EXPLANATORY MEMORANDUM TO

THE REVENUE TRADERS (ACCOUNTS AND RECORDS) (AMENDMENT) REGULATIONS 2015

2015 No. 1650

1. This explanatory memorandum has been prepared by Her Majesty's Revenue and Customs ("HMRC") and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 The instrument provides that the requirement for a revenue trader to keep any record by or under the Revenue Traders (Accounts and Records) Regulations 1992 (S.I. 1992/3150) ("the principal Regulations") does not apply where the revenue trader is required to keep the same record by or under regulations made under section 88E(2)(c)of the Alcoholic Liquor Duties Act 1979 (c. 4) (ALDA).

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

4. Legislative Context

4.1 Section 54 (3) of the Finance Act 2015 (c. 11) inserted new Part 6A into ALDA. That Part imposes a requirement that a UK person who carries on a controlled activity must be approved by the Commissioners for Her Majesty's Revenue and Customs ("the Commissioners").

4.2 A "controlled activity" is defined in new section 88A(8) of the Act and means the selling, offering or exposing for sale or arranging the sale, of controlled liquor wholesale. A sale is of "controlled liquor" if it is a sale of dutiable alcoholic liquor on which duty is charged under the Act and the excise duty point for the liquor falls at or before the time of sale (see new section 88A(2) of the Act).

4.2 Section 88E of ALDA confers regulation making powers on the Commissioners to implement the approval scheme including the power to require approved persons to keep and make available for inspection such records relating to controlled activities as may be prescribed by or under the regulations(section 88E(2)(c)).

4.3 Regulation 8 of the Wholesaling of Controlled Liquor Regulations 2015 (S.I. 2015/1516) requires an approved person to keep and make available such records as prescribed in a published notice. An "approved person" is also a revenue trader

as defined in section 1(1) of the Customs and Excise Management Act 1979 (c. 2). As the principal Regulations make provision about records to be kept by revenue traders they are dis-applied by this instrument to the extent that any record required to be kept by or under those Regulations is required to be kept under regulation 8 of the Wholesaling of Controlled Liquor Regulations 2015.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- **What is being done and why**

7.1 A registration scheme for wholesalers of alcohol has been introduced to combat alcohol duty fraud in the UK. The cost to UK taxpayers from alcohol duty losses is an estimated £1.3bn per annum. Introducing a requirement for wholesalers to be approved by HMRC will reduce opportunities for fraud, and is expected to bring significant benefits.

7.2 Persons approved under the scheme (who will also be revenue traders) are required to keep the records prescribed under the Wholesaling of Controlled Liquor Regulations 2015. This instrument amends the principal Regulations so that the requirement to keep any record by or under those Regulations does not apply if the same record is required to be kept by or under the Wholesaling of Controlled Liquor Regulations 2015.

- **Consolidation**

7.3 There are currently no plans to consolidate the principal Regulations.

8. Consultation outcome

8.1 No consultation was necessary regarding this amendment. The full consultation and summary of responses regarding the introduction of the approval scheme for wholesalers can be found at:

https://www.gov.uk/government/consultations/alcohol-fraud-next-steps

9. Guidance

9.1 Before the introduction of the scheme the Government will have published detailed guidance about how the scheme will operate, including the record-keeping requirements of approved persons. A public notice will also be published. Upon implementation, guidance will be reviewed and revised as necessary.

10. Impact

10.1 This instrument has no impact on businesses that are required to keep records by or under the principal Regulations unless they are also "approved persons" under S88C(6) of ALDA.

10.2 This instrument has no impact on the public sector.

10.3 A Tax Information and Impact Note (TIIN) covering this instrument was published on 10 December 2014 alongside the draft clauses of the Finance Bill 2015 and is available on the government website at https://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins. It remains an accurate summary of the impacts that apply.

11. Regulating small business

11.1 The legislation applies to small business.

11.2 The requirements of the approval scheme are the same for all businesses including the requirement to keep records.

12. Monitoring & review

12.1 HMRC will monitor the practical effects of this instrument to ensure it continues to meet the policy aims.

13. Contact

Ruth Ryan at HMRC Tel: 03000 587917 or email: ruth.ryan1@hmrc.gsi.gov.uk can answer any queries regarding the instrument.