STATUTORY INSTRUMENTS

2018 No. 75

EXCISE

The Tobacco Products Manufacturing Machinery (Licensing Scheme) Regulations 2018

Made - - - -	*23rd January 2018*
Laid before the House of Commons - - - -	*25th January 2018*

Coming into force in accordance with regulation 1

The Commissioners for Her Majesty's Revenue and Customs make the following Regulations in exercise of the powers conferred by section 8V of the Tobacco Products Duty Act 1979(**1**).

PART 1

PRELIMINARY

Citation and commencement

1.—(1) These Regulations may be cited as the Tobacco Products Manufacturing Machinery (Licensing Scheme) Regulations 2018.

(2) Except Parts 2, 5 and 6, these Regulations come into force on 1st April 2018.

(3) Parts 2, 5 and 6 of these Regulations come into force on 1st August 2018.

Interpretation

2. In these Regulations—

"licensee" means a person to whom a licence is granted under these Regulations,

"prescribed" means prescribed by the Commissioners in a published notice and "prescribe" is construed accordingly,

(**1**) 1979 c. 7. Section 8V of Tobacco Products Duty Act 1979 was inserted by section 47 of the Finance (No. 2) Act 2017 (c. 32). The power to make regulations under section 8V is conferred on "the Commissioners" and by virtue of section 10(3) of that Act, "the Commissioners" has the same meaning as provided in the Customs and Excise Management Act 1979 (c. 2). Section 1(1) of the Customs and Excise Management Act 1979 (as amended by paragraphs 20 and 22(b) of Schedule 4 to the Commissioners for Revenue and Customs Act 2005 (c. 11)) defines "the Commissioners" as "the Commissioners for Her Majesty's Revenue and Customs".

"regulated activity" has the meaning given in regulation 3(4).

PART 2

REQUIREMENT FOR A LICENCE

Requirement for a licence

3.—(1) A person may not carry out a regulated activity otherwise than in accordance with a licence granted by the Commissioners under these Regulations.

(2) Paragraph (1) does not apply to a person carrying out a regulated activity in respect of an item of tobacco products manufacturing machinery which—

(a) requires tobacco and paper to be loaded manually into the item,

(b) makes cigarettes or cigars only by manual operation, and

(c) makes only one cigarette or cigar before it requires further loading as described in sub-paragraph (a).

(3) Paragraph (1) does not apply to a person if the only regulated activity carried out by that person is being in possession of an item of tobacco products manufacturing machinery for the purpose of transporting the item on behalf of a licensee, where the transport is made in accordance with the conditions and restrictions of the licence of the licensee.

(4) A regulated activity is to manufacture, purchase, acquire, own or be in possession of an item of tobacco products manufacturing machinery(**2**).

PART 3

COMMISSIONERS

Eligibility

4. The Commissioners may grant a licence to a person to carry out a regulated activity only if the Commissioners are satisfied that the person—

(a) is a fit and proper person to carry out the regulated activity, and

(b) will not use an item of tobacco products manufacturing machinery for the purpose of, or with a view to, the fraudulent evasion of the duty of excise charged on tobacco products under section 2(1) of the Tobacco Products Duty Act 1979(**3**).

Conditions and restrictions

5.—(1) The Commissioners may prescribe conditions and restrictions which may be imposed in a licence and different conditions and restrictions may be prescribed for different cases.

(2) The Commissioners may specify in a licence that restrictions and conditions are imposed in addition to those prescribed.

Variation or revocation of a licence by the Commissioners

6.—(1) The Commissioners may at any time for reasonable cause vary or revoke a licence.

(**2**) Tobacco products manufacturing machinery has the meaning given in section 8V(1) of the Tobacco Products Duty Act 1979.
(**3**) Section 2(1) was amended by Part 3 of Schedule 19 to the Finance Act 1981 (c. 35).

(2) Where paragraph (1) applies, the Commissioners must give written notice of the variation or revocation to the licensee and state in that notice—

(a) the date the variation or revocation has effect,

(b) in the case of a variation, the variation made, and

(c) the reasons for the variation or revocation.

PART 4

APPLICATIONS

Communications

7.—(1) The Commissioners must prescribe the form and manner for an application and the information to be included in an application.

(2) The Commissioners may prescribe that an application, and any communication relating to it, is to be made electronically.

(3) The Commissioners may prescribe different provisions for different cases.

(4) In this Part, "application" means an application—

(a) for a licence,

(b) to vary a licence, or

(c) to renew a licence.

Applications for a licence and to vary or renew a licence

8.—(1) A person must make an application as prescribed.

(2) The Commissioners must, as soon as reasonably practicable after receiving the application,—

(a) grant a licence or agree to vary or renew a licence, as the case may be,

(b) refuse the application in writing, giving reasons for the refusal, or

(c) request additional information in accordance with regulation 9.

(3) Where the Commissioners have requested additional information, they must, as soon as reasonably practicable after receiving the additional information,—

(a) grant a licence or agree to vary or renew a licence, as the case may be, or

(b) refuse the application in writing, giving reasons for the refusal.

Additional information

9.—(1) In order to determine an application, the Commissioners may, by notice, request an applicant to provide additional information to that prescribed.

(2) Any such notice must specify—

(a) the additional information required, and

(b) the date by which the information must be provided to the Commissioners.

(3) The Commissioners may, by notice given to the applicant, extend the date to comply with the request for additional information.

(4) Where an applicant does not provide the additional information requested by the date given by the Commissioners, the application is treated as being withdrawn on that date.

(5) Where paragraph (4) applies, the Commissioners must give notice to the applicant stating that the application has been treated as withdrawn.

Licences

10.—(1) Where the Commissioners grant a licence, they must provide a licence to the applicant which specifies—

(a) a unique licence number,

(b) the name and address of the applicant and, in the case of a company, the company registration number,

(c) each regulated activity permitted,

(d) a description of each item of tobacco products manufacturing machinery in respect of which the licence is granted,

(e) the address at which each item of tobacco products manufacturing machinery must be kept,

(f) the date on which the licence will expire, which must be a date within 2 years of the date on which the licence is issued, and

(g) any conditions or restrictions to which the licence is subject.

(2) Where the Commissioners agree to vary or renew a licence, they must, as the case may be, give written notice to the applicant of—

(a) the variations which are made to the licence and the date from which the variations have effect, or

(b) the date on which the licence will expire, which must be a date within 2 years of the date on which the licence is renewed.

PART 5

PENALTIES AND FORFEITURE

Penalties

11. A person who does not comply with regulation 3(1) is liable to a penalty of the amount specified in section 9(2)(b) of the Finance Act 1994(**4**) (penalties for contraventions of statutory requirements).

Assessment of penalties

12.—(1) Where a person becomes liable for a penalty under regulation 11, the Commissioners may assess the penalty, and if they do so, they must notify the person liable.

(2) A notice under paragraph (1) must state the contravention in respect of which the penalty is assessed.

(3) Two or more contraventions may be treated by the Commissioners as a single contravention for the purposes of assessing a penalty.

(4) A penalty assessed under paragraph (1) must be paid before the end of the period of 30 days beginning with the day on which the notification of the penalty is issued.

(5) An assessment is to be treated as an amount of duty due from the person liable and may be recovered accordingly.

(**4**) 1994 c. 9.