



EXCISE WAREHOUSING (ETC.) REGULATIONS 1988

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Government Circular No. 1988/0172



Customs and Excise Management Act 1986
Alcoholic Liquor Duties Act 1986

EXCISE WAREHOUSING (ETC.) REGULATIONS 1988¹

Coming into Operation:

1 June 1988

In exercise of the powers conferred on the Treasury by section 94 of the Customs and Excise Management Act 1986¹, and sections 2(3A), 14 and 52(1) of the Alcoholic Liquor Duties Act 1986² and of all other powers enabling it in that behalf, the following regulations are hereby made:

PART I - PRELIMINARY

1 Citation and commencement

These Regulations may be cited as the Excise Warehousing (Etc.) Regulations 1988 and shall be deemed to have come into operation on the 1st June 1988.

2 Interpretation

In these Regulations, unless the context otherwise requires —

“**duty**” means excise duty;

“**occupier**” means the occupier of an excise warehouse, and in the case of a distiller’s warehouse, and in the case of a distiller’s warehouse means the distiller;

“**package**” includes any bundle, case, carton, cask, or other container whatsoever;

“**proprietor**” means the proprietor of goods in an excise warehouse or of goods which have been in, or are to be deposited in, or are treated as being in, an excise warehouse, and “proprietorship” shall be construed accordingly;

¹ 1986 c.34.

² 1986 c.35

“warehoused” means warehoused or rewarehoused in an excise warehouse, and “warehousing” and “rewarehousing” shall be construed accordingly.

3 Application

- (1) Except as provided by or under the Hydrocarbon Oil Duties Act 1986³, Parts I to IV of these Regulations apply to all goods chargeable with a duty of excise.
- (2) Part V of these Regulations applies for all purposes of the Alcoholic Liquor Duties Act 1986⁴.

4 Designated file

- (1) For the purposes of these Regulations delivery to the proper officer of anything in writing –
 - (a) shall be effected by placing it in the relevant designated file; and
 - (b) the time of such delivery shall be when it is placed in that designated file,

but the proper officer may direct that delivery shall be effected in another manner.

- (2) Nothing in a designated file shall be removed without the permission of the proper officer.
- (3) Nothing in a designated file shall be altered in any way, and an amendment to anything in it shall be made by depositing a notice of amendment in the designated file.
- (4) The designated file shall be kept at such place as the Treasury directs and, if kept at the excise warehouse, shall be provided by the occupier.
- (5) The designated file shall be a receptacle approved by the Treasury for the secure keeping of written material, and different files may be approved for different purposes.
- (6) For the purposes of these Regulations delivery to the proper officer of anything not in writing shall be effected in such manner, and be subject to such conditions, as the Treasury directs.

5 Variation of provisions at request of occupier or proprietor

- (1) The Treasury may, if it sees fit, consent in writing to an application by an occupier or proprietor for variation of any condition, restriction or requirement contained in or arising under regulations 11 to 24, and may make that consent subject to compliance with such other condition,

³ 1986 c.38

⁴ 1986 c.35

restriction or requirement (as the case may be) as may be agreed by it and the applicant in writing.

- (2) Where under paragraph (1) any condition or restriction is varied or another is substituted for it, then, if the varied or substituted condition or restriction is one —
- (a) subject to which goods may be deposited in, secured in, kept in or removed from an excise warehouse or made available there to their owner for any prescribed purpose; or
 - (b) subject to which an operation may be carried out on goods in an excise warehouse,

breach of the varied or substituted condition or restriction shall give rise to forfeiture of those goods, provided that breach of the original condition or restriction would have given rise to forfeiture.

6 Limitation of penalties

If any person contravenes or fails to comply with any of these Regulations or with any condition imposed under these Regulations and in consequence is liable to a penalty under section 14(7) of the Alcoholic Liquor Duties Act 1986 (breach of regulations relating to a distiller's warehouse), and by reason of that contravention or failure is also liable to a penalty under section 94(6) of the Customs and Excise Management Act 1986 (breach of warehousing regulations) the amount of the penalty imposed under the said section 14(7) shall not exceed the penalty specified by the said section 94(6).

7 Manner of Treasury's directions etc.

- (1) Where, by or under these Regulations, it is provided that the Treasury may —
- (a) make a direction or requirement;
 - (b) give its permission or consent;
 - (c) grant approval; or
 - (d) impose a condition or restriction,
- then it may do so only in writing; and it may make a direction or requirement or impose a condition or restriction by means of a public notice.
- (2) Any request for the proper officer to give his permission or grant approval under these Regulations shall, if he or the Treasury directs, be made in writing.
- (3) Any right granted to the Treasury or the proper officer by these Regulations etc —
- (a) make a direction or requirement;
 - (b) give permission or consent;

- (c) grant approval; or
- (d) impose a condition or restriction,

shall include a right to revoke, vary or replace any such direction, requirement, permission, consent, approval, condition or restriction.

8 Form of entries etc.

- (1) Except as the Treasury otherwise allows and subject to paragraph (2), any entry, account, notice, specification, record or return required by or under these Regulations shall be in writing.
- (2) This regulation does not apply to the records referred to in regulations 22(3) and (4) (records kept for the purposes of any relevant business or activity).

9 Revocation

The public documents mentioned in Schedule 4 are hereby revoked to the extent specified in the third column of that Schedule.

PART II - PROCEDURES FOR EXCISE WAREHOUSES AND WAREHOUSED GOODS

10 Time of warehousing

Goods brought to an excise warehouse for warehousing shall be deemed to be warehoused when they are put in the excise warehouse.

11 Receipt of goods into warehouse

- (1) Subject to paragraph (6) when goods are warehoused the occupier shall immediately deliver to the proper officer an entry of the goods in such form and containing such particulars as the Treasury directs.
- (2) When goods are warehoused the occupier shall take account of the goods and deliver a copy of that account to the proper officer by the start of business on the next day after warehousing that the warehouse is open.
- (3) The occupier shall, if there is any indication that the goods may have been subject to loss or tampering in the course of removal to the excise warehouse, immediately inform the proper officer and retain the goods intact for his examination.
- (4) Except as the proper officer may otherwise allow, the occupier shall, within 5 days of goods being warehoused, send a certificate of receipt for the goods to the person from whom they were received identifying the goods and stating the quantity which has been warehoused.

- (5) Except as the proper officer otherwise allows the occupier shall give only one receipt required by paragraph (4) for each lot or parcel of goods warehoused.
- (6) In the case of spirits warehoused at the distillery where they were produced satisfaction of the requirements of regulation 21 of the Spirits Regulations 1982⁵, as they have effect in the Island, shall be deemed to be compliance with the requirements of entry and account in paragraphs (1) and (2).
- (7) Should the occupier fail to comply with any condition or restriction imposed by or under paragraphs (1), (2), (3) or (6) any goods in respect of which the failure occurred shall be liable to forfeiture.

12 Securing, marking and taking stock of warehoused goods

- (1) The occupier shall take all necessary steps to ensure that no access is had to warehoused goods other than as allowed by or under these Regulations.
- (2) Goods shall be warehoused in the packages and lots in which they were first entered for warehousing.
- (3) The occupier shall —
 - (a) legibly and uniquely mark and keep marked warehoused goods so that at any time they can be identified in the stock records; and
 - (b) stow warehoused goods so that safe and easy access may be had to each package or lot.
- (4) The occupier shall, when required by the proper officer to do so, promptly produce to him any warehoused goods which have not lawfully been removed from the warehouse.
- (5) The occupier shall take stock of all goods in the warehouse —
 - (a) monthly in the case of bulk good in vats or in storage tanks; and
 - (b) annually in the case of all other goods,and shall take stock at such other times and to such extent as the Treasury may for reasonable cause require.
- (6) In accordance with the Treasury's directions the occupier shall —
 - (a) balance his stock accounts and reconcile the quantities of those balances with his Excise Warehouse Returns; and
 - (b) balance his stock accounts so that they can be compared with the result of any stock-taking.

⁵ S.I. 1982/611 (applied by G.C. 128/82).

- (7) The occupier shall notify the proper officer immediately in writing of any deficiency, surplus or other discrepancy concerning stocks or records of stocks whenever or however discovered.
- (8) Any goods —
 - (a) found not to be marked in accordance with paragraph (3); or
 - (b) found to be in excess of the relevant stock account and not immediately notified to the proper officer,shall be liable to forfeiture.

13 Proprietor's examination of goods

The proprietor of warehoused goods may, provided that the occupier has first given his consent and has given at least 6 hours' notice to the proper officer —

- (a) examine the goods and their packaging;
- (b) take any steps necessary to prevent any loss therefrom; or
- (c) display them for sale.

14 Operations

- (1) Except as provided by or under this regulation or by or under sections 53 and 54 of the Alcoholic Liquor Duties Act 1986 (mixing of spirits with made-wine or wine), no operation shall be carried out on warehoused goods.
- (2) The Treasury may allow the operations described in Schedule 1 to these Regulations to be carried out on warehoused goods, and may allow other operations if it is satisfied that the control of the goods and the security and collection of the revenue will not be prejudiced.
- (3) Save as the proper officer may allow in cases of emergency for the preservation of the goods, no operation shall be commenced unless the occupier has delivered to the proper officer a notice of the proposed operation with a specification of the goods involved, and 24 hours have elapsed following the delivery of that notice.
- (4) Before commencing any operation on goods the occupier shall ensure that an account is taken of those goods and that immediately after complete of the operation an account is taken of the out-turn quantities.
- (5) The occupier shall deliver to the proper officer a notice containing such detail of the accounts required by paragraph (4) as the proper officer requires.
- (6) The occupier shall ensure that —
 - (a) any operation is carried out in a part of the warehouse approved by the Treasury for that purpose, or in such other part as the proper officer allows; and

- (b) such other requirements as the proper officer may impose in any particular circumstances are observed.
- (7) Any goods in respect of which this regulation is not observed shall be liable to forfeiture.
- (8) Nothing in paragraph (2) above shall permit the mixing of spirits with wine or made-wine while that operation is excluded from the provisions of section 94(2)(c) of the Customs and Excise Management Act 1986.

15 Removal from warehouse – occupier’s responsibilities

The occupier shall ensure that —

- (a) notice of intention to remove the goods is given to the proper officer in accordance with any directions made by the Treasury;
- (b) an entry of the goods is delivered to the proper officer in such form and containing such particulars as the Treasury may direct;
- (c) no goods are removed until any duty chargeable has been paid, secured, or otherwise accounted for;
- (d) no goods are removed contrary to any condition or restriction imposed by the proper officer;
- (e) an account of the goods is taken in such manner and to such extent as the proper officer requires and a copy of the account is delivered to the proper officer; and
- (f) when goods are removed other than for home use, a certificate of receipt is obtained showing that all the goods arrived at the place to which they were entered on removal and, if no such receipt is obtained within 21 days of the removal, notice of that fact is given to the proper officer for the excise warehouse from which the goods were removed.

16 Removal from warehouse – entry

- (1) Goods may be entered for removal from warehouse for —
 - (a) home use, if so eligible;
 - (b) exportation;
 - (c) shipment as stores; or
 - (d) removal to the United Kingdom.
- (2) The Treasury may allow goods to be entered for removal from warehouse for —
 - (a) rewarehousing in another excise warehouse;
 - (b) temporary removal for such purposes and such periods as they may allow;
 - (c) scientific research and testing;

- (d) removal to premises where goods of the same class or description may, by or under the customs and excise Acts, be kept without payment of excise duty;
 - (e) denaturing or destruction; or
 - (f) such other purpose as it permits,
- and may by direction impose conditions and restrictions on the entry of goods or classes of goods for any of the above purposes.
- (3) Save as the Treasury directs no goods may be removed from warehouse unless they have been entered in accordance with this regulations.
 - (4) Goods entered for home use may be removed from warehouse only if –
 - (a) the duty has been paid to the Treasury
 - (b) the removal is in accordance with provisions of, or under, the customs and excise Acts, allowing payment of the duty to be deferred; or
 - (c) the removal is permitted under an arrangement approved by the Treasury for the payment of duty on the day the goods are removed.
 - (5) Goods entered for a purpose other than home use may be removed from warehouse without payment of duty only if security for that duty is given (by bond or otherwise) to the satisfaction of the Treasury and the security is such as to remain in force until the accomplishment of the purpose for which entry is made.

17 Removal from warehouse – general

- (1) Any goods removed from an excise warehouse without payment of duty as samples or for scientific research and testing and which are no longer required for the purpose for which they were removed shall be –
 - (a) destroyed to the satisfaction of the proper office;
 - (b) rewarehoused in an excise warehouse; or
 - (c) diverted to home use on payment of the duty chargeable thereon.
- (2) The proper officer may require any goods entered for removal from an excise warehouse for any purpose, other than home use, to be secured or identified by the use of a seal, lock or mark, and any such requirement may continue after the goods have been removed.
- (3) In such cases as the Treasury may direct the proper officer may impose conditions and restrictions on the removal of goods from an excise warehouse in addition to those imposed elsewhere in these Regulations.
- (4) Any goods in respect of which any of the provisions of these Regulations relating to removal of goods from an excise warehouse (other than regulation 15(f)) is contravened shall be liable to forfeiture.

- (5) The Treasury may direct that any provisions of these Regulations relating to removal of goods from an excise warehouse shall not apply in the case of hydrocarbon oils.

18 Entry of goods not in warehouse

Except in such cases as the Treasury directs, goods which are to be warehoused and goods which have been lawfully removed from an excise warehouse without payment of duty may, with the permission of the proper officer, be entered or further entered by their proprietor for any part of the purposes referred to in paragraphs (1) and (2) of regulation 16 as if they were to be removed from the excise warehouse:

Provided that where any such goods are packaged and party only is to be further entered, that part shall consist of one or more complete packages.

19 Samples

- (1) The Treasury may make directions —
 - (a) allowing the proprietor of warehoused goods to draw samples thereof for such purposes and subject to such conditions as it specifies; and
 - (b) allowing the removal of samples from an excise warehouse with or without payment of duty,and no sample shall be drawn or removed except as allowed by, and in accordance with directions and conditions under, this regulation.
- (2) Any samples drawn or removed in breach of this regulation shall be liable to forfeiture.

PART III - RETURNS AND RECORDS

20 Returns

- (1) The occupier shall complete and sign an Excise Warehouse Return and shall deliver such return to the proper officer within 14 days of the end of the stock period to which it relates.
- (2) A return shall be in such form and contain such particulars of goods received into, stored in and delivered from an excise warehouse as the Treasury directs, and different provisions may be made for goods of different classes or descriptions.
- (3) The Treasury may direct that separate returns be made in respect of goods of different classes or descriptions.
- (4) The occupier shall support each return with such schedules and further information relating to the goods as the Treasury may require.

- (5) "Stock period" means one calendar month or such other period, not exceeding 5 weeks, as the proper officer, at the request of the occupier, allows.

21 Records to be kept

- (1) The occupier shall, in relation to goods in an excise warehouse, keep the records prescribed in Schedule 2 to these Regulations.
- (2) The proprietor of goods in an excise warehouse, or of goods which have been removed from an excise warehouse without payment of duty, or which are to be warehoused, may be required by the proper officer to keep the records prescribed by Schedule 3 to these Regulations in so far as they relate to his proprietorship of the goods.
- (3) In addition to the other records required by this regulation the occupier shall, in relation to his occupation of the warehouse, keep such records of the receipt and use of goods received into the excise warehouse other than for warehousing therein as the proper officer requires.
- (4) Records required by or under this regulation shall —
- (a) be entered up promptly;
 - (b) identify the goods to which they relate;
 - (c) in the case of an occupier be kept at the warehouse;
 - (d) in the case of a proprietor be kept at his principal place of business in the Isle of Man, or at such other place as the proper officer allows; and
 - (e) be kept in such form and manner and contain such information as the Treasury directs.

22 Preservation of records

- (1) The occupier shall preserve, for not less than 3 years from the lawful removal of the goods or such shorter period as the Treasury directs, all records which he is required to keep by virtue of regulation 21(1), but no record shall be destroyed until the relevant stock accounts have been balanced and any discrepancy reconciled.
- (2) The proprietor shall preserve, for not less than 3 years from when he ceased to be the proprietor of the goods, or for such shorter period as the Treasury directs, all records which he is required to keep by virtue of regulation 21(2).
- (3) Each occupier and proprietor shall preserve all records (other than those referred to in paragraph (1) and (2) kept by him for the purposes of any relevant business or activity for not less than 3 years from the events recorded in them, except that such records need not be preserved if they are records which (or records of a class which) the Treasury has directed as not needing preservation.

- (4) The requirements to preserve records imposed by paragraph (3) may be discharged by the preservation in a form approved by the Treasury of the information contained in those records.

23 Production of records

- (1) The occupier or the proprietor shall, when required by the Treasury, produce or cause to be produced to the proper officer any records, copy records or information which he has required by these Regulations to preserve.
- (2) Production under paragraph (1) shall —
 - (a) take place at such reasonable time as the proper officer requires; and
 - (b) take place at the excise warehouse or at such other place as the proper officer may reasonably require.
- (3) The proper officer may inspect, copy or take extracts from and may remove at a reasonable time and for a reasonable period any record produced or required to be produced to him under this regulation, and the occupier and proprietor shall permit such inspection, copying, extraction and removal.
- (4) Where the records required to be produced by this regulation are preserved in a form which is not readily legible, or which is legible only with the aid of equipment, the occupier or proprietor shall, if the proper officer so requires, produce a transcript or other permanently legible reproduction of the records and shall permit the proper officer to retain that reproduction.

24 Information for the protection of the revenue

- (1) The occupier or proprietor shall furnish the Treasury with any information relating to any relevant business or activity of his which it specifies as information which they think it is necessary or expedient for them to be given for the protection of the revenue.
- (2) Such information shall be furnished to the Treasury within such time, and at such place and in such form as it may reasonably require.

25 Further provision as to records

For the purposes of regulations 21 to 24, in relation to a proprietor —

- (a) goods which are to be warehoused shall be treated as if they were warehoused in the warehouse to which they are being removed; and

- (b) goods which have been removed from warehouse without payment of duty shall be treated as if they were warehoused in the warehouse from which they have been removed.

PART IV - DUTY CHARGEABLE ON WAREHOUSED GOODS

26 Duty chargeable on goods removed for home use

The duty and the rate thereof chargeable on any warehoused goods removed from an excise warehouse for home use shall be those in force for goods of that class or description at the time of their removal.

27 Duty chargeable on goods diverted to home use after removal without payment of duty

- (1) The duty and rate thereof chargeable on any goods removed from an excise warehouse without payment of duty and in respect of which duty is payable under regulation 17(1)(c) shall be those in force for goods of that class or description at the time of payment of the duty.
- (2) The duty and the rate thereof chargeable on any goods which have been entered for home use under regulation 18 shall be those in force for goods of that class or description –
- (a) where removal for home use is allowed under section 125 of the Customs and Excise management Act 1986 of the Customs and Excise Management Act 1986 on the giving of security for the duty chargeable thereon, at the time of giving of the security, or
- (b) in any other case, at the time of payment.

28 Duty chargeable on missing or deficient goods

The duty and the rate thereof chargeable on any goods found to be missing or deficient and upon which duty is payable under section 95 of the Customs and Excise Management Act 1986, shall be those in force for goods of that class or description at the time the loss or deficiency occurred:

Provided that where that time cannot be ascertained to the proper officer's satisfaction, the rate of duty chargeable on such goods shall be the highest rate applicable thereto from the time of their deposit in the excise warehouse, or, where appropriate, from the time that the last account of them was taken, until the loss or deficiency came to the notice of the proper officer.

29 Calculation of duty

- (1) Where duty is charged on any such goods as are referred to in regulation 26, the quantity of those goods shall be ascertained by reference to any account taken in accordance with these Regulations at

the time of their removal from the excise warehouse or, if no account is taken, the quantity declared to and accepted by the proper officer as the quantity of goods being removed or, if greater, the actual quantity of goods being removed.

- (2) Where duty is charged on any such goods as are referred to in regulations 27 or 28 the quantity of such goods shall be ascertained by reference to the last account taken in accordance with these Regulations, or, if no account has been taken, the quantity declared to and accepted by the proper officer as the quantity of goods on which duty is to be charged, or, if greater, the actual quantity of goods.

30 Ascertainment of quantity by taking an account

- (1) Where the quantity of warehoused goods is to be ascertained by taking an account thereof, it shall be ascertained for the purposes of these Regulations by reference to weight, measure, strength, original gravity or number as the case may require.
- (2) Where under these Regulations an occupier is required to deliver a copy of an account of goods he shall deliver to the proper officer a notice giving such details of the account as the proper officer requires, and the taking of the account shall not be complete until that notice has been delivered.

PART V - ASCERTAINMENT OF DUTY BY REFERENCE TO LABELS ETC.

31 Ascertainment of duty by reference to labels etc.

- (1) Subject to paragraph (2) of this regulation, for the purpose of charging duty on any spirits, wine or made-wine contained in any bottle or other container the strength, weight and volume of the spirits, wine or made-wine shall be ascertained conclusively by reference to any information given on the bottle or other container by means of a label, or otherwise, or by reference to any documents relating to the bottle or other container, notwithstanding any other legal provision.
- (2) The method of ascertaining the strength, weight or volume, or any of them, referred to in paragraph (1) shall not be used if another method would produce a result upon which a greater amount of duty would be charged than would be the case if the method in paragraph (1) were used.

MADE 24 JUNE 1988

SCHEDULE 1

Regulation 14(2)

OPERATIONS WHICH MAY BE PERMITTED ON WAREHOUSED GOODS

1. Sorting, separating, packing or repacking and such other operations as are necessary for the preservation, sale, shipment or disposal of the goods.
2. The rectifying and compounding of spirits.
3. The rendering sparkling of wine and made-wine.
4. The mixing of a fermented liquor or a liquor derived from a fermented liquor with any other liquor or substance so as to produce made-wine.
5. The mixing of lime or lemon juice with spirits for shipment as stores or for exportation.
6. Denaturing.
7. Reducing.
8. Marrying.
9. Blending.

SCHEDULE 2

Regulation 21(1)

RECORDS TO BE KEPT BY THE OCCUPIER

Records of

- (a) goods deposited in the excise warehouse, from where and from whom received, and date of warehousing;
- (b) goods removed from the excise warehouse, the purpose of the removal, date of removal and (if the purpose of the removal is other than for home use) the place to which the goods are removed;
- (c) stock of warehoused goods;
- (d) deficiencies and increases in stock;
- (e) operations performed;
- (f) deficiencies and increases in operation;
- (g) accounts taken of goods deposited in the excise warehouse, removed from the excise warehouse, put into operation, received from operation, and of stocks in the excise warehouse;
- (h) samples drawn from warehoused goods, samples removed from warehouse, and the person to whom samples are delivered;
- (i) the manner in which duty is paid or accounted for when goods chargeable with duty are removed from home use;
- (j) the manner in which security is given when goods chargeable with duty are removed for purposes other than home use and the dates when certificates of receipt or shipment are received;
- (k) notices delivered to the proper officer and of the manner and time of delivery;
- (l) times when the excise warehouse is opened and closed;
- (m) names and titles of keyholders to the excise warehouse;
- (n) the name and address of the proprietor of each lot or parcel of goods, and of changes of proprietorship.

SCHEDULE 3

Regulation 21(2)

RECORDS WHICH THE PROPRIETOR MAY BE REQUIRED TO KEEP

Records of

- (a) goods which are to be warehoused in an excise warehouse;
- (b) goods which have been warehoused in an excise warehouse;
- (c) goods which have been removed from an excise warehouse otherwise than for home use on payment of the duty chargeable, and all movements of such goods;
- (d) his stock of goods in each excise warehouse;
- (e) operations performed;
- (f) samples drawn, removed from warehouse and, where that removal is other than on payment of the duty chargeable, their use, location and disposal;
- (g) the time and manner in which the duty chargeable on goods to which regulation 21(2) relates is paid, secured or accounted for.

SCHEDULE 4

Regulation 9

PUBLIC DOCUMENTS REVOKED

G.C. No.	Title	Extent of revocation
130/82	The Excise Warehousing (Etc.) Regulations (Application) Order 1982.	The whole Order.
41/86	Excise Warehousing (Etc.) (Amendment) Regulations (Application) Order 1986.	The whole Order.

ENDNOTES

Table of Endnote References

¹ The format of this legislation has been changed as provided for under section 75 of, and paragraph 2 of Schedule 1 to, the Legislation Act 2015. The changes have been approved by the Attorney General after consultation with the Clerk of Tynwald as required by section 76 of the Legislation Act 2015.