STATUTORY INSTRUMENTS

1987 No. 314

CUSTOMS AND EXCISE

The Spoilt Beer (Remission and Repayment of Duty) Regulations 1987

Made - - - -	*3rd March 1987*
Laid before Parliament	*11th March 1987*
Coming into force	*1st April 1987*

The Commissioners of Customs and Excise, in exercise of the powers conferred on them by sections 2, 3 and 46 of the Alcoholic Liquor Duties Act 1979**(a)** and of all other powers enabling them in that behalf, hereby make the following Regulations:–

Citation and Commencement

1. These Regulations may be cited as the Spoilt Beer (Remission and Repayment of Duty) Regulations 1987 and shall come into force on 1st April 1987.

Interpretation

2. In these Regulations, unless the context otherwise requires–

"accounting period" means one month or such other period as the Commissioners may in any particular case determine;

"approved" means approved by the Commissioners;

"brewing record" means the record maintained pursuant to regulation 7(1) or, as the case may be, regulation 7(5) of the principal Regulations;

"calculated original gravity" means original gravity calculated in accordance with regulation 14(3) of the principal Regulations;

"diluted" means diluted by the addition of water;

"the principal Regulations" means the Beer Regulations 1985**(b)**;

"return of duty" means the return prepared pursuant to regulation 15(1) of the principal Regulations.

Revocation

3. Part VII of and Schedules 3, 4, 5 and 6 to the principal Regulations (Spoilt Beer) are revoked.

Introduction

4. Remission or repayment of duty in respect of beer which has been removed from the entered premises of a brewer for sale and which has become spoilt or otherwise unfit for use, is subject to compliance with the conditions set out in these Regulations.

(a) 1979 c.4; section 2 was substituted by the Alcoholic Liquors (Amendment of Enactments Relating to Strength and to Units of Measurement) Order 1979 (S.I. 1979/241), article 6, and was amended by the Finance Act 1981 (c.35), section 11(1) and Schedule 8, paragraph 10; section 3 was amended by the Alcoholic Liquors (Amendment of Enactments Relating to Strength and to Units of Measurement) Order 1979, article 7; and section 46 was amended by the Finance Act 1986 (c.41).

(b) S.I. 1985/1627.

Vessels and premises

5.—(1) The brewer for sale shall–

(a) make entry of an area of his premises to be used for the storage of spoilt beer or of other premises approved for that purpose; and

(b) except as the Commissioners otherwise allow, provide and make entry of a container (hereinafter called a "spoilt beer vessel") of a size acceptable to the Commissioners.

(2) The area entered under paragraph (1)(a) above shall be kept free of beer which has been diluted or had any substance added other than as permitted by or under the Alcoholic Liquor Duties Act 1979 and, if this condition is not complied with, there will be no remission or repayment of duty on spoilt beer in the area at that time unless allowed by the proper officer.

(3) Except in the case of cellar tank beer, bottled beer and canned beer, spoilt beer shall be returned to the brewer in the container in which it left the entered premises and shall be kept in that container until it is emptied in accordance with these Regulations.

(4) Remission or repayment of duty shall not be allowed unless the volume of the beer exceeds 3 per cent. of the volume of the container in which it left the entered premises or of the cellar tank to which it was transferred.

Determination of original gravity

6. Except as the Commissioners otherwise allow, the original gravity of spoilt beer shall be determined in accordance with regulation 14 of the principal Regulations.

Destruction

7.—(1) Except as the Commissioners otherwise allow, spoilt beer shall be destroyed in the following manner–

(a) destruction shall take place in the spoilt beer vessel; and

(b) destruction shall be by the addition of 0.3 per cent. by volume of acetic, formic or propionic acid, or by the addition of an approved dye in an approved proportion.

(2) Following destruction spoilt beer shall remain in the spoilt beer vessel in which it was destroyed for at least 2 hours or until inspected by the proper officer, if earlier.

(3) Destruction shall not take place on a Saturday, Sunday or public holiday.

Procedure

8.—(1) Except as the proper officer otherwise allows, the brewer for sale shall, at least 24 hours before emptying spoilt beer from any container, enter in the brewing record the proposed date and time of the beginning of that operation.

(2) Where destruction is to take place in a spoilt beer vessel the brewer for sale shall, before emptying any spoilt beer into the vessel, ensure that it is empty and certify in the brewing record that the vessel is empty.

(3) Except as the proper officer otherwise allows, the brewer for sale shall, at least 24 hours before destroying spoilt beer–

(a) enter the date and time of the proposed destruction in the brewing record; and

(b) notify the proper officer in an approved manner of the date and time of the proposed destruction.

(4) Except as the proper officer otherwise allows, the brewer for sale shall, at least one hour before destroying the spoilt beer–

(a) enter in the brewing record the dry dip of the spoilt beer vessel and the quantity of the spoilt beer;

(b) enter in the brewing record the quantity and type of acid or dye to be used to destroy the spoilt beer;

(c) ensure that the spoilt beer is thoroughly roused;

(d) take a sample for the use of the proper officer, and add an approved substance for the purpose of preservation;

(e) keep the sample until the end of the second accounting period following that in which the beer was destroyed, or until authorised by the proper officer, if earlier; and

(f) determine the original gravity in accordance with regulation 6 above and enter the result in the brewing record when it is known to him.

(5) Within one hour of the completion of destruction the brewer for sale shall enter the date and time of completion in the brewing record.

Claims

9.—(1) The brewer for sale shall make a claim for remission or repayment of duty to the proper officer and, except as the Commissioners otherwise allow, that claim shall contain the particulars set out in the Schedule to these Regulations.

(2) Except as the proper officer otherwise allows, claims shall be made by the end of the accounting period following that in which the spoilt beer was destroyed.

(3) When there is a change in the rate of duty, separate claims shall be made for spoilt beer liable to the old and new rates of duty.

Remission and repayment

10.—(1) Remission or repayment of duty shall not be made unless the claim is authorised by the proper officer.

(2) Except as the proper officer otherwise allows, authorised claims shall be accounted for on the next return of duty.

Records

11.—(1) The brewer for sale shall keep records establishing that duty has been charged or paid on the spoilt beer and the amount of that charge or payment.

(2) The brewer for sale shall retain the records required under paragraph (1) above for at least 2 years from the date of the claim 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) above are preserved in a form which is not readily legible or which is legible only with the aid of equipment the brewer for sale 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.

King's Beam House,
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London, EC3R 7HE
3rd March 1987

Peter Jefferson-Smith
Commissioner of Customs and Excise

SCHEDULE (Regulation 9)

PARTICULARS REQUIRED UNDER REGULATION 9(1)

Particulars in respect of each destruction

(a) the total volume destroyed;
(b) the date and time of the destruction;
(c) the volume destroyed in each spoilt beer vessel;
(d) the original gravity, less 1°, in each spoilt beer vessel or in each other container in which destruction took place;
(e) the rate of duty charged or paid;
(f) the amount of remission or repayment claimed;
(g) the description of the beer returned by each purchaser in respect of which a claim is made;
(h) the name and address of each purchaser;
(i) unless the beer is returned in bottles or cans, the distinguishing marks, numbers and size of each container in which the beer was returned and the quantity in litres returned in each container or tanker;
(j) if the beer is returned in bottles or cans, the total number of bottles or cans returned by each purchaser, the number of bottles or cans according to each size of bottle or can and the total number of litres returned by each purchaser;
(k) where any of the operations mentioned in this paragraph have taken place in the United Kingdom the address of the premises where the beer was brewed, last diluted or last blended, the date or dates on which the beer was brewed, last diluted or last blended and delivered from the entered or approved premises concerned, and the original gravity of the beer as brewed or, in the case of blended or diluted beer, the calculated original gravity of the beer as last blended or diluted.

Additional particulars where beer is imported into the United Kingdom or removed to the United Kingdom from the Isle of Man

(l) a statement that none of the beer was brewed in the United Kingdom, and the name of the country in which it was brewed; or
a statement that the beer has been imported into or removed to the United Kingdom after having been previously exported, removed to the Isle of Man or shipped as stores;
(m) the date and place of importation into or removal to the United Kingdom or (where the beer has been deposited there without payment of duty on importation) the date and place of clearance from warehouse and the name, address and code number of the warehouse;
(n) the particulars of the ship, aircraft or vehicle in which the beer was imported or removed to the United Kingdom;
(o) the volume in litres and original gravity in respect of each container;
(p) the rate and total amount of excise duty charged at importation or removal from warehouse, and the amount of such duty charged on total bulk litres at each original gravity;
(q) in the case of imported beer and where the claimant is the importer the following declaration:–

"I/We .....
(name in block letters)
declare that I have not made nor will I make any other claim in respect of the beer which is the subject of this claim for remission or repayment of excise duty.";

(r) in the case of imported beer and where the claimant is not the importer, the following undertaking:–

"I/We .....
(name in block letters)
hereby undertake to indemnify the Commissioners of Customs and Excise against payment by them of any other claim for repayment or remission of excise duty in respect of the beer which is the subject of this claim.".

Additional particulars where beer has not been delivered to another person

(s) the place in which the beer was stored between its removal from the entered premises of the brewer for sale and the date of the claim together with the description and distinguishing marks of the containers in which it was stored.

EXPLANATORY NOTE

(This note is not part of the Regulations)

The Finance Act 1986 amendment of Section 46(2) of the Alcoholic Liquor Duties Act 1979 altered the basis for claiming relief from excise duty on returned beer which has become spoilt or otherwise unfit for use after delivery from brewery premises.

The Regulations specify the conditions to be complied with in claiming relief on the new basis. The regulations come into force on 1 April 1987 and revoke Part VII of, and Schedules 3, 4, 5 and 6 to, the Beer Regulations 1985.