S.I. No. 443 of 2001

Regulations

entitled

CONTROL OF EXCISABLE PRODUCTS REGULATIONS, 2001

Made by the Revenue Commissioners

CONTROL OF EXCISABLE PRODUCTS REGULATIONS, 2001

WHEREAS Part 2 of the Finance Act, 2001, has not yet been brought into operation;

AND WHEREAS the Revenue Commissioners consider it expedient to make regulations relating to Part 2 of the Finance Act, 2001, so as to enable that Part to have full force and effect immediately upon its coming into operation;

AND WHEREAS section 10(1)(b) of the Interpretation Act, 1937 (No. 38 of 1937), provides for such cases;

NOW, the Revenue Commissioners, in exercise of the powers conferred on them by section 153 of the Finance Act, 2001 (No. 7 of 2001), hereby make the following Regulations:

PART 1

PRELIMINARY AND GENERAL

1. These Regulations may be cited as the Control of Excisable Products Regulations, 2001.

2. These Regulations come into operation on 1 October 2001.

3. The Control of Excisable Products Regulations, 1992 (S.I. No. 430 of 1992), are revoked.

4. (1) In these Regulations, except where the context otherwise requires-

“accompanying document” has the same meaning as it has in section 117(1) of the Act of 2001;

“advance declaration” shall be read in accordance with Regulation 18;

“Act of 2001” means, the Finance Act, 2001 (No. 7 of 2001);

“approved” means approved by the Commissioners;

“CN -Code reference” means a Community subdivision to the combined nomenclature of the European Communities referred to in Article 1 of Council Regulation (EEC) No. 2658/87 of 23 July 1987[1];

“declarant” has the meaning assigned to it by Regulation 6;

“duty guarantee document” shall be read in accordance with Regulation 18;

[1] OJ No. L 256 of 7 September, 1987, p. 1.

"main accompanying document" means—

(a) a document in the form of the document prescribed in Commission Regulation (EEC) No. 2719/92 of 11 September 1992[1], or

(b) a commercial document provided for under that Regulation containing the same information, including the corresponding box reference numbers;

"marked gas oil" has the meaning assigned to it by Regulation 3 of the Mineral Oil Tax Regulations;

"marked kerosene" has the meaning assigned to it by Regulation 3 of the Mineral Oil Tax Regulations;

"Mineral Oil Tax Regulations" means the Mineral Oil Tax Regulations, 2001 (S.I. No. 442 of 2001);

"place of presentation" means an office in which a proper officer is present and to which any person importing excisable products may take such products in compliance with the provisions of these Regulations;

"proper officer" means an officer of the excise station for the area in which a person, premises or office of presentation is situated, or a person acting for that officer, or any officer superior to that officer;

"simplified accompanying document" means—

(a) a document in the form of the document prescribed by Commission Regulation (EEC) No 3649/92 of 17 December, 1992[2],or

(b) a commercial document provided for under that Regulation containing the same information, (including the corresponding box reference numbers);

"VAT number" means—

(a) in relation to another Member State, an identification number currently issued in that Member State for the purposes of accounting for value-added tax referred to in Council Directive No. 77/388/EEC of 17 May 1977 [3], and,

(b) in relation to the State, a registration number issued by the

[1] OJ No. L.276 of 19 September, 1992, p.1.
[2] OJ No. L369 of 18 December 1992, p.17.
[3] OJ No. L145 of 13 June 1977, p.I.

Commissioners in accordance with section 9 of the Value-Added Tax Act, 1972 (No. 22 of 1972);

“vessel” includes any tank, drum, storage place, still or utensil.

(2) A word or expression that is used in these Regulations and in respect of which an interpretation is provided for under section 96 of the Act of 2001, has, unless the contrary intention appears, the same meaning in these Regulations as is so provided for under that section for the purposes of Part 2 of that Act.

(3) A reference in these Regulations to a Regulation or a Schedule is to a Regulation of, or Schedule to, these Regulations unless it is indicated that a reference to some other enactment is intended.

(4) A reference in these Regulations to a paragraph or subparagraph is to a paragraph or subparagraph of the provision in which the reference occurs, unless it is indicated that a reference to some other provision is intended.

PART 2

THE IMPORTATION OF EXCISABLE PRODUCTS, DUTY-PAID IN ANOTHER MEMBER STATE, FOR COMMERCIAL PURPOSES

5. This Part applies to excisable products released for consumption in another Member State which are imported into the State or which are intended for importation into the State and to which, on importation, sections 100 and 111 of the Act of 2001, apply.

6. Any person importing or delivering to the State excisable products to which this Part applies shall, subject to Regulation 17, at least one full working day in advance of the dispatch of such excisable products, deliver or have delivered on behalf of that person to the proper officer a written advance declaration in duplicate relating to such excisable products, the copies of which are referred to in these Regulations as “copy 1” and “copy 2”, and such person is referred to in these Regulations as the “declarant”.

7. An advance declaration referred to in Regulation 6 shall be in such form as the Commissioners may from time to time determine and shall contain-

(a) the name, address and, where applicable, the VAT number of the person in the State intending to acquire the excisable products,

(b) the name, address and VAT number of the person in another Member State selling, supplying or sending (referred to in these Regulations as “the supplier”) the excisable products,

(c) the address of the premises or place to which the excisable products are to be delivered or the place of presentation (as the case may be) in the State and the estimated date of delivery or presentation,

(d) the name, address and VAT number of each transporter or carrier (if different from the persons referred to in paragraphs (a) or (b)) of the excisable products in the course of their delivery within the State,

(e) a full description of the excisable products including the CN -Code reference,

(f) the chargeable quantity of the excisable products expressed in the appropriate units of charge,

(g) the value of the excisable products,

(h) the amount of the excise duty payable on the excisable products,

(i) the name and address of the person responsible for payment of the duty, and

(j) such other information as the Commissioners may require.

8. The declarant may, at the time of delivery of an advance declaration to the proper officer in accordance with Regulation 6, pay the excise duty on the excisable products which are the subject of such declaration.

9. (1) Where the declarant opts to comply with Regulation 8, such declarant shall complete a final declaration in duplicate and deliver both copies to the proper officer together with the full amount of the excise duty due on the excisable products which are the subject of such final declaration.

(2) The declaration referred to in paragraph (1) shall-

(a) be in such form as the Commissioners may from time to time determine,

(b) contain the information specified in Regulation 7 and any other information the Commissioners may require for the purposes of charging excise duty, and

(c) in the case of marked gas oil or marked kerosene, be endorsed by the declarant in accordance with Regulation 20(3).

10. Where the declarant opts not to comply with Regulation 8, such declarant shall provide such security to the satisfaction of the proper officer as is necessary to cover in full the liability to excise duty at the time of their expected arrival in the State of all excisable products which are the subject of an advance declaration.

11. Where the proper officer has accepted an advance declaration and is satisfied that the duty has been paid or secured such officer shall endorse both copies of such advance declaration indicating that excise duty has been paid or secured**,** as the case may be**,** and such officer shall enter a transaction reference number on both copies and such officer shall return copy 1 to the declarant and retain copy 2.

12. (1) The accompanying document shall in so far as the excisable products to which this Part relates be the simplified accompanying document.

(2) Where the simplified accompanying document is in the form of a commercial document it shall be clearly marked with the following statement:

> "Simplified Accompanying Document (excisable products) for fiscal control purposes".

13. The declarant shall, in respect of all excisable products which are the subject of an advance declaration, ensure that the simplified accompanying document—

(a) is completed in triplicate by the supplier, and the copies of such document so completed are referred to in these Regulations as "copy 1", "copy 2" and "copy 3",

(b) bears true and accurate information in respect of such excisable products, and

(c) bears, on all copies, the transaction reference number assigned by the proper officer in accordance with Regulation 11 to the advance declaration relating to such excisable products.

14. Where the supplier is not the declarant and where the supplier is unwilling, unable or otherwise fails to complete the simplified accompanying document in accordance with Regulation 13, the declarant shall complete such document in accordance with that Regulation.

15. The declarant shall ensure that all excisable products which are the subject of an advance declaration shall, at all times while within the State and until such excisable products have been examined or authorised for release by the proper officer be accompanied by-

(a) an endorsed copy of the advance declaration referred to in Regulation 11, referred to in this Part as "the duty guarantee document", and

(b) copy 2 and copy 3 of the simplified accompanying document.

16. Copy 1 of the simplified accompanying document shall be retained by the person completing such document in accordance with Regulation 13 or Regulation 14, as the case may be.

17. Subject to such conditions as they may think fit to impose, the Commissioners may modify Regulations 6, 7, 9 and 10 in relation to a person where-

(a) they are satisfied that such person is engaged in frequent importations of excisable products to which this Part applies, and

(b) such person undertakes to transport such excisable products from another Member State through a specific route to a specific place of presentation, and

(c) such person secures the excise duty on all such excisable products.

18. The modification of provisions to which Regulation 17 refers may include provision for-

(a) one advance declaration relating to a number of intended transactions, including all transactions for a particular period,

(b) a general duty guarantee document, and

(c) such other modifications in relation to an advance declaration as the Commissioners may think fit to allow,

and any reference in these Regulations to "advance declaration" and "duty guarantee document" shall be read as including a reference to an advance declaration and a duty guarantee document as modified in accordance with this Regulation.

19. On the arrival of excisable products which have been the subject of an advance declaration at a premises or place to which Regulation 7(c) refers, or at such other premises or place as the Commissioners may from time to time allow, the declarant shall—

(a) immediately notify the proper officer of the arrival of such excisable products by presenting copy 2 and copy 3 of the simplified accompanying document relating to such excisable products to such officer, and

(b) ensure that such excisable products are held intact until such time as they have been examined or authorised for release by the proper officer.

20. (1) Where the excise duty has not been paid in advance under Regulation 8, the declarant shall, at the time of notification of the proper officer under Regulation 19(a)-

(a) complete a final declaration in duplicate in such form as the Commissioners may from time to time determine and deliver to the proper officer such final declaration, and

(b) deliver to the proper officer the full amount of the excise duty due on the excisable products which are the subject of such final declaration.

(2) The declaration referred to in paragraph (1)(a) shall contain the information specified in Regulation 7 and such other information as the Commissioners may require for the purposes of charging duty.

(3) In the case of marked gas oil or marked kerosene, the declarant shall**,** instead of endorsing the declaration required by Regulation 33(1)(c) of the Mineral Oil Tax Regulations, endorse the final declaration to the effect that markers have been added outside the State in accordance with those Regulations, and that the marked gas oil or marked kerosene, as the case may be, is intended for a purpose other than combustion in the engine of a motor vehicle.

21. (1) Where the proper officer is satisfied that excisable products are in agreement with the final declaration completed in respect of them, such officer shall authorise their release.

(2) Where the proper officer has authorised the release of excisable products in accordance with paragraph (1) such officer shall return to the declarant copy 2 and copy 3 of the simplified accompanying document duly endorsed to the effect that such excisable products have been received in the State.

(3) The declarant shall retain copy 2 of the simplified accompanying document as a record and shall forward copy 3 to the supplier.

22. The declarant shall in respect of excisable products to which this Part relates keep at the premises or place of delivery, or at such other premises or place as the Commissioners may allow-

(a) all accounts and other records relating to the receipt or importation of such excisable products, and

(b) separate accounts in respect of each category of excisable product for which separate completion of a simplified accompanying document has been necessary, and such accounts shall show in respect of each consignment received or imported—

(i) the date of receipt or importation,

(ii) the name and address of the supplier,

(iii) the chargeable quantity expressed in the appropriate units of charge,

and entries into such accounts shall be made not later than 12 o'clock midday on the next working day following the day of the arrival of such excisable products.

23. (1) Subject to paragraph (2), the foregoing Regulations shall apply with any necessary modifications to the importation, intended importation, delivery or intended delivery of excisable products to which this Part applies where the supplier of such excisable products is a non-State vendor as if references in those Regulations to “the declarant” and “the supplier” were references to “the tax representative” and “the non-State vendor”, respectively.

(2) Where the supplier is a non-state vendor and the declarant is a tax representative acting as an agent on behalf of such non-state vendor-

(a) Regulations 12, 13, 14, 15(b) and 16 and paragraphs (1) and (2) of Regulation 21 shall not apply,

(b) Regulation 19 shall apply as if the reference in it to “copy 2 and copy 3 of the simplified accompanying document” were a reference to the “duty guarantee document or a true copy of it”, and

(c) the tax representative shall ensure that the excisable products are taken on importation directly to a place of presentation for their examination by the proper officer and for the purpose of paying excise duty on such excisable products.

PART 3

THE IMPORTATION BY PRIVATE INDIVIDUALS FOR PERSONAL USE OF EXCISABLE PRODUCTS DUTY-PAID IN ANOTHER MEMBER STATE

24. This Part applies to excisable products referred to in section 104(2) of the Act of 2001.

25. In determining, for the purposes of section 104(2) of the Act of 2001, whether or not any excisable products in the possession, control or charge of a person are excisable products which were imported for a commercial purpose or are held or used for such purpose**,** as the case may be, the Commissioners shall have regard to the following:

(a) the reasons given by such person for having control or possession of the excisable products;

(b) the occupation or commercial status of such person including whether or not such person is a person approved by the Commissioners to produce, process, hold, receive or dispatch excisable products;

(c) the premises or place where the excisable products are held;

(d) the means of transport used to import the excisable products;

(e) any documentation or other information relating to the excisable products;

(f) the nature of the excisable products including the nature and condition of any package or container in which the excisable products are packed or contained;

(g) whether or not the purchase price of the excisable products includes value-added tax of the Member State in which the excisable products were acquired;

(h) the frequency with which such person imports excisable products;

(i) the conduct of such person in relation to the excisable products including the person's intentions at any time in relation to the excisable products; and

(j) the quantity of the excisable products.

26. For the purposes of the determination referred to in Regulation 25(j), excisable products in the possession, control or charge of any person shall be regarded as excisable products imported, held or used for a commercial purpose where such products are in

excess of any of the quantities shown in the Schedule to these Regulations unless such person can satisfy the Commissioners to the contrary.

27. Section 104(2) of the Act of 2001 shall not apply to any person under the age of 17.

28. Where at any time any person who has possession, control or charge of any excisable products which have not been charged with excise duty by virtue of section 99(2) of the Act of 2001 forms an intention or takes steps to hold or use such excisable products for a commercial purpose such person shall-

(a) immediately notify the Commissioners in writing of that intention, and

(b) pay on demand to the Commissioners the excise duty on such excisable products.

PART 4

THE EXPORTATION OF EXCISABLE PRODUCTS UNDER A SUSPENSION ARRANGEMENT FROM THE STATE TO ANOTHER MEMBER STATE

29. This Part applies to the release of excisable products by an authorised warehousekeeper from a tax warehouse in the State for delivery under a suspension arrangement to another Member State including delivery to–

(a) a free zone or free warehouse in another Member State for subsequent export from the community, or

(b) otherwise to another Member State for such subsequent export.

30. (1) Before the release for delivery of excisable products to which this Part applies an authorised warehousekeeper shall ensure that an accompanying document is completed bearing true and accurate information in respect of such products and consisting of five copies, referred to in these Regulations as "copy 1", "copy 2", "copy 3", "copy 4" and "copy 5".

(2) The accompanying document referred to in paragraph (1) shall be the "main accompanying document".

31. (1) The authorised warehousekeeper shall ensure that the copies referred to in Regulation 30 are retained or distributed in the following manner:

(a) copy 1 to be retained by the authorised warehousekeeper,

(b) copy 2, copy 3 and copy 4 to be dispatched with and to accompany the excisable products to which they refer while such products are being transported between the premises of the authorised warehousekeeper and the premises or place of the consignee in another Member State, and

(c) copy 5 to be presented to the proper officer.

(2) For the purposes of paragraph (1) a reference to a consignee shall include

(a) a person employed in the Customs Office of departure in another Member State in the case of excisable products being exported from the State through another Member State to a place outside the Community, and

(b) a person in another Member State competent to certify receipt of excisable products into a Community customs procedure other than release for free circulation or into a free zone or a free warehouse in the case of such products being exported from the State for entry into such customs procedure, free zone or free warehouse (as the case may be).

32. Subject to such exceptions as the Commissioners may think fit to allow, an authorised warehousekeeper shall ensure that copy 5 of the main accompanying document is lodged with the proper officer at least one working day in advance of the date of the removal from warehouse of the excisable products to which such copy 5 relates and such warehousekeeper shall make such excisable products available for checking and examination by the proper officer.

33. (1) An authorised warehousekeeper shall, in respect of excisable products to which this Part applies which have been delivered from the State, be deemed to have complied with section 99(3) of the Act of 2001, where—

(a) such warehousekeeper has obtained from the consignee the returned copy 3 of the main accompanying document within 15 days following the month of receipt of such excisable products by the consignee, and

(b) such copy 3 has been properly certified with the following information:

(i) the address of the office of the consignee's controlling excise authority;

(ii) the date and place of receipt of the excisable products;

(iii) a description of the excisable products received and, where these are fully in agreement with the main accompanying document, such copy 3 should indicate:
"Consignment checked";

(iv) the reference or registration number of the consignee if such numbers are issued by the authorities of a Member State;

(v) the approved signature of the consignee; and

(vi) the endorsement of the competent authority of the Member State of the consignee in the case of those Member States where such authority undertakes to carry out such endorsement.

(2) The Commissioners shall make available a list of the Member States to which paragraph (1)(b)(vi) applies.

(3) An authorised warehousekeeper of dispatch or the agent of such warehousekeeper may amend the contents of boxes 4, 7, 7a, 13, 14 and 17 of the main accompanying document to show a new consignee who shall be an authorised warehousekeeper or registered trader, or a new place of delivery.

(4) Where an authorised warehousekeeper makes, for the purposes of paragraph (3), an amendment to the main accompanying document such warehousekeeper shall immediately notify the proper officer and the new consignee or destination shall immediately be indicated on the reverse of the accompanying document.

(5) In the case of the dispatch of mineral oils by sea, the authorised warehousekeeper need not complete boxes 4, 7, 7a, 13 and 17 of the main accompanying document if, when those products are dispatched, the consignee is not definitively known and the proper officer authorises the consignor in advance not to complete those boxes.

(6) Where the main accompanying document is incomplete, as provided for in paragraph (5), the authorised warehousekeeper concerned shall notify the proper officer of the name and address and excise number of the consignee, and the country of destination as soon as they are known or at the latest when the products reach their final destination.

34. (1) Where an authorised warehousekeeper does not obtain the return of copy 3 of the main accompanying document within the time limit laid down in subparagraph (a) of Regulation 33(1) such warehousekeeper shall notify the proper officer accordingly not later than 2 months following the dispatch of the excisable products.

(2) Where the proper officer has been notified in accordance with paragraph (1), or otherwise has information that the time limit referred to in that paragraph has expired, such officer shall issue a demand to the authorised warehousekeeper of dispatch for the excise duty on the excisable products dispatched under cover of the copy 3 which has not been returned.

(3) The excise duty to which paragraph (2) relates shall be calculated at the rate or rates of duty in force on the day on which the excisable products were released from the authorised warehousekeeper's tax warehouse and such duty shall be paid immediately by such warehousekeeper in such form as the Commissioners may require.

35. An authorised warehousekeeper shall retain the returned copy 3 of the main accompanying document as a record for a period of not less than 6 years.

PART 5

THE IMPORTATION OF EXCISABLE PRODUCTS UNDER A SUSPENSION ARRANGEMENT FROM ANOTHER MEMBER STATE TO THE STATE

36. This Part applies to the receipt in the State of excisable products under a suspension arrangement by-

(a) an authorised warehousekeeper,

(b) a registered trader, or

(c) a non-registered trader

from an authorised warehousekeeper in another Member State, and the persons referred to at paragraphs (a), (b) and (c) are hereafter in this Part collectively referred to as “approved traders”.

37. In the case of a non-registered trader, the provisions relating to the importation of excisable products released for consumption in another Member State set down in Regulations 6, 7, 8, 9, 10 and 11 shall, with any necessary amendments, apply in this Part and the references in Regulations 6, 8, 9, 10 and 11 to “declarant” shall be read as references to “non-registered trader”.

38. On the arrival of excisable products to which this Part applies at a premises or other place of delivery-

(a) designated on the main accompanying document,

(b) in the case of a non-registered trader, designated on the advance declaration required under Regulation 7 as applied to this Part by Regulation 37, or

(c) at such other premises or place as the Commissioners may from time to time allow,

an approved trader shall–

(i) immediately notify the proper officer of the arrival of the excisable products by presenting copy 3 and copy 4 of the main accompanying document relating to such excisable products to such officer, and

(ii) ensure that such excisable products are held intact until such time as they have been examined or authorised for release by the proper officer.

39. (1) Where an approved trader notifies the proper officer in accordance with Regulation 38 such trader shall, prior to presenting them to the proper officer, record the following on copy 3 and copy 4 of the main accompanying document:

(a) the address of the Office of the proper officer;

(b) the date and place of receipt of the excisable products to which such copy 3 and copy 4 relate;

(c) a description of the excisable products received and, where these are fully in agreement with such copy 3 and copy 4, such copies should indicate: “Consignment checked”;

(d) where the excisable products received are not in agreement with such copy 3 and copy 4, the extent of the discrepancy;

(e) the reference or registration number of such approved trader; and

(f) the approved signature of such trader.

(2) An approved trader shall retain copy 2 of the main accompanying document as a record for a period of not less than 6 years.

40. (1) Where the proper officer is satisfied that the excisable products are in agreement with copy 3 and copy 4 of the main accompanying document, such officer shall endorse copy 3 of such document duly completed and return it to the approved trader.

(2) The approved trader referred to in paragraph (1) shall ensure that the endorsed copy 3 returned by the proper officer is dispatched to the consignor of the excisable products to which it relates in such time as to reach such consignor not later than 15 days following the month of receipt of such excisable products by such trader.

(3) The proper officer shall retain copy 4 of the main accompanying document.

41. (1) At the same time as an approved trader is required to notify the proper officer of the arrival of excisable products under Regulation 38 and where such trader is either-

(a) a registered trader, or

(b) a non-registered trader who has not already paid excise duty in respect of such excisable products in accordance with Regulation 8 (as applied to this Part by Regulation 37),

such trader shall-

(i) complete a final declaration in duplicate in such form as the Commissioners may from time to time determine and deliver to the proper officer such final declaration, and

(ii) deliver to the proper officer the full amount of the excise duty due on the excisable products which are the subject of such final declaration.

(2) The final declaration referred to in paragraph (1) shall contain the information

specified in Regulation 7 and such other information as the Commissioners may require for the purposes of charging duty and, in the case of marked gas oil and marked kerosene**,** Regulation 20(3) shall apply as if the reference to the "declarant" were a reference to "registered trader" and "non-registered trader".

42. Regulation 22 shall apply in this Part as if the references to a "declarant" and "simplified accompanying document" were references to "registered trader" or "non-registered trader" and "main accompanying document", respectively.

43. (1) Where a tax representative acts in the place of a non-registered trader, the provisions relating to the importation of excisable products released for consumption in another Member State set down in Regulations 6, 7, 8, 9, 10 and 11 shall, with any necessary amendments, apply and the references in Regulations 6, 8, 9, 10 and 11 to "declarant" shall be read as references to "tax representative".

(2) Where a tax representative acts in place of either a registered or non-registered trader, Regulation 22 shall apply as if the references to a "declarant" and "simplified accompanying document" were references to "tax representative" and "main accompanying document" respectively.

44. (1) Where wine is received under a suspension arrangement from a small wine producer in accordance with section 116 (6) of the Act of 2001, the accompanying document may be in the form set down in Article 3(1) of Commission Regulation (EEC) No. 2238/93[1].

(2) Where the accompanying document referred to in paragraph (1) is used-

(a) Regulation 36 shall apply as if the reference to "an authorised warehousekeeper" in another Member State were a reference to such "small wine producer,"

(b) Regulation 38 shall apply as if–

(i) the reference to "the main accompanying document" were a reference to the document referred to in paragraph (1),

(ii) the reference to "copy 3 and copy 4 of the main accompanying document" were a reference to a true copy of the document referred to in paragraph (1),

(c) Regulations 39 and 40 shall not apply, and

(d) Regulation 22 shall apply as if the reference to "simplified accompanying document" were a reference to the document referred to in paragraph (1).

[1] OJ No. L200, of 10 August, 1993, p. 10.

PART 6

THE APPROVAL OF TRADERS

45. A person may be registered by the Commissioners as a registered trader under section 116(4)(b) of the Act of 2001**,** where such person-

(a) applies in writing,

(b) provides evidence of a regular trade in the importation of excisable products,

(c) has a secure premises to which such excisable products are taken by such person or on behalf of such person immediately after importation,

(d) provides, to the satisfaction of the Commissioners, safe means of access for officers to such premises and to all containers, vessels and dipping places in such premises,

(e) undertakes to keep the accounts and other records provided for in Regulation 22 and in the manner set out in that Regulation.

46. A person may be approved by the Commissioners as a tax representative under section 113(2) of the Act of 2001, where such person-

(a) applies in writing,

(b) provides to the Commissioners–

(i) a letter of authorisation from the non-State vendor in another Member State on whose behalf such person intends to operate as a tax representative, and

(ii) such other information as the Commissioners may require,

(c) provides security in respect of all excisable products dispatched to the State by the person or persons in another Member State on whose behalf such person intends to operate as a tax representative, and

(d) complies with such other conditions as the Commissioners may think fit to impose.

PART 7

THE REPAYMENT OF EXCISE DUTY

47. This Part applies to the repayment of excise duty on excisable products to which paragraphs (a), (b), or (d) of section 105(1) of the Act of 2001, refers.

48. A claim for the repayment of excise duty to which this Part applies shall-

(a) be made in writing to the Commissioners and the person making such claim is hereafter in this Part referred to as the "claimant",

(b) be made to the proper officer,

(c) subject to Regulation 50, be made prior to the dispatch to another Member State of the excisable products referred to in that Regulation,

(d) be made in such form as the Commissioners may specify for the purpose, and

(e) contain the following information in relation to the excisable products which are the subject of the claim-

(i) the name and address of the claimant;

(ii) the name and address of the owner of the products;

(iii) a full description of the products including any identifying marks and numbers;

(iv) the CN -Code reference;

(v) the chargeable quantity expressed in the appropriate units of charge;

(vi) the value of the products;

(vii) the excise duty paid on the products, and the date when that duty was paid;

(viii) the name and address of the person who paid the excise duty; and

(ix) the name and address of the consignee or intended consignee of the products in another Member State.

49. (1) Subject to Regulation 50, a claim for the repayment of excise duty on excisable products to which this Part applies shall be accompanied and supported by written evidence relating to such excisable products showing-

(a) that excise duty has been paid in the State,

(b) a contract to supply a person or an order from a person in another Member State, and

(c) that, subject to paragraph (2), excise duty has been secured or paid in another Member State.

(2) Where excise duty has not been paid in another Member State at the time of the making of a claim for the repayment of excise duty, evidence of payment of such duty shall be provided by the claimant at such later time as it becomes available together with written confirmation that the excisable products to which a claim relates have been received in another Member State.

(3) For the purposes of subparagraph 1(a) and where the Commissioners are otherwise satisfied as to the bona fides of a claim, it shall not be necessary for a claimant to produce to the proper officer the original document or warrant prepared at the time of payment of the duty and on foot of which duty was paid.

50. Notwithstanding Regulations 48(c) and 49, where a claim for the repayment of excise duty:

(a) relates to excisable products to which section 105(1)(d) of the Act of 2001, applies, and,

(b) where the payment in question was in respect of a liability arising from a failure to discharge the liability of an authorised warehousekeeper in accordance with section 99(3) of the Act of 2001,

and subject to such exceptions as the Commissioners may think fit to allow, such claim shall—

(i) be made not later than 6 months following the end of the period specified in Article 20.4 of the Directive, and

(ii) be accompanied and supported by written evidence that the excisable products in respect of which the claim has been made have been found in another Member State and that excise duty has been paid on such products in that Member State.

51. (1) In certain exceptional circumstances the Commissioners may allow the return to warehouse of excisable products which have been released for consumption in the State, where such return is for the purposes of supplying such excisable products under a suspension arrangement to a person in another Member State.

(2) In any case to which paragraph (1) applies, a claim for the repayment of excise duty on such products shall with any necessary modifications comply with this Part.

52. Any repayment of excise duty in respect of excisable products to which this Part applies shall, subject to the other Regulations in this Part be in respect of the amount of excise duty paid on such products less the amount of any rebate allowed.

PART 8

MOVEMENT OF DUTY-PAID EXCISABLE PRODUCTS BETWEEN TWO PLACES IN ANOTHER MEMBER STATE BY WAY OF THE STATE

53. This Part applies to the movement via the territory of the State of excisable products released for consumption in another Member State as part of a single movement originating and having its destination in the Member State where they were released for consumption.

54. Any person transporting within the State excisable products to which this Part applies shall at all times ensure that the excisable products in question do not remain in the State for a period which is longer than is reasonable for their movement, and that whilst within the territory of the State they are accompanied by-

(a) a copy of an advance declaration relating to such excisable products made to the proper authorities of the Member State of departure, and

(b) copy 2 and copy 3 of the simplified accompanying document.

55. Subject to such conditions as they may think fit to impose, the Commissioners may modify Regulation 54 in relation to a person where-

(a) the Commissioners are satisfied that the person is engaged in frequent movements of excisable products to which this Part applies,

(b) the person undertakes to transport those excisable products through an appropriate route or routes, and

(c) the products are accompanied by copy 2 and copy 3 of the simplified accompanying document.

PART 9

MOVEMENT OF DUTY-PAID EXCISABLE PRODUCTS BETWEEN TWO PLACES IN THE STATE BY WAY OF ANOTHER MEMBER STATE

56. This Part applies to the movement, via another Member State, of excisable products released for consumption in the State as part of a single movement originating and having its destination in the State.

57. Any person undertaking a movement of excisable products to which this Part applies shall, subject to Regulation 62, deliver or have delivered on behalf of that person to the proper officer, a written advance declaration in duplicate relating to those excisable products in such form as the Commissioners may from time to time determine, at least one full working day before the goods are dispatched and such person is referred to in this Part as the “declarant”.

58. The advance declaration referred to in Regulation 57 shall contain-

(a) the name, address and, where applicable, VAT number of the person in the State, intending to acquire or receive the excisable products,

(b) the name, address and VAT number of the person in the State selling, supplying or sending (in this Part referred to as the "supplier") the excisable products,

(c) the address of the premises or place to which the excisable products are to be delivered in the State and the estimated date of delivery,

(d) the name, address and VAT number of the transporter or carrier of the excisable products to the place of delivery in the State,

(e) a full description of the excisable products including the CN -Code reference,

(f) the chargeable quantity of the excisable products expressed in the appropriate units of charge,

(g) the value of the excisable products,

(h) the specific route being followed, and

(i) such other information as the Commissioners may require.

59. The declarant shall ensure that all excisable products which are the subject of an advance declaration shall, at all times within the State, be accompanied by-

(a) a copy of the advance declaration, and

(b) copy 2 and copy 3 of the simplified accompanying document.

60. Copy 1 of the simplified accompanying document shall be retained as a record by the person completing such document for a period of not less than 6 years.

61. On the arrival of the excisable products which have been the subject of an advance declaration at a premises or place of destination, the consignee shall retain copy 2 of the simplified accompanying document relating to such excisable products and forward copy 3 of such document, duly endorsed to the effect that such excisable products have been received, to the supplier.

62. Subject to such conditions as they may think fit to impose, the Commissioners may modify Regulations 57 to 61 in relation to a person where-

(a) they are satisfied that the person is engaged in frequent importations of excisable products to which this Part applies, and

(b) the person undertakes to transport those excisable products by an appropriate route or routes.

PART 10

MOVEMENT OF EXCISABLE PRODUCTS UNDER A SUSPENSION ARRANGEMENT BETWEEN TWO POINTS IN THE STATE BY WAY OF ANOTHER MEMBER STATE OR BETWEEN TWO POINTS IN ANOTHER MEMBER STATE BY WAY OF THE STATE

63. This Part applies to the movement of excisable products under a suspension arrangement by an authorised warehousekeeper from a tax warehouse in the State for delivery to another tax warehouse in the State via the territory of another Member State or between 2 tax warehouses in another Member State via the State.

64. (1) An authorised warehousekeeper in the State who dispatches excisable products to which this Part applies shall follow the procedures outlined in Regulations 30, 31(1), 32, 33, 34 and 35 except that the consignee referred to in Regulation 31(1) has to be an authorised warehousekeeper in the State.

(2) On the arrival of the excisable products referred to in paragraph (1), the consignee shall immediately notify the proper officer of their arrival and shall follow the procedures provided for in Regulations 38, 39 and 40.

(3) Regulation 22 shall apply as if the references to a “declarant” and “simplified accompanying document” in paragraph (1) were references to “consignee” and “main accompanying document” respectively.

65. Any person transporting within the State excisable products as part of a single movement originating and having its destination in another Member State shall at all times ensure that such excisable products are, whilst within the territory of the State, accompanied by copy 2 and copy 3 of the main accompanying document.

SCHEDULE

QUANTITIES OF EXCISABLE PRODUCTS FOR THE PURPOSE OF REGULATION 25

Description of Product	Quantity
(a) Cigarettes	800
(b) Cigarillos (cigars weighing not more than 3 grammes each)	400
(c) Cigars	200
(d) Tobacco products other than in a form at (a), (b) or (c)	1 kilogramme
(e) Spirits	10 litres
(f) Intermediate products	20 litres
(g) Wine	90 litres (including a maximum of 60 litres of sparkling wine)
(h) Beer	110 litres

GIVEN on 27 September 2001.

Josephine Feehily

Revenue Commissioner.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

These Regulations prescribe, with effect from 1 October 2001, the obligations on and the procedures to be complied with by persons engaged in the intra-Community movement of excisable products under the provisions of Council Directive 92/12/EEC.

Pn. No. 10534
Price: £2.40/€3.05