

2000 No. 645

CUSTOMS AND EXCISE

The Excise Goods (Export Shops) Regulations 2000

<i>Made - - - -</i>	<i>8th March 2000</i>
<i>Laid before Parliament</i>	<i>9th March 2000</i>
<i>Coming into force</i>	<i>1st April 2000</i>

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SCHEDULE Supply of pre-ordered excise goods

The Commissioners of Customs and Excise, in exercise of the powers conferred upon them by sections 93(1), (2)(a), and (3), 100G and 100H of the Customs and Excise Management Act 1979(a), section 1 of the Finance (No. 2) Act 1992(b) 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 (Export Shops) Regulations 2000 and shall come into force on 1st April 2000.

Application

2.—(1) These Regulations apply to any excise warehouse from which excise goods may be supplied to entitled passengers without payment of excise duty.

(2) An excise warehouse to which these Regulations apply shall be known as an “export shop”.

Interpretation

3. In these Regulations—

“the 1988 Regulations” means the Excise Warehousing (Etc.) Regulations 1988(c);

“the 1999 Regulations” means the Warehousekeepers and Owners of Warehoused Goods Regulations 1999(d);

“authorized warehousekeeper” has the meaning given in the 1999 Regulations;

“entitled passenger” means a person holding a transport document for a voyage or flight—

(a) to a destination in a place to which Council Directive 92/12/EEC(e) does not apply, and

(b) who is travelling to that destination from or via the port or airport where the export shop is situated;

“excise goods” means goods, other than hydrocarbon oil(f), of a class or description subject to any duty of excise;

“export shop” has the meaning given in regulation 2 above;

“passenger” means a person holding a transport document for travel by sea or air who intends to travel from the port or airport where the export shop is situated.

PART II

AUTHORIZED WAREHOUSEKEEPERS

Conditions

4.—(1) In any case where the Commissioners approve the occupier of an export shop as an authorized warehousekeeper the following additional conditions shall apply.

(a) 1979 c. 2; section 1(1) defines “the Commissioners”, “excise duty point”, “excise warehouse”, “occupier”, and “warehoused”; section 93(2)(a) was amended by section 11(1) of, and paragraph 2 of Schedule 8 to, the Finance Act 1981 (c. 35); section 93(1) and (3) was amended by section 3 of, and paragraph 2 of Schedule 2 to the Finance (No. 2) Act 1992 (c. 48); sections 100G and 100H were inserted by section 11(3) of, and Schedule 4 to, the Finance Act 1991 (c. 31); section 100H was amended by sections 1(5) and 3(1) of, and paragraph 6 of Schedule 1 and paragraph 4 of Schedule 2 to, the Finance (No. 2) Act 1992.

(b) 1992 c. 48.

(c) S.I. 1988/809, amended by S.I. 1995/1046.

(d) S.I. 1999/1278.

(e) OJ No. L76, 23.3.1992, p. 1; Article 2 explains the Directive’s territorial extent.

(f) “Hydrocarbon oil” is defined in section 1(2) of the Hydrocarbon Oil Duties Act 1979 (c. 5) which Act, by section 27(2), is to be construed as one Act with the Customs and Excise Management Act 1979 (c. 2).

(2) The authorized warehousekeeper shall give the Commissioners not less than thirty days notice in writing of his intention to cease using any excise warehouse he occupies as an export shop.

(3) Where it is impracticable to give thirty days notice of intention to cease using any excise warehouse as an export shop the authorized warehousekeeper shall give such notice as is reasonably practicable.

Revocation

5. Without prejudice to regulation 4 of the 1999 Regulations, if the Commissioners are notified that an authorized warehousekeeper intends to cease using any excise warehouse as an export shop they shall—

- (a) if the authorized warehousekeeper will no longer occupy any excise warehouse, revoke his approval and registration as an authorized warehousekeeper with effect from the date upon which he intends to cease using his excise warehouse as an export shop, or
- (b) in any other case, revoke with effect from that date his approval and registration as an authorized warehousekeeper in respect of the excise warehouse that he intends to cease using as an export shop.

PART III

EXPORT SHOPS

Application of the 1988 Regulations

6. The following provisions of the 1988 Regulations shall not apply to export shops—

paragraph (6) of regulation 11;
paragraph (5)(a) of regulation 12;
regulations 13 and 14;
paragraphs (a), (b), (e) and (f) of regulation 15;
regulation 16;
except for paragraph (4), regulation 17;
regulations 18 and 19;
paragraph (2) of regulation 21;
paragraph (2) of regulation 22;
regulations 26 and 27;
paragraph (1) of regulation 29;
Schedule 1;
paragraph (h) in Schedule 2;
Schedule 3.

Storage of excise goods

7.—(1) The authorized warehousekeeper shall clearly identify and differentiate any excise goods that he intends to supply to passengers who are not entitled passengers from those excise goods that he intends to supply to entitled passengers.

(2) If the Commissioners notify an authorized warehousekeeper in writing that they are satisfied that the supplies of excise goods he intends to make at a port or airport will predominantly be to entitled passengers he shall not be required to comply with paragraph (1) above in relation to excise goods in any export shop he occupies at that port or airport.

(3) Any notification given in accordance with paragraph (2) above shall not apply to excise goods of any class or description specified in a notice published by the Commissioners and not withdrawn by a further notice.

Supplying passengers with excise goods

8.—(1) The authorized warehousekeeper shall not supply a person with excise goods from his export shop unless that person satisfies the warehousekeeper that he is a passenger by producing a transport document and such additional documents as the warehousekeeper may require.

(2) The authorized warehousekeeper shall not supply a passenger with excise goods unless the passenger immediately carries those goods away from the export shop.

(3) Paragraph (2) above shall not apply to any supply in respect of which the requirements set out in the Schedule below are complied with.

(4) For the purposes of this regulation the Commissioners may, in a notice published by them and not withdrawn by a further notice, specify the type or description of transport documents and the type or description of any additional documents that an authorized warehousekeeper may require a person to produce for the purposes of paragraph (1) above.

Removal

9.—(1) Excise goods shall not be removed from an export shop except—

- (a) in compliance with regulation 8 above, or
- (b) in accordance with this regulation.

(2) An authorized warehousekeeper may remove excise goods from his export shop to any other export shop that he occupies provided that both export shops are situated in the same port or airport.

(3) An authorized warehousekeeper may remove excise goods from his export shop to an excise warehouse that is not an export shop if there has been no excise duty point in respect of those goods.

(4) The Commissioners may, subject to such conditions and restrictions as they see fit to impose, permit an authorized warehousekeeper to remove excise goods from his export shop for such purpose as they may approve.

Privileges of an authorized warehousekeeper

10. The privileges afforded to an authorized warehousekeeper—

- (a) by paragraph (2)(c) of regulation 11 of the 1999 Regulations (except for removal in accordance with regulation 9 above), and
- (b) by paragraph (3) of regulation 11 of the 1999 Regulations,

shall not apply in relation to excise goods kept in an export shop.

PART IV

EXCISE DUTY POINTS, PAYMENT OF DUTY AND RETURNS

Excise duty points

11.—(1) Subject to paragraph (2) below, the excise duty point for excise goods that are deposited in an export shop shall be the time when those goods were, in accordance with regulation 10 of the 1988 Regulations, deemed to be warehoused in that export shop.

(2) Paragraph (1) above shall not apply—

- (a) to excise goods that are intended for supply only to entitled passengers; or
- (b) to excise goods (other than goods specified in accordance with regulation 7(3) above) that are intended for supply to passengers by an authorized warehousekeeper to whom regulation 7(2) above applies.

(3) Subject to paragraph (4) below, where the excise duty point prescribed by paragraph (1) above does not apply to excise goods deposited in an export shop the excise duty point for those goods shall be the time of their removal from that export shop.

(4) For the purposes of paragraph (3) above, any removal of excise goods that—

- (a) takes place in the course of a supply of excise goods to an entitled passenger who leaves the United Kingdom with those goods,
- (b) takes place in accordance with regulation 9(2) or (3) above, or
- (c) is authorized in accordance with regulation 9(4) above and is not subject to a condition that the excise duty on those goods shall be paid before removal,

shall be disregarded.

(5) The person liable to pay the duty at the excise duty point shall be—

- (a) in any case where the excise goods are supplied to an entitled passenger who subsequently fails to leave the United Kingdom with those goods, that passenger,
- (b) in any other case, the authorized warehousekeeper.

Payment—approval of arrangements

12.—(1) An authorized warehousekeeper may elect to make payment by means of a direct debit.

(2) Before electing to make payment by direct debit the authorized warehousekeeper shall make application to the Commissioners for approval of the direct debit arrangements.

(3) Where the Commissioners are satisfied with those arrangements they shall approve them in writing.

(4) An authorized warehousekeeper whose arrangements have been approved shall immediately notify the Commissioners of any change in any information given to them for the purpose of approving those arrangements.

(5) The Commissioners may for reasonable cause revoke any approval granted under this regulation.

(6) Whenever a payment is due to be made by direct debit the authorized warehousekeeper shall ensure that he has sufficient funds in his account to satisfy the claim for payment.

Payments and returns

13.—(1) Except in the case of an authorized warehousekeeper whose payment arrangements have been approved in accordance with regulation 12 above, the person liable to pay the duty at the excise duty point shall pay that duty to the Commissioners at or before the excise duty point.

(2) The Excise Duties (Deferred Payment) Regulations 1992(a) shall not apply to any payment to which a person may become liable by virtue of these Regulations.

(3) On or before the tenth day of each month every authorized warehousekeeper whose payment arrangements have been approved in accordance with regulation 12 above shall furnish a return to the Commissioners showing the amounts that he is liable to pay to the Commissioners—

- (a) in accordance with paragraph (4) below (“the advance payment”), and
- (b) as excise duty due from him by virtue of any excise duty point in the preceding month (“the normal payment”).

(4) The amount of the advance payment shall be either—

- (a) an amount that the authorized warehousekeeper and the Commissioners agree, or
- (b) in the absence of an agreement the amount of excise duty that would be due from the authorized warehousekeeper if the excise duty point for all the excise goods in his export shop were the day on which he makes the return.

(5) An agreement made for the purposes of paragraph (4) above—

- (a) shall specify the amount that will be payable each month for twelve consecutive months;
- (b) may be ended by either party giving one month’s notice to the other party; and
- (c) may, if both parties agree, be varied at any time.

(6) On or after the day specified for payment in the payment arrangements approved in accordance with regulation 12 above the Commissioners shall claim payment of an amount calculated in accordance with paragraph (7) below.

(7) The amount of payment to be claimed under paragraph (6) above shall be

the advance payment then due,
plus the normal payment then due,
minus the advance payment (if any) made in the preceding month,

(a) S.I. 1992/3152, amended by S.I. 1996/2537.

but if the result of this calculation is nil or negative the Commissioners shall not make a claim for payment under the direct debit arrangements.

(8) If the authorized warehousekeeper has ceased to use his excise warehouse as an export shop the Commissioners shall repay the advance payment after deducting the amount of any excise duty for which he may be liable.

(9) For the purposes of paragraph (3) above, if the tenth day of the month falls on a day that is a Saturday, Sunday, Christmas Day, Boxing Day, New Year's Day, Good Friday or Easter Monday the tenth day of the month shall be treated as being the next day that is not one of those days.

Returns—supplementary provisions

14.—(1) A person who is not required by regulation 13(3) above to furnish returns to the Commissioners shall furnish returns in accordance with paragraph (2) below.

(2) In any case to which paragraph (1) above applies every person from whom any excise duty is due shall at or before the excise duty point furnish a return to the Commissioners showing the amounts that he is liable to pay to them as excise duty.

(3) Subject to paragraph (4) below, any return required to be furnished in accordance with these Regulations shall be made on a form issued by the Commissioners.

(4) If, for any reason, the person liable to furnish a return has not been issued with a form he shall make his return in the form specified in a notice published by the Commissioners and not withdrawn by a further notice.

(5) Any return required to be furnished in accordance with these Regulations shall be furnished to the Commissioners at the address printed on the form issued by the Commissioners or, as the case may require, shown on the form specified in the notice published by the Commissioners.

(6) Every person required to furnish a return in accordance with these Regulations shall ensure that the information contained in that return is true and complete.

New King's Beam House,
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8th March 2000

A.R. Rawsthorne
Commissioner of Customs and Excise

SCHEDULE

(Regulation 8(3))

SUPPLY OF PRE-ORDERED EXCISE GOODS

1. In this Schedule—
“approved place” means a place approved by the Commissioners for the collection of excise goods to which this Schedule applies;
“qualifying ticket” means a transport document valid for travel by sea or air from the port or airport where the export shop is situated.
2. An order for the supply of excise goods must be placed with the authorized warehousekeeper by a passenger who is not an entitled passenger.
3. The passenger must hold a qualifying ticket.
4. The passenger must place his order before he travels, and travel from the port or airport where the export shop at which his order was placed is situated.
5. Subject to paragraph 7 below, the passenger must collect his order in person—
 - (a) from the export shop where he placed his order; or
 - (b) from an approved place within a port or airport to which he has travelled using his qualifying ticket.
6. Subject to paragraph 7 below, the passenger shall not be allowed to collect the excise goods he ordered unless, by producing such documents as the authorized warehousekeeper may require, he satisfies the warehousekeeper that he is the passenger who placed the order.
7. If the authorized warehousekeeper is satisfied that due to some fortuitous event or due to some misadventure that has befallen the passenger it is impracticable for the passenger to collect his order in person he may permit a person acting on behalf of the passenger to collect the passenger’s excise goods.
8. In any case to which paragraph 7 above applies, the authorized warehousekeeper shall keep a record of—
 - (a) the name and address of the passenger,
 - (b) the circumstances that made it impracticable for the passenger to collect his order in person, and
 - (c) the name and address of the person acting on behalf of the passenger.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations come into force on 1st April 2000.

Purpose of the Regulations

These Regulations apply to excise warehouses from which excise goods may be supplied to passengers making voyages or flights to destinations outside the area covered by the European Union's arrangements for excise duty. They regulate the supply of duty free excise goods to those passengers and the supply of duty paid excise goods to passengers making journeys to destinations within the European Union (including passengers making domestic journeys).

Content of the Regulations

Regulations 1, 2 and 3 are concerned with citation, commencement, application and interpretation of the Regulations. An excise warehouse to which these Regulations apply is to be known as an "export shop".

Regulation 4 prescribes additional conditions of approval that apply to an authorized warehousekeeper who occupies an export shop.

Regulation 5 regulates the revocation of an authorized warehousekeeper's approval when he ceases to occupy an export shop.

Regulation 6 provides that some of the requirements that apply to excise warehouses by virtue of the Excise Warehousing (Etc.) Regulations 1988 (S.I. 1988/809) do not apply to export shops.

Regulation 7 regulates the storage of excise goods in export shops.

Regulation 8 sets out the conditions for the supply of excise goods to passengers. It requires these goods to be carried away immediately unless the conditions set out in the Schedule for the supply of pre-ordered excise goods are met.

Regulation 9 regulates the removal of excise goods from export shops.

Regulation 10 places restrictions on the privileges afforded to an authorized warehousekeeper in relation to excise goods in his export shop.

Regulation 11 fixes excise duty points for excise goods held in an export shop and specifies the person liable to pay the duty at the excise duty point.

Regulation 12 provides for the approval of arrangements for payment to be made by means of a direct debit.

Regulations 13 and 14 regulate payment procedures and the making of returns.

The Schedule provides for a pre-ordering arrangement, including conditions and restrictions.

£2.00

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E 0570 03/00 ON (MFK)