
STATUTORY INSTRUMENTS

1995 No. 1203

CUSTOMS AND EXCISE

The Customs Traders (Accounts and Records) Regulations 1995

<i>Made</i>	- - - -	<i>2nd May 1995</i>
<i>Laid before Parliament</i>		<i>10th May 1995</i>
<i>Coming into force</i>	- -	<i>1st June 1995</i>

The Commissioners of Customs and Excise, in exercise of the powers conferred upon them by section 21(1) and (6) of the Finance Act 1994⁽¹⁾, and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation and Commencement

1. These Regulations may be cited as the Customs Traders (Accounts and Records) Regulations 1995 and shall come into force on 1st June 1995.

Interpretation

2.—(1) In these Regulations—

“the Act” means the Finance Act 1994;

“the Commission Regulation” means Commission Regulation (EEC) No. 2454/93⁽²⁾;

“customs trader” means any person carrying on a trade or business which consists of or includes any of the activities mentioned in section 20(1) of the Act.

(2) Schedule 1 shall be interpreted in accordance with the notes contained therein.

Customs trader’s records to be kept and preserved

3. A customs trader who receives, prepares, maintains or issues a record consisting of an item described in Schedule 1 relating to a business within the meaning of section 20(3)(b) of the Act shall—

(a) in the case of a received record, keep and preserve it;

(1) [c.9](#); [section 21](#), by virtue of section 20(4), attracts the definition of “the Commissioners ” in section 1(1) of the Customs and Excise Management Act 1979 ([c. 2](#)).

(2) O.J. No. L253, 11.10.93, p.1. This Regulation has been amended by Commission Regulation (EC) No. 3665/93 (O.J. No. L335, 31.12.93, p.1), Commission Regulation (EC) No. 655/94 (O.J. No. L82, 25.3.94, p.15), Council Regulation (EC) No. 1500/94 (O.J. No. L162, 30.6.94, p.1), Commission Regulation (EC) No. 2193/94 (O.J. No. L235, 9.9.94, p.6) and Commission Regulation (EC) No. 3254/94 (O.J. No. L346, 31.12.94, p.1).

- (b) in the case of an issued record, keep and preserve a copy of it; and
- (c) in the case of a record that is prepared or maintained and which has not been received or which is not issued, preserve it.

Specific records in the case of certain traders

4.—(1) Subject to paragraph (2) below, a customs trader required by Article 76(2) of Council Regulation (EEC) No. 2913/92⁽³⁾ to furnish a supplementary declaration shall keep and preserve a copy of every such supplementary declaration made by him or on his behalf and a copy of every simplified declaration so made.

(2) The trader referred to in paragraph (1) above may instead keep and preserve a record of all the information set out in the declarations referred to in that paragraph.

(3) For the purposes of paragraph (2) above, in cases where the declarations are made using a data-processing technique, the information shall consist of all data sent by him or on his behalf for that purpose.

(4) In this regulation—

“data-processing technique” has the meaning given by Article 4a of the Commission Regulation⁽⁴⁾;

“simplified declaration” is a declaration within the meaning of Article 253(2) of the Commission Regulation.

Records specified in public notices

5. A customs trader shall keep and preserve such other records as the Commissioners may specify for any case or cases in a notice published by them in pursuance of these Regulations and not withdrawn by a further notice.

Records relating to customs declarations

6.—(1) Where any record (including a copy of a record) is kept or preserved by a customs trader under a duty imposed by or under these Regulations and that record relates to a customs declaration made by him or on his behalf, it shall be so kept or preserved as to be readily apparent that it does relate to that particular declaration.

(2) In this regulation “customs declaration” has the meaning given by Article 4(17) of Council Regulation (EEC) No. 2913/92.

Form of records

7.—(1) Except for the records specified in paragraph (2) below and without prejudice to the provisions of section 21(4) and (5) of the Act, records (including copies of records) required to be kept or preserved by or under these Regulations may be kept or preserved in any form, and in particular they may be in documentary or other written form, or be in the form of anything that is commonly called or referred to as an account or a report; and the information which they contain or are to contain may be contained in or be in the form of an item described in Schedule 2.

(2) The excepted records referred to are—

- (a) records required to be kept and preserved by regulation 3(a) and (c) above; and

(3) O.J. No. L302, 19.10.92, p.1.

(4) Article 4a was inserted by Article 1(2) of Commission Regulation (EC) No. 3665/93 (O.J. No. L335, 31.12.93, p.1.)

- (b) such records as may be required to be kept and preserved under regulation 5 above which are—
- (i) received by a customs trader; or
 - (ii) prepared or maintained by him which he has neither received nor issued.

Time of recording

8. Where a customs trader is required by or under these Regulations to keep a record, he shall do so at the time when any information that is by virtue of these Regulations to be recorded is first known to him or as soon as possible thereafter.

Period of preservation of records

9. Any record (including a copy of a record) required by or under these Regulations to be preserved shall be preserved for a period of four years or such lesser period as the Commissioners may require, starting on the day that the obligation to preserve arises.

New King's Beam House 22 Upper Ground
London SE1 9PJ
2nd May 1995

E. Woods
Commissioner of Customs and Excise

SCHEDULE 1

Regulation 3

RECEIVED, PREPARED, MAINTAINED OR ISSUED ITEMS

1. An order.
2. An invoice.
3. A delivery note.
4. A credit note.
5. A debit note.
6. A record relating to an importation or an exportation.
7. A statement of account.
8. A record of payment or of receipt.
9. A journal or ledger.
10. A profit and loss account, trading account, management account, management report or balance sheet.
11. An internal or an external auditor's report.
12. A record relating to any drawback, remission, repayment or reimbursement of, or relief from, duty.
13. A record required, other than by virtue of these Regulations, by or under the customs and excise Acts.
14. A stock record.
15. Any other record maintained for a trading or business purpose.

Notes of interpretation

1. In paragraphs 1 to 15 above an item described therein includes anything in any form that it may take when the information, to which the item relates, is received, or, as the case may be, when that information is dealt with for the purpose of preparing, maintaining or issuing an item, and which it may take subsequently whilst it is being preserved by the customs trader who received it or, as the case may be, prepared, maintained or issued it.

2. In note 1 above "anything" includes—

- (a) an item described in Schedule 2 to these Regulations containing the information which is expressly or impliedly described in paragraphs 1 to 15 above or which is obtained for a purpose described in those paragraphs; and
- (b) anything which is commonly called or referred to as an account or a report.

3. In note 1 above "form" includes documentary or other written form.

4. In paragraphs 6, 8 and 12 above "record" means anything containing information expressly or impliedly described respectively in those paragraphs, irrespective of its form.

5. In paragraph 12 above "duty" means any duty of customs and includes any agricultural levy of the European Community.

6. In paragraph 13 above "record" means anything containing information which is required by or under the legislation specified therein, irrespective of its form.

7. In paragraph 15 above “record” means anything that is maintained for the purposes specified therein, irrespective of its form.

SCHEDULE 2

Regulation 7(1) and Schedule 1

1. A drawing, graph, map or plan.
2. A photocopy.
3. A disc, sound track, tape, 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.
4. Any film, microfilm, 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.
5. A transcript or reproduction.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations require customs traders to keep and preserve records containing information about their businesses and about their dealings in customs goods as defined in section 20(3)(a) of the Finance Act 1994. Compliance with these Regulations will assist HM Customs and Excise, when carrying out periodic audits of a customs trader’s business, to check the accuracy of customs declarations and protect the revenues derived from customs duties.

Regulation 3 sets out the requirements for keeping and preserving commercial records.

Regulation 4 requires particular customs traders to keep and preserve a copy of every supplementary or simplified declaration made by them or on their behalf, or alternatively to keep and preserve a record of all the information set out in such declarations.

Regulation 5 enables the Commissioners to specify, in a notice, additional and alternative records to be kept and preserved.

Regulation 6 requires certain records to be kept and preserved in such a way that it is readily apparent that they relate to a particular customs declaration. This requirement may be satisfied by an audit trail adequate for such purposes or some other method of demonstrating the connection with the declaration (for example by cross-referencing).

Regulation 7 deals with the form that the required records may take.

Regulation 8 explains the time when the obligation to keep records commences.

Regulation 9 requires customs traders to preserve their records for four years or such lesser period as the Commissioners may require.