
STATUTORY INSTRUMENTS

1993 No. 1228

CUSTOMS AND EXCISE

The Beer Regulations 1993

<i>Made</i>	- - - -	<i>6th May 1993</i>
<i>Laid before Parliament</i>		<i>18th May 1993</i>
<i>Coming into force</i>	- -	<i>1st June 1993</i>

The Commissioners of Customs and Excise, in exercise of the powers conferred upon them by sections 2, 41A, 46, 47, 49 and 67 of the Alcoholic Liquor Duties Act 1979⁽¹⁾, sections 93, 100G, 100H, 118A and 127A of the Customs and Excise Management Act 1979⁽²⁾ and sections 1 and 2 of the Finance (No.2) Act 1992⁽³⁾ and of all other powers enabling them in that behalf, hereby, make the following Regulations:

PART I

Preliminary

Citation and commencement

1. These Regulations may be cited as the Beer Regulations 1993 and shall come into force on 1st June 1993.

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- (1) 1979 c. 4; section 2 was substituted by the Alcoholic Liquors (Amendment of Enactments Relating to Strength and to Units of Measurement) Order 1979 (S.I. 1979/241), article 6, and was amended by the Finance Act 1981 (c. 35), section 11(1) and Schedule 8, paragraph 10, and by the Finance Act 1991 (c. 31), section 7 and Schedule 2; section 41A was inserted by the Finance Act 1991, section 7; sections 46, 47 and 49 were substituted by the Finance Act 1991, section 7 and Schedule 2; section 4(3) applies the definition of “the Commissioners” in section 1(1) of the Customs and Excise Management Act 1979 (c. 2).
- (2) 1979 c. 2; section 93 was amended by the Finance Act 1981 (c. 35), section 11(1) and Schedule 8, paragraph 2, and by the Finance (No. 2) Act 1992 (c. 48), section 3 and Schedule 2, paragraph 2; sections 100G and 100H were inserted by the Finance Act 1991 (c. 31), section 11 and Schedule 4 and amended by the Finance (No. 2) Act 1992, section 1 and Schedule 1, paragraph 6 and by section 3 and Schedule 2, paragraph 4; section 118A was inserted by the Finance Act 1991, section 12 and Schedule 5; section 127A was inserted by the Finance Act 1983 (c. 28), section 6 and amended by the Finance (No. 2) Act 1992, section 1 and Schedule 1, paragraph 7.
- (3) 1992 c. 48.

Revocation and saving provisions

2.—(1) Subject to paragraph (2) below, the Beer Regulations 1985 (4) and the Spoilt Beer (Remission and Repayment of Duty) Regulations 1987(5) are hereby revoked.

(2) The Spoilt Beer (Remission and Repayment of Duty) Regulations 1987 shall continue to have effect in relation to any beer which is not eligible for relief under article 7 of the Finance Act 1991 (Commencement and Transitional Provisions) Order 1993(6) and which was removed from the entered premises of a brewer for sale before 1st June 1993 and, for the purposes of this paragraph, “entered premises of a brewer for sale” has the same meaning as it has in regulation 4 of those Regulations.

Application

3. These Regulations apply to beer produced in or imported into the United Kingdom, or removed into the United Kingdom from the Isle of Man.

Interpretation

4. In these Regulations except where the context otherwise requires—

“the Act” means the Alcoholic Liquor Duties Act 1979;

“accounting period” means one month or such other period as the Commissioners may in any particular case determine;

“approved guarantee” means a guarantee to pay duty in the event of default by the person who is liable to pay the duty (“the payer”), that is approved by the Commissioners, and is given by a person, other than the payer, who is satisfactory to the Commissioners for these purposes;

“beer” has the meaning given by section 1(3), but subject to section 1(10) of the Act(7);

“brewery” includes any premises on which the production of beer is begun;

“class or description” in relation to beer includes its strength and the following classes or descriptions—

- (a) beer held at the registered brewery at which it was produced;
- (b) beer held on registered premises adjacent to the registered brewery at which it was produced;
- (c) beer held otherwise than at the registered brewery at which it was produced or on registered premises adjacent to that brewery;
- (d) packaged beer (that is to say any beer which is in a container in which, or from which, it will be sold by retail or otherwise supplied for consumption after the duty point);
- (e) packaged beer held on the registered premises at which it was packaged or on registered premises adjacent to those premises; and
- (f) bulk beer (that is to say any beer which is not packaged beer);

“duty” means the duty of excise charged on any beer by section 36(1) of the Act(8);

(4) S.I. 1985/1627.

(5) S.I. 1987/314.

(6) S.I. 1993/1152.

(7) The definition of “beer” in section 1(3) of the Act was amended by the Alcoholic Liquors (Amendment of Enactments Relating to Strength and to Units of Measurement) Order 1979 (S.I. 1979/241), the Finance Act 1988 (c. 39), section 1 and Schedule 1, Part II, paragraph 1 and the Finance Act 1991 (c. 31), section 7 and Schedule 2, paragraph 2; section 1(10) was inserted by the Finance Act 1988, section 1 and Schedule 1, Part II, paragraph 1.

(8) Section 36(1) of the Act was substituted by the Finance Act 1991 (c. 31), section 7.

“duty point” means the time when the duty is payable by a person, whether or not payment may be deferred;

“excise warehouse” means a place of security for the keeping of beer approved by the Commissioners under section 92(1) of the Customs and Excise Management Act 1979⁽⁹⁾ (whether or not it is also approved for the keeping of other goods);

“package” and “packager” have the meanings given by section 4(1) of the Act⁽¹⁰⁾;

“registered brewer” has the meaning given by section 47(1) of the Act;

“registered brewery” means any premises in respect of which a registered brewer is registered under section 47 of the Act;

“registered holder” means a packager of beer or a registered brewer registered under section 41A of the Act in relation to any registered premises;

“registered holder certificate” means a certificate of registration issued in accordance with regulation 10 below;

“registered premises” means any premises registered under section 41A of the Act on which a registered holder may hold beer without payment of duty;

“registered store” means any store registered under section 41A of the Act;

“return of duty” means the return prepared pursuant to regulation 21 below;

“spoilt beer record” means the record maintained pursuant to regulation 33 below;

“strength” in relation to any beer has the meaning given in section 2 of the Act;

“unfinished” in relation to any beer means beer in any stage of production before it has reached that state of maturity at which it is fit for consumption,

and references in these Regulations to suspension arrangements are references to the provisions made by Part V of these Regulations or to any provision made by or under the customs and excise Acts for enabling goods to be held or moved without payment of duty or any provisions made by or under the customs and excise Acts for enabling goods to be held or moved without payment of duty or any provisions made by or under those Acts in connection with any provision enabling goods to be so held or moved.

PART II

Registration of producers of beer

Application for registration by producers of beer

5.—(1) Every person required to be registered under section 47 of the Act (“the applicant”) shall make application to the Commissioners for registration in respect of the premises on which he produces or intends to produce beer.

(2) A separate application shall be made in respect of each of the premises on which the applicant produces or intends to produce beer.

(3) Save as the Commissioners may otherwise allow, each application shall contain the particulars specified in Schedule 1 and shall be in such form and manner as the Commissioners may prescribe in any notice published by them in pursuance of these Regulations and not withdrawn by a further notice.

⁽⁹⁾ 1979 c. 2; section 92(1) was amended by the Isle of Man Act 1979 (c. 58), section 1 and Schedule 1, paragraph 21.

⁽¹⁰⁾ The definitions of “package” and “packager” in section 4(1) of the Act were inserted by the Finance Act 1991 (c. 31), section 7 and Schedule 2, paragraph 5.

Registration of producers of beer

6.—(1) The Commissioners may register the applicant in respect of each of the premises in respect of which application is made, and may issue a separate certificate of registration in respect of each of those premises.

(2) Without prejudice to regulation 10 below, where the applicant is or will also be registered under section 41A of the Act a certificate of registration issued in accordance with this regulation may, in such circumstances as the Commissioners think fit, be issued in one document serving both as a certificate of registration under section 47 of the Act and as a registered holder certificate.

(3) The certificate of registration shall remain the property of the Commissioners.

(4) Every certificate of registration shall be kept at all times on the premises to which it relates, and shall be produced for inspection to the proper officer on demand.

(5) Subject to paragraph (6) below, a registered brewer shall notify the Commissioners of any change to the particulars contained in any application made pursuant to regulation 5 above and the Commissioners may vary the registration accordingly.

(6) A registered brewer is not required to notify the Commissioners of any change in his estimate of the quantity of beer to be produced each year.

(7) The Commissioners may, for reasonable cause, vary the registration of a registered brewer with respect to any registered brewery, provided that the Commissioners shall give 14 days notice in writing of such variation.

Revocation of registration of producers of beer

7.—(1) A registered brewer shall notify the Commissioners of his intention to cease production of beer at any of his registered breweries.

(2) A registered brewer shall notify the Commissioners of the cessation of production of beer at any of his registered breweries.

(3) Where the Commissioners are satisfied that a registered brewer has failed to produce any beer or has ceased to produce beer at any registered brewery, they may revoke his registration as a registered brewer with respect to that registered brewery at any time.

PART III

Production

When the production of beer begins and when it is completed

8.—(1) For the purposes of section 47 of the Act (registration of producers of beer) and these Regulations, the production of beer begins when the mash is made.

(2) For the purposes of section 36 of the Act (the charge of excise duty) and these Regulations, beer shall be deemed to have been produced at the time determined in accordance with any direction given by the Commissioners or in the absence of any such direction at the earlier of—

- (a) the time when the beer is put into any package;
- (b) the time when the beer is removed from the brewery;
- (c) the time when the beer is consumed;
- (d) the time when the beer is lost;
- (e) the time when the beer reaches that state of maturity at which it is fit for consumption.

(3) In this regulation “beer” includes unfinished beer.

PART IV

Suspension of Duty: Registration of persons and premises

Application for registration for duty suspension

9.—(1) Every application by a packager of beer or a brewer (“the applicant”) to be registered under section 41A of the Act in relation to any premises shall be made to the Commissioners.

(2) A separate application shall be made in respect of each of the premises on which the applicant intends to hold beer without payment of the duty.

(3) Save as the Commissioners may otherwise allow, each application shall contain the particulars specified in Schedule 2.

(4) Every application shall be made at least 14 days before the day on which the applicant intends to hold beer without payment of the duty.

Registration for duty suspension

10.—(1) The Commissioners may register the applicant in respect of each of the premises in respect of which application is made, and may issue a separate registered holder certificate in respect of each of those premises.

(2) The Commissioners may specify in the registered holder certificate each class or description of beer that the applicant may hold without payment of duty on the premises to which the certificate relates.

(3) The registered holder certificate shall remain the property of the Commissioners.

(4) Every registered holder certificate shall be kept at all times on the premises to which it relates, and shall be produced for inspection to the proper officer on demand.

(5) A registered holder shall notify the Commissioners of any change to the particulars contained in any application made pursuant to regulation 9 above and the Commissioners may vary the terms of the registration accordingly.

Revocation etc. of registration for duty suspension

11.—(1) A registered holder shall notify the Commissioners of his intention to cease holding beer without payment of the duty at any of his registered stores.

(2) A registered holder shall notify the Commissioners of the cessation of his holding beer without payment of the duty at any of his registered stores.

(3) Where the Commissioners revoke or vary the terms of their registration of any person or premises under section 41A(6) of the Act they shall give 14 days notice in writing of such revocation or variation.

PART V

Suspension of Duty: Arrangements and requirements

Holding beer in duty suspension

12. A registered holder may hold, on registered premises without payment of duty, beer of any class or description specified in the registered holder certificate issued in respect of those premises;

provided that the duty chargeable in respect of beer of that class or description is secured by an approved guarantee except where the Commissioners may otherwise agree.

Moving beer in duty suspension

13.—(1) Subject to the provisions of paragraphs (2) to (4) below, and without prejudice to regulation 16 of the Excise Warehousing (Etc.) Regulations 1988⁽¹¹⁾ (removal from warehouse) and regulation 9 of the Excise Goods (Holding, Movement, Warehousing and REDS) Regulations 1992⁽¹²⁾ (moving excise goods in duty suspension), beer may be removed without payment of duty —

- (a) from registered premises:
 - (i) to other registered premises or an excise warehouse; or
 - (ii) for export, removal to the Isle of Man or shipment as stores;
- (b) from an excise warehouse to registered premises; and
- (c) from the place of importation to registered premises.

(2) All removals of beer without payment of duty mentioned in paragraph (1)(a)(i) and (1)(b) above shall not be subject to any requirement imposed by regulations 10 and 11 of the Excise Goods (Holding, Movement, Warehousing and REDS) Regulations 1992 (movement conditions and accompanying documents and certificate of receipt) but shall be subject to the requirements imposed by paragraph (3) below.

(3) Save as the Commissioners may otherwise allow, every removal of beer shall be subject to the following requirements—

- (a) the duty chargeable in respect of the beer that is removed is secured by an approved guarantee;
- (b) the beer is accompanied by a document issued by the consignor and containing a unique reference number, his name and address, the date of despatch, the name and address of the consignee, the address of the place to which the beer is consigned, a description of the beer including its quantity, strength and package size, and a statement indicating that it is being moved without payment of duty;
- (c) in the case of export or shipment as stores, the consignor shall satisfy the Commissioners that the beer has been exported or, as the case may be, shipped as stores; and
- (d) in any other case—
 - (i) the consignee who receives the beer shall within 14 days of the day upon which he received that beer issue a certificate containing such particulars as may be specified by the Commissioners in a notice published by them and shall keep a record of the issue of the certificate and shall keep any accompanying document issued to him; and
 - (ii) the certificate mentioned in sub-paragraph (i) above shall be delivered to the consignor of the beer.

(4) For the protection of the revenue the Commissioners may by notice in writing addressed to a registered holder restrict or prohibit the movement of beer without payment of duty from his registered premises to other registered premises or to an excise warehouse.

Record of beer in duty suspension

14.—(1) Every registered brewer, registered holder and authorised warehousekeeper shall keep a record of every delivery and receipt of beer under suspension arrangements undertaken by him.

(11) S.I. 1988/809.

(12) S.I. 1992/3135.

- (2) The record required to be kept under paragraph (1) above—
 - (a) shall include the particulars specified in Schedule 3; and
 - (b) shall be separate from any record of deliveries and receipts of beer not under suspension arrangements.
- (3) Every registered brewer, registered holder and authorised warehousekeeper shall keep such records of stock, stock deficiencies, increases or other discrepancies and samples taken as the Commissioners may specify in any notice published by them and not withdrawn by a further notice.

PART VI

Determination of the Duty

The duty point

15.—(1) Save where any duty suspension arrangements apply to the beer, the duty point (the time when the duty is payable by a person) shall be the time when the beer is charged with the duty by section 36(1) of the Act, that is to say, the time when it is imported into the United Kingdom or, as the case may be, produced in the United Kingdom.

- (2) If any duty suspension arrangements apply to the beer, the duty point shall be the earlier of—
 - (a) the time when the duty ceases to be suspended in accordance with those arrangements;
 - (b) the time when there is any contravention of any requirement relating to those arrangements; and
 - (c) the time when the duty ceases to be suspended by virtue of paragraph (3) below.
- (3) The duty ceases to be suspended when—
 - (a) the premises on which the beer is held cease to be registered premises under Part IV of these Regulations;
 - (b) the person holding the beer ceases to be registered under Part IV of these Regulations;
 - (c) the beer is consumed; or
 - (d) the beer leaves any registered premises unless—
 - (i) the beer is consigned to other registered premises or an excise warehouse in accordance with requirements prescribed in Part V of these Regulations and Part IV of the Excise Goods (Holding, Movement, Warehousing and REDS) Regulations 1992; or
 - (ii) the beer is delivered for export, shipment as stores or removal to the Isle of Man.
- (4) In this regulation “contravention” includes a failure to comply.

Rate of duty

16. The duty shall be paid at the rate in force at the duty point.

The amount of beer in any container

17. Save as the Commissioners otherwise allow, the amount of beer in any container shall be deemed to be the greater of—

- (a) the amount determined in accordance with section 2 of the Act;
- (b) the amount ascertained by reference to information on the label of the container of the beer; and

- (c) the amount ascertained by reference to information on any invoice, delivery note or similar document issued in relation to the beer.

The strength of the beer

18. Save as the Commissioners otherwise allow, the strength of the beer shall be deemed to be the greater of—

- (a) the strength determined by the method described in Schedule 4 to these Regulations;
- (b) the strength ascertained by reference to information on the label of the container of the beer;
- (c) the strength ascertained by reference to information on any invoice, delivery note or similar document issued in relation to the beer; and
- (d) the strength which any cask or bottle conditioned beer or any other unfinished beer is reasonably expected to have when sold by way of retail or otherwise supplied for consumption.

PART VII

Payment of the duty and returns

Person liable to pay the duty

19.—(1) The person liable to pay the duty shall be the person holding the beer at the duty point.

(2) Any person (not being the person specified in paragraph (1) above) who imported the beer, who produced the beer or who held the beer under duty suspension arrangements at any time before the duty point and, who does not hold a certificate of receipt for the beer with respect to every holding of the beer by him shall be jointly and severally liable to pay the duty with the person specified in paragraph (1) of this regulation; provided that—

- (a) no person shall be so liable before the 30th day following the day of despatch of the beer in question; and
 - (b) a person shall cease to be so liable upon his receiving the certificate of receipt in question or upon his satisfying the Commissioners that the beer in question was received by the consignee in circumstances where a valid certificate of receipt could and should have been issued.
- (3) For the purposes of this regulation “certificate of receipt” means—
- (a) a certificate issued in accordance with regulation 13(3)(d) above;
 - (b) a certificate issued in accordance with regulation 11(3) of the Excise Goods (Holding, Movement, Warehousing and REDS) Regulations 1992; or
 - (c) a certificate issued in accordance with regulation 11(4) of the Excise Warehousing (Etc.) Regulations 1988.

Time and method of payment

20.—(1) Subject to paragraph (2) and save as the Commissioners may allow, the duty shall be paid at the duty point.

(2) Where the person liable to pay the duty is a registered brewer or registered holder, save as the Commissioners otherwise direct, the duty shall be paid not later than the 25th day of the month next following the month containing the duty point in relation to the duty provided that—

- (a) where the last day for making payment would, if determined in accordance with the foregoing provision of this paragraph, fall on a day which is not a business day, the duty shall be paid not later than the last business day before that day; and
 - (b) save as the Commissioners otherwise agree, the duty is secured by an approved guarantee.
- (3) Save as the Commissioners otherwise allow, the duty shall be paid by direct debit.
- (4) The duty shall be paid to the Commissioners.
- (5) In this regulation “business day” means a day which is a business day within the meaning of section 92 of the Bills of Exchange Act 1882(13) for the purposes of the General Account of the Commissioners of Customs and Excise at the Bank of England in London.

Furnishing of returns

- 21.—(1) Save, in the case of a registered holder, as the Commissioners may otherwise direct, every person who is registered or was or is required to be registered in accordance with these Regulations shall, in respect of every period of a month furnish the Commissioners, not later than the 15th day of the month next following the end of the period to which it relates, with a return on a form approved by the Commissioners showing the amount of duty payable by him and containing full information in respect of the other matters specified in the form and a declaration signed by him that the return is true and complete.
- (2) Returns shall be furnished at such place as the Commissioners may direct and, unless furnished in person when that place is open to the public for business, may be furnished in such other manner as the Commissioners may allow.

PART VIII

Operations on beer

Mixing

- 22.—(1) This regulation does not apply to beer in relation to which any personal relief has been conferred.
- (2) Beer to which any suspension arrangements apply shall not be mixed with any beer to which no such arrangements apply.
- (3) Unless and until the beer is sold by way of retail or otherwise supplied for consumption, beer shall not be mixed with any beer of a different strength unless the mixing takes place—
- (a) before the duty point; and
 - (b) at a registered store or a registered brewery.

Addition of substances

- 23.—(1) Save as the Commissioners otherwise allow, unless and until the beer is sold by way of retail or otherwise supplied for consumption, no relevant operation with respect to any beer shall be carried out by any person, except by a registered brewer at a registered brewery or by a registered holder at a registered store.
- (2) Every registered brewer and registered holder shall keep a record containing the particulars specified in Schedule 5 below of all relevant operations carried out by him.

(3) In this regulation “relevant operation” means the addition of any substance to any beer which causes or is likely to cause the beer to be chargeable with a greater amount of duty than would be chargeable if the operation had not taken place.

Dilution of beer

24. Save as the Commissioners otherwise allow, no water shall be added to any beer after the duty point with respect to the beer unless and until the time that the beer is sold by way of retail or otherwise supplied for consumption.

Protection of the revenue derived from excise duty on beer

25. Unless and until the beer is sold by way of retail or otherwise supplied for consumption, after the duty point no person may carry out any operation on, or in relation to, beer of any description if that operation would, had it been carried out before the duty point, have resulted in a greater amount of duty being payable than was actually payable at the duty point.

PART IX

Spoilt beer

Introduction

26.—(1) Remission of duty charged or repayment of duty paid in respect of beer which has been removed from any registered brewery and which has become spoilt or otherwise unfit for use, is subject to compliance with the conditions set out in this part of these Regulations.

(2) Where any beer has been removed from the registered store of a registered holder and the beer has become spoilt or otherwise unfit for use and the Commissioners are satisfied that the beer has not been and will not be consumed in the United Kingdom the registered holder shall be entitled to drawback of duty in respect of the beer subject to compliance with the conditions set out in this part of these Regulations.

(3) The claimant shall, save as the Commissioners may otherwise allow, satisfy the Commissioners that he was the person who actually paid the duty in respect of the spoilt beer which is the subject of his claim.

(4) Only one claim for remission or repayment of duty or drawback of duty may be made in respect of any spoilt beer.

(5) A claim for remission or repayment of duty or drawback of duty shall not be made in respect of any spoilt beer which has been adulterated or diluted except that such a claim may be made in respect of spoilt beer which was diluted before the duty point.

(6) In this part of these Regulations “claimant” means the registered brewer claiming remission or repayment of duty or the registered holder claiming drawback of duty as the case may be.

Return to the registered brewery or registered premises

27.—(1) Save as the Commissioners otherwise allow, spoilt beer shall be returned to the claimant’s premises.

(2) Where a claimant claims remission or repayment of duty or a drawback of duty, except in the case of cellar tank beer, spoilt beer shall be returned in the container in which it left the claimant’s premises.

(3) In this regulation and in regulation 28 below, “claimant’s premises” means the claimant’s registered brewery or, as the case may be, the claimant’s registered premises.

Ascertainment of the amount of duty charged or paid

28.—(1) Except as the Commissioners otherwise allow, the amount of duty charged or paid shall be ascertained by reference to—

- (a) the quantity of the spoiled beer (determined in accordance with paragraph (2) below);
 - (b) its strength (determined in accordance with paragraph (3) below); and
 - (c) the rate of duty charged upon it.
- (2) The quantity of the spoiled beer shall be—
- (a) in the case of beer which is returned in the same containers in which it left the claimant’s premises and from which no beer has been removed, the amount upon which the duty was charged; and
 - (b) in any other case, the quantity of beer upon which the duty was charged which is returned.
- (3) The strength of the spoiled beer shall be—
- (a) in the case of beer which is returned in the same container in which it left the claimant’s premises and from which no beer has been removed, the strength by reference to which the duty was charged; and
 - (b) in any other case, the lesser of the actual strength ascertained in accordance with regulation 18 above and the strength by reference to which the duty was charged.

Destruction etc.

29.—(1) Subject to paragraph (2) below, spoiled beer shall be destroyed so that it is rendered unsaleable as a beverage to the satisfaction of the Commissioners.

(2) A registered brewer may reprocess spoiled beer in a manner which is satisfactory to the Commissioners and if he does so reprocess any spoiled beer regulation 30 below shall apply as if—

- (a) for the words “destroying” and “destruction” in that regulation there were substituted the word “reprocessing”;
- (b) for the word “destroyed” in that regulation there were substituted “reprocessed”; and
- (c) paragraph (3) of that regulation were omitted;

provided that no claim for remission or repayment of duty shall be made for any spoiled beer to which this paragraph applies unless and until the reprocessing of that beer has commenced.

Procedure

30.—(1) If the proper officer so requires, the claimant shall, at least 24 hours before destroying spoiled beer—

- (a) enter the date and time of the proposed destruction in the spoiled beer record; and
- (b) notify the proper officer of the date and time of the proposed destruction.

(2) Except as the proper officer otherwise allows, the claimant shall, before destroying the spoiled beer—

- (a) enter in the spoiled beer record the quantity of spoiled beer;
- (b) determine the strength of the beer in accordance with regulation 28 and enter the result in the spoiled beer record when it is known to him.

(3) Except as the proper officer otherwise allows, within one hour of the completion of destruction the claimant shall enter the date and time of the completion in the spoilt beer record.

(4) If the claimant transfers spoilt beer from the container in which it was returned to his premises to another container otherwise than for immediate destruction, he shall enter in the spoilt beer record such particulars relating to the transfer, the spoilt beer and the containers as would be required by these Regulations if the spoilt beer was destroyed.

Remission, repayment or drawback

31. No claim for remission or repayment of duty or for drawback of duty shall be made unless, taken together with any other claim being made at the same time, the total quantity of spoilt beer in respect of which the claim is made amounts to not less than 10 hectolitres; provided that if during the six months immediately preceding the date upon which the claim is made the quantity of spoilt beer upon which remission or repayment of duty or drawback of duty could be claimed by the claimant amounts in total to less than 10 hectolitres this paragraph shall operate as if the reference to not less than 10 hectolitres were a reference to not less than such quantity of beer as would result in a claim for remission or repayment of duty or for drawback of duty of at least £50.

Claims

32. The claimant shall make a claim for remission or repayment of duty or drawback of duty to the Commissioners on his return of duty; provided that, where by virtue of his being registered in respect of more than one brewery or premises, he makes more than one return for the same accounting period he shall, except as the Commissioners may otherwise allow, make his claim on his return relating to the brewery or premises in respect of which the return of duty was made.

Records

33.—(1) In support of his claims for remission or repayment of duty or drawback of duty the claimant shall keep—

- (a) a spoilt beer record containing such particulars as the Commissioners may specify in a notice published by them and not withdrawn by a further notice; and
- (b) records for the purposes of establishing that duty has been charged or paid on the spoilt beer and the amount of that charge or payment.

(2) The claimant shall retain the records required under paragraph (1) above for at least 6 years (or such lesser period as the Commissioners may otherwise allow) from the date of the claim on the return of duty and shall allow the proper officer to inspect, copy and take extracts from them at any reasonable time.

(3) Where the records required under paragraph (1) above are preserved in a form which is not readily legible or which is legible only with the aid of equipment the claimant shall, at the proper officer's request, produce a transcript or other permanently legible reproduction of the records and shall permit the proper officer to retain that reproduction.

PART X

Consequential amendments

Amendment of the Excise Goods (Holding, Movement, Warehousing and REDS) Regulations 1992

34. The Excise Goods (Holding, Movement, Warehousing and REDS) Regulations 1992(14) shall be amended as follows—

- (a) in the definition of “tax warehouse” in regulation 2(1) there shall be inserted after the words “excise warehouse” the words “and any premises registered under section 41A of the Alcoholic Liquor Duties Act 1979”; and
- (b) in regulation 9(2) there shall be inserted after the word “below” the words “and to Part V of the Beer Regulations 1993”.

New King’s Beam House 22 Upper Ground
London SE1 9PJ
6th May 1993

Leonard Harris
Commissioner of Customs and Excise

SCHEDULE 1

(Regulation 5)

PARTICULARS OF A REGISTERED BREWER APPLICATION

- (a) the name of the applicant;
- (b) the status (sole proprietor, partnership, limited company or other status) of the applicant's business;
- (c) the address of the premises to be registered;
- (d) a plan of the premises to be registered;
- (e) the date the applicant intends to begin the production of beer;
- (f) the name and number of a bank account held by the applicant and the name and branch of the bank providing that account; and
- (g) an estimate of the quantity of beer to be produced by the applicant each year.

SCHEDULE 2

(Regulation 9)

PARTICULARS OF A REGISTERED HOLDER APPLICATION

- (a) the name of the applicant;
- (b) the status (sole proprietor, partnership, limited company or other status) of the applicant's business;
- (c) the address of the premises to be registered;
- (d) a plan of the premises to be registered;
- (e) the date the applicant intends to begin the packaging of beer;
- (f) the name and number of a bank account held by the applicant and the name and branch of the bank providing that account; and
- (g) particulars of each class or description of beer to be held.

SCHEDULE 3

(Regulation 14)

PARTICULARS OF THE RECORD OF BEER IN DUTY SUSPENSION

- (a) the name and address of the person from whom the beer was received or to whom the beer was delivered;
- (b) the place from which the beer was received or to which it was delivered;
- (c) the date of receipt or delivery;
- (d) unless the beer is in bottles or cans, the numbers and size of each container in which the beer is contained, the quantity in litres name and strength of the beer in each container or tanker;
- (e) if the beer is in bottles or cans, the total number of bottles or cans, the number of bottles or cans according to each size of bottle or can the name and strength of the beer, and the total quantity in litres.

SCHEDULE 4

(Regulation 18)

METHOD OF DETERMINING THE STRENGTH OF BEER

1.—(1) Subject to sub-paragraph (2) below, the strength of beer shall be determined in the following manner—

- (a) a representative sample is to be taken and, after first being cleared of sediment and gas by filtration in an approved manner, a definite quantity thereof by measure at the temperature of 20 degrees Celsius shall be distilled;
- (b) the distillate shall be made up at the temperature of 20 degrees Celsius with distilled water to the original measure of the quantity before distillation;
- (c) the strength of the distillate made up in accordance with paragraph (b) above shall be ascertained by determining its density in air at the temperature of 20 degrees Celsius by means of an approved pycnometer used in an approved manner; and
- (d) the strength of beer shall be taken to be the percentage of alcohol by volume in the table entitled “Laboratory Alcohol Table” which corresponds to the density determined in accordance with paragraph (c) above except that where the density so determined is between two consecutive numbers in the table aforesaid the strength shall be determined by linear interpolation.

(2) Where the result ascertained by the method specified in sub-paragraph (1) above is rendered inaccurate by the presence of substances other than alcohol that method shall be adjusted in such manner as may be approved for the purpose of producing an accurate result.

2. In this Schedule—

“approved” means approved by the Commissioners; and

“Laboratory Alcohol Table” means a table of which a copy, signed by the Chairman of the Commissioners and identifying it as relating to the Spirits Regulations 1991(15), has been deposited in the office of the Queen’s Remembrancer at the Royal Courts of Justice.

SCHEDULE 5

(Regulation 23)

PARTICULARS OF THE ADDITIONS OF SUBSTANCES RECORD

- (a) the place where the operation took place;
- (b) the date and time of the operation;
- (c) the class and description of the beer used in the operation;
- (d) the quantity and strength of the beer used in the operation;
- (e) the description of the substance added to the beer;
- (f) the quantity of the substance added to the beer;
- (g) the quantity and strength of the resultant product.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations which come into force on 1 June 1993 replace the Beer Regulations 1985 (S.I.1985/1627) and the Spoilt Beer (Remission and Repayment of Duty) Regulations 1987 (S.I. 1987/314).

They provide for a new beer duty system, where duty is based on the volume and alcoholic strength of the finished product. This replaces the duty system based on the volume and original gravity of the beer before fermentation commences.

They include provisions for the revenue control of the production of beer liable to excise duty; the holding and movement of beer in duty suspension; the determination and payment of the duty; and relief from excise duty on beer returned to the brewer as spoilt or otherwise unfit for use.

Part I of the Regulations deals with definitions, revocations, and incidental matters.

Part II deals with the Registration of producers of beer.

Part III defines when the production of beer begins and when it is completed.

Part IV is concerned with registration to hold beer in duty suspension.

Part V regulates the holding and movement of beer in duty suspension.

Part VI defines the duty point and deals with the determination of the quantity and strength of the beer for duty purposes.

Part VII deals with the submission of returns and the payment of duty.

Part VIII regulates operations on beer including the mixing and dilution of beer and the addition of substances to beer.

Part IX provides duty relief arrangements for spoilt beer which has been returned to registered premises.

Part X has the effect of applying the Excise Goods (Holding, Movement, Warehousing and REDS) Regulations 1992 (S.I. 1992/3135) to premises registered for holding beer in duty suspension.

The Schedules set out the particulars required in applications for registration and in records specified in the Regulations and the reference method to be used for determining the strength of beer.