

1990 No. 544

CUSTOMS AND EXCISE

**The Tobacco Products Regulations 1979 (Amendment)
Regulations 1990**

<i>Made - - - -</i>	<i>8th March 1990</i>
<i>Laid before Parliament</i>	<i>9th March 1990</i>
<i>Coming into force</i>	<i>1st April 1990</i>

The Commissioners of Customs and Excise, in exercise of the powers conferred on them by sections 2(2) and 7(1) of the Tobacco Products Duty Act 1979(a), 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 Tobacco Products Regulations 1979 (Amendment) Regulations 1990 and shall come into force on 1st April 1990.

(2) In these Regulations “the principal Regulations” means the Tobacco Products Regulations 1979(b).

(3) Subject to regulation (2) below any word or expression used in these Regulations to which a meaning is given in the principal Regulations has, except where the context otherwise requires, the same meaning in these Regulations.

Amendment of the principal Regulations

2.—(1) In regulation 3 of the principal Regulations there shall be inserted—

“business day” means a day which is a business day within the meaning of the Bills of Exchange Act 1882(c) for the purpose of the General Account of the Commissioners of Customs and Excise at the Bank of England in London, and “non-business day” shall be construed accordingly;

“officer” means the proper officer of Customs and Excise;

“recycling” means reworking the tobacco or tobacco substitute constituents of the tobacco product, and “recycled” shall be construed accordingly;

“repackaging” means the replacement of any packaging or wrapping material which is customary and necessary to enclose and present tobacco products for retail sale purposes, and “repackaged” shall be construed accordingly.

(2) For the definition of “materials” in regulation 3 of the principal Regulations there shall be substituted—

(a) 1979 c.7; section 10(3) applies the definition of “the Commissioners” in section 1(1) of the Customs and Excise Management Act 1979 (c.2). (b) S.I. 1979/904, as amended by regulation 8 of S.I. 1980/992 and by 1982/964. (c) 1882 c.61; section 92 was amended by sections 3(1) and 4(4) of the Banking and Financial Dealings Act 1971 (c.80).

“materials” means manufactured and unmanufactured tobacco, tobacco substitutes and tobacco products intended for further manufacture.”

3. For regulation 21 of the principal Regulations there shall be substituted—

“21.—(1) Save as the Commissioners may otherwise allow, the occupier of registered premises and any other person commercially concerned with the importation, exportation, supply or use of any tobacco product chargeable with a duty which has not been paid or, which having been paid, has been repaid, shall keep all documents and other records which relate to the receipt, manufacture, storage or disposal of tobacco products, refuse or materials and shall retain them for not less than 2 years from the date of the last entry therein.

(2) If requested to do so by an officer the occupier of registered premises and any other person concerned with the commercial importation, exportation, supply or use of any tobacco products chargeable with a duty which has not been paid or, which having been paid, has been repaid, shall produce any relevant documents or other records to which paragraph (1) above applies for inspection by the officer at any reasonable time and place and in a readily legible form, and shall allow the officer to make extracts from, copy or remove the documents or other records for a reasonable period.

(3) Save as the Commissioners otherwise allow, the occupier of registered premises shall keep all the documents or other records which he is required by paragraph (1) of this regulation to retain at the relevant registered premises.”

4. For regulation 23 of the principal Regulations there shall be substituted—

“23.—(1) Subject to paragraph (3) below, where any tobacco products previously delivered for home use have been returned to registered premises and have been—

- (a) recycled;
- (b) repackaged; or
- (c) otherwise disposed of to the Commissioners’ satisfaction,

the Commissioners may, subject to such conditions as they may impose, allow credit for the duty charged on those products.

(2) Subject to paragraph (3) below, where any imported tobacco products which have been delivered for home use either directly from their place of importation or from an excise warehouse have been—

- (a) returned by their importer, for the purpose of recycling or repackaging, to the person outside the United Kingdom who supplied them; or
- (b) otherwise disposed of to the Commissioners’ satisfaction

the Commissioners may, subject to such conditions as they may impose, allow the importer credit for or repay to the importer the duty charged on those products.

(3) Save as the Commissioners may otherwise allow, a claim for repayment of, or credit for, duty under this Regulation may only be made in respect of tobacco products of a net weight of not less than 1 kilogram”.

5. In regulation 26(3) at both places where they occur—

- (a) for the words “working day” there shall be substituted “business day”;
- (b) for the words “non-working day” there shall be substituted “non-business day”.

New Kings Beam House
22 Upper Ground
London SE1 9PJ

8th March 1990

Valerie Strachan
Commissioner of Customs and Excise

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which come into force on 1st April 1990, amend the Tobacco Products Regulations 1979.

In order to obtain duty credit or repayment there is no longer a requirement to show that products, returned for destruction, are unmerchantable through natural deterioration. However, products merely returned to the stock of an occupier of registered premises are no longer eligible for duty credit or repayment. Corresponding provisions will operate for imported tobacco products (Regulation 23).

Other changes modify the provisions on the keeping and inspection of records (Regulation 21) and make amendments to the definitions of "materials" and "payment day" (Regulations 3 and 26).