

## 1976 No. 1197

## CUSTOMS AND EXCISE

## The Tobacco Products (No. 2) Regulations 1976

<i>Made - - - -</i>	<i>29th July 1976</i>
<i>Laid before Parliament</i>	<i>29th July 1976</i>
<i>Coming into Operation</i>	<i>29th July 1976</i>

The Commissioners of Customs and Excise by virtue of the powers conferred on them by sections 4 and 8 of the Finance Act 1976<sup>(a)</sup> and of all other powers enabling them in that behalf, hereby make the following Regulations:—

## PART I

## PRELIMINARY

*Citation and commencement*

1. These Regulations may be cited as the Tobacco Products (No. 2) Regulations 1976 and shall come into operation on 29th July 1976.

*Revocation*

2. The Tobacco Products Regulations 1976<sup>(b)</sup> are hereby revoked.

*Interpretation*

3.—(1) The Interpretation Act 1889<sup>(c)</sup> shall apply for the interpretation of these Regulations as it applies for the interpretation of an Act of Parliament.

(2) In these Regulations—

“the Act” means the Finance Act 1976;

“duty” means the duty of excise charged on tobacco products by section 4(1) of the Act;

“manufacturer” or “importer” means a manufacturer or importer of tobacco products;

“materials” means unmanufactured tobacco, reconstituted tobacco sheet, tobacco substitutes and tobacco products intended for further manufacture;

“the previous Regulations” means the Tobacco Products Regulations 1976.

<sup>(a)</sup> 1976 c. 40.  
<sup>(c)</sup> 1889 c. 63.

<sup>(b)</sup> S.I. 1976/546 (1976 I, p. 1617).

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**PART II****REGISTRATION AND CONTROL OF PREMISES***Registration of premises*

4.—(1) At each factory where tobacco products are manufactured, the Commissioners shall register premises which are suitable for the safe storage of tobacco products before any duty thereon is paid.

(2) All premises approved as places of security by virtue of paragraph (2) of Regulation 3 of the previous Regulations shall be deemed to be premises registered under these Regulations.

(3) Save as provided in paragraph (2) above, registration of the premises shall be on application by the manufacturer.

5. In addition to the factory premises referred to in Regulation 4 the Commissioners may on application by a manufacturer register premises elsewhere for the safe storage of tobacco products.

*Security of premises and revocation of registration*

6.—(1) In any case where in the opinion of the Commissioners any registered premises cease to be suitable for the safe storage of tobacco products, they may require those premises to be made safe.

(2) The Commissioners may for reasonable cause revoke the registration of any premises not at a factory provided that they give notice in writing thereof 3 months before the date upon which the revocation is to take effect.

*Alteration of registered premises*

7. A manufacturer shall, before any alteration is made to registered premises or to the security arrangements for the safe storage of tobacco products therein, give notice of the alteration to the proper officer.

*Opening hours of registered premises*

8. A manufacturer shall give the proper officer notice of the hours that the registered premises will be open for business and of any alteration to those hours.

**PART III****REMOVAL TO, STORAGE IN AND DELIVERY FROM REGISTERED PREMISES***Removal to registered premises*

9. Save as the Commissioners may otherwise allow, a manufacturer shall, after their manufacture, remove all tobacco products to registered premises without delay.

*Marking, storage and production*

10. All tobacco products stored in registered premises shall be—

(a) identified to the proper officer by permanent and legible markings,

- (b) arranged and stowed so as to allow easy access thereto, and
- (c) immediately produced upon request by the proper officer.

#### *Delivery*

**11.** A manufacturer intending to remove tobacco products from registered premises in packages other than those in which they were originally deposited therein shall give prior notice to the proper officer of his intention so to do, either generally or in any particular case.

### PART IV

#### CHARGING AND SECURING DUTY

##### *Removal from registered premises*

**12.—**(1) Save as allowed under this Part and Part VIII of these Regulations, no tobacco products shall be removed from registered premises until any duty chargeable thereon has been paid or secured.

(2) Without prejudice to these Regulations or any provision of the Act authorising remission of duty, the Commissioners may allow tobacco products to be removed without payment of duty for any of the following purposes—

- (a) warehousing for shipment as stores, exportation by post or sale in duty free shops,
- (b) transfer to other registered premises,
- (c) further manufacture,
- (d) destruction or other disposal to their satisfaction, or
- (e) such other purposes (except home use) as they see fit.

(3) No tobacco products shall be removed from registered premises except with the authority of the proper officer.

(4) Before any tobacco products are removed from registered premises, the manufacturer shall enter particulars of the delivery in the stock account which he keeps under Regulation 21 and shall issue a delivery document in accordance with Schedule 1 to these Regulations:

Provided that the Commissioners may, generally or in any particular case, relax the requirements specified in the said Schedule.

##### *Removal to premises other than registered premises*

**13.** In any case where the Commissioners allow tobacco products to be removed otherwise than to registered premises under Regulation 9, those products shall not be removed until any duty chargeable thereon has been paid or secured.

##### *Calculation of duty*

**14.—**(1) For the purpose of calculating the duty payable on any tobacco products the rate of duty shall be that in force at the time of their last removal

from registered premises and, in the case of such products other than cigarettes, their weight shall be that obtaining at the time of their entry into the production account.

(2) For the purpose of calculating the duty payable on any tobacco products which have not been sent to registered premises, the rate of duty payable thereon shall be that in force at the time of their manufacture or at the time of their entry into the production account under Regulation 20, whichever is the later.

(3) For the purpose of calculating the duty payable on any tobacco products which have been lawfully removed without payment of duty but which are subsequently allowed to be diverted to home use, the rate of duty shall be that in force at the time of their diversion to home use.

(4) For the purpose of calculating the duty payable on any tobacco products found to be missing from registered premises, the rate of duty payable thereon shall be that in force at the time the deficiency is discovered.

#### *Securing the duty*

**15.** A manufacturer shall, if required by the Commissioners, give security by bond or otherwise for the payment of any duty becoming chargeable on tobacco products manufactured or received by him.

### PART V

#### REMISSION AND REPAYMENT OF DUTY

##### *Returned products*

**16.—**(1) Where any tobacco products have been delivered for home use and those products are later returned to premises controlled by their manufacturer, the Commissioners may, subject to such conditions as they see fit to impose, allow credit for the duty charged thereon if the products are—

- (a) re-cycled,
- (b) taken into stock at registered premises, or
- (c) otherwise disposed of to their satisfaction.

(2) In cases where tobacco products are disposed of to their satisfaction in accordance with paragraph (1)(c) above, the Commissioners shall allow credit for duty only if the proper officer is satisfied that the tobacco products have become unfit for smoking through natural causes.

##### *Home-grown tobacco*

**17.** The Commissioners shall remit the duty chargeable on tobacco products manufactured from tobacco grown in the United Kingdom by a person for his own consumption and in respect of which such conditions as they see fit to impose are complied with.

##### *Tobacco products imported for further manufacture*

**18.** The Commissioners may remit the duty chargeable on any tobacco products imported for the purpose of further manufacture subject to such conditions as they see fit to impose, including the completion of the further manufacture.

## PART VI

## RECORDS, ACCOUNTS AND RETURNS

*Records*

**19.** A manufacturer shall keep records showing the quantities and descriptions of—

- (a) all materials received,
- (b) all materials used in each manufacturing batch or during any period of manufacture agreed between the proper officer and the manufacturer,
- (c) all materials disposed of,
- (d) any refuse deriving from materials used, and
- (e) all tobacco products in his possession during any period of their conditioning prior to their entry into the production account at the end of that period.

*Production account*

**20.—(1)** A manufacturer shall keep a production account which shall show for each type, brand and size of retail pack, the quantity produced and the date of production and entry in the account.

(2) The details referred to in paragraph (1) above shall be entered in the production account immediately after the tobacco products are either—

- (a) first put into a state suitable for use in or removal from the factory, or
- (b) first packed for delivery,

as agreed with the proper officer.

*Stock account*

**21.—(1)** A manufacturer shall keep a stock account of all tobacco products received into registered premises, operated on therein and removed therefrom.

(2) Save as the proper officer may otherwise allow, each such account shall be kept at the registered premises.

(3) Save as the proper officer may otherwise allow, each such account shall show, in relation separately to receipt and removal—

- (a) particulars sufficient to identify types and brands of tobacco products and the size of retail pack,
- (b) the quantity of tobacco products in each outer package or carton and the number and distinguishing marks of such packages or cartons,
- (c) the date of the entry in the production account or the number and date of the delivery document, and
- (d) the dates of deliveries.

(4) Each such account shall be balanced and closed when no product remains therein.

*Returns*

22.—(1) A manufacturer shall make the following returns—

- (a) separate returns each day containing separately for each type of product the particulars set out in Schedule 2 to these Regulations of—
  - (i) all tobacco products entered in the production account for that day,
  - (ii) all tobacco products removed from registered premises that day for home use, and
  - (iii) all tobacco products removed from registered premises that day otherwise than for home use;
- (b) a monthly return containing such details as are necessary to show the balance of stocks of tobacco products on hand at the beginning of each month and the receipts during the month as against deliveries during that month and stocks on hand at the end of that month; and
- (c) a monthly return showing the numbers of such stock accounts as, in compliance with Regulation 21(4), were closed during the month.

(2) The returns referred to in paragraph (1)(a) above shall be furnished to the proper officer daily by noon of the working day next following the day to which they relate, that referred to in paragraph (1)(b) above by the 10th day of the month following that to which it relates and that referred to in paragraph (1)(c) above on the 1st working day of the month following that to which it relates.

(3) In addition to the returns required under paragraph (1) above, the Commissioners may at any time require a return to be made by a manufacturer for the purpose of reconciling the quantities of materials used in manufacture with the tobacco products manufactured therefrom and such returns shall—

- (a) cover a period determined by the proper officer after consultation with the manufacturer, and
- (b) contain such details as are necessary for that purpose.

(4) Every return under this Regulation shall be certified by the manufacturer as being complete and correct.

(5) The Commissioners may relax all or any of the requirements of this Regulation in any particular case.

*Keeping and inspection of records*

23.—(1) Save as the Commissioners may otherwise allow, a manufacturer shall keep all books, accounts and documents which relate to the receipt, manufacture, storage or disposal of tobacco products and materials and shall retain them, together with those required to be kept under the previous Regulations, for not less than 2 years from the date of the last entry therein.

(2) All books, accounts and documents referred to in this Regulation shall be produced for inspection by the proper officer at any reasonable time.

**PART VII****INFORMATION FOR DUTY PURPOSES***Recommended retail prices, weights and deficiencies*

24.—(1) For the purposes of charging and collecting the duty, a manufacturer shall notify the proper officer of—

- (a) the retail price he recommends for cigarettes,
  - (b) the weight per unit of quantity of any tobacco products other than cigarettes,
  - (c) any change in either the retail price or weight per unit of quantity referred to in (a) or (b) above, and
  - (d) any deficiency in stocks of tobacco products discovered by him, whether as a result of stocktaking or otherwise.
- (2) The notification required in paragraph (1)(c) and (d) above shall be given without delay and, in the case of (c), before the change takes effect.

### PART VIII

#### ARRANGEMENTS FOR PERIODIC PAYMENT OF DUTY

##### *Time of periodic payment and application thereof*

**25.—**(1) Any person liable to pay the duty due on tobacco products to which this Regulation applies may, subject to compliance with Regulations 26 and 27, elect to pay that duty on the 15th day (or where that day is a non-working day, the next working day thereafter) following the month in which duty becomes payable, hereinafter referred to as “payment day”.

(2) This Regulation applies to—

- (a) imported tobacco products on which duty is payable at the time entry thereof is made,
- (b) imported tobacco products which are warehoused, and on which, on removal from warehouse, duty is payable, and
- (c) tobacco products manufactured in the United Kingdom in respect of which returns have been made as prescribed in Regulation 22(1)(a)(ii).

##### *Approval of arrangements for payment*

**26.—**(1) Before duty may be paid under Regulation 25, the person liable to pay the duty shall make application to the Commissioners for approval of the arrangements by which the duty is to be paid on payment day and shall give to the Commissioners security for payment by him of any amount of duty becoming payable in accordance with those arrangements.

(2) Where the Commissioners are satisfied with those arrangements and the security offered, they shall approve them in writing.

(3) A person whose arrangements have been approved shall forthwith notify the Commissioners of any change in any information given to them for the purposes of their granting approval, in the arrangements for payment or in the security given.

(4) If any security given under this Regulation is at any time inadequate to secure any duty becoming payable, Regulation 25(1) shall cease to apply in respect of the duty unsecured.

(5) The Commissioners may for reasonable cause vary or revoke any approval granted under paragraph (2) above.

*Payment of duty*

27. On each payment day the person whose arrangements have been approved under Regulation 26 shall pay to the Commissioners in accordance with the arrangements referred to therein the total of the amounts of duty shown as payable on each entry or return, as the case may be.

## PART IX

## ACCOUNTING FOR LIABILITY TO DUTY AS FROM 10TH MAY 1976

*Notification and payment of duty due from 10th May 1976*

28.—(1) Any liability to duty incurred by a manufacturer or importer which has accrued between 10th May 1976 and the coming into force of the Act shall be paid by him within seven days of his liability to pay being notified to him by the Commissioners.

(2) The amount of duty to be paid by a manufacturer under this Regulation shall be the balance due after taking into account the following—

- (a) the duty accruing between the dates mentioned in paragraph (1) above,
- (b) the reduction in duty chargeable on tobacco provided for under section 8(1) of the Act as applied between the dates mentioned in paragraph (1) above in respect of tobacco received into his tobacco factory as materials for manufacture,
- (c) any repayment due under subsection (5) of that section, and
- (d) the reduction in the rate of drawback applying to tobacco provided for under subsections (1) and (5) of that section between the dates mentioned in paragraph (1) above.

(3) The balance to be paid under paragraph (2) above shall be paid by the manufacturer to whom notice is given under this Regulation, notwithstanding that any reduction made or any repayment due under that paragraph relates to a sum due to or from a person other than the manufacturer.

## PART X

*Payment of duty due in July 1976*

29. Any duty falling due between the date of the passing of the Act and 31st July 1976 shall for the purposes of Regulation 25 be treated as falling due during August 1976.

29th July 1976.

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*L. D. Hawken,*  
Commissioner of Customs and Excise.



## Regulation 12(4)

## SCHEDULE 1

*Delivery documents*

1. The manufacturer shall issue a serially numbered delivery document in respect of each consignment delivered from the registered premises, with sufficient separate legible copies to comply with paragraphs 2 and 3 of this Schedule.

2. A copy of every delivery document shall—

- (a) be deposited prior to the loading of the consignment at a place adjacent to the despatch point which has been agreed with the proper officer, for his use;
- (b) be retained in the stock account kept under Regulation 21 of these Regulations; and
- (c) accompany the consignment.

3. In the case of any products to which paragraph 5 of this Schedule applies, the manufacturer shall, in addition to the copies issued in accordance with paragraph 2 above, issue a copy of the delivery document, marked “For Customs use”, to the proper officer at the place where the consignment is to be received.

4. Each delivery document shall show the following particulars—

- (a) the address of the premises from which the consignment is to be removed;
- (b) the date of removal;
- (c) the type, brand, size of retail pack and quantity of the product;
- (d) the name and address of the consignee;
- (e) identifying particulars of the conveying vehicle, container or other means of transport; and
- (f) in the case of any products to which paragraph 5 of this Schedule applies, the statement “Excise duty has not been accounted for on these products” and the address at which the products are to be received.

5. The additional requirements in paragraphs 3 and 4(f) of this Schedule shall apply to products removed without payment of duty—

- (a) to other registered premises;
- (b) for further manufacture; or
- (c) under section 4(2)(b) of the Act, for research or experiment.

## SCHEDULE 2

## Regulation 22(1)(a)

*Particulars to be given in returns**A. Under Regulation 22(1)(a)(i)*

1. Stock reference.
2. Brand.
3. Size of retail pack.
4. Number of packs per package.
5. Number of packages.
6. Quantity (number of cigarettes, weight of other products).

*B. Under Regulation 22(1)(a)(ii)*

1. Delivery document or delivery schedule number.
2. Stock reference.
3. Brand.
4. Size of retail pack.
5. Number of packs per package.
6. Number of packages.
7. (a) For cigarettes, the retail price;  
(b) For other products, the quantity.
8. The total excise duty due.
9. Any undercharges or credits.

*C. Under Regulation 22(1)(a)(iii)*

1. Purpose for which delivered.
2. Delivery document number.
3. Stock reference.
4. Total number of packages.
5. Total quantity or number of retail packs.
6. (a) For products exported or shipped as stores or warehoused for that purpose, the consignor's consecutive reference number;  
(b) For products removed to other registered premises, factories or research premises, the consignee's name and address;  
(c) For products removed for destruction or other disposal, the place.

## EXPLANATORY NOTE

*(This Note is not part of the Regulations.)*

1. These Regulations establish the machinery for administration of the excise duty on tobacco products imposed under section 4 of the Finance Act 1976. Parts I, V, VIII, IX and X relate both to UK manufacture and to importation, whilst the other Parts apply only to UK manufacture.

2. Part I revokes the Tobacco Products Regulations 1976 which provided for securing the new duty between 10th May 1976 and the coming into force of the Finance Act 1976. It also defines certain terms used in subsequent Parts.

3. Part II provides for registration of premises in which UK manufactured tobacco products are to be stored after manufacture but prior to payment of duty, and prescribes conditions in relation to those premises.

4. Part III requires products normally to be removed to such premises after manufacture and governs their storage and delivery.

5. Part IV requires duty to be paid or secured, except where some relief is given, before the products can be removed from the registered premises, provides rules for calculation of the duty and provides for security to be given for duty becoming chargeable.

6. Part V provides relief from duty for certain products delivered for home use but later returned to the manufacturer, for tobacco grown in the UK by a person for his own consumption and for tobacco imported for further manufacture.

7. Part VI prescribes the keeping of records and accounts by manufacturers and the rendering of returns by them.

8. Part VII requires manufacturers to supply certain information relevant to the charging and collecting of the duty.

9. Part VIII prescribes arrangements for payment of the duty, subject to compliance with conditions which include the furnishing of security for payment, on the 15th day of the month following that in which it becomes chargeable.

10. Part IX provides for payment of duty falling due between 10th May 1976 and the Finance Act 1976 coming into force, and provides for UK manufacturers to pay the balance due after taking account of both the new duty falling due under section 4 and the reductions in the existing duty and drawback arising from section 8 of that Act.

11. Part X enables duty falling due between the passing of the Finance Act 1976 and 31st July 1976 to be treated as falling due in August in those cases where it is to be paid monthly in arrears.

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