STATUTORY INSTRUMENTS

1977 No. 1779

CUSTOMS AND EXCISE

The Tobacco Products Regulations 1977

Made - - -	*2nd November* 1977
Laid before Parliament	*10th November* 1977
Coming into Operation	*1st January* 1978

The Commissioners of Customs and Excise by virtue of the powers conferred on them by section 4 of the Finance Act 1976 (**a**) as amended by section 3(5) of the Finance Act 1977 (**b**) and of all other powers enabling them in that behalf, hereby make the following Regulations:—

PART I

PRELIMINARY

Citation and commencement

1. These Regulations may be cited as the Tobacco Products Regulations 1977 and shall come into operation on 1st January 1978.

Revocation

2. The Tobacco Products (No. 2) Regulations 1976 (**c**) are hereby revoked.

Interpretation

3.—(1) The Interpretation Act 1889 (**d**) shall apply for the interpretation of these Regulations as it applies for the interpretation of an Act of Parliament.

(2) In these Regulations—

"the Act" means the Finance Act 1976;

"duty" means the duty of excise charged on tobacco products by section 4(1) of the Act;

"manufacturer" means any person who manufactures tobacco product on premises registered or required to be registered under Regulation 5

"registered factory" means premises registered under Regulation 5 of these Regulations;

"materials" means unmanufactured tobacco, reconstituted tobacco sheet, tobacco substitutes and tobacco products intended for further manufacture;

"registered premises" means any premises registered under Regulation 5 or 6 of these Regulations;

"registered store" means premises registered under Regulation 6 of these Regulations;

"the previous Regulations" means the Tobacco Products (No. 2) Regulations 1976.

(**a**) 1976 c. 40. (**b**) 1977 c. 36.
(**c**) S.I. 1976/1197 (1976 II, p. 3364). (**d**) 1889 c. 63.

PART II

REGISTRATION AND CONTROL OF PREMISES

Notification of manufacturing premises

4. Any person who intends to manufacture tobacco products on any premises shall notify the proper officer in writing of the premises he intends to use for that purpose.

Provided that a notification need not be made in respect of premises which are to be used only for the manufacture of tobacco products on which duty is remitted under Regulation 24.

Registered factories

5. The Commissioners shall register that part of any premises where tobacco products are manufactured.

Provided that this regulation shall not apply to premises which are to be used only for the manufacture of tobacco products—

(*a*) on which duty is remitted under Regulation 24, or

(*b*) for the purposes of research or experiment.

Registered stores

6.—(1) At any premises where there is a registered factory the Commissioners shall register an additional part of the premises which is satisfactory for the safe storage of tobacco products before any duty thereon is paid.

(2) In addition to premises registered under paragraph (1) above the Commissioners may on written application to the proper officer register premises elsewhere for the safe storage of tobacco products.

(3) Premises registered or deemed to be registered as places for the safe storage of tobacco products by virtue of the previous Regulations shall be deemed to be premises registered under this Regulation.

Security of premises and revocation of registration

7.—(1) In any case where in the opinion of the Commissioners any registered store ceases to be satisfactory for the purpose for which it is registered the Commissioners may require those premises to be made satisfactory.

(2) The Commissioners may for reasonable cause revoke the registration of a registered store not at a factory provided that they give notice in writing thereof 3 months before the date upon which the revocation is to take effect.

Alteration of registered premises

8. A manufacturer shall, before any reduction or extension is made to any part of any premises registered under Regulation 5 or 6, or before any alteration is made to the security arrangements for the safe storage of tobacco products, give notice to the proper officer of such reduction, extension or alteration, as the case may be.

Opening hours of registered premises

9. A manufacturer shall give the proper officer notice of the hours that his registered premises will be open for business and of any alteration to those hours.

PART III

DEPOSIT, STORAGE AND REPACKING IN REGISTERED STORES

Deposit in registered stores

10. Save as the Commissioners may otherwise allow, a manufacturer shall remove all tobacco products, after their manufacture, to the registered store at the factory without delay.

Marking, storage and production

11. All tobacco products in a registered store shall be—

(*a*) identified to the proper officer by permanent and legible markings,

(*b*) arranged and stowed as so to allow safe and easy access thereto, and

(*c*) produced without delay upon request by the proper officer.

Repacking

12. Any manufacturer intending to repack tobacco products in a registered store shall give prior notice to the proper officer of his intention so to do, either generally or in any particular case.

PART IV

REMOVALS FROM REGISTERED PREMISES, CHARGING AND SECURING DUTY

Removals from registered premises

13.—(1) Save as allowed under this Part and Part VIII of these Regulations no tobacco products shall be removed from registered premises until duty has been paid or secured.

(2) Tobacco products may be removed from a registered factory without payment of duty for deposit in the registered store at the factory.

(3) Without prejudice to these Regulations or any provision of the Act authorising remission of duty, the Commissioners may allow tobacco products to be removed without payment of duty for any of the following purposes—

(*a*) warehousing for shipment as stores, exportation by post or sale in duty free shops,

(*b*) transfer to other registered premises,

(*c*) destruction or other disposal to their satisfaction, or

(*d*) such other purposes (except home use) as they see fit.

(4) No tobacco products shall be removed from registered premises, except from a registered factory to the registered store at the factory, without the authority of the proper officer.

(5) Before any tobacco products are removed from a registered store, the manufacturer shall enter particulars of the delivery in the stock account which he keeps under Regulation 19 and shall issue a delivery document in accordance with Schedule 1 to these Regulations.

Provided that the Commissioners may, generally or in any particular case, relax the requirements specified in the said Schedule.

Removal of refuse

14.—(1) Save as provided by this Regulation no refuse from the manufacture of tobacco products shall be removed from registered premises until the proper officer is satisfied that it has been rendered unsmokable.

(2) The Commissioners may allow refuse to be removed from registered premises for—

(*a*) exportation,

(*b*) transfer to other registered premises, or

(*c*) disposal or destruction to their satisfaction.

(3) Before any refuse is removed from registered premises, the manufacturer shall enter particulars of the delivery in the records which he keeps under Regulation 17.

Calculation and payment of duty

15.—(1) The duty chargeable on any tobacco products removed from registered premises on payment of duty, shall be calculated at the rate of duty in force at the time of their removal from those registered premises and, save as allowed under Part VIII, shall be paid at the time of their removal from those said premises.

(2) The duty chargeable on any tobacco products which have been lawfully removed from registered premises without payment of duty but which are subsequently diverted to home use, shall be calculated at the rate of duty in force at the time of their diversion to home use and shall be paid at the time of their diversion.

(3) The duty chargeable on any tobacco products found to be missing from registered premises shall be calculated at the rate of duty in force at the time the deficiency is discovered and shall be paid on demand.

(4) In any other case, the duty chargeable on any tobacco products manufactured in the United Kingdom shall be calculated at the rate of duty in force at the time of their manufacture and shall be paid by the manufacturer or the person in whose possession they are found, on demand.

(5) For the purpose of calculating duty under paragraphs (1) to (4) of this Regulation, the weight of tobacco products other than cigarettes shall be—

(*a*) their weight at the time of their entry into the production account or at such other time as the Commissioners may allow, or

(*b*) where the weight cannot be ascertained in accordance with the preceding sub-paragraph, such weight as the Commissioners may reasonably determine.

Securing the duty

16. A manufacturer shall, if required by the Commissioners, give security by bond or otherwise for the payment of any duty becoming chargeable on tobacco products manufactured or received by him or becoming payable under section 7 of the Act.

PART V

RECORDS, ACCOUNTS AND RETURNS

Records

17.—(1) A manufacturer shall keep records showing the quantities and descriptions of—

(*a*) all materials received,

(*b*) all materials used in each manufacturing batch or during any period of manufacture agreed between the proper officer and the manufacturer,

(*c*) all materials disposed of,

(*d*) any refuse deriving from materials used,

(*e*) all refuse disposed of, and

(*f*) all tobacco products in his possession during any period of their conditioning prior to their entry into the production account at the end of that period.

(2) Records kept under paragraph (1)(*a*), (*b*), (*c*) and (*e*) above shall in addition show the date of receipt, use or disposal of the materials or refuse recorded, as the case may be.

Production account

18.—(1) A manufacturer shall keep a production account which shall show for each tobacco product, the quantity produced, the type, brand and size of retail pack, and the date of production and entry in the account.

(2) The details referred to in paragraph (1) above shall be entered in the production account immediately after the tobacco products are either—

(*a*) first put into a state suitable for use, or

(*b*) first put into a state suitable for removal from a registered factory, or

(*c*) first packed for delivery,

as agreed with the proper officer.

Stock account

19.—(1) A manufacturer shall keep a stock account of all tobacco products received into a registered store, operated on therein and removed therefrom.

(2) Save as the proper officer may otherwise allow, each such account shall be kept at the registered store.

(3) Save as the proper officer may otherwise allow, each such account shall show, in relation separately to receipt and removal—

(*a*) particulars sufficient to identify types and brands of tobacco products and the size of retail pack,

(*b*) the quantity of tobacco products in each outer package or carton and the number and distinguishing marks of such packages or cartons

(*c*) the date of the entry in the production account or the number and date of the delivery document, and

(*d*) the dates of receipt or removal as the case may be.

(4) Each such account shall be balanced and closed when no product remains therein.

Returns

20.—(1) A manufacturer shall make the following returns—

(*a*) separate returns each day containing separately for each type of product the particulars set out in Schedule 2 to these Regulations of—

(i) all tobacco products entered in the production account for that day,

(ii) all tobacco products removed from registered premises that day for home use, and

(iii) all tobacco products removed from registered premises that day otherwise than for home use;

(*b*) a monthly return containing such details as are necessary to show the balance of stocks of tobacco products on hand at the beginning of each month and the receipts during the month as against deliveries during that month and stocks on hand at the end of that month; and

(*c*) a monthly return showing the numbers of such stock accounts as, in compliance with Regulation 19(4), were closed during the month.

(2) The returns referred to in paragraph (1)(*a*) above shall be furnished to the proper officer daily by noon of the working day next following the day to which they relate, that referred to in paragraph (1)(*b*) above by the 10th day of the month following that to which it relates and that referred to in paragraph (1)(*c*) above on the 1st working day of the month following that to which it relates.

(3) In addition to the returns required under paragraph (1) above, the Commissioners may at any time require a return to be made by a manufacturer for the purpose of reconciling the quantities of materials used in manufacture with the tobacco products manufactured therefrom and such returns shall—

(*a*) cover a period determined by the proper officer after consultation with the manufacturer, and

(*b*) contain such details as are necessary for that purpose.

(4) Every return under this Regulation shall be certified by the manufacturer as being complete and correct.

(5) The Commissioners may relax all or any of the requirements of this Regulation in any particular case.

Keeping and inspection of records

21.—(1) Save as the Commissioners may otherwise allow, a manufacturer shall keep all books, accounts and documents which relate to the receipt, manufacture, storage or disposal of tobacco products, refuse and materials and shall retain them, together with those required to be kept under the previous Regulations, for not less than 2 years from the date of the last entry therein.

(2) All books, accounts and documents referred to in this Regulation shall be produced for inspection by the proper officer at any reasonable time.

PART VI

INFORMATION FOR DUTY PURPOSES

Recommended retail prices, weights and deficiencies

22.—(1) For the purposes of charging and collecting duty, a manufacturer shall notify the proper officer of—

(*a*) the retail price he recommends for cigarettes,

(*b*) the weight per unit of quantity of any tobacco products other than cigarettes,

(*c*) any change in either the retail price or weight per unit of quantity referred to in (*a*) or (*b*) above, and

(*d*) any deficiences of tobacco products discovered by him, whether as a result of stocktaking or otherwise.

(2) The notification required in paragraph (1)(*c*) and (*d*) above shall be given without delay and, in the case of (*c*), before the change takes effect.

PART VII

REMISSION AND REPAYMENT OF DUTY

Returned products

23.—(1) Where any tobacco products have been delivered for home use and those products are returned to registered premises controlled by their manufacturer, the Commissioners may, subject to such conditions as they see fit to impose, allow credit for the duty charged thereon if the products are—

(*a*) re-cycled,

(*b*) taken into stock at any of his registered stores, or

(*c*) otherwise disposed of to their satisfaction.

(2) Where any imported tobacco products have been delivered for home use and those products are returned to their importer, the Commissioners may, subject to such conditions as they see fit to impose, repay or allow credit for the duty charged thereon if the products are disposed of to their satisfaction.

(3) In cases where tobacco products are disposed of to their satisfaction in accordance with paragraph (1)(*c*) or paragraph (2) above, the Commissioners shall allow credit for or repay duty, as the case may be, only if the proper officer is satisfied that the tobacco products have become unmerchantable through natural causes.

(4) Save as the Commissioners may otherwise allow, a claim for repayment of or credit for duty under this Regulation may only be made in respect of tobacco products of a net weight of not less than 1 kilogram.

Home-grown tobacco

24. The Commissioners shall remit the duty chargeable on tobacco products manufactured from tobacco grown in the United Kingdom, which are for the grower's own consumption and not for sale.

Tobacco products imported for further manufacture

25. The Commissioners may remit the duty chargeable on any tobacco products imported for the purpose of further manufacture subject to such conditions as they see fit to impose, including the completion of the further manufacture.

PART VIII

ARRANGEMENTS FOR PERIODIC PAYMENT OF DUTY

Time of periodic payment and application thereof

26.—(1) Any person liable to pay the duty due on tobacco products to which this Regulation applies may, subject to Regulations 27 and 28, elect to pay that duty on the 15th day (or where that day is a non-working day, the next working day thereafter) following the month in which duty becomes payable, hereinafter referred to as "payment day".

(2) This Regulation applies to—

(*a*) imported tobacco products on which duty is payable at the time entry thereof is made,

(*b*) imported tobacco products which are warehoused, and on which, on removal from warehouse, duty is payable, and

(*c*) tobacco products manufactured in the United Kingdom in respect of which returns have been made as prescribed in Regulation 20(1)(*a*)(ii).

Approval of arrangements for payment

27.—(1) Before duty may be paid under Regulation 26, the person liable to pay the duty shall make application to the Commissioners for approval of the arrangements by which the duty is to be paid on payment day and shall give to the Commissioners such security for payment by him of any amount of duty becoming payable as the Commissioners may from time to time require.

(2) Where the Commissioners are satisfied with those arrangements and the security offered, they shall approve them in writing.

(3) A person whose arrangements have been approved shall forthwith notify the Commissioners of any change in any information given to them for the purposes of their granting approval, in the arrangements for payment or in the security given.

(4) If any security given under this Regulation at any time falls short of that required by the Commissioners, the right to elect to pay any duty due on payment day under Regulation 26(1) shall not apply in respect of the amount of such duty which is not secured.

(5) The Commissioners may for reasonable cause vary or revoke any approval granted under paragraph (2) above.

Payment of duty

28. On each payment day the person whose arrangements have been approved under Regulation 27 shall pay to the Commissioners in accordance with the arrangements referred to therein the total of the amounts of duty shown as payable on each entry or return, as the case may be.

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2nd November 1977.
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Commissioner of Customs and Excise.

Regulation 13(5)

SCHEDULE 1

Delivery documents

1. The manufacturer shall issue a serially numbered delivery document in respect of each consignment delivered from the registered store, with sufficient separate legible copies to comply with paragraphs 2 and 3 of this Schedule.

2. A copy of every delivery document shall—

(*a*) be deposited prior to the loading of the consignment at a place adjacent to the despatch point which has been agreed with the proper officer, for his use;

(*b*) be retained in the stock account kept under Regulation 19 of these Regulations; and

(*c*) accompany the consignment.

3. In the case of any products to which paragraph 5 of this Schedule applies, the manufacturer shall, in addition to the copies issued in accordance with paragraph 2 above, issue a copy of the delivery document, marked "For Customs use", to the proper officer at the place of despatch.

4. Each delivery document shall show the following particulars—

(*a*) the address of the premises from which the consignment is to be removed;

(*b*) the date of removal;

(*c*) the type, brand, size of retail pack and quantity of the products;

(*d*) the name and address of the consignee;

(*e*) identifying particulars of the conveying vehicle, container or other means of transport; and

(*f*) in the case of delivery other than for home use the statement "Tobacco products duty has not been accounted for on these products" and the address at which the products are to be received.

5. The additional requirement in paragraph 3 of this Schedule shall apply to products removed without payment of duty—

(*a*) to other registered premises; or

(*b*) under section 4(2)(*b*) of the Act, for research or experiment.

SCHEDULE 2 Regulation 20(1)(*a*)

Particulars to be given in returns.

A. Under Regulation 20(1)(*a*)(i)

1. Stock reference.
2. Brand.
3. Size of retail pack.
4. Number of packs per package.
5. Number of packages.
6. Quantity (number of cigarettes, weight of other products).

B. Under Regulation 20(1)(*a*)(ii)

1. Delivery document or delivery schedule number.
2. Stock reference.
3. Brand.
4. Size of retail pack.
5. Number of packs per package.
6. Number of packages.
7. (*a*) For cigarettes, the number for duty purposes and the retail price.
   (*b*) For other products, the weight.
8. The specific excise duty due.
9. The ad valorem excise duty due.
10. Any undercharges or credits.

C. Under Regulation 20(1)(*a*)(iii)

1. Purpose for which delivered.
2. Delivery document number.
3. Stock reference.
4. Total number of packages.
5. Total quantity or number of retail packs.
6. (*a*) For products exported or shipped as stores or warehoused the consignor's consecutive reference number;
   (*b*) For products removed to other registered premises or research premises, the consignee's name and address;
   (*c*) For products removed for destruction or other disposal, the place.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

1. These Regulations, which come into effect on 1st January 1978, provide the machinery for administration of the excise duty on tobacco products imposed under section 4 of the Finance Act 1976. They replace with some amendments the previous Regulations for administration of this duty (the Tobacco Products (No. 2) Regulations 1976) and make new provisions for registration of factories and control of refuse from manufacture consequent on the repeal from 1st January 1978 of the customs revenue duty charged under the Finance Act 1964 (c. 49) and the control provisions for this duty contained in Part V of the Customs and Excise Act 1952 (c. 44). Parts I, VII and VIII relate both to UK manufacture and importation, whilst the other Parts apply only to UK manufacture.

2. Part I revokes the Tobacco Products (No. 2) Regulations 1976 and defines certain terms used in subsequent Parts.

3. Part II provides for registration of tobacco factories and premises in which UK manufactured tobacco products are to be stored after manufacture but prior to payment of duty and prescribes conditions in relation to those premises.

4. Part III requires products normally to be removed to registered stores after manufacture and governs their storage and repacking operations.

5. Part IV requires duty to be paid or secured, except where some relief is given, before the products can be removed from the registered premises, governs the removal of refuse, provides rules for calculation of the duty and provides for security to be given for duty becoming chargeable.

6. Part V prescribes the keeping of records and accounts by manufacturers and the rendering of returns by them.

7. Part VI requires manufacturers to supply certain information relevant to the charging and collecting of the duty.

8. Part VII provides relief from duty for certain products delivered for home use but later returned to the manufacturer or the importer, for tobacco grown in the UK by a person for his own consumption and for tobacco imported for further manufacture.

9. Part VIII prescribes arrangements for payment of the duty, subject to compliance with conditions which include the furnishing of security for payment, on the 15th day of the month following that in which it becomes chargeable.

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