STATUTORY INSTRUMENTS

1979 No. 904

CUSTOMS AND EXCISE

The Tobacco Products Regulations 1979

Made	26th July 1979
Laid before Parliament	3rd August 1979
Coming into Operation	*1st September* 1979

The Commissioners of Customs and Excise, in exercise of the powers conferred on them by sections 2(2) and 7(1) of the Tobacco Products Duty Act 1979(**a**) 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 1979 and shall come into operation on 1st September 1979.

Revocation

2. The Tobacco Products Regulations 1977(**b**) are hereby revoked.

Interpretation

3. In these Regulations—

"the Act" means the Tobacco Products Duty Act 1979;

"the previous Regulations" means the Tobacco Products Regulations 1977;

"duty" means the duty of excise charged on tobacco products by section 2(1) of the Act;

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

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

(**a**) 1979 c.7. (**b**) S.I. 1977/1779.

"registered factory" means premises registered under Regulation 5;

"registered store" means premises registered under Regulation 6;

"registered premises" means any premises registered under either Regulation 5 or 6.

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.—(1) 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.

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

Registered stores

6.—(1) Where the Commissioners register any premises under Regulation 5 they shall also register adjoining premises which are satisfactory for the safe storage of tobacco products without payment of duty.

(2) The Commissioners may also register other premises for the safe storage of tobacco products without payment of duty.

(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) Where in the opinion of the Commissioners any registered premises cease to be satisfactory for the purpose for which they are registered, the Commissioners may require the occupier thereof to make them satisfactory for that purpose; and a requirement to that effect shall be met by the occupier without unreasonable delay.

(2) The Commissioners may for reasonable cause revoke the registration of premises registered under Regulation 6(2) provided that they give notice in writing 3 months before the date upon which revocation is to take effect.

Changes at registered premises

8.—(1) Before the occupier of premises registered under Regulation 5 or 6(1) transfers control of those premises to another occupier, he shall give reasonable notice in writing to the proper officer of the intended transfer.

(2) Before the occupier of premises registered under Regulation 6(2) transfers control thereof to another occupier, he shall give reasonable notice in writing to the proper officer of the intended transfer; and, notwithstanding Regulation 7(2), the Commissioners may for reasonable cause revoke the registration of that registered store with effect from the date upon which the transfer takes place.

(3) Before the occupier of any registered premises reduces or extends those premises or alters the security arrangements for the safe storage of tobacco products therein, he shall give reasonable notice to the proper officer of the intended reduction, extension or alteration, as the case may be.

Opening of registered premises

9. The occupier of any registered premises shall give the proper officer reasonable prior notice of the times when those premises will be open, and shall give like notice of any alterations to those times.

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 adjoining the registered factory without delay.

Marking, storage and production

11. The occupier of a registered store shall, in relation to all tobacco products stored therein,—

(*a*) cause them to be identified by permanent and legible markings,

(*b*) arrange and stow them so as to allow safe and easy access thereto, and

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

Repacking

12. An occupier of a registered store intending to repack tobacco products therein shall give reasonable notice of his intention to the proper officer.

PART IV

REMOVALS FROM REGISTERED PREMISES, CHARGING AND SECURING DUTY

Removals from registered premises

13.—(1) No person shall remove tobacco products from registered premises until the duty has been paid, secured or otherwise accounted for to the satisfaction of the Commissioners.

(2) A manufacturer may remove tobacco products from his registered factory to the registered store adjoining that factory without payment of duty.

(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 from registered premises without payment of duty for any of the following purposes—

(*a*) warehousing in an excise warehouse,

(*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 person shall remove tobacco products from registered premises, except from a registered factory to the registered store adjoining the factory, without the authority of the proper officer.

(5) Before any tobacco products are removed from a registered store, the occupier thereof 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.

Removal of refuse

14.—(1) Save as provided by this Regulation no person shall remove from registered premises any refuse from the manufacture of tobacco products until the proper officer is satisfied that the refuse 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 such 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) above, 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 subparagraph, such weight as the Commissioners may reasonably determine.

Securing the duty

16. The occupier of registered premises 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 8 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) A manufacturer shall also record, in relation to the records kept under subparagraphs (1)(*a*), (*b*), (*c*) and (*e*) above, the date of receipt, use or disposal of the materials or refuse concerned.

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 that account.

(2) The details referred to in paragraph (1) above shall be entered by the manufacturer 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 accounts

19.—(1) The occupier of a registered store shall keep stock accounts of all tobacco products received therein, operated upon therein and removed therefrom.

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

(3) Save as the proper officer may otherwise allow, the occupier shall show in each such account in relation to receipt, operation or removal as the case may be—

(*a*) the date,

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

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

(*d*) the date of the entry in the production account or the number and date of the delivery document.

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

Returns

20.—(1) A manufacturer shall make and certify as being complete and correct 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, excepting products removed under Regulation 13(2);

(*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) An occupier of a registered store who is not a manufacturer shall make and certify as being complete and correct the several returns referred to in paragraph (1) above save for the return referred to in subparagraph (*a*)(i) thereof.

(3) A person required to make returns under paragraphs (1) or (2) above shall furnish them to the proper officer as follows—

(*a*) the returns described in subparagraph (1)(*a*) by noon of the working day next following the day to which they relate,

(*b*) the return described in subparagraph (1)(*b*) by the 10th day of the month following that to which it relates, and

(*c*) the return described in subparagraph (1)(*c*) by the 1st working day of the month following that to which it relates.

(4) 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.

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

Keeping and inspection of records

21. Save as the Commissioners may otherwise allow, the occupier of registered premises shall keep all books, accounts and other documents which relate to the receipt, manufacture, storage or disposal of tobacco products, refuse or 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; and shall, if so requested by the proper officer, produce any such books, accounts or other documents for that officer's inspection at any reasonable time.

PART VI

INFORMATION FOR DUTY PURPOSES

Recommended retail prices, weights and deficiencies

22. For the purposes of charging and collecting duty, a manufacturer or importer who delivers tobacco products to home use from a registered store shall notify the proper officer of—

(*a*) the retail price he recommends for each description of cigarettes or the description of any cigarettes for which he does not recommend a retail price,

(*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 before that change is to take effect, and

(*d*) any deficiencies of tobacco products discovered by him, whether as a result of stocktaking or otherwise, without delay.

PART VII

REMISSION AND REPAYMENT OF DUTY

Returned products

23.—(1) Subject to paragraphs (3) and (4) below, where any tobacco products previously delivered for home use are returned to registered premises in the occupation of the person who delivered them as aforesaid, the Commissioners may, subject to such conditions as they may impose, allow credit for the duty charged on those products if the products are—

(*a*) recycled,

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

(*c*) otherwise disposed of to the Commissioners' satisfaction.

(2) Subject to paragraphs (3) and (4) below, where any imported tobacco products which have been delivered for home use either directly from their place of importation or from an excise warehouse are returned to their importer, the Commissioners may, subject to such conditions as they may impose, allow credit for or repay the duty charged on those products if the products are—

(*a*) returned in sound condition by their importer to the person outside the United Kingdom who supplied them, or

(*b*) otherwise disposed of to the Commissioners' satisfaction.

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

(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 futher manufacture

25. The Commissioners may remit the duty chargeable on any tobacco products imported for the purpose of further manufacture subject to any conditions they see fit to impose, including a condition that the further manufacture will be completed.

PART VIII

ARRANGEMENTS FOR PERIODIC PAYMENT OF DUTY

Time of periodic payment

26.—(1) Any person liable to pay the duty due on tobacco products to which this Regulation is applicable 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 is applicable to—

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

(*b*) tobacco products which are warehoused in an excise warehouse and on which, on removal therefrom, duty is payable, and

(*c*) tobacco products in respect of which returns as described in Regulation 20(1)(*a*)(ii) have been made.

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 purpose of approving those arrangements.

(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 those arrangements the total of the amounts of duty shown as payable on each entry or return, as the case may be.

H. F. Christopherson
Commissioner of Customs and Excise

26th July 1979
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London, EC3R 7HE.

SCHEDULE 1 *Regulation 13(5)*

Delivery documents

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

2. The occupier shall—

(*a*) deposit a copy, 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*) retain a copy in the stock account kept under Regulation 19 of these Regulations, and

(*c*) cause a copy to accompany the consignment.

3. In respect of tobacco products removed without payment of duty—

(*a*) to other registered premises, or

(*b*) for research or experiment,

the occupier shall, in addition, issue to the proper officer a copy marked "For Customs use".

4. The occupier shall show the following particulars on each delivery document—

(*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.

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

Particulars to be given in returns by the occupier

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 operation on 1st September 1979, provide the machinery for administration of the excise duty on tobacco products imposed under section 2 of the Tobacco Products Duty Act 1979. They replace with some amendments the Tobacco Products Regulations 1977, the amendments being introduced principally—

(*a*) to allow imported products to be taken into stock in registered premises without payment of duty, and thereafter dealt with in exactly the same way as products manufactured in the United Kingdom;

(*b*) to provide for repayment of, or credit for, the duty paid on imported products which were previously delivered for home use and which are re-exported to the foreign supplier; and

(*c*) to discontinue the restrictions on the purposes for which products manufactured in the United Kingdom may be removed from registered premises without payment of duty for warehousing in an excise warehouse.

None of these facilities was permitted under previous regulations.

2. Part I revokes the Tobacco Products Regulations 1977 and defines certain terms used in subsequent parts.

3. Part II provides for registration of tobacco factories and premises for the storage of tobacco products prior to payment of duty and prescribes the procedures regulating such premises.

4. Part III requires a manufacturer to remove tobacco products manufactured by him to his registered store adjoining his factory and regulates the storage and repacking of tobacco products.

5. Part IV requires the occupier of registered premises to pay or secure the duty, except where some relief is given, before tobacco products can be removed from his registered premises; and regulates the removal of refuse, the calculation of the duty and the giving of security by an occupier of registered premises for duty becoming payable.

6. Part V prescribes the keeping of records and accounts by occupiers of registered premises and the making of returns by them.

7. Part VI requires occupiers of registered premises to supply certain information necessary for the purpose of charging and calculating the duty.

8. Part VII provides for the relieving from duty of certain tobacco products delivered for home use but subsequently returned to their manufacturer or importer; and for relief for tobacco grown in the United Kingdom for the grower's 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, normally on the 15th day of the month following that in which it becomes chargeable.

SI 1979/904
ISBN 0-11-093904-2

