

2011 No. 2225

EXCISE

**The Excise Goods (Holding, Movement and Duty Point)
(Amendment) Regulations 2011**

<i>Made</i>	- - - -	<i>8th September 2011</i>
<i>Laid before Parliament</i>		<i>9th September 2011</i>
<i>Coming into force</i>	- -	<i>1st October 2011</i>

The Commissioners for Her Majesty's Revenue and Customs make the following Regulations in exercise of the powers conferred by section 93(1)(d),(2)(a),(e) and (fa) and (3) of the Customs and Excise Management Act 1979(a), section 41A(7) of the Alcoholic Liquor Duties Act 1979(b), section 1 of the Finance (No.2) Act 1992(c) and section 2(2) of the European Communities Act 1972(d) having being designated(e) for the purposes of that section in relation to excise matters of the EU(f) and payment of excise duty.

Citation and commencement

1. These Regulations may be cited as the Excise Goods (Holding, Movement and Duty Point) (Amendment) Regulations 2011 and come into force on 1st October 2011.

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- (a) 1979 c. 2; section 1(1) defines "the Commissioners"; the definition of "the Commissioners" was substituted by the Commissioners for Revenue and Customs Act 2005 (c. 11), Schedule 4, paragraph 22(b); section 93(2)(a) was amended by the Finance Act 1981 (c. 35), Schedule 8, paragraph 2; section 93(1) was substituted, section 93(3) amended and section 93(2)(fa) inserted by the Finance (No. 2) Act 1992 (c. 48), Schedule 2, paragraph 2.
- (b) 1979 c. 4; section 41A was inserted by the Finance Act 1991 (c. 31), section 7(2) and subsection (7) has been amended by the Finance (No. 2) Act 1992 (c. 48), Schedule 1, paragraph 10 and Schedule 18, Part 1. Section 4(2) of the Alcoholic Liquor Duties Act 1979 provides for that Act to be construed as one Act with the Customs and Excise Management Act 1979 (c. 2), and section 4(3) applies the definitions in that latter Act. Section 1(1) of the Customs and Excise Management Act 1979 (amended by the Commissioners for Revenue and Customs Act 2005 (c.11)) defines "the Commissioners" as "the Commissioners for Her Majesty's Revenue and Customs".
- (c) 1992 c. 48; the power to make regulations in section 1 is conferred on "the Commissioners". Section 1(7) defines "the Commissioners" as "the Commissioners of Customs and Excise". The functions of the Commissioners of Customs and Excise were transferred to the Commissioners for Her Majesty's Revenue and Customs by section 5 of the Commissioners for Revenue and Customs Act 2005 (c.11). Section 50(1) of that Act provides that a reference to the Commissioners of Customs and Excise shall be taken as a reference to the Commissioners for Her Majesty's Revenue and Customs.
- (d) 1972 c. 68; section 2(2) was amended by the Legislative and Regulatory Reform Act 2006 (c.51), section 27(1)(a) and the European Union (Amendment) Act 2008 (c. 7), the Schedule, Part 1.
- (e) S.I. 1980/865 (excise matters of the European Communities) and S.I. 1982/529 (payment of excise duty). These instruments designate the Commissioners of Customs and Excise. The functions of the Commissioners of Customs and Excise were transferred to the Commissioners for Her Majesty's Revenue and Customs by section 5 of the Commissioners for Revenue and Customs Act 2005 (c.11). Section 50(1) of that Act provides that a reference to the Commissioners of Customs and Excise shall be taken as a reference to the Commissioners for Her Majesty's Revenue and Customs.
- (f) Section 3(6) of the European Union (Amendment) Act 2008(c.7) provides that a reference in an instrument to all or any of the Communities shall, in the application of the instrument after the coming into force of the Act, be treated as being a reference to the EU.

Amendments to the Excise Goods (Holding, Movement and Duty Point) Regulations 2010

2. Amend the Excise Goods (Holding, Movement and Duty Point) Regulations 2010(a) as follows.

3. In paragraph (1) of regulation 3 (interpretation), in paragraphs (b) and (d) of the definition of “EU requirements”, after “dispatches from” insert “, or movements wholly within,”.

4. In paragraph (1) of regulation 7 (time when goods leave a duty suspension arrangement) in sub-paragraphs (a)(i) and (g)(i) for “35(1)(a)” substitute “35(a)”.

5. In paragraph (4)(h) of regulation 13 (goods already released for consumption in another Member State—excise duty point and persons liable to pay)—

(a) for “3200 cigarettes” substitute “800 cigarettes”; and

(b) for “3 kilogrammes” substitute “1 kilogramme”.

6. In regulation 46 (report of export from territory of the EU) for paragraphs (2) to (5) substitute—

“(2) If the customs office of exit is in another Member State the Commissioners must, when they receive an endorsement drawn up by that office certifying that the excise goods have left the territory of the EU, carry out an electronic verification of the data resulting from the endorsement.

(3) When the data referred to in paragraph (2) has been verified the Commissioners must send a report of export to the consignor using the computerised system.

(4) If the Member State of export is another Member State the Commissioners must, when they receive a report of export from the competent authorities of that State, send it to the consignor using the computerised system.

(5) If the customs office of exit is in the United Kingdom the Commissioners must, on the basis of an endorsement drawn up by that office certifying that the excise goods have left the territory of the EU, send a report of export to the consignor using the computerised system.

(6) A report of export shall constitute proof that the movement of the excise goods referred to in the report has ended.

(7) Without prejudice to paragraph (6), a certification by the competent authorities of the Member State in which the customs office of exit is located that the excise goods have left the territory of the EU shall constitute proof that the movement of those goods has ended.”.

7. At the beginning of regulation 56 (application of Part 8), for “This” substitute “Subject to regulation 58(3), this”.

8. In regulation 60 (procedure for movement of excise goods under duty suspension arrangements wholly within the United Kingdom when computerised system unavailable) in paragraph (1) after “This regulation” insert “, regulation 60A”.

9. After regulation 60 insert—

“Procedure for amending destination when computerised system unavailable

60A.—(1) If, in accordance with regulation 58(3), the destination shown on the electronic administrative document is amended, the consignor must, before the destination is amended, notify the Commissioners of the new destination.

(2) As soon as the computerised system is restored, the consignor must notify the Commissioners of the new destination using the computerised system.

(a) S.I.2010/593.

(3) The consignor must ensure that the information notified to the Commissioners in accordance with paragraph (1)—

- (a) is in the form required by Article 8(2) of Commission Regulation (EC) 684/2009(a); and
- (b) includes the data elements numbered (f) in Group 2, (a) in Group 7 and Group 8 of Table 3 in the Annex to that Regulation.”.

10.—(1) In regulation 62 (simplified procedures for certain movements of alcoholic liquors)—

(a) for paragraph (2) substitute —

“(2) Subject to the conditions specified in paragraph (3), alcoholic liquors to which this regulation applies may be removed without payment of duty from the premises referred to in paragraphs (2A) to (2E) to any other such premises without being under the cover of an electronic administrative document.

(2A) In the case of beer—

- (a) premises in respect of which—
 - (i) the producer of the beer or a packager is registered under section 41A of ALDA 1979 (beer stores);
 - (ii) the producer of the beer is registered under section 47(1) of ALDA 1979 (breweries);
- (b) an excise warehouse approved for the deposit, keeping and securing of beer.

(2B) In the case of wine and made-wine—

- (a) premises in respect of which the producer of the wine or made-wine holds a licence under section 54(2) or 55(2) of ALDA 1979 (wineries);
- (b) an excise warehouse approved for the deposit, keeping and securing of wine or made-wine.

(2C) In the case of cider—

- (a) premises in respect of which the maker of the cider is registered under section 62(2) of ALDA (cider maker’s premises);
- (b) an excise warehouse approved for the deposit, keeping and securing of cider.

(2D) In the case of spirits an excise warehouse approved for the deposit, keeping and securing of spirits.

(2E) In respect of any alcoholic liquors—

- (a) premises in respect of which a person other than the producer or manufacturer of the alcoholic liquors is—
 - (i) registered or holds a licence under any of the provisions referred to in paragraphs (2A) to (2C); or
 - (ii) the authorised warehousekeeper; and
- (b) that person and the producer or manufacturer are treated as members of a group under sections 43A to 43D of the Value Added Tax Act 1994(b).”.
- (b) In paragraph (3)(c) for “referred to in paragraph (2)(e) and (f)” substitute “to which paragraph (2E) applies”.
- (c) In paragraph (4) for “paragraphs (2)(e) and (3)(c)” substitute “paragraph (3)(c)”.
- (d) In paragraph (5)—
 - (i) after the definition for “beer” insert—

““cider” has the meaning given in section 1(6) of that Act;

(a) OJ L 197 29.07.2009. p.24.

(b) 1994 c.23; sections 43A, 43B and 43C were inserted by the Finance Act 1999 (c. 16), Schedule 2, paragraph 2. Sections 43AA and 43D were inserted by the Finance Act 2004 (c. 12), section 20(1) and (2).

- “made-wine” has the meaning given in section (1)(5) of that Act;”;
- (ii) at the end of the definition for “spirits” omit “and”;
- (iii) at the end of the definition for “packager” omit the full stop and insert “; and”;
- (iv) after the definition for “packager” insert—
““wine” has the meaning given in section 1(4) of that Act.”.

(2) Regulation 62(1) of the Excise Goods (Holding, Movement and Duty Point) Regulations 2010 is subject to the amendments made by this regulation, and these amendments only have effect in relation to a movement of alcoholic liquors under duty suspension arrangements which starts in the United Kingdom on or after 1st October 2011.

11. After regulation 63 (simplified procedure for certain movements of tobacco products) insert—

“Simplified procedure for direct exports of alcoholic liquors and tobacco products

63A.—(1) Subject to the conditions specified in paragraph (2), alcoholic liquors and tobacco products may be removed without payment of duty from any of the premises referred to in regulation 62 or 63 (including an excise warehouse) to a place in the United Kingdom from where they will leave the territory of the EU without being under the cover of an electronic administrative document.

- (2) The specified conditions are—
 - (a) the occupier of the premises must have been granted authorisation to use the local clearance procedure;
 - (b) that authorisation must require that a full customs declaration is made; and
 - (b) in a case where a guarantee was required in accordance with regulation 39, the person providing the guarantee must be shown on that declaration.

- (3) In this regulation—
 - “alcoholic liquors” has the meaning given in regulation 62(5);
 - “authorisation to use the local clearance procedure” means the authorisation referred to in article 283 of Commission Regulation 2454/93(a); and
 - “full customs declaration” means a declaration that contains all the particulars set out in Annex 37 of that Regulation.”.

12. In Schedule 1 (civil penalties-relevant regulations)—

- (a) before the entry for regulation 61 insert “60A (procedure for amending destination when computerised system unavailable);” and
- (b) before the entry for regulation 65 insert “63A(2) (conditions applying to simplified procedure for direct exports of alcoholic liquors and tobacco products);”.

Dave Hartnett
Mike Eland

8th September 2011

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

(a) OJ L 253, 11.10.1993, p.1.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which come into force on 1st October 2011, amend the Excise Goods (Holding, Movement and Duty Point) Regulations 2010 (“the Principal Regulations”).

Regulations 3, 4, and 7 correct drafting errors in the Principal Regulations.

Regulation 5 amends regulation 13 of the Principal Regulations to reduce the Minimum Indicative Levels (MILS) in relation to cigarettes and tobacco to which regard must be taken for the purposes of determining whether any such goods which have been acquired in another Member State are for a person’s own use.

Regulation 6 amends regulation 46 of the Principal Regulations so that the procedures that must be followed in relation to reports of export from the territory of the EU comply with the requirements of Council Directive 2008/118/EC(a).

Regulation 9 inserts a new regulation 60A into the Principal Regulations to provide for the procedure that must be followed, and the information that must be given to the Commissioners for Revenue and Customs, when the destination shown on an electronic administrative document is amended but the computerised system is not available to notify the change.

Regulation 10 amends regulation 62 of the Principal Regulations to clarify the premises to and from which alcoholic liquors may be moved wholly within the UK under duty suspension arrangements without being under the cover of an electronic administrative document (the simplified procedure) and to extend the simplified procedure to movements to and from excise warehouses for the purpose of the storage of alcoholic liquors.

Regulation 11 inserts a new regulation 63A into the Principal Regulations to extend the simplified procedures in regulations 62 and 63 to the movement of alcoholic liquors and tobacco products to a place in the UK from where they will leave the territory of the Community, subject to the conditions specified in the regulation.

Regulation 12 makes consequential amendments to Schedule 1 (civil penalties-relevant regulations).

A Tax Information and Impact Note covering regulation 5 of this instrument is available on the HMRC website at <http://www.hmrc.gov.uk/thelibrary/tiins.htm>.

A transposition note setting out how the Principal Regulations implement the requirements of Council Directive 2008/118/EC is available from www.hmrc.gov.uk

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(a) OJ L 076, 23.03.92, p.1.

STATUTORY INSTRUMENTS

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