



CUSTOMS AND EXCISE MANAGEMENT ACT 1986
EXCISE GOODS (DRAWBACK) REGULATIONS 1993

Laid before Tynwald 16th March, 1993

Coming into operation 1st January 1993

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In exercise of the powers conferred upon the Treasury by section 140A of the Customs and Excise Management Act 1986(a) and of all other powers enabling it in that behalf, the following Regulations are hereby made:-

PART I

PRELIMINARY

Citation and commencement

1. These Regulations may be cited as the Excise Goods (Drawback) Regulations 1993 and shall be deemed to have come into operation on 1st January 1993.

Application

2. (1) Subject to paragraph (2), these Regulations apply to goods chargeable with a duty of excise provided that those goods have not been, and will not be, consumed in the Isle of Man or the United Kingdom.

(2) These Regulations shall not apply -

(a) to any goods exported from the Isle of Man or the United Kingdom if they are, at the time of their exportation, consigned to a place outside the Communities;

(b) to chewing tobacco; and

(c) to matches and mechanical lighters.

Interpretation

3. In these Regulations -

"accompanying document" and "certificate of receipt" have the meanings given in regulation 7;

"the Act" means the Customs and Excise Management Act 1986;

"business day" has the meaning given in section 92 of the Bills of Exchange Act 1883(b);

"duty" means duty of excise;

"eligible claimant" has the meaning given in regulation 5;

"eligible goods" and "planned destruction" have the meanings given in regulation 4;

"merchantable quality" has the meaning given in section 14 of the Sale of Goods Act 1983(c);

"registered excise dealers and shippers regulations", "revenue trader" and "warehousing regulations" have the meanings given in section 184(1) of the Act.

PART II

ENTITLEMENT TO DRAWBACK

Eligible goods

4. (1) A claim for drawback of duty may only be made in relation to eligible goods.

(2) Goods are eligible goods if duty has been paid and has not been remitted, repaid or drawn back and either -

(a) those goods have been exported; or

(b) subject to paragraph (3), those goods have been destroyed.

(3) Goods shall not be eligible goods if they are destroyed either -

(a) accidentally unless -

(i) the goods were being exported and destruction took place after leaving the premises mentioned in paragraph (ii) of subparagraph (b) of regulation 7(1) but within the Isle of Man or the United Kingdom; or

(ii) the destruction was occasioned in any of the circumstances set out in Schedule 1 to these Regulations; or

(b) otherwise than accidentally unless that destruction was a planned destruction.

(4) For the purpose of these Regulations "planned destruction" -

(a) means the destruction of goods which, by reason of faulty manufacture or subsequent deterioration or contamination were at the time of their destruction not of merchantable quality provided that, save as the Treasury may otherwise allow, that destruction was carried out in accordance with the provisions of Schedule 2 to these Regulations; and

(b) includes denaturing to the satisfaction of the Treasury.

Eligible claimants

5. (1) A claim for drawback of duty may only be made by an eligible claimant.

(2) A claimant is an eligible claimant if he is a revenue trader -

(a) in the course of whose business the export or, as the case may be, destruction took place; and

- (b) in the case of planned destruction -
 - (i) who (except as the Treasury may otherwise allow) paid the duty to be drawn back; and
 - (ii) whose business is not wholly or mainly the destruction of excise goods.

PART III

CLAIMS, CONDITIONS AND CANCELLATION OF DRAWBACK

General conditions

6. (1) Without prejudice to any condition imposed by, or in accordance with section 140 of the Act, every claim for drawback shall, save as the Treasury may otherwise allow, comply with the conditions imposed by these Regulations.

(2) No claim for drawback of duty shall be made unless, taken together with any other claim being made at the same time, the total amount of duty to be drawn back is at least £500; provided that if during the six months immediately preceding the date upon which the claim for drawback of duty is made the amounts of drawback of duty which could be claimed by the claimant amount in total to less than £500 this paragraph shall operate as if the reference to at least £500 were a reference to at least £50.

(3) No claim for drawback of duty shall be made if the event giving rise to the claim occurred more than three years after the duty on the goods in question was paid.

Conditions to be complied with where goods are exported

7. (1) Where a claim for drawback of duty is made in relation to goods which have been exported the following conditions shall be complied with -

- (a) before export the claimant shall deliver to the Treasury at such address as it shall specify notice in writing that he intends to claim drawback on goods which are to be exported;
- (b) a notice delivered in accordance with subparagraph (a) shall contain the following particulars -
 - (i) the name and address of the claimant;
 - (ii) the address of the premises at which the goods to be exported may be inspected prior to export;
 - (iii) the description of the goods to be exported including their nature and quantity; and
 - (iv) the amount of duty paid in respect of those goods;
- (c) before export the goods shall be available for inspection by the Treasury, at any reasonable

- (c) the claimant shall prove to the satisfaction of the Treasury that the goods have been accidentally destroyed.

Payment of claim

9. (1) No drawbacks shall be payable unless it is shown to the satisfaction of the Treasury that the claimant is an eligible claimant and that the goods are eligible goods.

(2) Without prejudice to section 140 of the Act, where the Treasury is satisfied that duty may be drawn back in accordance with these Regulations it may set-off the amount due against any other debt then due to it from the claimant.

(3) If the Treasury is not satisfied that the amount of duty claimed may be drawn back but is satisfied that some lesser amount of duty may be drawn back it may, in such circumstances as it sees fit permit the drawback of that lesser sum.

Cancellation of drawback

10. (1) The Treasury may, at any time, cancel drawback granted in accordance with these Regulations where it is satisfied that a contravention of any conditions (whether imposed by these Regulations or by or under section 140 of the Act) has taken place.

(2) Without prejudice to section 121 of the Act, where drawback has been cancelled in accordance with paragraph (1) the person to whom drawback was paid or credited shall on demand made by the Treasury be liable to repay to the Treasury the sum so paid or credited.

ACCIDENTAL DESTRUCTIONS: CIRCUMSTANCES IN WHICH GOODS
MAY BE ELIGIBLE FOR DRAWBACK

Where the goods are destroyed by, or as a result of -

- (a) civil commotion;
- (b) riot;
- (c) terrorism;
- (d) war;
- (e) explosion;
- (f) earthquake;
- (g) any other fortuitous event; provided that, in the opinion of the Treasury, it would not have been reasonable to insure the goods against the risk of destruction by or as a result of, that event.

PLANNED DESTRUCTION: CONDITIONS

Conditions to be complied with before destruction

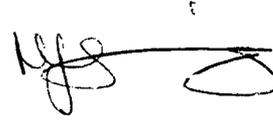
1. The claimant shall deliver to the Treasury at such address as it shall specify notice in writing of his intention to carry out a planned destruction of goods.
2. A notice delivered in accordance with paragraph 1 shall contain the following particulars -
 - (a) the name and address of the claimant;
 - (b) the address of the premises at which the goods to be destroyed may be inspected prior to destruction;
 - (c) the description of the goods to be destroyed including their nature and amount;
 - (d) the amount of duty paid in respect of those goods;
 - (e) the date and time when destruction will take place; and
 - (f) the method of destruction which is to be employed.
3. The goods shall be available for inspection by the Treasury at any reasonable time for not less than two clear business days following the day upon which the notice mentioned in paragraph 1 was received by the Treasury provided that if the place where the goods are available for inspection is different from the address mentioned in subparagraph (a) of paragraph 2 for the reference to two clear business days in this paragraph there shall be substituted a reference to five clear business days.

Conditions to be complied with at the time of destruction

4. Destruction shall take place on the day and at the time appointed.
5. Destruction shall take place at the address mentioned in subparagraph (b) of paragraph 2; provided that the Treasury may, on the application of the claimant, permit, subject to such conditions as it deems necessary or expedient, destruction to take place at a different address.
6. The claimant shall permit the Treasury to attend the destruction.
7. The goods shall be destroyed in accordance with the method specified in the notice mentioned in paragraph 1 save that if the Treasury gives notice that such method is not in its opinion satisfactory, the goods shall be destroyed in accordance with such other method as the Treasury may approve.

Made this 24th day of February

1993



Minister for the Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations come into force on 1st January 1993. They implement the reimbursement provisions of Council Directive 92/12/EEC (OJ No. L76, 23.3.92, p.1), they permit refunds in the circumstances mentioned in Council Directive 92/83/EEC (OJ No. L316, 31.10.92, p.21) and extend existing provision for drawback of excise duties on excise goods (other than chewing tobacco and matches and mechanical lighters). They permit claims for drawback -

- (a) where excise goods are exported to member States of the EC;
- (b) where excise goods are destroyed because they are not of merchantable quality; and
- (c) in certain circumstances, where excise goods are accidentally destroyed.