STATUTORY INSTRUMENTS

1978 No. 1603

CUSTOMS AND EXCISE

The Customs and Excise (Warehouses) Regulations 1978

Made - - - -	*9th November* 1978
Laid before Parliament	*14th November* 1978
Coming into Operation	*8th December* 1978

The Commissioners of Customs and Excise, being a department designated **(a)** for the purposes of section 2(2) of the European Communities Act 1972**(b)** in relation to customs matters of the European Communities, in exercise of the powers conferred upon them in that behalf, hereby make the following Regulations:—

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Customs and Excise (Warehouses) Regulations 1978 and shall come into operation on 8th December 1978.

(2) The Interpretation Act 1889**(c)** shall apply for the interpretation of these Regulations as it applies for the interpretation of an Act of Parliament.

Amendments to the Customs and Excise Act 1952

2.—(1) The Customs and Excise Act 1952**(d)** shall be amended as provided in this Regulation.

(2) In section 47 (entry outwards of dutiable or restricted goods), in subsection (5), after the words "goods from warehouse" there shall be inserted the words "other than goods which have been kept, without being warehoused, in the warehouse by virtue of section 80(1C) of this Act".

(3) In section 55(3) (tampering with dutiable goods for export), after the words "goods from warehouse" there shall be inserted the words "other than goods which have been kept, without being warehoused, in the warehouse by virtue of section 80(1C) of this Act".

(4) In section 80(1) (approval of warehouses)—

(*a*) for paragraph (*a*), there shall be substituted the following paragraph—

"(*a*) of imported goods chargeable as such with excise duty (whether or not also chargeable with customs duty) without payment of the excise duty;";

(a) S.I. 1977/980.
(b) 1972 c. 68.
(c) 1889 c. 63.
(d) 1952 c. 44.

(*b*) paragraph (*e*) shall be omitted; and

(*c*) for the words after "referred to" there shall be substituted the words "as an "excise warehouse"."

(5) In section 80 after subsection (1), there shall be inserted the following subsections—

"(1A) The Commissioners may approve, for such periods and subject to such conditions as they think fit, places of security for the deposit, keeping and securing—

(*a*) of imported goods chargeable with customs duty or otherwise not for the time being in free circulation in Member States (whether or not also chargeable with excise duty) without payment of the customs duty;

(*b*) of such other goods as the Commissioners may allow to be warehoused for exportation or for use as stores in cases where relief from or repayment of any customs duty or other payment is conditional on their exportation or use as stores,

subject to and in accordance with regulations under section 16(2) of the Finance (No. 2) Act 1975; and any place of security so approved is in this Act referred to as a "customs warehouse".

(1B) The same place may be approved under this section both as a customs and as an excise warehouse.

(1C) Notwithstanding subsection (1A) above and the terms of the approval of the warehouse but subject to directions under subsection (2) below, goods of the following descriptions, not being goods chargeable with excise duty which has not been paid, that is to say—

(*a*) goods originating in Member States;

(*b*) goods which are in free circulation in Member States;

(*c*) goods placed on importation under a customs procedure (other than warehousing) involving the suspension of, or the giving of relief from, customs duties,

may be kept, without being warehoused, in a customs warehouse.".

(6) In section 80(3) (unauthorised alterations), after the word "warehouse", there shall be inserted the words "as an excise warehouse".

(7) In section 85(1) (duty chargeable on deficiency in warehoused goods), after the words "the duty", there shall be inserted the words "chargeable or deemed under regulations under section 16(2) of the Finance (No. 2) Act 1975 to be chargeable".

(8) In section 90 (procedure on warehouse ceasing to be approved) the following amendments shall be made, that is to say—

(*a*) in subsection (1), for the words "three months before" there shall be substituted the words "the beginning of the prescribed period ending with"; and

(*b*) after subsection (3) there shall be inserted the following subsection—

"(4) In this section "the prescribed period" means—

(*a*) in the case of a warehouse which is a customs warehouse but not also an excise warehouse, such period as may be prescribed by regulations under section 16(2) of the Finance (No. 2) Act 1975; and

(*b*) in the case of a warehouse which is or is also an excise warehouse, three months.".

(9) In section 96(5) (application of warehousing provisions to distiller's warehouse), for the words "a warehouse approved under" there shall be substituted the words "an excise warehouse approved under subsection (1) of".

(10) In section 103(1) (drawback on British compounds and spirits of wine), after the word "warehouse", there shall be inserted the words "in an excise warehouse".

(11) In section 126(1) (restriction on premises a brewer may use for adding solutions to beer), for the words "a warehouse", there shall be substituted the words "an excise warehouse".

(12) In section 137(1) (drawback on exportation, warehousing etc. of beer), for the words "a warehouse", there shall be substituted the words "an excise warehouse".

(13) In section 138(1) (warehousing of beer for exportation etc.), after the word "warehouse" where it occurs first, there shall be inserted the words "in an excise warehouse".

(14) In section 142(1) (mixing spirits and made-wine in warehouse), for the word "warehouse" there shall be substituted the words "an excise warehouse".

(15) In section 144(1) (mixing spirits and wine in warehouse), for the word "warehouse" there shall be substituted the words "an excise warehouse".

(16) In section 266 (extension of drawback), after the words "the warehousing" in subsection (1) and the words "their warehousing" in subsection (2) there shall be inserted the words "in an excise warehouse".

(17) In section 307(1) (definitions), the following amendments shall be made, that is to say—

(*a*) there shall be inserted at the appropriate places in alphabetical order the following definitions—

" "excise warehouse" means a place of security approved by the Commissioners under subsection (1) (whether or not it is also approved under subsection (1A)) of section 80 of this Act and, except in that section, also includes a distiller's warehouse;"

" "customs warehouse" means a place of security approved by the Commissioners under subsection (1A) (whether or not it is also approved under subsection (1)) of section 80 of this Act;" and

(*b*) in the definition of "warehouse", after the word "under", there shall be inserted the words "subsection (1) or (1A) or (1) and (1A) of" and after the word "shall" there shall be inserted the words ", subject to subsection (1C) of that section,".

Amendments to other enactments

3.—(1) In section 13(1) of the Hydrocarbon Oil (Customs & Excise) Act 1971**(a)** (drawback on exportation, warehousing, etc. of hydrocarbon oil etc.), after the word "warehousing", there shall be inserted the words "in an excise warehouse".

(2) In section 14 of the Hydrocarbon Oil (Customs & Excise) Act 1971 (drawback on exportation, warehousing, etc. of power methylated spirits), after the word "warehoused", there shall be inserted the words "in an excise warehouse".

(3) In Schedule 4 to the European Communities Act 1972**(b)**, in paragraph 2 (amendments of the Act of 1952) subparagraph (5) shall be omitted.

(4) In section 16 of the Finance (No. 2) Act 1975**(c)** (power to make warehousing regulations), the following amendments shall be made, that is to say—

(*a*) in subsection (2)(*d*), for the words "section 80(1)(*e*)", there shall be substituted the words "section 80(1A)(*b*)";

(*b*) after subsection (2)(*e*), there shall be inserted the following paragraph—

"(*f*) permitting goods to be destroyed or abandoned to the Commissioners without payment of customs duty in such circumstances and subject to such conditions as they may determine;".

Transitional provision

4. Nothing in the amendments made in section 80 of the Act of 1952 by Regulation 2 above shall affect the validity of any approval of a warehouse under that section and an approval of a warehouse in force when those amendments take effect shall be taken to be an approval given under subsection (1) or (1A) or (1) and (1A) of that section (and the warehouse to be an excise or a customs or a customs and excise warehouse) according as the descriptions of goods for the keeping of which the warehouse was approved fall within the descriptions of goods given in the said subsection (1) or in the said subsection (1A).

B. H. Knox,
Commissioner of Customs and Excise.

9th November 1978.
King's Beam House,
Mark Lane,
London,
EC3R 7HE.

(a) 1971 c. 12.
(b) 1972 c. 68.
(c) 1975 c. 45.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations which come into force on 8th December 1978 amend the Customs and Excise Act 1952 and related Acts to provide for warehouses to be defined as either customs warehouses or excise warehouses so that different procedures may be applied to each type of warehouse. In addition:—

Regulation 2(5) provides for warehouses to be approved for both purposes, and for certain goods to be kept in a customs warehouse without being treated as warehoused goods.

Regulations 2(7) and 3(4)(*b*) provide a legal basis for implementing Article 11 of Council Directive 69/74 EEC (O.J. No. L58, 8th March 1969) on the harmonisation of provisions laid down by law, regulation or administrative action relating to customs warehousing procedure.

Regulation 2(8) permits the period for the revocation of an approval of a customs warehouse to be prescribed by Regulations under section 16(2) of the Finance (No. 2) Act 1975.

Regulation 3(3) provides for the amendment in Regulation 2(4)(*b*).

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