

2006 No. 2368

EXCISE

The Tobacco Products (Amendment) Regulations 2006

Made - - - - *5th September 2006*

Laid before Parliament *7th September 2006*

Coming into force - - *1st October 2006*

The Commissioners for Her Majesty's Revenue and Customs make the following Regulations in exercise of the powers conferred by sections 7A(7) and 9(2) of the Tobacco Products Duty Act 1979(a):

1. These Regulations may be cited as the Tobacco Products (Amendment) Regulations 2006 and come into force on 1st October 2006.
2. The Tobacco Products Regulations 2001(b) are amended as follows.
3. In regulation 3 (interpretation)—
 - (a) in paragraph (1), in the definition of “manufacturer”, for the words “paragraph (2)” substitute “paragraphs (2) and (3)”, and
 - (b) at the end insert—

“(3) In Part VII of these regulations “manufacturer” has the meaning given by sections 7D(3) and (4) of the Act.”.
4. After regulation 28 insert—

“PART VII

DUTY NOT TO FACILITATE SMUGGLING

29.—(1) The Commissioners shall provide written notification of a seizure of cigarettes or hand-rolling tobacco under section 139 of the Customs and Excise Management Act 1979(c) (“the seized products”) to a manufacturer in the circumstances specified in paragraph (2).

(2) The circumstances referred to in paragraph (1) are—

(a) 1979 c. 7; sections 7A and 9(2) were inserted by the Finance Act 2006 (c. 25), section 2, section 7D(3) and (4), also inserted by the Finance Act 2006, section 2, defines “manufacturer”. Section 2 of the Finance Act 2006 will be brought into effect by S.I. 2006/xxx on 1 October 2006; section 10(2) of the Tobacco Products Duty Act 1979 provides that the Act is to be construed as one with the Customs and Excise Management Act 1979 (c. 2) and section 10(3) applies the definitions in that Act; section (1)(1) of the Customs and Excise Management Act 1979 (as amended by the Commissioners for Revenue and Customs Act 2005(c.11), Schedule 4, paragraph 22(b)) defines “the Commissioners”.

(b) S.I. 2001/1712 as amended by S.I. 2003/1523; there are other amendments not relevant to these regulations.

(c) 1979 c. 2.

- (a) the seized products consist of at least 100,000 cigarettes or 50 kilogrammes of hand-rolling tobacco; and
- (b) the Commissioners believe that the seized products were manufactured by, or that manufacture was arranged by, the manufacturer on or after 1st October 2006.

30.—(1) The written notification shall be accompanied by a sample of the seized products.

(2) The remaining seized products shall be available for inspection by the manufacturer at any reasonable time for a period of one month beginning with the day on which written notification was given to that manufacturer.

(3) A manufacturer who wishes to inspect the remaining seized products shall notify the Commissioners of that fact in such form and manner as the Commissioners may specify.

31.—(1) A manufacturer shall provide the Commissioners with the information specified in the Schedule.

(2) The information shall be provided —

- (a) before the end of the period of one month beginning with the day on which written notification was given to the manufacturer, or
- (b) at such other time as the Commissioners may allow.

(3) The Commissioners may dispense with the requirement to provide any information specified in the Schedule where they are satisfied that a manufacturer is unable to provide that information despite taking reasonable steps to do so.

SCHEDULE

Regulation 31

1. Where the seized products were—

- (a) manufactured by the manufacturer, or
- (b) manufactured by a person with whom the manufacturer had arranged to have cigarettes or hand-rolling tobacco manufactured,

the manufacturer shall provide the information specified in paragraphs 4 to 10 below.

2. Where it appears the seized products were manufactured on premises occupied by—

- (a) the manufacturer, or
- (b) a person falling within paragraph 1(b),

other than in accordance with instructions given by, or with the agreement of, the manufacturer the manufacturer shall provide the address of those premises, the name of the undertaking occupying those premises and, if that undertaking is a subsidiary undertaking, the name of the parent undertaking.

3. Where the seized products do not fall within paragraphs 1 or 2 the manufacturer shall notify the Commissioners of that fact.

Information to be provided

4. The name of the undertaking who manufactured the seized products and, if that undertaking is a subsidiary undertaking, the name of the parent undertaking.

5. The address of the premises on which the seized products were manufactured.

6. The date the seized products were manufactured.

7. The total quantity of cigarettes or hand rolling tobacco bearing the same manufacturer's coding as the seized products.

8. The name of the country to which the seized products were, or were to be, supplied.
9. The name and address of the first customer to whom the seized products were, or were to be, supplied.
10. The date of the invoice issued to the first customer and the total invoiced quantity of cigarettes or hand-rolling tobacco.

Interpretation

11. For the purposes of this Schedule “subsidiary undertaking”, “parent undertaking”, and “undertaking” shall have the meaning given by sections 258 and 259 of the Companies Act 1985(a).

5th September 2006

Paul Gray
Dave Hartnett

Two of the Commissioners for Her Majesty’s Revenue and Customs

(a) c. 6. Sections 258 and 259 were inserted by sections 21 and 22 of the Companies Act 1989 (c. 40); section 258 was amended by S.I. 2004/2947.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations insert a new Part VII and Schedule into the Tobacco Products Regulations 2001 (S.I. 2001/1712) (“the principal Regulations”). They come into force on 1st October 2006.

Sections 7A to 7D of the Tobacco Products Duty Act 1979 (c. 7) (as inserted by section 2 of the Finance Act 2006 (c. 25)(a)) imposes a duty on tobacco manufacturers not to facilitate smuggling.

Regulation 3 amends the definition of a tobacco manufacturer for the purposes of Part VII of the Regulations to that given by sections 7D(3) and 7D(4) of the Tobacco Products Duty Act 1979.

Regulation 4 inserts new regulations 29 – 31 into, and a new Schedule to, the principal Regulations.

New regulation 29 places a requirement on the Commissioners to provide tobacco manufacturers with written notification of cigarettes and hand rolling tobacco seized under section 139 of the Customs & Excise Management Act 1979. Notification is only required in the circumstances specified in new regulation 29(2).

New regulation 30 requires the Commissioners to provide a sample of the seized products to the manufacturer and provides that the manufacturer may inspect the entire seizure at any reasonable time for a period of one month beginning with the day on which written notification was given.

New regulation 31 requires the manufacturer to provide the information specified in the Schedule within one month of the day on which notification was given, or, subject to agreement with the Commissioners, a later time. The regulation also enables the Commissioners to dispense with the requirement to provide any of the information specified in the Schedule where they are satisfied that a manufacturer is unable to provide that information despite taking reasonable steps to do so.

The new Schedule specifies the information to be provided by the manufacturer.

A full Regulatory Impact Assessment was published at Budget 2006 and is available at

<http://www.hmrc.gov.uk/budget2006/index.htm#ria> .

Alternatively a copy may be obtained from:

Tobacco Branch

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(a) Section 2 of the Finance Act 2006 will be brought into effect by S.I. 2006/2367(C.80) on 1 October 2006.

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