



STATUTORY INSTRUMENTS.

S.I. No. 610 of 2011



EUROPEAN COMMUNITIES (INTRASTAT) REGULATIONS 2011

(Prn. A11/2161)

EUROPEAN COMMUNITIES (INTRASTAT) REGULATIONS 2011

I, ENDA KENNY, Taoiseach, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972), and for the purpose of giving further effect to Regulation (EC) No. 638/2004 of the European Parliament and of the Council of 31 March 2004¹, as amended by Regulation (EC) No. 222/2009 of the European Parliament and of the Council of 11 March 2009², Commission Regulation (EC) No. 91/2010 of 2 February 2010³ and Commission Regulation (EC) No. 96/2010 of 4 February 2010⁴, hereby make the following regulations:

1. These Regulations may be cited as the European Communities (Intrastat) Regulations 2011.

2. (1) In these Regulations—

“authorised officer” means an officer of the Revenue Commissioners authorised by them in writing to exercise the powers of an authorised officer referred to in these Regulations;

“basic Regulation” means Regulation (EC) No. 638/2004 as amended by Regulation (EC) No. 222/2009 of the European Parliament and of the Council of 11 March 2009;

“Community Regulations” means the basic Regulation and Commission Regulation (EC) No. 1982/2004 as amended by both Commission Regulation (EC) No. 91/2010 of 2 February 2010 and Commission Regulation (EC) No. 96/2010 of 4 February 2010;

“Intrastat system” means the Intrastat system referred to in the basic Regulation in so far as that system applies to trade between Member States pursuant to that Regulation;

“officer of statistics” has the meaning assigned to it by the Statistics Act 1993 (No. 21 of 1993);

“records” means any document or other written or printed material, and any other data maintained by electronic means in any form as well as information (including statistical information) stored, maintained or preserved by means of any mechanical or electronic device, whether or not stored, maintained or preserved in a legible form;

¹OJ No. L102, 7.4.2004, p.1.

²OJ No. L87, 31.3.2009, p.160

³OJ No. L31, 3.2.2010, p.1

⁴OJ No. L43, 5.2.2010, p.1

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 28th October, 2011.*

“trader” means a party responsible for providing the information for the Intrastat system within the meaning of Article 7 (1) of the basic Regulation.

(2) Subject to paragraph (1), a word or expression that is used in these Regulations and is also used in the Community Regulations shall, unless the context otherwise requires, have the same meaning in these Regulations that it has in the Community Regulations.

3. (1) The statistical information required by the Intrastat system which a trader is responsible for providing in respect of each month in accordance with the provisions of the Community Regulations shall be furnished to the Revenue Commissioners, in the electronic format designated by them for that purpose, by or on behalf of that trader not later than the 23rd day of the month immediately following the end of the month concerned and the said information shall be furnished in accordance with, as appropriate—

(a) the terms of the manual entitled “VIES and INTRASTAT Traders Manual” published by the Revenue Commissioners in October 1992, (hereafter in this Regulation referred to as the “relevant manual”) and any document published by them for the time being amending the relevant manual, or

(b) the terms of any subsequent edition of the relevant manual published by the Revenue Commissioners that is the current such edition (hereafter in this Regulation referred to as a “replacement manual”) and any document published by them for the time being amending the replacement manual.

(2) A document referred to in subparagraph (a) or (b) of paragraph (1) is referred to hereafter in this Regulation as a “supplement”.

(3) The Revenue Commissioners may, on written application being made to them by a trader, authorise the furnishing of the statistical information referred to in paragraph (1) by or on behalf of that trader in a manner other than by use of the electronic format referred to in paragraph (1). The manner so authorised shall be specified in the relevant manual, a replacement manual or a supplement.

(4) A trader to whom an authorisation as aforesaid has been given shall furnish or cause to be furnished on his behalf the statistical information referred to in paragraph (1) to the Revenue Commissioners in the manner specified in the authorisation not later than the 23rd day of the month immediately following the end of the month concerned and the information so furnished shall include all the particulars that would have been provided had the trader, or the person acting on his behalf, provided the information in the electronic format referred to in paragraph (1).

(5) The furnishing of statistical information in accordance with paragraph (4) shall have the same effect as if the statistical information was furnished in the electronic format referred to in paragraph (1).

(6) A trader who fails to comply with paragraph (1) or (4) shall be guilty of an offence under these Regulations.

(7) *Prima facie* evidence of the relevant manual, a replacement manual or a supplement may be given in proceedings for an offence under these Regulations by the production of a copy of the relevant manual, replacement manual or supplement purporting to be published by the Revenue Commissioners together with a certificate purporting to be signed by an officer of the Revenue Commissioners certifying that the relevant manual, replacement manual or supplement, as the case may be, contains the relevant matters as respects the obligations of the trader concerned (who shall be named in the certificate) under paragraph (1) or (4), as the case may be.

(8) In proceedings for an offence under these Regulations—

- (a) it shall be presumed until the contrary is proved that no authorisation has been given by the Revenue Commissioners under paragraph (3), and
- (b) *prima facie* evidence of such an authorisation may be given by the production of a document purporting to be a written application by the trader concerned for the authorisation and of a document purporting to be a copy of the authorisation granted by the Revenue Commissioners.

(9) A certificate referred to in paragraph (7) shall—

- (a) indicate the rank or position in the Office of the Revenue Commissioners of the officer who has signed it, and
- (b) be admitted in evidence without proof of the signature of that officer.

(10) (a) Notice of the publication of the relevant manual shall be published in the *Iris Oifigiúil* as soon as may be after the commencement of these Regulations.

- (b) Notice of the publication of a replacement manual or a supplement shall be published in the *Iris Oifigiúil* as soon as may be after the publication of the replacement manual or supplement, as the case may be.
- (c) Notice under this paragraph shall indicate that the Revenue Commissioners shall make available to the public, free of charge, the relevant manual, replacement manual or supplement, as the case may be, on request being made by a member thereof.
- (d) *Prima facie* evidence of the publication of a notice under this paragraph may be given in proceedings for an offence under these Regulations by the production of a copy of the *Iris Oifigiúil* purporting to contain the notice.

(11) The Revenue Commissioners shall make available to the public, free of charge, the relevant manual, replacement manual or supplement on request being made therefor, by such means as the Revenue Commissioners may designate.

4. (1) The Taoiseach shall make a specification of thresholds below which parties are exempted from providing detailed Intrastat information in accordance with Article 10 of the basic Regulation.

(2) A specification by the Taoiseach under paragraph (1) shall be published in the *Iris Oifigiúil* as soon as may be after it is made.

(3) Prima facie evidence of a specification as aforesaid may be given in proceedings for an offence under these Regulations by the production of a copy of the *Iris Oifigiúil* purporting to contain the specification.

5. A trader who, in purported compliance with Regulation 3, furnishes or causes or permits to be furnished to the Revenue Commissioners information which is false, misleading or incomplete in any respect shall be guilty of an offence under these Regulations.

6. (1) An authorised officer may at all reasonable times enter any premises or place where he reasonably believes records relating to goods to which the Intrastat system applies are kept and may require any person on those premises or in that place to produce to him the said records or such of them as he specifies and may search for, inspect and take copies of, or extracts from, the said records and may remove the said records from those premises or that place for further inspection.

(2) A person who obstructs, hinders or interferes with an authorised officer in the exercise of the powers conferred on him by paragraph (1) or who refuses without lawful excuse to produce to such an officer records which he is required by such an officer to produce under the said paragraph shall be guilty of an offence under these Regulations.

7. (1) All records received or kept by a trader relating to goods in respect of which he is responsible for furnishing statistical information to the Revenue Commissioners under Regulation 3 shall be preserved by him for a period of not less than 2 years from the end of the month to which they relate.

(2) A trader shall produce or cause to be produced to an authorised officer upon request by that officer the records referred to in paragraph (1) or such of them as that officer specifies.

(3) A trader who fails to comply with paragraph (1) or with a request under paragraph (2) shall be guilty of an offence under these Regulations.

8. An officer of statistics shall—

- (a) have access to, and, on request, be given by the Revenue Commissioners copies of, the statistical information furnished to the Revenue Commissioners by or on behalf of traders under Regulation 3,
- (b) on request, be given such information by the Revenue Commissioners as they deem fit to give relating to goods to which the Intrastat system applies and which has come into their possession through the exercise by an authorised officer of his powers under Regulation 6 or 7.

9. (1) Statistical information furnished by or on behalf of a trader under Regulation 3 shall not, save with the consent of that trader or for the purposes of a prosecution under these Regulations, be shown or communicated to any person other than an officer of the Revenue Commissioners or an officer of statistics in the course of his official duties.

(2) As far as practicable statistics derived from statistical information furnished by or on behalf of a trader under Regulation 3 shall not be published or disseminated in a manner that would result directly or indirectly in the disclosure of details relating to any business of that trader but nothing in this paragraph shall be held to impose a duty owed to a trader to avoid such a disclosure.

10. (1) A trader who by act or omission fails to comply with a provision of the Community Regulations shall be guilty of an offence under these Regulations.

(2) A person who is guilty of an offence under these Regulations shall be liable on summary conviction to a fine of €1,265.

(3) Where a trader is convicted of an offence under Regulation 3 and there is a continuation of the offence after his or her conviction, the trader shall be guilty of a further offence on every day on which the contravention continues and for each such offence shall be liable on summary conviction to a fine of €60.

(4) Proceedings for an offence under these Regulations may be brought and prosecuted by the Revenue Commissioners.

11. (1) Where an offence under these Regulations is committed by a body corporate and is proved to have been committed with the consent, connivance or approval of or to have been attributable to the neglect on the part of a person, being a director, manager, secretary or other officer of the body corporate, or a person who was purporting to act in any such capacity, that person, as well as the body corporate shall be guilty of an offence and shall be liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

(2) Where the affairs of a body corporate are managed by its members, paragraph (1) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he or she were a director of the body corporate.

12. (1) Subject to this Regulation, in proceedings for an offence under these Regulations, a certificate signed by an officer of the Revenue Commissioners

which certifies that he or she has inspected the relevant records of the Revenue Commissioners and that it appears from them that the trader concerned (who shall be named in the certificate)—

- (a) was required under Regulation 3 to provide statistical information of a kind and at a time or times specified in the certificate, and failed to do so, or
- (b) failed, in a manner specified in the certificate, to do a stated act or furnish stated records or particulars in accordance with any of the provisions of these Regulations,

shall be *prima facie* evidence that the trader concerned was so required to provide statistical information as aforesaid or, as the case may be, failed to do a stated act or furnish stated records or particulars as aforesaid.

(2) A certificate referred to in paragraph (1) shall—

- (a) indicate the rank or position in the Office of the Revenue Commissioners of the officer who has signed it, and
- (b) be admitted in evidence without proof of the signature of that officer.

(3) If, in proceedings against a person for an offence under these Regulations it is proposed to tender in evidence a certificate referred to in paragraph (1), the prosecution shall cause to be served on the person not less than 21 days before the commencement of the trial of the offence a copy of the certificate together with a notice informing the person—

- (a) that it is proposed to tender the certificate in evidence in the proceedings,
- (b) that the certificate shall not, without the leave of the Court, be admitted in evidence if the person serves on the solicitor for the prosecution not later than 7 days before the commencement of the trial of the offence a notice objecting to the admissibility of the certificate, and
- (c) that, if the person serves a notice as aforesaid and the facts stated in the certificate are required to be proved, wholly or partly, by oral evidence at the trial of the offence, the person shall be liable to pay to the prosecution the costs and witness expenses incurred in so proving the said facts unless, in the opinion of the Court, the person had good grounds for serving the said notice.

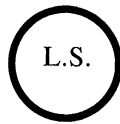
(4) (a) A certificate referred to in paragraph (1) shall not, without the leave of the Court, be admitted in evidence if the defendant concerned has served on the solicitor for the prosecution a notice referred to in paragraph (3) (b) within the period mentioned in that provision.

- (b) If the defendant concerned has served a notice as aforesaid and the facts stated in the certificate are required to be proved, wholly or

partly, by oral evidence at the trial of the offence in question the Court shall, unless it is of the opinion that the defendant had good grounds for serving the said notice, order him to pay to the prosecution the costs and witness expenses incurred in so proving the said facts.

13. The Revenue Commissioners may, in their discretion, mitigate any fine incurred under these Regulations, or stay or compound any proceedings for recovery thereof, and may also, after judgement, further mitigate or entirely remit such a fine.

14. The European Communities (Intrastat) Regulations 1993 (S.I. No. 136 of 1993) are revoked.



GIVEN under my Official Seal
25 October 2011.

ENDA KENNY,
Taoiseach.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ón
OIFIG DHÍOLTA FOILSEACHÁN RIALTAIS,
TEACH SUN ALLIANCE, SRÁID THEACH LAIGHEAN, BAILE ÁTHA CLIATH 2,
nó tríd an bpost ó
FOILSEACHÁIN RIALTAIS, AN RANNÓG POST-TRÁCHTA,
AONAD 20 PÁIRC MIONDÍOLA COIS LOCHA, CLÁR CHLAINNE MHUIRIS,
CONTAE MHAIGH EO,
(Teil: 01 - 6476834 nó 1890 213434; Fax: 094 - 9378964 nó 01 - 6476843)
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