



STATUTORY INSTRUMENTS.

S.I. No. 36 of 2024



CONTROL OF EXCISABLE PRODUCTS REGULATIONS 2024

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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, GENERAL, INTERPRETATION

1. These Regulations may be cited as the Control of Excisable Products Regulations 2024.

2. These Regulations come into operation on 1 February 2024.

3. The Control of Excisable Products Regulations 2010 (S.I. No. 146 of 2010) and the Control of Excisable Products (Amendment) Regulations 2013 (S.I. No. 368 of 2013) are revoked.

4. (1) In these Regulations—

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

“applicant” means a person who has applied to the Commissioners to be registered, in the form specified by the Commissioners, as a certified consignor or a certified consignee;

“conditions of registration” means the conditions referred to in Part 3;

“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 1987;

“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 and permissions 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;

“marked gas oil” has the meaning assigned to it by Regulation 4 of the Mineral Oil Tax Regulations;

“marked kerosene” has the meaning assigned to it by Regulation 4 of the Mineral Oil Tax Regulations;

“Mineral Oil Tax Regulations” means the Mineral Oil Tax Regulations 2012 (S.I. No. 231 of 2012);

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

“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;

“registered” (including cognate or derivative words or expressions) means a person registered with the Commissioners as a certified consignor or certified consignee and whose details are duly entered in the SEED Register;

“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 2006, or
- (b) in relation to the State, a registration number issued by the Commissioners in accordance with section 9 of the Value-Added Tax Consolidation Act 2010 (No. 31 of 2010).

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

- (a) under sections 96, 97 and 98A of the Act of 2001 for the purposes of Part 2 of that Act, or
- (b) under sections 109, 109A, 109B, 109IA and 109Q, of the Act of 2001 for the purposes of Chapter 2A and Chapter 2B 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

DUTY SUSPENDED MOVEMENTS INCLUDING REGISTERED CONSIGNEES AND DIRECT DELIVERY

5. This Part applies to consignments to the State under a suspension arrangement under section 109J of the Act of 2001.

6. (1) Where a consignment is to be delivered to a registered consignee, other than a temporary registered consignee, that registered consignee shall, in order to comply with section 109IA(4) of the Act of 2001, before the consignment is dispatched either—

- (a) pay the excise duty payable on that consignment by means of an excise duty entry fully completed as required for that purpose, or
- (b) arrange with the Commissioners for payment of that excise duty by electronic means from an account in a financial institution in the State.

(2) Where a consignment is to be delivered to a temporary registered consignee, that temporary registered consignee shall, in order to comply with section 109IA(4) of the Act of 2001, before the consignment is dispatched, pay the excise duty payable on that consignment by means of an excise duty entry fully completed as required for that purpose.

(3) Where a consignment has been delivered to a registered consignee, that registered consignee shall—

- (a) where excise duty has been paid on that consignment under paragraph (1)(a) or (2), verify the amount of that payment and immediately pay any shortfall,
- (b) where excise duty is payable in accordance with an arrangement under paragraph (1)(b), declare that consignment for payment by means of an excise duty entry fully completed as required for that purpose, and
- (c) where required to do so by an officer, ensure that the consignment is held intact for examination by an officer.

7. (1) Where a consignment has been delivered to a tax warehouse, the authorised warehousekeeper who is the designated consignee for the consignment shall—

- (a) ensure that the details of the excisable products consigned are entered immediately in the stock account of the tax warehouse, and
- (b) where required to do so by an officer, ensure that the consignment is held intact for examination by an officer.

8. For any payment, or declaration for payment, of excise duty on a consignment under this Part, or for any examination of such a consignment, an officer may require the designated consignee to produce, in addition to the fully completed excise duty entry, any invoice, receipt or other commercial documentation relating to that consignment.

9. (1) Except where Regulation 10 applies, the Commissioners may only allow a consignment to be delivered to a place of direct delivery where, for each such consignment and before it is dispatched—

- (a) the designated consignee has submitted a declaration, referred to in these Regulations as an “advance notice”, by electronic means to an officer,

and

- (b) delivery to that place of direct delivery has been allowed by an officer.

(2) The advance notice shall be in such form as the Commissioners may require and shall show—

- (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 address of the proposed place of direct delivery, and the expected date and time of arrival,
- (c) the name, address and SEED registration number of the consignor,
- (d) a full description of the excisable products to be consigned, including the CN Code references and the chargeable quantity expressed in the appropriate units of charge,
- (e) such other information as the Commissioners may from time to time require.

(3) For every consignment under this Regulation, the address of the place of direct delivery must be entered as such on the electronic administrative document for the consignment.

10. (1) Without prejudice to the generality of Regulation 9 and subject to this Regulation, the Commissioners may allow consignments of mineral oil by road to be delivered to places of direct delivery.

(2) For every consignment under this Regulation, the designated consignee shall, before that consignment is dispatched, submit a declaration to the Commissioners by electronic means showing such details of that consignment as the Commissioners may require.

(3) Deliveries under paragraph (1) shall be subject to such conditions as the Commissioners may require of the designated consignee, and those conditions may include—

- (a) the setting of a minimum period, before the consignment is dispatched, for the submission of the declaration under paragraph (2), and
- (b) the provision of, and access to, such information as the Commissioners may from time to time require, concerning the ordering, sale, consignment and delivery of the mineral oil.

(4) The conditions under paragraph (3) shall be set down in (as the case may be) the conditions of—

- (a) authorisation of the authorised warehousekeeper under section 109(2)(c),
- (b) registration of the registered consignee under section 109IA, and

- (c) any licence granted, under section 101 of the Finance Act 1999, to the authorised warehousekeeper or registered consignee,

who is the designated consignee.

(5) For every consignment under this Regulation the expected date and time of delivery and the address of the place of direct delivery must be entered as such on the electronic administrative document for the consignment.

11. When a consignment under this Part, of marked gas oil or marked kerosene, has been delivered, the designated consignee shall provide a declaration to an officer that the gas oil or kerosene has been marked in accordance with Regulation 29 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 3

APPROVAL OF TRADERS

12. (1) A person may, for the purposes of section 109IA(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 a single consignment in a calendar year.

(2) Notwithstanding paragraph (1), an officer may, as he or she thinks fit, approve a temporary registered consignee to receive additional consignments, not exceeding 12 such 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 109IA of that Act.

13. The Commissioners shall register a person as a certified consignor or certified consignee who has applied to them in writing to be registered as such a certified consignor or certified consignee for the purposes of the control and movement of intra-European Union consignments of excisable products in accordance with Chapter 2B of the Act of 2001 that have been released for consumption, only where such person—

- (a) holds a current tax clearance certificate issued under section 1094 of the Taxes Consolidation Act 1997, and
- (b) shows to the satisfaction of the Commissioners that—
 - (i) he or she meets the conditions of registration,
 - (ii) the business activity being carried out or to be carried out by them is undertaken with a view to the realisation of profits from legitimate trade in excisable products,

- (iii) the systems (including the accounting and stock control systems) and procedures of the business will provide a full and true record of all transactions of that business in a form readily accessible to the Commissioners,
- (iv) the business activity is, or will be, as the case may be, conducted solely for the benefit of the applicant, and
- (v) the premises or place relating to the registration is suitable for the security of the excisable products to be held or stored, or to be dispatched from or received into, and that the excisable products held, or to be held, in such premises or place be available for inspection by an officer.

14. In addition to the requirements set out in Regulation 13 regarding the registration of a certified consignor or certified consignee the Commissioners shall have regard as to whether the applicant—

- (a) has, in the 10 years prior to the application, been convicted of—
 - (i) any indictable offence under the Acts referred to in section 1078(1) of the Taxes Consolidation Act 1997, or
 - (ii) any corresponding offence under the law of another Member State or of the United Kingdom, or
- (b) does not hold a current licence where such licence is required under the laws relating to excise duty, or
- (c) has been authorised previously under section 109, section 109A or section 109IA of the Finance Act 2001, or registered previously under this Part and there has been a contravention of, or a failure to comply with the provisions of excise law and the applicant has not shown to the satisfaction of the Commissioners that the contravention or failure has been remedied.

15. Where the applicant to be registered as a certified consignor or certified consignee is a company, the provisions of Regulations 13 and 14 shall apply to any director or person having control (within the meaning of section 11 of the Taxes Consolidation Act 1997) of that company.

16. In all instances, the registration of an applicant as a certified consignor or certified consignee shall be conditional on the applicant, or the certified consignor or certified consignee as the case may be—

- (a) complying with excise law in relation to excisable products,
- (b) being able to provide a current tax clearance certificate issued under section 1094 of the Taxes Consolidation Act 1997 when required to do so by an officer.

17. (1) The details of the registration including the conditions of registration shall be set down in a document, referred to in this Regulation as the "registration document".

(2) The registration document shall be signed by the applicant and by an officer, and it shall, unless another date is specified, be effective from the date on which it is so signed.

18. A certified consignor or certified consignee shall inform an officer of any changes or proposed changes that are relevant to the conditions of registration.

19. The Commissioners may at any time, following such notice as is reasonable in the circumstances, vary the conditions of registration.

20. Where a certified consignor or certified consignee is a company, the registration of such certified consignor or certified consignee, shall expire immediately upon a change of control of such company, within the meaning of section 11 of the Taxes Consolidation Act 1997.

21. (1) Where a certified consignor or certified consignee has ceased, or intends to cease, carrying out the activities for which he or she were registered, the certified consignor or certified consignee shall notify the Commissioners in writing confirming the date the activities ceased or, as the case may be, the date on which the certified consignor or certified consignee intends to cease such activities.

(2) Registration as a certified consignor or certified consignee shall stand revoked from such date as is specified in a notification given to the Commissioners in accordance with paragraph (1).

22. Registration as a certified consignor or certified consignee is subject to the person so registered complying at all times with the conditions of their registration and the provisions of excise law and, where this is not the case, the Commissioners may revoke the registration in cases where they consider it is fit and proper for them to do so.

23. Where the Commissioners propose to revoke a registration, they shall inform the certified consignor or certified consignee of that intention and afford such certified consignor or certified consignee an opportunity to make representations to them in relation to the matter.

24. The Commissioners may grant a temporary registration as a certified consignor or certified consignee to a private individual or, where the applicant is a company, any director or person having control (within the meaning of

section 11 of the Taxes Consolidation Act 1997) of that company, who is not a certified consignor or a certified consignee, where excisable products are dispatched by or delivered to the person or company for commercial purposes. Such a temporary registration shall—

- (a) be subject to the same conditions of registration as a certified consignor or certified consignee,
- (b) be for a specified period of time, and
- (c) be for a single movement of excisable products, comprising a specified quantity of excisable products, sent to a single certified consignee or received from a single certified consignor.

Notwithstanding paragraph (c), an officer may, as he or she thinks fit, approve a temporary certified consignor or consignee to dispatch or receive, as the case may be, additional consignments, not exceeding 12 such consignments, in a calendar year.

25. (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 4

COMMERCIAL MOVEMENTS OF DUTY-PAID EXCISABLE PRODUCTS FROM THE STATE TO OTHER EU MEMBER STATES WHEN THE COMPUTERISED SYSTEM IS UNAVAILABLE

26. This Part applies to consignments of excisable products released for consumption in the State and which may, subject to section 109VA of the Act of 2001 when the computerised system is unavailable, be consigned to another Member State.

27. Where the computerised system is unavailable, and a consignment is accompanied by a paper document containing the same information as the electronic simplified administrative document, such a paper document shall be clearly marked with the following statement:

“Paper simplified administrative document (excisable products) for fiscal control purposes”.

28. The procedures prescribed in Section 109VA(4) of the Act shall include—

- (a) a notification, in writing or by electronic means, sent to an officer that the destination of the consignment has been changed and giving full address of the new destination,
- (b) confirmation, in said notification in writing or by electronic means, that the new destination is in the same Member State and is operated by the same certified consignee as the original destination or,
- (c) confirmation, in said notification in writing or by electronic means, that the consignment is to be returned to the place of dispatch, and
- (d) a declaration in said notification, in writing or by electronic means, by the certified consignor confirming that the change of destination shall not take place until approved by the officer.

PART 5

COMMERCIAL MOVEMENTS OF DUTY-PAID EXCISABLE PRODUCTS FROM OTHER MEMBER STATES TO THE STATE WHEN THE COMPUTERISED SYSTEM IS UNAVAILABLE

29. This Part applies to consignments of excisable products released for consumption in another Member State and which may, subject to section 109TA of the Act of 2001 when the computerised system is unavailable, be brought into the State.

30. Where the certified consignee, at the time he or she notifies the Commissioners of the dispatch of a consignment of excisable products to the State, pays or otherwise secures the excise duty on the consignment to be received, a copy of the excise duty entry completed for that purpose may serve as the security valid throughout the European Union for the excise duty on such consignment.

31. Where Regulation 30 has been carried out because the computerised system is not available, the officer shall on the paper copy of the duty guarantee document endorse that document to that effect, return it to the declarant and retain a copy of that document.

32. On the arrival of a consignment of marked gas oil or marked kerosene, the certified consignee shall provide a declaration to an officer that the gas oil or kerosene has been marked in accordance with Regulation 4 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.

33. (1) Where a consignment is to be delivered to a certified consignee, other than a temporary certified consignee, that certified consignee shall, before the consignment is dispatched, either—

- (a) pay the excise duty payable on that consignment by means of an excise duty entry fully completed as required for that purpose, or
- (b) arrange with the Commissioners for payment of that excise duty by electronic means, which may include a deferred payment arrangement for that excise duty, or
- (c) provide security in such form as the Commissioners may prescribe or otherwise require.

(2) Where a consignment is to be delivered to a temporary certified consignee, that temporary certified consignee shall, before the consignment is dispatched, pay the excise duty on that consignment by means of an excise duty entry fully completed as required for that purpose.

(3) Where a consignment has been delivered to a certified consignee, that certified consignee shall—

- (a) where excise duty has been paid on that consignment under paragraph (1)(a) or (2), verify the amount of that payment and immediately pay any shortfall,
- (b) where excise duty is payable in accordance with an arrangement under paragraph (1)(b), declare that consignment for payment by means of an excise duty entry fully completed as required for that purpose,
- (c) where paragraph 1(c) applies, pay the excise duty. The Commissioners shall then release the security, and
- (d) where required to do so by an officer, ensure that the consignment is held intact for examination by an officer.

34. For any payment, or declaration for payment, of excise duty on a consignment under this Part, or for any examination of such a consignment, an officer may require the consignee to produce, in addition to the fully completed excise duty entry, any invoice, receipt or other commercial documentation relating to that consignment.

35. Where the computerised system is unavailable in the Member State of dispatch, the certified consignee shall—

- (a) where the computerised system is restored in the Member State of dispatch, close the movement and issue the report of receipt using the computerised system,
- (b) where the computerised system continues to be unavailable in the Member State of dispatch—

- (i) send a fallback paper report of receipt to the certified consignor if required to do so by the Commissioners, and
- (ii) send a copy of the fallback paper report of receipt to the Commissioners.

PART 6

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

36. 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.

37. A State vendor shall, at least one full working day in advance of the dispatch of a consignment, deliver to the 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,
- (d) a detailed description of the excisable products, and
- (e) such other information as the Commissioners may require.

38. Except where the officer may otherwise allow, the excisable products are to be held intact at the premises or place specified in Regulation 37(b) for one full working day following the delivery of the declaration under that Regulation.

PART 7

DUTY-PAID DISTANCE SELLING FROM OTHER MEMBER STATES

39. 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.

40. 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 officer a written declaration, referred to in this Part as an “advance declaration”, and a duty guarantee document, in respect of that consignment.

41. 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 if different to (a), or (as the case may be) the place of presentation, and the expected date of delivery or presentation,
- (d) a detailed description of the excisable products and their quantity,
- (e) the name and address of the tax representative in the State responsible for payment of the duty, and
- (f) such other information as the Commissioners may require.

42. 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.

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

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

44. Subject to such conditions as they may think fit to impose, the Commissioners may modify the requirements under Regulations 41 and 43 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.

45. On arrival of a consignment to which this Part refers at a premises or place to which Regulation 41(c) refers, the declarant shall—

- (a) pay any excise duty that has not already been paid in accordance with Regulation 42,
- (b) immediately notify the 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 officer.

PART 8

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

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

47. 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.

48. 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 by that person for consumption in a private premises by that person or by the family or guests of that person and not to be supplied for consideration, 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 authorised 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 48

Description	Quantity
(a) Cigarettes	800
(b) Cigarillos	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

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

PART 9

CONSIGNMENT OF EXCISABLE PRODUCTS, DUTY-PAID IN THE STATE, BETWEEN TWO PLACES IN THE STATE BY WAY OF THE TERRITORY OF ANOTHER MEMBER STATE WHEN THE COMPUTERISED SYSTEM IS UNAVAILABLE

50. 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 when the computerised system is unavailable.

51. When the computerised system is unavailable 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 officer.

52. 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.

53. The declarant shall ensure that the consignment is at all times, while in the State, accompanied by a copy of the advance declaration.

54. (1) On the arrival of a consignment at a premises or place of delivery, the person receiving the consignment shall forward a copy of the advance

declaration, duly endorsed to the effect that such excisable products have been received, to the declarant.

- (2) The declarant shall retain the endorsed copy of the advance declaration.

55. 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 10

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

56. This Part applies to the repayment of excise duty, under section 104(5) of the Act of 2001.

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

- (a) be made to the officer, 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 4 applies, be accompanied by the electronic simplified administrative 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.

58. (1) A claim for repayment under this Part shall be accompanied and supported by such 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 11 IRREGULARITIES

59. 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, an 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 2010, 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.

60. 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.

61. Where, because of an irregularity in the course of a consignment to which Part 2 or Part 4 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,

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

62. In any case where—

- (a) under Regulation 60 or 61, an irregularity is deemed to have occurred in the State, and
- (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,

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

PART 12 MISCELLANEOUS

63. (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 an officer.

(2) Any person who has claimed a repayment to which Part 10 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 an 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.

64. The accounts and other records required under Regulation 63 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.

65. Any consignor or designated consignee who provides a digital certificate of that consignor or designated consignee to any person, other than an officer or employee of that consignor or designated consignee, shall inform an officer accordingly without delay.

66. (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 administrative document provided for by Article 10(1) of Commission Delegated Regulation (EU) 2018/273.

(2) The designated consignee shall immediately notify the 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 2 for the payment of excise duty by a registered consignee shall apply.

GIVEN under my hand,
1 February 2024

NIALL CODY,
Revenue Commissioner

EXPLANATORY NOTE

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

With effect from 01 February 2024, these Regulations, in accordance with Council Directive (EU) 2020/262, prescribe procedures for the movement of excisable products between Member States of the European Union, and certain requirements for traders involved in such movements. These Regulations complement the provisions of Chapters 2A and 2B of the Finance Act 2001 which implement the provisions of that Directive for such movements. They replace the Control of Excisable Products Regulations 2010 (S.I. No. 146 of 2010) and the Control of Excisable Products (Amendment) Regulations 2013 (SI 368 of 2013).

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