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STATUTORY INSTRUMENTS

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**1992 No. 3135**

**CUSTOMS AND EXCISE**

**The Excise Goods (Holding, Movement,  
Warehousing and REDS) Regulations 1992**

<i>Made</i>	- - - -	<i>10th December 1992</i>
<i>Laid before Parliament</i>		<i>14th December 1992</i>
<i>Coming into force</i>	- -	<i>1st January 1993</i>

The Commissioners of Customs and Excise, in exercise of the powers conferred upon them by sections 93, 100G, 100H and 127A of the Customs and Excise Management Act 1979(1), sections 1 and 2 of the Finance (No. 2) Act 1992(2), and of all other powers enabling them in that behalf, hereby make the following Regulations:

**PART I**  
**PRELIMINARY**

**Citation and commencement**

1. These Regulations may be cited as the Excise Goods (Holding, Movement, Warehousing and REDS) Regulations 1992 and shall come into force on 1 January 1993.

**Interpretation**

2.—(1) In these Regulations except where the context requires—

“the Management Act” means the Customs and Excise Management Act 1979;

“the 1992 Act” means the Finance (No. 2) Act 1992;

“accompanying document” means a document issued in accordance with regulation 11(1) below;

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(1) 1979 c. 2; section 93 was amended by the Finance (No. 2) Act 1992 (c. 48), section 3 and Schedule 2, paragraph 2; sections 100G and 100H were inserted by the Finance Act 1991 (c. 31) section 11 and Schedule 4 and amended by the Finance (No. 2) Act 1992 (c. 48) section 1 and Schedule 1 paragraph 6 and section 3 and Schedule 2 paragraph 4; section 127A was inserted by the Finance Act 1983 (c. 28), section 6 and amended by the Finance (No. 2) Act 1992, section 1 and Schedule 1 paragraph 7; section 1(1) defines Commissioners

(2) 1992 c. 48.

“approved” means approved by the Commissioners;

“authorised warehousekeeper” means the occupier, owner or operator of a tax warehouse who, as provided by Regulation 8(2) below, has been approved in relation to that tax warehouse and in relation to excise goods specified in the approval;

“certificate of receipt” means a certificate issued in accordance with regulation 11(3) below;

“chewing tobacco” means chewing tobacco of any description manufactured wholly or partly from tobacco or any substance used as a substitute for tobacco, and includes anything referred to or called chewing tobacco, but does not include herbal products;

“Community excise goods” means excise goods imported into the United Kingdom from another member State and which have been produced or are in free circulation in the European Community at that importation;

“duty” means a duty of excise which becomes chargeable on excise goods by virtue of the enactments specified below in the definition of excise goods;

“excise duty point” (the time when the duty is payable by a person, whether or not payment may be deferred) has the meaning given by section 1 of the 1992 Act;

“excise goods” means a good, other than chewing tobacco, that is chargeable with a duty of excise by or under the Alcoholic Liquor Duties Act 1979(3), the Hydrocarbon Oil Duties Act 1979(4) or the Tobacco Products Duty Act 1979(5);

“excise warehouse” has the meaning given by section 1(1) of the Management Act;

“occasional importer” means a person approved under regulation 15 below;

“REDS” means a registered excise dealer and shipper registered under section 100G of the Management Act;

“tax representative” means a person who is a REDS and who agrees to be appointed, or accepts the appointment, and is appointed by a vendor pursuant to the requirements of regulation 13 below;

“tax warehouse” means an excise warehouse; and

“vendor” means the person referred to as the vendor in subparagraph (a) of paragraph (3) below.

(2) References in these Regulations to suspension arrangements are references to the provisions made by Part IV of these Regulations or to any provision made by or under the customs and excise Acts for enabling goods to be held or moved without payment of duty or any provisions made by or under those Acts in connection with any provision enabling goods to be so held or moved.

(3) For the purpose of these Regulations there is a distance selling arrangement where:

- (a) a person (“the vendor”), in another member State, sells or agrees to sell goods, in that State, to a person (“the purchaser”) in the United Kingdom;
- (b) those goods are dispatched by or to the order of the vendor to the purchaser or a person nominated by the purchaser and consigned to an address in the United Kingdom;
- (c) those goods will be excise goods on their importation into the United Kingdom;
- (d) the purchaser is not a revenue trader;

and “distance selling arrangements” in these Regulations shall be construed accordingly.

(4) “UK distance selling arrangements” means a distance selling arrangement except that the vendor is in the United Kingdom (and is referred to in these Regulations as the “UK vendor”), the purchaser is in another member State, and the address to which the goods are consigned is in a

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(3) 1979 c. 4.  
(4) 1979 c. 5.  
(5) 1979 c. 7.

member State other than the United Kingdom; and the goods that are the subject of that UK distance selling arrangement are excise goods, and will be charged with the equivalent of a duty in the member State to which they are consigned by the law of that State (and in these Regulations those goods are referred to as “excise products” and that duty is referred to as “the other member State’s charge”).

(5) In these Regulations the expression “European Community” means the European Communities and the expressions “member State” and “European Communities” respectively have the meaning given to those expressions in the European Communities Act 1972(6); and “another member State” means a member State other than the United Kingdom, and cognate expressions shall be construed accordingly.

(6) For the purposes of these Regulations—

- (a) excise goods being imported into the United Kingdom shall be deemed to be moved under the instructions of—
  - (i) the authorised warehousekeeper who arranged the importation or to whose tax warehouse the excise goods are consigned;
  - (ii) the REDS who arranged the importation;
  - (iii) the occasional importer who arranged the importation; or
  - (iv) the consignee if there was no such arrangement; and
- (b) in any other case excise goods shall be deemed to be moved under the instructions of the consignor.

### **Particular application of regulations and transitional arrangements for Community excise goods**

3.—(1) With regard to Community excise goods imported into the United Kingdom (“those goods”) these Regulations apply as follows.

(2) These Regulations apply in respect of those goods imported into the United Kingdom after 31st December 1992.

(3) Save as the Commissioners may otherwise allow, these Regulations apply in respect of those goods which were imported before 1st January 1993 and which, being required to be entered, were not entered before that date.

## **PART II**

### **DETERMINATION OF THE DUTY**

#### **Excise duty point**

4.—(1) Except in the cases specified in paragraphs (2) to (6) below, the excise duty point in relation to any Community excise goods shall be the time when the goods are charged with duty at importation.

(2) If any duty suspension arrangements apply to any excise goods, the excise duty point shall be the earlier of—

- (a) the time when the excise goods are delivered for home use from a tax warehouse or are otherwise made available for consumption, including consumption in a warehouse;
- (b) the time when the excise goods are consumed;

- (c) the time when the excise goods are received by a REDS or by an occasional importer or by an importer for whom the REDS is acting, or when the duty ceases to be suspended in accordance with those duty suspension arrangements;
  - (d) the time when the premises on which the excise goods are deposited cease to be a tax warehouse;
  - (e) the time when the person with whom the excise goods are deposited, ceases to be an authorised warehousekeeper;
  - (f) the time when the excise goods leave any tax warehouse unless—
    - (i) the goods are consigned to another tax warehouse in respect of which the authorised warehousekeeper has been approved in relation to the deposit and keeping of those goods, and the goods are moved in accordance with requirements prescribed in regulations 9 and 10 below;
    - (ii) the goods are delivered for export, shipment as stores, removal to the Isle of Man; or
    - (iii) any relief is conferred in relation to the goods by or under the customs and excise Acts.
- (3) If duty suspension arrangements do not apply in respect of Community excise goods consigned, in accordance with these Regulations, to a REDS or to an occasional importer or to an importer for whom a REDS is acting, the excise duty point shall be the time when those goods are received by that person.
- (4) If chewing tobacco or perfumed spirits are imported into the United Kingdom having been consigned from another member State and are charged with duty at that importation the excise duty point shall, unless those goods are deposited in a tax warehouse approved for the purpose, be the time when they are received by the importer, owner or person beneficially interested in the goods.
- (5) Where Community excise goods after importation do not arrive at a tax warehouse to which they are consigned, or do not arrive so that the excise duty point provided by subparagraph (c) of paragraph (2) above does not occur, the excise duty point provided by paragraph (1) above shall apply.
- (6) If excise goods have been relieved from payment of duty and there is a contravention of any condition subject to which the relief was conferred, the excise duty point shall be the time of that contravention.
- (7) In this regulation “contravention” includes a failure to comply.
- (8) Where the Commissioners issue a notice requiring an authorised warehousekeeper to produce for their inspection a certificate of receipt with respect to any excise goods which were held by him in a tax warehouse, and where the authorised warehousekeeper fails to produce such a certificate of receipt within 6 months of the date of the notice, or within such period as the Commissioners may specify in the notice, and where the authorised warehousekeeper does not otherwise account for the excise goods to the satisfaction of the Commissioners, the excise goods shall be deemed to have been released for consumption and to have been so released on the day that the goods were dispatched from the tax warehouse or the day that the notice was issued, whichever is the earlier; and that day shall be the excise duty point.
- (9) This regulation—
- (a) shall apply to fix an excise duty point with respect to any Community excise goods imported into the United Kingdom from another member State; and
  - (b) shall not apply to fix an excise duty point with respect to any other excise goods unless and until those goods are deposited in a tax warehouse under duty suspension arrangements.

## PART III

### PAYMENT OF THE DUTY

#### **Person liable to pay the duty**

5.—(1) The person liable to pay the duty in the case of an importation of excise goods from another member State shall be the importer of the excise goods.

(2) Each of the persons specified in paragraph (3) below having the specified connection with the excise goods at the excise duty point, shall be jointly and severally liable to pay the duty with the person specified in paragraph (1) above of this regulation.

(3) The persons specified in this paragraph are—

- (a) any authorised warehousekeeper or REDS acting on behalf of the importer of the excise goods in respect of the importation of those goods;
- (b) any other person acting on behalf of the importer of the excise goods in respect of the importation of those goods;
- (c) any vendor of the excise goods consigned to the United Kingdom under a distance selling arrangement;
- (d) any tax representative of the vendor in subparagraph (c) above;
- (e) any consignee of the excise goods which have been imported into the United Kingdom; and
- (f) any other person who causes or has caused the imported goods to reach an excise duty point.

(4) The person liable to pay the duty when the excise duty point specified in paragraph 2(a) of regulation 4 above occurs, shall be the authorised warehousekeeper.

(5) Each of the persons specified in paragraph (6) below having the specified connection with the excise goods at the excise duty point, shall be jointly and severally liable to pay the duty with the person specified in paragraph (4) above.

(6) The persons specified (for the purposes of paragraph (5) above) are—

- (a) any owner of those excise goods or other person beneficially interested in those goods; and
- (b) any other person who causes or has caused those goods to reach an excise duty point.

(7) The person liable to pay the duty where the excise duty point, specified in paragraph (8) of regulation 4 above, occurs shall be the authorised warehousekeeper specified therein.

(8) In the UK distance selling arrangements the person liable to pay the other member State's charge in respect of the excise products shall be the UK vendor.

(9) In this regulation “importer of the excise goods” includes any owner of those excise goods or any person beneficially interested in those excise goods.

#### **Time and method of payment of the duty**

6.—(1) Subject to paragraph (2) below and save as the Commissioners may otherwise direct, duty shall be paid on or before an excise duty point.

(2) In a duty deferment arrangement, and save as the Commissioners may otherwise direct, the time when the duty is to be paid shall be the time specified by that arrangement.

(3) In this regulation “duty deferment arrangement” means any provision made by or under the customs and excise Acts that permits the payment of excise duty to be deferred.

## PART IV

### HOLDING AND MOVEMENT

#### **Movement requirements**

7. Save as the Commissioners may otherwise allow, no person may import Community excise goods of a certain class or description into the United Kingdom unless—

- (a) he is a REDS who has been registered in relation to excise goods of that class or description;
- (b) he has arranged for a REDS who has been so registered to account for the duty;
- (c) the goods are consigned to a tax warehouse which has been approved in relation to goods of that class or description; or
- (d) he is in relation to the goods an occasional importer who has complied with the requirements of regulation 15 below.

#### **Holding excise goods in duty suspension and approval of the occupier etc. of a tax warehouse**

8.—(1) Excise goods may be deposited and kept under duty suspension arrangements only in a tax warehouse.

(2) An occupier, owner or operator of a tax warehouse may be approved by the Commissioners in relation to that tax warehouse, and in relation to the excise goods which may be deposited and kept in that warehouse; and those goods may be specified by the Commissioners in their approval by reference to a class or other description of those goods.

(3) The Commissioners may withdraw their approval of any person specified in paragraph (2) above for any contravention of these Regulations, or of any provision of the customs and excise Acts so far as they relate to that person's operation of that tax warehouse.

#### **Moving excise goods in duty suspension**

9.—(1) Subject to regulations 10 and 11 below, Community excise goods may be moved in duty suspension from the place of importation to—

- (a) a tax warehouse, provided that the excise goods are of a class or description specified in the Commissioners' approval of that tax warehouse;
- (b) any other premises provided that the excise goods are moved under the instructions of—
  - (i) a REDS who is registered in respect of excise goods of the same class or description as the imported Community excise goods and who has complied with the requirements imposed by regulation 12 below; or
  - (ii) an occasional importer who has complied with the requirements imposed by regulation 15 below.

(2) Subject to regulations 10 and 11 below, excise goods of any class or description may be moved in duty suspension from a tax warehouse—

- (a) to any other tax warehouse, in respect of which an authorised warehousekeeper has been approved to hold excise goods of the same class or description; or
- (b) for export, shipment as stores or removal to the Isle of Man.

(3) Excise goods in relation to which any relief is conferred by or under the customs and excise Acts may be removed from a tax warehouse without payment of duty subject to any conditions relating to that relief.

## **Movement conditions**

**10.**—(1) Save as the Commissioners may otherwise allow or require and except for movements between excise warehouses which the Commissioners may specify in a notice, a consignment of excise goods may not be moved under duty suspension arrangements unless—

- (a) the duty chargeable on the excise goods, and any charge described in paragraph (4) below, is secured as provided for in that paragraph;
- (b) the excise goods are accompanied by an appropriate document issued by the consignor;
- (c) the excise goods are transported in containers or packages;
- (d) the consignment is retained intact until one hour or such lesser period as the Commissioners may allow after the time of arrival of the excise goods at their destination when any approved seal (referred to in subparagraph (e) below) may be broken or removed; and
- (e) except as the Commissioners may allow, the containers or the packages referred to in subparagraph (c) above are secured by a seal, the form of which has been approved by the Commissioners.

(2) Except as the Commissioners otherwise allow, imported Community excise goods which are subject to a duty of excise that has not been paid and which are not consigned to a tax warehouse shall upon their importation be consigned to a REDS.

(3) In a UK distance selling arrangement the UK vendor shall—

- (a) before the excise products are consigned to the address in another member State, enter into a guarantee (containing such terms and particulars as that member State may specify) for the payment of the other member State’s charge;
- (b) at or before the importation of the excise products into the other member State, pay or arrange the payment of the other member State’s charge (and that obligation to pay or of arranging the payment shall be considered, for the purpose of this paragraph, to be discharged only if that payment is made);
- (c) keep and preserve a record of each UK distance selling arrangement.

(4) The duty mentioned in subparagraph (a) of paragraph (1) above shall be secured by an approved guarantee or bond; and any charge of a similar nature to duty that may arise in another member State in respect of those excise goods, when consigned to any of the other member States, shall also be secured by such a guarantee or bond.

(5) Where excise goods which are not in duty suspension are supplied, other than by way of UK distance selling arrangements, to a relevant person and those goods are to be removed to another member State, the consignor prior to the movement of the goods, shall ensure—

- (a) that the tax authorities in the member State of destination have been informed of the pending importation; and
- (b) that, before those goods are imported into that other member State, the latter’s charge in respect of those goods has been paid or arrangements have been made for its payment.

(6) In paragraph (5) above “relevant person” means any person acquiring, other than for private purposes, excise goods that are not in duty suspension, and “charge” means the equivalent of a duty which will be charged by the law of the other member State.

## **Accompanying document and certificate of receipt**

**11.**—(1) As specified in paragraph (2) below any person who consigns excise goods from the United Kingdom in the circumstances specified therein to an address in another member State shall—

- (a) issue a document (“accompanying document”) containing such particulars as may be specified by the Commissioners in a notice published by them; and
  - (b) keep a record of every accompanying document issued by him and the receipt of every certificate of receipt received by him.
- (2) The persons specified in this paragraph are—
- (a) an authorised warehousekeeper who consigns excise goods under duty suspension arrangements to any person;
  - (b) a trader who consigns duty-paid excise goods to himself or another trader;
  - (c) a trader who consigns excise goods to any person; and
  - (d) a trader who consigns duty-paid excise goods to any person when the trader is entitled to claim drawback of duty by or under the customs and excise Acts in respect of those excise goods.
- (3) Any trader who receives any excise goods by way of trade shall issue a certificate (“the certificate of receipt”) containing such particulars as may be specified by the Commissioners in a notice published by them and shall keep a record of the issue of the certificate of receipt and shall keep any accompanying document issued to him.
- (4) The certificate of receipt shall be delivered to the consignor of the excise goods by the 15th day of the month next following the month in which the excise goods were received.
- (5) If the excise goods are not received or if there is any material difference between excise goods and the description of those excise goods in any accompanying document issued to any consignee of those goods then the consignee shall—
- (a) furnish the Commissioners with a statement that the goods have not been received, or containing full particulars of that difference; and
  - (b) furnish the consignor of the goods with a copy of that statement.
- (6) Upon receipt of a request made by any person concerned with the movement of any excise goods, the person who issued any accompanying document shall issue the person making the request with a certified copy of that accompanying document.
- (7) The carrier of any excise goods in relation to which any accompanying document has been issued shall while carrying the goods—
- (a) keep and preserve that document; and
  - (b) produce it or cause it to be produced to an officer when required to do so for the purpose of allowing the officer to inspect it, copy or take extracts from it or to remove it at a reasonable time and for a reasonable period.
- (8) In this regulation—
- “trader” means any person carrying on a trade or business which consists of or includes the buying, selling, dealing or handling of excise goods; and
- “duty-paid excise goods” means excise goods which have been charged with a duty of excise which has been paid or otherwise accounted for to the satisfaction of the Commissioners.



## PART V

### REGISTERED EXCISE DEALERS AND SHIPPERS

#### Conditions of registration as a REDS

12.—(1) It shall be a condition of a REDS registration pursuant to Section 100G of the Management Act that he shall notify the Commissioners immediately in writing of any change to the particulars contained in any application that he made in discharge of a requirement imposed by the Commissioners for the purposes of obtaining that registration.

(2) REDS may not hold or consign any excise goods under duty suspension arrangements.

(3) A REDS who has arranged the importation of excise goods from another member State shall enter in a record the date of arrival of those excise goods on the territory of the United Kingdom, and the quantity and description of those goods, and shall do so immediately after that arrival.

#### Acting as a tax representative

13. Except as the Commissioners may allow, excise goods may not be consigned to an address in the United Kingdom under distance selling arrangements unless a REDS has been appointed to act as the vendor's tax representative for the purpose of accounting for the duty.

#### Accounting for duty

14.—(1) Subject to the provisions of this regulation a REDS shall each month furnish the Commissioners with a return (to be known as a REDS return) which has been issued to him.

(2) A REDS shall furnish his REDS return by delivering it to the Commissioners (at the REDS central accounting centre specified on the issued REDS return) within the following period ("the critical period"), that is to say—

(a) the critical period shall be the four consecutive days immediately following the end of the calendar month, specified in the issued REDS return, when each of those days is a business day; and

(b) if any of those days is not a business day the critical period shall be the three consecutive business days immediately following the end of that calendar month.

(3) Subject to any duty deferment arrangements, a REDS shall pay to the Commissioners by the end of each critical period the duty which—

(a) is entered on a REDS return as being due from him; or

(b) is due from him and has not been paid by him or by any other person;

and in this paragraph the duty that is due from him includes that duty for which a REDS, who is required by this Regulation to furnish a REDS return, is severally or jointly liable to pay by virtue of these Regulations, or any other provision made by or under the customs and excise Acts; and it includes any duty that should have been paid by the end of a previous critical period.

(4) The Commissioners may impose a requirement which is different from, or is a variation of a requirement imposed by this regulation; and the paragraphs of this regulation that impose a requirement include a reference to such a different or varied requirement.

(5) In this regulation "business day" means a day which is a business day within the meaning of section 92 of the Bills of Exchange Act 1892(7).

## PART VI

### OCCASIONAL IMPORTERS

#### **Approval and requirements**

**15.**—(1) The Commissioners may approve a person as an occasional importer to import in the course of his business a consignment of excise goods under duty suspension arrangements.

(2) Occasional importers may not hold or consign any excise goods under duty suspension arrangements.

(3) Every occasional importer, in respect of each consignment of excise goods imported by him whether or not those goods are under duty suspension arrangements shall—

- (a) before the excise goods are dispatched to him—
  - (i) inform the Commissioners that he is expecting the above-mentioned goods and shall supply such further particulars with respect to the consignment as the Commissioners may require;
  - (ii) pay the duty or provide a guarantee satisfactory to the Commissioners securing payment of the duty; and
  - (iii) furnish the consignor with a certificate stating that the duty has been paid or otherwise accounted for, or that the payment of duty has been secured to the satisfaction of the Commissioners.
- (b) as soon as the excise goods have been received by him, inform the Commissioners of the arrival of the goods;
- (c) retain the consignment intact with any seals unbroken for one hour or such other period as the Commissioners may allow or require; and
- (d) pay any duty that has not been paid in such manner as the Commissioners may direct.

(4) An occasional importer shall inform the Commissioners by the fourth business day following the expected date of arrival if any excise goods are not received in accordance with the declaration made to the Commissioners by the occasional importer pursuant to paragraph (3) above.

(5) The Commissioners, may permit a requirement which is different from or a variation of a requirement imposed by this regulation; and the paragraphs of this regulation that impose a requirement include a reference to any such different or varied requirement.

(6) In this regulation “business day” has the same meaning given by paragraph (5) of regulation 14 above.

## PART VII

### FORFEITURE

#### **Forfeiture of excise goods on which the duty has not been paid**

**16.** Excise goods, in respect of which duty has not been paid, shall be liable to forfeiture where a breach of regulation 6 above or of any regulation contained in Part IV, V or VI of these Regulations, or of any condition or restriction imposed by or under such a regulation, relates to those excise goods.

New King's Beam House 22 Upper Ground  
London SE1 9PJ  
10th December 1992

*Leonard Harris*  
Commissioner of Customs and Excise

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

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## EXPLANATORY NOTE

(This Note is not part of the Regulations)

### **Purpose of the Regulations**

These Regulations enable United Kingdom exporters and importers to continue with intra-Community trade in excise goods from 1 January 1993. The Regulations, which give effect to Council Directive [92/12/EEC](#), have been designed to permit the free movement of excise goods with no customs formalities at frontiers. Systems and procedures are established to facilitate trade to the greatest possible extent commensurate with effective revenue control.

### **Content of the Regulations**

Regulations 4 to 6 establish excise duty points (the time when duty becomes payable); identify the person or persons liable to pay; and set out the time and method of payment.

Regulations 7 to 11 deal with the arrangements for storing goods in excise warehouses and for transporting excise goods throughout the Community.

Regulations 12 to 14 provide for a new type of trader (registered excise dealers and shippers—REDS) for handling the small percentage of excise goods traded outside the United Kingdom warehousing system.

Regulation 15 provides for those importers who, without using the services of warehousekeepers or REDS, may themselves wish occasionally to import Community excise goods.

Regulation 16 provides for forfeiture of excise goods (on which duty has not been paid) in the event of a breach of the terms or conditions of the Regulations.