



Alcoholic Liquor Duties Act 1979

1979 CHAPTER 4

PART II

SPIRITS

Manufacture of spirits

12 Licence to manufacture spirits.

- (1) No person shall manufacture spirits, whether by distillation of a fermented liquor or by any other process, unless he holds an excise licence for that purpose under this section (referred to in this Act as a “distiller’s licence”).
- (2) F1
- (3) F2
- (4) The Commissioners may refuse to grant a distiller’s licence in respect of any premises on which, from their situation with respect to premises used by a rectifier, brewer for sale or vinegar-maker, they think it inexpedient to allow the manufacture of spirits [^{F3}and they may at any time revoke a licence in respect of any premises if, by reason of circumstances arising since the grant of the licence, they could by virtue of this subsection refuse to grant a licence in respect of those premises].
- (5) Where the largest still to be used on any premises in respect of which a distiller’s licence is sought for the manufacture of spirits by distillation of a fermented liquor is of less than [^{F4}18 hectolitres] capacity, the Commissioners may refuse to grant the licence or may grant it only subject to such conditions as they see fit to impose [^{F5}and where the largest still so used on any premises in respect of which a licence is held is of less than that capacity, the Commissioners may revoke the licence or attach to it such conditions as they see fit to impose].
- (6) F6

Status: Point in time view as at 01/02/1991.

Changes to legislation: There are currently no known outstanding effects for the Alcoholic Liquor Duties Act 1979, Cross Heading: Manufacture of spirits. (See end of Document for details)

Textual Amendments

- F1** S. 12(2) repealed by Finance Act 1986 (c. 41, SIF 40:1), ss. 8(2)(a), 114, Sch. 23 Pt IV
- F2** S. 12(3) repealed by Finance Act 1986 (c. 41, SIF 40:1), s. 114, Sch. 23 Pt. IV
- F3** Words added by Finance Act 1986 (c. 41, SIF 40:1), s. 8(6), Sch. 5 para. 3(2)
- F4** Words substituted by S.I. 1979/241, art. 10
- F5** Words added by Finance Act 1986 (c. 41, SIF 40:1), s. 8(6), Sch. 5 para. 3(3)
- F6** S. 12 (6)–(9) repealed by Finance Act 1990 (c. 29, SIF 40:1), ss. 9, 132, Sch. 19 Part I (subsection (6A) having been added by Finance Act 1986 (c. 41, SIF 40:1), s. 8(6), Sch. 5 para. 3(4))

13 Power to make regulations relating to manufacture of spirits.

(1) The Commissioners may, with a view to the protection of the revenue, make regulations—

- (a) regulating the manufacture of spirits, whether by distillation of a fermented liquor or by any other process;
- (b) for securing and collecting the duty on spirits manufactured in the United Kingdom; and
- (c) regulating the removal of spirits from a distillery;

and different regulations may be made in respect of manufacture for different purposes or by different processes.

[^{F7}(1A) Without prejudice to the generality of subsection (1) above, regulations under that subsection may—

- (a) provide for the imposition under the regulations of conditions and restrictions relating to the matters mentioned in that subsection; and
- (b) impose or provide for the imposition of requirements on a manufacturer of spirits to keep and preserve records relating to his business as such a manufacturer and to produce them to an officer when required to do so for the purpose of allowing him to inspect them, to copy or take extracts from them or to remove them at a reasonable time and for a reasonable period.

(1B) Where any documents removed under the powers conferred by subsection (1A)(b) above are lost or damaged the Commissioners shall be liable to compensate their owner for any expenses reasonably incurred by him in replacing or repairing the documents.]

(2) Where—

- (a) the Commissioners are satisfied that any process of manufacture carried on by any person involving the manufacture of spirits is primarily directed to the production of some article other than spirits; or
- (b) the Commissioners see fit in the case of any person manufacturing spirits by any process other than distillation of a fermented liquor,

they may direct that, subject to compliance with such conditions as they think proper to impose, such of the provisions of this Act relating to the manufacture of, or manufacturers of, spirits or such of any regulations made under this section as may be specified in the direction shall not apply in the case of that person.

[^{F8}(2A) If the Commissioners so direct, spirits manufactured by a process to which a direction under subsection (2) above applies shall be treated as not being within the charge of duty on spirits under section 5 above.]

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- (3) If, save as provided in subsection (2) above, any person contravenes or fails to comply with any regulation made under subsection (1) above [^{F9}or with any condition, restriction or requirement imposed under such a regulation] he shall, subject to subsection (4) below, be liable on summary conviction to a penalty of [^{F10}level 5 on the standard scale], [^{F9}together in the case of such a failure with a penalty of £20 for each day on which the failure continues] and any spirits, and any vessels, utensils and materials used for distilling or otherwise manufacturing or for preparing spirits, in respect of which the offence was committed shall be liable to forfeiture.
- (4) The Commissioners may by any regulation under subsection (1) above provide a penalty of an amount less than that specified in subsection (3) above for any contravention of or failure to comply with that regulation [^{F11}or with any condition, restriction or requirement imposed under that regulation].
- (5) If any person in whose case a direction is given by the Commissioners under subsection (2) above acts in contravention of or fails to comply with any condition imposed under that subsection which is applicable in his case, he shall be liable on summary conviction to a penalty of [^{F12}level 3 on the standard scale], and any spirits in respect of which the offence was committed shall be liable to forfeiture.

Textual Amendments

- F7** S. 13(1A)(1B) inserted by Finance Act 1981 (c. 35, SIF 40:1), s. 11(1), **Sch. 8 para. 12(a)**
- F8** S. 13(2A) inserted by Finance Act 1985 (c. 54, SIF 40:1), s. 6, **Sch. 3 para. 1**
- F9** Words inserted by Finance Act 1981 (c. 35, SIF 40:1), **Sch. 8 Pt. II para. 12(b)**
- F10** Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 46** and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **s. 289G** and (N.I.) by S.I. 1984/703, (N.I. 3) art. 5
- F11** Words inserted by Finance Act 1981 (c. 35, SIF 40:1), s. 11(1), **Sch. 8 Pt. II para. 12(c)**
- F12** Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), **ss. 38, 46** and (S.) Criminal Procedure (Scotland) Act 1975 (c.21, SIF 39:1), **ss. 289F, 289G** and (N.I.) by S.I. 1984/703, (N.I. 3) arts. 5, 6

Modifications etc. (not altering text)

- C1** S. 13(3) excluded by S.I. 1982/611, **reg. 23(1)(2)**

14 Duty on spirits—attenuation charge.

- (1) In the case of a distillery where spirits are manufactured by distillation of a fermented liquor, the duty on spirits shall, in addition to being charged on the spirits distilled, be chargeable in respect of each distillation period in accordance with the following provisions of this section.
- [^{F13}(2) There shall be calculated the quantity of alcohol capable of being produced from any wort and wash made at the distillery on the assumption that from every hectolitre of wort and wash 1 litre of alcohol will be produced for every [^{F14}8 degrees] of attenuation, that is to say, for every [^{F14}8 degrees] of difference between the highest gravity of the wort and the lowest gravity of the wash before distillation, and so in proportion for any less number of litres of wort and wash or any less number of degrees of attenuation.]

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- (3) The gravity of wort or wash for the purposes of subsection (2) above shall be taken as that declared by the distiller except that, if either gravity is found by the proper officer before distillation and the gravity so found is, in the case of wort, higher or, in the case of wash, lower than that declared by the distiller, the gravity to be taken shall be that so found by the proper officer.
- (4) There shall be ascertained the quantity [^{F15}of alcohol contained in] the spirits and feints produced at the distillery after deducting [^{F16}the quantity of alcohol contained in] the feints remaining at the end of the last preceding distillation period.
- (5) If the quantity calculated under subsection (2) above exceeds the quantity ascertained under subsection (4) above the duty on spirits shall, subject to subsection (6) below, be charged and become payable immediately on that excess.
- (6) The Commissioners may make such allowance as in their opinion is reasonable from any charge under this section on proof to their satisfaction that the charge arises wholly or in part on account of the removal of wash for the separation of yeast or on account of the loss or destruction of wort or wash by unavoidable accident [^{F17}or from some other legitimate cause].
- (7) In this section, “distillation period” means the period prescribed by regulations under section 13(1) above for the purpose of taking account of feints and spirits produced.

Textual Amendments

- F13** S. 14(2) substituted by S.I. 1979/241, art. 11(a)
F14 Words substituted by Finance Act 1981 (c. 35, SIF 40:1), s. 11(1), Sch. 8 Pt II para. 13
F15 Words substituted by S.I. 1979/241, art. 11(b)
F16 Words inserted by S.I. 1979/241, art. 11(b)
F17 Words in s. 14(6) added (25.7.1985) by Finance Act 1985 (c. 54, SIF 40:1), s. 6(1), Sch. 3 para. 2

15 Distiller’s warehouse.

- (1) A distiller may provide in association with his distillery a place of security for the deposit of spirits manufactured at that distillery and, if that place is approved by the Commissioners and entry is made thereof by the distiller, may deposit therein without payment of duty any spirits so manufactured.
- [^{F18}(2) The Commissioners may approve such a place of security for such periods and subject to such conditions as they think fit.]
- (3) A place of security for the time being approved by the Commissioners under subsection (1) above is referred to in this Act as a “distiller’s warehouse”.
- (4) A distiller who provides a distiller’s warehouse shall, to the satisfaction of the Commissioners, provide accommodation at the warehouse for the officer in charge thereof, and if he fails so to do he shall be liable on summary conviction to a penalty of [^{F19}level 3 on the standard scale] but nothing in this subsection shall prejudice any power of the Commissioners to require the provision of accommodation as a condition of their approval of any other premises or place under the Customs and Excise Acts 1979.
- (5) A distiller who after the approval of a distiller’s warehouse provided by him, makes without the previous consent of the Commissioners any alteration therein or addition

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thereto shall be liable on summary conviction to a penalty of [^{F20}level 4 on the standard scale].

- (6) The Commissioners may make regulations—
- (a) regulating the warehousing of spirits in a distiller's warehouse;
 - (b) permitting, in so far as it appears to them necessary in order to meet the circumstances of any special case and subject to such conditions as they see fit to impose, the deposit by a distiller in his distiller's warehouse without payment of duty of spirits other than spirits manufactured at the distillery associated with that warehouse;
 - (c) for securing the duties on spirits so warehoused;

and subject to any such regulations, the provisions of Parts VIII and X of the Management Act, except sections 92 and 96, shall apply in relation to a distiller's warehouse and spirits warehoused therein as they apply in relation to an excise warehouse approved under subsection (1) of section 92 of that Act and goods warehoused therein.

(6A) ^{F21}

- (7) If any person contravenes or fails to comply with any regulation made under subsection (6) above [^{F22}or with any condition . . . ^{F23} imposed under such a regulation] he shall, subject to subsection (8) below, be liable on summary conviction to a penalty of [^{F24}level 5 on the standard scale][^{F22}together in the case of such a failure with a penalty of £20 for each day on which the failure continues], and any spirits in respect of which the offence was committed shall be liable to forfeiture.
- (8) The Commissioners may by any regulation under subsection (6) above provide a penalty of an amount less than that specified in subsection (7) above for any contravention of or failure to comply with that regulation [^{F25}or with any condition, . . . ^{F26} imposed under that regulation].
- (9) The Commissioners may at any time for reasonable cause revoke or vary the terms of their approval of a distiller's warehouse.

Textual Amendments

- F18** S. 15(2) substituted by Finance Act 1981 (c. 35, SIF 40:1), s. 11(1), **Sch. 8 Pt. II para. 14(a)**
- F19** Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), **ss. 38, 46** and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **ss. 289F, 289G** and (N.I.) by S.I. 1984/703, (N.I. 3) arts. 5, 6
- F20** Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), **ss. 38, 46** and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **ss. 289F, 289G** and (N.I.) by S.I. 1984/703, (N.I. 3) arts. 5, 6
- F21** S. 15(6A)(6B)(inserted by Finance Act 1981 (c. 35, SIF 40:1), s. 11(1), **Sch. 8 Pt. II para. 14(b)**) repealed by Finance Act 1986 (c. 41, SIF 40:1), ss. 5, 114, **Sch. 3 para. 8(a)**, Sch. 23 Pt. I
- F22** Words inserted by Finance Act 1981 (c. 35, SIF 40:1), s. 11(1), **Sch. 8 Pt. II para. 14(c)**
- F23** Words repealed by Finance Act 1986 (c. 41, SIF 40:1), ss. 5, 114, **Sch. 3 para. 8(b)**, Sch. 23 Pt. I
- F24** Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 46** and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **s. 289G** and (N.I.) by S.I. 1984/703, (N.I. 3) art. 5
- F25** Words inserted by Finance Act 1981 (c. 35, SIF 40:1), s. 11(1), **Sch. 8 Pt. II para. 14(d)**
- F26** Words repealed by Finance Act 1986 (c. 41, SIF 40:1), ss. 5, 114, **Sch. 23 Pt. I**

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Modifications etc. (not altering text)

- C2** S. 15(7) excluded by S.I. 1982/611, **reg. 23(1)(2)**
C3 S. 15(7) restricted by S.I. 1988/809, **reg. 6**

16 Racking of duty-paid spirits at distillery.

- (1) The Commissioners may, with a view to the protection of the revenue, make regulations regulating the racking at a distillery of duty-paid spirits.
- (2) If any person contravenes or fails to comply with any regulation made under this section, he shall be liable on summary conviction to a penalty of [^{F27}level 3 on the standard scale] and any spirits in respect of which the offence was committed shall be liable to forfeiture.
- [^{F28}(3) If on an officer's taking stock of duty-paid spirits racked at a distillery, a greater quantity of alcohol is found at the place of racking than ought to be there according to any accounts required by regulations made under this section to be kept thereof then—
- (a) duty shall be charged on the excess; and
 - (b) if the excess amounts to more than 1 per cent. of the quantity of alcohol lawfully brought into the place of racking since stock was last taken, such a quantity of spirits as contains an amount of alcohol equal to that excess shall be liable to forfeiture, and the distiller shall be liable on summary conviction to a penalty of double the duty so charged.
- (4) Paragraph (b) of subsection (3) above shall not apply where the excess of alcohol is less than 3 litres.]

Textual Amendments

- F27** Words substituted by virtue of (E.W.) **Criminal Justice Act 1982 (c. 48, SIF 39:1), ss. 38, 46** and (S.) **Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), ss. 289F, 289G** and (N.I.) by S.I. 1984/703, (N.I. 3) arts. 5, 6
- F28** S. 16(3)(4) substituted by S.I. 1979/241, **art. 12**

Modifications etc. (not altering text)

- C4** S. 16 modified by S.I. 1983/947, **regs. 12, 13**
C5 Ss. 16, 21, 22(1)(3A)(5), 42, 43 modified (1.1.1993) by S.I. 1992/3152, **Pt. VI, regs. 11(c), 12**

17 Offences in connection with removal of spirits from distillery, etc.

- (1) If any person—
- (a) conceals in or without the consent of the proper officer removes from a distillery any wort, wash, low wines, feints or spirits; or
 - (b) knowingly buys or receives any wort, wash, low wines, feints or spirits so concealed or removed; or
 - (c) knowingly buys or receives or has in his possession any spirits which have been removed from the place where they ought to have been charged with duty before the duty payable thereon has been charged and either paid or secured, not being spirits which have been condemned or are deemed to have been condemned as forfeited,

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he shall be guilty of an offence under this section and may be detained, and the goods shall be liable to forfeiture.

- (2) A person guilty of an offence under this section shall be liable—
- (a) on summary conviction, to a penalty of the prescribed sum or three times the value of the goods, whichever is the greater, or to imprisonment for a term not exceeding 6 months, or to both; or
 - (b) on conviction on indictment, to a penalty of any amount, or to imprisonment for a term not exceeding 2 years, or to both.

Status:

Point in time view as at 01/02/1991.

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Cross Heading: Manufacture of spirits.