
STATUTORY INSTRUMENTS

2023 No. 806

The Alcoholic Products (Excise Duty) Regulations 2023

PART 1

Introduction

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Alcoholic Products (Excise Duty) Regulations 2023 and come into force on 1st August 2023.

(2) In these Regulations—

“the Act” means the Finance (No. 2) Act 2023;

“actual strength method” means ascertaining the strength of an alcoholic product in accordance with Schedule 2;

“large pack” means a container⁽¹⁾ that is intended to contain a volume of more than 10 litres but not more than 400 litres;

“volume production limit condition” has the meaning given in regulation 9.

PART 2

Alcoholic strength

The volume of alcoholic product in any container

2.—(1) For the purposes of Part 2 of the Act, except where paragraph (4) applies, the volume of alcoholic product in any container is to be ascertained in accordance with paragraphs (2) and (3).

(2) Subject to paragraph (3), the volume of alcoholic product in any container is to be ascertained by reference to—

- (a) the label of the container of the alcoholic product,
- (b) any invoice issued in relation to the alcoholic product,
- (c) any delivery note issued in relation to the alcoholic product, and
- (d) any document similar to an invoice or delivery note issued in relation to the alcoholic product.

(3) Where the volumes ascertained by reference to the sources described in paragraph (2)(a) to (d) differ, the volume of alcoholic product in any container is to be taken to be the greater of those volumes.

(1) Section 1(1) of the Customs and Excise Management Act 1979 (c. 2) (“CEMA”) as amended by section 117(2) of the Finance Act 2008 (c. 9) provides that ““container” includes any bundle or package and any baggage, box, cask or other receptacle whatsoever”, Section 117(3) of the Act has the effect that the use of the expression “container” has the same meaning in the Act as in CEMA.

(4) Where—

- (a) a large pack does not meet the tolerance requirements set out in Schedule 1, or
- (b) due care has not been taken to ensure that the volume of an alcoholic product ascertained in accordance with paragraphs (2) and (3) accurately represents its actual volume,

the volume of alcoholic product in the container is to be taken to be the actual volume of alcoholic product with which the container is filled.

(5) The Commissioners⁽²⁾ must publish a notice making provision for the purposes of paragraph (4)(b) about the meaning of “due care”.

(6) Whether due care has been taken for the purposes of paragraph (4)(b) is to be ascertained in accordance with a notice published under paragraph (5).

The strength of alcoholic product

3.—(1) For the purposes of Part 2 of the Act, except where paragraph (6) applies, the strength of an alcoholic product is to be ascertained in accordance with paragraphs (2) to (5).

(2) Paragraphs (3) and (4) apply to cask-conditioned alcoholic products or any unfinished alcoholic products.

(3) Subject to paragraph (4), the strength of a cask-conditioned alcoholic product or any unfinished alcoholic product is to be—

- (a) the strength the producer of the alcoholic product reasonably expects it to have when sold by retail or otherwise supplied for consumption,
- (b) ascertained by reference to the label of the container of the alcoholic product,
- (c) ascertained by reference to any invoice issued in relation to the alcoholic product,
- (d) ascertained by reference to any delivery note issued in relation to the alcoholic product, and
- (e) ascertained by reference to any document similar to an invoice or delivery note issued in relation to the alcoholic product.

(4) Where the strengths ascertained by reference to the sources described in paragraph (3)(a) to (e) differ, the strength of a cask-conditioned alcoholic product or any unfinished alcoholic product is to be taken to be the greater of those strengths.

(5) In the case of any alcoholic product to which paragraphs (3) and (4) do not apply, its strength is to be ascertained—

- (a) by reference to the label of the container of the alcoholic product,
- (b) if there is no label on the container of the alcoholic product, by reference to any other document relating to the container, or
- (c) if there is no label on the container of the alcoholic product and it is not possible to ascertain the strength by reference to a document relating to the container, using the actual strength method.

(6) Where due care has not been taken to ensure that the strength of an alcoholic product ascertained in accordance with paragraphs (3) to (5)(b) accurately represents its actual strength, the strength of the alcoholic product is to be ascertained using the actual strength method.

(7) The Commissioners must publish a notice making provision for the purposes of paragraph (6) about the meaning of “due care”.

(2) “The Commissioners” is defined in section 1(1) of CEMA, which definition was substituted by paragraph 22(b) of Schedule 4 to the Commissioners for Revenue and Customs Act 2005 (c. 11). Section 117(3) of the Act applies this definition of “the Commissioners”.

(8) Whether due care has been taken for the purposes of paragraph (6) is to be ascertained in accordance with a notice published under paragraph (7).

(9) A notice published under paragraph (7) may make provision by reference to specified factors or documentation.

(10) In this regulation—

“cask-conditioned alcoholic product” means any alcoholic product which undergoes fermentation in the container from which it is served for consumption, but does not include alcoholic product served for consumption from containers of such type as may be specified in a notice published by the Commissioners;

“producer” means a person approved under section 82 of the Act (approval requirement: producers);

“unfinished alcoholic product” means any alcoholic product in any stage of production before it has reached the state of maturity at which it is fit for consumption.

Assessments where incorrectly low rate of alcohol duty applied

4.—(1) This regulation applies if—

- (a) alcohol duty(3) is charged on alcoholic products,
- (b) the duty is charged on the basis of strength ascertained in accordance with regulation 3(3) to 3(5)(b), and
- (c) the strength is to be ascertained using the actual strength method.

(2) The Commissioners—

- (a) may assess as being alcohol duty due from the liable person an amount equal to any duty shortfall, and
- (b) must notify that person or that person’s representative of any assessment under sub-paragraph (a).

(3) In this regulation “duty shortfall” means any difference between—

- (a) the actual amount of alcohol duty chargeable on the alcoholic product, and
- (b) the lower amount that, at the excise duty point(4), was charged as a result of ascertaining strength in accordance with regulation 3(3) to 3(5)(b).

(4) The reference in paragraph (2) to the “liable person” is a reference to the person liable to pay the alcohol duty on the alcoholic products.

PART 3

Reliefs

Relief from duty for undrinkable sediment

5.—(1) This regulation applies to undrinkable sediment.

(2) Undrinkable sediment is relieved at the excise duty point from alcohol duty.

(3) Relief given under this regulation is subject to any conditions specified in a notice published by the Commissioners.

(3) “Alcohol duty” is defined in section 47 of the Act (alcohol duty: charge).

(4) “Excise duty point” is defined in section 49 of the Act (excise duty point and payment).

(4) In this regulation—

“cask-conditioned alcoholic product” means alcoholic product which undergoes fermentation in the cask from which it is served for consumption;

“undrinkable sediment” means such part of a cask-conditioned alcoholic product as cannot be consumed.

Grower’s domestic consumption relief

6.—(1) Wine⁽⁵⁾ and other fermented product⁽⁶⁾ may without payment of alcohol duty be sent out from an alcoholic product production premises for the domestic consumption of the grower of the ingredients from which the wine or other fermented product is produced.

(2) Cider⁽⁷⁾ made from fruit grown by the producer may without payment of alcohol duty be sent out from the producer’s alcoholic product production premises for consumption—

(a) domestically, by the producer, or

(b) free of charge by agricultural workers employed by the producer.

(3) Relief given under this regulation is subject to any conditions specified in a notice published by the Commissioners.

(4) In this regulation—

“alcoholic product production premises” means any premises, rooms, places and vessels on or in which cider, wine or other fermented product is made by a producer for use in their trade as producer;

“fruit” includes honey produced by bees;

“grower” includes beekeeper and “grown” is to be construed accordingly;

“producer” means a producer of cider, wine or other fermented product who is approved under section 82 of the Act (approval requirement: producers).

Draught relief – information to be provided

7.—(1) This regulation applies if—

(a) a person liable to pay alcohol duty on qualifying draught products⁽⁸⁾ has elected for duty to be charged at the full rates⁽⁹⁾, and

(b) there has been a supply by one person (a “supplier”) to another person (a “recipient”) of those qualifying draught products.

(2) Information or documents evidencing that duty has been charged at the full rates must be provided by the supplier to the recipient at or before the time of the supply described in paragraph (1) (b).

(3) The Commissioners may specify in a notice information or documents they consider sufficient evidence for the purposes of paragraph (2).

(4) If the Commissioners publish a notice under paragraph (3), they must determine whether evidence is sufficient for the purposes of paragraph (2) in accordance with that notice.

(5) “Wine” is defined in paragraph 11 of Schedule 6 to the Act.

(6) “Other fermented product” is defined in paragraph 12 of Schedule 6 to the Act.

(7) “Cider” is defined in paragraph 5 of Schedule 6 to the Act.

(8) “Qualifying draught products” is defined in section 51(1) of the Act (alcoholic products qualifying for draught relief).

(9) “Full rates” is defined in section 50(1) of the Act (qualifying draught products: reduced rates).

Small producer relief – the volume production limit condition

8.—(1) This regulation applies where alcoholic products produced in, or imported into, Northern Ireland are chargeable to alcohol duty.

(2) Alcoholic products are not small producer alcoholic products(**10**) unless they are produced on production premises(**11**) that meet the volume production limit condition relevant to that category of products.

9.—(1) The “volume production limit condition” relevant to a category of products is met in relation to non-group premises(**12**) if, in relation to those premises, neither of the following volumes exceeds the volume production limit specified for that category of products in paragraph (3)—

- (a) the total production volume of that category of products for the previous year(**13**);
- (b) the estimated total production volume of that category of products for the current year(**14**).

(2) The “volume production limit condition” relevant to a category of products is met in relation to group premises(**15**) if neither of the following volumes exceeds the volume production limit specified for that category of products in paragraph (3)—

- (a) the aggregate of the total production volume of that category of products, in relation to every set of premises in the production group(**16**), for the previous year;
- (b) the aggregate of the estimated total production volume of that category of products, in relation to every set of premises in the production group, for the current year.

(3) The “volume production limit” is, in the case of—

- (a) beer, 200,000 hectolitres,
- (b) cider or other fermented product, 15,000 hectolitres,
- (c) wine, 1,000 hectolitres, and
- (d) alcohol contained in spirits, 10 hectolitres.

(4) In relation to production premises—

- (a) the “total production volume” for a production year(**17**) is (as the case may be) the volume of—
 - (i) beer,
 - (ii) cider or other fermented product,
 - (iii) wine, or
 - (iv) alcohol contained in spirits,produced on those premises in that year, and
- (b) the “estimated total production volume” for a production year is the producer’s reasonable estimate of the total production volume of the relevant category of products for those premises in that year.

(5) The references in paragraph (4) to the volume of beer, cider or other fermented product, wine and alcohol contained in spirits produced on a set of premises do not include references to volumes that are spoilt or destroyed before the excise duty point.

(10) “Small producer alcoholic products” is defined in section 55 of the Act (small producer alcoholic products).

(11) “Production premises” is defined in section 69(2) of the Act (“producer”, “production premises”, “group premises” etc).

(12) “Non-group premises” is defined in section 69(6) of the Act (“producer”, “production premises”, “group premises” etc).

(13) “Previous year” is defined in section 54(4)(b) of the Act (small producer relief: discounted rates).

(14) “Current year” is defined in section 54(1) of the Act (small producer relief: discounted rates).

(15) “Group premises” is defined in section 69(3) of the Act (“producer”, “production premises”, “group premises” etc).

(16) “Production group” is defined in section 69(5) of the Act (“producer”, “production premises”, “group premises” etc).

(17) “Production year” is defined in section 54(4)(a) of the Act (small producer relief: discounted rates).

(6) Paragraph (7) applies where premises are in use for the purposes of the production of alcoholic products for part only (the “relevant part”) of a production year (including where premises begin to be used for those purposes part-way through a production year).

(7) The total production volume or (as the case may be) the estimated total production volume of a category of products is treated, for the purposes of this Part, as being the volume given by—

- (a) dividing the actual total production volume of that category of products, or (as the case may be) the estimate of that volume, by the number of days in the relevant part of the production year, and
- (b) multiplying the volume amount given by paragraph (a) by the number of days in the production year.

(8) An officer of Revenue and Customs may, if satisfied that the circumstances are exceptional, agree with a producer that certain alcoholic products, or a certain volume of alcoholic products, may be disregarded for the purposes of determining—

- (a) the total production volume, or
- (b) the estimated total production volume,

in relation to production premises for any production year.

Small producer relief – certain removals within the United Kingdom

10.—(1) This regulation applies where—

- (a) a person (P) is liable for the payment of alcohol duty chargeable at the discounted rate⁽¹⁸⁾ on an alcoholic product produced in, or imported into, Great Britain,
- (b) P intends, and intended from the time the product became so chargeable, to remove the product to Northern Ireland from Great Britain, and
- (c) the product was produced on production premises that did not meet, at the time of production, the volume production limit condition.

(2) P may pay duty charged at the standard rate⁽¹⁹⁾ on the product.

(3) If P elects to pay alcohol duty in accordance with paragraph (2), P must pay such amount on or before the date that the payment arising under paragraph (1)(a) would otherwise become due.

11.—(1) This regulation applies where—

- (a) a person (P) is liable for the payment of alcohol duty chargeable at the standard rate on an alcoholic product produced in, or imported into, Northern Ireland,
- (b) P intends, and intended from the time the product became so chargeable, to remove the product to Great Britain from Northern Ireland, and
- (c) but for the volume production limit condition, alcohol duty would have been chargeable on the product at the discounted rate.

(2) P may pay duty charged at the discounted rate on the product.

(3) If P elects to pay alcohol duty in accordance with paragraph (2), P must pay such amount on or before the date that the payment arising under paragraph (1)(a) would otherwise become due.

Small producer relief – certificates required for imported alcoholic products

12.—(1) This regulation applies if—

⁽¹⁸⁾ “Discounted rate” is defined in section 54(2) of the Act (small producer relief: discounted rates).

⁽¹⁹⁾ “Standard rate” is defined in section 54(3) of the Act (small producer relief: discounted rates).

- (a) an alcoholic product is imported into the United Kingdom,
- (b) alcohol duty is chargeable on that product, and
- (c) the importer indicates to the Commissioners that the product is a small producer alcoholic product on which alcohol duty is charged at the discounted rate.

(2) An alcoholic product is not a small producer alcoholic product unless the importer produces, on request by an officer of Revenue and Customs, a certificate endorsed by or on behalf of the relevant tax authorities of the country or territory in which the alcoholic product was produced certifying whether the product was, at the time of production, eligible to be charged at the discounted rate in Great Britain and Northern Ireland.

Small producer relief – documentation to be provided

13.—(1) Subject to paragraph (3), this regulation applies where—

- (a) a person (P) has paid, or is liable for the payment of, alcohol duty at the discounted rate on an alcoholic product produced in, or imported into, Great Britain.
- (b) any person (the “supplier”) intends to supply the product to any other person (the “recipient”) in Great Britain,
- (c) the supplier does not know whether the product is intended to be consumed in Great Britain, and
- (d) the product was produced on production premises that did not meet, at the time of production, the volume production limit condition.

(2) The supplier must provide to the recipient, at or before the time of supply, documentation confirming—

- (a) the amount of alcohol duty that was paid, and rate at which such duty was paid, on the product, and
- (b) that the product was produced on production premises that did not meet, at the time of production, the volume production limit condition.

(3) Paragraph (2) does not apply to any supplier other than P where that supplier has not been provided with the documentation described in paragraph (2).

Small producer relief – record-keeping

14.—(1) This regulation applies where a person (P) has paid, or is liable for the payment of, alcohol duty at the discounted rate on alcoholic products produced in, or imported into, the United Kingdom.

(2) P must keep, and make available for inspection by an officer of Revenue and Customs, records for a period of six years, commencing with the date on which the products became chargeable to alcohol duty, for the purposes of determining whether the products were, at the time of production, eligible to be charged at the discounted rate in Great Britain and Northern Ireland respectively.

(3) The Commissioners may publish a notice specifying the records to be kept, and made available for inspection, for the purposes of paragraph (2).

PART 4

Denatured alcohol

Denatured alcohol

- 15.**—(1) This regulation applies where a person deals wholesale in denatured alcohol⁽²⁰⁾.
(2) A person may deal wholesale in completely denatured alcohol without an excise licence.
(3) In this regulation “completely denatured alcohol” has the meaning given in regulation 4 of the Denatured Alcohol Regulations 2005⁽²¹⁾.

PART 5

Travellers’ allowances

Amendment of the Travellers’ Allowances Order 1994

- 16.** In Schedule 2 to the Travellers’ Allowances Order 1994⁽²²⁾, in the entry relating to—
- (a) beer, for “£0.80” substitute “£0.88”;
 - (b) still wine, for “£2.97” substitute “£3.28”;
 - (c) sparkling wine, for “£3.81” substitute “£3.28”;
 - (d) cider, for “£0.40” substitute “£0.44”;
 - (e) sparkling cider of an alcoholic strength not exceeding 5.5% by volume, for “£0.40” substitute “£0.44”;
 - (f) sparkling cider of an alcoholic strength exceeding 5.5% but less than 8.5% by volume, for “£2.88” substitute “£1.73”;
 - (g) made-wine, for—
 - (i) “made-wine” substitute “other fermented products”, and
 - (ii) “£2.97” substitute “£3.28”;
 - (h) spirits, for “£10.77” substitute “£11.88”.

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⁽²⁰⁾ “Denatured alcohol” is defined in section 90(2) of the Act (denatured alcohol); section 91(2) of the Act (licence to manufacture and deal wholesale in denatured alcohol) sets out what it means for a person to deal wholesale in denatured alcohol.

⁽²¹⁾ [S.I. 2005/1524](#).

⁽²²⁾ [S.I. 1994/955](#), as amended by [S.I. 2020/1412](#).