

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 and any other premises on which cider is made by a maker for use by him in his trade as a maker;⁴

“the Collector” [Revoked]⁵

“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;⁶

“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;

“return” means a return that is required to be furnished in accordance with regulation 23;⁷.

“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.

² Vol. V. p.310.

- (3) A separate application shall be made in respect of each of the premises on which the applicant makes or intends to make cider.

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.

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), 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.^{8 9}
- (2) Duty charged under paragraph (1) shall be accounted for and paid in accordance with the provisions of regulation 23.
- (3) In this regulation "excise duty point" means the time when the duty is payable by a person, whether or not payment may be deferred, and is prescribed by Part 2 of the Excise Goods (Holding, Movement and Duty Point) Regulations 2010.¹⁰
- (4) References to "excise duty point" in regulations 14A(1) and 23(2) and (4) include an excise duty point within the meaning of paragraph (3).¹¹

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.¹²

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

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 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) or, as the case may be, regulation 23(7).¹³

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.¹⁴

13 Discontinuance of trade¹⁵

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;
- (c) [Revoked]¹⁶

the excise duty point shall be the time of discontinuance or at the time of the surrender or cancellation of the licence, as the case may be, and the duty shall be paid in accordance with regulation 23(2).¹⁷

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.

14A.

- (1) After the excise duty point no person may carry out any operation on or in relation to cider before it is sold by way of retail (or otherwise supplied for consumption) if that operation would, had it been carried out before the excise duty point, have resulted in a greater amount of duty being payable than was actually payable at the excise duty point.
- (2) In this regulation, “operation” includes the mixing of cider and the addition of substances (including water) to cider.¹⁸

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 [Revoked]¹⁹**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 [Revoked]²⁰****20 [Revoked]²¹****21 [Revoked]²²****22 [Revoked]²³****23 Furnishing of returns and payment of duty**

- (1) Save as the Treasury otherwise allows, every maker shall —
- (a) not later than the fifteenth day of every accounting period furnish to the Treasury, 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;²⁴
 - (b) [Revoked]²⁵

Provided that where the last day for furnishing a return 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 not later than the last business day before that date.²⁶

- (2) Unless payment of the duty is deferred, it must be paid at or before the excise duty point.²⁷
- (3) A registered maker is approved for the purpose of deferring payment of the duty for so long as he complies with the conditions imposed by or under this regulation.²⁸
- (4) A registered maker who is approved may defer payment of duty that is payable by him until the fifteenth day of the accounting period following that in which the excise duty point fell.

But if that day is not a business day, payment may only be deferred until the last business day before that day.²⁹

- (5) As a condition of his being approved (or continuing to be approved), the Treasury may require a registered maker to provide security, or further security, for duty.³⁰
- (6) It is a condition of approval that any security must be given in the form and amount that the Treasury requires.³¹
- (7) Where, for the purposes of destruction, —
 - (a) the Treasury has allowed spoilt cider to be sent out from cider premises without payment of duty; and
 - (b) an excise duty point arises under the proviso to regulation 12,the person liable to pay the duty shall be the person holding the cider at the excise duty point.³²
- (8) Where paragraph (7) applies, the maker who sent the cider out without payment of duty shall be jointly and severally liable to pay the duty with the person specified in that paragraph.³³

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 Drawback of duty

- (1) Where —
 - (a) any cider has been sent out or removed from cider premises;

- (b) the cider has become spoilt or otherwise unfit for use; and
- (c) the Treasury is satisfied that the cider has not been and will not be consumed in the Island,

then, subject to paragraph (2), the maker shall be entitled to drawback of duty in respect of the cider.

- (2) The maker must comply with the conditions set out in this part of these Regulations and with such other conditions (if any) as the Treasury sees fit to impose in a notice published by it and not withdrawn by a further notice.³⁴

26 Conditions for drawback of duty

- (1) A maker claiming drawback of duty must –
 - (a) satisfy the Treasury that –
 - (i) duty has been paid on the spoilt cider;
 - (ii) he was the person who paid that duty; and
 - (iii) the duty has not been repaid or drawn back;
 - (b) subject to paragraph (3), destroy the spoilt cider so that it is rendered unsaleable as a beverage to the satisfaction of the Treasury;
 - (c) if the Treasury so requires, give to it prior notice of any planned destruction; and
 - (d) keep and preserve such records as the Treasury may specify in a notice published by it and not withdrawn by a further notice.
- (2) For the purposes of paragraph (1)(a), duty shall be deemed to have been paid on the spoilt cider if it is accounted for on the return for the same accounting period as that in which the claim for drawback of duty in relation to that cider is made.
- (3) A maker may re-possess spoilt cider in a manner which is satisfactory to the Treasury, but no claim for drawback of duty shall be made for any spoilt cider to which this paragraph applies unless and until the re-processing of that cider has commenced.
- (4) No claim for drawback of duty shall be allowed in respect of any spoilt cider that has been adulterated or diluted since it was sent out from cider premises.
- (5) No claim for drawback of duty shall be made if the event giving rise to the claim occurred more than three years after the duty on the cider in question was paid.³⁵

27 Notice of destruction

The period of notice which the Treasury may require of any planned destruction shall be —

- (a) two clear business days, in the case of destruction at cider premises;
or
- (b) five clear business days, in the case of destruction at any other premises.³⁶

28 Claims

- (1) A maker shall make a claim for drawback of duty to the Treasury on his return.
- (2) Where, by virtue of his being registered in respect of more than one cider premises, he makes more than one return for the same accounting period, he shall make the claim on the return relating to the premises in respect of which the return of duty was made.³⁷

29 Cancellation of drawback

- (1) The Treasury may at any time cancel drawback of duty granted in accordance with these Regulations where it is satisfied that a contravention of any condition imposed by or under these Regulations has taken place.
- (2) Where drawback of duty has been cancelled in accordance with paragraph (1), the person to whom sums were paid or credited in respect of the drawback shall be liable to the Treasury for such sums.³⁸

MADE 23 MARCH 1990

SCHEDULE³⁹**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 “cider premises” substituted by SD288/06.

⁵ Definition of “the Collector” revoked by SD288/06.

⁶ Definition of “large pack” inserted by SD21/01.

⁷ Definition of “return” inserted by SD642/08.

⁸ Subpara (c) inserted by SD131/97 and amended by SD198/10.

⁹ Para (1) amended by SD603/96, by SD131/97 and by SD198/10.

¹⁰ Para (3) inserted by SD198/10.

¹¹ Para (4) inserted by SD198/10.

¹² Reg 11A inserted by SD21/01.

¹³ Reg 12 amended by SD603/96 and by SD642/08.

¹⁴ Reg 12A inserted by SD603/96.

¹⁵ Reg 13 heading amended by SD198/10.

¹⁶ Subpara (c) revoked by SD198/10.

¹⁷ Reg 13 amended by SD603/96, by SD288/06 and by SD198/10.

¹⁸ Reg 14A inserted by SD510/01.

¹⁹ Reg 16 revoked by SD288/06.

²⁰ Reg 19 revoked by SD288/06.

²¹ Reg 20 revoked by SD288/06.

²² Reg 21 revoked by SD288/06.

²³ Reg 22 revoked by SD43/07.

²⁴ Subpara (a) amended by SD288/06.

²⁵ Subpara (b) revoked by SD43/07.

²⁶ Para (1) amended by SD288/06 and by SD43/07.

²⁷ Para (2) substituted by SD43/07 and amended by SD198/10.

²⁸ Para (3) inserted by SD43/07.

²⁹ Para (4) inserted by SD43/07.

³⁰ Para (5) inserted by SD43/07.

³¹ Para (6) inserted by SD43/07.

³² Para (7) inserted by SD642/08.

³³ Para (8) inserted by SD642/08.

³⁴ Reg 25 substituted by SD642/08.

³⁵ Reg 26 substituted by SD642/08.

³⁶ Reg 27 inserted by SD642/08.

³⁷ Reg 28 inserted by SD642/08.

³⁸ Reg 29 inserted by SD642/08.

³⁹ Sch inserted by SD21/01.