

1979 No. 241

CUSTOMS AND EXCISE

**The Alcoholic Liquors (Amendment of Enactments
Relating to Strength and to Units of Measurement)
Order 1979**

Made - - - - 5th March 1979

*Laid before the House
of Commons - - 12th March 1979*

Coming into Operation 1st January 1980

The Treasury, in exercise of the powers conferred upon them by section 7 of the Finance Act 1977(a) and of all other powers enabling them in that behalf, hereby make the following Order:—

1. This Order may be cited as the Alcoholic Liquors (Amendment of Enactments Relating to Strength and to Units of Measurement) Order 1979 and shall come into operation on 1st January 1980.

2. The customs and excise Acts specified in the following provisions of this Order shall be amended as follows.

Amendment to the Finance Act 1969

3. The Finance Act 1969(b) shall be amended by substituting, in paragraph 1(a)(iii) of Schedule 7 (definition of whisky), for the words “less than 166.4 degrees proof”, the words “an alcoholic strength (computed in accordance with section 2 of the Alcoholic Liquor Duties Act 1979(c) less than 94.8 per cent.”.

Amendments to the Alcoholic Liquor Duties Act 1979

4. The Alcoholic Liquor Duties Act 1979 shall be amended in accordance with the provisions of Articles 5 to 38 of this Order.

5. In section 1 (the dutiable alcoholic liquors)—

(a) in subsection (3) (definition of “beer”), for the words “2° of proof” (in both places) substitute the words “1.2 per cent.”;

(b) in subsection (6) (definition of “cider”), omit the words “of alcohol by volume (at a temperature of 20°C)”.

(a) 1977 c. 36.

(b) 1969 c. 32.

(c) 1979 c. 4.

6. For section 2 (ascertainment of strength, etc., of spirits, etc.), substitute the following section—

“Ascertainment of strength volume and weight of alcoholic liquors

2.—(1) Subject to subsections (5) and (6) below, this section applies to spirits, methylated spirits and any fermented liquor other than wash, and “liquor” shall be construed accordingly.

(2) For all purposes of this Act—

- (a) except where some other measure of quantity is specified, any computation of the quantity of any liquor or of the alcohol contained in any liquor shall be made in terms of the volume of the liquor or alcohol, as the case may be;
- (b) any computation of the volume of any liquor or of the alcohol contained in any liquor shall be made in litres as at 20°C; and
- (c) the alcoholic strength of any liquor is the ratio of the volume of the alcohol contained in the liquor to the volume of the liquor (inclusive of the alcohol contained in it);

and in this Act, unless the context otherwise requires—

“alcohol” means ethyl alcohol; and

“strength” in relation to any liquor, means its alcoholic strength computed in accordance with this section, the ratio referred to in paragraph (c) above being expressed as a percentage.

(3) The Commissioners may make regulations prescribing the means to be used for ascertaining for any purpose the strength, weight or volume of any liquor, and any such regulations may provide that in computing for any purpose the strength of any liquor any substance contained therein which is not alcohol or distilled water may be treated as if it were.

(4) Different regulations may be made under subsection (3) above for different purposes.

(5) Nothing in this section shall prevent the strength, weight or volume of wine, made-wine or cider from being computed for the purpose of charging duty thereon by methods other than that provided in this section.

(6) Except for the purpose of determining whether liquor is or is not beer (within the meaning of this Act), nothing in this section applies for purposes of the charge of duty on beer.

(7) Except as provided in subsection (8) below, where the quantity of alcohol contained in any spirits or in any methylated spirits falls to be computed in accordance with this section on or after 1st January 1980 and the quantity of those spirits or methylated spirits was last computed in accordance with this section before that date the following conversion factor shall be applied in making the first-mentioned computation, that is to say, one gallon of spirits at proof shall be taken to be equivalent to 2.595 litres of alcohol.

(8) The Commissioners may, if they think fit in any particular case, require the quantity of alcohol contained in any spirits or methylated spirits falling within subsection (7) above to be computed in accordance with this section without applying the conversion factor specified in that subsection.”

7. In section 3 (ascertaining gravity of liquids), for the words “60°F” substitute the words “20°C”.

8. In section 4 (interpretation)—

(a) in subsection (1)—

(i) at the appropriate places in alphabetical order insert the following definitions—

“alcohol” has the meaning given by section 2 above;

“strength”, in relation to any liquor, has the meaning given by section 2 above;

(ii) in the definition of “case” for the words “23 nor more than 28 fluid ounces” substitute the words “65 nor more than 80 centilitres”;

(iii) in the definition of “spirits of wine”, for the words “43° over proof” substitute the words “80 per cent.”;

(iv) the definition of “proof” shall be omitted.

(b) in subsection (4) for the words “2 gallons” substitute the words “9 litres” and for the words “4½ gallons” substitute the words “21 litres”.

9. In section 5 (charge of excise duty on spirits), for the Table substitute the following Table:—

“TABLE

Description of spirits	Rates of duty (per litre of alcohol in the spirits)
	£
1. Spirits warehoused for 3 years or more	10.44
2. Spirits not warehoused or warehoused for less than 3 years	10.47”.

10. In section 12(5) (licence to manufacture spirits), for the words “400 gallons” substitute the words “18 hectolitres”.

11. In section 14 (duty on spirits—attenuation charge)—

(a) for subsection (2), substitute the following subsection—

“(2) There shall be calculated the quantity of alcohol capable of being produced from any wort and wash made at the distillery on the assumption that from every hectolitre of wort and wash 1 litre of alcohol will be produced for every 8.8 degrees of attenuation, that is to say, for every 8.8 degrees of difference between the highest gravity of the wort and the lowest gravity of the wash before distillation, and so in proportion for any less number of litres of wort and wash or any less number of degrees of attenuation.”;

(b) in subsection (4), for the words “computed at proof of” substitute the words “of alcohol contained in” and after the word “deducting” insert the words “the quantity of alcohol contained in”.

12. For section 16(3) and (4) (racking of duty-paid spirits at distillery) substitute the following subsections—

“(3) If on an officer’s taking stock of duty-paid spirits racked at a distillery, a greater quantity of alcohol is found at the place of racking than ought to be there according to any accounts required by regulations made under this section to be kept thereof then—

(a) duty shall be charged on the excess; and

(b) if the excess amounts to more than 1 per cent. of the quantity of alcohol lawfully brought into the place of racking since stock was last taken, such a quantity of spirits as contains an amount of alcohol equal to that excess shall be liable to forfeiture, and the distiller shall be liable on summary conviction to a penalty of double the duty so charged.

(4) Paragraph (b) of subsection (3) above shall not apply where the excess of alcohol is less than 3 litres.”

13. For section 20(1) and (2) (penalty for excess or deficiency in rectifier’s stock) substitute the following subsections—

“(1) If at any time when an account is taken by an officer and a balance struck of the spirits in the stock of a rectifier any excess of alcohol is found, such a quantity of spirits as contains an amount of alcohol equal to the excess shall be liable to forfeiture and the rectifier shall be liable on summary conviction to a penalty of double the duty charged at the highest rate on a quantity of alcohol equal to the excess.

(2) If at any time when an account is taken and a balance struck as aforesaid any deficiency of alcohol is found which cannot be accounted for to the satisfaction of the Commissioners and which exceeds 5 per cent. of the aggregate of—

(a) the quantity of alcohol in the balance of spirits struck when an account was last taken; and

(b) the quantity of alcohol contained in any spirits since lawfully received by the rectifier,

the rectifier shall be liable on summary conviction to a penalty of double the duty charged at the highest rate on the quantity of alcohol by which the deficiency exceeds the said 5 per cent.”

14. In section 21(3) (restrictions relating to rectifiers), for the words “on a quantity of plain spirits at proof charged at the highest rate equal to the quantity of” substitute the words “charged at the highest rate on a quantity of alcohol equal to the quantity of alcohol contained in”.

15. In section 22 (drawback on British compounds and spirits of wine)—

(a) in subsection (3)(b), for the words “50° over proof” substitute the words “85 per cent.”;

(b) in subsection (3)(c), for the words “74° over proof” substitute the words “99 per cent.”;

(c) for subsection (5), substitute the following subsection—

“(5) Subject to subsection 6 below, the amount of any drawback payable under this section shall be calculated by reference to the quantity of alcohol contained in the British compounded spirits or

spirits of wine and shall be an amount equal to the duty at the appropriate rate chargeable on spirits containing an equal quantity of alcohol and so chargeable at the date when duty was paid on the spirits from which the British compounded spirits or spirits of wine were rectified or compounded.”.

16. In section 23 (allowance on British compounds)—

(a) in subsection (1), for the words “gallon of those spirits computed at proof an allowance of £0.02” substitute the words “litre of alcohol contained in those spirits an allowance of £0.008”;

(b) in subsection (2), for the words “11° over proof” substitute the words “63 per cent.”.

17. In section 26(1) and (2) (importation and exportation of spirits), for the words “9 gallons” substitute the words “40 litres”.

18. In section 27 (spirits consignment and spirits advice notes)—

(a) in subsections (2) and (3), for the words “1 gallon” (wherever occurring) substitute the words “4.5 litres”;

(b) in subsection (4), for the words “9 gallons” substitute the words “40 litres”.

19. In section 30(1)(b) (special provisions as to spirits advice and consignment notes), for the words from “where the actual strength” to the end substitute the words “where the percentage which expresses the actual strength is not greater than the percentage which expresses the specified strength by more than 1 per cent. or less than the percentage which expresses the specified strength by more than 2 per cent.”.

20. In section 36 (charge of excise duty on beer), for the words “£17.4240 for every 36 gallons”, substitute the words “£10.65 for each hectolitre” and for the words “£0.5808” substitute the words “£0.3550”.

21. In section 37 (charge of duty on beer)—

(a) in subsection (2), for the words “36 gallons” substitute the words “1 hectolitre”;

(b) in subsection (3), for the words “84 pounds weight” substitute the words “24 kilograms” and for the words “56 pounds weight” substitute the words “16 kilograms”.

22. In section 45(a) (repayment of duty on beer used as an ingredient), for the words “2° of proof” substitute the words “1.2 per cent.”.

23. In section 57 (mixing of made-wine and spirits), for the words “20 gallons of proof spirits to 100 gallons of made-wine” substitute the words “12 litres of alcohol to 1 hectolitre of made-wine” and for the words “32° of proof” substitute the words “18.3 per cent.”.

24. In section 58 (mixing of wine and spirits), for the words “10 gallons of proof spirits to 100 gallons of wine” substitute the words “6 litres of alcohol to 1 hectolitre of wine” and for the words “40%proof” (in both places) substitute the words “23 per cent.”.

25. In section 60(1)(a) (repayment of duty on wine and made-wine used as an ingredient), for the words “2° of proof” substitute the words “1.2 per cent.”.

26. In section 62(1) (excise duty on cider), for the words “£0.2420 a gallon”, substitute the words “£5.32 per hectolitre”.

27. In section 63(a) (repayment of duty on imported cider used as an ingredient), for the words “2° of proof” substitute the words “1.2 per cent.”.

28. In section 65(8) (excise licence to deal wholesale in certain alcoholic liquors), for the words “2 gallons” substitute the words “9 litres” and for the words “4½ gallons” substitute the words “20 litres”.

29. In section 66(1)(a) (excise licence not required for sale of certain liquors), for the words “2° of proof” substitute the words “1.2 per cent.”.

30. For section 68 (penalty for excess in stock of wholesaler or retailer of spirits) substitute the following section—

<p>“Penalty for excess in stock of wholesaler or retailer of spirits</p>	<p>68. If at any time on the taking of an account by an officer of the spirits in the stock or possession of a wholesaler or retailer of spirits the quantity of alcohol in those spirits is found to exceed the quantity of alcohol which ought to be in his possession according to any stock book required under this Act to be kept by the wholesaler or retailer, such a quantity of spirits as contains an amount of alcohol equal to the excess shall be liable to forfeiture and the wholesaler or retailer shall be liable on summary conviction to a penalty of double the duty at the highest rate on a quantity of alcohol equal to the excess.”.</p>
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31. In section 71(2)(b) (penalty for mis-describing liquor as spirits), for the words “the quantity of spirits computed at proof” substitute the words “57 per cent. of the quantity of alcohol in the spirits”.

32. In section 74(b) (liquor to be deemed spirits), for the words “40° of proof” substitute the words “23 per cent.”.

33. In section 75(7) (dealing wholesale in methylated spirits), for the words “5 gallons” substitute the words “20 litres”.

34. In section 76(5) (selling methylated spirits by retail), for the words “4 gallons” substitute the words “20 litres”.

35. For section 78(1) and (2) (additional provisions relating to methylated spirits), substitute the following subsections—

“(1) If, at any time when an account is taken and a balance struck of the quantity of any kind of methylated spirits in the possession of an authorised or licensed methylator the quantity of alcohol in the methylated spirits in his possession differs from the quantity of alcohol which ought to be in the methylated spirits in his possession according to any accounts required by regulations made under section 77 above to be kept thereof, then, subject to subsection (2) below—

(a) if the former quantity exceeds the latter, such quantity of spirits as contains an amount of alcohol equal to the excess, or such part thereof as the Commissioners may determine, shall be liable to forfeiture;

(b) if the former quantity is less than the latter, the methylator shall on demand by the Commissioners pay on the deficiency, or such part thereof as the Commissioners may specify, the duty payable on spirits;

(2) Subsection (1) above shall not apply if the excess is not more than 1 per cent. or the deficiency is not more than 2 per cent. of the aggregate of—

- (a) the quantity of alcohol in the balance of spirits struck when an account was last taken; and
 (b) the quantity of alcohol contained in any spirits which have since been lawfully added to the methylator's stock."

36. In section 82(1)(c) (power to make regulations with respect to stills), for the words "50 gallons" substitute the words "230 litres".

37. For Schedule 1 (rates of duty on wine), substitute the following schedule—

Section 54 .

SCHEDULE 1
Wine: Rates of Duty

Description of wine	Rates of duty per hectolitre
Wine of a strength—	£
not exceeding 15 per cent.	71.49
exceeding 15 but not exceeding 18 per cent.	82.48
exceeding 18 but not exceeding 22 per cent.	97.11
exceeding 22 per cent.	97.11 plus
	£10.44 for every 1 per cent. or part of 1 per cent. in excess of 22 per cent.;
	each of the above rates of duty being, in the case of sparkling wine, increased by £15.72 per hectolitre.

38. For Schedule 2 (rates of duty on made-wine), substitute the following schedule—

Section 55

SCHEDULE 2
Made-wine: Rates of Duty

Description of made-wine	Rates of duty per hectolitre
Made-wine of a strength—	£
not exceeding 10 per cent.	46.41
exceeding 10 but not exceeding 15 per cent.	69.51
exceeding 15 but not exceeding 18 per cent.	76.43
exceeding 18 per cent.	76.43 plus
	£10.44 for every 1 per cent. or part of 1 per cent. in excess of 18 per cent.;
	each of the above rates of duty being, in the case of sparkling made-wine, increased by £7.25 per hectolitre.

Amendments to the Customs and Excise Management Act 1979

39. The Customs and Excise Management Act 1979(a) shall be amended in accordance with the provisions of Articles 40 and 41 below.

40. In section 105(1)(b) (certain sales permitted without excise licence), for the words "100 gallons" substitute the words "450 litres".

41. In section 140 (forfeiture of spirits), omit in paragraphs (a) and (b) the words "computed at proof".

Peter Snape,

J. Dormand,

Two of the Lords Commissioners
of Her Majesty's Treasury.

5th March 1979.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order is made in conformity with Council Directives 76/765/EEC(a) and 76/766/EEC(b). It amends the Alcoholic Liquor Duties Act 1979 and other enactments so as to replace, for the purposes of such enactments, the proof system of ascertaining the alcoholic strength of spirits and other liquids by the OIML (Organisation Internationale de Metrologie Legale) system of measurement by reference to percentages of alcohol by volume.

For the purposes of such enactments to the extent that they are concerned with alcoholic liquors, the Order also replaces any temperatures expressed in degrees Fahrenheit by temperatures expressed in degrees Celsius and any units of measurement expressed in Imperial terms by metric units of measurement; expresses existing rates of duty in metric terms and, in the case of spirits, by reference to the alcohol contained in such spirits; and provides that where the quantity of any spirits or methylated spirits was last computed before 1st January 1980 and falls to be computed again on or after 1st January 1980, it shall, unless the Commissioners of Customs and Excise otherwise require, be computed by conversion of gallons at proof to litres of alcohol using a specified conversion factor.

The amendment of any enactment by the Order is such as to preserve the effect of that enactment except to the extent necessary to enable substituted units or methods of measurement to be applied in a convenient and suitable manner.

(a) 1979 c. 2. (b) O.J. No. L262, 27.9.76, p. 143. (c) O.J. No. L262, 27.9.76, p. 149.

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