



## BEER REGULATIONS 1993

### Index

Regulation	Page
<b>PART I</b>	<b>5</b>
PRELIMINARY	5
1 Citation and commencement .....	5
2 Revocation and saving provisions .....	5
3 Application .....	6
4 Interpretation.....	6
<b>PART II</b>	<b>7</b>
REGISTRATION OF PRODUCERS OF BEER	7
5 Application for registration by producers of beer .....	7
6 Registration of producers of beer .....	8
7 Revocation of registration of producers of beer .....	8
<b>PART III</b>	<b>8</b>
PRODUCTION	8
8 When the production of beer begins and when it completed .....	8
<b>PART IV</b>	<b>9</b>
SUSPENSION OF DUTY: REGISTRATION OF PERSONS AND PREMISES	9
9 Application for registration for duty suspension.....	9
10 Registration for duty suspension.....	9
11 Revocation etc. of registration for duty suspension .....	10
<b>PART V</b>	<b>10</b>
SUSPENSION OF DUTY: ARRANGEMENTS AND REQUIREMENTS	10
12 Holding beer in duty suspension .....	10
13 Moving beer in duty suspension .....	10
14 Record of beer in duty suspension.....	11
<b>PART VI</b>	<b>12</b>
DETERMINATION OF THE DUTY	12

15	The duty point .....	12
15A	Constructive removal .....	14
16	Rate of duty .....	14
17	The amount of beer in any container.....	14
18	The strength of the beer.....	15
<b>PART VII</b>		<b>15</b>
<hr/>		
PAYMENT OF THE DUTY AND RETURNS		15
19	Person liable to pay the duty .....	15
20	Time and method of payment .....	16
21	Furnishing of returns .....	16
<b>PART VIII</b>		<b>17</b>
<hr/>		
OPERATIONS ON BEER		17
22	Mixing .....	17
23	Addition of substances .....	17
24	Dilution of beer .....	18
25	Protection of the revenue derived from excise duty on beer .....	18
<b>PART XI</b>		<b>18</b>
<hr/>		
SPOILT BEER		18
26	Introduction .....	18
27	Return to the registered brewery or registered premises.....	19
28	Ascertainment of the amount of duty charged or paid .....	19
29	Destruction etc. ....	19
30	Procedure.....	20
31	Remission, repayment or drawback .....	20
32	Claims .....	21
33	Records .....	21
<b>PART X</b>		<b>21</b>
<hr/>		
CONSEQUENTIAL AMENDMENTS		21
34	Amendment of the Excise Goods (Holding, Movement, Warehousing and REDS) Regulations 1993 .....	21
<b>SCHEDULE 1</b>		<b>23</b>
<hr/>		
PARTICULARS OF A REGISTERED BREWER APPLICATION		23
<b>SCHEDULE 2</b>		<b>24</b>
<hr/>		
PARTICULARS OF A REGISTERED HOLDER APPLICATION		24
<b>SCHEDULE 3</b>		<b>25</b>
<hr/>		
PARTICULARS OF THE RECORD OF BEER IN DUTY SUSPENSION		25

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<b>SCHEDULE 4</b>	<b>26</b>
METHOD OF DETERMINING THE STRENGTH OF BEER	26
<b>SCHEDULE 5</b>	<b>27</b>
PARTICULARS OF THE ADDITIONS OF SUBSTANCES RECORD	27
<b>SCHEDULE 6</b>	<b>28</b>
THE TOLERANCE REQUIREMENTS	28
<b>ENDNOTES</b>	<b>29</b>
TABLE OF ENDNOTE REFERENCES	29



Statutory Document No. 1993/0263



*Alcoholic Liquor Duties Act 1986*  
*Customs and Excise Management Act 1986*

## **BEER REGULATIONS 1993<sup>1</sup>**

*Laid before Tynwald:* 7 July 1993  
*Coming into operation:* 1 June 1993

In exercise of the powers conferred upon the Treasury by sections 2, 36A, 41, 42, 44 and 61 of the Alcoholic Liquor Duties Act 1986<sup>1</sup>, sections 94, 107A, 107B, 124A, 134, 140A and 143A of the Customs and Excise Management Act 1986<sup>2</sup> and of all other powers enabling it in that behalf, the following Regulations are hereby made:

### **PART I**

#### **PRELIMINARY**

#### **1 Citation and commencement**

These Regulations may be cited as the Beer Regulations 1993 and shall be deemed to have come into operation on 1st June 1993.

#### **2 Revocation and saving provisions**

- (1) Subject to paragraph (2), the Beer Regulations (Application) Order 1985<sup>3</sup> and the Spoilt Beer (Remission and Repayment of Duty) Regulations 1987<sup>4</sup> are hereby revoked.
- (2) The Spoilt Beer (Remission and Repayment of Duty) Regulations 1987 shall continue to have effect in relation to any beer which was removed from the entered premises of a brewer for sale before 1st June 1993 and, for the purposes of this paragraph, “entered premises of a brewer for sale” has the same meaning as it has in regulation 4 of those Regulations.

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<sup>1</sup> 1986 c.35.

<sup>2</sup> 1986 c.34.

<sup>3</sup> G.C. No. 340/85.

<sup>4</sup> G.C. No. 188/87.

### 3 Application

These Regulations apply to beer produced in or imported into the Isle of Man, or removed into the Isle of Man from the United Kingdom.

### 4 Interpretation

In these Regulations except where the context otherwise requires —

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

“**accounting period**” means one month or such other period as the Treasury may in any particular case determine;

“**approved guarantee**” means a guarantee to pay duty in the event of default by the person who is liable to pay the duty (“**the payer**”), that is approved by the Treasury, and is given by a person, other than the payer, who is satisfactory to the Treasury for these purposes;

“**beer**” has the meaning given by section 1(3), but subject to section 1(10) of the Act;

“**brewery**” includes any premises on which the production of beer is begun;

“**class or description**” in relation to beer includes its strength and the following classes or descriptions —

- (a) beer held at the registered brewery at which it was produced;
- (b) beer held on registered premises adjacent to the registered brewery at which it was produced;
- (c) beer held otherwise than at the registered brewery at which it was produced or on the registered premises adjacent to that brewery;
- (d) packaged beer (that is to say any beer which is in a container in which, or from which, it will be sold by retail or otherwise supplied for consumption after the duty point);
- (e) packaged beer held on the registered premises at which it was packaged or on registered premises adjacent to those premises; and
- (f) bulk beer (that is to say any beer which is not packaged beer);

“**duty**”, except in regulation 15(1B)(d), means the duty of excise charged on any beer by section 31(1) of the Act;<sup>2</sup>

“**duty point**” means the time when the duty is payable by a person, whether or not payment may be deferred;

“**excise warehouse**” means a place of security for the keeping of beer approved by the Treasury under section 93(1) of the Customs and Excise Management Act 1986 (whether or not it is also approved for the keeping of other goods);

“**large pack**” means a container that is intended to contain a volume of more than 10 litres but not more than 400 litres;<sup>3</sup>

“**package**” and “**packager**” have the meanings given by section 74(1) of the Act;

“**registered brewer**” has the meaning given by section 42(1) of the Act;

“**registered brewery**” means any premises in respect of which a registered brewer is registered under section 42 of the Act;

“**registered holder**” means a packager of beer or a registered brewer registered under section 36A of the Act in relation to any registered premises;

“**registered holder certificate**” means a certificate of registration issued in accordance with regulation 10;

“**registered premises**” means any premises registered under section 36A of the Act on which a registered holder may hold beer without payment of duty;

“**registered store**” means any store registered under section 36A of the Act;

“**return of duty**” means the return prepared pursuant to regulation 21;

“**spoilt beer record**” means the record maintained pursuant to regulation 33;

“**strength**” in relation to any beer has the meaning given in section 2 of the Act;

“**unfinished**” in relation to any beer means beer in any stage of production before it has reached that state of maturity at which it is fit for consumption, and references in these Regulations to suspension arrangements are references to the provisions made by Part V of these Regulations or to any provision made by or under the customs and excise Acts for enabling goods to be held or moved without payment of duty or any provisions made by or under those Acts in connection with any provision enabling goods to be so held or moved.

## PART II

### REGISTRATION OF PRODUCERS OF BEER

#### 5 Application for registration by producers of beer

- (1) Every person required to be registered under section 42 of the Act (“the applicant”) shall make application to the Treasury for registration in respect of the premises on which he produces or intends to produce beer.
- (2) A separate application shall be made in respect of each of the premises on which the applicant produces or intends to produce beer.
- (3) Save as the Treasury may otherwise allow, each application shall contain the particulars specified in Schedule 1 and shall be in such form and manner as the Treasury may prescribe in any notice published by it in pursuance of these Regulations and not withdrawn by a further notice.

## **6 Registration of producers of beer**

- (1) The Treasury may register the applicant in respect of each of the premises in respect of which application is made, and may issue a separate certificate of registration in respect of each of those premises.
- (2) Without prejudice to regulation 10, where the applicant is or will be registered under section 36A of the Act a certificate of registration issued in accordance with this regulation may, in such circumstances as the Treasury thinks fit, be issued in one document serving both as a certificate of registration under section 42 of the Act and as a registered holder certificate.
- (3) The certificate of registration shall remain the property of the Treasury.
- (4) Every certificate of registration shall be kept at all times on the premises to which it relates, and shall be produced for inspection to the proper officer on demand.
- (5) Subject to paragraph (6), a registered brewer shall notify the Treasury of any change to the particulars contained in any application made pursuant to regulation 5 and the Treasury may vary the registration accordingly.
- (6) A registered brewer is not required to notify the Treasury of any change in his estimate of the quantity of beer to be produced each year.
- (7) The Treasury may, for reasonable cause, vary the registration of a registered brewer with respect to any registered brewery, provided that the Treasury shall give 14 days notice in writing of such variation.

## **7 Revocation of registration of producers of beer**

- (1) A registered brewer shall notify the Treasury of his intention to cease production of beer at any of his registered breweries.
- (2) A registered brewer shall notify the Treasury of the cessation of production of beer at any of his registered breweries.
- (3) Where the Treasury is satisfied that a registered brewer has failed to produce any beer or has ceased to produce beer at any registered brewery, it may revoke his registration as a registered brewer with respect to that registered brewery at any time.

# **PART III**

## **PRODUCTION**

## **8 When the production of beer begins and when it completed**

- (1) For the purposes of section 42 of the Act and these Regulations, the production of beer begins when the mash is made.



- (2) For the purposes of section 31 of the Act and these Regulations, beer shall be deemed to have been produced at the time determined in accordance with any direction given by the Treasury or in the absence of any such direction at the earlier of –
  - (a) the time when the beer is put into any package;
  - (b) the time when the beer is removed from the brewery;
  - (c) the time when the beer is consumed;
  - (d) the time when the beer is lost;
  - (e) the time when the beer reaches that state of maturity at which it is fit for consumption.
- (3) In this regulation “beer” includes unfinished beer.

## PART IV

### SUSPENSION OF DUTY: REGISTRATION OF PERSONS AND PREMISES

#### 9 Application for registration for duty suspension

- (1) Every application by a packager of beer or a brewer (“the applicant”) to be registered under section 36A of the Act in relation to any premises shall be made to the Treasury.
- (2) A separate application shall be made in respect of each of the premises on which the applicant intends to hold beer without payment of the duty.
- (3) Save as the Treasury may otherwise allow, each application shall contain the particulars specified in Schedule 2.
- (4) Every application shall be made at least 14 days before the day on which the applicant intends to hold beer without payment of the duty.

#### 10 Registration for duty suspension

- (1) The Treasury may register the applicant in respect of each of the premises in respect of which application is made, and may issue a separate registered holder certificate in respect of each of those premises.
- (2) The Treasury may specify in the registered holder certificate each class or description of beer that the applicant may hold without payment of duty on the premises to which the certificate relates.
- (3) The registered holder certificate shall remain the property of the Treasury.
- (4) Every registered holder certificate shall be kept at all times on the premises to which it relates, and shall be produced for inspection to the proper officer on demand.

- (5) A registered holder shall notify the Treasury of any change to the particulars contained in any application made pursuant to regulation 9 and the Treasury may vary the terms of the registration accordingly.

## **11 Revocation etc. of registration for duty suspension**

- (1) A registered holder shall notify the Treasury of his intention to cease holding beer without payment of the duty at any of his registered stores.
- (2) A registered holder shall notify the Treasury of the cessation of his holding beer without payment of duty at any of his registered stores.
- (3) Where the Treasury revokes or varies the terms of its registration of any person or premises under section 36A(6) of the Act it shall give 14 days notice in writing of such revocation or variation.

## **PART V**

### **SUSPENSION OF DUTY: ARRANGEMENTS AND REQUIREMENTS**

## **12 Holding beer in duty suspension**

A registered holder may hold, on registered premises without payment of duty, beer of any class or description specified in the registered holder certificate issued in respect of those premises; provided that the duty chargeable in respect of beer of that class or description is secured by an approved guarantee except where the Treasury may otherwise agree.

## **13 Moving beer in duty suspension**

- (1) Subject to the provisions of paragraphs (2) to (4), and without prejudice to regulation 16 of the Excise Warehousing (Etc.) Regulations 1988<sup>5</sup> and regulation 9 of the Excise Goods (Holding, Movement, Warehousing and REDS) Regulations 1993<sup>6</sup>, beer may be removed without payment of duty —
- (a) from registered premises
    - (i) to other registered premises or an excise warehouse; or
    - (ii) for export, removal to the United Kingdom or shipment as stores;
  - (b) from an excise warehouse to registered premises; and
  - (c) from the place of importation to registered premises.
- (2) All removals of beer without payment of duty mentioned in paragraph (1)(a)(i) and (1)(b) shall not be subject to any requirement imposed by

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<sup>5</sup> G.C. No.172/88

<sup>6</sup> S.D. No.95/93



regulations 10 and 11 of the Excise Goods (Holding, Movement, Warehousing and REDS) Regulations 1993 but shall be subject to the requirements imposed by paragraph (3).

- (3) Save in the case of beer to which the Excise Goods (Accompanying Documents) Regulations 2002 apply or as the Treasury may otherwise allow, every removal of beer shall be subject to the following requirements —
- (a) the duty chargeable in respect of the beer that is removed is secured by an approved guarantee;
  - (b) the beer is accompanied by a document issued by the consignor and containing a unique reference number, his-name and address, the date of - despatch, the name and address of the consignee, the address of the place to which the beer is consigned, a description of the beer including its quantity, strength and package size, and a statement indicating that it is being moved without payment of duty;
  - (ba) if the amount of beer produced in the brewery where the beer was produced is relevant for the purpose of determining the duty charged on the beer, the beer must be accompanied by a certificate of production in a form approved by the Treasury;<sup>4</sup>
  - (c) in the case of export or shipment as stores, the consignor shall satisfy the Treasury that the beer has been exported or, as the case may be, shipped as stores; and
  - (d) in any other case —
    - (i) the consignee who receives the beer shall within 14 days of the day upon which he received that beer issue a certificate containing such particulars as may be specified by the Treasury in a notice ill published by it and shall keep a record of the issue of the certificate and shall keep any accompanying document issued to him; and
    - (ii) the certificate mentioned in sub-paragraph (i) shall be delivered to the consignor of the beer.<sup>5</sup>
- (4) For the protection of the revenue the Treasury may by notice in writing addressed to a registered holder restrict or prohibit the movement of beer without payment of duty from his registered premises to other registered premises or to an excise warehouse.

#### **14 Record of beer in duty suspension**

- (1) Every registered brewer, registered holder and authorised warehousekeeper shall keep a record of every delivery and receipt of beer under suspension arrangements undertaken by him.
- (2) The record required to be kept under paragraph (1) —

- (a) shall include the particulars specified in Schedule 3; and
  - (b) shall be separate from any record of deliveries and receipts of beer not under suspension arrangements.
- (3) Every registered brewer, registered holder and authorised warehousekeeper shall keep such records of stock, stock deficiencies, increases or other discrepancies and samples taken as the Treasury may specify in any notice published by it and not withdrawn by a further notice.

## PART VI

### DETERMINATION OF THE DUTY

#### 15 The duty point

- (1) Save in the case specified in paragraph (1A) or where any duty suspension arrangements apply to the beer, the duty point shall be the time when the beer is charged with the duty by section 31(1) of the Act, that is to say, the time when it is imported into the Isle of Man or, as the case may be, produced in the Isle of Man.<sup>6</sup>
- (1A) In the case of beer acquired by a person in a member State for his own use and transported by him to the Island, the duty point is the time when that beer is held or used for a commercial purpose by any person.<sup>7</sup>
- (1B) For the purposes of paragraph (1A) —
- (a) “member State” includes the Principality of Monaco and San Marino, but does not include the Island of Heligoland and the territory of Büsingen in the Federal Republic of Germany, Livigno, Campione d’Italia and the waters of Lake Lugano in the Italian Republic, Ceuta, Melilla and the Canary Islands in the Kingdom of Spain, or the overseas departments of the French Republic,
  - (b) “own use” includes use as a personal gift,
  - (c) if the beer in question is —
    - (i) transferred to another person for money or money’s worth (including any reimbursement of expenses incurred in connection with obtaining them), or
    - (ii) the person holding it intends to make such a transfer,that beer is to be regarded as being held for a commercial purpose,
  - (d) if the beer is not duty and tax paid in the member State at the time of acquisition, or the duty and tax that was paid will be or has been reimbursed, refunded or otherwise dispensed with, that beer is to be regarded as being held for a commercial purpose,

- (e) without prejudice to sub-paragraphs (c) and (d), in determining whether beer is held or used for a commercial purpose by any person regard shall be taken of —
  - (i) that person's reasons for having possession or control of that beer,
  - (ii) whether or not that person is a revenue trader (as defined in section 184(1) of the Customs and Excise Management Act 1986),
  - (iii) that person's conduct, including his intended use of that beer or any refusal to disclose his intended use of that beer,
  - (iv) the location of that beer,
  - (v) the mode of transport used to convey that beer,
  - (vi) any document or other information whatsoever relating to that beer,
  - (vii) the nature of that beer including the nature and condition of any package or container,
  - (viii) the quantity of that beer, and in particular, whether the quantity exceeds 110 litres,
  - (ix) whether that person personally financed the purchase of that beer,
  - (x) any other circumstance that appears to be relevant.<sup>8</sup>
- (2) If any duty suspension arrangements apply to the beer, the duty point shall be the earlier of —
  - (a) the time when the duty ceases to be suspended in accordance with those arrangements;
  - (b) the time when there is any contravention of any requirement relating to those arrangements; and
  - (c) the time when the duty ceases to be suspended by virtue of paragraph (3).
- (3) The duty ceases to be suspended when —
  - (a) the premises on which the beer is held cease to be registered premises under Part IV of these Regulations;
  - (b) the person holding the beer ceases to be registered under Part IV of these Regulations;
  - (c) the beer is consumed; or
  - (d) the beer leaves any registered premises unless —
    - (i) the beer is consigned to other registered premises or an excise warehouse in accordance with requirements prescribed in Part V of these Regulations and Part IV of the Excise Goods (Holding, Movement, Warehousing and REDS) Regulations 1993; or

- (ii) the beer is delivered for export, shipment as stores or removal to the United Kingdom.
- (4) In this regulation “contravention” includes a failure to comply.

### **15A Constructive removal**

- (1) Where beer is held on any registered premises to which this regulation applies it shall be deemed to have left those premises at the time of its constructive removal or, if earlier, the time it actually left them.
- (2) This regulation applies to registered premises where the records relating to removal 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 registered holder from whose registered premises constructive removal may take place shall keep such records as may be 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 beer that is the subject of that entry as having left the registered premises (so that duty ceases to be suspended) notwithstanding that it remains on those premises.
- (5) An entry showing the constructive removal of any beer shall not be cancelled, amended or altered.<sup>9</sup>

### **16 Rate of duty**

The duty shall be paid at the rate in force at the duty point.

### **17 The amount of beer in any container**

- (1) Except in the case of beer to which paragraph (2) applies, the amount of beer in any container shall be deemed to be the greater of —
  - (a) the amount determined in accordance with section 2 of the Act;
  - (b) the amount ascertained by reference to information on the label of the container of the beer; and
  - (c) the amount ascertained by reference to information on any invoice, delivery note or similar document issued in relation to the beer.<sup>10</sup>
- (2) The amount of beer 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 beer in that pack and, except in a case where the tolerance requirements set out in Schedule 6 are not met, any beer in excess of that amount is relieved from duty at the duty point.<sup>11</sup>

## 18 The strength of the beer

Save as the Treasury otherwise allows, the strength of the beer shall be deemed to be the greater of —

- (a) the strength determined by the method described in Schedule 4 to these Regulations;
- (b) the strength ascertained by reference to information on the label of the container of the beer;
- (c) the strength ascertained by reference to information on any invoice, delivery note or similar document issued in relation to the beer; and
- (d) the strength which any cask or bottle conditioned beer or any other unfinished beer is reasonably expected to have when sold by way of retail or otherwise supplied for consumption.

## PART VII

### PAYMENT OF THE DUTY AND RETURNS

## 19 Person liable to pay the duty

- (1) The person liable to pay the duty shall be the person holding the beer at the duty point.
- (2) Any person (not being the person specified in paragraph (1)) who imported the beer, who produced the beer or who held the beer under duty suspension arrangements at any time before the duty point and, who does not hold a certificate of receipt for the beer with respect to every holding of the beer by him shall be jointly and severally liable to pay the duty with the person specified in paragraph (1) of this regulation; provided that —
  - (a) no person shall be so liable before the 30th day following the day of despatch of the beer in question; and
  - (b) a person shall cease to be so liable upon his receiving the certificate of receipt in question or upon his satisfying the Treasury that the beer in question was received by the consignee in circumstances where a valid certificate of receipt could and should have been issued.
- (3) For the purposes of this regulation “certificate of receipt” means —
  - (a) a certificate issued in accordance with regulation 13(3)(d);
  - (b) a certificate issued in accordance with regulation 11(3) of the Excise Goods (Holding, Movement, Warehousing and REDS) Regulations 1993; or
  - (c) a certificate issued in accordance with regulation 11(4) of the Excise Warehousing (Etc.) Regulations 1988.

## 20 Time and method of payment

- (1) Subject to paragraph (2) and save as the Treasury may allow, the duty shall be paid at the duty point.
- (2) Where the person liable to pay the duty is a registered brewer or registered holder, save as the Treasury otherwise directs, the duty shall be paid not later than the 25th day of the month next following the month containing the duty point in relation to the duty provided that —
  - (a) where the last day for making payment would, if determined in accordance with the foregoing provision of this paragraph, fall on a day which is not a business day, the duty shall be paid not later than the last business day before that day; and
  - (b) save as the Treasury otherwise agrees, the duty is secured by an approved guarantee.
- (3) Save as the Treasury otherwise allows, the duty shall be paid by direct debit.
- (4) The duty shall be paid to the Treasury.
- (5) In this regulation “business day” means a day which is a business day within meaning of section 92 of the Bills of Exchange Act 1883<sup>7</sup>.

## 21 Furnishing of returns

- (1) Save, in the case of a registered holder, as the Treasury may otherwise direct, every person who is registered or was or is required to be registered in accordance with these Regulations shall, in respect of every period of a month furnish the Treasury, not later than the 15th day of the month next following the end of the period to which it relates, with a return on a form approved by the Treasury showing the amount of duty payable by him and containing full information in respect of the other matters specified in the form and a declaration signed by him that the return is true and complete.
- (2) Returns shall be furnished at such place as the Treasury may direct and, unless furnished in person when that place is open to the public for business, may be furnished in such other manner as the Treasury may allow.

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<sup>7</sup> 1883 V p.310.



## PART VIII

### OPERATIONS ON BEER

#### 22 Mixing

- (1) This regulation does not apply to beer in relation to which any personal relief has been conferred.
- (2) Beer to which any suspension arrangements apply shall not be mixed with any beer to which no such arrangements apply.
- (3) Unless and until the beer is sold by way of retail or otherwise supplied for consumption, beer shall not be mixed with any beer of a different strength unless the mixing takes place —
  - (a) before the duty point; and
  - (b) at a registered store or a registered brewery.
- (4) Beer to which any duty suspension arrangements apply must not be mixed with any beer that would, had the duty been charged immediately before the time of mixing, have been charged with a different rate of duty.<sup>12</sup>

#### 23 Addition of substances

- (1) Save as the Treasury otherwise allows, unless and until the beer is sold by way of retail or otherwise supplied for consumption, no relevant operation with respect to any beer shall be carried out by any person, except by a registered brewer at a registered brewery or by a registered holder at a registered store.
- (2) Every registered brewer and registered holder shall keep a record containing the particulars specified in Schedule 5 of all relevant operations carried out by him.
- (2A) No relevant operation may be carried out on beer by a registered holder that would, had the registered holder been the producer of the beer and the duty been charged at the time of the operation, have resulted in the beer being charged with a different rate of duty than would otherwise be the case.<sup>13</sup>
- (3) In this regulation “relevant operation” means the addition of any substance to any beer which causes or is likely to cause the beer to be chargeable with a greater amount of duty than would be chargeable if the operation had not taken place.

**24 Dilution of beer**

Save as the Treasury otherwise allows, no water shall be added to any beer after the duty point with respect to the beer unless and until the time that the beer is sold by way of retail or otherwise supplied for consumption.

**25 Protection of the revenue derived from excise duty on beer**

Unless and until the beer is sold by way of retail or otherwise supplied for consumption, after the duty point no person may carry out any operation on, or in relation to, beer of any description if that operation would, had it been carried out before the duty point, have resulted in a greater amount of duty being payable than was actually payable at the duty point.

**PART XI****SPOILT BEER****26 Introduction**

- (1) Remission of duty charged or repayment of duty paid in respect of beer which has been removed from any registered brewery and which has become spoilt or otherwise unfit for use, is subject to compliance with the conditions set out in this part of these Regulations.
- (2) Where any beer has been removed from the registered store of a registered holder and the beer has become spoilt or otherwise unfit for use and the Treasury is satisfied that the beer has not been and will not be consumed in the Isle of Man the registered holder shall be entitled to drawback of duty in respect of the beer subject to compliance with the conditions set out in this part of these Regulations.
- (3) The claimant shall, save as the Treasury may otherwise allow, satisfy the Treasury that he was the person who actually paid the duty in respect of the spoilt beer which is the subject of his claim.
- (4) Only one claim for remission or repayment of duty or drawback of duty may be made in respect of any spoilt beer.
- (5) A claim for remission or repayment of duty or drawback of duty shall not be made in respect of any spoilt beer which has been adulterated or diluted except that such a claim may be made in respect of spoilt beer which was diluted before the duty point.
- (6) In this part of these Regulations "claimant" means the registered brewer claiming remission or repayment of duty or the registered holder claiming drawback of duty as the case may be.

**27 Return to the registered brewery or registered premises**

- (1) Save as the Treasury otherwise allows, spoilt beer shall be returned to the claimant's premises.
- (2) Where a claimant claims remission or repayment of duty or a drawback of duty, except in the case of cellar tank beer, spoilt beer shall be returned in the container in which it left the claimant's premises.
- (3) In this regulation and in regulation 28, "claimant's premises" means the claimant's registered brewery or, as the case may be, the claimant's registered premises.

**28 Ascertainment of the amount of duty charged or paid**

- (1) Except as the Treasury otherwise allows, the amount of duty charged or paid shall be ascertained by reference to —
  - (a) the quantity of the spoilt beer (determined in accordance with paragraph (2));
  - (b) its strength (determined in accordance with paragraph (3)); and
  - (c) the rate of duty charged upon it.
- (2) The quantity of the spoilt beer shall be —
  - (a) in the case of beer which is returned in the same containers in which it left the claimant's premises and from which no beer has been removed, the amount upon which the duty was charged; and
  - (b) in any other case, the quantity of beer upon which the duty was charged which is returned.
- (3) The strength of the spoilt beer shall be —
  - (a) in the case of beer which is returned in the same container in which it left the claimant's premises and from which no beer has been removed, the strength by reference to which the duty was charged; and
  - (b) in any other case, the lesser of the actual strength ascertained in accordance with regulation 18 and the strength by reference to which the duty was charged.

**29 Destruction etc.**

- (1) Subject to paragraph (2), spoilt beer shall be destroyed so that it is rendered unsaleable as a beverage to the satisfaction of the Treasury.
- (2) A registered brewer may reprocess spoilt beer in a manner which is satisfactory to the Treasury and if he does so reprocess any spoilt beer regulation 30 shall apply as if —
  - (a) for the words "destroying" and "destruction" in that regulation there were substituted the word "reprocessing";

- (b) for the word “destroyed” in that regulation there were substituted “reprocessed”; and
- (c) paragraph (3) of that regulation were omitted;

provided that no claim for remission or repayment of duty shall be made for any spoilt beer to which this paragraph applies unless and until the reprocessing of that beer has commenced.

### **30 Procedure**

- (1) If the proper officer so requires, the claimant shall, at least 24 hours before destroying spoilt beer –
  - (a) enter the date and time of the proposed destruction in the spoilt beer record; and
  - (b) notify the proper officer of the date and time of the proposed destruction.
- (2) Except as the proper officer otherwise allows, the claimant shall, before destroying the spoilt beer –
  - (a) enter in the spoilt beer record the quantity of spoilt beer;
  - (b) determine the strength of the beer in accordance with regulation 28 and enter the result in the spoilt beer record when it is known to him.
- (3) Except as the proper officer otherwise allows, within one hour of the completion of destruction the claimant shall enter the date and time of the completion in the spoilt beer record.
- (4) If the claimant transfers spoilt beer from the container in which it was returned to his premises to another container otherwise than for immediate destruction, he shall enter in the spoilt beer record such particulars relating to the transfer, the spoilt beer and the containers as would be required by these Regulations if the spoilt beer was destroyed.

### **31 Remission, repayment or drawback**

No claim for remission or repayment of duty or for drawback of duty shall be made unless, taken together with any other claim being made at the same time, the total quantity of spoilt beer in respect of which the claim is made amounts to not less than 10 hectolitres; provided that if during the six months immediately preceding the date upon which the claim is made the quantity of spoilt beer upon which remission or repayment of duty or drawback of duty could be claimed by the claimant amounts in total to less than 10 hectolitres this paragraph shall operate as if the reference to not less than 10 hectolitres were a reference to not less than such quantity of beer as would result in a claim for remission or repayment of duty or for drawback of duty of at least £50.

### 32 Claims

The claimant shall make a claim for remission or repayment of duty or drawback of duty to the Treasury on his return to duty; provided that, where by virtue of his being registered in respect of more than one brewery or premises, he makes more than one return for the same accounting period he shall, except as the Treasury may otherwise allow, make his claim on his return relating to the brewery or premises in respect of which the return of duty was made.

### 33 Records

- (1) In support of his claims for remission or repayment of duty or drawback of duty the claimant shall keep —
  - (a) a spoilt beer record containing such particulars as the Treasury may specify in a notice published by it and not withdrawn by a further notice; and
  - (b) records for the purposes of establishing that duty has been charged or paid on the spoilt beer and the amount of that charge or payment.
- (2) The claimant shall retain the records required under paragraph (1) for at least 6 years (or such lesser period as the Treasury may otherwise allow) from the date of the claim on the return of duty and shall allow the proper officer to inspect, copy and take extracts from them at any reasonable time.
- (3) Where the records required under paragraph (1) are preserved in a form which is not readily legible or which is legible only with the aid of equipment the claimant shall, at the proper officer's request, produce a transcript or other permanently legible reproduction of the records and shall permit the proper officer to retain that reproduction.

## PART X

### CONSEQUENTIAL AMENDMENTS

### 34 Amendment of the Excise Goods (Holding, Movement, Warehousing and REDS) Regulations 1993

The Excise Goods (Holding, Movement, Warehousing and REDS) Regulations 1993<sup>8</sup> shall be amended as follows —

- (a) in the definition of “tax warehouse” in regulation 2(1) after “excise warehouse” insert “and any premises registered under section 36A of the Alcoholic Liquor Duties Act 1986”; and
- (b) in regulation 9(2) after “10 and 11” insert “and to Part V of the Beer Regulations 1993”.

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<sup>8</sup> S.D. No.95/93

**MADE 14 JUNE 1993**



**SCHEDULE 1**

(Regulation 5)

**PARTICULARS OF A REGISTERED BREWER APPLICATION**

- (a) the name of the applicant;
- (b) the status (sole proprietor, partnership, limited company or other status) of the applicant's business;
- (ba) the name and address of any co-operated brewery;<sup>14</sup>
- (c) the address of the premises to be registered;
- (d) a plan of the premises to be registered;
- (e) the date the applicant intends to begin the production of beer;
- (f) the name and number of a bank account held by the applicant and the name and branch of the bank providing that account; and
- (g) an estimate of the quantity of beer to be produced by the applicant each year.

In this Schedule "co-operated brewery" means a brewery (other than the one that is the subject of the application) at which —

- (a) the applicant produces beer, or
- (b) a person connected with the applicant produces beer.

Any question whether a person is connected with another shall be determined in accordance with section 119C of the Income Tax Act 1970<sup>9,15</sup>

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<sup>9</sup> Vol. XXI, p.260

**SCHEDULE 2**

(Regulation 9)

**PARTICULARS OF A REGISTERED HOLDER APPLICATION**

- (a) the name of the applicant;
- (b) the status (sole proprietor, partnership, limited company or other status) of the applicant's business;
- (c) the address of the premises to be registered;
- (d) a plan of the premises to be registered;
- (e) the date the applicant intends to begin the packaging of beer;
- (f) the name and number of a bank account held by the applicant and the name and branch of the bank providing that account; and
- (g) particulars of each class or description of beer to be held.



**SCHEDULE 3**

(Regulation 14)

**PARTICULARS OF THE RECORD OF BEER IN DUTY SUSPENSION**

- (a) the name and address of the person from whom the beer was received or to whom the beer was delivered;
- (aa) the amount of beer produced in the brewery where the beer was produced is relevant for the purpose of determining the duty charged on the beer, a record of that production;<sup>16</sup>
- (b) the place from which the beer was received or to which it was delivered;
- (c) the date of receipt or delivery;
- (d) unless the beer is in bottles or cans, the numbers and size of each container in which the beer is contained, the quantity in litres, name and strength of the beer in each container or tanker;
- (e) if the beer is in bottles or cans, the total number of bottles or cans, the number of bottles or cans according to each size of bottle or can, the name and strength of the beer, and the total quantity in litres.

**SCHEDULE 4**

(Regulation 18)

**METHOD OF DETERMINING THE STRENGTH OF BEER**

1. (1) Subject to sub-paragraph (2), the strength of beer shall be determined in the following manner —

- (a) a representative sample is to be taken and, after first being cleared of sediment and gas by filtration in an approved manner, a definite quantity thereof by measure at the temperature of 20 degrees Celsius shall be distilled;
- (b) the distillate shall be made up at the temperature of 20 degrees Celsius with distilled water to the original measure of the quantity before distillation;
- (c) the strength of the distillate made up in accordance with paragraph (b) shall be ascertained by determining its density in air at the temperature of 20 degrees Celsius by means of an approved pycnometer used in an approved manner; and
- (d) the strength of beer shall be taken to be the percentage of alcohol by volume in the table entitled “Laboratory Alcohol Table” which corresponds to the density determined in accordance with paragraph (c) except that where the density so determined is between two consecutive numbers in the table aforesaid the strength shall be determined by linear interpolation.

(2) Where the result ascertained by the method specified in sub-paragraph (1) is rendered inaccurate by the presence of substances other than alcohol that method shall be adjusted in such manner as may be approved for the purpose of producing an accurate result.

2. In this Schedule —

“approved” means approved by the Treasury; and

“Laboratory Alcohol Table” means a table of which a copy, signed by the Chairman of the Commissioners and identifying it as relating to the Spirits Regulations 1991<sup>10</sup>, has been deposited in the office of the Queen’s Remembrancer at the Royal Courts of Justice.

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<sup>10</sup> S.I. 1991 No.2564 (of Parliament).



**SCHEDULE 5**

(Regulation 23)

**PARTICULARS OF THE ADDITIONS OF SUBSTANCES RECORD**

- (a) the place where the operation took place;
- (b) the date and time of the operation;
- (c) the class and description of beer used in the operation;
- (d) the quantity and strength of the beer used in the operation;
- (e) the description of the substance added to the beer;
- (f) the quantity of the substance added to the beer;
- (g) the quantity and strength of the resultant product.

**SCHEDULE 6<sup>17</sup>**

(Regulation 17)

**THE TOLERANCE REQUIREMENTS**

1. If a large pack is filled with a metered or weighed amount of beer the amount of beer 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 beer 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 beer 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 beer 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, 2 litres, or
- (c) in any other case, 1 litre.

## ENDNOTES

### Table of Endnote References

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<sup>1</sup> 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.

<sup>2</sup> Definition of “duty” amended by SD762/02.

<sup>3</sup> Definition of “large pack” inserted by SD21/01.

<sup>4</sup> Subpara (ba) inserted by SD300/02.

<sup>5</sup> Para (3) amended by SD181/02.

<sup>6</sup> Para (1) amended by SD762/02.

<sup>7</sup> Para (1A) inserted by SD762/02.

<sup>8</sup> Para (1B) inserted by SD762/02.

<sup>9</sup> Reg 15A inserted by SD618/95.

<sup>10</sup> Existing text renumbered as para (1) and amended by SD21/01.

<sup>11</sup> Para (2) inserted by SD21/01.

<sup>12</sup> Para (4) inserted by SD300/02.

<sup>13</sup> Para (2A) inserted by SD300/02.

<sup>14</sup> Para (ba) inserted by SD300/02.

<sup>15</sup> Fullout words after (g) inserted by SD300/02.

<sup>16</sup> Para (aa) inserted by SD300/02.

<sup>17</sup> Sch 6 inserted by SD21/01.