



**CUSTOMS AND EXCISE MANAGEMENT ACT 1986**

**CUSTOMS AND EXCISE MANAGEMENT ACT 1986  
(MUTUAL ASSISTANCE) ORDER 1998**

*Approved by Tynwald*

28 April 1998

*Coming into operation*

1 May 1998

In exercise of the powers conferred on the Treasury by section 180(3A) of the Customs and Excise Management Act 1986<sup>(a)</sup>, and of all other powers enabling it in that behalf, the following Order is hereby made :-

**Citation and commencement**

1. This Order may be cited as the Customs and Excise Management Act 1986 (Mutual Assistance) Order 1998 and shall come into operation on 1 May 1998.

**Amendment**

2. In the Customs and Excise Management Act 1986, following section 3 insert -

“Mutual Assistance

3A. (1) The Treasury may, subject to the provisions of subsections (2) to (14), cooperate with a member State of the European Community with regard to the exchange of information and the recovery of excise duties, as defined in subsection (15), claimed by the competent authority of the member State.

(2) No obligation to secrecy imposed by statute or otherwise shall preclude the Treasury or an officer from disclosing to the competent authorities of a member State any information in relation to excise duties which may be disclosed by a member State by virtue of the Directive of the Council of the European Communities dated 19 December 1977 No. 77/779/EEC<sup>(b)</sup>, as extended to value added tax by the Directive of the Council of the European Communities dated 6 December 1979 No. 79/1070/EEC<sup>(c)</sup>, and to excise duties by the Directive of the Council of the European Communities dated 25 February 1992 No. 92/12/EEC<sup>(d)</sup>.

<sup>(a)</sup> 1986 c.34.

<sup>(b)</sup> O.J. No. L.336/15.

<sup>(c)</sup> O.J. No. L.331/8.

<sup>(d)</sup> O.J. No. L.76/1-13.

(3) Neither the Treasury nor an officer shall disclose any information in pursuance of subsection (2) unless satisfied that the competent authorities of the member State are bound by, or have undertaken to observe, rules of confidentiality with respect to the information which are not less strict than those applying to it in the Island.

(4) Neither the Treasury nor an officer shall disclose any information by virtue of subsection (2) unless the Treasury is satisfied that similar provisions exist in the member State in question for the supply to the Treasury of any information in respect of excise duties which may be disclosed by that member State to another member State by virtue of the Directive of the Council of the European Communities dated 19 December 1977 No. 77/799/EEC, as extended to value added tax by the Directive of the Council of the European Communities dated 6 December 1979 No. 79/1070/EEC, and to excise duties by the Directive of the Council of the European Communities dated 25 February 1992 No. 92/12/EEC.

(5) Nothing in this section shall permit the Treasury or an officer to authorise the use of information disclosed by virtue of subsection (2) other than for the purposes of the administration of excise duties or to facilitate legal proceedings for failure to observe the laws of the receiving member State in respect of those excise duties.

(6) Where the competent authority in a member State makes a request for the recovery in the Island of any sum claimed by that authority in the State in respect of excise duties which may be recovered on its behalf by another member State by virtue of the Directive of the Council of the European Communities dated 15 March 1976 No. 76/308/EEC<sup>(e)</sup>, as extended to value added tax by the Directive of the Council of the European Communities dated 6 December 1979 No. 79/1071/EEC<sup>(f)</sup>, and to excise duties by the Directive of the Council of the European Communities dated 25 February 1992 No. 92/108/EEC, the Treasury may, subject to the following provisions of this section, recover the sum specified in the request as if it were a debt to the Crown.

(7) For the purposes of subsection (6) the Island is to be treated as if it were a member State.

(8) Proceedings for the recovery of any sum under this section shall be stayed if the defendant satisfies the court that proceedings relevant to the liability on the claim in relation to which the request has been made are pending, or are about to be instituted before a court, tribunal or other competent body in the member State in question; but any such stay may be removed if the proceedings in the member State are not prosecuted or instituted with reasonable expedition.

(9) It shall be a defence to proceedings under this section for the recovery of any sum for the defendant to show that a final decision on the claim had been given in his favour by a court, tribunal or other competent body in the member State in question; and if he shows such a decision has been given in respect of part of the claim it shall be a defence to the proceedings in so far as they relate to that part.

(10) For the purpose of subsection (8) proceedings shall be regarded as pending so long as an appeal may be brought against any decision in the proceedings; and for the purposes of subsection (10) a final decision is one against which no appeal lies or against

<sup>(e)</sup> O.J. No. L.73/18.

<sup>(f)</sup> O.J. No. L.331/10.



which an appeal lies within a period which has expired without an appeal having been brought.

(11) No proceedings for the recovery of any sum under this section shall be begun unless the Treasury is satisfied that similar provisions exist in the member State in question for the recovery in its behalf of any debt to the Crown in respect of excise duties.

(12) In proceedings under this section any averment in the pleadings that a request has been made as mentioned in subsection (2) for the recovery of the sum which is the subject of the proceedings shall be conclusive evidence of that fact; and except as provided in subsection (9) no question shall be raised in any such proceedings as to the defendant's liability on the claim in relation to which the request has been made.

(13) This section shall not have effect in relation to any request for the recovery of any sum which became due before 1 May 1998.

(14) In this section -

“Competent authority” has the same meaning as in the Directive of the Council of the European Communities dated 19 December 1977 No. 77/799/EEC, and “competent authorities” and “authority” shall be construed accordingly;

“excise duties” means any duty on mineral oils, on alcohol and alcoholic beverages or on manufactured tobacco;

“member State” has the same meaning as in section 1(1) of the European Communities (Isle of Man) Act 1973.”.

Made this

1st day of

April

1998



Minister for the Treasury

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#### EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Customs and Excise Management Act 1986, inserting a new section 3A which allows the Treasury to be involved in the mutual exchange of information with member States of the European Communities in respect of matters involving certain excise duties.

The section also provides for the Treasury to co-operate in the mutual recovery of claims in respect of certain excise duties owed to member States.

