STATUTORY INSTRUMENTS

1989 No. 1355

CUSTOMS AND EXCISE

The Cider and Perry Regulations 1989

Made - - - -	*3rd August 1989*
Laid before Parliament	*11th August 1989*
Coming into force -	*1st September 1989*

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The Commissioners of Customs and Excise, in exercise of the powers conferred upon them by sections 56(1), 62(5), and 64(1) of the Alcoholic Liquor Duties Act 1979(a), and of all other powers enabling them in that behalf, hereby make the following Regulations:

PART I

PRELIMINARY

Citation and commencement

1. These Regulations may be cited as the Cider and Perry Regulations 1989 and shall come into force on 1st September 1989.

Revocation

2. The Cider and Perry Regulations 1976(b) are hereby revoked.

Application

3. These Regulations apply to cider produced in the United Kingdom for sale.

Interpretation

4. 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 Commissioners for the purpose of accounting for duty;

(a) 1979 c.4; section 56(1) was amended by section 114 of and Part IV of Schedule 23 to the Finance Act 1986 (c.41).
(b) S.I. 1976/1207, as amended by regulation 6 of S.I. 1979/1146 and regulation 5 of S.I. 1980/992.

"the Act" means the Alcoholic Liquor Duties Act 1979;

"approved" means approved by the Commissioners;

"business day" means a day which is a business day within the meaning of the Bills of Exchange Act 1882(a) for the purposes of the General Account of the Commissioners of Customs and Excise at the Bank of England in London;

"cider" has the meaning given by section 1(6)(b) but subject to section 1(10)(c) of the Act;

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

"the Collector" means the Collector of Customs and Excise for the Collection in which the cider premises are situate;

"duty" means the duty of excise charged on cider under section 62(d) of the Act;

"excise warehouse" has the meaning given by section 1(1) of the Customs and Excise Management Act 1979(e);

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

"maker" means a maker of cider who is or is required to be registered;

"officer" means the proper officer of Customs and Excise;

"registered" means registered as a maker of cider under section 62(2) of the Act, and "registration" shall be construed accordingly;

"strength" in relation to any liquor means its alcoholic strength computed in accordance with section 2(g) of the Act;

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

PART II

REGISTRATION

Application for registration

5.—(1) Every person required to be registered shall make application to the Commissioners for registration in respect of his premises.

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

Registration

6.—(1) The Commissioners 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) The certificate of registration shall remain the property of the Commissioners.

Certificate of registration

7.—(1) Every certificate of registration 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 Commissioners of his intention to stop making cider at any of his cider premises.

(a) 1882 c.61; section 92 was amended by sections 3(1) and 4(4) of the Banking and Financial Dealings Act 1971 (c.80).
(b) Section 1(6) was amended by section 1(5) of the Finance Act 1984 (c.43).
(c) Section 1(10) was added by paragraph 1(4) of Part II of Schedule 1 to the Finance Act 1988 (c.39).
(d) Section 62(1) was amended by section 1(4) of the Finance Act 1988.
(e) 1979 c.2.
(f) Section 1(5) was amended by paragraph 1(3) of Part II of Schedule 1 to the Finance Act 1988.
(g) Section 2(2) was amended by S.I. 1979/241. Section 2(3A) was added by section 11(1) and paragraph 10 of Schedule 8 to the Finance Act 1981 (c.35).

(3) A maker shall notify the Commissioners of the discontinuance of trade in cider at any of his cider premises.

Cancellation of registration

8.—(1) Where the Commissioners are satisfied that a maker has ceased to trade at his cider premises, or that cider is not being made on premises in respect of which he is registered for that purpose, they may cancel the relevant registration at any time.

(2) Without prejudice to paragraph (1) above the Commissioners may, for reasonable cause, cancel the registration in respect of the premises of any maker, provided that the Commissioners shall give three months' notice in writing of such cancellation.

PART III

ENTRIES

Entries

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

Withdrawal of entry

10. Save as the Commissioners 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

Charge to duty

11.—(1) Subject to regulations 12 and 13 below, cider in cider premises shall be charged with duty at the time it is sent out of those cider premises and at the rate in force at that time;

Provided that–

(a) where any cider is sent out to other cider premises in accordance with regulation 12(c)(i) below, those other cider premises shall be treated as being the cider premises in which the cider was made and the maker registered 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.

(2) Duty charged under paragraph (1) above shall be accounted for and paid in accordance with the provisions of regulation 23 below.

Removal without payment of duty

12. Subject to such conditions as the Commissioners may impose, including any condition that security shall be given to their 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 Isle of Man;

(b) deposit in an excise warehouse for–

(i) mixing with spirits;

(ii) exportation or shipment as stores or removal to the Isle of Man;

(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 Isle of Man; or

(iv) such other purposes as the Commissioners 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 55(2) 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 Commissioners may allow; or

(e) such other purposes (except home use) as the Commissioners 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, that cider shall be charged with duty at the time it is so applied, and at the rate in force at that time; and the duty shall be paid in accordance with regulation 23(2) below.

Deficiencies and discontinuance of trade

13. Where either–

(a) the business of making cider is discontinued at cider premises having cider therein; or

(b) a certificate of registration held under regulation 6 above 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 and the maker is unable to account for the deficiency to the Commissioners' satisfaction,

the duty on the cider shall be charged at the time of discontinuance or at the time of the surrender or cancellation of the certificate of registration or at the time the deficiency occurred, as the case may be, and at the rate in force at that time; and the duty shall be paid in accordance with regulation 23(2) below.

Provided that where the time that any deficiency occurred cannot be established to the Commissioners' 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 below before the discovery of the deficiency and the time of that discovery.

PART V

PRODUCTION, STORAGE AND REMOVAL

Production

14. Save as the Commissioners may otherwise allow–

(a) cider for the making of which registration is not required may not be made in cider premises;

(b) wine and made-wine may not be produced in cider premises.

Use

15. The Commissioners 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 Isle of Man.

Examination and gauging of vessels

16.—(1) A maker shall, if so required by the Commissioners, 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 Commissioners, be gauged and calibrated to their satisfaction.

Storage

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

Removal by pipe-line

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

PART VI

RECORDS, ACCOUNTS AND PAYMENT OF DUTY

Entry book

19.—(1) Save as provided by paragraph (3) below, for all cider premises in respect of which he is registered 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 Commissioners a maker may record the information required by paragraph (1) above in his business records, and this regulation and regulation 21 below shall apply to such records as they apply to entry books.

Stocktaking

20.—(1) Save as the Commissioners otherwise allow, 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 registered, 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.

Accounts

21.—(1) A maker shall, in addition to the entry book (or other records permitted under regulation 19(3) above), 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 Commissioners otherwise allow, a maker shall preserve and keep at the cider premises all books (or other records approved under regulation 19(3) above), 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.

Security

22. Every maker shall furnish such security for payment of duty as the Commissioners require.

Furnishing of returns and payment of duty

23.—(1) Save as the Commissioners otherwise allow, every registered maker shall–

(a) not later than the fifteenth day of every accounting period furnish to the Collector, or to such other person as the Commissioners 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 charge to duty was incurred, pay to the Collector or such other person as aforesaid the amount due.

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 charged under the proviso to regulation 12 above, or under regulation 13 above, shall be paid by the maker of the cider to the Collector or to such other person as the Commissioners may direct, within seven days of that duty being demanded by the proper officer.

PART VII

RELIEF FROM DUTY

Grower's domestic consumption relief

24. Cider made from fruit grown in the United Kingdom by the maker may be sent out from his cider premises, in such quantity as the Commissioners 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 above shall not apply to any such cider.

Conditions for relief from duty on spoilt cider

25. Remission or repayment of duty under section 64(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 below.

Claim for relief on spoilt cider

26. 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 spoilt 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.

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3rd August 1989

EXPLANATORY NOTE

(This note is not part of the Regulations)

1. These Regulations, applying to cider (including perry) produced in the United Kingdom for sale, come into force on 1st September 1989. They revoke and replace, with some amendments and rearrangement, the Cider and Perry Regulations 1976.

2. The principal changes introduced by the Regulations are:–

(a) a requirement is included for a registered maker to notify the Commissioners of intention to stop production, as well as of discontinuance of trade;

(b) provision is made for duty to be remitted on cider sent out of cider premises at a strength not exceeding 1.2 per cent.;

(c) cider for the making of which registration is not required, and wine and made-wine, may not be produced in cider premises save as the Commissioners allow;

(d) the regulations on stocktaking and accounts provide for the recording of separate particulars for products of a strength not exceeding 1.2 per cent. and exceeding 1.2 per cent.;

(e) the form of return to be furnished for each period is no longer set out in a schedule to the Regulations;

(f) when the fifteenth day of an accounting period is not a business day, the periodic return and duty payment are to be made not later than the preceding business day; and

(g) the provisions for relief of duty on spoilt cider have been revised to clarify the scope of the relief.

£1.65 net

ISBN 0 11 097355 0

Printed in the United Kingdom for Her Majesty's Stationery Office

736 WO1309 C21 8/89 452/3 4235 46378 891992P