

EXPLANATORY MEMORANDUM TO
THE EXCISE GOODS (HOLDING, MOVEMENT AND DUTY POINT)
REGULATIONS 2010

2010 No. 593

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

To implement the provisions of European Council Directive 2008/118/EC concerning the general arrangements for excise duty and repealing Directive 92/12/EEC¹.

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

None

4. Legislative Context

4.1 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. A transposition note showing how the Directive is transposed is attached to this memorandum. These Regulations do not transpose Chapter VI of the Directive, which is transposed by other provisions (see the transposition note).

4.2. 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 1992², The Excise Duty Points (Duty Suspended Movements of Excise Goods) Regulations 2001³ and provisions in various product specific Regulations determining the duty point and the persons liable to pay the duty⁴.

4.3 However, the Directive contains a number of new provisions and, in particular, provides the legal basis for the Excise Movement and Control System (“EMCS”) (see Part 7 below) 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 2002⁵.

4.4. The general approach in these Regulations has been to follow, as far as possible, the terminology 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 4.2) and the new provisions that introduce EMCS.

¹ OJ No L 009, 14. 1. 2009, p.12

² S.I. 1992/3135.

³ S.I. 2001/3022.

⁴ See the Cider and Perry Regulations 1989 (S.I. 1989/1355), the Wine and Made-wine Regulations 1989 (S.I. 1989/1356), The Beer Regulations 1993 (S.I. 1993/1228) and the Tobacco Products Regulations 2001 (S.I. 2001/1712)

⁵ S.I. 2002/501.

4.5. It has been necessary to rely on a mixture of existing UK vires and section 2(2) of the European Communities Act 1972. For example, Part 2 of the Regulations that provides for the excise duty point and persons liable to pay the duty relies on the powers contained in section 1 of the Finance (No.2) Act 1992⁶. The registration and approval of registered consignees and registered consignors in Parts 3 and 4, registered commercial importers in Part 11 and tax representatives in Part 12 rely on the powers contained in 100G and 100H of the Customs and Excise Management Act 1979⁷.

4.6 On the other hand those Parts that deal with the holding and movement of excise goods and the procedures under EMCS are made under a mixture of vires contained in the Customs and Excise Management 1979, the Alcoholic Liquor Duties Act 1979⁸, the Tobacco Products Duty Act 1979⁹, the Hydrocarbon Oil Duties Act 1979¹⁰ and section 2(2) of the European Communities Act 1972¹¹. It has also been necessary to rely on section 2(2) of the European Communities Act 1972 to make some consequential amendments to primary legislation.

4.7 The Directive cleared scrutiny in the House of Commons on 5th November 2008¹² and in the House of Lords on 11 November 2008.

5. Territorial Extent and Application

This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

The Exchequer Secretary has made the following statement regarding Human Rights-

"In my view the provisions of the Excise Goods (Holding, Movement and Duty Point) Regulations 2010 are compatible with the Convention rights".

7. Policy background

• *What is being done and why*

7.1 European Council Directive 2008/118/EC 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, oils and tobacco products) in duty suspension, and replaces Council Directive 92/12.

7.2 A new Directive is needed primarily to provide a legal basis for the Excise Movement and Control System (EMCS) which will be introduced on 1 April 2010. EMCS will introduce a computerised monitoring system of movements of excise goods in duty suspension within the European Union, replacing the present paper-based system in place since 1993. It will allow business and excise administrations to operate in a paperless environment which will reduce administrative burdens on business, improve efficiency and minimise fraud.

⁶ 1992 c. 48.

⁷ 1979 c. 2. Sections 100G and 100H were inserted by the Finance Act 1991 (c. 31), Schedule 4.

⁸ 1979 c. 4,

⁹ 1979 c. 7,

¹⁰ 1979 c. 5.

¹¹ 1972 c. 68.

¹² See the thirty-eighth report of the Select Committee on European Scrutiny-session 2007-08.

7.3 Member States may provide simplified procedures for movements which take place solely on their territory. HM Revenue and Customs will however provide EMCS for intra-UK movements, to enable businesses to benefit from the savings afforded by it. Businesses will have the flexibility, if they so wish, to continue to use existing manual systems for certain intra-company movements which take place solely within the United Kingdom.

7.4 In addition the system will permit a more integrated, faster and risk oriented control approach for the excise authorities and will enhance HM Revenue and Customs` and UK Border Agency`s operational response to fraud.

7.5 The new Directive has to be transposed in to national legislation to take effect from 1 April 2010. As part of the transposition, provisions that were contained in existing Regulations that implemented in part provisions in Directive 92/12, and which have been carried forward to the new Directive, are revoked and are now incorporated in to these new Regulations (see paragraph 4.2 above).

7.6 EMCS will not be fully operational in all member States on 1st April 2010. Where it is not operational movements of excise goods under duty suspension arrangements will be initiated under the paper based system set out in Directive 92/12. It is therefore necessary to retain some of the provisions in the Excise Goods (Accompanying Documents) Regulations 2002 until 31st December 2010, by which time all member States must be in a position to fully operate EMCS.

- ***Consolidation***

Not applicable.

8. Consultation outcome

No formal consultation has taken place as we have no discretion whether to implement the provisions of the Directive. However an advanced draft of the Regulations was exposed to business and certain modifications were made as a result.

9. Guidance

HM Revenue and Customs will revise their existing Notices to reflect the new obligations and procedures. In addition it has undertaken educational events across business.

10. Impact

10.1 EMCS will allow businesses to operate in a paperless environment which will reduce administrative burdens.

10.2 The impact on the public sector is nil.

10.3 An Impact Assessment is attached to this memorandum.

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

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or Nick Sands Tel: 0161 827 343 email: nick.sands@hmrc.gsi.gov.uk
can answer any queries regarding the instrument.

Summary: Intervention & Options

| | | |
|---|---|-------------------------------|
| Department /Agency: HMRC | Title: Impact Assessment of The Excise Movement and Control System | |
| Stage: Final | Version: 1.0 | Date: 15 February 2010 |
| Related Publications: | | |

Available to view or download at:

<http://www.hmrc.gov.uk/ria/#full>

Contact for enquiries: Chris Mountford

Telephone: 01618270362

What is the problem under consideration? Why is government intervention necessary?

The new Excise Movement and Control System (EMCS) is designed to control the movement of excise duty suspended goods within the EU and will be introduced in three stages from 1 April 2010. It will facilitate legitimate trade throughout the EU by replacing existing paper-based systems (in use since 1993) with an electronic system. It will also offer excise businesses the ability to communicate with HMRC and other Member States administrations electronically. The precise design and implementation of the EMCS is governed by EU law.

What are the policy objectives and the intended effects?

The objective of this policy is to implement the EU directive with little or no extra burdens on business. Introducing EMCS will allow business and excise administrations to operate in a paperless environment which will reduce administrative burdens on business, improve efficiency and minimise fraud. In addition the system will permit a more integrated, faster and risk oriented control approach for the excise authorities and will enhance HMRC/UKBA's operational response to fraud.

What policy options have been considered? Please justify any preferred option.

1. Do Nothing
2. Implement the required reforms under EU Directive 2008/08.

This option complies with the UK's legal obligation and has been developed in conjunction with trade bodies. This option minimises the cost to and impact on UK trade and also reduces administrative burdens significantly. This is the preferred option.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects? HMRC will conduct a review within 3 years.

Ministerial Sign-off For final proposal/implementation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) the benefits justify the costs.

Signed by the responsible Minister:

Date: Sunday 28 February



Summary: Analysis & Evidence

| | |
|-------------------------|---|
| Policy Option: 2 | Description: Implement the required reforms under EU Directive 2008/08 |
|-------------------------|---|

| | | | |
|--|--|------------|---|
| COSTS | ANNUAL COSTS | | Description and scale of key monetised costs by 'main affected groups' HMRC expects one-off costs of £50.4m for the implementation of EMCS. Businesses are expected to incur one-off costs for acquiring 3 rd party software and training staff. Annual costs include the obligation to enter the data into the electronic system. |
| | One-off (Transition) | Yrs | |
| | £ 50,500,000 | 1 | |
| | Average Annual Cost (excluding one-off) | | |
| | £ 7,900,000 | 5 | |
| Total Cost (PV) | | | £ 85,000,000 |
| Other key non-monetised costs by 'main affected groups' | | | |

| | | | |
|---|---|------------|--|
| BENEFITS | ANNUAL BENEFITS | | Description and scale of key monetised benefits by 'main affected groups' Businesses are expected to experience administrative savings as a result of EMCS. EMCS will reduce the cost of paper storage, photocopying and postage, as well as the time taken to complete the documentation. |
| | One-off | Yrs | |
| | £ 0 | 1 | |
| | Average Annual Benefit (excluding one-off) | | |
| | £ 20,700,000 | 5 | |
| Total Benefit (PV) | | | £95,000,000 |
| Other key non-monetised benefits by 'main affected groups' The introduction of the electronic system will help HMRC/UKBA better target, respond and intervene in excise fraud. A reduction in losses through fraud will provide additional revenue to the Exchequer. | | | |

Key Assumptions/Sensitivities/Risks

The administrative costs for the paper system were estimated using the Standard Cost Model. These were then updated to reflect EMCS.

| | | | |
|-------------------------|------------------------|--|---|
| Price Base Year 2010 | Time Period Years 5 | Net Benefit Range (NPV) £ N/A | NET BENEFIT (NPV Best estimate) £ 10,000,000 |
|-------------------------|------------------------|--|---|

| | | | | | |
|--|---|-------------------|------------------|-------------------|------------------|
| What is the geographic coverage of the policy/option? | UK | | | | |
| On what date will the policy be implemented? | 1 April 2010 | | | | |
| Which organisation(s) will enforce the policy? | HMRC | | | | |
| What is the total annual MRC of enforcement for these organisations? | N/A | | | | |
| Does enforcement comply with Hampton principles? | Yes | | | | |
| Will implementation go beyond minimum EU requirements? | No | | | | |
| What is the value of the proposed offsetting measure per year? | N/A | | | | |
| What is the value of changes in greenhouse gas emissions? | N/A | | | | |
| Will the proposal have a significant impact on competition? | N/A | | | | |
| Annual cost (£-£) per organisation (excluding one-off) | <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 25%; text-align: center;">Micro £-500</td> <td style="width: 25%; text-align: center;">Small £-500</td> <td style="width: 25%; text-align: center;">Medium £-3,000</td> <td style="width: 25%; text-align: center;">Large £-6,000</td> </tr> </table> | Micro £-500 | Small £-500 | Medium £-3,000 | Large £-6,000 |
| Micro £-500 | Small £-500 | Medium £-3,000 | Large £-6,000 | | |
| Are any of these organisations exempt? | <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 25%; text-align: center;">No</td> <td style="width: 25%; text-align: center;">No</td> <td style="width: 25%; text-align: center;">No</td> <td style="width: 25%; text-align: center;">No</td> </tr> </table> | No | No | No | No |
| No | No | No | No | | |

| | | |
|---|-------------|-------------------------|
| Impact on Admin Burdens Baseline (2005 Prices) | | (Increase – Decrease) |
| Increase of | £ 6,400,000 | Decrease of £18,900,000 |
| Net Impact | | £ -12,500,000 |

Key: Annual costs and benefits: Constant Prices (Net) Present Value

Background and Overview

The movement of goods liable to excise duty, where that duty has been suspended, between EU member states is currently controlled using a system that is paper based. This system has been in operation since the introduction of the Single European Market in 1993 and has proven over time to be burdensome to business and open to abuse and fraud.

On 16 December 2008 the European Parliament adopted Council Directive 2008/118 concerning the general arrangements for excise duty. The directive provides the legal base for the Excise Movement and Control System (EMCS) which will computerise the movement and surveillance of excise goods in duty suspension.

Duty suspension is the term used to refer to the production, storage, holding or movement of goods liable to excise duty without payment of duty. Duty is payable only when the goods leave suspension, either legitimately for example when they leave an approved warehouse to be sold in retail premises, or irregularly, for example when irregularities take place during a movement in suspension, such as the goods not reaching their legitimate destination.

Policy Objective

The Excise Movement and Control System (EMCS) is an EU wide online service for the movement of excise duty suspended goods. It will replace the current paper based system which has proven over time to be open to fraudulent abuse, with a fully computerised system. Authorised operators will exchange electronic messages containing specific consignment and movement information with their trading counterparts throughout the EU, linking over 150,000 traders in 27 national administrations across the EU, 24 hours a day, 7 days a week.

EMCS will improve the control of duty-suspended movements by means of validation of data and real time notification of dispatch and receipt of goods within the EU. It will perform a risk based assessment of the movement to support enforcement and compliance efforts.

Each Member State will develop their own national EMCS application (to the EU agreed specification) and these systems will be linked to all other Member States through a central domain, maintained by the European Commission. If the system is unavailable for any reason then there is a provision for a paper based fallback system which enables business to continue trading until such time the system is restored.

EMCS will be introduced in three separate Functional Stages (FS) and these are:

FS 0 - From 1 April 2010 all Member States must be able to deliver the FS 0 functionality, that is be able to receipt movements sent via EMCS from other Member States.

FS 1 - By 1 January 2011 all Member States must be in a position to generate movements to other Member States using EMCS. Member States have the discretion to decide whether they will be ready to implement FS 1 functionality on 1 April 2010, or introduce it between then and January 2011. The UK will be introducing FS1 on 1 January 2011. Member States may provide simplified procedures for movements which take place solely on their territory. HM Revenue and Customs will however provide EMCS for intra-UK movements, to enable businesses to benefit from the savings afforded by it. Businesses will have the flexibility, if they so wish, to continue to use existing manual systems for certain intra-company movements which take place solely within the United Kingdom.

FS 2 – The final functionality is to be introduced by all Member States on 1 January 2012, and enhances alerts and message flows between administrations.

UK Requirements under EU Law

The Excise Goods (Holding and Movement and Duty Point) Regulations 2010 will 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. These Regulations do not transpose Chapter VI of the Directive, which is transposed by other provisions.

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 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.

Consequently, the general approach in the 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.

Policy Options

1. Do Nothing

We would be in breach of the provisions of the directive, and would be liable to infraction proceedings being brought against the UK by the European Commission. We would also be out of step with the rest of the EU, and UK business would be at a competitive disadvantage if they were unable to use the same system as their European business partners and competitors. The UK authorities would also be prevented from exchanging data with other Member States’ administrations.

2. Implement the required reforms under EU Directive 2008/08.

This option complies with the UK’s legal obligation, and has been developed in conjunction with UK business. This option reduces administrative burdens, and provides savings for business as a result of using electronic rather than manual systems.

How EMCS will work

To access the system businesses will need to register with HMRC’s online services (if they haven’t already done so) and then register and enrol for EMCS. Thereafter they will be able to access the Portal application from a hyperlink. As an alternative they may purchase 3rd party software rather than use the Portal, but they will still need to register and enrol with online services.

Costs and Benefits

Benefits to Business

There are approximately 3,700 Authorised Warehousekeepers and other HMRC registered traders expected to benefit from EMCS, through administrative savings. It is estimated that the net impact across all businesses will be a saving of around £13m annually. This net effect is the result of around £21m efficiency savings and around £7m in additional costs.

The cost and efficiency savings that EMCS enables are expected to recur annually; businesses are not expected to experience any one-off benefits.

EMCS will provide a swifter discharge of the movement guarantee required to be provided by businesses to cover the potential duty losses during a duty suspended movement. This is because a consignor would immediately receive notice of the arrival of his goods at their destination, a notice which would have the same effect as the current copy 3 of the paper document whose return means that the guarantee is released, discharging the guarantor of all other further responsibility for the movement. This

may reduce the commercial costs of providing those guarantees imposed on business by the financial institutions, thereby enhancing cash flow opportunities.

EMCS eliminates the obligations related to paper storage, photocopying and postage and their associated costs. Data entry costs are also expected to reduce for some businesses, as there is the potential to create the basic data required by EMCS directly from existing warehouse and stock management computer systems. EMCS may also eliminate some burdens such as notifying the tax authorities- functions that will become automated.

Intra-EU duty suspended movements currently use a paper form called an Accompanying Administrative Document (AAD). Copy 3 of the AAD is returned to the consignor upon receipt of the goods by the consignee.

The Standard Cost Model provided an estimate of 500,000 movements of this type annually.

- The administration costs associated with this paper system were taken from the SCM.
- The estimates from the SCM were then updated to represent the burdens using EMCS.
- The changes resulting in benefits to the business are listed here:
 - All costs related to copying and filing paper were removed.
 - All costs relating to paper storage were removed.
 - All postage costs were removed, as the new system will rely on electronic messages.
 - The cost of filling in the paper form was removed. This was then replaced with a new obligation to complete the electronic form.
 - The cost of notifying the tax authorities was removed, as this will be automatic.
 - The cost of amending the destination of the goods was reduced, as EMCS is expected to simplify this process.

Intra-UK duty suspended movements currently use a paper form called a W8. The W8 is similar in structure and content to the AAD. Consequently, businesses will experience the same savings for their intra-UK duty suspended movements as described for intra-EU movements. EMCS is expected to save around £5m annually for intra-UK transactions.

Benefits to HMRC

EMCS will help compliance and enforcement staff in HMRC/UKBA to better target, respond and intervene to tackle excise fraud. It is one of a range of tools at their disposal, and will underpin a package of initiatives driven by strategies to improve the impact on reducing losses from excise fraud.

Costs to Business

There will be some one-off costs incurred by business in setting up the system, particularly where they decide to align their existing electronic systems to interface with EMCS. Estimates of between £10,000 to £100,000 have been indicated but the trade has confirmed that they are willing to absorb these to achieve compliance and secure the benefits described once the system and associated processes are up and running.

Training and familiarisation activities will also be one off costs, expected to take around half an hour. Each of the 3,700 businesses are expected to train one user of EMCS, using the online information available; this will cost less than £100,000.

Businesses purchasing externally developed software expect to incur a cost for each transaction they make via EMCS. This cost will recur annually, and has been estimated at £1 per duty suspended movement. This assumption gives an annual cost of £900,000 across all businesses.

There will also be some additional administrative costs, recurring annually, though their impact is expected to be minimal. These include activities such as checking that the movement is authorised before beginning the consignment.

The costs to business were estimated using the same methodology as described in 'Benefits to Business'. The changes resulting in costs to the business are listed here:

- A new obligation was designed to include the costs of completing the electronic form.

- Additional obligations were added for the businesses to check email notifications.
- An additional cost was added for maintaining the EMCS system. This included the cost of electronic storage and licensing.

Costs to HMRC

EMCS will be introduced in three functional stages from 1 April 2010, 1 January 2011 and 1 January 2012. The cost of implementing EMCS for the first two functional stages (to January 2011) is £50.4m.

The costs relating to the third functional stage to be introduced in January 2012 will not be known until the financial year 2010/11 and a separate, further Impact Assessment will be completed at that time.

Calculation of Net Present Value Figures.

- The Net Present Values have been calculated to a five year horizon, discounting estimated future costs and benefits at a rate of 3.5%.

Rounding of figures.

- Annual and one-off costs and benefits have been rounded to the nearest £100,000.
- The 2005 Admin Burdens baseline figures have also been rounded to the nearest £100,000.
- The Net Present Value figures are rounded to the nearest £5m.

Consultation

Whilst HMRC has not formally consulted business on this change - it is not a discretionary matter (the system has to be designed to an agreed EU specification) it has worked closely with business during the development of the system. In addition to a concerted communication programme with newsletters and a dedicated website, there have been regular “user group” meetings with individual businesses of all sizes and trade federations as well as nationwide “road shows”.

Specific Impact Test

Competition assessment

EMCS will not impact upon the number or range of suppliers, or reduce the ability of the suppliers to compete.

Small firms impact test

The changes to the legislative requirements as a result of EU law apply to all businesses moving excise goods in duty suspension. Any concession to small businesses in the United Kingdom would adversely impact on their ability to trade with businesses in the rest of Europe who are using the EMCS.

HMRC has worked closely with all affected business sectors during development of the system. In addition to a concerted communication programme, there have been regular “user group” meetings with individual businesses and trade federations as well as nationwide “road shows”. EMCS will provide a number of potential cost and efficiency savings to businesses, from which small businesses should benefit.

Legal Aid

The proposal will not introduce new criminal sanctions or civil penalties, thus it will not impact upon the workload for the courts and Legal Aid.

Human rights

The proposal is compatible with the European Convention on Human Rights.

Carbon Assessment

The proposal will not significantly impact on carbon emissions.

Sustainable development

The proposal is within the environmental limits and promotes good governance and sound science.

Other environment

The proposal will not be vulnerable to the predicted effects of climate change. It will not impact on air quality, water pollution or waste management. It will not change the appearance of the landscape or townscape, pose a flood risk or change habitat and wildlife. It will not affect the number of people exposed to noise or the levels of exposure.

The health impact assessment (HIA)

The policy will not have a significant impact on human health or lifestyle. It will not change the demand on health and social care services.

HMRC has considered the following remaining impact and equality tests and has concluded that these areas are not significantly impacted by these reforms:

Rural proofing

Disability

Gender

Race

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

| Type of testing undertaken | <i>Results in Evidence Base?</i> | <i>Results annexed?</i> |
|----------------------------|----------------------------------|-------------------------|
| Competition Assessment | Yes | No |
| Small Firms Impact Test | Yes | No |
| Legal Aid | Yes | No |
| Sustainable Development | Yes | No |
| Carbon Assessment | Yes | No |
| Other Environment | Yes | No |
| Health Impact Assessment | Yes | No |
| Race Equality | Yes | No |
| Disability Equality | Yes | No |
| Gender Equality | Yes | No |
| Human Rights | Yes | No |
| Rural Proofing | Yes | No |

Annexes

HMRC is subject to quantified targets to reduce one aspect of compliance costs in particular; the admin burden on business of disclosing information to HMRC or to third parties. This burden is assessed through the 'Standard Cost Model', an activity-based costing model which identifies what activities a business has to do to comply with HMRC's obligations, and which estimates the cost of these activities, including agent fees and software costs.

The 'Standard Cost Model' (SCM) has been used to derive an estimate of the costs to business of complying with HMRC obligations to disclose information to HMRC or to third parties. The SCM considers which activities a business has to do to comply with an HMRC obligation, how many businesses have to comply, and how often they need to comply. The SCM considers the burdens applying to different sizes of business.

The SCM estimates the costs of using agents; the costs of undertaking work in-house; and the costs of actually transmitting the information. The SCM does not consider one-off costs or transitional costs. The SCM does not consider costs which a business would have incurred anyway had the relevant HMRC obligation not existed. It considers the costs which apply to a normally efficient business and the costs to businesses which comply. The SCM does not consider wider compliance cost issues, such as the costs of business uncertainty, cash flow costs, or the costs of deciding whether or not to do something.

The Impact Assessment template requires SCM figures to be presented in May 2005 prices, as admin burden reduction targets relate to a May 2005 baseline. The Impact Assessment also uplifts those figures to current day prices.

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> |

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| 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. | Customs and Excise Management Act 1979, The Excise Goods (Exports Shops) Regulations 2000 |
| 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. | Customs and Excise Management Act 1979, The Excise Goods (Exports Shops) Regulations 2000 |

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| 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 |

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| 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, 47 |
| 25(3) | Prescribes obligations of the authorities of the Member State of dispatch to forward the report of export to the consignor. | 46, 47 |

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| 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) |
| 30 | Provides that Member States may simplify the procedures for movements which take place entirely on their territory. | 62, 63 |
| 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 | 13(1)(3), 13(5) (definition of “own use”) |

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| | one Member State to another by him, shall be charged only in the Member State in which the goods are acquired. | |
| 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) |
| 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 | 3(1) (definition of " <i>accompanying document</i> "), 65,68 |

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| | Committee procedures shall adopt measures establishing the form and content of the accompanying document. | |
| 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 competent authorities. Establishes that where the vendor has not fulfilled certain obligations then the person liable shall be the consignee. | 16(2), (3) |
| 36(4) | Imposes obligations upon the vendor or tax representative. Provides that Member States concerned may simplify these requirements on the basis of bilateral agreements. | 77, 78 |
| 36(5) | 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. | Excise Goods (Drawback) Regulations 1995 |

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| 36(6) | 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. | Not applicable |
| 37(1) | 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. Provides that it is for each Member state to make its own rules and conditions under which losses referred to in paragraph are determined. | 21 |
| 37(2) | Provides that each Member State may lay down its own rules and conditions under which the losses referred to in paragraph 1 are determined. | 21 |
| 38(1)(2) | 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. | 84 |
| 38(3) | Defines the person(s) liable to pay the excise duty that has become chargeable. 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. 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). | 17(2)(3)(4) 85 |
| 38(4) | Defines, "irregularity" for the purposes of this Article. | 83(b) |
| 39(1) | Establishes that Member States may use tax or fiscal markings on its territory. | Duty Stamps Regulations 2006 |
| 39(2) | 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. 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. | Duty Stamps Regulations 2006 |
| 39(3) | 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. Establishes that where such markings or marks are 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. 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. | Duty Stamps Regulations 2006 |
| 39(4) | Establishes that tax markings or national identification marks as set out in paragraph 1 shall be valid in the | Duty Stamp Regulations 2006 |

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| | Member State which issued them. However, there may be mutual recognition of these markings or marks between Member States. | |
| 40(1) | 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. Establishes the procedures to be followed by small producers when they carry out intra-Community transactions. | 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 | 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. Establishes that the Member States concerned shall notify those measures to the Commission, which shall inform the other Member States. | Not applicable |
| 43 | Provides for Committee procedures. | No transposition required |
| 44 | Establishes obligations upon the Committee. | No transposition required |
| 45 | 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. 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. Establishes that the reports set out in paragraphs 1 and 2 shall be based on the information provided by the Member States. | No transposition required |
| 46 | 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. 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. | 40(2), 52(2) |

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| | <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> | |
| 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 |