
STATUTORY INSTRUMENTS

2021 No. 1156

The Free Zones (Customs, Excise and Value Added Tax) Regulations 2021

PART 3

EXCISE GOODS

Amendment of the Excise Goods (Holding, Movement and Duty Point) Regulations 2010

7.—(1) The Excise Goods (Holding, Movement and Duty Point) Regulations 2010(1) are amended as follows.

(2) After Part 13 (irregularities in the course of a movement of excise goods under a duty suspension arrangement) insert—

“PART 14A

EXCISE GOODS IN FREE ZONES

Interpretation and application of Part 14A

85A.—(1) In this Part—

“authorised excise free zone business” means a person who is authorised as a free zone business who is also approved to operate a free zone excise warehouse in accordance with regulation 85C;

“free zone” means an area in the United Kingdom designated as a special area for customs purposes under section 100A of CEMA 1979;

“free zone business” means a person authorised to declare goods for a free zone procedure or to carry out a free zone activity under the Customs (Special Procedures and Outward Processing) (EU Exit) Regulations 2018(2);

“free zone activity” means an activity falling within the description in regulation 3(2) (c) of the Customs (Special Procedures and Outward Processing) (EU Exit) Regulations 2018;

“free zone duty representative” means a revenue trader who has been approved to act as agent for overseas revenue traders under regulation 85D(3);

“free zone excise warehouse” means a place of security for the deposit, keeping and securing of excise goods in a free zone procedure;

“free zone procedure” means a storage procedure described in paragraph 2(1)(b) of Schedule 2 to the Taxation (Cross-border Trade) Act 2018;

(1) [S.I. 2010/593](#), relevant amending instruments are [S.I. 2019/13](#), [S.I. 2019/474](#) and [S.I. 2020/1559](#).

(2) [S.I. 2018/1248](#); relevantly amended by these Regulations.

“free zone registered owner” means a revenue trader who has been approved to deposit relevant excise goods that they own in a free zone excise warehouse under regulation 85D(2);

“overseas revenue trader” means a revenue trader who does not have a place of business in the United Kingdom;

“relevant excise goods” means excise goods other than—

- (a) hydrocarbon oil within the meaning of section 1 of the Hydrocarbon Oil Duties Act 1979(3);
- (b) bioethanol within the meaning of section 2AB of the Hydrocarbon Oil Duties Act 1979;
- (c) special energy products within the meaning of regulation 2 of the Excise Warehousing (Energy Products) Regulations 2004(4);
- (d) wine and made-wine within the meaning of section 1(4) and (5) of the Alcohol Liquor Duties Act 1979(5);

“revenue trader” has the meaning given in section 1 of the CEMA 1979.

- (2) This Part does not apply in respect of excise goods in Northern Ireland.

Holding excise goods in a free zone etc.

85B.—(1) Excise goods declared for a free zone procedure must be deposited in a free zone excise warehouse operated by an authorised excise free zone business.

(2) Excise goods that are processed goods within the meaning of regulation 2(1) of the Customs (Special Procedures and Outward Processing) (EU Exit) Regulations 2018 and have been processed in accordance with a free zone procedure must be held in a free zone excise warehouse.

(3) Relevant excise goods must not be kept in a free zone excise warehouse for more than seventy-two hours (excluding bank holidays) from the time of deposit unless the owner of those goods is an authorised excise free zone business, a revenue trader who is a free zone registered owner or an overseas revenue trader represented by a free zone duty representative.

(4) The Commissioners may exempt a person from complying with paragraph (1), (2) or (3) if they consider that it is necessary to ensure the proper handling of excise goods in a free zone procedure having regard to the type of excise goods being declared or kept by the specified person and the facilities at the location concerned.

(5) Any exemption authorised under paragraph (4) must be given by the Commissioners in writing to the specified person to whom the exemption is to apply.

Authorisation to operate a free zone excise warehouse

85C.—(1) Any application to authorise a free zone business to operate a free zone excise warehouse must be included in an application for authorisation to carry out an activity in a free zone under the Customs (Special Procedures and Outward Processing) (EU Exit) Regulations 2018.

-
- (3) 1979 c. 5; section 2AB was inserted by section 10 of the Finance Act 2004 (c. 12), there are other amendments but none are relevant.
 - (4) S.I. 2004/2064; amended by S.I. 2017/976, there are other amendments but none are relevant.
 - (5) 1979 c. 4; as amended by paragraph 1 of Schedule 1 to the Finance Act 1988 (c. 39), section 1 of the Finance Act 1995 (c. 4), section 5 of the Finance Act 1997 (c. 16), and paragraph 51 of Schedule 39 to the Finance Act 2012 (c. 14), there are other amendments but none are relevant.

(2) The Commissioners may grant an application under paragraph (1) subject to such terms and conditions relating to storage conditions, permitted operations, record keeping, stock taking and other relevant matters as they think appropriate having regard to the nature of goods to be stored and the activities to be carried out in the warehouse concerned.

(3) A free zone business authorised under paragraph (1) to operate a free zone excise warehouse shall be known for the purposes of this Part as “an authorised excise free zone business”.

(4) An application under paragraph (1) may be made as a request for a variation of an existing free zone business approval under regulation 91 of the Customs (Import Duty) (EU Exit) Regulations 2018(6).

(5) The Commissioners may specify general terms and conditions applicable to authorised excise free zone businesses in a public notice.

(6) The Commissioners may at any time for reasonable cause revoke or vary the terms of approval of an authorised excise free zone business.

Approval of owners and duty representatives: terms and conditions

85D.—(1) The Commissioners may approve a revenue trader who wishes in the course of their business to deposit relevant excise goods that they own in a free zone excise warehouse subject to such terms and conditions regarding record keeping and other relevant matters as they think appropriate.

(2) A revenue trader who has been so approved shall be known as “a free zone registered owner”.

(3) The Commissioners may approve a revenue trader to act as agent for overseas revenue traders who wish to deposit relevant excise goods that they own in a free zone excise warehouse subject to such terms and conditions as the Commissioners think appropriate.

(4) A revenue trader who has been so approved shall be known as “a free zone duty representative”.

(5) The Commissioners may specify general terms and conditions applicable to free zone registered owners and free zone duty representatives in a public notice.

(6) The Commissioners may at any time for reasonable cause revoke or vary the terms of approval of a free zone registered owner or free zone duty representative.

Excise duty points and liability to pay

85E.—(1) If excise goods are deposited, kept, dealt with, removed or destroyed in a free zone excise warehouse in contravention of any of the terms and conditions imposed by or under regulations 85B, 85C or 85D—

(a) the goods are treated as having been imported and an excise duty point arises under regulation 6(1)(d) at the time the contravention occurred or first came to the attention of the Commissioners, and

(b) paragraphs (2) and (3) apply.

(2) The person liable to pay the duty when an excise duty point arises under paragraph (1) is the authorised excise free zone business.

(3) Where more than one person is involved in the contravention leading to the excise duty point under paragraph (1), each person is jointly and severally liable to pay the duty.

(6) As applied by regulation 3(3) of S.I 2018/1249.

(4) Where an excise duty point has arisen under paragraph (1) due to a contravention of regulation 85B(3) (keeping excise goods in a free zone excise warehouse for more than seventy-two hours) the authorised excise free zone business who is liable for the duty is relieved from liability to pay that duty if, immediately following the occurrence of the excise duty point, that person abandons those goods to the Commissioners.

(5) Where excise goods are abandoned to the Commissioners in accordance with paragraph (4) the person liable to pay the duty at the excise duty point is the owner of the goods at that excise duty point or (where applicable) the free zone duty representative.

Application of the Finance Act 1994 to this part

85F.—(1) The provisions of Part 1, Chapter 2 (appeals and penalties) of the Finance Act 1994 (“FA 1994”) apply in relation to contraventions of any requirements imposed by or under regulations 85B, C or D with the following modifications.

(2) A contravention referred to in paragraph (1) is to be treated as a default falling within section 12(2) FA 1994 (assessments).

(3) A decision whether or not and in which respects any person is to be or is to continue to be approved as an authorised excise free zone business under regulation 85C, a free zone registered owner under regulation 85D(1) or a free zone duty representative under regulation 85D(3), is to be treated as an “approval decision” under section 16A(2) of FA 1994.”.