EXPLANATORY MEMORANDUM TO

THE EXCISE GOODS (HOLDING, MOVEMENT AND DUTY POINT) (AMENDMENT) REGULATIONS 2012

2012 No. 2786

1. This explanatory memorandum has been prepared by HM Revenue and Customs and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

To amend the Excise Goods (Holding, Movement and Duty Point) Regulations 2010 (S.I. 2010/593) ("the Principal Regulations") to correct a drafting error in regulation 62 (as amended by S.I. 2011/2225).

3. Matters of special interest to the Joint Committee on Statutory Instruments

This instrument corrects a drafting error in S.I. 2011/225 which the Committee drew to the attention of both Houses in its 31st Report dated 8 November 2011.

4. Legislative Context

4.1 Regulation 10 of S.I. 2011/2225 amended 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 and from excise warehouses for the purpose of the storage of alcoholic liquors.

4.2 Paragraph (2) of regulation 62 permits the movement of alcoholic liquors, without payment of duty or the cover of an electronic administrative document, from and to "the premises referred to in paragraphs (2A) to (2E)". In relation to paragraph (2E) the intention is that, in the case of the premises specified in sub-paragraph (a), movement between them is allowed only if the person who is registered or licensed in relation to the premises, or is the authorised warehousekeeper, and the producer and manufacturer of the alcoholic liquor are members of the same group for VAT purposes.

4.3 The Committee did not consider that the construction of paragraph (2E) clearly yielded that construction. It considered that the indenting in paragraph (2E) was awry and that the significance of the proposition in sub-paragraph (b) was not clear.

4.4 The amendment made by this instrument corrects this. It is being issued free of charge to purchasers of the original instrument.

5. Territorial Extent and Application

This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- ***What is being done and why***

7.1 The Principal Regulations implemented (in part) Council Directive 2008/118/EC ("the Directive") concerning the general arrangements for excise duty and repealing Directive 92/12/EEC.

7.2 The Directive provides a legal basis for the Excise Movement and Control System (EMCS) which was introduced on 1 April 2010. EMCS introduces a computerised monitoring system of movements of excise goods in duty suspension within the European Union, replacing the paper-based system in place since 1993. It allows business and excise administrations to operate in a paperless environment which reduces administrative burdens on business, improves efficiency and minimises fraud.

7.3 Article 30 of the Directive allows simplified procedures in relation to movements of excise goods under duty suspension arrangements which take place entirely within the UK. These include movements of alcohol and tobacco to a place in the UK where they will leave the territory of the EU. Whilst EMCS is available for intra-UK movements, to enable businesses to benefit from the savings afforded by it, they will have the flexibility, if they so wish, to continue to use existing manual systems for certain movements which take place solely within the United Kingdom.

7.4 These Regulations correct a drafting error in the regulation implementing these simplified procedures.

- ***Consolidation***

7.5 Although these Regulations amend the Principal Regulations there is no current intention to consolidate the legislation.

8. Consultation outcome

8.1 No consultation has taken place in relation to this correction

9. Guidance

9.1 HM Revenue and Customs has issued guidance in relation to the Principal Regulations.

10. Impact

10.1 A Tax Information and Impact Note has not been prepared for this instrument as it contains no substantive changes to tax policy.

11. Regulating small business

11.1 The legislation applies to small business.

11.2 The changes as a result of EU law apply equally to all businesses. Any concession for small business would adversely impact on their ability to trade within the EU.

12. Monitoring & review

12.1 The European Commission must submit a report to the European Parliament and Council on the EMCS system by 1 April 2013. HMRC will conduct its own review within 3 years and feed any findings to the European Commission.

12.2 Additionally the European Commission must submit a report on the implementation of the Directive by 1 April 2015.

13. Contact

Chris Mountford at HM Revenue and Customs Tel: 0161 827 0362 email: chris.mountford@hmrc.gsi.gov.uk
or Nick Sands Tel: 0161 827 0343 email: nick.sands@hmrc.gsi.gov.uk
can answer any queries regarding the instrument.