

EXPLANATORY MEMORANDUM TO
THE CHANNEL TUNNEL (ALCOHOLIC LIQUOR AND TOBACCO PRODUCTS)
ORDER 2010

2010 No. 594

1. This explanatory memorandum has been prepared by HM Revenue and Customs (“HMRC”) and is laid before Parliament by Command of Her Majesty.

2. **Purpose of the instrument**

This Order replaces the Channel Tunnel (Alcoholic Liquor and Tobacco Products) Order 2003 (S.I. 2003/2758) (“the 2003 Order”) as amended by the Channel Tunnel (Alcoholic Liquor and Tobacco Products) (Amendment) Order 2004 (S.I. 2004/1004). The Order applies, where necessary, the Excise Goods (Holding, Movement and Duty Point) Regulations 2010 (S.I. 2010/593) in a control zone as defined by Article 3(1) of the Channel Tunnel (Customs and Excise) Order 1990 (S.I. 1990/2167).

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

None

4. **Legislative Context**

4.1 Section 11 of the Channel Tunnel Act 1987 (“the 1987 Act”) provides that an appropriate Minister may by Order make provisions (amongst other matters) for the purpose of applying any provisions of the law of England (with or without modifications), or excluding or modifying any of those provisions, in relation to things done or omitted or other matters arising anywhere within the tunnel system. The tunnel system includes the two terminal areas for controlling access to and egress from the tunnels located at the portals of the tunnels (see section 1(7) of the 1987 Act).

4.2 Section 13 (1) and (2) of the 1987 Act provides that “the appropriate Minister” means, in relation to any matter, the Minister in charge of any Government department concerned with that matter, Where the Commissioners for Revenue and Customs are concerned with any matter references to the Minister or Ministers in charge of any Government department are treated as references to those Commissioners.

4.3 The 2003 Order applied the Excise Goods (Holding, Movement, Warehousing and REDS) Regulations 1992 (S.I. 992/3135), parts of the Beer Regulations 1993 (S.I. 1993/ 1228), parts of the Tobacco Products Regulations 2001 (S.I. 2001/1712), the Excise Duty Points (Duty Suspended Movements of Excise Goods) Regulations 2001 (S.I. 2001/3022) and the Excise Goods (Accompanying Documents) Regulations 2002 (S.I. 2002/501) to a control zone with the modifications indicated in the Schedule to the Order.

4.4 As a result of the amendment or revocation of the instruments referred to in paragraph 4.3 by the Excise Goods (Holding, Movement and Duty Point) Regulations 2010 (“the 2010 Regulations”) and the inclusion in those Regulations of the provisions that were contained in those instruments, this Order applies the relevant provisions in the 2010 Regulations to a control zone with the modification indicated in the Schedule to the Order. It also applies penalty, assessment and appeal provisions contained in the Customs and Excise Management Act 1979 (c. 2), the Finance Act 1994 (c. 9) and the Finance Act 2008 (c. 9).

4.5 The amendment to the 2003 Order in 2004 modified the application of the Excise Duty Points (Etc.) (New Member States) Regulations 2004 (S.I. 2004/1003) and the Customs and Excise (Travellers Allowances and Personal Reliefs) (New Member States) Order 2004 (S.I. 2004/1002), The modified provisions no longer have effect or have ceased to apply and it is therefore not necessary to modify their application in this Order.

5. Territorial Extent and Application

This instrument applies to the control zone as defined by the Channel Tunnel (Customs and Excise) Order 1990 section 5(2)(a).

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 As stated in paragraph 4 above, the 2003 Order applied, with modifications indicated in the schedule to the Order, the Regulations specified in paragraph 4.3 to the holding and movement of excise goods within a control zone.

7.2 The purpose of the 2003 Order was to apply, when necessary, the excise duty points and the persons liable to pay the excise duty to goods and persons within a control zone.

7.3 The 2010 Regulations replaces all or parts of the Regulations referred to in the 2003 Order and therefore a new Order is needed to apply the new Regulations within a control zone.

8 Consultation Outcome

No specific consultation was undertaken for this Order which is closely linked to the Excise Goods (Holding, Movement and Duty Point) Regulations 2010.

9 Guidance

Notice 1 (Travelling to the UK) will be amended.

10. Impact

10.1 The impact on business, charities and voluntary bodies is negligible.

10.2 The impact on the public sector is negligible.

10.3 An Impact Assessment is not required for this instrument.

11. Regulating small business

The legislation does apply to small business, but will have a negligible effect on these businesses.

12. Monitoring & review

No monitoring or review is required.

13. Contact

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neill.brettell@hmrc.gsi.gov.uk can answer any queries regarding the instrument.