply to that report.

PART 9

SIMPLIFIED PROCEDURES FOR MOVEMENTS OF EXCISE GOODS WHOLLY WITHIN THE UNITED KINGDOM UNDER DUTY SUSPENSION ARRANGEMENTS

Simplified procedure for certain movements of alcoholic liquors

62.—(1) This regulation applies to a movement of alcoholic liquors under duty suspension arrangements which starts in the United Kingdom after 31st December 2010.

(2) Subject to the conditions specified in paragraph (3), alcoholic liquors to which this regulation applies may be moved without being under the cover of an electronic administrative document—

- (a) from or to premises in respect of which the producer of the alcoholic liquor or a packager is registered under section 41A(1) of ALDA 1979 (beer stores);
- (b) from or to premises in respect of which the producer of the alcoholic liquor is registered under section 47(1) of ALDA 1979 (breweries);
- (c) from or to premises in respect of which the producer of the alcoholic liquor holds a licence under section 54(2) or 55(2) of ALDA 1979 (wineries);
- (d) from or to premises in respect of which the maker of the alcoholic liquor is registered under section 62(2) of ALDA 1979 (cider maker's premises);
- (e) from or to an excise warehouse used for the production, manufacture, packaging, bottling, blending and other processing of alcoholic liquors or for the maturation of spirits and in respect of which the producer or manufacturer is the authorised warehousekeeper;
- (f) from or to premises—
 - (i) in respect of which another person is registered or holds a licence under any of the provisions referred to in sub-paragraphs (a) to (d) or is the authorised warehousekeeper; and
 - (ii) that person and the producer or manufacturer of the alcoholic liquor are treated as members of a group under sections 43A to 43D of the Value Added Tax Act 1994(a).

(3) The specified conditions are—

- (a) in a case where a guarantee was required in accordance with regulation 39, the alcoholic liquor must be accompanied by a document prescribed by warehousing regulations as required to accompany goods that are permitted to be removed from a warehouse without payment of duty;
- (b) in a case where no guarantee was required, the alcoholic liquor must be accompanied by a document issued by the consignor and containing a unique reference number, the consignor's name and address, the date of dispatch, the name and address of the

(a) 1994 c. 23; sections 43A, 43B and 43C were inserted by the Finance Act 1999 (c. 16), Schedule 2, paragraph 2. Sections 43AA and 43D were inserted by the Finance Act 2004 (c. 12), section 20(1) and (2).

- consignee, the address of the place to which the liquor is consigned, a description of the liquor including its quantity and, in the case of beer, its strength and packet size and a statement indicating that the liquor is being moved without payment of duty;
- (c) except in the case of movements referred to in paragraph (2)(e) and (f), property in the alcoholic liquor must remain with its producer or manufacturer during the course of the movement;
 - (d) the consignee who receives the alcoholic liquor must, no later than five business days after its receipt—
 - (i) issue a certificate of receipt containing such particulars as may be specified by the Commissioners in a notice published by them and keep a record of the issue of the certificate; and
 - (ii) send the certificate of receipt to the consignor of the liquor; and
 - (e) in the case of beer, if the amount of beer produced in the brewery where the beer was produced is relevant for the purposes of determining the duty charged on the beer, the beer must be accompanied by a certificate of production in a form approved by the Commissioners.
- (4) For the purposes of paragraphs (2)(e) and (3)(c) any person—
- (i) who keeps spirits for the purpose of maturation; or
 - (ii) keeps or uses spirits for the purpose of blending (other than domestic blending for domestic consumption),
- shall be treated as the manufacturer.
- (5) In this regulation—
- “alcoholic liquors” means the alcoholic liquors that are chargeable with duty under ALDA 1979;
- “beer” has the meaning given in section 1(3), but subject to section 1(10), of that Act;
- “spirits” has the meaning given in section 1(2) of that Act; and
- “packager” has the meaning given in section 4(1) of that Act.

Simplified procedure for certain movements of tobacco products

63.—(1) This regulation applies to a movement of tobacco products under duty suspension arrangements which starts in the United Kingdom after 31st December 2010.

(2) Subject to the conditions specified in paragraph (3), the movement of tobacco products to which this regulation applies may take place without being under the cover of an electronic administrative document, to or from—

- (a) premises registered in accordance with regulations made under section 7(1) of TPDA 1979 (registered tobacco factories and stores);
- (b) an excise warehouse used for the packaging, repackaging or testing of tobacco products.

(3) The specified conditions are—

- (a) the tobacco product must be accompanied by a document issued by the consignor and containing a unique reference number, the consignor’s name and address, the date of dispatch, the name and address of the consignee, the address of the place to which the tobacco product is consigned, a description of the tobacco product and a statement indicating that the tobacco product is being moved without payment of duty;
- (b) property in the tobacco product must remain with its manufacturer during the course of the movement;
- (c) the consignee who receives the tobacco product must, no later than five business days after its receipt—

- (i) issue a certificate of receipt containing such particulars as may be specified by the Commissioners in a notice published by them and keep a record of the issue of the certificate; and
 - (ii) send the certificate of receipt to the consignor of the tobacco products.
- (4) In this regulation—
- “manufacturer”, subject to paragraph (5), means any person who manufactures tobacco products in premises that may be registered for the manufacture of tobacco products in accordance with regulations made under section 7(1) of TPDA 1979 (“a registered factory”); and
- “repackaging” means the replacement of any packaging or wrapping material that is customary, necessary or both customary and necessary to enclose and present tobacco products for retail sale purposes.
- (5) For the purposes of paragraph 3(b), two bodies corporate may be treated jointly as a manufacturer if—
- (a) one of them manufactures tobacco products in premises that may be registered as a registered factory;
 - (b) one of the other body corporate’s principal activities is the storage of tobacco products manufactured by the first mentioned body corporate; and
 - (c) one of them controls the other or, although neither controls the other, they are both controlled by the same body corporate.

PART 10

EXPORTS OF EXCISE GOODS AFTER RELEASE FOR CONSUMPTION

Application of Part 10

64.—(1) Subject to paragraph (2), this Part applies to excise goods which have been released for consumption in the United Kingdom and are exported to another Member State.

(2) This Part does not apply—

- (a) to excise goods exported under a UK distance selling arrangement;
- (b) in any case to which Part VII of the Excise Goods (Sales on Board Ships and Aircraft) Regulations 1999 apply; or
- (c) to excise goods exported by a person for that person’s own use.

(3) In paragraph (2), “UK distance selling arrangement” means an arrangement where—

- (a) a person (“the UK vendor”) in the United Kingdom sells or agrees to sell excise goods that have been released for consumption in the United Kingdom, to a person (“the purchaser”) in another Member State;
- (b) those goods are dispatched by or to the order of the UK vendor to the purchaser or a person nominated by the purchaser and consigned to an address in another Member State;
- (c) those goods will be charged with the other Member State’s duty on their importation into that State; and
- (d) the purchaser is not an authorised warehousekeeper or a registered consignee.

Accompanying document for exports of excise goods after release for consumption

65.—(1) Excise goods to which this Part applies must not be exported unless—

- (a) the consignor completes an accompanying document showing that the consignor is the supplier; and
- (b) the completion of that document complies with the EU requirements.

(2) These requirements also apply to excise goods exported to another Member State in the course of a movement to an ultimate destination within the United Kingdom.

(3) The accompanying document—

- (a) must not be amended; and
- (b) must accompany the excise goods to which it relates at all times until those goods reach their ultimate destination.

(4) The consignor must ensure, so far as it is in the consignor's power to do so, that the EU requirements are complied with at all times until the goods reach their ultimate destination.

Additional requirements

66. Prior to the movement of the goods the consignor must ensure that—

- (a) the competent authorities in the Member State of destination have been informed of the pending importation; and
- (b) before the goods are imported into that Member State, that State's excise duty has been paid or arrangements for its payment have been made.

PART 11

IMPORTS OF EXCISE GOODS AFTER RELEASE FOR CONSUMPTION

Application of Part 11

67.—(1) Subject to paragraph (2), this Part applies to excise goods (other than chewing tobacco) imported from another Member State which have been released for consumption in another Member State.

(2) This Part does not apply—

- (a) to excise goods imported under a distance selling arrangement;
- (b) other than regulation 68, in any case to which the Excise Goods (Sales on Board Ships and Aircraft) Regulations 1999 applies; or
- (c) to excise goods imported by a person for that person's own use.

Imports of excise goods after release for consumption

68.—(1) Excise goods to which this Part applies must be consigned—

- (a) to the person shown on the accompanying document as the recipient; or
- (b) if the recipient is not in the UK, to an ultimate destination outside the United Kingdom.

(2) The excise goods must at all times be accompanied by an accompanying document that complies with the EU requirements.

(3) An accompanying document must not be amended.

(4) The person to whom any excise goods are consigned must ensure, so far as it is in that person's power to do so, that the EU requirements are complied with at all times.

(5) This regulation does not apply in any case to which Part VII of the Excise Goods (Sales on Board Ships and Aircraft) Regulations 1999 applies.

Requirements

69.—(1) The person delivering the excise goods, holding the excise goods intended for delivery or receiving the excise goods must—

- (a) before the excise goods are dispatched—

- (i) inform the Commissioners of the expected dispatch;
- (ii) provide a guarantee satisfactory to the Commissioners securing payment of the duty or, subject to regulation 73, pay the UK excise duty chargeable on the goods;
- (b) subject to regulation 73, on or before the excise duty point, pay any duty that has not been paid in such manner as the Commissioners may direct;
- (c) consent to any check enabling the Commissioners to satisfy themselves that the goods have been received and that the duty has been paid.

(2) A person mentioned in paragraph (1) who is not approved and registered in accordance with regulation 70 shall be known as an unregistered commercial importer.

Registered commercial importers – approval and registration

70.—(1) For the purposes of section 100G of CEMA 1979 the Commissioners may approve any of the persons specified in regulation 69(1) who applies for registration under that section and register them as excise dealers and shippers in accordance with section 100G(2) of CEMA 1979.

(2) A person who has been so approved and registered shall be known as a registered commercial importer.

(3) The approval and registration of registered commercial importers, in addition to any conditions or restrictions imposed on them by the Commissioners under section 100G(4) of CEMA 1979, is subject to the conditions and restrictions prescribed in a notice published by the Commissioners.

71.—(1) The Commissioners must furnish every registered commercial importer with a certificate of registration.

(2) When a person ceases to be a registered commercial importer that person must immediately destroy the certificate of registration.

(3) A registered commercial importer must give notice in writing to the Commissioners of any change in the information contained in the importer’s certificate of registration within seven days of the change.

(4) Where—

- (a) a registered commercial importer gives notice in accordance with paragraph (3); or
- (b) without any such notice having been given it appears to the Commissioners that an importer’s certificate of registration requires correction,

they must, unless they revoke the importer’s approval and registration in accordance with section 100G(5) of CEMA 1979, furnish the importer with a corrected certificate of registration.

(5) Where, in accordance with paragraph (4), the Commissioners furnish a registered commercial importer with a corrected certificate of registration the importer must, upon receiving that certificate, destroy the original certificate that required correction.

72. Every certificate of registration must contain the following particulars—

- (a) a unique reference number assigned to the registered commercial importer by the Commissioners;
- (b) the name and (if different) the trading name of the registered commercial importer;
- (c) the address of the registered commercial importer’s place of business (including any postcode) in the United Kingdom
- (d) any conditions or restrictions imposed by the Commissioners in the exercise of their discretion under section 100G(4) of CEMA 1979.

Registered commercial importers - accounting and payment

73.—(1) A registered commercial importer must each month make a return to the Commissioners on the form provided by them for the purpose.

(2) The registered commercial importer must declare in the return the duty due in the month to which the return relates.

(3) The duty due is the duty the registered commercial importer is liable to pay by virtue of Part 2 of these Regulations.

(4) The return must be made and, subject to any duty deferment arrangements, the duty due must be paid no later than the end of the fourth day immediately following the end of the month to which it relates.

(5) But if one of those days is not a business day the return and, subject to any duty deferment arrangements, payment of the duty due must be made no later than the end of the third consecutive business day following the end of the month to which it relates.

Receipt of excise goods

74.—(1) Upon receipt of the excise goods the recipient must complete the certificates on the reverse of copies 2 and 3 of the accompanying document in accordance with the EU requirements.

(2) Except where the supplier does not require it, the recipient must, no later than the fifteenth day of the month following that in which the excise goods were received, send copy 3 of the accompanying document to the person shown as the supplier in that document.

(3) In this regulation “recipient” means the person who is shown as the recipient on the accompanying document.

PART 12

DISTANCE SALES OF EXCISE GOODS FROM ANOTHER MEMBER STATE

Application of Part 12

75. This Part applies where there is a distance selling arrangement.

Tax representatives-approval and registration

76.—(1) For the purposes of section 100G of CEMA 1979 the Commissioners may approve revenue traders who wish to act as the agent of vendors and register them as registered excise dealers and shippers in accordance with section 100G(2) of CEMA 1979.

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

(3) The Commissioners must not approve a revenue trader as a tax representative unless—

- (a) that trader has a business establishment or other fixed establishment in the United Kingdom; or
- (b) if that trader is an individual, that individual’s usual place of residence is in the United Kingdom.

(4) The approval and registration of tax representatives, in addition to any conditions or restrictions imposed on them by the Commissioners under section 100G(4) of CEMA 1979, is subject to the conditions and restrictions prescribed in a notice published by the Commissioners.

Tax representatives-procedure

77.—(1) Excise goods may not be consigned to an address in the United Kingdom under a distance selling arrangement unless a tax representative has been approved and registered in accordance with regulation 76.

(2) A tax representative must—

- (a) before the excise goods are dispatched, notify the Commissioners and provide a guarantee satisfactory to them securing payment of the UK excise duty chargeable on those goods;
- (b) immediately after the goods have been received at their intended destination, enter in a record the date of receipt of those goods and the quantity and description of those goods; and
- (c) in accordance with regulation 78, account for and pay the duty due.

Accounting and payment

78.—(1) A tax representative must each month make a return to the Commissioners on the form provided by them for the purpose.

(2) The tax representative must declare in the return the duty due in the month to which the return relates.

(3) The duty due is the duty the tax representative is liable to pay by virtue of Part 2 of these Regulations.

(4) The return must be made and, subject to any duty deferment arrangements, the duty due must be paid no later than the end of the fourth day immediately following the end of the month to which it relates.

(5) But if one of those days is not a business day the return and, subject to any duty deferment arrangements, payment of the duty due must be made no later than the end of the third consecutive business day following the end of the month to which it relates.

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(a) 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.

PART 14

IRREGULARITIES IN THE COURSE OF A MOVEMENT OF EXCISE GOODS ALREADY RELEASED FOR CONSUMPTION

Interpretation of Part 14

83. In this Part—

“commercial movement” means—

- (a) a movement of goods to which Part 11 of these Regulations applies (imports of excise goods after release for consumption);
- (b) a movement of goods to which Part 12 of these Regulations applies (distance sales of excise goods from another member state);

“irregularity” has the meaning given by Article 38(4) of the Directive.

Irregularity occurring or detected in the United Kingdom

84.—(1) This regulation applies where—

- (a) there is a commercial movement of excise goods from another Member State; and
- (b) in relation to those goods and that movement, there is an irregularity that occurs or is detected in the United Kingdom.

(2) Where the Commissioners are satisfied that the irregularity occurred in the United Kingdom, there shall be an excise duty point at the time of the occurrence of the irregularity or, where it is not possible to establish when the irregularity occurred, the time when the irregularity is detected.

(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 there shall be an excise duty point at the time of the detection.

Repayment of excise duty

85.—(1) This regulation applies where—

- (a) there has been an excise duty point as prescribed by regulation 84(3);
- (b) within three years of the start of the movement the Commissioners ascertain that the Member State in which the irregularity actually occurred is 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

(a) 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.

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 (1)(b) a movement starts at the time the excise goods are dispatched.

(5) For the purposes of paragraph (2), section 137A(1) of CEMA 1979 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.

PART 15

OBLIGATIONS, CONDITIONS AND RESTRICTIONS

General conditions and restrictions

86. The Commissioners may in a notice published by them—

- (a) impose on authorised warehousekeepers in the United Kingdom conditions and restrictions subject to which excise goods to which these Regulations apply may be deposited in or removed from excise warehouses;
- (b) prescribe conditions and restrictions subject to which excise goods to which these Regulations apply and in respect of which UK excise duty has not been paid may be imported by UK registered consignees;
- (c) prescribe conditions and restrictions subject to which excise goods to which these Regulations apply and in respect of which UK excise duty has not been paid may be dispatched by UK registered consignors;
- (d) impose on transporters and on persons undertaking the carriage of excise goods requirements concerning the keeping and preserving of the documents that are required by these Regulations to accompany the goods.

Obligations of owners and transporters

87.—(1) Every owner and every transporter of excise goods to which these Regulations apply must ensure that the EU requirements are complied with at all times.

(2) Every transporter of excise goods to which these Regulations apply must, while the goods remain in that transporter's custody or under that transporter's control, produce or cause to be produced to an officer any documents that are required by these Regulations to accompany the goods when required to do so.

(3) This regulation also applies to —

- (a) any person who undertakes the carriage of excise goods who is not the transporter; and
- (b) the driver of any vehicle in which the goods are being carried,

as it applies to the transporter.

PART 16

FORFEITURE AND CIVIL PENALTIES

Forfeiture of excise goods on which the duty has not been paid

88. If in relation to any excise goods that are liable to duty that has not been paid there is—

- (a) a contravention of any provision of these Regulations, or
- (b) a contravention of any condition or restriction imposed by or under these Regulations,

those goods shall be liable to forfeiture.

Civil Penalties

89.—(1) In the case of any contravention of or failure to comply with any relevant regulation or any EU requirement, section 100J of CEMA 1979(a) (contravention of registered excise dealers and shippers regulations) applies for the purposes of attracting civil penalties under section 9 of the Finance Act 1994 in the following manner.

(2) Any contravention of, or failure to comply with, any relevant regulation is treated as if it were a contravention of a provision of registered excise dealers and shippers regulations.

(3) In so far as the contravention or failure is not included in paragraph (2) any contravention of, or failure to comply with, any EU requirement is treated as if it were a failure to comply with a condition or restriction imposed by or under registered excise dealers and shippers regulations.

(4) In this regulation “relevant regulation” means a regulation specified in Schedule 1.

PART 17

CONSEQUENTIAL AMENDMENTS, REVOCATIONS AND SAVINGS

Consequential amendments

90. The provisions mentioned in Schedule 2 are amended as described in the Schedule.

Revocations and savings

91. The Regulations specified in column (1) of the table in Schedule 3 are revoked to the extent specified in column (3), subject to, and in accordance with, the Notes to the table.

*Dave Hartnett
Bernadette Kenny*

3rd March 2010

Two of the Commissioners for Her Majesty’s Revenue and Customs

SCHEDULE 1

Regulation 89(4)

CIVIL PENALTIES-RELEVANT REGULATIONS

Regulations:

41(2) (completion of draft electronic administrative document for exports of excise goods under duty suspension arrangements);

42(2) and (5) (electronic administrative document for exports of excise goods under duty suspension arrangements - supplementary provisions);

43 (exemption certificates);

44(3) (export of energy products by sea-notification of consignee);

45(4) (splitting a movement of energy products);

50(2) and (4) (procedure for exports of excise goods under duty suspension arrangements when computerised system unavailable);

(a) Section 100J was inserted by the Finance Act 1991 (c. 31), Schedule 4 and has been amended by the Finance Act 1994 (c. 9), Schedule 4, Part 1, paragraph 4.

- 51 (procedure for exports of excise goods under duty suspension arrangements when computerised system unavailable - supplementary provisions);
- 53 (electronic administrative documents for imports of excise goods under duty suspension arrangements);
- 54(1) (report of receipt of goods imported under duty suspension arrangements);
- 55(1) and (3) (report of receipt of excise goods imported under duty suspension arrangements when computerised system unavailable);
- 57(2) (completion of draft electronic administrative document for movements of excise goods under duty suspension arrangements wholly within the United Kingdom);
- 58(2) and (5) (electronic administrative document for movements of excise goods under duty suspension arrangements wholly within the United Kingdom-supplementary provisions);
- 59(1) (report of receipt of excise goods moved under duty suspension arrangements wholly within the United Kingdom);
- 60(2) and (4) (procedure for movement of excise goods under duty suspension arrangements wholly within the United Kingdom when computerised system unavailable);
- 61 (report of receipt of excise goods moved under duty suspension arrangements wholly within the United Kingdom when computerised system unavailable);
- 62(3) (conditions applying to simplified procedures for certain movements of alcoholic liquors);
- 63(3) (conditions applying to simplified procedure for certain movements of tobacco products);
- 65 (accompanying document for exports of excise goods after release for consumption);
- 66 (additional requirements relating to exports of excise goods after release for consumption);
- 68 (imports of excise goods after release for consumption);
- 69 (requirements relating to imports of excise goods after release for consumption);
- 77(2) (tax representatives-procedure);
- 87 (obligations of owners and transporters).

SCHEDULE 2

Regulation 90

CONSEQUENTIAL AMENDMENTS

The Excise Warehousing (Etc.) Regulations 1988

1. Amend the Excise Warehousing (Etc.) Regulations 1988(a) as follows.

2.—(1) In paragraph (4) of regulation 11 (receipt of goods into warehouse) for “Except as the proper officer may otherwise allow” substitute “Except in any case to which the Excise Goods (Holding, Movement and Duty Point) Regulations 2010 apply”.

(2) At the beginning of paragraph (f) of regulation 15 (removal from warehouse-occupier’s responsibilities) insert “ except in any case to which the Excise Goods (Holding, Movement and Duty Point) Regulations 2010 apply,”.

(3) After paragraph (7)(e) of regulation 17 (removal from warehouse-general) insert—

(a) S.I. 1988/809; relevant amending instruments are S.I. 2002/501, 2008/2832.

- “(ea) goods entered for removal for exportation in circumstances to which Part 6 of the Excise Goods (Holding, Movement and Duty Point) Regulations 2010 apply;
- (eb) goods entered for removal in circumstances to which Part 8 of the Excise Goods (Holding, Movement and Duty Point) Regulations 2010 apply;”.

The Customs and Excise Management Act 1979

3. In subsection (1A) of section 157 of the Customs and Excise Management Act 1979(a) (bonds and security)—

- (a) for “mineral oils” substitute “energy products”; and
- (b) for “92/12/EEC” substitute “2008/118/EC”.

The Hydrocarbon Oil Duties Act 1979

4. In subsection (6)(a) of section 23C of the Hydrocarbon Oil Duties Act 1979(b) (warehousing) for “92/12/EEC on the general arrangements for products subject to excise duty and on the holding, movement and monitoring of such products” substitute “2008/118/EC concerning the general arrangements for excise duty”.

The Cider and Perry Regulations 1989

5. Amend the Cider and Perry Regulations 1989(c) as follows.

6.—(1) In regulation 11 (charge to duty)—

- (a) in paragraph (1)—
 - (i) omit “and the excise duty point shall be the earlier of the following times—”;
 - (ii) omit sub-paragraphs (i) and (ii); and
 - (iii) in paragraph (c) of the proviso omit “specified by sub-paragraph (i) above”.

(b) after paragraph (2) insert—

“(3) In this regulation “excise duty point” means the time when the duty is payable by a person, whether or not payment may be deferred, and is prescribed by Part 2 of the Excise Goods (Holding, Movement and Duty Point) Regulations 2010.

(4) References to “excise duty point” in regulations 14A(1) and 23(2) and (4) include an excise duty point within the meaning of paragraph (3).”.

(2) In the heading to regulation 13 (deficiencies and discontinuance of trade) omit “**Deficiencies and**”.

(3) In regulation 13—

- (a) at the end of paragraph (b) omit “or”;
- (b) omit paragraph (c);
- (c) in the words that immediately follow paragraph (c) omit “or at the time the deficiency occurred”; and
- (d) omit the words “Provided that where” to the end.

(4) In paragraph (2) of regulation 23 (furnishing of returns and payment of duty) omit “prescribed by regulation 11(1)”.

(a) Subsection (1A) was inserted by the Finance Act 2000 (c. 17), section 27(3).
 (b) Section 23C was inserted by the Finance Act 2004 (c. 12), section 13.
 (c) S.I. 1989/1355; relevant amending instruments are S.I. 1996/2287, 1997/659, 2007/4.

The Wine and Made-wine Regulations 1989

7. Amend the Wine and Made-wine Regulations 1989(a) as follows.

8.—(1) In regulation 11 (charge to duty)—

(a) in paragraph (1)—

(i) omit “and the excise duty point shall be the earlier of the following times—”;

(ii) omit sub-paragraphs (i) and (ii); and

(iii) in paragraph (c) of the proviso omit “specified by sub-paragraph (i) above”.

(b) after paragraph (2) insert—

“(3) In this regulation “excise duty point” means the time when the duty is payable by a person, whether or not payment may be deferred, and is prescribed by Part 2 of the Excise Goods (Holding, Movement and Duty Point) Regulations 2010.

(4) References to “excise duty point” in regulation 23(2) and (4) include an excise duty point within the meaning of paragraph (3).”.

(2) In the heading to regulation 13 (deficiencies and discontinuance of trade) omit “**Deficiencies and**”.

(3) In regulation 13—

(a) at the end of paragraph (b) omit “or”;

(b) omit paragraph (c);

(c) in the words that immediately follow paragraph (c) omit “or at the time the deficiency occurred”; and

(d) omit the words “Provided that where” to the end.

(4) In paragraph (2) of regulation 23 (furnishing of returns and payment of duty) omit “prescribed by regulation 11(1)”.

The Beer Regulations 1993

9. Amend the Beer Regulations 1993(b) as follows.

10.—(1) In regulation 4 (interpretation)—

(a) in the definition of “duty” omit “, except in regulation 15(1B)(d) below,”;

(b) in the definition of “duty point” after the word “deferred” insert “and, other than in cases to which regulation 33A applies, is prescribed by Part 2 of the Excise Goods (Holding, Movement and Duty Point) Regulations 2010”.

(2) In regulation 13 (moving beer in duty suspension)—

(a) in paragraph (1), for “regulation 9 of the Excise Goods (Holding, Movement, Warehousing and REDS) Regulations 1992 (moving excise goods in duty suspension)” substitute “regulations 35 to 38 of the Excise Goods (Holding, Movement and Duty Point) Regulations 2010 (moving excise goods under duty suspension arrangements)”;

and

(b) in paragraph (2), for “regulations 10 and 11 of the Excise Goods (Holding, Movement, Warehousing and REDS) Regulations 1992 (movement conditions and accompanying documents and certificate of receipt)” substitute “regulation 39 of the Excise Goods (Holding, Movement and Duty Point) Regulations 2010 (movement conditions)”.

(3) In paragraph (3) of regulation 33A (removal without payment of duty) for “specified in regulation 19(1)” substitute “holding the beer at the duty point”.

(a) S.I. 1989/1356; relevant amending instruments are S.I. 1996/2752, 1997/658, 2007/4.

(b) S.I. 1993/1228; relevant amending instruments are S.I. 2002/501, 2002/1265, 2002/2692, 2008/1885.

The Excise Goods (Drawback) Regulations 1995

11. In regulation 4 (interpretation) of the Excise Goods (Drawback) Regulations 1995(a), in the definition of “dispatch” for “92/12/EEC” substitute “2008/118/EC”.

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

12. For regulation 3 and its heading (non-application of the REDS regulations to the external and internal community transit procedure) of the Excise Duty Point (External and Internal Community Transit Procedure) Regulations 1998(b) substitute—

“Non-application of the Excise Goods (Holding, Movement and Duty Point) Regulations 2010 to the external and internal Community transit procedure

3. Parts 2, 5 and 6 of the Excise Goods (Holding, Movement and Duty Point) Regulations 2010 shall not apply in respect of excise goods which are subject to the external or internal Community transit procedure.”.

The Excise Goods (Export Shops) Regulations 2000

13. In regulation 3 (interpretation) of the Excise Goods (Export Shops) Regulations 2000(c) for “92/12/EEC” substitute “2008/118/EC”.

The Tobacco Products Regulations 2001

14. Amend the Tobacco Products Regulations 2001(d) as follows.

15.—(1) In paragraph (1) of regulation 3 (interpretation)—

(a) in the definition of “duty” omit “, except in regulation 12(1B)(d) below,”;

(b) after the definition of “electronic removal” insert—

““excise duty point” means the time when the duty is payable by a person, whether or not payment may be deferred, and is prescribed by Part 2 of the Excise Goods (Holding, Movement and Duty Point) Regulations 2010;”;

(c) for “REDS” substitute “UK registered consignee”.

(2) In regulation 8 (registered stores) omit paragraphs (1) and (2).

(3) In regulation 17 (deferred payment-payment day)—

(i) for “REDS” (in all places) substitute “UK registered consignee (other than a temporary registered consignee)”;

(ii) after paragraph (5) insert—

“(6) In this regulation “temporary registered consignee” has the meaning given in regulation 3 of the Excise Goods (Holding, Movement and Duty Point) Regulations 2010.”.

The Excise Warehousing (Energy Products) Regulations 2004

16. Amend the Excise Warehousing (Energy Products) Regulations 2004(e) as follows.

17.—(1) In regulation 2 (interpretation)—

(a) for the definition of “Community duty suspension arrangements” substitute—

(a) S.I. 1995/1046, to which there are amendments not relevant to these Regulations.

(b) S.I. 1998/202, to which there are amendments not relevant to these Regulations.

(c) S.I. 2000/645.

(d) S.I. 2001/1712, amended by S.I. 2002/2692; there are other amending instruments but none are relevant.

(e) S.I. 2004/2064.

“Community duty suspension arrangements” means a duty suspension arrangement within the meaning of article 4(7) of Council Directive 2008/118/EC concerning the general arrangements for excise duty;”;

(b) omit the definitions of “occasional importer”, “REDS” and “the REDS Regulations”;

(c) after the definition of “special energy product” insert—

““UK registered consignee” has the meaning given in regulation 3 of the Excise Goods (Holding, Movement and Duty Point) Regulations 2010.”.

(2) For paragraph (2) of regulation 3 (community imports) substitute—

“(2) Special energy product that is imported into the United Kingdom under Community duty suspension arrangements and which is consigned under the instructions of a UK registered consignee shall be treated as warehoused for the purposes of paragraph (1) at the time that the special energy product is received by the UK registered consignee.”.

(3) In paragraph (4)(c) of regulation 5 (treatment of warehoused special energy products) for “REDS or occasional importer” substitute “UK registered consignee”.

The Denatured Alcohol Regulations 2005

18. Amend the Denatured Alcohol Regulations 2005(a) as follows.

19.—(1) In paragraph (4)(b) of regulation 4 (classes of denatured alcohol) for “Article 24 of Council Directive 92/12/EEC” substitute “Article 43 of Council Directive 2008/118/EC”.

(2) In regulation 18 (importing and exporting denatured alcohol) for “the Excise Goods (Accompanying Documents) Regulations 2002” substitute “the Excise Goods (Holding, Movement and Duty Point) Regulations 2010”.

The Duty Stamps Regulations 2006

20. Amend the Duty Stamps Regulations 2006(b) as follows.

21.—(1) In regulation 2 (interpretation)—

(a) in the definition of “authorized warehousekeeper” for “Article 4(a) of Council Directive 92/12/EEC” substitute “Article 4(1) of Council Directive 2008/118/EC”;

(b) in the definition of “external territory” for “92/12/EEC” substitute “2008/118/EC”;

(c) omit the definitions of “occasional importer” and “REDS”;

(d) in the definition of “irregular stamper” for “an occasional importer” substitute “a temporary registered consignee or unregistered commercial importer”;

(e) before the definition of “registered mobile operator” insert —

““registered commercial importer” has the meaning given in regulation 3 of the Excise Goods (Holding, Movement and Duty Point) Regulations 2010;”;

(f) after the definition of “registered person” insert—

““tax representative” has the meaning given in regulation 3 of the Excise Goods (Holding, Movement and Duty Point) Regulations 2010;”;

(g) in the definition of “tax warehouse” for “Article 4(b) of Council Directive 92/12/EEC” substitute “Article 4(11) of Council Directive 2008/118/EC”;

(h) after the definition of “tax warehouse” insert —

““temporary registered consignee” has the meaning given in regulation 3 of the Excise Goods (Holding, Movement and Duty Point) Regulations 2010;”;

(i) after the definition of “third country” insert —

(a) S.I. 2005/1524.

(b) S.I. 2006/202, to which there are amendments not relevant to these Regulations.

- ““UK registered consignee” has the meaning given in regulation 3 of the Excise Goods (Holding, Movement and Duty Point) Regulations 2010;”;
- (j) for the full stop at the end of the definition of “unique registration number” substitute a semi-colon and, after that definition, insert—
- ““unregistered commercial importer” has the meaning given in regulation 69(2) of the Excise Goods (Holding, Movement and Duty Point) Regulations 2010.”.
- (2) In regulation 5 (conditions for obtaining type A stamps) —
- (a) in paragraph (3) for “REDS” substitute “UK registered consignee (other than a temporary registered consignee)”;
- (b) in paragraph (4) for—
- (i) “ An occasional importer is” substitute “A temporary registered consignee and an unregistered commercial importer are”;
- (ii) “but is” substitute “but are”.
- (3) In paragraph (3) of regulation 6 (conditions for obtaining authority to affix type A stamps to retail containers) for “an occasional importer” substitute “a temporary registered consignee or unregistered commercial importer”.
- (4) In paragraph (2)(e) of regulation 9 (registration) for “REDS” substitute “UK registered consignee”.
- (5) In paragraph (4) of regulation 10 (disqualification from being registered)—
- (i) for “REDS” substitute “ UK registered consignee (other than a temporary registered consignee)”;
- (ii) after “irregular stamper,” insert “registered commercial importer, tax representative,”.
- (6) In regulation 14 (ordering and obtaining type A stamps)—
- (a) for paragraph (7) substitute—
- “(7) To obtain type A stamps a temporary registered consignee or, as the case may be, an unregistered commercial importer must place a written order for those stamps with the Commissioners at the time at which he complies with regulation 29(a)(i) or (b)(i) or, as the case may be, regulation 69(1)(a)(i) of the Excise Goods (Holding, Movement and Duty Point) Regulations 2010.”;
- (b) in paragraph (8) for “occasional importer’s” substitute “temporary registered consignee’s or, as the case may be, unregistered commercial importer’s”.
- (7) In regulation 15 (receiving type A stamps)—
- (a) in paragraph (2) for “an occasional importer” substitute “a temporary registered consignee or, as the case may be, unregistered commercial importer” and for “occasional importer” (in both other places) substitute “temporary registered consignee or unregistered commercial importer”;
- (b) in paragraph (3) for “or occasional importer” substitute “, temporary registered consignee or unregistered commercial importer”;
- (c) in paragraph (5) for “an occasional importer” substitute “a temporary registered consignee or unregistered commercial importer”.
- (8) In paragraph (3) of regulation 16 (returning type A stamps) for “an occasional importer” substitute “a temporary registered consignee or an unregistered commercial importer”.
- (9) In regulation 19 (premises where duty stamps etc. may be affixed)—
- (a) in paragraph (1)(c) for “an occasional importer” substitute “a temporary registered consignee or, as the case may be, an unregistered commercial importer”;
- (b) in paragraph (1)(d)—
- (i) in paragraph (ii) omit “or”;
- (ii) at the end of paragraph (iii) insert “or”; and

(iii) after paragraph (iii) insert—

“(iv) a tax representative,”.

(10) In paragraph (1) of regulation 20 (times at which a retail container must be stamped) for “an occasional importer” substitute “a temporary registered consignee or unregistered commercial importer”.

The Finance Act 2008

22. In paragraph 1 of Schedule 41 to the Finance Act 2008(a) (penalties for failure to notify etc.)—

- (a) in the second column of the second entry relating to excise duties for “REDS or an Occasional Importer” substitute “Registered Consignee”;
- (b) before the entry relating to general betting duty insert—

“Excise duties	Obligation to dispatch excise goods under duty suspension arrangements upon their release for free circulation in accordance with Article 79 of Council Regulation 2913/92/EEC only if approved and registered (or approved and registered) as a Registered Consignor under regulations under section 100G or 100H of CEMA 1979 (registered excise dealers and shippers etc).”
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(a) 2008 c. 9; Schedule 41 was amended by Part 2 of Schedule 57 to the Finance Act 2009 (c.10).

SCHEDULE 3

Regulation 91

SCHEDULE OF REVOCATIONS

(1)	(2)	(3)
Regulations revoked	References	Extent of revocation
The Excise Warehousing (Etc.) Regulations 1988	S.I. 1988/809	Regulation 10A and Schedule 5
The Excise Goods (Holding, Movement and REDS) Regulations 1992	S.I. 1992/3135	The whole Regulations
The Beer Regulations 1993	S.I. 1993/1228	Regulations 13, 15, 19 and 34
The Warehousekeepers and Owners of Warehoused Goods Regulations 1999	S.I. 1999/1278	Regulation 23
The Tobacco Products Regulations 2001	S.I. 2001/1712	Regulations 12, 13 and 28
The Excise Duty Points (Duty Suspended Movements of Excise Goods) Regulations 2001	S.I. 2001/3022	The whole Regulations
The Excise Goods (Accompanying Documents) Regulations 2002	S.I. 2002/501	The whole Regulations, other than regulations 1, 27, 30 and the Schedule
The Beer and Excise Warehousing (Amendment) Regulations 2002	S.I. 2002/1265	Regulation 2(2)
The Excise Goods, Beer and Tobacco Products (Amendment) Regulations 2002	S.I. 2002/2692	Regulations 2, 3 and 4(2) and (3)
The Excise Duty Points (Etc.)(New Member States) Regulations 2004	S.I. 2004/1003	Regulations 8, 9 and 10
The Excise Warehousing (Energy Products) Regulations 2004	S.I. 2004/2064	Regulation 6
The Hydrocarbon Oil (Registered Remote Markers) Regulations 2005	S.I. 2005/3472	Regulation 14
The Beer, Cider and Perry, Spirits, and Wine and Made-wine (Amendment) Regulations 2006	S.I. 2006/1058	Regulations 4(4) and 7(4)
The Tobacco Products and Excise Goods (Amendment) Regulations 2006	S.I. 2006/1787	Regulations 2 and 3(6)

Notes

The Excise Warehousing (Etc.) Regulation 1988

1. The revocation of regulation 10A and Schedule 5 only has effect in relation to goods imported on or after 1st January 2011.

The Beer Regulations 1993

2. The revocation of regulation 13(1) to (3) of the Beer Regulations 1993 only has effect from 1st January 2011.

The Excise Goods (Accompanying Documents) Regulations 2002

3. Part V (imports not under community duty suspension arrangements) shall continue to apply to excise goods imported after 31st March 2010 where the movement of the goods was initiated under cover of an accompanying document on or before that date.

4. The following regulations shall continue to apply to movements of excise goods under duty suspension arrangements which are initiated under cover of the formalities set out in Article 18 of Council Directive 92/12 EEC of 25th February 1992^(a) before 1st January 2011—

- (a) in Part I (preliminary), regulation 2 (in so far as it applies for the purposes of Parts II and IV);
- (b) in Part II (exports under duty suspension arrangements), regulations 4 to 7;
- (c) in Part IV (imports under community duty suspension arrangements), regulations 11 to 14;
- (d) in Part VI (obligations, conditions and restrictions), regulations 19 and 20 (in so far as they apply for the purposes of Parts II and IV);
- (e) in Part VII (excise duty point, payment of excise duty, forfeiture and civil penalties), regulations 21(1), (2), (3) and (5), 22(1)(a) and (b), (2), (3) and (4), 23, 24 and 25 (in so far as it applies to a contravention or failure to comply with regulations 9, 10, 16, 17 or 18);
- (f) in Part VIII (administrative provision and consequential amendments), regulation 26,

and for these purposes references to “REDS” and “occasional importer” in those regulations shall be construed as references to “UK registered consignee” and “temporary registered consignee” respectively.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement the requirements of Chapters I to V of Council Directive 2008/118/EC (OJ No. L 9, 14.01.2009, p.12) concerning the general arrangements for excise duty and repealing Directive 92/12/EEC.

A transposition note setting out how these Regulations implement the requirements of the Directive is available from www.hmrc.gov.uk.

Part 1-Preliminary

This Part is concerned with citation, commencement, effect, interpretation and application. Except for regulations that are concerned with UK registered consignors (which come into force, or only have effect, on or after 1st January 2011) the Regulations come into force on 1st April 2010. In relation to energy products, Parts 6, 7, 10 and 11 only apply to the energy products mentioned in article 20(1) of Council Directive 2003/96/EC.

Part 2-Excise duty points and payment of the duty

This Part prescribes the time when the requirement to pay any excise duty charged on goods takes effect (“the excise duty point”) and specifies the persons liable to pay the duty.

Parts 3 and 4-UK registered consignees and consignors

(a) OJ L 076, 23.03.92, p 1.

These Parts provide for the approval and registration of revenue traders who wish to import excise goods from another Member State under duty suspension arrangements (“UK registered consignees”) or to only dispatch excise goods under such arrangements on their release for free circulation (“UK registered consignors”). It also sets out the requirements with which a UK registered consignee must comply and how the duty charged on the goods must be accounted for and paid.

Part 5-Holding and movement of excise goods under duty suspension arrangements

This Part provides that excise goods may only be held under duty suspension arrangements in a tax warehouse (as defined in regulation 3) and may only be moved under such arrangements from specified places or by specified persons to specified places and persons. It sets out the conditions that must be complied with and gives a power to the Commissioners to restrict or prohibit the movement of beer for the protection of the revenue.

Part 6-Exports of excise goods under duty suspension arrangements

Other than regulation 44 (which applies to movements of energy products which start after 31 December 2011) this Part applies to the movement of excise goods dispatched to another Member State under duty suspension arrangements which starts after 31st December 2010.

It provides that such a movement must take place under cover of an electronic administrative document (e-AD) and sets out the procedures which the consignor and the Commissioners must carry out in relation to such a document using the computerised system. It also sets out the procedures if the e-AD is cancelled, the destination is amended or a movement of energy products is split and provides that an exemption certificate must accompany goods dispatched to an exempt consignee (as defined in regulation 3).

It also sets out the procedures when the Commissioners receive a report of export or report of receipt (as defined in regulation 3) and when the computerised system is unavailable.

Part 7-Imports of excise goods under duty suspension arrangements

This Part provides that the movement of excise goods dispatched from another Member State to the UK under duty suspension arrangements must take place under cover of an e-AD (unless it was initiated before 1st January 2011 under Council Directive 92/12//EEC).

It also requires the consignee, on receipt of the goods, to send a report of receipt to the Commissioners using the computerised system and sets out the procedures when the Commissioners receive such a report and when the computerised system is unavailable.

Parts 8 and 9-Movement of excise goods wholly within the United Kingdom under duty suspension arrangements

These Parts apply to movements of excise goods (other than hydrocarbon oil) under duty suspension arrangements which take place entirely within the UK and start after 31st December 2010.

Part 8 contains equivalent provisions to those in Part 6 relating to an e-AD and Part 7 relating to a report of receipt and provides for procedures when the computerised system is unavailable. Part 9 provides, subject to conditions, for a simplified procedure for movements from and to specified premises.

Parts 10 and 11-Exports and imports of excise goods after release for consumption

These Parts apply to the export to, or import from, another Member State of excise goods that have already been released for consumption.

In relation to exports, Part 10 provides that the consignor must complete an accompanying document (as defined in regulation 3), sets out requirements in relation to that document and contains additional requirements with which the consignor must comply.

In relation to imports, Part 11 provides that excise goods (other than chewing tobacco) must be accompanied by an accompanying document. It sets out requirements relating to that document, requires the goods to be consigned to the person shown as the recipient in that document or to an ultimate destination outside the UK and requires the recipient to complete a certificate of receipt. It contains requirements that apply to the person delivering the goods, holding the goods intended for delivery or receiving the goods. It also provides for the approval and registration of any of those persons as excise dealers and shippers (“registered commercial importers”) and for how the duty charged on the goods is accounted for and paid.

Part 12-Distance sales of excise goods from another member state

This Part applies where there is a distance selling arrangement (as defined in regulation 3) and provides for the approval and registration of revenue traders who wish to act as the agent of the vendor in such an arrangement (“tax representatives”).

It provides that excise goods may not be consigned to the UK under such an arrangement unless a tax representative has been approved and registered and sets out the procedures that must be complied with and how the duty charged on the goods is accounted for and paid.

Part 13-Irregularities in the course of a movement of excise goods under a duty suspension arrangement

This Part provides that excise goods moved under a duty suspension arrangement are released for consumption in the UK at the time when an irregularity occurs or is detected in the UK or, in the case of a movement that starts in the UK, the goods fail to arrive at their stated destination. It also provides for the repayment of UK excise duty in cases where it is subsequently ascertained that the goods were actually released for consumption in another Member State.

Part 14-Irregularities in the course of a movement of excise goods already released for consumption

This Part prescribes excise duty points where an irregularity occurs or is detected in the UK in the course of a movement of excise goods already released for consumption in another Member State and provides for the repayment of UK excise duty in cases where it is subsequently ascertained that the irregularity actually occurred in another Member State.

Part 15-Obligations, conditions and restrictions

This Part provides that the Commissioners may by notice impose conditions, restrictions or requirements on specified persons or in relation to specified goods and imposes obligations on owners and transporters of excise goods.

Part 16-Forfeiture and civil penalties

This Part contains forfeiture provisions and provides for civil penalties in cases where there is a contravention or failure to comply with the regulations specified in Schedule 1.

Part 17-Consequential amendments, revocations and savings

This Part introduces Schedules 2 and 3 which contain consequential amendments, revocations and savings.

A full Impact Assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available from www.hmrc.gov.uk/ria/#full and is annexed to the Explanatory Memorandum which is available alongside the instrument on the OPSI website.

