

EXPLANATORY MEMORANDUM TO
THE ALCOHOLIC LIQUOR DUTIES (DEFINITION OF CIDER) ORDER
2010

2010 No. 1914

1. This explanatory memorandum has been prepared by HM Treasury and is laid before the House of Commons by Command of Her Majesty.

This memorandum contains information for the Select Committee on Statutory Instruments.

2. **Purpose of the instrument**

2.1 This Order amends the definition of cider for excise duty purposes to introduce a minimum content of apple or pear juice. This is to ensure that “cidery” which are made with little apple or pear juice (cheap, high-strength cidery) pay duty at the more appropriate made-wine rate.

3. **Matters of special interest to the Select Committee on Statutory Instruments**

3.1 The Order is the first use of the powers inserted by section 66 of the Finance Act 2010 into section 1 of the Alcoholic Liquor Duties Act 1979 (subsections 1(6A), (6B), (6C) and (6D)).

4. **Legislative Context**

4.1 This Order changes the existing definition of cider in section 1(6) of the Alcoholic Liquor Duties Act 1979. The new elements in the definition are requirements for a minimum volume of apple or pear juice of a minimum specific gravity to be included in the pre-fermentation mixture for the cider, and in the final product.

4.2 In changing the definition of cider for excise duty purposes, the Order exercises an option provided to Member States by Article 13(3) of the Council Directive 92/83/EEC on the harmonisation of the structures of excise duties on alcohol and alcoholic beverages (OJ No L 316, 31.10.92, p21). Our view is that a Transposition Note is not needed for the Order given that it does no more than take advantage of an option in the Directive, and is not implementing the Directive in any substantial way. The details of the option are that for the purposes of Directive 92/83/EEC, cider falls in the category of “fermented beverages other than wine or beer”, and Article 13(3) permits Member States to apply reduced rates of excise duty to any type of other fermented beverage. The UK exercises this option in applying a lower rate of duty to cider.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

The Economic Secretary to HM Treasury has made the following statement regarding Human Rights:

In my view the provisions of the Alcoholic Liquor Duties (Definition of Cider) Order 2010 are compatible with the Convention rights.

7. Policy background

7.1 There has been a substantial amount of concern from both the cider production industry and health campaigners about low quality cheap ciders benefiting from low duty rates in comparison with other alcoholic drinks. Some products which can take advantage of the lower duty rates include drinks which derive very little alcohol from apple or pear juice, but instead rely on the fermentation of sugar from other sources. These types of product were never envisaged to be classed as ciders as they are closer to other products classified as made-wines. This Order will specify minimum amounts of industry standard juice from which alcohol is to be derived in order for an alcoholic drink to be classed as a cider.

7.2 This Order amends the definition of cider in section 1(6) of the Alcoholic Liquor Duties Act 1979 and so no consolidation is necessary.

8. Consultation outcome

8.1 The National Association of Cider Makers (NACM) have been consulted in the development of this policy and in the drafting of this Order. A more wide ranging consultation was not deemed necessary for this Order as the NACM represent the whole range of sizes and types of cider makers.

8.2 The NACM represent some importers of cider into the UK. We have discussed the definition of cider with them on this basis.

8.3 Initial discussions with NACM about juice content were held in mid-February 2010. At Budget March 2010 the previous Government announced an intention to tighten the definition of cider by reference to minimum juice contents. Informal consultation was commenced almost immediately afterwards and has continued until 12 July 2010 with the exception of during the General Election period.

8.4 The outcome is that the amended definition of cider includes a requirement for a minimum volume of apple or pear juice in the pre-fermentation mixture equal to 35 % of the volume of that mixture, and a requirement for the volume of juice included in the cider overall to amount to

at least 35 % of the volume of the final product. In addition there is a specification of the minimum gravity of 1033 degrees for the juice. Specific gravity is a measurement of the quality and strength of fruit juice and 1033 degrees is an acceptable level for use in the manufacture of traditional cider.

9. Guidance

9.1 The National Association of Cider Makers will be contacting their members to explain the changes and how they should be practically complied with. In addition, HM Revenue and Customs will be producing guidance in the form of an amendment to the cider duty notice which will be published on the internet, and will therefore be accessible for all.

9.2 The NACM are members of a European trade association, AICV and have discussed juice content with other members. They have proposed to raise the amended UK definition with other members before 1 September 2010.

10. Impact

10.1 The impact on business, charities or voluntary bodies is negligible.

10.2 The impact on the public sector is negligible.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The definition of cider contained in this legislation applies to all cider makers including small businesses.

11.2 The impact of the cider definition requirements cannot be minimised on small firms employing up to 20 people. However, the likelihood is that such small businesses are more likely to be exempt from duty.

11.3 All of our informal consultation with cider makers was conducted with the National Association of Cider Makers, who also represent businesses employing up to 20 people. Care was taken during the development of the definition to ensure that administrative burdens identified for small businesses were kept to an absolute minimum.

12. Monitoring & review

12.1 HM Revenue and Customs will monitor the cider trade after implementation to ensure the new definitions are complied with. They will also liaise with the National Association of Cider Makers to evaluate the effectiveness of the Order.

13. Contact

Chris Gibbons at HM Revenue and Customs Tel: 0161 827 0355 or email: chris.gibbons@hmrc.gsi.gov.uk or Chris Southworth at HM Treasury Tel: 020 7270 4922 or email: Chris.Southworth@hmtreasury.gsi.gov.uk can answer any queries regarding the instrument.