STATUTORY INSTRUMENTS

1970 No. 1018

CUSTOMS AND EXCISE

The Tobacco Substitutes Regulations 1970

Made - - -	10*th July* 1970
Laid before Parliament	17*th July* 1970
Coming into Operation	20*th July* 1970

The Commissioners of Customs and Excise, in exercise of the powers conferred upon them by section 4 of the Finance Act 1970(a) and of all other powers enabling them in that behalf, hereby make the following Regulations:—

PART 1

GENERAL

1. These Regulations may be cited as the Tobacco Substitutes Regulations 1970 and shall come into operation on the 20th July 1970.

2.—(1) In these Regulations—
"approved" means approved by the Commissioners;
"licensed manufacturer" means a licensed manufacturer of tobacco substitutes.

(2) The Interpretation Act 1889(b) applies for the interpretation of these Regulations as it applies for the interpretation of an Act of Parliament.

PART 2

MANUFACTURE OF TOBACCO SUBSTITUTES

3. Subject to the provisions of these Regulations, the Commissioners authorise the manufacture of tobacco substitutes and their use in the manufacture of products for smoking.

4. Subject to the exceptions set out in regulation 5 of these Regulations, no person shall manufacture tobacco substitutes unless he holds an excise licence for that purpose, and any such licence shall expire on the fifth day of July next after it is granted.

5.—(1) If a manufacturer of substances which may fall within the description of "tobacco substitutes" satisfies the Commissioners that not less than 50% by weight of his production of such substances is used or intended for use for purposes other than the manufacture of products for smoking and he complies with such conditions as they see fit to impose, he shall not be required to be licensed under these Regulations.

(2) If a person who manufactures tobacco substitutes satisfies the Commissioners that they are for his own personal consumption and complies with any such conditions as the Commissioners see fit to impose, he shall not be required to be licensed under these Regulations.

(a) 1970 c. 24. (b) 1889 c. 63.

6.—(1) No licensed manufacturer shall begin to manufacture tobacco substitutes until—

(*a*) he has given to the Commissioners such information as they may require about the materials and processes used in such manufacture; and

(*b*) he has made entry of all rooms and places in which any part of such manufacture is to be carried on.

(2) A licensed manufacturer shall not use other materials or vary the process of manufacture without the prior consent of the Commissioners.

(3) A licensed manufacturer shall not withdraw such entry while any tobacco substitutes or tobacco remain on his premises.

7. Save as permitted by the Commissioners and subject to such conditions as they see fit to impose, a licensed manufacturer shall not use any sweetening matter in the manufacture of tobacco substitutes, nor subsequently add any sweetening matter or other substances thereto. The Commissioners may disallow the use in such manufacture of any other substances or any process which they may specify; and the licensed manufacturer shall not use any substance or process so specified.

8.—(1) Every licensed manufacturer shall keep at the premises where he manufactures tobacco substitutes a stock account in an approved form and he shall enter therein daily—

(*a*) the quantities of any materials received for use in the manufacture of tobacco substitutes;

(*b*) the quantity of any tobacco in any form remaining after the manufacture of tobacco substitutes; and

(*c*) the quantity of tobacco substitutes produced.

(2) The stock account shall be balanced monthly or at such other times as the proper officer may require.

9. A licensed manufacturer shall furnish such accounts and records and provide such information and in such form as may be required by the proper officer and shall produce to him such accounts, records and other documents as may be necessary to enable him to verify the entries in the stock account. The manufacturer shall retain such accounts, records and documents for not less than twelve months.

10.—(1) A licensed manufacturer may receive, under such conditions as may be imposed by the Commissioners,—

(*a*) tobacco or tobacco substitutes from a warehouse, or

(*b*) tobacco stalks, tobacco refuse or tobacco substitutes refuse from a tobacco factory.

(2) The licensed manufacturer shall store such substances so received in an approved secure compartment.

11. Subject to such conditions as they see fit to impose, the Commissioners may permit the delivery from warehouse to a licensed manufacturer of (*a*) home-grown tobacco, home-manufactured tobacco substitutes and imported tobacco or tobacco substitutes chargeable at rates of duty equal to or lower than the rates chargeable on like tobacco or tobacco substitutes of Commonwealth origin, without payment of duty and (*b*) other imported tobacco or tobacco substitutes, on payment of the difference between the duty chargeable thereon and the duty on like tobacco or tobacco substitutes chargeable at the Commonwealth rate.

12. Where any tobacco refuse, tobacco stalks or refuse from tobacco substitutes is or are disposed of by delivery to a manufacturer of tobacco substitutes, the amount of any drawback payable shall be that which would be payable on like refuse or stalks which had been charged duty at the Commonwealth rate.

13. Any samples or waste tobacco or tobacco substitute materials shall be disposed of to the satisfaction of the Commissioners.

14. A licensed manufacturer shall give such security as the Commissioners may require to secure the duty on any tobacco or tobacco substitutes used or manufactured by him.

15. Save as permitted by the Commissioners and subject to such conditions and restrictions as they see fit to impose, a licensed manufacturer shall remove tobacco substitutes to a warehouse as soon as the process of manufacture has been completed.

PART 3

WAREHOUSING OF TOBACCO SUBSTITUTES

16. Tobacco substitutes manufactured by a person not required to be licensed by virtue of regulation 5(1) of these Regulations but intended for use in the manufacture of products for smoking shall be deposited in a warehouse.

17. The duty on tobacco substitutes delivered from a warehouse shall be calculated—

(*a*) in accordance with the account taken of the goods on their last being deposited in a warehouse; or

(*b*) where an account has been taken after the carrying out of any permitted operation on the goods in warehouse since they were so last deposited, in accordance with the last account so taken; or

(*c*) at the option of the proprietor of the goods, according to an account of the goods taken at the time of their delivery for home use,

subject, if the Commissioners see fit, in the case of any tobacco substitutes chargeable with duty at the unmanufactured tobacco rate, to the rate of duty being re-determined at the time the account is taken by an assessment of its dutiable category according to its moisture content.

PART 4

FURTHER MANUFACTURE OF TOBACCO SUBSTITUTES

18. No person shall make products for smoking from tobacco substitutes unless he holds an excise licence for the manufacture of tobacco, but this regulation shall not apply to a person to whom regulation 5(2) of these Regulations applies.

19. A tobacco manufacturer shall not receive into his entered premises any tobacco substitutes otherwise than from a warehouse on payment of duty.

20. A tobacco manufacturer shall not in the manufacture of products for smoking—

(*a*) mix with or add to tobacco any tobacco substitutes, or

(*b*) mix with or add to tobacco substitutes any sweetening matter or any other substances

except with the prior authority of the Commissioners and subject to such conditions as they see fit to impose.

PART 5

APPLICATION OF CERTAIN PROVISIONS OF THE CUSTOMS AND EXCISE ACT 1952

21. The Commissioners may, subject to such conditions as they see fit to impose, relax the provisions of section 183(5) of the Customs and Excise Act 1952**(a)** relating to the limitation of inorganic matter in tobacco substitutes or products made from tobacco substitutes, or refuse arising therefrom.

22. The provisions of section 190 of the Customs and Excise Act 1952 relating to restrictions on the amount of moisture and oil shall apply to manufactured tobacco substitutes as it applies to manufactured tobacco.

23. The provisions of sections 191 (restriction on certain substances in snuff) and 192 (penalties relating to the adulteration of tobacco) of the Customs and Excise Act 1952 shall apply to tobacco substitutes as they apply to snuff and tobacco respectively and to manufacturers of tobacco substitutes as they apply to tobacco manufacturers.

24. The provisions of section 194 of the Customs and Excise Act 1952 relating to the determination of moisture and inorganic content shall in so far as they are appropriate apply to tobacco substitutes as they apply to tobacco.

PART 6

IMPORTATION OF TOBACCO SUBSTITUTES

25. The importation of any tobacco substitutes or products for smoking which contain or have mixed therewith any ingredient or substance the use of which in like manner in the manufacture of tobacco substitutes or products for smoking in the United Kingdom is not authorised under these Regulations is prohibited except for the purpose of transit or transhipment, or as the Commissioners may otherwise permit.

26. The Commissioners may prohibit the importation of any tobacco substitutes if the importer has not furnished them with a declaration showing all the ingredients and processes used in the manufacture of the substitutes.

27. Save as the Commissioners may permit, imported tobacco substitutes for home use shall be entered for warehousing.

PART 7

RELIEF FROM DUTY

28.—(1) Any tobacco substitutes manufactured by a person not required to be licensed by virtue of regulation 5(1) of these Regulations shall not be chargeable with duty as tobacco substitutes if the Commissioners are, and continue to be, satisfied that they are intended for use for purposes other than the manufacture of products for smoking.

(2) Any tobacco substitutes manufactured by a person not required to be licensed by virtue of regulation 5(2) of these Regulations shall not be chargeable with duty if the Commissioners are, and continue to be, satisfied that any conditions imposed under regulation 5(2) of these Regulations have been and are being complied with.

(a) 1952 c. 44.

(3) Any tobacco substitutes removed from warehouse and shown to the satisfaction of the Commissioners to be intended for use for purposes other than the manufacture of products for smoking shall be exempt from duty as tobacco substitutes; and the Commissioners may impose conditions to secure that such goods are used only for such purposes.

29. Subject to such conditions and restrictions and, in particular to any limits as to quantity, as the Commissioners see fit to impose, and, unless they otherwise permit, to prior application for relief having been made, the Commissioners may remit or repay duty, or allow drawback, on tobacco substitutes shown to their satisfaction to have been used or to be intended for use solely for purposes of health research or for purposes of technical research involving the experimental use of machinery, processes or materials or the testing of products derived therefrom.

30.—(1) Notwithstanding regulations 7 and 20 of these Regulations, any sweetening matter or any other substances may be used in the manufacture of tobacco substitutes for use solely for the purposes of health or technical research qualifying for relief from duty under regulation 29 of these Regulations.

(2) Notwithstanding any prohibition on the importation of tobacco substitutes under regulation 25 of these Regulations, any tobacco substitutes may be imported for use solely for the purpose of health or technical research qualifying for relief from duty under regulation 29 of these Regulations.

10th July, 1970.

C. T. Cross,
Commissioner of Customs and Excise

Kings Beam House,
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EXPLANATORY NOTE

(This Note is not part of these Regulations).

These Regulations authorise, subject to certain conditions, the manufacture of tobacco substitutes and their use in the manufacture of products for smoking. In particular they:—

(1) require with specific exceptions manufacturers of tobacco substitutes to hold an excise licence for that purpose;

(2) regulate the manufacture of tobacco substitutes by licensed manufacturers;

(3) allow full or partial relief from duty chargeable on tobacco in any form used in the manufacture of tobacco substitutes;

(4) require tobacco substitutes to be deposited in bonded warehouse;

(5) regulate the manufacture of products for smoking from tobacco substitutes;

(6) apply sections 183(5), 190, 191, 192 and 194 of the Customs and Excise Act 1952 to tobacco substitutes;

(7) authorise subject to certain conditions the importation of tobacco substitutes and products for smoking containing tobacco substitutes; and

(8) allow relief from duty for tobacco substitutes—

(*a*) used for purposes other than the manufacture of products for smoking;

(*b*) used solely for the purposes of health or technical research; or

(*c*) manufactured by a person for his own consumption.

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