



STATUTORY INSTRUMENTS

S.I. No. 146 of 2010



CONTROL OF EXCISABLE PRODUCTS REGULATIONS 2010

(Prn. A10/0494)

CONTROL OF EXCISABLE PRODUCTS REGULATIONS 2010

The Revenue Commissioners, in exercise of the powers conferred on them by section 153 of the Finance Act 2001 (No. 7 of 2001), hereby make the following Regulations:

PART 1

PRELIMINARY AND GENERAL

1. These Regulations may be cited as the Control of Excisable Products Regulations 2010.

2. These Regulations come into operation on 7 April 2010.

3. The Control of Excisable Products Regulations 2001 (S.I. No. 443 of 2001) are revoked.

4. (1) In these Regulations—

“Act of 2001” means the Finance Act 2001 (No. 7 of 2001);

“CN Code” means a Community subdivision to the combined nomenclature of the European Communities referred to in Article 1 of Council Regulation (EEC) No. 2658/87 of 23 July 1987¹;

“consignment” means the single movement of a specific quantity of excisable products;

“declarant” means, in respect of a declaration required under these Regulations, the person making that declaration;

“digital certificate” means the electronic means of establishing the identity of a user of the computerised system;

“duty guarantee document” means a document confirming that excise duty is paid or secured in the State on specified excisable products;

“excise duty entry” means the form specified by the Commissioners for the declaration and payment of an excise duty liability on a consignment;

“full working day” means the full duration of any day, other than a Saturday, Sunday or public holiday;

¹O.J. No. L256 of 7 September, 1987, p. 1

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 9th April, 2010.*

“marked gas oil” has the meaning assigned to it by Regulation 3 of the Mineral Oil Tax Regulations;

“marked kerosene” has the meaning assigned to it by Regulation 3 of the Mineral Oil Tax Regulations;

“Mineral Oil Tax Regulations” means the Mineral Oil Tax Regulations 2001 (S.I. No. 442 of 2001);

“place of presentation” means an office in which a proper officer is present and to which a person may present excisable products in compliance with the provisions of these Regulations;

“proper officer”, in relation to any duty or function referred to in these Regulations, means an officer with responsibility for that function in any particular case;

“VAT number” means—

(a) in relation to another Member State, an identification number currently issued in that Member State for the purposes of accounting for value added tax referred to in Council Directive No. 2006/112/EC of 28 November 2006², and

(b) in relation to the State, a registration number issued by the Commissioners in accordance with section 9 of the Value-Added Tax Act 1972 (No. 22 of 1972).

(2) A word or expression that is not defined in paragraph (1), and for which an interpretation is provided—

(a) under section 96 of the Act of 2001 for the purposes of Part 2 of that Act, or

(b) under section 109B of the Act of 2001 for the purposes of Chapter 2A of Part 2 of that Act,

has, unless the contrary intention appears, the same meaning in these Regulations as is so provided for under those sections.

PART 2

CONSIGNMENT TO THE STATE OF EXCISABLE PRODUCTS, DUTY-PAID IN ANOTHER MEMBER STATE, FOR COMMERCIAL PURPOSES

5. This Part applies to consignments of excisable products released for consumption in another Member State and which may, subject to section 109T of the Act of 2001, be brought into the State.

²O.J. No. L347 of 11 December, 2006, p. 1

6. Where a consignment is brought into the State, the person who brings it, or any person who arranges for it to be so brought, shall, at least one full working day before the dispatch of the consignment, deliver to the proper officer—

- (a) a duty guarantee document, and
- (b) a written declaration, referred to in this Part as an “advance declaration”,

for that consignment.

7. The advance declaration shall be in such form as the Commissioners may require and shall contain—

- (a) the name, address and, where applicable, the VAT number of the person in the State to whom the consignment is to be delivered,
- (b) the name, address and VAT number of the person in another Member State who is to dispatch the consignment,
- (c) the address of the premises or place to which the excisable products are to be delivered, or (as the case may be) the place of presentation, and the expected date of delivery or presentation,
- (d) the name, address and VAT number of the transporter or carrier of the consignment,
- (e) a full description of the excisable products including the CN Code reference,
- (f) the chargeable quantity of the excisable products expressed in the appropriate units of charge,
- (g) the value of the excisable products,
- (h) the amount of the excise duty payable on the excisable products,
- (i) the name and address of the person responsible for payment of the duty, and
- (j) such other information as the Commissioners may require.

8. Where the declarant, at the time that an advance declaration is required under Regulation 6, pays the excise duty on the consignment to be received, a copy of the excise duty entry completed for that purpose may serve as the advance declaration and duty guarantee document for that consignment.

9. Where an advance declaration has been made and the excise duty paid or secured, the proper officer shall—

- (a) endorse the duty guarantee document to that effect, and return it to the declarant, and
- (b) retain the advance declaration.

10. The declarant shall ensure that a consignment under this Part is under cover of the simplified accompanying document completed in accordance with Commission Regulation (EEC) No. 3649/92³.

11. Where the simplified accompanying document is in the form of a commercial document it shall be clearly marked with the following statement:

“Simplified Accompanying Document (excisable products) for fiscal control purposes”.

12. Subject to such conditions as they may think fit to impose, the Commissioners may modify the requirements under Regulations 6 and 7 in relation to a person where—

- (a) they are satisfied that such person receives frequent consignments,
- (b) such person undertakes to transport such consignments by a specified route to a specified premises or place, or to a place of presentation, and
- (c) such person pays or secures the excise duty on all such consignments,

and such modification may include—

- (i) one advance declaration relating to a number of intended consignments, including all consignments for a particular period,
- (ii) a general duty guarantee document, and
- (iii) such other modifications in relation to an advance declaration as the Commissioners may think fit to allow.

13. On the arrival of a consignment at a premises or place to which Regulation 7(c) refers, the declarant shall—

- (a) pay any excise duty that has not already been paid in accordance with Regulation 8,
- (b) immediately notify the proper officer of the arrival, endorse the certification of receipt in copy 2 and copy 3 of the simplified accompanying document, and forward both copies to the proper officer together with a copy of the excise duty entry for the consignment, and

³O.J. No. L369 of 18 December, 1992, p. 17

- (c) ensure that the consignment is held intact until such time as it has been examined or authorised for release by the proper officer.

14. On the arrival of a consignment of marked gas oil or marked kerosene, the declarant shall provide a declaration to a proper officer that the gas oil or kerosene has been marked in accordance with Regulation 34 of the Mineral Oil Tax Regulations, and that the marked gas oil or marked kerosene (as the case may be) is intended for a purpose other than combustion in the engine of a motor vehicle.

15. (1) Where the proper officer is satisfied that a consignment is in accordance with the excise duty entry completed in respect of it, such officer shall authorise the release of the excisable products concerned.

(2) Where the proper officer has authorised the release of excisable products in accordance with paragraph (1), such officer shall return to the declarant copy 2 and copy 3 of the simplified accompanying document, endorsed to the effect that such excisable products have been received in the State.

(3) The declarant shall retain copy 2 of the simplified accompanying document and shall forward copy 3 to the supplier.

PART 3

DISTANCE SELLING OF EXCISABLE PRODUCTS TO PRIVATE INDIVIDUALS IN THE STATE

16. This Part applies to consignments to private individuals in the State of excisable products that have been sold to such private individuals by non-State vendors, and to which section 109U of the Act of 2001 applies.

17. A non-State vendor, or the tax representative acting on behalf of such non-State vendor, shall, at least one full working day in advance of the dispatch of a consignment, deliver to the proper officer a written declaration, referred to in this Part as an “advance declaration”, and a duty guarantee document, in respect of that consignment.

18. The advance declaration shall be in such form as the Commissioners may require and shall contain—

- (a) the name and address of the private individual in the State to whom the excisable products are to be delivered,
- (b) the name, address and VAT number of the non-State vendor who is to dispatch the consignment,
- (c) the address of the premises or place to which the excisable products are to be delivered, or (as the case may be) the place of presentation, and the expected date of delivery or presentation,

- (d) a full description of the excisable products including the CN Code reference,
- (e) the chargeable quantity of the excisable products expressed in the appropriate units of charge,
- (f) the value of the excisable products,
- (g) the amount of the excise duty payable on the excisable products,
- (h) the name and address of the tax representative responsible for payment of the duty, and
- (i) such other information as the Commissioners may require.

19. Where the declarant, at the time that an advance declaration is made, pays the excise duty in accordance with that declaration, a copy of the excise duty entry completed for that purpose may serve as the advance declaration and duty guarantee document for that consignment.

20. Where an advance declaration has been made and the excise duty paid or secured, the proper officer shall—

- (a) endorse the duty guarantee document to that effect, and return it to the declarant, and
- (b) retain the advance declaration.

21. Subject to such conditions as they may think fit to impose, the Commissioners may modify the requirements under Regulations 17 and 18 in relation to a person where—

- (a) they are satisfied that such person is engaged in frequent consignments, and
- (b) such person undertakes to transport such excisable products by a specified route to a specified premises or place, or to a place of presentation,

and such modification may include—

- (i) one declaration to serve as an advance declaration for a number of consignments, including all consignments for a particular period,
- (ii) a general duty guarantee document, and
- (iii) such other modifications in relation to an advance declaration as the Commissioners may think fit to allow.

22. On the arrival of a consignment to which this Part refers at a premises or place to which Regulation 18(c) refers, the declarant shall—

- (a) pay any excise duty that has not already been paid in accordance with Regulation 19,
- (b) immediately notify the proper officer of the arrival, and forward a copy of the excise duty entry for the consignment to that officer, and
- (c) ensure that the consignment is held intact until such time as it has been examined or authorised for release by the proper officer.

23. Where the proper officer is satisfied that a consignment is in accordance with the excise duty entry completed in respect of it, such officer shall authorise the release of the excisable products concerned.

PART 4

EXCISABLE PRODUCTS ACQUIRED DUTY-PAID IN ANOTHER MEMBER STATE BY PRIVATE INDIVIDUALS, AND TRANSPORTED BY THEM TO THE STATE

24. This Part applies to excisable products that are acquired by a private individual in another Member State and that are relieved from excise duty under section 104(2) of the Act of 2001.

25. In determining, for the purposes of section 104(2) of the Act of 2001, whether or not any excisable products in the possession, control or charge of a person are excisable products which were brought into the State for a commercial purpose or are held or used for such purpose, as the case may be, the Commissioners shall have regard to the following:

- (a) the reasons given by such person for having control or possession of the excisable products;
- (b) the occupation or commercial status of such person, including whether or not such person is a person approved by the Commissioners to produce, process, hold, receive or dispatch excisable products;
- (c) the premises or place where the excisable products are held;
- (d) the means of transport used to bring the excisable products into the State;
- (e) any documentation or other information relating to the excisable products;
- (f) the nature of the excisable products including the nature and condition of any package or container in which the excisable products are packed or contained;
- (g) whether or not the purchase price of the excisable products includes value-added tax of the Member State in which the excisable products were acquired;

- (h) the frequency with which such person brings excisable products into the State;
- (i) the conduct of such person in relation to the excisable products including the person's intentions at any time in relation to the excisable products; and
- (j) the quantity of the excisable products, taking account of the quantities shown in the following table:

TABLE

**QUANTITIES OF EXCISABLE PRODUCTS FOR THE PURPOSE OF
REGULATION 25**

| Description of Product | Quantity |
|---|---|
| (a) Cigarettes | 800 |
| (b) Cigarillos (cigars weighing not more than 3 grammes each) | 400 |
| (c) Cigars | 200 |
| (d) Tobacco products other than in a form at (a), (b) or (c) | 1 kilogramme |
| (e) Spirits | 10 litres |
| (f) Intermediate products | 20 litres |
| (g) Wine | 90 litres (including 60 litres of sparkling wine) |
| (h) Beer | 110 litres |

26. Section 104(2) of the Act of 2001 shall not apply to any person under the age of 17.

PART 5

**CONSIGNMENT TO ANOTHER MEMBER STATE OF EXCISABLE
PRODUCTS, DUTY-PAID IN THE STATE, FOR COMMERCIAL
PURPOSES**

27. This Part applies to consignments to another Member State of excisable products that have been released for consumption in the State, and to which section 109V of the Act of 2001 applies.

28. Any person dispatching a consignment shall, at least one full working day in advance of the dispatch, deliver to the proper officer a written declaration, in such form as the Commissioners may require, containing—

- (a) the name, address and VAT number of that person,

- (b) the address of the premises or place in the State from which the consignment is to be dispatched,
- (c) the name and address of the consignee in the other Member State, and
- (d) a full description of the excisable products including the CN Code reference.

29. Except where the proper officer may otherwise allow, the excisable products are to be held intact at the premises or place specified in Regulation 28(b) for one full working day following the delivery of the declaration under that Regulation.

PART 6

DISTANCE SELLING OF EXCISABLE PRODUCTS TO PRIVATE INDIVIDUALS IN ANOTHER MEMBER STATE

30. This Part applies to consignments of excisable products that have been released for consumption in the State and sold to private individuals in another Member State by State vendors, and to which section 109W of the Act of 2001 applies.

31. A State vendor shall, at least one full working day in advance of the dispatch of a consignment, deliver to the proper officer a written declaration, in such form as the Commissioners may require, containing—

- (a) the name, address and VAT number of the State vendor,
- (b) the address of the premises or place in the State from which the consignment is to be dispatched,
- (c) the name and address of the consignee in the other Member State, and
- (d) a full description of the excisable products including the CN Code reference.

32. Except where the proper officer may otherwise allow, the excisable products are to be held intact at the premises or place specified in Regulation 31(b) for one full working day following the delivery of the declaration under that Regulation.

PART 7

CONSIGNMENT OF EXCISABLE PRODUCTS, DUTY-PAID IN ANOTHER MEMBER STATE, BETWEEN TWO PLACES IN THAT MEMBER STATE, BY WAY OF THE STATE

33. This Part applies to the consignment, via the territory of the State, of excisable products between two places in another Member State where they

have been released for consumption, and to which section 109X(1) and (2)(a) of the Act of 2001 applies.

34. Any person transporting a consignment to which this Part applies shall ensure that—

- (a) while within the territory of the State, the excisable products are accompanied by copy 2 and copy 3 of the simplified accompanying document,
- (b) the excisable products are transported by the most direct suitable route from the point of entry into, to the point of departure from, the State, and
- (c) the excisable products do not remain in the State for a period which is longer than is reasonable for their transportation.

PART 8

CONSIGNMENT OF EXCISABLE PRODUCTS, DUTY-PAID IN THE STATE, BETWEEN TWO PLACES IN THE STATE BY WAY OF THE TERRITORY OF ANOTHER MEMBER STATE

35. This Part applies to the consignment of excisable products that have been released for consumption in the State, between two places in the State, via the territory of another Member State, and to which section 109X(1) and (2)(b) of the Act of 2001 applies.

36. Any person dispatching a consignment to which this Part applies shall, in respect of that consignment at least one full working day before dispatch, prepare a written declaration, referred to in this Part as an “advance declaration”, in duplicate and in such form as the Commissioners may require, and deliver one copy to the proper officer.

37. The advance declaration shall contain—

- (a) the name, address and, where applicable, the VAT number of the person in the State to whom the consignment is to be delivered,
- (b) the name, address and VAT number of the person in the State selling, supplying or sending the excisable products,
- (c) the address of the premises or place to which the excisable products are to be delivered in the State and the expected date of delivery,
- (d) the name, address and VAT number of the transporter or carrier of the excisable products to the place of delivery in the State,
- (e) a full description of the excisable products including the CN Code reference,

- (f) the chargeable quantity of the excisable products expressed in the appropriate units of charge,
- (g) the value of the excisable products,
- (h) the route to be followed, and
- (i) such other information as the Commissioners may require.

38. The declarant shall retain copy 1 of the simplified accompanying document, and ensure that the consignment is, at all times while within the State, accompanied by—

- (a) a copy of the advance declaration, and
- (b) copy 2 and copy 3 of the simplified accompanying document.

39. (1) On the arrival of a consignment at a premises or place of delivery, the person receiving the consignment shall—

- (a) retain copy 2 of the simplified accompanying document, and
- (b) forward copy 3, duly endorsed to the effect that such excisable products have been received, to the declarant.

(2) The declarant shall retain the endorsed copy 3 of the simplified accompanying document.

40. Subject to such conditions as they may think fit to impose, the Commissioners may, in agreement with the competent authority of the other Member State concerned, modify the provisions of this Part in relation to a particular person, where they are satisfied that such person is engaged in frequent and regular consignments.

PART 9

REPAYMENT OF EXCISE DUTY ON EXCISABLE PRODUCTS DUTY-PAID IN THE STATE AND CONSIGNED TO ANOTHER MEMBER STATE

41. This Part applies to the repayment of excise duty, under paragraphs (a) or (b) of section 105(1) of the Act of 2001, and to which (as the case may be) either Part 5 or Part 6 relates.

42. A claim for the repayment of excise duty to which this Part applies shall—

- (a) be made to the proper officer in writing, in such form as the Commissioners may require, and the person making such claim is hereafter in this Part referred to as the “claimant”,

- (b) for a claim to which Part 5 applies, be accompanied by copy 3 of the simplified accompanying document, endorsed with a certificate of receipt for the goods by the consignee in the Member State of destination, and
- (c) contain the following information in relation to the excisable products which are the subject of the claim:
 - (i) the name and address of the claimant;
 - (ii) a full description of the products including the CN Code reference and any identifying marks and numbers;
 - (iii) the chargeable quantity expressed in the appropriate units of charge;
 - (iv) the value of the products;
 - (v) the excise duty paid on the products, and the date when that duty was paid;
 - (vi) the name and address of the trader from whom the products were obtained; and
 - (vii) the name and address of the recipient in the other Member State of the products concerned.

43. (1) A claim for repayment under this Part shall be accompanied and supported by such written evidence as the Commissioners may require that—

- (a) excise duty has been paid in the State, and
- (b) subject to paragraph (2), excise duty has been secured or paid in another Member State.

(2) Where excise duty has not yet been paid in the other Member State at the time a claim for repayment is made, the claimant shall provide evidence of such payment as soon as it is made, and no repayment shall be made until such evidence is produced.

PART 10

CONSIGNMENT FROM THE STATE UNDER A SUSPENSION ARRANGEMENT, DURING A TRANSITIONAL PERIOD, UNDER COVER OF THE ACCOMPANYING ADMINISTRATIVE DOCUMENT

44. This Part applies to the use of the accompanying administrative document, until 31 December 2010 or such other date as the Minister for Finance may by order appoint under section 109P(1) of the Act of 2001, for the consignment of excisable products under a suspension arrangement to another Member State under section 109E of that Act.

45. Before the dispatch of a consignment to which this Part applies, an authorised warehousekeeper or registered consignor (each referred to in this Part as “the consignor”) shall ensure that an accompanying administrative document is completed bearing true and accurate information in respect of such consignment and consisting of five copies, referred to in these Regulations as “copy 1”, “copy 2”, “copy 3”, “copy 4” and “copy 5”.

46. The consignor shall ensure that the copies referred to in Regulation 45 are retained or distributed in the following manner:

- (a) copy 1 to be retained by the consignor,
- (b) copy 2, copy 3 and copy 4 to be dispatched with and to accompany the consignment in the course of its delivery to a designated consignee or place of exportation in another Member State, and
- (c) copy 5 to be presented to the proper officer.

47. Subject to such exceptions as the Commissioners may allow, a consignor shall ensure that copy 5 of the accompanying administrative document is lodged with the proper officer at least one full working day in advance of the date of the dispatch of the consignment to which such copy 5 relates, and such consignor shall make such excisable products available for checking and examination by the proper officer.

48. (1) For the purposes of section 99(2) of the Act of 2001 in the case of an authorised warehousekeeper, and section 99(3) of that Act in the case of a registered consignor, the evidence required under those provisions is satisfied where—

- (a) the consignor has obtained from the designated consignee the completed copy 3 of the accompanying administrative document within 15 days following the month of receipt of the excisable products by the consignee, and
- (b) such copy 3 has been properly certified with the following information:
 - (i) the address of the office of the consignee’s competent authority;
 - (ii) the date and place of receipt of the excisable products;
 - (iii) a description of the excisable products received and, where these are fully in agreement with the accompanying administrative document, such copy 3 should indicate:

“Consignment checked”;
 - (iv) the reference or registration number of the consignee as issued by the competent authority of that consignee’s Member State;
 - (v) the signature of the consignee; and

(vi) the endorsement of the competent authority of the Member State of the consignee in the case of those Member States where such authority undertakes to carry out such endorsement.

(2) A consignor shall retain the returned copy 3 of the accompanying administrative document.

(3) The Commissioners shall make available a list of the Member States to which paragraph (1)(b)(vi) applies.

49. (1) A consignor may, where there is a change of consignee or place of delivery, amend the contents of boxes 4, 7, 7a, 13, 14 and 17 of the accompanying administrative document as required.

(2) Where the accompanying administrative document is amended under paragraph (1), the consignor shall immediately notify the proper officer, and the amendments shall be recorded immediately on the reverse of the accompanying administrative document.

(3) In the case of the dispatch of mineral oil by sea, the authorised warehousekeeper need not complete boxes 4, 7, 7a, 13 and 17 of the accompanying administrative document if, when those products are dispatched, the consignee is not definitively known and the proper officer authorises the consignor in advance not to complete those boxes.

(4) Where the accompanying administrative document is incomplete, as provided for in paragraph (3), the consignor shall notify the proper officer, as required, of the name and address and excise number of the consignee, the country of destination and the place of delivery, as soon as they are known or at the latest when the products reach their final destination.

50. (1) Where the consignor does not obtain the completed copy 3 of the accompanying administrative document within the time limit set in Regulation 48(1)(a), such consignor shall notify the proper officer accordingly not later than 2 months following the dispatch of the consignment.

(2) Where the proper officer has been notified in accordance with paragraph (1), or otherwise has information that the time limit referred to in that paragraph has expired, such officer shall issue a demand to the consignor for the excise duty on the excisable products concerned.

PART 11

CONSIGNMENT TO THE STATE UNDER A SUSPENSION ARRANGEMENT, DURING A TRANSITIONAL PERIOD, UNDER COVER OF THE ACCOMPANYING ADMINISTRATIVE DOCUMENT

51. This Part applies to the use of the accompanying administrative document, until 31 December 2010 or such other date as the Minister for Finance may by order appoint under section 109P(1) of the Act of 2001, for consignments of

excisable products under a suspension arrangement from another Member State under section 109J of that Act.

52. A temporary registered consignee shall, at least one full working day in advance of the dispatch of a consignment to which this Part applies, deliver to the proper officer a written declaration, referred to in this Part as an “advance declaration”, and a duty guarantee document relating to that consignment.

53. The advance declaration shall be in such form as the Commissioners may require and shall contain—

- (a) the name, address and, where applicable, the VAT number of the person in the State to whom the consignment is to be delivered,
- (b) the name, address and VAT number of the consignor in another Member State who is to dispatch the consignment,
- (c) the address of the premises or place to which the consignment is to be delivered and the expected date of delivery,
- (d) the name, address and VAT number of the transporter or carrier of the consignment,
- (e) a full description of the excisable products including the CN Code reference,
- (f) the chargeable quantity of the excisable products expressed in the appropriate units of charge,
- (g) the value of the excisable products,
- (h) the amount of the excise duty payable on the excisable products,
- (i) the name and address of the person responsible for payment of the duty, and
- (j) such other information as the Commissioners may require.

54. A temporary registered consignee may, at the time of delivery of an advance declaration to the proper officer in accordance with Regulation 53, pay the excise duty on the consignment by means of an excise duty entry.

55. Where a temporary registered consignee does not pay the excise duty in accordance with Regulation 54, such temporary registered consignee shall, in advance of the dispatch of the consignment, and to the satisfaction of the proper officer, provide security for such excise duty.

56. On the arrival of a consignment to which this Part applies at a premises or other place of delivery designated in the accompanying administrative document, the designated consignee shall—

- (a) immediately notify the proper officer of the arrival of the consignment by presenting copy 3 and copy 4 of the accompanying administrative document to such officer,
- (b) where the designated consignee is a registered consignee, ensure that the consignment is held intact until such time as they have been examined or authorised for release by the proper officer, and
- (c) retain copy 2 of the accompanying administrative document.

57. (1) Where the designated consignee notifies the proper officer in accordance with Regulation 56 such consignee shall, prior to presenting them to the proper officer, record the following on copy 3 and copy 4 of the accompanying administrative document:

- (a) the address of the Revenue office of the proper officer,
- (b) the date and place of receipt of the excisable products,
- (c) a description of the excisable products received and, where these are fully in agreement with such copy 3 and copy 4, such copies should indicate:

“Consignment checked”,

- (d) where the excisable products received are not in agreement with such copy 3 and copy 4, the extent of the discrepancy,
- (e) the reference or registration number of such designated consignee, and
- (f) the signature of such consignee.

58. (1) Where the proper officer is satisfied that the excisable products are in agreement with the declaration of receipt made by the consignee on copy 3 and copy 4 of the accompanying administrative document, such officer shall endorse copy 3 of such document duly completed and return it to the designated consignee.

(2) The designated consignee shall ensure that the endorsed copy 3 returned by the proper officer is dispatched to the consignor of the excisable products to which it relates in such time as to reach such consignor not later than 15 days following the month of receipt of such excisable products by such consignee.

(3) The proper officer shall retain copy 4 of the accompanying administrative document.

59. (1) At the same time as a designated consignee is required under Regulation 56 to notify the proper officer of the arrival of excisable products and where such consignee is either—

- (a) a registered consignee, or

- (b) a temporary registered consignee who has not already paid the excise duty in accordance with Regulation 54,

such consignee shall pay the excise duty by completing in the required manner an excise duty entry in respect of the excisable products received.

(2) On the arrival of a consignment of marked gas oil or marked kerosene, the declarant shall provide a declaration to a proper officer that the gas oil or kerosene has been marked in accordance with Regulation 34 of the Mineral Oil Tax Regulations, and that the marked gas oil or marked kerosene (as the case may be) is intended for a purpose other than combustion in the engine of a motor vehicle.

PART 12

MOVEMENT OF EXCISABLE PRODUCTS UNDER A SUSPENSION ARRANGEMENT BETWEEN TWO PLACES IN THE STATE BY WAY OF THE TERRITORY OF ANOTHER MEMBER STATE

60. (1) This section applies to the consignment of excisable products under a suspension arrangement between two tax warehouses in the State via the territory of another Member State.

(2) An authorised warehousekeeper in the State who dispatches a consignment to which this Regulation applies shall comply with the requirements set down in Regulations 45, 46, 47, 48 and 50 for the dispatch of a consignment.

(3) The authorised warehousekeeper who is the designated consignee shall, on arrival of the consignment at the destination tax warehouse, comply with the requirements set down in Regulations 56, 57 and 58 for the receiving of a consignment.

PART 13

CONSIGNMENT OF EXCISABLE PRODUCTS UNDER THE COMPUTERISED SYSTEM

61. This Part applies to consignments of excisable products under a suspension arrangement by means of the computerised system under Chapter 2A of the Act of 2001.

62. (1) Before a consignment is dispatched to a temporary registered consignee, that temporary registered consignee may pay the excise duty on the consignment by means of an excise duty entry.

(2) Where a temporary registered consignee does not pay the excise duty in accordance with paragraph (1), that temporary registered consignee shall, in advance of the dispatch of the consignment, to the satisfaction of the proper officer, provide security for such excise duty.

63. Where any consignor or designated consignee provides any person, other than an officer or employee of that consignor or designated consignee, with the digital certificate of that consignor or designated consignee, such consignor or designated consignee shall inform a proper officer accordingly without delay.

PART 14

THE APPROVAL OF TRADERS

64. (1) The Commissioners may register a person who has applied to them in writing as a registered consignee under section 109J(3) of the Act of 2001, where such applicant—

- (a) is engaged in legitimate trade in excisable products,
- (b) provides such information as the Commissioners may require about the consignments to be received, and
- (c) has a secure premises or place to which such consignments can be delivered, and where they can be examined as required by a proper officer.

(2) A person may, for the purposes of section 109(J)(3) of the Act of 2001, be deemed to receive consignments only occasionally, and be registered accordingly as a temporary registered consignee, only where such registered consignee does not receive more than 12 consignments in a calendar year.

(3) Any person who is, on 1 April 2010, registered as a registered trader under section 116(4) of the Act of 2001 is, with effect from that date, registered as a registered consignee under section 109J(3) of that Act.

65. (1) The Commissioners may, under section 109U(2) of the Act of 2001, approve a person who has applied to them in writing as a tax representative, where such person—

- (a) provides to the Commissioners a letter from a trader who proposes to act as a non-State vendor, appointing such person to act as a tax representative on behalf of such trader, and
- (b) supplies such other information as the Commissioners may require.

(2) Any person who is, on 1 April 2010, approved as a tax representative under section 113 of the Act of 2001 is, with effect from that date, approved as such under section 109U(2) of that Act.

PART 15**IRREGULARITIES**

66. Where, due to an irregularity in the course of a consignment under duty suspension from a consignor in the State, or from a consignor in another Member State, excisable products are released for consumption, and where—

- (a) the irregularity has occurred in the State, or
- (b) the irregularity has been detected in the State and there is no evidence that it has occurred elsewhere, and is accordingly deemed to have occurred in the State,

a proper officer shall,

- (i) in the case of a consignment from a consignor in the State, issue a demand to that consignor for the excise duty on the excisable products concerned, and
- (ii) in the case of a consignment from a consignor in another Member State, inform the competent authority of that other Member State accordingly and, in accordance with Council Directive 2010/24/EU of 16 March 2010⁴, pursue the collection of the excise duty on the excisable products concerned from the person in that other Member State who has provided the guarantee for that consignment.

67. Where in the case of a consignment under duty suspension to the State—

- (a) some or all of the excisable products in that consignment do not arrive at the destination, and the non-arrival is not found to be due to a loss provided for in section 98A(4) of the Act of 2001, and
- (b) no irregularity has been detected in the course of that consignment,

an irregularity shall be deemed to have occurred in the Member State of dispatch unless, within four months of the dispatch of the consignment, satisfactory evidence to the contrary is provided to the competent authorities of that Member State.

68. Where, because of an irregularity in the course of a consignment to which Part 2 or Part 3 applies, some or all of the excisable products concerned are not received and accounted for in accordance with the relevant Regulations of those Parts, and where—

- (a) the irregularity has occurred in the State, or
- (b) the irregularity has been detected in the State and there is no evidence that it has occurred elsewhere,

⁴O.J. No. L84 of 31 March, 2010, p.1

a proper officer shall ensure that any excise duty outstanding is paid by the person in the State who has secured it.

69. In any case where—

- (a) under Regulation 66 or 68, an irregularity is deemed to have occurred in the State,
- (b) within a period of three years from the date of dispatch of the consignment concerned, there is evidence to the satisfaction of the Commissioners that the irregularity occurred in another Member State, and
- (c) excise duty has been paid in accordance with either of those Regulations,

a proper officer shall repay that excise duty and advise the competent authority of that other Member State accordingly.

PART 16

MISCELLANEOUS

70. (1) Any person who is subject to any requirement of Chapter 2A or 2B of the Act of 2001 in respect of the receipt or dispatch of a consignment shall keep all accounts and other records relevant to that consignment, and shall produce such accounts and records for examination when required to do so by a proper officer.

(2) Any person who has claimed a repayment to which Part 9 applies shall keep, in such form as the Commissioners may require, all accounts and other records relevant to that repayment.

(3) In the case of any record that is in a non-legible form, such record shall be produced in a legible form, or reproduced in a permanent legible form, when so required by a proper officer.

(4) The accounts referred to in paragraph (1) shall show in respect of each consignment received or dispatched—

- (i) the date of receipt or dispatch,
- (ii) the name and address of the consignor or consignee, and
- (iii) the chargeable quantity of the excisable products concerned in the appropriate units of charge,

and such accounts shall be updated as required within one full working day of the receipt of any such consignment.

71. The accounts and other records required under Regulation 70 shall—

- (a) be preserved for a period of not less than 6 years from the date of the last entry in such records, and
- (b) be kept at the registered place of business of the supplier, or such other place as the Commissioners may in any particular case allow.

72. (1) A consignment under duty suspension from a small wine producer in accordance with section 109O(3) of the Act of 2001 shall be under cover of the accompanying document provided for by Article 3(1) of Commission Regulation (EC) No. 884/2001⁵.

(2) The designated consignee shall immediately notify the proper officer of the arrival of a consignment to which paragraph (1) refers, by means of the document referred to in that paragraph and, where the designated consignee is a registered consignee, all the requirements of Part 11 for the payment of excise duty by a registered consignee shall apply.

GIVEN under my hand,
7 April 2010.

MICHAEL O'GRADY,
Revenue Commissioner.

⁵O.J. No. L128 of 10 May, 2001, p.32

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

With effect from 7 April 2010, these Regulations, in accordance with Council Directive 2008/118/EC, prescribe procedures for the movement of excisable products between Member States of the European Union, and certain requirements for traders involved in such movements. They replace the Control of Excisable Products Regulations 2001 (S.I. No. 443 of 2001).

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