

EXPLANATORY MEMORANDUM TO
THE EXCISE GOODS (HOLDING, MOVEMENT AND DUTY POINT)
(AMENDMENT) REGULATIONS 2011

2011 No. 2225

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

2. Purpose of the instrument

2.1 To amend the Excise Goods (Holding, Movement and Duty Point) Regulations 2010 (S.I. 2010/593) (“the Principal Regulations”) which implemented (in part) Council Directive 2008/118/EC concerning the general arrangements for excise duty and repealing Directive 92/12/EEC¹ (“the Directive”).

2.2 The amendments –

- amend provisions relating to reports of export from the territory of the EU;
- clarify and extend simplified procedures for movements of alcohol and tobacco products taking place wholly within the UK;
- provide for fallback procedures when the destination of excise goods is amended and the computerised system used for notifying such changes in unavailable;
- reduce the Minimum Indicative Levels (MILS) in relation to cigarettes and tobacco; and
- correct some minor drafting errors in the Principal Regulations.

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

None

4. Legislative Context

4.1 The Principal Regulations transpose Chapters I to V of the Directive. The Directive cleared scrutiny in the House of Commons on 5th November 2008² and in the House of Lords on 11 November 2008. A Transposition Note which takes account of the amendments made by these Regulations can be found at;

http://customs.hmrc.gov.uk/channelsPortalWebApp/channelsPortalWebApp.portal?_nfpb=true&_pageLabel=pageLibrary_ReferenceDocuments&propertyType=document&columns=1&id=HMCE_PROD1_030243

4.2 Although this instrument corrects some minor drafting errors in the Principal Regulations (see regulations 3, 4 and 7) and rectifies an omission in relation to fallback procedures (see regulation 9) it also implements a significant new policy (see regulation 5) and makes changes to or extends current policies and procedures (see regulations 6, 10 and 11). Consequently this is not considered to be a case where the instrument should be issued free of charge to purchasers of the original instrument.

¹ OJ No L 009, 14. 1. 2009, p.12

² See the thirty-eighth report of the Select Committee on European Scrutiny-session 2007-08.

5. Territorial Extent and Application

This instrument applies to all of the United Kingdom.

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

- *What is being done and why*

7.1 The Directive was adopted on 16 December 2008. It sets out the general arrangements for excise duty, including the provisions relating to the holding and movement of excise goods (alcohol, energy and tobacco products) in duty suspension, and replaces Council Directive 92/12³.

7.2 The Directive provides a legal basis for the Excise Movement and Control System (EMCS) which was introduced on 1 April 2010. EMCS introduces a computerised monitoring system of movements of excise goods in duty suspension within the European Union, replacing the paper-based system in place since 1993. It allows business and excise administrations to operate in a paperless environment which reduces administrative burdens on business, improves efficiency and minimises fraud.

7.3 These Amendment Regulations amend procedures in relation to reports of export from the territory of the EU so that they comply fully with the requirements of the Directive.

7.4 They also clarify and extend the simplified procedures allowed under article 30 of the Directive in relation to movements of excise goods under duty suspension arrangements which take place entirely within the UK. These include movements of alcohol and tobacco to a place in the UK where they will leave the territory of the EU. Whilst EMCS is available for intra-UK movements, to enable businesses to benefit from the savings afforded by it, they will have the flexibility, if they so wish, to continue to use existing manual systems for certain movements which take place solely within the United Kingdom. These changes are being made following discussions with businesses who welcome them as a reduction in regulatory burden.

7.5 They also provide for a procedure when the destination shown on an electronic administrative document is amended, but the computerised system is not available for notifying the change of destination and make consequential amendments to Schedule 1 to the Principal Regulations (civil penalties).

7.6 Furthermore regulation 13 of the Principal Regulations is amended to reduce the Minimum Indicative Levels (MILS) in relation to cigarettes and tobacco to which regard must be taken for the purposes of determining whether any such goods which have been acquired in another member State are for a person's own use. The reduction aims to make it more difficult for fraudsters to bring tobacco products into the UK without paying UK duty and is being introduced as part of the Government's renewed strategy to tackle tobacco smuggling. This will not affect travellers that import goods genuinely for their personal consumption.

³ OJ: L 076, 23.03.92, p.1.

7.7 Some minor drafting errors in the Principal Regulations are also corrected.

- ***Consolidation***

7.8 Although these Regulations amend the Principal Regulations these are the first amendments to those Regulations and there is no current intention to consolidate the legislation.

8. Consultation outcome

8.1 No formal consultation has taken place as there is no discretion over whether or not to implement the provisions of the Directive. However an advanced draft of the Amendment Regulations was exposed to business and some modifications to the amendments relating to the simplified procedures were made as a result.

8.2 In addition the draft instrument was published for comment for 8 weeks.

9. Guidance

HM Revenue and Customs will revise their existing Notices to reflect the new obligations and procedures.

10. Impact

10.1 The provision reducing the MILS will potentially impact upon 10% of travellers who cross-border shop for cigarettes and/or Hand Rolling Tobacco in the EU for the purposes of illicit resale. However, travellers who genuinely import such goods for their personal consumption will not be affected.

10.2 A Tax Information and Impact Note covering regulation 5 of the instrument is available on the HMRC website at <http://www.hmrc.gov.uk/thelibrary/tiins.htm>.

That regulation makes the amendment to regulation 13 of the Principal Regulations referred to in paragraph 7.5 above (reduction in the Minimum Indicative Levels)

11. Regulating small business

11.1 The legislation applies to small business.

11.2 The changes as a result of EU law apply equally to all businesses. Any concession for small business would adversely impact on their ability to trade within the EU.

12. Monitoring & review

12.1 The European Commission must submit a report to the European Parliament and Council on the EMCS system by 1 April 2013. HMRC will conduct its own review within 3 years and feed any findings to the European Commission.

12.2 Additionally the European Commission must submit a report on the implementation of the Directive by 1 April 2015.

13. Contact

Chris Mountford at HM Revenue and Customs Tel: 0161 827 0362 email:

chris.mountford@hmrc.gsi.gov.uk

or Nick Sands Tel: 0161 827 0343 email:

nick.sands@hmrc.gsi.gov.uk

can answer any queries regarding the instrument.

TRANSPOSITION NOTE

COUNCIL DIRECTIVE 2008/118/EC

TRANSPOSITION NOTE SETTING OUT HOW THE EXCISE GOODS (HOLDING, MOVEMENT AND DUTY POINT) REGULATIONS 2010 (SI 2010/593) AND OTHER LEGISLATION IMPLEMENT COUNCIL DIRECTIVE 2008/118/EC CONCERNING THE GENERAL ARRANGEMENTS FOR EXCISE DUTY

THE DIRECTIVE

This new Directive sets out the general arrangements for excise duty, including the provisions relating to the holding and movement of excise goods (alcohol, oils and tobacco products) in duty suspension. It replaces the existing Council Directive 92/12/EEC and provides a legal base for the new Excise Movement and Control System (EMCS) which is due to be introduced on 1 April 2010.

INTRODUCTION

These Regulations transpose Chapters I to V of Council Directive 2008/118/EC (“the Directive”) concerning the general arrangements for excise duty and repealing Directive 92/12/EEC.

Some of the provisions in the Directive reproduce provisions that were in Directive 92/12/EEC which had already been transposed in the UK in, for example, the Excise Goods (Holding, Movement and REDS) Regulations 1992, The Excise Duty Points (Duty Suspended Movements of Excise Goods) Regulations 2001 and provisions in various product specific Regulations determining the duty point and the persons liable to pay the duty.

However, the Directive contains a number of new provisions and, in particular, provides the legal basis for the Excise Movement and Control System (“EMCS”) which replaces the paper based system that was contained in Directive 92/12 and transposed in the UK by the Excise Goods (Accompanying Documents) Regulations 2002.

The general approach in these Regulations has been to follow, as far as possible, the wording and structure of the Directive and to transpose within the one set of Regulations those provisions that reproduce what was in Directive 92/12 (and were transposed by the regulations referred to in paragraph 2) and the new provisions that introduce EMCS.

Article of Directive 2008/118/EC	Objective	Implementation (references are to regulations of the Excise Goods (Holding , Movement and Duty Point) Regulations 2010, unless otherwise stated)
1	Establishes excise duty as a tax on the consumption of excise goods. Defines excise goods. Establishes the structure of the excise duty to be applied and the scope of possible exemptions. Establishes that the minimum rates of duty that Member States have to respect shall be set out in specific Directives.	No transposition required
2	Establishes the time when excise goods are chargeable with duty.	Alcoholic Liquor Duties Act 1979 Hydrocarbon Oil Duties Act 1979 Tobacco Products Duties Act 1979

3	<p>Provides that the formalities relating to importation or exportation laid down by the Community customs provisions in force shall apply <i>mutatis mutandis</i> to the importation from or exportation to the territories referred to in Article 5(2).</p> <p>Paragraph 4 provides that for excise goods under customs suspension arrangements, this Directive shall not apply.</p>	<p>No transposition required</p> <p>6(3)</p>
4	Provides a number of new or largely modified definitions and retains some of the ones from Directive 92/12.	3
5 & 6	Provides the geographic area where this Directive and the other excise Directives apply.	3(1)
7(1)	Provides that excise duty shall become chargeable at the time, and in the Member state of consumption	5
7(2)(a)-(d)	Defines "release for consumption"	6(1)
7(3)(a)-(c)	Defines the time of release for consumption	7, 18(1), 19(1)
7(4)	Defines circumstances in which excise goods shall not be considered released for consumption.	7(2), 21
7(5)	Provides that it is for each Member state to make its own rules and conditions under which losses are determined.	21
8(1)(a)-(d)	Defines the person(s) liable to pay the excise duty that has become chargeable at the time they are released for consumption.	8, 9(1), 10(1), 11(1), 12(1), 12(2), 18(2), 19(5), (7)
8(2)	Provides that where several persons are liable for payment of one excise duty debt, they shall be jointly and severally liable.	9(2), 10(2), 11(2), 12(2), 12(3), 17(3), 17(4)(ii), 19(8)
9	<p>Establishes that the chargeability conditions and rate of excise duty to be applied shall be those in force on the date on which duty becomes chargeable in the Member State where release for consumption takes place.</p> <p>Establishes that excise duty is to be levied and collected and, where appropriate, reimbursed or remitted according to procedures laid down by each Member State.</p> <p>Establishes that Member States shall apply the same procedures to national goods and to those from other Member States.</p>	<p>20</p> <p>Alcoholic Liquor Duties Act 1979; Hydrocarbon Oil Duties Act 1979; Tobacco Products Duties Act 1979. and Regulations made under those Acts Excise Warehousing (etc) Regulations 1988</p>
10(1)(2)	Establishes the time and place of release for consumption when there is an irregularity during a movement of excise goods in duty suspension.	80(1), (2), (3)
10(3)	Requires the authorities of the Member state where release for consumption takes to notify the Member State of dispatch.	80(4)
10(4)	<p>Establishes the place and time of an irregularity when excise goods moving under duty suspension do not arrive at their destination.</p> <p>Establishes procedures to be followed by authorities of the Member State of dispatch in certain and specific circumstances.</p>	<p>81(1), (2), (3), (6), (7)</p> <p>81(4),(5), (6), (7)</p>

10(5)	<p>Establishes that if, within three years from the start of a movement, it is ascertained in which Member State an irregularity actually occurred, then provisions of paragraph 1 apply.</p> <p>Requires the authorities of the Member State where the irregularity occurred to inform authorities of the Member State where the excise duty was originally paid, who in turn shall make a reimbursement.</p>	82
10(6)	Defines "irregularity".	79
11	Establishes the conditions for reimbursement or remission of excise duty, other than in cases referred to in Articles 33(6), 36(5) and 38(3).	<p>Hydrocarbon Oil Duties Act 1979</p> <p>Alcoholic Liquor Duties Act 1979</p> <p>Excise Goods (Drawback) Regulations 1995</p> <p>Beer Regulations 1993</p> <p>Excise Goods (Sales on Board Ships and Aircraft) Regulations 1999</p> <p>Tobacco Products Regulations 2001</p>
12 (1)	Provides specific circumstances when excise goods shall be exempted from payment.	The Customs and Excise (Personal Reliefs for Special Visitors) Order 1992
12(2)	Provides that exemptions shall be subject to conditions and limitations laid down by the host Member State and that it may grant the exemption by means of a refund of excise duty.	The Customs and Excise (Personal Reliefs for Special Visitors) Order 1992
13 (1)	Requires that excise goods moving under a duty suspension arrangement to a consignee referred to in Article 12(1) shall be accompanied by an exemption certificate.	43
13(2)	Establishes that the Commission shall, in accordance with the Committee procedure lay down the form and content of the exemption certificate.	3(1), 43
13(3)	<p>Establishes that the procedure laid down in Articles 21 to 27 shall not apply to the movements of excise goods under a duty suspension arrangement to the armed forces referred to in Article 12(1)(c), if they are covered by a procedure which is directly based on the North Atlantic Treaty.</p> <p>Establishes that Member States may provide that the procedure laid down in Articles 21 to 27 shall be used for such movements taking place entirely on their territory or, by agreement between the Member States concerned, between their territories.</p>	No transposition required
14(1)	Establishes that Member States may exempt from payment of excise duty, goods supplied by tax-free shops which are carried away in the personal luggage of travellers by air or sea to a third country or territory.	<p>Customs and Excise Management Act 1979,</p> <p>The Excise Goods (Exports Shops) Regulations 2000</p>
14(2)	Establishes that goods supplied on board an aircraft or ship during the flight or sea-crossing to a third territory or a third country shall be treated in the same way as goods supplied by tax-free shops.	<p>Customs and Excise Management Act 1979,</p> <p>The Excise Goods (Exports Shops) Regulations 2000</p>

14(3)	Requires that Member States shall take the measures necessary to ensure that the exemptions provided for in paragraphs 1 and 2 are applied in such a way as to prevent any possible evasion, avoidance or abuse.	Customs and Excise Management Act 1979, The Excise Goods (Exports Shops) Regulations 2000
14(4)	Establishes transitional arrangements for Member States with tax free shops situated elsewhere than within an airport or port.	No transposition required
14(5)	Defines "tax-free shop" and "traveller to a third territory or to a third country".	The Excise Goods (Exports Shops) Regulations 2000
15(1)	Provides that each Member State shall determine its rules concerning the production, processing and holding of excise goods, subject to this Directive.	34, 86 Excise Warehousing (etc) Regulations 1988, Warehousekeepers and Owners of Warehoused Goods Regulations 1999
15(2)	Establishes the principle that production, processing and holding of excise goods, where the excise duty has not been paid, shall take place in a tax warehouse.	34
16(1)	Establishes that the opening and operation of a tax warehouse by an authorised warehousekeeper shall be subject to authorisation by the competent authorities of the Member State where the tax warehouse is situated and that the authorisation be subject to conditions that authorities may impose to prevent evasion or abuse.	Warehousekeepers and Owners of Warehoused Goods Regulations 1999 Beer Regulations 1993 Cider and Perry Regulations 1989 Wine and Made Wine regulations 1999 Hydrocarbon Oil Regulations 1973 Tobacco Products Regulations 2001
16(2)	Establishes obligations upon an authorised warehousekeeper.	86. Warehousekeepers and Owners of Warehousing Regulations 1999, Excise Warehousing (etc) Regulations 1988
17(1)(a)(i)-(iv)	Provides the places where excise goods may be moved to and from in duty suspension.	35, 36, 37
17(1)(b)	Provides that goods may be moved in suspension from a place of importation to any of the destinations referred to in point (a), where the goods are dispatched by a registered consignor. Defines "place of importation".	30, 35(b), 37(b) 3(1)
17(2)	Provides that Member States may in derogation from sub para 1, allow excise goods to be moved under duty suspension to a place of direct delivery situated on its territory, designated by the authorised warehousekeeper in the Member State of destination or by the registered consignee. Establishes obligations on an authorised warehousekeeper or registered consignee for submitting the report of receipt in these circumstances.	36 54(1)
17(3)	Establishes that paragraphs 1 and 2 shall also apply to movements of excise goods at a zero rate which have not been released for consumption.	N/A

18(1)	Establishes obligations in respect of financial guarantees to cover the risks inherent in a movement.	39(1)(a)
18(2)	Provides derogations from paragraph 1.	39(2)
18(3)	Establishes that the guarantee shall be valid throughout the Community and detailed rules shall be laid down by the Member States.	No transposition required
18(4)	Provides that Member States may waive the obligation to provide the guarantee in respect of specific types of movement.	39(1)
19 (1)	Establishes that a Registered Consignee may neither hold or dispatch excise goods in duty suspension.	22, 26
(2)	Establishes obligations on Registered Consignees	23, 25, 26, 27, 28, 86
19(3)	Establishes specific rules for registered consignees receiving excise goods only occasionally. Provides that Member States may limit authorisation to a single movement.	3(1), 29
20 (1)(2)	Defines when a movement under suspension of excise duty shall be considered to begin and end.	3(3)
21(1)	Establishes that a movement under suspension of excise duty shall be covered by an electronic administrative document (hereinafter: e-AD) and that it shall be submitted by the consignor using the computerised system.	41(1)(2), 53(1), 57(1)
21(2)-(5)	Establishes the various stages that the e-AD has to pass through and provides, in particular, for the assignment of a unique Administrative Reference Code (ARC) which must be available throughout the movement.	41(3), (4),(5),(6),(7) 57(2),(3),(4),(5),(6)
21(6)	Prescribes obligations on the consignor and person accompanying the goods in respect of the e-AD.	41(8),41(9), 53(2)(3), 57(7)(8), 86,87
21(7)	Provides that the consignor may cancel the electronic administrative document as long as the movement has not commenced.	42(1)(2), 58(1)(2)
21(8)	Prescribes the procedures to be followed for amending the destination shown on the e-AD.	42(3)(4)(5)(6), 58(3)(4)(5)(6).
22(1)	Provides that certain data in the a-AD may be filled in at a later stage (limited to energy products exported by sea).	44(1)(2)
22(2)	Establishes procedures to be followed in relation to paragraph 1.	44(3)
23	Provides that competent authorities of the Member State of dispatch may allow, subject to conditions they may fix, the consignor to split a movement of energy products into two or more movements subject to certain provisos. Establishes specific obligations on the authorities and Commission in such cases.	45
24(1)(2)(3)&(4)	Establishes obligations and procedures in respect of the electronic 'report of receipt'. Provides that alternative proof may be given in the absence of the electronic report of receipt.	49, 54, 59
25(1)(2)	Establishes obligations on the authorities of the Member State of export, to provide a report of export, where excise goods leave the territory of the Community.	46 (as amended by regulation 6 of The Excise Goods (Holding, Movement and Duty Point)(Amendment) Regulations 2011), 47
25(3)	Prescribes obligations of the authorities of the Member	46 (as amended by regulation 6 of

	State of dispatch to forward the report of export to the consignor.	The Excise Goods (Holding, Movement and Duty Point)(Amendment) Regulations 2011), 47
26(1)	Establishes procedures to be followed when the computerised system is unavailable in the Member State of dispatch.	50, 60
26(2)	Prescribes the procedures to be followed by the consignor and authorities when the computerised system is restored.	50(4)(5)(6), 51(2) (4)(6), 60(4)(5)(6)
26(3)	Establishes that in cases referred to in paragraph 1 the movement shall be regarded as taking place under cover of the paper document referred to in paragraph 1(a) until such time as the data in the electronic administrative document have been validated.	50(7) 60(7)
26(4)	Prescribes that a copy of the paper document shall be kept by the consignor to back up his records.	50 (8) 60(8)
26(5)	Establishes that when the computerised system is unavailable in the Member State of dispatch, the consignor shall submit the information required in Article 21(8) or Article 23 using alternative means of communication.	51
27(1)	Prescribes the procedures to be followed when the report of receipt cannot be submitted within the prescribed deadline because of the unavailability of the computerised system.	55,61
27(2)	Establishes the procedures to be followed when the report of export cannot be submitted because of the unavailability of the computerised system.	48
28(1)	Establishes that the report of receipt or the report of export provided shall constitute proof that a movement of excise goods has ended.	46(3)(5), 49(3)
28(2)	Establishes that in the absence of the report of receipt or the report of export for reasons other than those mentioned in Article 27, alternative proof of the end of a movement of excise goods under a duty suspension arrangement may be provided.	49(4)
29 (1)	Provides that the Commission shall, in accordance with Committee procedures determine: (a) structure and content of messages to be exchanged for the purposes of Articles 21 to 25. (b) rules and procedures relating to the exchanges of the messages referred to in point (a); (c) structure of the paper documents referred to in Articles 26 and 27.	No transposition required
29(2)	Establishes that each Member State may determine the situations where the computerised system is considered unavailable and the rules and procedures to be followed in those situations.	50, 55(1), 60(1), 60A (as inserted by regulation 9 of The Excise Goods (Holding, Movement and Duty Point) (Amendment) Regulations 2011).
30	Provides that Member States may simplify the procedures for movements which take place entirely on their territory.	62, (as amended by regulation 10 of The Excise Goods (Holding, Movement and Duty Point) (Amendment) Regulations 2011). 63,

		63A (as inserted by regulation 11 of The Excise Goods (Holding, Movement and Duty Point) (Amendment) Regulations 2011).
31	Provides for a simplification for frequent and regular movements by mutual agreement between two or more Member States.	No transposition required
32(1)	Establishes that duty on excise goods acquired by a private individual for his own use, and transported from one Member State to another by him, shall be charged only in the Member State in which the goods are acquired.	13(1)(3), 13(5) (definition of "own use")
32(2) and (3)	Provides factors that Member States shall (<i>inter alia</i>) take account of to determine whether the excise goods referred to in paragraph 1 are intended for the own use of a private individual. Provides that Member States may lay down quantitative guide levels, solely as a form of evidence, and provides de-minimus levels.	13(4), (5) (as amended by regulation 5 of The Excise Goods (Holding, Movement and Duty Point) (Amendment) Regulations 2011)
32(4)	Establishes that Member States may also provide that excise duty shall become due in the Member State of consumption on the acquisition of mineral oils already released for consumption in another Member State, if such products are transported using atypical modes of transport by a private individual or on his behalf. Provides definition of " <i>atypical mode of transport</i> "	14 (1) and relief given under Excise Duties (Personal Reliefs) (Fuel and Lubricants Imported in Vehicles) Order 1989
33(1)	Establishes that where excise goods which have already been released for consumption in one Member State are held for commercial purposes in another Member State in order to be delivered or used there, they shall be subject to excise duty and excise duty shall become chargeable in that other Member State. Provides definition of " <i>holding for commercial purposes</i> ".	13(1), (3)
33(2)	Provides for the purposes of this Article that the chargeability conditions and rate of excise duty to be applied shall be those in force on the date on which duty becomes chargeable in that other Member State.	Alcoholic Liquor Duties Act 1979 Hydrocarbon Oil Duties Act 1979 Tobacco Products Duties Act 1979
33(3)	Establishes the persons liable to pay the excise duty which has become chargeable.	13(2).
33(4)	Establishes that where excise goods which have already been released for consumption in one Member State move within the Community for commercial purposes, they shall not be regarded as held for those purposes until they reach the Member State of destination, provided that they are moving under cover of the formalities set out in Article 34.	Excise Goods (Sales on Board Ships and Aircraft) Regulations 1999
33(5)	Establishes that excise goods held on board a boat or aircraft making sea-crossings or flights between two Member States but which are not available for sale when the boat or aircraft is in the territory of one of the Member States, shall not be regarded as held for commercial purposes in that Member State.	Excise Goods (Sales on Board Ships and Aircraft) Regulations 1999

33(6)	Provides that excise duty shall be reimbursed or remitted in the Member State where the release for consumption took place where the competent authorities of the other Member State are satisfied that excise duty has been paid in that Member State.	Excise Goods (Drawback) Regulations 1995
34(1)	Provides that in the situations referred to in Article 33(1), excise goods shall move between the territories of the various Member States under cover of an accompanying document. Establishes that the Commission in accordance with Committee procedures shall adopt measures establishing the form and content of the accompanying document.	3(1) (definition of “ <i>accompanying document</i> ”), 65,68
34(2)	Establishes obligations and procedures to be followed by the persons referred to in Article 33(3). Provides that the Member State of destination may, in situations and under conditions which it lays down, simplify or grant derogation from certain requirements. In such cases, it shall notify the Commission.	66, 68, 69, 70, 73, 74, 86, 87
35 (1)	Establishes the procedure where excise goods already released for consumption in a Member State are moved to a place of destination in that Member State via the territory of another Member State. Establishes obligations upon the consignor and consignee.	Excise Goods (Sales on Board Ships and Aircraft) Regulations 1999
35(2)	Provides that where excise goods are moved frequently and regularly under the conditions specified in paragraph 1, the Member States concerned may, by agreement, simplify the requirements.	Excise Goods (Sales on Board Ships and Aircraft) Regulations 1999
36(1)	Establishes procedures to sales made by operators who take responsibility, directly or indirectly, for the transport of excise goods to private individuals established in another Member State. Provides that excise goods already released for consumption in one Member State, which are purchased by private individuals, and which are dispatched or transported to another Member State directly or indirectly by the vendor or on his behalf shall be subject to excise duty in the Member State of destination. Provides a definition of "Member State of destination" for the purposes of this Article.	75, 76, 77, 78 16(1)
36(2)	Establishes for the purposes of paragraph 1, that the excise duty shall become chargeable in the Member State of destination at the time of delivery of the excise goods and the chargeability conditions and rate of excise duty to be applied shall be those in force on the date on which duty becomes chargeable. Provides that the excise duty shall be paid in accordance with the procedure laid down by the Member State of destination.	Alcoholic Liquor Duties Act 1979; Hydrocarbon Oil Duties Act 1979; Tobacco Products Duties Act 1979 77, 78
36(3)	Establishes that the person liable to pay the excise duty in the Member State of destination shall be the vendor. Provides that the Member state of destination may provide that the person liable be a tax representative established in that Member State and approved by the	16(2), (3)

	<p>competent authorities.</p> <p>Establishes that where the vendor has not fulfilled certain obligations then the person liable shall be the consignee.</p>	
36(4)	<p>Imposes obligations upon the vendor or tax representative.</p> <p>Provides that Member States concerned may simplify these requirements on the basis of bilateral agreements.</p>	77, 78
36(5)	<p>Establishes that the excise duty levied in the first Member State shall be reimbursed or remitted, at the vendor's request, where the vendor or his tax representative has followed all the procedures.</p>	Excise Goods (Drawback) Regulations 1995
36(6)	<p>Provides that Member States may lay down specific rules for applying paragraphs 1 to 5 to excise goods that are covered by special national distribution arrangements.</p>	Not applicable
37(1)	<p>Establishes the circumstances in which duty in another Member state shall not be chargeable following destruction or irretrievable loss during movements of excise goods after release for consumption.</p> <p>Provides that it is for each Member state to make its own rules and conditions under which losses referred to in paragraph are determined.</p>	21
37(2)	<p>Provides that each Member State may lay down its own rules and conditions under which the losses referred to in paragraph 1 are determined.</p>	21
38(1)(2)	<p>Establishes the place where excise duty is to be charged when there is an irregularity during a movement of excise goods which have already been released for consumption.</p>	84
38(3)	<p>Defines the person(s) liable to pay the excise duty that has become chargeable.</p> <p>Establishes that the competent authorities of the Member State in which the excise goods were released for consumption shall reimburse or remit the excise duty where it was levied in another Member State.</p> <p>Establishes that the competent authorities of the Member State of destination shall release the guarantee that was lodged pursuant to Article 34(2)(a) or Article 36(4)(a).</p>	17(2)(3)(4) 85
38(4)	<p>Defines, "irregularity" for the purposes of this Article.</p>	83(b)
39(1)	<p>Establishes that Member States may use tax or fiscal markings on its territory.</p>	Duty Stamps Regulations 2006
39(2)	<p>Provides that a Member State which requires the use of tax markings or national identification marks shall be required to make them available to authorised warehousekeepers in other Member States.</p> <p>Provides that each Member State may require that these markings or marks be made available to a tax representative authorised by the competent authorities of that Member State.</p>	Duty Stamps Regulations 2006
39(3)	<p>Establishes that without prejudice to any provisions they may lay down to prevent any evasion, avoidance or abuse, Member States shall ensure that tax markings or national identification marks do not create obstacles to the free movement of excise goods.</p> <p>Establishes that where such markings or marks are</p>	Duty Stamps Regulations 2006

	<p>affixed to excise goods, any amount paid or guaranteed to obtain such markings or marks, apart from the fees for issuing them, shall be reimbursed, remitted or released by the Member State which issued them if excise duty has become chargeable and has been collected in another Member State.</p> <p>Provides that in these circumstances that reimbursement or remittance may be contingent upon the removal or destruction of the marks to the authority's satisfaction.</p>	
39(4)	Establishes that tax markings or national identification marks as set out in paragraph 1 shall be valid in the Member State which issued them. However, there may be mutual recognition of these markings or marks between Member States.	Duty Stamp Regulations 2006
40(1)	<p>Provides that Member States may exempt small wine producers from the requirements of Chapters III and IV and from the other requirements relating to movement and monitoring.</p> <p>Establishes the procedures to be followed by small producers when they carry out intra-Community transactions.</p>	3(2)
40(2)	Imposes obligations upon the consignee in cases where goods are consigned from small producers.	3(2)
40(3)	Defines "small wine producers".	No transposition required
41	Establishes that until the Council has adopted Community provisions on stores for boats and aircraft, Member States may maintain their national provisions concerning exemptions for such stores.	No transposition required
42	<p>Establishes that Member States which have concluded an Agreement on the responsibility for the construction or maintenance of a trans-border bridge, may adopt measures derogating from the provisions of this Directive in order to simplify the procedure for collecting excise duty on the excise goods used for the construction and the maintenance of that bridge.</p> <p>Establishes that the Member States concerned shall notify those measures to the Commission, which shall inform the other Member States.</p>	Not applicable
43	Provides for Committee procedures.	No transposition required
44	Establishes obligations upon the Committee.	No transposition required
45	<p>Establishes that by 1 April 2013, the Commission shall submit to the European Parliament and the Council a report on the implementation of the computerised system and, in particular, on the obligations referred to in Article 21(6) and on the procedures applicable should the system be unavailable.</p> <p>Establishes that by 1 April 2015, the Commission shall submit to the European Parliament and the Council a report on the implementation of this Directive.</p> <p>Establishes that the reports set out in paragraphs 1 and 2 shall be based on the information provided by the Member States.</p>	No transposition required

46	<p>Provides transitional arrangements whereby until 31 December 2010, Member States of dispatch may continue to allow movements of excise goods under a duty suspension arrangement initiated under cover of the formalities set out in Articles 15(6) and Article 18 of Directive 92/12/EEC.</p> <p>Establishes that those movements, as well as their discharge, shall be subject to the provisions referred to in the first subparagraph as well as to Article 15(4) and (5) and Article 19 of Directive 92/12/EEC.</p> <p>Provides that Article 15(4) of that Directive shall apply with regard to all the guarantors designated in accordance with Article 18(1) and (2) of this Directive.</p> <p>Articles 21 to 27 of this Directive shall not apply to those movements.</p> <p>Establishes that movements of excise goods which were initiated before 1 April 2010 shall be carried out and discharged in accordance with the provisions of Directive 92/12/EEC. This Directive shall not apply to those movements.</p>	40(2), 52(2)
47	<p>Repeals Directive 92/12/EEC with effect from 1 April 2010.</p> <p>Provides that it shall continue to apply within the limits and for the purposes defined in Article 46.</p> <p>Establishes that references to the repealed Directive shall be construed as references to this Directive.</p>	No transposition required
48	<p>Prescribes measures for member states to implement the Directive.</p>	No transposition required
49	<p>Date for when the Directive must come into force.</p>	No transposition required
50	<p>This Directive is addressed to the Member States.</p>	No transposition required