

## 1982 No. 1590

## IRON AND STEEL

**The Distributors of Iron and Steel Products  
(ECSC Requirements) Regulations 1982**

<i>Made - - - -</i>	<i>8th November 1982</i>
<i>Laid before Parliament</i>	<i>8th November 1982</i>
<i>Coming into Operation</i>	<i>1st December 1982</i>

The Secretary of State, being a Minister designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to matters relating to the pricing of iron and steel products, in exercise of the powers conferred by that section, hereby makes the following Regulations:—

*Citation and commencement*

1. These Regulations may be cited as the Distributors of Iron and Steel Products (ECSC Requirements) Regulations 1982 and shall come into operation on 1st December 1982.

*Interpretation and extent*

2.—(1) In these Regulations—

“distributive undertaking” means a person who carries on the business of selling steel products within the Coal and Steel Community;

“Euronorm 20–74” means the September 1974 edition of the publication of that name published by the Office for Official Publications of the European Communities(c);

“group” means the person having control of any body corporate and all bodies corporate controlled by that person; and “control” and “controlled” shall be construed in accordance with Commission Decision No. 24/54/ECSC laying down in implementation of Article 66(1) of the ECSC Treaty a regulation on what constitutes control of an undertaking(d);

“selling agency” has the meaning given to it by Article 1(2) of Commission Decision No. 30/53/ECSC on practices prohibited by Article 60(1) of the ECSC Treaty in the common market for coal and steel(e) for the purposes of that Decision;

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(a) S.I. 1981/1536.

(b) 1972 c. 68.

(c) Copies of Euronorm 20–74 may be obtained from the British Standards Institution, 2 Park Street, London W1A 2BS.

(d) O.J. of the ECSC, 11.5.1954, p. 345 (O.J./S.E. 1952–58 p. 16).

(e) O.J. of the ECSC, 4.5.1953, p. 109 (O.J./S.E. 1952–58 p. 9). Relevant amendments to this Decision were made by Commission Decision No. 19/63/ECSC (O.J. of the ECSC, 24.12.1963, p. 2969; O.J./S.E. 1963/64 p. 65) and by Commission Decision No. 1834/81/ECSC (O.J./S.E. L184 of 4.7.1981, p. 7).

“special steels” means steel products which are non-alloy steels and alloy steels defined as special steels in sections 5.2.3. and 5.3.3. of Euronorm 20-74;

“steel dealer” means a distributive undertaking which—

- (i) has a place of business in the United Kingdom,
- (ii) obtains directly from the producer all or part of the steel products which it sells,
- (iii) is not a selling agency, and
- (iv) does not produce steel products,

and for the purposes of subparagraph (iv) above, production does not include the processing of one steel product into another by a process other than rolling;

“steel product” means any steel product listed in Annex 1 to the ECSC Treaty, other than scrap.

(2) Subject to the provisions set out in the Schedule hereto, these Regulations extend to Northern Ireland.

#### *Application*

3.—(1) Regulations 4 to 8 and 10 below apply to a distributive undertaking only if—

- (a) it is a steel dealer, and
- (b) it has a financial year which is a base financial year and which, for the purposes of this regulation, is to be treated as the relevant base financial year of that dealer,

and shall so apply during the period commencing on the date which, for the said purposes, is to be treated as the relevant date in relation to that dealer and ending on 30 June 1984.

(2) Regulations 9 and 11 below apply to every distributive undertaking which has a place of business in the United Kingdom.

(3) For the purposes of this regulation a base financial year of a steel dealer is any financial year of that dealer which ends before 31 May 1984, being a financial year during which—

- (a) in a case where the dealer is not a member of a group the person having control of which is a steel dealer, the sales of steel products by the dealer amount to not less than 3,000 tonnes of special steels or 6,000 tonnes of all steel products; and
- (b) in a case where the dealer is a member of such a group, the sales of steel products by the dealer, when aggregated in accordance with paragraph (4) below with the sales of steel products by all other members of the group which are steel dealers, amount to not less than 3,000 tonnes of special steels or 6,000 tonnes of all steel products,

and the financial year of a dealer which is to be treated as its relevant base financial year is—

- (i) where the dealer's financial year last ending before 1 January 1983 is a base financial year, that year; or
- (ii) where it is not, the next following financial year of the dealer which is a base financial year.

(4) The sales of steel products by other members of a group which fall to be aggregated for the purposes of paragraph (3)(b) above are the sales of steel products by each such member during its financial year which coincides with the year in question, or, where in respect of any such member there is no such financial year, during the financial year of that member last ending before the end of the year in question.

(5) For the purposes of this regulation, the relevant date in relation to a steel dealer shall be—

- (a) in the case of a dealer whose relevant base financial year ends on or before 1 January 1983, that date; and
- (b) in the case of a dealer whose relevant base financial year ends after 1 January 1983, the first day of the calendar month next following the date on which that financial year ends.

*Provision of price lists to customers*

4.—(1) Subject to paragraph (2) below, each steel dealer who sells or offers for sale any steel products shall—

- (a) as soon as practicable after receipt of a request to that effect made on or after 1 January 1983 by any person, give or cause to be given to that person a copy of a price list and conditions of sale in respect of which the requirements of regulation 5 below are satisfied; and
- (b) serve by post a copy of the price list and conditions of sale on the Secretary of State, Department of Industry, Ashdown House, 123 Victoria Street, London SW1E 6RB at least two clear days before 1 January 1983 or, in the case of a price list and conditions of sale which come into effect between 1 January 1983 and 30 June 1984, at least two clear days before the date on which they come into effect.

(2) Paragraph (1) above shall not apply in relation to steel products in respect of which steel producers are not required to publish price lists and conditions of sale pursuant to the provisions of Commission Decisions No. 31/53/ECSC on the publication of price lists and conditions of sale applied by undertakings in the steel industry(a) and No. 37/54/ECSC on the publication of price lists and conditions of sale for special steels(b).

(a) O.J. of the ECSC, 4.5.1953, p. 111; O.J./S.E. 1952/58, p. 11. This Decision has been amended by Commission Decisions Nos. 32/53/ECSC (O.J. of the ECSC, 21.5.1953, p. 130; (O.J./S.E. 1952-58, p. 13), 2-54/ECSC (O.J. of the ECSC, 13.1.1954, p. 218; O.J./S.E. 1952-58, p. 15), 37-54/ECSC (O.J. of the ECSC, 1.8.1954, p. 470; O.J./S.E. 1952-58, p. 22), 32-56/ECSC (O.J. of the ECSC, 25.11.1956, p. 333; O.J./S.E. 1952-58, p. 41), 20-63/ECSC (O.J. 24.12.1963, p. 2972; O.J./S.E. 1963-64, p. 68) and 72/441/ECSC (O.J. L297 of 30.12.1972, p. 42).

(b) O.J. of the ECSC, 1.8.1954, p. 470; O.J./S.E. 1952-58, p. 22. This Decision has been amended by Commission Decisions No. 33-58/ECSC (O.J. 18.12.1958, p. 665; O.J./S.E. 1952-58, p. 84) and No. 21-63/ECSC (O.J. of 24.12.1963, p. 2973; O.J./S.E. 1963-64, p. 70).

*Requirements as to price lists*

5.—(1) Subject to paragraphs (2) to (4) below—

- (a) the price list and conditions of sale shall be printed or written in clear and legible characters, dated and headed with words which indicate that they are prepared in pursuance of these Regulations;
- (b) the price list and conditions of sale shall contain the following particulars in relation to each grade and category of steel product—
  - (i) basic price;
  - (ii) additions to the basic price indicating, in particular, extras for size, length, grades and quantity, rebates available, tolerances not liable to surcharge, extras for reduced tolerances and surcharges and increases normally applied in connection with delivery including in particular surcharges for cutting and slitting;
  - (iii) place of delivery;
  - (iv) method of quotation;
  - (v) costs in connection with method of shipment;
  - (vi) where applicable, discounts, rebates, premiums and any other kind of benefit offered to other steel dealers or users;
  - (vii) terms of payment, and
  - (viii) the nature and amount of any taxes and similar charges additional to the basic price;
- (c) the price list and conditions of sale shall not contain prices for any steel products which are not offered for sale by the steel dealer preparing them or by another member of the same group as that steel dealer; and
- (d) the information contained in any price list and conditions of sale a copy of which is given or caused to be given to any person in compliance with any such request as is mentioned in regulation 4 above shall be current at the date of that request.

(2) Where a steel dealer sells, or offers for sale, steel products direct he may comply with the requirement contained in paragraph (3) below instead of that contained in paragraph (1)(b) above; and in this paragraph and paragraph (3) below “sells direct” in relation to any steel dealer and any steel product means that the dealer secures by way of contract with the producer of that steel product and with the dealer’s customer that the steel product will be sent by the producer direct to a destination chosen by the customer, and “offers for sale direct” and “direct sale” shall be construed accordingly.

(3) The requirement of this paragraph is that, in the case of a steel product—

- (a) produced in any member State of the Coal and Steel Community, the price list and conditions of sale contain the following, completed as appropriate—

“The prices applicable to direct sales of steel coming from an ECSC producer are the delivered prices obtained from the producer’s price list on which the sale is based, to which our published conditions of sale and the following extras are applied . . .”,

- (b) produced in a country which is not a member State of the Coal and Steel Community, alignment on offers from which has been prohibited by the Commission of the European Communities, the price list and conditions of sale contain the following, completed as appropriate—

“The prices applicable to direct sales of steel originating in countries, alignment on offers from which has been prohibited by the Commission of the European Communities, are the delivered prices obtained from the price list of the Community undertaking offering the lowest delivered price, after deduction of the penetration margins guaranteed to those countries, to which our published conditions of sale and the following extras are applied . . .”, and

- (c) produced in a country which is not a member State of the Coal and Steel Community, alignment on offers from which has not been prohibited by the Commission of the European Communities, the price list and conditions of sale contain the following, completed as appropriate—

“The prices applicable to direct sales of steel originating in other third countries are the delivered prices obtained from the basic prices for importation published by the Commission of the European Communities, to which our published conditions of sale and the following extras are applied . . .”.

- (4) In the case of steel products which are substandard or seconds, paragraph (1)(b)(vi) above shall have effect as if the reference to rebates were omitted; and in such a case an invoice shall be rendered relating to such steel products which shall state why they have been classified as substandard or seconds.

#### *Prohibited practices*

6.—(1) Subject to paragraph (3) and to regulation 7 below, a steel dealer shall not sell any steel product to a purchaser for delivery in any member State of the Coal and Steel Community on terms which differ significantly from the terms on which he has sold steel products by way of a comparable transaction.

(2) For the purposes of this regulation, a transaction is comparable with an earlier transaction if—

- (a) it is concluded with the same purchaser or with a purchaser who—
  - (i) competes with the purchaser in the later transaction, or
  - (ii) produces goods of the same or a similar description as the purchaser in the later transaction, or
  - (iii) is a distributor of goods of the same or a similar description as the purchaser in the later transaction;

and

- (b) it relates to the sale of a steel product of the same or a similar description; and
- (c) its commercial characteristics are not materially different from those of the earlier transaction,

and since that earlier transaction there has been no permanent change in the relevant prices and conditions of sale upon which the steel dealer is prepared to do business.

- (3) (a) In a case where the terms of a transaction differ from those of an earlier transaction only to the extent necessary to reflect differences in the quantity, tolerances, dimensions, delivery or packing of the steel products concerned in the two transactions, or other differences of a like nature, then, for the purposes of this regulation, those terms shall not be taken to be different; and
- (b) without prejudice to the generality of paragraph (2)(c) above, in a case where the terms of a transaction differ from those of an earlier transaction in that they permit payment of the whole or any part of the price to be made within a longer period without an appropriate increase in the price or in the amount of any charge for credit, the terms of that transaction shall, for the purposes of this regulation, be taken to be different from those of the earlier transaction.

7.—(1) Subject to paragraph (2) below, where a steel dealer offers for sale any steel product of the same or a similar description as steel products offered for sale by another distributive undertaking with which he is in competition, he may, notwithstanding the provisions of regulation 6 above, sell the steel product on terms which result in a delivered price not lower than that offered by that undertaking if—

- (a) that undertaking has a place of business in a member State of the Coal and Steel Community, or
- (b) that undertaking does not have such a place of business, and those terms necessarily result from competition by it.

(2) Paragraph (1) above shall not permit a steel dealer to sell steel products on such terms as are mentioned in that paragraph in a case where, if the steel dealer concerned were a Community undertaking within the meaning of Commission Decision No. 527/78/ECSC prohibiting alignment on offers of iron and steel products originating in certain third countries<sup>(a)</sup>, he would be prohibited from so doing by the provisions of that Decision.

(3) For the purposes of this regulation, the delivered price shall be calculated by adding to the price determined by reference to the particulars set out in regulation 5(1)(b) above, the sum of any delivery charges or other charges or surcharges to be paid by the purchaser less any rebate or other benefit allowed to him.

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<sup>(a)</sup> O.J. L73 of 15.3.1978, p. 16. This Decision has been amended by Commission Decisions Nos. 689/79/ECSC (O.J. L86 of 6.4.1979, p. 21), 934/79/ECSC (O.J. L117 of 12.5.1979, p. 15), 617/80/ECSC (O.J. L68 of 14.3.1980 p. 10), 1020/80/ECSC (O.J. L108 of 26.4.1980, p. 42), 909/81/ECSC (O.J. L91 of 4.4.1981, p. 11), 1080/81/ECSC (O.J. L112 of 24.4.1981, p. 11), 1309/81/ECSC (O.J. L130 of 16.5.1981, p. 19), 836/82/ECSC (O.J. L95 of 8.4.1982, p. 24) and 957/82/ECSC (O.J. L114 of 28.4.1982, p. 5).

8. A steel dealer shall not include in the price charged to any purchaser for any steel product an amount in respect of any tax or similar charge from which he is exempt or which he may require to be refunded to him.

*Duty to furnish information to the Secretary of State*

9.—(1) Each distributive undertaking having a place of business in the United Kingdom shall serve by post on the Secretary of State, Department of Industry, Ashdown House, 123 Victoria Street, London SW1E 6RB—

- (a) in the case of a distributive undertaking which carries on business as such on 1 December 1982, a document containing sufficient information to enable the Secretary of State to ascertain whether regulations 4 to 8 above and 10 below will apply to that undertaking by virtue of regulation 3(1) above; and
- (b) in the case of a distributive undertaking which does not carry on business as such on 1 December 1982 but commences to do so before 30 June 1984, notice of the fact that it has commenced so to carry on business,

and the document required to be served by subparagraph (a) above shall be served before 1 January 1983 and the notice required to be served by subparagraph (b) above shall be served within 7 days of the date on which the distributive undertaking concerned commences to carry on business as such.

(2) Each distributive undertaking having a place of business in the United Kingdom shall keep such records as are necessary to verify any information supplied to the Secretary of State under paragraph (1) above and shall preserve such records until 31 December 1984.

*Duty to keep records*

10. Each steel dealer shall, in relation to the whole of the period during which regulations 4 to 8 above apply to him, keep such records of all his sales of steel products as are necessary to enable compliance with the said regulations to be verified and shall preserve such records until 31 December 1984; and such records shall include—

- (a) records of orders and related correspondence;
- (b) in respect of each sale, a copy of the invoice or other accounting record comprising the name and address of the purchaser, the nature, quality and quantity of the product, the date of the invoice and of delivery and the price and all other terms of the sale;
- (c) a sales journal or other accounting document in which all sales are entered in chronological order, showing at least the date of the contract, the name of the purchaser or the invoice number and the amounts payable;
- (d) a cash book recording in chronological order all receipts and payments with dates, names of purchasers and amounts;
- (e) statements of account and other documents relating to bank accounts and postal cheque accounts;

- (f) statements, receipts, bills or abstracts of account relating to payments and receipts; and
- (g) save in so far as the information does not appear in the statements and other documents referred to in paragraph (e) above, accounts for individual purchasers including the amounts due from and paid by such purchasers and the dates when such amounts are due and paid.

*Further duties to furnish information to the Secretary of State*

**11.** Each distributive undertaking having a place of business in the United Kingdom shall—

- (a) furnish to the Secretary of State, within such time, at such place and in such form as he may by notice in writing require, such information relating to its sales of steel products as the Secretary of State may specify, and
- (b) upon demand made by a person authorised in writing in that behalf by the Secretary of State produce or cause to be produced for inspection by the authorised person any documents relating to its sales of steel products, other than documents which it would be entitled in an action in the High Court or, in Scotland, the Court of Session to refuse to disclose on grounds of legal professional privilege, and permit the authorised person to take copies of or to make extracts from such documents or to retain them for a reasonable period.

*Offences*

**12.—**(1) Subject to paragraph (3) below, any person who contravenes any provision of regulations 4 to 8 above shall be guilty of an offence and liable—

- (a) on summary conviction, to a fine not exceeding £1,000, and
- (b) on conviction on indictment, to a fine.

(2) Any person who without reasonable excuse contravenes any provision of regulations 9 to 11 above shall be guilty of an offence and liable—

- (a) on summary conviction, to a fine not exceeding £1,000 and to a further fine not exceeding £100 for every day during which the contravention continues, and
- (b) on conviction on indictment, to a fine.

(3) It shall be a defence for any person charged with an offence under paragraph (1) above to show that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

*Prosecution of offences*

**13.** Proceedings for any offence under these Regulations shall not, in England and Wales, be instituted except by or on behalf of the Secretary of State.



*Offences by corporations*

**14.**—(1) Where an offence under any provision of these Regulations which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he as well as the body corporate shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, paragraph (1) above shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

8 November 1982.

*Norman Lamont,*  
Minister of State,  
Department of Industry.

*Regulation 2(2)*

## SCHEDULE

## ADAPTATION FOR NORTHERN IRELAND

1. In regulations 4(1)(b) and 9(1), for the words “the Secretary of State, Department of Industry, Ashdown House, 123 Victoria Street, London, SW1E 6RB” there shall be substituted the words “the Department of Commerce for Northern Ireland, Chichester House, 64 Chichester Street, Belfast, BT1 4JX”.

2. In regulations 9 and 11, references to the Secretary of State shall be references to the Department of Commerce for Northern Ireland.

3. For regulation 13 there shall be substituted the following—

“13. No proceedings for an offence under these Regulations shall be instituted except by or on behalf of the Department of Commerce for Northern Ireland.”.

## EXPLANATORY NOTE

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

These Regulations implement Commission Recommendation No. 1835/81/ECSC of 3 July 1981 (O.J.No.L184 of 4.7.1981, p.9) to the Member States, as amended by Commission Recommendation No. 1518/82/ECSC of 11 June 1982 (O.J.No.L69 of 16.6.1982, p.5), on the obligation on persons who carry on the business of selling steel products within the Coal and Steel Community ("distributive undertakings") to publish price lists and conditions of sale and on prohibited practices in the steel trade.

Regulations 3 to 5 require such undertakings which do not produce steel products but sell them direct to the customer ("steel dealers") whose sales of such products during a particular financial year ending before 31 May 1984 exceed 3000 tonnes of special steels or 6000 tonnes of all steel products to supply on request written price lists and conditions of sale complying with the provisions of those regulations. Similar provision is made as respects steel dealers who are members of a group of such dealers. Special steels are defined in Euronorm 20-74, copies of which may be obtained from the British Standards Institution, 2 Park Street, London W1A 2BS.

Regulations 6 to 8 prohibit the application by steel dealers of different terms and conditions to comparable transactions (except in cases where the difference results from permitted alignment on the terms and conditions offered by other steel dealers or producers) and the inclusion in steel dealers' prices of the amount of certain taxes and charges.

Regulations 9 to 11 require all distributive undertakings to supply certain information to the Secretary of State, to maintain certain records and to permit the Secretary of State to inspect documents relating to their sales of steel.

Regulations 12 to 14 impose penalties for breaches of the Regulations, and make provision for their prosecution.

The Schedule makes adaptations to the Regulations in their application to Northern Ireland.

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