STATUTORY INSTRUMENTS

2024 No. 1186

EXCISE

The Alcoholic Products (Excise Duty) (Amendment) Regulations 2024

Made - - - -	*18th November 2024*
Laid before the House of Commons	*19th November 2024*
Coming into force - -	*1st February 2025*

The Commissioners for His Majesty's Revenue and Customs make these Regulations in exercise of the powers conferred by sections 81(1), 83(2) and (4), 88, and 118(1) to (3) of the Finance (No. 2) Act 2023(**a**).

Citation and commencement

1. These Regulations may be cited as the Alcoholic Products (Excise Duty) (Amendment) Regulations 2024 and come into force on 1st February 2025.

Amendments to the Alcoholic Products (Excise Duty) Regulations 2023

2.—(1) The Alcoholic Products (Excise Duty) Regulations 2023(**b**) are amended as follows.

(2) In regulation 1(2) (citation, commencement and interpretation) at the appropriate place insert—

> ""approved person" means a person who is approved under section 82 of the Act (approval requirement: producers);
>
> "approved premises" means any premises in respect of which an approved person is approved under section 82 of the Act;
>
> "business day" means a day which is a business day within the meaning of section 92 of the Bills of Exchange Act 1882(**c**);".

(3) After Part 5 (travellers' allowances) insert—

(**a**) 2023 c. 30 ("the Act").
(**b**) S.I. 2023/806.
(**c**) 1882 c. 61. Section 92 was amended by sections 3 and 4 of the Banking and Financial Dealings Act 1971 (c. 80) for the purposes of the General Account of the Commissioners of Customs and Excise at the Bank of England in London. The functions of the Commissioners of Customs and Excise were transferred to the Commissioners for His Majesty's Revenue and Customs by section 5(2) of the Commissioners for Revenue and Customs Act 2005 (c. 11). Section 50(1) of that Act provides that a reference to the Commissioners of Customs and Excise shall be taken as a reference to the Commissioners for Revenue and Customs.

"PART 6

Alcoholic products approvals

Interpretation

17. In this Part and Part 9, "relevant activity" means—

(a) the production of alcoholic products,

(b) the holding of alcoholic products (including alcoholic products produced by another person in, or imported into, the United Kingdom) on certain premises without payment of alcohol duty, or

(c) the carrying out of other activities(**a**) in relation to alcoholic products without payment of alcohol duty.

Application for approval in respect of alcoholic products

18. An application for an approval under section 82 of the Act (approval requirement: producers) must—

(a) be in such form and manner as may be specified in a notice published by the Commissioners(**b**), and

(b) contain—

(i) the information specified in Schedule 3, and

(ii) any other information as may be specified in a notice published by the Commissioners.

Notification of changes to information provided in respect of alcoholic products

19.—(1) Subject to paragraph (2), an approved person must notify the Commissioners of any change to the information provided under regulation 18(b).

(2) An approved person is not required to notify the Commissioners of any change to an estimate of the quantity of alcoholic product to be produced each year.

(3) A notification given under paragraph (1) must be made—

(a) in such form and manner, and contain such information, as may be specified in a notice published by the Commissioners, and

(b) within such time as may be specified in the notice.

Notification of the starting or stopping of any relevant activity

20.—(1) An approved person must notify the Commissioners when—

(a) they start carrying out any relevant activity at any of their approved premises if that activity is not approved by the Commissioners to be carried out at those premises, and

(b) they stop carrying out any relevant activity at any of their approved premises.

(**a**) "Activities" is defined in section 82(5) of the Act (approval requirement: producers).

(**b**) "The Commissioners" is defined in section 1(1) of the Customs and Excise Management Act 1979 (c. 2), which definition was substituted by paragraph 22(b) of Schedule 4 to the Commissioners for Revenue and Customs Act 2005. Section 117(3) of the Act applies this definition of "the Commissioners" to provisions made by or under the Act.

(2) A notification given under paragraph (1) must be made—

(a) in such form and manner, and contain such information, as may be specified in a notice published by the Commissioners, and

(b) within such time as may be specified in the notice.

PART 7

Holding of alcoholic products without payment of duty: arrangements and requirements

Holding alcoholic product without payment of duty

21.—(1) The Commissioners may require an approved person to secure any alcohol duty chargeable in respect of alcoholic products held by them on certain premises without payment of alcohol duty by providing a guarantee to the Commissioners.

(2) For the purposes of paragraph (1), a "guarantee" means a guarantee to pay alcohol duty if there is a default by a person who is liable to pay the duty (the "payer") that is—

(a) in a form and manner that is approved by the Commissioners, and

(b) given by a person other than the payer, provided the Commissioners have not communicated to the payer that such person is unsatisfactory for these purposes.

Record-keeping: delivery and receipt of alcoholic product held without payment of duty

22.—(1) An approved person must keep a record of each delivery and receipt of alcoholic products held by them on certain premises without payment of alcohol duty.

(2) The record required to be kept under paragraph (1) must—

(a) include the information specified in Schedule 4, and

(b) be separate from any record kept of deliveries and receipts of alcoholic products held by them that are not so held without payment of duty.

Documentation to accompany alcoholic product held without payment of duty

23.—(1) Subject to paragraph (3), paragraph (2) applies where—

(a) an approved person (P) has produced alcoholic products on approved premises,

(b) P removes the alcoholic products from the approved premises without payment of alcohol duty,

(c) alcohol duty would have been payable at the discounted rate(**a**) had it been payable on removal of the alcoholic products from the approved premises, and

(d) P or any other person (the "supplier") supplies the alcoholic product without payment of duty to any other person (the "recipient").

(2) The supplier must provide to the recipient, at or before the time of supply, documentation confirming the discounted rate at which duty would have been payable under the circumstances described in paragraph (1)(c).

(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).

(**a**) "Discounted rate" is defined in section 54(2) of the Act (small producer relief: discounted rates).

PART 8

Determination of alcohol duty

Constructive removal

24.—(1) This regulation applies where—

(a) alcoholic products are constructively removed from approved premises by an approved person, and

(b) the products have not already passed an excise duty point(**a**).

(2) Alcoholic products will be deemed to have passed an excise duty point at the time of their constructive removal.

(3) For the purposes of this regulation, alcoholic products are "constructively removed" when an entry is made in the approved person's records, in a form and manner as may be specified in a notice published by the Commissioners, identifying the alcoholic products that are the subject of that entry as having passed an excise duty point.

(4) An entry in an approved person's records showing the constructive removal of any alcoholic products must not be cancelled or amended.

PART 9

Payment of alcohol duty and returns

Time and method of payment

25.—(1) Subject to paragraph (2), and save as the Commissioners may otherwise allow, alcohol duty must be paid at the excise duty point.

(2) Where the person liable to pay the duty is an approved person, and save as the Commissioners may otherwise direct, the duty must be paid on or before the 25th day of the month following the month in which the duty point occurs, provided that—

(a) where the date that the duty must be paid would otherwise fall on a day that is not a business day, the duty must instead be paid on or before the business day falling immediately before that date, and

(b) where required by the Commissioners, the duty is secured by a guarantee.

(3) The Commissioners may specify in a notice the method by which alcohol duty is to be paid.

(4) Where the Commissioners publish a notice under paragraph (3), duty must be paid to them in accordance with that notice.

Requirement to make a return

26.—(1) Subject to paragraph (4), paragraph (2) applies to all persons approved under section 82 of the Act to carry out a relevant activity.

(2) Save as the Commissioners may otherwise allow, a person to whom this paragraph applies must make a return to the Commissioners in respect of each calendar month.

(**a**) "Excise duty point" is defined in section 49(2) of the Act (excise duty point and payment).

(3) A return under paragraph (2) must—

(a) show the amount of alcohol duty payable, including where no amount is payable, in respect of each relevant activity during that period,

(b) be accompanied by a declaration signed by the person making it that the return is true and complete,

(c) be made in such form and manner, and contain such information, as may be specified in a notice published by the Commissioners, and

(d) be made on or before the 15th day of the calendar month following the month to which the return relates.

(4) A person to whom paragraph (5) applies is not required to make a return under paragraph (2).

(5) This paragraph applies where—

(a) a person is approved under section 82 of the Act to produce cider,

(b) that person produces no other alcoholic products, and

(c) in relation to amounts of cider produced by that person on—

(i) non-group premises(**a**), neither the alcohol production amount(**b**) for the previous year(**c**) nor the estimated alcohol production amount(**d**) for the current year(**e**) exceeds 5 hectolitres, and

(ii) group premises(**f**), neither the aggregate of the alcohol production amount, in relation to every set of premises in the production group, for the previous year nor the aggregate of the estimated alcohol production amount, in relation to every set of premises in the production group(**g**), for the current year exceeds 5 hectolitres.

(6) Paragraph (7) applies to a person approved under section 82 of the Act to produce spirits.

(7) A person to whom this paragraph applies must make a return to the Commissioners in respect of any spirits produced for each period of a calendar quarter—

(a) on or before the 15th day of the month following the end of the calendar quarter to which the return relates, and

(b) in such form and manner, and containing such information, as may be specified in a notice published by the Commissioners.

(8) In paragraph (7), "calendar quarter" means a period of 3 months beginning with 1 January, 1 April, 1 July or 1 October.

(**a**) "Non-group premises" is defined in section 69(6) of the Act ("producer", "production premises", "group premises" etc).
(**b**) "Alcohol production amount" is defined in section 57(1)(a) of the Act ("alcohol production amount" etc).
(**c**) "Previous year" is defined in section 54(4)(b) of the Act (small producer relief: discounted rates).
(**d**) "Estimated alcohol production amount" is defined in section 57(1)(b) of the Act ("alcohol production amount" etc).
(**e**) "Current year" is defined in section 54(1) of the Act (small producer relief: discounted rates).
(**f**) "Group premises" is defined in section 69(3) of the Act ("producer", "production premises", "group premises" etc).
(**g**) "Production group" is defined in section 69(5) of the Act ("producer", "production premises", "group premises" etc).

PART 10

Spoilt alcoholic products

Claims for repayment of alcohol duty

27.—(1) Where section 74 of the Act (spoilt alcoholic products) applies, the repayment of alcohol duty is subject to the conditions set out in paragraph (2).

(2) A claimant—

(a) may not make a repayment claim in respect of any alcoholic product that has been adulterated or diluted at the time of, or at any time after, the excise duty point,

(b) may not make a repayment claim if the event causing the alcoholic product to become spoilt or unfit for use occurred more than three years after the alcohol duty on the alcoholic product in question was paid, and

(c) must make a repayment claim on the return described in regulation 26(2).

(3) A claimant must comply with any requirements contained in this Part and as may be specified in a notice published by the Commissioners.

(4) In this Part—

"a claimant" is an approved person who makes a repayment claim;

"a repayment claim" is a claim for the repayment of alcohol duty where section 74 of the Act applies.

Determination of the amount of alcohol duty paid

28.—(1) Save as the Commissioners may otherwise allow, the amount of alcohol duty paid in respect of a spoilt alcoholic product is to be determined by reference to—

(a) its quantity, determined in accordance with paragraph (2),

(b) its alcoholic strength, determined in accordance with paragraph (3), and

(c) the rate of alcohol duty charged upon it.

(2) The quantity of a spoilt alcoholic product is—

(a) in a case where an alcoholic product is returned to the approved premises in the same containers in which it left those premises and from which no alcoholic product has been removed, the quantity of that product on which alcohol duty was charged, and

(b) in any other case, the quantity of alcoholic product on which alcohol duty was paid that has been destroyed.

(3) The alcoholic strength of a spoilt alcoholic product is the alcoholic strength by reference to which alcohol duty was charged on the alcoholic product.

Destruction and reprocessing etc.

29.—(1) Subject to paragraph (2), any spoilt alcoholic product must be destroyed so that it is rendered unsaleable as a beverage in accordance with any conditions as may be specified in a notice published by the Commissioners.

(2) An approved person may choose to reprocess a spoilt alcoholic product.

(3) The Commissioners may specify in a notice any conditions in accordance with which an approved person must reprocess a spoilt alcoholic product if that person chooses to reprocess a spoilt alcoholic product.

(4) If—

(a) an approved person chooses to reprocess a spoilt alcoholic product under paragraph (2), and

(b) the Commissioners have published a notice under paragraph (3),

the approved person must reprocess the spoilt alcoholic product in accordance with the notice.

(5) If an approved person chooses to reprocess a spoilt alcoholic product under paragraph (2), a repayment claim may not be made in respect of that product until reprocessing of that product has started.

Notice of planned destruction or reprocessing

30.—(1) The Commissioners may—

(a) require the claimant to give to them prior notice of any planned destruction of spoilt alcoholic product under regulation 29, and

(b) specify in a notice published by them any circumstances in which, and the form and manner in which, such prior notice is to be given.

(2) A notice of planned destruction given under paragraph (1) must be given on or before the end of the day that is—

(a) two business days prior to the planned destruction of the spoilt alcoholic product, in the case of destruction at an approved premises, or

(b) five business days prior to the planned destruction of the spoilt alcoholic product, in the case of destruction at any other premises.

(3) In respect of any spoilt alcoholic product reprocessed under regulation 29(2), this regulation applies as if for "destruction" there were substituted the word "reprocessing".

Record-keeping: repayment claims

31.—(1) Any claimant making a repayment claim must keep a spoilt alcoholic product record ("the spoilt alcoholic product record") in respect of each claim—

(a) containing such information as may be specified in a notice published by the Commissioners, and

(b) containing a declaration that alcohol duty has been paid on the spoilt alcoholic product and the amount of that payment.

(2) The claimant must enter in the spoilt alcoholic product record—

(a) the date, time, place and method of destruction of the spoilt alcoholic product (if applicable),

(b) the quantity of the spoilt alcoholic product,

(c) the alcoholic strength of the spoilt alcoholic product, and

(d) the rate of alcohol duty charged upon the alcoholic product.

(3) The claimant must retain the records required under paragraph (1) for at least 6 years, or such lesser period as the Commissioners may otherwise allow, from the date of the repayment claim.

(4) The claimant must allow any officer of Revenue and Customs(**a**) to inspect, copy or remove for a reasonable period records or documents relating to spoilt alcoholic products.

Removal of spoilt alcoholic products without payment of alcohol duty

32.—(1) Subject to such conditions as the Commissioners may impose in a notice published by them, an approved person may remove a spoilt alcoholic product from approved premises for the purposes of destruction without payment of alcohol duty.

(2) If an approved person removes a spoilt alcoholic product from approved premises and applies it to some purpose other than destruction, the time at which the product is applied to that other purpose is to be taken to be the excise duty point.

(3) Where an excise duty point arises by virtue of paragraph (2), the following persons are jointly and severally liable for the payment of duty—

(a) the approved person who removed the spoilt alcoholic product from the approved premises without payment of duty, and

(b) the person holding the alcoholic product at the excise duty point.

Cancellation of repayment

33.—(1) The Commissioners may at any time cancel the repayment of alcohol duty granted in accordance with this Part where they are satisfied that a contravention of any condition imposed by or under this Part has taken place.

(2) Where the repayment of alcohol duty is cancelled under paragraph (1), any person to whom sums were paid or credited in respect of the repayment claim is liable to the Commissioners for such sums.".

(4) After Schedule 2 (method of determining the strength of alcoholic product) insert—

"SCHEDULE 3 Regulation 18(b)(i)

INFORMATION TO BE CONTAINED IN AN APPLICATION FOR APPROVAL

1. The information that must be contained in an application for approval under section 82 of the Act is—

(a) the name and address of the person applying for the approval (the "applicant");

(b) the status of the applicant's business (whether carried on by an individual, a limited company, a partnership or other unincorporated body, or in any other capacity);

(c) the address of the premises to be approved;

(d) a plan of the premises to be approved;

(e) if applicable, the name, position in the applicant's business, telephone number and email address of any officer, employee or other person responsible for making the application on behalf of the applicant;

(**a**) "Officer of Revenue and Customs" has the meaning given by section 2(1) of the Commissioners for Revenue and Customs Act 2005. Section 117(3) of the Act applies this definition of "officer of Revenue and Customs" to provisions made by or under the Act.

(f) the unique taxpayer reference allocated to the applicant by the Commissioners (if any);

(g) the name, address and approval identification number of any persons being or becoming connected(**a**) with the applicant;

(h) the category or categories of alcoholic products(**b**) that will be produced on the premises to be approved;

(i) the date the applicant intends to begin production of alcoholic products;

(j) an estimate of the amount of alcohol to be produced by the applicant in the calendar year in which the application is made;

(k) where importing or exporting alcoholic products, the category or categories of alcoholic products to be imported or exported;

(l) where delivering or receiving alcoholic products to or from other approved persons or excise warehouses(**c**), the name, address, and approval identification number assigned for production or excise warehousing purposes by the Commissioners to that approved person or excise warehouse (as the case may be).

SCHEDULE 4

Regulation 22(2)(a)

INFORMATION TO BE INCLUDED IN RECORDS OF AN ALCOHOLIC PRODUCT IN DUTY SUSPENSION

1. The information specified that must be included in a record held under regulation 22(1) is—

(a) the name and address of the person from whom the alcoholic product was received or to whom the alcoholic product was delivered;

(b) if the amount of alcohol contained in an alcoholic product produced in the premises where the alcoholic product was produced is relevant for the purpose of determining the duty charged on the alcoholic product, a record of that production;

(c) the place from which the alcoholic product was received or to which it was delivered;

(d) the date of receipt or delivery;

(e) if the alcoholic product is in bottles or cans—

(i) the total number of bottles or cans that contain the alcoholic product;

(ii) the number of each type of bottle or can that contains the alcoholic product;

(iii) the total quantity in litres of alcoholic product in each type of bottle or can;

(iv) the name of the alcoholic product in each type of bottle or can;

(v) the strength of the alcoholic product in each type of bottle or can;

(f) if the alcoholic product is not in bottles or cans—

(i) the total number of containers that contain the alcoholic product;

(ii) the number of each container that contains the alcoholic product;

(iii) the capacity in litres of each container that contains the alcoholic product;

(**a**) Section 70 of the Act provides for how "connected person" is to be construed.
(**b**) Schedule 6 of the Act defines each category of alcoholic product.
(**c**) "Excise warehouse" is defined in section 1(1) of the Customs and Excise Management Act 1979 (c. 2), as amended by paragraph 4(2)(d) of Schedule 7 to the Taxation (Cross-border Trade) Act 2018 (c. 22).

(iv) the quantity in litres of alcoholic product in each container;

(v) the name of the alcoholic product in each container;

(vi) the strength of the alcoholic product in each container.".

Jim Harra
Carol Bristow

18th November 2024 Two of the Commissioners for His Majesty's Revenue and Customs

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make amendments to the Alcoholic Products (Excise Duty) Regulations 2023 ("AP(ED)R 2023") to provide for a single excise duty system for alcoholic products generally, consolidating and replacing the various systems used for individual alcoholic products.

Regulation 1 provides for citation and commencement.

Regulation 2 introduces the amendments to be made to AP(ED)R 2023. These include the addition of new definitions and Parts. New Part 6 of AP(ED)R 2023 deals with alcoholic product approvals, new Part 7 deals with the holding of alcoholic products without payment of alcohol duty, new Part 8 deals with the determination of alcohol duty, new Part 9 deals with the payment of alcohol duty and returns, new Part 10 deals with spoilt alcoholic products, and the new Schedules 3 and 4 set out the particulars of an approved person application and the record of an alcoholic product in duty suspension respectively.

Any notices referred to in these Regulations will be published at https://www.gov.uk/government/collections/alcohols-notices. A person unable to access the notices electronically may access them in hard copy by post free of charge on application to Alcohol Policy, Indirect Tax, HM Revenue & Customs, Trinity Bridge House, 2 Dearmans Place, Salford, M3 5BS.

A Tax Information and Impact Note covering this instrument is published on the HMRC website at https://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins.

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