
STATUTORY INSTRUMENTS

1992 No. 2790

STATISTICS OF TRADE

The Statistics of Trade (Customs and Excise) Regulations 1992

<i>Made</i>	- - - -	<i>6th November 1992</i>
<i>Laid before Parliament</i>		<i>10th November 1992</i>
<i>Coming into force</i>	- -	<i>1st December 1992</i>

The Commissioners of Customs and Excise, in exercise of the powers conferred on them by section 2(2) of the European Communities Act 1972(1), being the department designated(2) for the purpose of that subsection in relation to the receipt, regulation and control of statistics relating to the trading of goods between the United Kingdom and other Member States of the Communities and of all other powers enabling them in that behalf, hereby make the following Regulations:—

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Statistics of Trade (Customs and Excise) Regulations 1992 and shall come into force on 1st December 1992.

(2) In these Regulations—

- “the Act” means the Customs and Excise Management Act 1979(3);
- “arrival stage” has the meaning assigned to it by Article 28 of the Principal Regulation;
- “assimilation threshold” has the meaning assigned to it by Article 28 of the Principal Regulation;
- “authorised person” means any person acting under the authority of the Commissioners;
- “dispatch stage” has the meaning assigned to it by Article 28 of the Principal Regulation;
- “document” includes in addition to a document in writing—
 - (a) any photograph;
 - (b) any disc, tape, sound track or other device in which sounds or other data (not being visual images) are recorded so as to be capable (with or without the aid of some other equipment) of being reproduced therefrom; and
 - (c) any film, negative, tape or other device in which one or more visual images are recorded so as to be capable (as aforesaid) of being reproduced therefrom;

(1) 1972 c. 68.
(2) S.I.1992/707.
(3) 1979 c. 2.

“film” includes a microfilm;

“goods” has the meaning assigned to it by Article 2 of the Principal Regulation;

“Intrastat system” has the meaning assigned to it by Article 6 of the Principal Regulation;

“Member State” has the meaning assigned to it by Article 2 of the Principal Regulation;

“periodic declaration” means the declaration referred to in Article 13 of the Principal Regulation or the periodic tax declaration referred to in Article 28(4) of the Principal Regulation;

“Principal Regulation” means Council Regulation (EEC) No. 3330/91(4);

“reference period” means the period specified in Article 20(7) of the Principal Regulation;

“register of intra-Community operators” means the register compiled by the Commissioners in accordance with Article 10 of the Principal Regulation;

“supplementary declaration” means the periodic declaration which a person on the register of intra-Community operators is required to submit to the Commissioners apart from any periodic declaration which is also a “return” for the purposes of regulation 58 of the Value Added Tax (General) Regulations 1985(5);

“threshold Regulation” means Commission Regulation (EEC) No. 2256/92(6).

(3) In these Regulations, unless defined above, words and expressions shall have the meanings assigned to them by section 1 of the Act.

Application of Intrastat System

2.—(1) The Intrastat system shall be under the care and management of the Commissioners.

(2) The Commissioners shall be the competent national department to whom periodic declarations shall be sent in accordance with Article 13 of the Principal Regulation.

Supplementary Declarations

3.—(1) For the purposes of the application of Article 9 of the Threshold Regulation—

(a) the assimilation threshold at the arrival stage shall be £135,000; and

(b) the assimilation threshold at the dispatch stage shall be £135,000.

(2) Any supplementary declaration shall be furnished—

(a) at such place as the Commissioners shall direct; and

(b) subject to paragraph (3) below, no later than the tenth day following the end of the reference period to which it relates.

(3) For the purpose of calculating the period following the end of the reference period mentioned in paragraph (2) above no account shall be taken of any day upon which the place designated by the Commissioners for receipt of supplementary declarations is not open to the public for business.

4.—(1) Subject to paragraph (4) below, unless a supplementary declaration is made in a form prescribed for the purpose in accordance with Article 12(1) of the Principal Regulation it shall be made in the form set out in the Schedule to these Regulations as is appropriate in the circumstances of the case.

(4) OJ No. L316, 16.11.1991, p.1.

(5) S.I. 1985/886; relevant amending instrument is S.I. 1986/71.

(6) OJ No. L219, 4.8.92, p.40.

(2) Supplementary declarations may be furnished to the place specified by the Commissioners in accordance with paragraph (3) of regulation 3 above by post or in person when that place is open to the public for business.

(3) Supplementary declarations sent by post shall not be presumed to have been furnished without proof of posting.

(4) The Commissioners may—

(a) on the application of a person who is mentioned in the register of intra-Community operators; or

(b) without application in such circumstances as they may direct,

permit, subject to such conditions as they deem necessary or expedient, any person to furnish supplementary declarations by electronic means.

(5) The Commissioners may at any time for reasonable cause revoke or vary any permission given under paragraph (4) above.

Duty to keep and retain records

5.—(1) Every person who is mentioned in the register of intra-Community operators, shall—

(a) keep a copy of every periodic declaration he makes or which is made on his behalf;

(b) keep copies of all documents which he or anyone acting on his behalf used for the purpose of compiling his periodic declarations;

(c) produce or cause to be produced periodic declarations and documents mentioned in paragraphs (a) and (b) above when required to do so by an authorised person;

(d) permit an authorised person exercising the powers mentioned in paragraph (c) above to make copies or extracts of those periodic declarations and documents or to remove them for a reasonable period.

(2) The Commissioners may require periodic declarations and documents mentioned in paragraph (1) above to be preserved for such period not exceeding six years as they may require.

(3) For the purpose of exercising any powers granted by this regulation an authorised person may at any reasonable time enter premises used in connection with the carrying on of a business by a person mentioned in the register of intra-Community operators or another person compiling periodic declarations on his behalf.

Offences and evidence

6.—(1) If any person required to furnish a supplementary declaration in accordance with the Intrastat system fails to do so he shall be liable on summary conviction to a penalty not exceeding level 4 on the standard scale⁽⁷⁾.

(2) Any failure to furnish a supplementary declaration includes a failure to furnish such supplementary declaration in the form and manner required by these Regulations, or the Principal Regulation.

(3) Subject to paragraph (4) below, for the purpose of the rules against charging more than one offence in the same information—

(a) failure to furnish one or more supplementary declarations of trade in goods dispatched to other Member States for any given reference period shall constitute one offence; and

(7) The levels of the penalties on the standard scale currently in force are set out in section 17 of the Criminal Justice Act 1991 (c. 53) (England and Wales and Scotland) and S.R. (N.I.) 1984 No. 253 (Northern Ireland).

(b) failure to furnish one or more supplementary declarations of trade in goods received from other Member States for any given reference period shall constitute one offence.

(4) If the failure in respect of which a person is convicted under paragraph (1) above is continued after the conviction he shall be guilty of a further offence and may on summary conviction thereof be punished accordingly.

(5) If, following a request made by the Commissioners in accordance with Article 9(2) of the Principal Regulation, any person is required to provide information and fails to do so in accordance with the conditions set out in the request for such information he shall be liable on summary conviction to a penalty not exceeding level 4 on the standard scale.

(6) If the failure in respect of which a person is convicted under paragraph (5) above is continued after the conviction he shall be guilty of a further offence and may on summary conviction thereof be punished accordingly.

(7) In any proceedings for an offence mentioned in this regulation it shall be a defence for the accused to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence by himself, any person under his control or any person to whom he transferred the task of providing information in accordance with Article 9(1) of the Principal Regulation.

7.—(1) In any legal proceedings, whether civil or criminal, where any question arises concerning a document furnished or created for the purposes of the Intrastat system this regulation shall apply.

(2) Where any document does not consist of legible visual images its form and content may be proved in any proceedings by production of a copy of the information in the form of legible visual images.

8.—(1) A certificate of the Commissioners—

- (a) that a person was or was not a party responsible for providing information in accordance with the Intrastat system;
- (b) that a person was or was not mentioned in the register of intra-Community operators;
- (c) that any information required for purposes connected with the Intrastat system has not been given or had not been given at any date;
- (d) that a copy produced in accordance with paragraph (2) of regulation 7 above is, both as to form and content, identical to that received by electronic means in accordance with paragraph (4) of regulation 4 above

shall be sufficient evidence of that fact until the contrary is proved.

(2) A photograph of any document furnished to the Commissioners for the purposes of these Regulations and certified by them to be such a photograph shall be admissible in any proceedings, whether civil or criminal, to the same extent as the document itself.

(3) Any document purporting to be a certificate under paragraph (1) or (2) above shall be deemed to be such a certificate until the contrary is proved.

Access to recorded information

9.—(1) Where, on an application by an authorised person, a justice of the peace or, in Scotland, a justice (within the meaning of section 462 of the Criminal Procedure (Scotland) Act 1975(8)) is satisfied that there are reasonable grounds for believing—

- (a) that an offence in connection with the Intrastat system is being, has been or is about to be committed, and

- (b) that any recorded information (including any document of any nature whatsoever) which may be required as evidence for the purpose of any proceedings in respect of such an offence is in the possession of any person,

he may make an order in accordance with this regulation.

(2) An order made in accordance with this regulation is an order that the person who appears to the justice to be in possession of the recorded information to which the application relates shall—

- (a) give an authorised person access to it, and
- (b) permit an authorised person to remove and take away any of it which he reasonably considers necessary,

not later than the end of the period of seven days beginning on the date of the order or the end of such longer period as the order may specify.

(3) The reference in sub-paragraph (2)(a) above to giving an authorised person access to the recorded information to which the application relates includes a reference to permitting the authorised person to take copies of it or to make extracts from it.

(4) Where the recorded information consists of information contained in a computer, an order made in accordance with this regulation shall have effect as an order to produce and, if the authorised person wishes to remove it, in a form in which it can be removed.

10.—(1) An authorised person who removes anything in the exercise of a power conferred by or under regulation 9 above shall, if so requested by a person showing himself—

- (a) to be the occupier of premises from which it was removed, or
 - (b) to have had custody or control of it immediately before the removal,
- provide that person with a record of what he removed.

(2) The authorised person shall provide the record within a reasonable time from the making of the request for it.

(3) Subject to paragraph (7) below, if a request for permission to be granted access to anything which—

- (a) has been removed by an authorised person, and
- (b) is retained by the Commissioners for the purpose of investigating an offence,

is made to the officer in overall charge of the investigation by a person who had custody or control of the thing immediately before it was so removed or by someone acting on behalf of such a person, the officer shall allow the person who made the request access to it under the supervision of an authorised person.

(4) Subject to paragraph (7) below, if a request for a photograph or copy of any such thing is made to the officer in overall charge of the investigation by a person who had custody or control of the thing immediately before it was so removed, or by someone acting on behalf of such a person, the officer shall—

- (a) allow the person who made the request access to it under the supervision of an authorised person for the purpose of photographing it or copying it; or
- (b) photograph or copy it, or cause it to be photographed or copied.

(5) Where anything is photographed or copied under sub-paragraph (4)(b) above the photograph or copy shall be supplied to the person who made the request.

(6) The photograph or copy shall be supplied within a reasonable time from the making of the request.

(7) There is no duty under this regulation to grant access to, or to supply a photograph or copy of, anything if the officer in overall charge of the investigation for the purposes of which it was removed has reasonable grounds for believing that to do so would prejudice—

- (a) that investigation;
- (b) the investigation of an offence other than the offence for the purposes of the investigation of which the thing was removed; or
- (c) any criminal proceedings which may be brought as a result of—
 - (i) the investigation of which he is in charge, or
 - (ii) any such investigation as is mentioned in sub-paragraph (b) above.

(8) Any reference in this regulation to the officer in overall charge of the investigation is a reference to the person whose name and address are endorsed on the order concerned as being the officer so in charge.

11.—(1) Where, on an application made as mentioned in paragraph (2) below, the appropriate judicial authority is satisfied that a person has failed to comply with a requirement imposed by regulation 10 above, the authority may order that person to comply with the requirement within such time and in such manner as may be specified in the order.

- (2) An application under paragraph (1) above shall be made
 - (a) in the case of a failure to comply with any of the requirements imposed by paragraphs (1) and (2) of regulation 10 above, by the occupier of the premises from which the thing in question was removed or by the person who had custody or control of it immediately before it was so removed, and
 - (b) in any other case, by the person who has such custody or control.
- (3) In this regulation “the appropriate judicial authority” means—
 - (a) in England and Wales, a magistrates' court;
 - (b) in Scotland, the sheriff; and
 - (c) in Northern Ireland, a court of summary jurisdiction, as defined in Article 2(2)(a) of the Magistrates' Court (Northern Ireland) Order 1981(9).

(4) In England and Wales and Northern Ireland, an application for an order under this regulation shall be made by way of complaint; and sections 21 and 42(2) of the Interpretation Act (Northern Ireland) 1954(10) shall apply as if any reference in those provisions to any enactment included a reference to this regulation.

Supplementary

12. Where in connection with the operation of the Intrastat system a person is convicted of an offence contrary to section 167(1) or section 168(1) of the Act, section 167(2)(a)(11) and section 168(2)(a) of the Act shall have effect as if, in each case, for the words “6 months” there were substituted the words “3 months”.

(9) S.I. 1981/1675 (N.I. 26).

(10) 1954 c. 32 (N.I.).

(11) The provision as to penalty in section 167(2) was amended in its application to England and Wales by the Criminal Justice Act 1982 (c. 48), section 46; in its application to Scotland by the Criminal Procedure (Scotland) Act 1975 (c. 21), section 289G (which was inserted by the Criminal Justice Act 1982, section 54); and in its application to Northern Ireland by S.I. 1984/703 (N.I. 3).

New King's Beam House 22 Upper Ground
London SE1 9PJ
6th November 1992



M. J. Eland
Commissioner of Customs and Excise

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SCHEDULE

Regulation 4

The forms of Supplementary Declaration are set out on the following pages.

INTRA-EC TRADE STATISTICS				Supplementary Declaration	
Tractor VAT No.		Branch ID		Date of Issue	
Agent VAT No.		Branch ID		 	
ARRIVALS				Period	No of Items
1. Commodity code	2. Value's Starting	3. Country of origin	4. Nature of transaction	5. Net mass (kg)	
6. Supplementary code	7. Country of origin	8. Mode of transport	9. Country of origin	10. No. of consignments	11. Trader's reference
1. Commodity code	2. Value's Starting	3. Delivery terms	4. Nature of transaction	5. Net mass (kg)	
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All this information return to: HM Customs and Excise - Land and Seafrontal Office Port Security Enforcement House, 27 Victoria Ave Southampton, SO8 Essex, SS8 9AL				Place and date Name of signatory (in BLOCK LETTERS) Signature	
This declaration made by me/for me/for the SOB, is/are made/are made on the period/s...					

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INTRASTAT TRADE STATISTICS			Supplementary Declaration																				
Trader VAT No.		Branch ID		Official Use Only																			
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<p>When complete return to HM Customs and Excise, Central Statistical Office, Court Section, Portobello House, 17 Victoria Ave, Colindale, London, NW9 1UH.</p> <p>Your declaration must be received by the CBS Working Unit after the period ends.</p>		Place and date Name of signatory (in BLOCK LETTERS) Signature																					

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INTRA-EC TRADE STATISTICS			Supplementary Declaration (Continuation Sheet)	
Trader: VAT No.		Branch: C		City: Use City
DISPATCHES			Period:	Sheet No. of
1. Commodity code		2. Value Ex-Works		3. Delivery terms
4. Nature of transaction		5. Net mass (kg)		
6. Supplementary info		7. Country of destination		8. Mode of transport
9. No. of consignments		10. Trader's reference		
1. Commodity code		2. Value Ex-Works		3. Delivery terms
4. Nature of transaction		5. Net mass (kg)		
6. Supplementary info		7. Country of destination		8. Mode of transport
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Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

From 1 January 1993 the collection of statistics relating to the trading of goods between Member States will be governed by Council Regulation (EEC) No. 3330/91 (OJ No. L316, 16.11.91, p. 1). From that date such statistics will be compiled by a new statistical collection system known as “Intrastat”.

All VAT registered traders who are engaged in the trading of goods between Member States will be required to complete two boxes on their periodic VAT Return to provide the total value of goods dispatched to, and received from, other Member States. In addition, traders whose annual value of trade with other Member States exceeds a threshold of £135,000 for trade in goods dispatched, or for goods received, will be required to provide additional statistical information in a supplementary declaration.

These Regulations place the responsibility for the care and management of the Intrastat system, as it applies to trade in goods with other Member States, with the Commissioners of Customs and Excise. They establish the Commissioners as the competent national department to whom supplementary declarations must be sent, and permit the Commissioners to take proceedings for non-compliance.