

## **BEER REGULATIONS 1993**

The Revenue Commissioners, in exercise of the powers conferred on them by section 98 of the Finance Act, 1992 (No. 9 of 1992), hereby make the following Regulations:

### **REG 1**

1. (1) These Regulations may be cited as the Beer Regulations, 1993.
- (2) These Regulations shall come into operation on the 2nd day of October, 1993.

### **REG 2**

2. (1) In these Regulations—

"the Act" means the Finance Act, 1992 (No. 9 of 1992);

"approved guarantee" means a guarantee to pay duty in the event of the duty not being paid by the person who is liable to pay the duty which is given by another person who is satisfactory to the Commissioners for this purpose and is so given in a form approved of by them;

"duty" means the duty of excise on beer imposed by section 90 of the Act;

"duty-suspension arrangement" means an arrangement under which beer is produced, held or moved, excise duty being suspended;

"importer" means any person who imports beer other than an individual who imports beer for his own private use and not for commercial purposes;

"produced", in relation to the production of beer, includes either or both brewed and processed, and cognate words shall be construed accordingly;

"proper officer" means the officer of the excise station for the area in which the approved warehouse is situate or a person acting for that officer or any officer superior to that officer;

- (2) A word or expression that is used in these Regulations and in respect of which an interpretation is provided for under section 89 of the Act, has, unless the contrary intention appears, the same meaning in these Regulations as is so provided for under the said section for the purposes of Chapter I of Part II of that Act.

- (3) A reference in these Regulations to a Regulation or a Schedule is to a Regulation of, or a Schedule to, these Regulations unless it is indicated that a reference to some other enactment is intended or a contrary intention appears.

- (4) A reference in these Regulations to a paragraph or subparagraph is to a paragraph or subparagraph of the provision in which the reference occurs, unless it is indicated that reference to some other provision is intended.

- (5) Any reference in these Regulations to any other enactment shall, except so far as the context otherwise requires, be construed as a reference to that enactment as amended, adapted or extended by or under any other enactment.

### REG 3

3. (1) Applications for approval of persons and premises under section 95 of the Act shall be in such form and manner as the Commissioners may require and shall contain the particulars specified in the First Schedule and such other particulars as the Commissioners may, from time to time, require.

(2) A separate application shall be made in respect of each of the premises for which the applicant requires approval.

### REG 4

4. In respect of each application for approval of premises made pursuant to Regulation 3, the applicant shall show to the satisfaction of the Commissioners that the premises are so designed and constructed as to ensure the security of any duty chargeable under the Act in respect of beer brewed or held therein.

### REG 5

5. The Commissioners may specify in an approval of premises made pursuant to Regulation 3 each description of beer that the applicant may hold without payment of duty on the premises to which an approval relates.

### REG 6

6. An approved warehousekeeper shall notify the Commissioners of any change to the particulars contained in any application made pursuant to Regulation 3 and the Commissioners may, subject to compliance with such conditions as they may think fit to impose, vary an approval accordingly.

### REG 7

7. An approved warehousekeeper shall notify the Commissioners of his intention to cease brewing or holding of beer at any of his approved warehouses and, on cessation, shall also so notify the Commissioners.

### REG 8

8. Beer held under a duty-suspension arrangement shall not be mixed with beer to which such an arrangement does not apply.

### REG 9

9. Beer shall not be mixed with any beer of a different strength unless—

( a ) the mixing is carried out under a duty-suspension arrangement in an approved warehouse, or

( b ) it has been sold by way of retail trade or otherwise supplied to the final consumer.

#### REG 10

10. Save as the Commissioners may otherwise allow and subject to compliance with such conditions as they may think fit to impose—

( a ) no substance which causes or is likely to cause or assist an increase in the strength of beer shall be added to any beer unless—

(i) such substance is added in an approved warehouse, or

(ii) the beer has been sold by way of retail trade or otherwise supplied to the final consumer,  
and

( b ) no water shall be added to any beer after the time when the duty is payable in respect of such beer unless and until the time such beer has been sold by way of retail trade or otherwise supplied to the final consumer.

#### REG 11

11. The volume of beer in any container shall be the actual volume determined by measurement or by such other method as the Commissioners may allow in any particular case.

#### REG 12

12. (1) Subject to paragraphs (2) and (3), the strength of beer shall be the strength determined by the method set out in the Second Schedule or by such other method as the Commissioners may allow in any particular case:

Provided, where the strength determined by the method so described or so allowed is less than the strength shown in the accounts or other records required by these Regulations or on any other document or record prepared, produced, furnished or otherwise drawn up in relation to the beer, the strength shall, unless the Commissioners otherwise allow and subject to compliance with such conditions as they may think fit to impose, and except in the case of Regulations 21 and 22, be determined by reference to the strength shown in the said accounts or other records or on the said other document or record.

(2) In the case of beer where the strength increases after the time when the duty is payable, the strength shall, unless the Commissioners otherwise allow and subject to compliance with such conditions as they may think fit to impose, be the strength which the beer is reasonably expected to have when sold to the final consumer or otherwise supplied for consumption.

(3) Where the result ascertained by the method specified in Part I of the Second Schedule is rendered inaccurate by the presence of substances other than alcohol, that method shall be adjusted in such manner as may be approved by the Commissioners for the purpose of producing an accurate result.

#### REG 13

13. An approved warehousekeeper may, without payment of duty, hold in an approved warehouse beer of any description specified in the approval for that warehouse:

Provided always that the duty chargeable in respect of the beer is secured to the satisfaction of the Commissioners by an approved guarantee.

#### REG 14

14. (1) Save where the Commissioners may otherwise allow and subject to compliance with such conditions as they may think fit to impose, beer shall not be removed from an approved warehouse without payment of duty unless such beer is removed for exportation as merchandise or for shipment for use as stores.

(2) Save where otherwise provided for in the Customs Acts and any instrument relating to the duties of customs made under statute or in the provisions of the statutes which relate to the duties of excise and the management thereof and in any instrument relating to the duties of excise made under statute, the person liable to pay the duty on beer shall be the person holding the beer at the time the duty is payable.

#### REG 15

15. (1) Where any duty-suspension arrangements apply to the beer, the time when the duty is payable shall be—

- ( a ) the time when the duty ceases to be suspended in accordance with those arrangements, or
- ( b ) the time when there is any contravention of, including failure to comply with, any requirement relating to those arrangements, or
- ( c ) the time when the duty ceases to be suspended by virtue of paragraph (2),  
whichever is the earliest.

(2) The duty shall cease to be suspended when—

- ( a ) the premises in which the beer is held cease to be an approved warehouse under section 95 of the Act,
- ( b ) the person holding the beer ceases to be an approved warehousekeeper under section 95 of the Act,
- ( c ) losses, other than those provided for in section 92 (a) or 114 (1) of the Act, are recorded,
- ( d ) the beer is consumed, or
- ( e ) the beer is removed from an approved warehouse unless—
  - (i) it is removed for exportation as merchandise or for shipment for use as stores, or
  - (ii) it is removed without payment of duty with the approval of the Commissioners,

and when the provision of these Regulations, the Customs Acts and any instrument relating to the duties of customs made under statute and the provisions of the statutes which relate to the duties of excise and the management thereof and of any instrument relating to the duties of excise made under statute, as the case may be, relating to such removal have been complied with.

16. (1) An importer or an approved warehousekeeper, as the case may be, shall retain in a continuous and permanent form the accounts, documents and other records specified in the Third Schedule which relate to the production, importation, purchase, receipt, keeping, holding, storage, strength analysis, packaging, sale, disposal, losses, consumption, use or exportation by the said importer or warehousekeeper of materials or beer and copies of such accounts, documents and other records issued by such importer or such approved warehousekeeper, as the case may be.

(2) An importer or an approved warehousekeeper, as the case may be, shall keep, in such form and in such manner as the Commissioners may from time to time direct, a record of all production, importations, purchases, receipts, keeping, holding, storage, strength analyses, packaging, sales, disposals, losses, consumption, use and exportations of beer by him.

(3) The record required to be kept by virtue of paragraph (2) relating to—

( a ) the purchase of beer, shall—

(i) include the name and address of the seller of the beer, and

(ii) show details of any payment for the beer, cross referenced in such manner that the purchase may be readily identified,

( b ) the sale of beer, shall include the name and address of the purchaser of the beer.

(4) An approved warehousekeeper shall keep, in such form and in such manner as the Commissioners may from time to time direct, a stock account of all beer produced in, received into and delivered from, the approved warehouse.

(5) The stock account kept in accordance with paragraph (4) shall, in respect of packaged beer, show separately for each brand of product and type and size of package the date of receipt or delivery, the volume and the strength.

(6) ( a ) An entry in the stock account specified in paragraph (4) shall be made not later than 12 o'clock midday on the next working day following the date the transaction occurred, and

( b ) the said account shall be balanced by the approved warehousekeeper at the end of each month or such other period as may be authorised or required by the proper officer.

(7) An approved warehousekeeper shall take stock of all beer remaining in his approved warehouse at the end of each month, or as otherwise authorised or required by the proper officer, and the result of each such stocktaking shall be notified to the proper officer and shall be reconciled by the approved warehousekeeper with the stock account required to be kept under paragraph (4) and any discrepancy discovered shall be immediately notified by the said warehousekeeper to the proper officer.

(8) The stock account kept in accordance with paragraph (4) and the result of the stocktaking carried out in accordance with paragraph (7) shall show the volume and the strength of the beer.

17. (1) Save where the Commissioners may otherwise allow or direct and subject to compliance with such conditions as they may think fit to impose, an approved warehousekeeper shall—

( a ) before any consignment of beer is delivered from the approved warehouse for home use, make available at the approved warehouse to the proper officer a document numbered in a consecutive series in respect of the consignment showing—

(i) the date of delivery,

(ii) the name and address of the person to whom it is to be delivered, and

(iii) the volume of each product to be delivered, by brand of product, type and size of container,

( b ) furnish to the Commissioners, in a form approved of by them, a monthly return, or a return for such other period as the Commissioners consider appropriate in the circumstances, of all beer delivered from the approved warehouse for home use or otherwise disposed of in the said warehouse on payment of duty, 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:

Provided that, for the purpose of determining the amount of duty so payable, the strength of the beer may be calculated by such simplified methods as the Commissioners may approve in any particular case and for this purpose such methods may include the calculation of strength—

(i) by reference to strength determined at the packaging stage of all beer produced in the period concerned,

(ii) taking account by averaging methods of differences in the quantities of beer of different determined strengths, and

(iii) taking account, where stocks of beer are held at the commencement of the period to which the return relates, of differences in strength between such stocks and beer packaged in the period to which the return relates, and

( c ) furnish to the Commissioners, in a form approved of by them, a monthly return, or a return for such other period as the Commissioners consider appropriate in the circumstances, showing, in respect of all beer for each brand of product, type and size of container and strength of beer in the container—

(i) the stock balance brought forward from the previous month or such other period concerned;

(ii) the volume received into, or produced in, the approved warehouse during the period concerned;

(iii) the volume delivered from the approved warehouse and otherwise disposed of during the period concerned distinguishing between;

(I) beer delivered for home use or otherwise disposed of on payment of duty, and

(II) beer delivered or otherwise disposed of other than at subclause (I) of this clause; and

(iv) the balance remaining in stock in the approved warehouse at the end of the period concerned.

(2) The returns referred to in subparagraphs (b) and (c) of

paragraph (1) shall be furnished within 15 days of the end of the period to which they relate.

#### REG 18

18. Save where the Commissioners may otherwise allow and subject to compliance with such conditions as they may think fit to impose, an importer shall, in respect of every importation of beer, deliver to the officer a declaration in such form as the Commissioners may direct of the volume and the strength of such beer.

#### REG 19

19. (1) Subject to Regulation 16 (6) (a), all accounts and other records required by these Regulations shall be entered up to date.

(2) The accounts, documents, other records and copies thereof required to be kept by these Regulations shall—

( a ) in the case of an approved warehousekeeper and save as the Commissioners may otherwise allow and subject to compliance with such conditions as they may think fit to impose, be kept at the approved warehouse to which they relate, and

( b ) in the case of an importer, be kept at his principal place of business or such other place as the Commissioners may from time to time allow.

(3) A person shall not cancel, obliterate or alter any entry in any account or other record required to be kept by these Regulations, or make in such account or other record any entry which is untrue in any particular.

(4) Save where the Commissioners may otherwise allow and subject to compliance with such conditions as they may think fit to impose, an importer or an approved warehousekeeper, as the case may be, shall preserve all accounts and other records required to be kept by these Regulations for a period of not less than 6 years from the date of the last entry therein.

#### REG 20

20. (1) Before payment of duty may be permitted to be deferred under section 74 of the Finance Act, 1993, the person liable to pay the duty shall—

( a ) apply in writing to the Commissioners for permission to defer payment of the duty and obtain their approval of the arrangements by which payment is to be deferred,

( b ) provide such security as the Commissioners may from time to time require for payment by him of any duty the payment of which is permitted to be deferred in accordance with those arrangements, and

( c ) undertake to pay the duty due in such manner and to such collector of Customs and Excise as the Commissioners may from time to time direct.

(2) The Commissioners may vary or revoke any approval granted under this Regulation.

21. (1) In this Regulation—

"applicant" means the approved warehousekeeper or importer who, having paid the duty or having otherwise accounted for such duty to the satisfaction of the Commissioners, is applying for remission or repayment of the said duty;

"spoilt beer" means beer which, having been delivered for consumption in the State, has been withdrawn from the market because its condition or age renders it unfit for human consumption.

(2) An applicant shall ensure that an application for remission of duty charged or repayment of duty paid on beer which has become spoilt is made to an officer and such application shall contain the following—

- ( a ) the name and address of the applicant;
- ( b ) the name and address of each person returning the beer;
- ( c ) the description and volume of the beer returned by each person in respect of which an application is made;
- ( d ) the volume of the spoilt beer and its strength in each container;
- ( e ) the rate at which the duty was charged or paid;
- ( f ) the amount of duty in respect of which an application is made;
- ( g ) unless the beer was returned in bottles or cans, the distinguishing marks, numbers and size of each container in which the beer was returned and the volume in hectolitres returned in each container;
- ( h ) where the beer is returned in bottles or cans, the total number of bottles or cans returned by each person, the number of bottles or cans according to each size of bottle or can and the total volume in hectolitres returned by each person.

(3) An application for remission or repayment of duty on spoilt beer shall be supported by a statement signed by the applicant—

- ( a ) that the beer was withdrawn from the market because its condition or age, as the case may be, rendered it unfit for human consumption, and
- ( b ) that no part of the beer returned by the purchaser consisted of waste beer or bottoms other than bottoms forming naturally in the beer in the container in which it has been returned.

(4) every applicant shall, on demand, allow an officer to inspect and to take extracts from any of the records required to be kept by him in accordance with these Regulations which the officer requires to inspect for the purpose of satisfying himself as to the correctness of—

- ( a ) the particulars contained on the application, and
- ( b ) any statement made in connection with the application.

(5) Save as the Commissioners may otherwise allow and subject to compliance with such conditions as they may think fit to impose, spoilt beer in respect of which an application for remission or repayment of duty is made shall be returned to the approved warehouse or premises of the applicant and in the container in which it left the said approved warehouse or the said premises.

(6) Save as the Commissioners may otherwise allow and subject to



compliance with such conditions as they may think fit to impose, spoilt beer in respect of which an application for remission or repayment of duty is made shall be produced by the applicant to the officer in the container in which it was returned.

(7) An application for remission or repayment of duty shall not be made in respect of any spoilt beer which—

( a ) has been adulterated or diluted except that an application may be made in respect of spoilt beer which has been diluted before the time the duty was payable, or

( b ) consists of waste beer or bottoms other than bottoms forming naturally in the beer in the container in which it has been returned.

(8) Save as the Commissioners may otherwise allow and subject to compliance with such conditions as they may think fit to impose, the amount of duty to be remitted or repaid shall be ascertained by reference to—

( a ) the volume of the spoilt beer, which shall be—

(i) in the case of beer which is returned in the same container in which it left the approved warehouse or premises of the applicant and from which no beer has been removed, the volume upon which the duty was charged, and

(ii) in any other case, the actual volume which is returned,

( b ) the strength of the spoilt beer, which shall be—

(i) in the case of beer which is returned in the same container in which it left the approved warehouse or premises and from which no beer has been removed, the strength by reference to which the duty was charged, and

(ii) in any other case, the lesser of the strength by reference to which duty was charged and the strength ascertained in accordance with Regulation 12 (1),  
and

( c ) the rate of duty charged upon it.

(9) Remission or repayment of duty on spoilt beer shall not exceed the amount of duty charged or paid on such beer.

(10) An application for remission or repayment of duty on spoilt beer shall not be made where the volume of such beer is less than 10 hectolitres of spoilt beer.

(11) ( a ) Save as the Commissioners may otherwise allow and subject to compliance with such conditions as they may think fit to impose, spoilt beer in respect of which an application for remission or repayment has been allowed shall be destroyed in the presence of an officer duly authorised for that purpose.

( b ) The destruction of spoilt beer in accordance with subparagraph (a) of this paragraph shall not incur any expense to the Commissioners.

## REG 22

22. (1) The Commissioners may, subject to sections 109 (6) and 112 of the Act and to compliance with such conditions as they may think fit to impose, repay the duty paid on beer to which the provisions of paragraph (b), (c), (cc), (d) or (f) of section 92 of the Act apply only to the person who paid the duty or otherwise accounted for such duty to the satisfaction of the Commissioners.

(2) A claim by a person (in this Regulation referred to as the "claimant") for the repayment of duty on the beer in accordance with paragraph (1) shall be made in writing to the Commissioners.

(3) A claim for the repayment of duty on beer in accordance with paragraph (1) shall—

( a ) be made to the officer duly authorised for that purpose,

( b ) be made in such form as the Commissioners may specify for the purpose,

( c ) contain the following information in relation to the beer which is the subject of the claim—

(i) the name and address of the claimant;

(ii) the name and address of the owner of the beer;

(iii) a full description of the beer including any identifying marks and numbers;

(iv) the volume of the beer expressed in hectolitres and its strength;

(v) the value of the beer;

(vi) the rate at which the duty was paid;

(vii) the amount of duty paid on the beer and the date when that duty was paid; and

(viii) such other particulars as the Commissioners may in any particular case from time to time require;

and

( d ) save where the Commissioners otherwise allow and subject to compliance with such conditions as they may think fit to impose, be made not later than 6 months from the date of the occurrence of the event that gave rise to such claim.

(4) Repayment of duty on the beer to which paragraph (1) applies shall not exceed the amount of duty paid on such beer.

(5) Where repayment of duty under paragraph (1) is made subject to compliance with conditions, the person to whom repayment is made shall comply with those conditions.

## REG 23

23. Compliance, in whole or in part, with any of the provisions of these Regulations shall not be required by any class of persons where, as respects that class, the Commissioners so allow and subject to such conditions as they may think fit to impose.

Regulation 3

## **FIRST SCHEDULE**

### **DETAILS OF PARTICULARS REQUIRED FOR APPROVAL OF PREMISES FOR EITHER OR BOTH THE BREWING AND HOLDING OF BEER WITHOUT PAYMENT OF DUTY**

1. The name and address of the applicant.
2. The status of the applicant in relation to the business carried out in the premises (for example sole proprietor, partnership, limited company, etc., as the case may be).
3. The address of the premises for which approval is sought.
4. A plan of the premises for which approval is sought.
5. The date the applicant intends to begin—
  - ( a ) the holding of beer,
  - ( b ) either or both the brewing and production of beer, or
  - ( c ) the holding of beer and either or both the brewing and production of beer.
6. Particulars of each description of beer to be held, brewed or produced.

Regulation 12

## **SECOND SCHEDULE**

### **DETERMINATION OF STRENGTH OF BEER**

#### **PART I**

1. A sample shall be taken from any part of the beer.
2. A definite volume of the sample shall be measured at 20°C and shall be distilled.
3. Distilled water shall be added to the distillate so that the volume, measured at 20°C, shall be equal to the original volume before distillation and its density at 20°C shall be ascertained.
4. The strength of the beer shall be taken to be the percentage of alcohol by volume in the table at Part II of this Schedule which corresponds to the density determined in accordance with paragraph 3 above, except that where the density so determined is between two consecutive numbers in the said table the strength shall be determined by linear interpolation.

#### **PART II**

**TABLE SHOWING THE RELATION BETWEEN DENSITY AT 20°C (kg/m<sup>3</sup> IN AIR) AND ALCOHOLIC STRENGTH OF MIXTURES OF ETHANOL (ETHYL ALCOHOL) AND WATER EXPRESSED AS PERCENTAGE BY VOLUME AT 20°C**

DENSITY IN AIR kg/m<sup>3</sup> at 20°C PERCENTAGE OF ETHANOL BY VOLUME at 20°C  
DENSITY IN AIR kg/m<sup>3</sup> at 20°C PERCENTAGE OF ETHANOL BY VOLUME at 20°C  
788.16 100.00 792.00 99.24 788.20

Regulation 16

## **THIRD SCHEDULE**

**SPECIFIED DOCUMENTS, ACCOUNTS AND OTHER RECORDS**

1. Invoices.
2. Credit notes.
3. Debit notes.
4. Consignment notes or other delivery documents.
5. Stock accounts and other records, including accounts and other records relating to the measurement of volume.
6. Product specifications.
7. Production schedules and reports and other records relating to production schedules.
8. Records of laboratory analyses of materials, worts and beer.
9. Records relating to importations or exportations.
10. Records of payments or receipts.
11. Records relating to any repayment or reimbursement of duty or to any claim for repayment or reimbursement of duty.
12. Any other record relating to beer, being a record maintained for a business purpose.

GIVEN this 30th day of September, 1993.

D. B. QUIGLEY,  
Revenue Commissioner.

#### EXPLANATORY NOTE.

These Regulations lay down conditions, with effect from 2 October, 1993, governing the brewing, production, importation and warehousing of beer and the method of securing and collecting the excise duty payable on such beer.