

2000 No. 426

CHANNEL TUNNEL

The Channel Tunnel (Alcoholic Liquor and Tobacco Products) Order 2000

Made - - - *23rd February 2000*

Laid before Parliament *24th February 2000*

Coming into force *17th March 2000*

The Commissioners of Customs and Excise, it appearing to them necessary or expedient to do so, in exercise of the powers conferred on them by sections 11 and 13 of the Channel Tunnel Act 1987(a) and of all other powers enabling in that behalf, hereby make the following Order:

Citation and commencement

1. This Order may be cited as the Channel Tunnel (Alcoholic Liquor and Tobacco Products) Order 2000 and shall come into force on 17th March 2000.

Shuttle train goods

2. Goods are “shuttle train goods” for the purposes of this Order if they—
 - (a) are in a control zone in France;
 - (b) are treated as being imported into the United Kingdom by virtue of article 5(2)(a) of the Channel Tunnel (Customs and Excise) Order 1990(b) (goods to be carried in a shuttle train);
 - (c) constitute dutiable alcoholic liquor or tobacco products;
 - (d) are not being moved in duty suspension under regulation 9 of the Excise Goods (Holding, Movement, Warehousing and REDS) Regulations 1992(c) (“the 1992 Regulations”); and
 - (e) are not stores for use on a shuttle train.

Controls

3. Subject to the modifications indicated in Schedule 1 to this Order—
 - (a) Parts I, II, III and VII of the 1992 Regulations shall apply to shuttle train goods in the same way that they apply to Community excise goods; and
 - (b) the Excise Goods (Personal Reliefs) Order 1992(d) shall apply to any case involving shuttle train goods.

Penalties, assessments and appeals

- 4.—(1) Section 170A of the Customs and Excise Management Act 1979(e) (civil penalty for handling goods subject to unpaid excise duty) shall, in its application to shuttle train goods, apply subject to the modification indicated in Schedule 2 to this Order.

(2) The provision made by this article is without prejudice to article 4(1) of the Channel Tunnel (International Arrangements) Order 1993(f) (extension of frontier control enactments to France).

(a) 1987 c. 53.

(b) S.I. 1990/2167; relevant amendments made by S.I. 1993/1813 and S.I. 1994/1405.

(c) S.I. 1992/3135; amended by S.I. 1993/1228, S.I. 1999/1278 and S.I. 1999/1565.

(d) S.I. 1992/3155; amended by S.I. 1999/1617.

(e) 1979 c. 2; section 170A was inserted by the Finance (No. 2) Act 1992 (c. 48) and amended by the Finance Act 1994 (c. 9).

(f) S.I. 1993/1813; amended by S.I. 1994/1405 and S.I. 1996/2283.

5. Part I Chapter II of the Finance Act 1994(a) (appeals and penalties) shall apply, subject to article 4 above, in corresponding manner to events involving shuttle train goods in the same way that it applies to events involving Community excise goods.

Interpretation

6. In this Order—

- (a) “dutiable alcoholic liquor” refers to spirits, beer, wine, made-wine or cider as defined by or under section 1 of the Alcoholic Liquor Duties Act 1979(b);
- (b) “tobacco products” refers to cigarettes, cigars, hand-rolling tobacco or other smoking tobacco as described in or under section 1 of the Tobacco Products Duty Act 1979(c);
- (c) “control zone” has the same meaning as in article 5(2)(a) of the Channel Tunnel (Customs and Excise) Order 1990; and
- (d) “Community excise goods” is a reference to that expression in regulation 2(1) of the 1992 Regulations (certain imports from other member States).

New King’s Beam House
22 Upper Ground
London SE1 9PJ

23rd February 2000

Mike Norgrove
Commissioner of Customs and Excise

SCHEDULE 1

Article 3

MODIFICATIONS TO STATUTORY INSTRUMENTS

The Excise Goods (Holding, Movement, Warehousing and REDS) Regulations 1992, S.I. 1992/3135

1. The Excise Goods (Holding, Movement, Warehousing and REDS) Regulations 1992 (“the 1992 Regulations”) are modified to apply to shuttle train goods in accordance with paragraphs 2 to 5 of this Schedule.

2. Regulation 2(1) is modified as if the following was inserted immediately after the meaning given for “REDS”—

““shuttle train goods” has the meaning given in article 2 of the Channel Tunnel (Alcoholic Liquors and Tobacco Products) Order 2000;.”

3. Regulation 4 is modified as if the following paragraph was inserted immediately after paragraph (9)—

“(10) Paragraph (9) above shall not apply in relation to shuttle train goods.”.

4. The 1992 Regulations are modified as if the following regulation was inserted immediately after regulation 4—

“Excise duty point—shuttle train goods

4A. The excise duty point in relation to shuttle train goods shall be treated as being the time when the goods became shuttle train goods.”.

5. Regulation 5 is modified as if the following paragraph was inserted immediately after paragraph (3)—

“(3A) In the case of shuttle train goods, the following persons shall be treated as jointly and severally liable to pay the duty—

- (a) any person who caused the goods to become shuttle train goods;
- (b) any owner of the goods; and
- (c) any person beneficially interested in the goods.”.

The Excise Goods (Personal Reliefs) Order 1992, S.I. 1992/3155

6. The Excise Goods (Personal Reliefs) Order 1992 (“the 1992 Order”) is modified to apply to any case involving shuttle train goods in accordance with paragraphs 7 to 9 of this Schedule.

(a) 1994 c. 9; amendments made by the Value Added Tax Act 1994 (c. 23), Finance Act 1995 (c. 4), Finance Act 1997 (c. 16), Finance Act 1998 (c. 36) and Finance Act 1999 (c. 16).

(b) 1979 c. 4.

(c) 1979 c. 7.

7. Article 2(1) is modified as if—

- (a) in the meaning given for “Community traveller” the following expression is added immediately after the third use of “United Kingdom”—
“, or a person who is about to embark or has embarked on a shuttle train in France for a journey to the United Kingdom”;
- (b) the following is inserted immediately after the meaning given for “Community traveller”—
““control zone” has the same meaning as in article 5(2)(a) of the Channel Tunnel (Customs and Excise) Order 1990;” and
- (c) the following is inserted immediately after the meaning given for “excise goods”—
““shuttle train goods” has the meaning given in article 2 of the Channel Tunnel (Alcoholic Liquors and Tobacco Products) Order 2000;”.

8. In article 3 the expression “a control zone or” is inserted immediately after the word “entering”.

9. The 1992 Order shall be modified as if the following article was inserted immediately after article 3—

“Relief from duty of excise—conditions—shuttle train goods

3A.—(1) In relation to shuttle train goods, this article shall have effect for the purpose of determining whether relief has been treated as having been afforded under article 3 above.

(2) No relief shall be treated as having been afforded if the goods are held for a commercial purpose.

(3) Where the shuttle train goods exceed any of the quantities shown in the Schedule to this Order the Commissioners may require the person holding the goods to satisfy them that the goods are not held for a commercial purpose.

(4) In determining whether or not any person holds shuttle train goods for a commercial purpose regard shall be taken of the factors listed in sub-paragraphs (a) to (j) of article 5(2) below.

(5) If the person holding the goods is required so to do but fails to satisfy the Commissioners that he does not hold them for a commercial purpose, it shall be presumed that the goods are held for a commercial purpose.

(6) Where the person holding the goods so fails to satisfy the Commissioners that he does not hold them for a commercial purpose, for the purpose of any proceedings instituted in accordance with paragraph 8 of Schedule 3 to the Customs and Excise Management Act 1979 or any appeal under section 16 of the Finance Act 1994, his failure shall cause the goods to be treated as “goods held for a commercial purpose” and, accordingly, section 154(2) of the Customs and Excise Management Act 1979 shall apply.”.

SCHEDULE 2

Article 4

MODIFICATION TO SECTION 170A OF THE CUSTOMS AND EXCISE MANAGEMENT ACT 1979

1. Section 170A of the Customs and Excise Management Act 1979 shall, in its application to shuttle train goods, apply subject to the modification in paragraph 2 below.

2. That section shall be modified as if the following subsection was inserted immediately after subsection (2)—

“(2A) In relation to a case involving goods that constitute “shuttle train goods” for the purposes of an order made under sections 11 and 13 of the Channel Tunnel Act 1987, subsections (1) and (2) above shall apply and be construed as if—

- (a) the excise duty point for those goods has been passed, and
- (b) those goods are chargeable with a duty of excise.”.

EXPLANATORY NOTE

(This note is not part of the Order)

Goods intended to be brought into the United Kingdom through the Channel Tunnel on a shuttle train are treated as being imported when they are taken into the control zone in France within the tunnel system. (Article 5(2)(a) of the Channel Tunnel (Customs and Excise) Order S.I. 1990 No. 2167.)

This Order applies to that control zone certain provisions relating to the relief from payment of excise duty on imported alcohol and tobacco conferred on Community travellers by article 3 of the Excise Duty (Personal Reliefs) Order S.I. 1992 No. 3155. This enables determinations to be made in the control zone, in the same way that they are in the United Kingdom, about whether or not such relief is afforded or there is compliance with the relevant conditions. The possible consequences of a determination made in the control zone correspond to those of one made in the United Kingdom.

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