

2010 No. 594

CHANNEL TUNNEL

**The Channel Tunnel (Alcoholic Liquor and Tobacco Products)
Order 2010**

<i>Made</i> - - - -	<i>3rd March 2010</i>
<i>Laid before Parliament</i>	<i>5th March 2010</i>
<i>Coming into force</i> - -	<i>1st April 2010</i>

The Commissioners for Her Majesty's Revenue and Customs make the following Order in exercise of the powers conferred by sections 11(1), (2), and (3), 13(1) and (2), and 34(4) of the Channel Tunnel Act 1987(a):

Citation and commencement

1. This Order may be cited as the Channel Tunnel (Alcoholic Liquor and Tobacco Products) Order 2010 and comes into force on 1st April 2010.

Controls

2. The Excise Goods (Holding, Movement and Duty Point) Regulations 2010(b) apply in a control zone with the modifications indicated in the Schedule.

Penalties, assessments and appeals

3. Paragraph 4 of Schedule 41 to the Finance Act 2008(c) (civil penalty for handling goods subject to unpaid excise duty) applies to goods in a control zone with the modifications indicated in the Schedule.

4. For the purposes of this Order, the following enactments apply to events involving goods in a control zone in the same way that they apply to events involving goods in the United Kingdom—

- (a) Part 1 Chapter II of the Finance Act 1994(d) (appeals and penalties);

(a) 1987 c. 53; section 11 provides that an order may be made by the appropriate Minister for the purposes of a matter stated in the section. Section 13(1) provides that the “appropriate Minister” is the Minister in charge of any Government department concerned with that matter and section 13(2) provides that where the Commissioners of Customs and Excise are concerned with any matter subsection (1) shall apply as if the references to the Minister in charge of any Government department concerned with that matter were or included references to those Commissioners. The functions of the Commissioners of Customs and Excise were transferred to the Commissioners for Her Majesty's Revenue and Customs by section 5 of the Commissioners for Revenue and Customs Act 2005 (c. 11). Section 50(1) of that Act provides that a reference to the Commissioners of Customs and Excise shall be taken as a reference to the Commissioners for Her Majesty's Revenue and Customs.

(b) S.I. 2010/593

(c) 2008 c. 9.

(d) 1994 c. 9.

- (b) section 100J of the Customs and Excise Management Act 1979(a).

Interpretation

5. For the purposes of this Order “control zone” bears the same meaning as in article 5(2)(a) of the Channel Tunnel (Customs and Excise) Order 1990(b).

Revocations and savings

6.—(1) Subject to paragraph (2), the Channel Tunnel (Alcoholic Liquors and Tobacco Products) Order 2003(c) and the Channel Tunnel (Alcoholic Liquors and Tobacco Products) (Amendment) Order 2004(d) are revoked.

(2) Article 2(e) of, and paragraphs 7, 8, 9, 11 and 12 of the Schedule to, the Channel Tunnel (Alcoholic Liquors and Tobacco Products) Order 2003 shall continue to apply where the Excise Goods (Accompanying Documents) Regulations 2002 continue to apply to movements of goods initiated under cover of the formalities set out in Article 18 of Council Directive 92/12/EEC(e).

*Dave Hartnett
Bernadette Kenny*

3rd March 2010

Two of the Commissioners for Her Majesty’s Revenue and Customs

SCHEDULE

Regulations 2 and 3

The Excise Goods (Holding, Movement and Duty Point) Regulations 2010

1. In regulation 3(1) of the Excise Goods (Holding, Movement and Duty Point) Regulations 2010—
 - (a) after the meaning given for “computerised system”, regard there as being—

““control zone” means a control zone to which article 5(2)(a) of the Channel Tunnel (Customs and Excise) Order 1990 refers;”;
 - (b) regard the meaning of “excise goods” as “goods falling within Article 1(1) of the Directive (except energy products and electricity covered by Directive 2003/96/EC)”;
 - (c) regard the meaning of “excise duty” in relation to the United Kingdom as including “other than the Hydrocarbon Oil Duties Act 1979” after the word “goods”.
2. After regulation 3(4) of those Regulations, regard there as being—

“(5) Any reference in these Regulations to “import”, “importation”, “imported” or “importer” includes such reference as is appropriate for their application to, or in the case of, goods or products that are treated as being imported into the United Kingdom by article 5(2)(a) of the Channel Tunnel (Customs and Excise) Order 1990.”.
3. In regulation 5 of those Regulations, regard the words “United Kingdom” as being followed by “or a control zone”.
4. In regulation 6 of those Regulations, regard—
 - (a) in paragraph (1)—
 - (i) the words “United Kingdom” as being followed by “or a control zone”; and

(a) 1979 c. 2; section 100J was inserted by Schedule 4 to the Finance Act 1991 (c. 31) and amended by paragraph 4 of Part I of Schedule 4 to the Finance Act 1994 (c. 9).
(b) S.I. 1990/2167; relevant amending instruments are S.I. 1993/1813, 1994/1405.
(c) S.I. 2003/2758.
(d) S.I. 2004/1004.
(e) OJ L 076, 23.03.92, p 1.

- (ii) sub-paragraph (d) as omitted;
 - (b) paragraphs (2) and (3) as omitted.
- 5. In regulation 7(1)(h) of those Regulations, regard the words “United Kingdom” as being followed by “or a control zone”.
- 6. In regulation 13 of those Regulations—
 - (a) in paragraph (1), regard the words “United Kingdom” (in both places) as being followed by “or a control zone”;
 - (b) in paragraph (3)(b) regard—
 - (i) the words “United Kingdom” as being followed by “or a control zone”;
 - (ii) the words “another Member State” as being followed by “(including the French Republic)”.
- 7. In regulation 19(6)(c) of those Regulations, regard the words “United Kingdom” as being followed by “or a control zone”.
- 8. In regulation 67(1) of those Regulations, regard the words “another Member State” as being followed by “(including the French Republic)”.
- 9. After regulation 82 of those Regulations, regard there as being—
 - “82A. For the purposes of regulations 80(1)(b), (2), (3) and 82(1)(a), “United Kingdom” includes a control zone.”.
- 10. After regulation 84(3) of those Regulations, regard there as being—
 - “(4) For the purposes of this regulation, “United Kingdom” includes a control zone.”.

The Finance Act 2008

- 11. After paragraph 4(2) of Schedule 41 to the Finance Act 2008, regard there as being—
 - “(3) In relation to a case involving goods that are treated as being imported into the United Kingdom by virtue of an order made under sections 11 and 13 of the Channel Tunnel Act 1987, sub-paragraph (1) shall apply and be construed as if —
 - (a) the excise duty point for those goods had been passed, and
 - (b) those goods were chargeable with a duty of excise.
 - (4) Sub-paragraph (3) does not apply to goods meeting the description of anything chargeable with duty under the Hydrocarbon Oil Duties Act 1979.”.

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(a).

This Order comes into force on 1st April 2010 and replaces two earlier Orders(b).

Article 2 and paragraphs 1 to 8 of the Schedule provide suitable modifications for the application of the Excise Goods (Holding, Movement and Duty Point) Regulations 2010 (S.I. 2010/593) in a control zone to events involving alcoholic liquor and tobacco products.

Articles 3 and 4, and paragraph 9 of the Schedule, make corresponding provision for the penalty, forfeiture, assessment and appeal provisions relating to those Regulations and to conduct involving the handling of goods subject to unpaid excise duty.

A full and final Impact Assessment has not been produced for this instrument as a negligible impact on the private or voluntary sectors is foreseen.

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- (a) Article 5(2)(a) of the Channel Tunnel (Customs and Excise) Order 1990 (S.I. 1990/2167); relevant amending instruments are S.I. 1993/1813, 1994/1405.
(b) Article 6 revokes S.I. 2003/2758 and S.I. 2004/1004.

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