

Government Circular No. 1990/0092



Alcoholic Liquor Duties Act 1986

CIDER AND PERRY REGULATIONS 1990¹

Laid before Tynwald: 10th April 1990
Coming into Operation: 1st May 1990

In exercise of the powers conferred upon the Treasury by sections 52(1), 58(3) and 60(1) of the Alcoholic Liquor Duties Act 1986¹, and of all other powers enabling it in that behalf, the following Regulations are hereby made:

PART I

PRELIMINARY

1 Citation

These Regulations may be cited as the Cider and Perry Regulations 1990.

2 Commencement

These Regulations shall come into operation on 1st May 1990.

3 Application

- (1) These Regulations apply to cider produced in the Island for sale.²
- (2) Regulation 11A and the Schedule also apply to imported cider.³

4 Interpretation

In these Regulations —

“accounting period” means a calendar month or any period of 4 or, as the case may be, 5 weeks allowed by the Treasury for the purpose of accounting for duty;

“the Act” means the Alcoholic Liquor Duties Act 1986;

“approved” means approved by the Treasury;

¹ 1986 c.35.

“business day” means a day which is a business day within the meaning of section 92 of the Bills of Exchange Act 1883²;

“cider” has the meaning given by section 1(6) but subject to section 1(10) of the Act;

“cider premises” means the premises, rooms, places and vessels entered by a licensed maker for use by him in his trade as a maker;

“the Collector” means the Collector of Customs and Excise;

“duty” means the duty of excise charged on cider under section 58 of the Act;

“excise warehouse” has the meaning given by section 184 of the Customs and Excise Management Act 1986;

“large pack” means a container that is intended to contain a volume of more than 10 litres but not more than 400 litres;⁴

“made-wine” has the meaning given by section 1(5) but subject to section 1(10) of the Act;

“maker” means a maker of cider who is or is required to be licensed;

“officer” means the proper officer of Customs and Excise;

“licence” means a licence issued under section 58(3) of the Act, and “licensed” shall be construed accordingly;

“strength” in relation to any liquor means its alcoholic strength computed in accordance with section 2 of the Act;

“wine” has the meaning given by section 1(4) of the Act.

PART II

LICENSING

5 Application for a licence

- (1) No person shall produce cider for sale unless he holds an excise licence issued by the Treasury.
- (2) Every person required to be licensed shall make application to the Treasury for a licence in respect of his premises.
- (3) A separate application shall be made in respect of each of the premises on which the applicant makes or intends to make cider.

² Vol. V. p.310.

6 Licensing

- (1) The Treasury may license the applicant in respect of each of the premises in respect of which application is made, and may issue a separate licence in respect of each of those premises.
- (2) The licence shall remain the property of the Treasury.

7 Licences

- (1) Every licence shall be kept at all times on the premises to which it relates, and shall be produced for inspection to an officer on demand.
- (2) A maker shall notify the Treasury of his intention to stop making cider at any of his cider premises.
- (3) A maker shall notify the Treasury of the discontinuance of trade in cider at any of his cider premises.

8 Cancellation of licence

A licence granted under this Part may be revoked by the Treasury at any time.

PART III**ENTRIES****9 Entries**

A maker shall not begin to make cider on any premises in respect of which he is licensed until he has made entry of all rooms, places and vessels intended to be used by him thereon for that purpose.

10 Withdrawal of entry

Save as the Treasury may otherwise allow, a maker shall not withdraw his entry in respect of cider premises while there remains in any place specified therein any cider on which duty has not been paid or remitted or any materials for making cider.

PART IV

DETERMINATION OF DUTY AND THE RATES THEREOF

11 Charge to duty

(1) Subject to regulations 12 and 13, cider in cider premises shall be charged with duty at the time it is made and the excise duty point shall be the earlier of the following times —

- (i) the time it is consumed at those premises; or
- (ii) the time it is sent out from those premises;

Provided that —

- (a) where any cider is sent out to other cider premises in accordance with regulation 12(c)(i), those other cider premises shall be treated as being the cider premises in which the cider was made and the maker licensed in respect of those other cider premises shall be treated accordingly;
 - (b) where any cider is sent out of cider premises at a strength not exceeding 1.2 per cent the duty charged thereon shall be remitted;
 - (c) where the time of consumption of cider at cider premises cannot be established to the Treasury's satisfaction (for the purposes of determining the appropriate rate of duty in relation to the excise duty point specified by subparagraph (i)), the rate of duty shall be taken to be the highest rate in force during the preceding 12 calendar months ending on the day before the time when the Treasury can, for the first time, make an assessment of the excise duty due (as governed by section 12 of the Finance Act 1994³) in respect of that consumption.^{5 6}
- (2) Duty charged under paragraph (1) shall be accounted for and paid in accordance with the provisions of regulation 23.

11A The amount of cider in a large pack

The amount of cider in a large pack may be ascertained by reference to any information on the label of that pack or any information in any invoice, delivery note or similar document indicating the amount of cider in that pack and, except in a case where the tolerance requirements set out in the Schedule are not met, any cider in excess of that amount is relieved from duty at the excise duty point.⁷

12 Removal without payment of duty

Subject to such conditions as the Treasury may impose, including any condition that security shall be given to its satisfaction, a maker may send cider chargeable

³ 1994 c.9 of Parliament, applied in the Island by S.D. 369/94.

with duty out from cider premises without payment of the duty for any of the following purposes —

- (a) exportation, shipment as stores or removal to the United Kingdom;
- (b) deposit in an excise warehouse for —
 - (i) mixing with spirits;
 - (ii) exportation or shipment as stores or removal to the United Kingdom;
 - (iii) use as ingredients of goods permitted to be produced in an excise warehouse and intended for exportation or shipment as stores or removal to the United Kingdom; or
 - (iv) such other purposes as the Treasury may allow;
- (c) removal, subject to the prior approval of the officer —
 - (i) to other cider premises;
 - (ii) to the premises of a vinegar maker for use in the production of vinegar; or
 - (iii) to premises in respect of which any person is licensed in accordance with section 52(1) of the Act as a producer of made-wine, for use as an ingredient in the production of made-wine on those premises;
- (d) such use as trade samples as the Treasury may allow; or
- (e) such other purposes (except home use) as the Treasury may allow.

Provided that if any cider which has been sent out of cider premises under the foregoing provisions of this regulation is applied to some purpose other than one therein mentioned, the time of that occurrence shall be the excise duty point; and the duty shall be paid in accordance with regulation 23(2).⁸

12A Constructive removal

- (1) Where cider is held on any cider premises to which this regulation applies it shall be deemed to have been sent out from those premises for home use at the time of its constructive removal or, if earlier, the time it actually left them.
- (2) This regulation applies to cider premises where the records relating to cider sent out from the premises are kept by means approved for this purpose by the Treasury; and the Treasury may at any time revoke such approval upon giving fourteen days' notice in writing.
- (3) The maker from whose cider premises constructive removal may take place shall keep the records specified in a notice published by the Treasury and not withdrawn by a further notice.
- (4) Constructive removal shall mean the making of an entry in the records specified in accordance with paragraph (3) which identifies the cider that

is the subject of that entry as having been sent out from the cider premises for home use notwithstanding that it remains on those premises.

- (5) An entry showing the constructive removal of any cider shall not be cancelled, amended or altered.⁹

13 Deficiencies and discontinuance of trade

Where either —

- (a) the business of making cider is discontinued at cider premises having cider therein; or
- (b) a licence held under regulation 6 in respect of premises having cider therein is surrendered or cancelled; or
- (c) any cider is found to be deficient or missing from cider premises for any reason (other than the reason that the cider was consumed at those premises) and the maker is unable to account for the deficiency to the Treasury's satisfaction,¹⁰

the excise duty point shall be the time of discontinuance or at the time of the surrender or cancellation of the licence or at the time the deficiency occurred, as the case may be, and the duty shall be paid in accordance with regulation 23(2).

Provided that where the time that any deficiency occurred cannot be established to the Treasury's satisfaction, the rate of duty shall be taken to be the highest rate in force between the time of the latest stocktaking made under regulation 20 before the discovery of the deficiency and the time of that discovery.¹¹

PART V

PRODUCTION, STORAGE AND REMOVAL

14 Production

Save as the Treasury may otherwise allow —

- (a) cider for the making of which a licence is not required may not be made in cider premises;
- (b) wine and made-wine may not be produced in cider premises.

15 Use

The Treasury may allow the use in cider premises of cider in the preparation of, or as ingredients for, goods intended for exportation, shipment as stores or removal to the United Kingdom.

16 Examination and gauging of vessels

- (1) A maker shall, if so required by the Treasury, place and fix every vessel in which cider is made or stored in a place convenient for examination, and with safe means of access so as to allow the contents to be accurately ascertained by gauge or measure; and shall not alter any such vessel in shape, position or capacity unless he has given forty-eight hours written notice to the officer.
- (2) All vessels required to be fixed by paragraph (1) of this regulation shall, if so required by the Treasury, be gauged and calibrated to its satisfaction.

17 Storage

A maker shall keep stock entered for payment or remission of duty under regulation 11(1)(b) segregated from stock which has neither been entered for payment nor for remission of duty.

18 Removal by pipe-line

Save as approved by the Treasury, a maker shall not send out cider from cider premises by pipe-line.

PART VI**RECORDS, ACCOUNTS AND PAYMENT OF DUTY****19 Entry book**

- (1) Save as provided by paragraph (3), for all cider premises in respect of which he is licensed a maker shall obtain from the officer an entry book in an approved form and shall —
 - (a) keep the entry book in the cider premises at all times ready for inspection by an officer and permit him at any time to inspect it and to make notes therein or to take copies thereof or extracts therefrom; and
 - (b) make entries in the entry book at such times and in such detail as specified therein or as otherwise directed by the officer.
- (2) No entry in the entry book shall be obliterated or, except with the permission of the officer, cancelled or altered.
- (3) Subject to prior approval by the Treasury a maker may record the information required by paragraph (1) in his business records, and this regulation and regulation 21 shall apply to such records as they apply to entry books.

20 Stocktaking

- (1) Save as the Treasury otherwise allows, a maker shall, once in every year on an approved date, take stock of all cider at each of the cider premises in respect of which he is licensed, and shall deliver the returns of stock to the officer within twenty-eight days of the dates approved for the stocktaking.
- (2) The return of stock required by this regulation shall deal separately with cider of a strength not exceeding 1.2 per cent., and of a strength exceeding 1.2 per cent., and shall state in respect of each of those categories of liquor the following particulars —
 - (a) the name and number of every entered vessel containing cider and the quantity therein;
 - (b) the number of casks, cases or other containers and unpacked bottles of each size, and the separate quantities of cider contained therein;
 - (c) the total quantities of cider in stock; and
 - (d) the details of any surplus, deficiency or other discrepancy revealed by the stocktaking.

21 Accounts

- (1) A maker shall, in addition to the entry book (or other records permitted under regulation 19(3)), keep accounts of the quantities of all materials used in the cider premises in making cider.
- (2) A maker shall —
 - (a) in respect of cider of a strength not exceeding 1.2 per cent. ; and
 - (b) in respect of cider of a strength exceeding 1.2 per cent. ;keep account of the quantities made in, received at, returned to, and removed from, the cider premises.
- (3) A maker shall at any reasonable time permit an officer to inspect, make entries in, copy and take extracts from any records relating to his business as a maker which the officer may require to inspect.
- (4) Save as the Treasury otherwise allows, a maker shall preserve and keep at the cider premises all books (or other records approved under regulation 19(3)), accounts and other documents relating to his business as a maker at those cider premises for not less than two years from the date of the last entry therein.

22 Security

Every maker shall furnish such security for payment of duty as the Treasury requires.

23 Furnishing of returns and payment of duty

- (1) Save as the Treasury otherwise allows, every licensed maker shall —
- (a) not later than the fifteenth day of every accounting period furnish to the Collector, or to such other person as the Treasury may direct, a return in approved form of all cider sent out from his cider premises for home use during the preceding accounting period and of the duty charged thereon;
 - (b) not later than the fifteenth day of the accounting period following that in which the excise duty point occurred, pay to the Collector or such other person as aforesaid the amount due.¹²

Provided that where the last day for furnishing a return and making payment would, if determined in accordance with the foregoing provisions of this paragraph, fall on a day which is not a business day the return shall be furnished and payment shall be made not later than the last business day before that date.

- (2) Any duty payable under the proviso to regulation 12, or under regulation 13, shall be paid by the maker of the cider to the Collector or to such other person as the Treasury may direct, within seven days of that duty being demanded by the proper officer.¹³

PART VII**RELIEF FROM DUTY****24 Grower's domestic consumption relief**

Cider made from fruit grown in the Island by the maker may be sent out from his cider premises, in such quantity as the Treasury may on application by him allow, without payment of duty for his own domestic consumption or for consumption free of charge in the course of their employment by agricultural workers employed by him, and regulation 23 shall not apply to any such cider.

25 Conditions for relief from duty on spoilt cider

Remission or repayment of duty under section 60(1) of the Act in respect of cider which has accidentally become spoilt or unfit for use shall be subject to the conditions that —

- (a) the cider has not been subjected to any process of production or dilution since it was sent out from the cider premises; and
- (b) the maker has complied with the requirements of regulation 26.

26 Claim for relief on spoiled cider

A maker claiming remission or repayment of duty in respect of cider which has been sent out or removed from his cider premises and which has accidentally become spoiled or otherwise unfit for use shall —

- (a) notify the officer immediately any such cider has been returned to the cider premises;
- (b) retain such cider in the vessels in which it was returned to the cider premises, and without making any addition thereto, for a period of forty-eight hours after its return or until such earlier time as the officer authorises the disposal or other processing thereof;
- (c) make his claim for relief in writing; and
- (d) provide the officer with proof that the duty which was due on the cider when it was sent out or removed from the cider premises was paid, and with such other particulars as are necessary to substantiate the claim.

MADE 23 MARCH 1990

SCHEDULE¹⁴**THE TOLERANCE REQUIREMENTS**

(Regulation 11A)

1. If a large pack is filled with a metered or weighed amount of cider the amount of cider in the pack must not exceed the amount ascertained by reference to any information on the label of that pack or any information in any invoice, delivery note or similar document indicating the amount of cider in that pack by more than —
 - (a) in the case of a pack intended to contain a volume exceeding 100 litres, 0.5 per cent. of that volume, or
 - (b) in any other case, 0.5 litres.

2. If paragraph 1 does not apply the amount of cider in a large pack must not exceed the amount ascertained by reference to any information on the label of that pack or any information in any invoice, delivery note or similar document indicating the amount of cider in that pack by more than —
 - (a) in the case of a pack intended to contain a volume exceeding 200 litres, 3 litres,
 - (b) in the case of a pack intended to contain a volume exceeding 100 litres, but not exceeding 200 litres, 2 litres, or
 - (c) in any other case, 1 litre.

ENDNOTES

Table of Endnote References

¹ The format of this legislation has been changed as provided for under section 75 of, and paragraph 2 of Schedule 1 to, the Legislation Act 2015. The changes have been approved by the Attorney General after consultation with the Clerk of Tynwald as required by section 76 of the Legislation Act 2015.

² Existing text renumbered as para (1) by SD21/01.

³ Para (2) inserted by SD21/01.

⁴ Definition of “large pack” inserted by SD21/01.

⁵ Subpara (c) inserted by SD131/97.

⁶ Para (1) amended by SD603/96 and by SD131/97.

⁷ Reg 11A inserted by SD21/01.

⁸ Reg 12 amended by SD603/96.

⁹ Reg 12A inserted by SD603/96.

¹⁰ Subpara (c) amended by SD131/97.

¹¹ Reg 13 amended by SD603/96.

¹² Subpara (b) amended by SD603/96.

¹³ Para (2) amended by SD603/96.

¹⁴ Sch inserted by SD21/01.