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STATUTORY INSTRUMENTS

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**1992 No. 3158**

**CUSTOMS AND EXCISE**

**The Excise Duty (Amendment of the Alcoholic Liquor Duties Act 1979 and the Hydrocarbon Oil Duties Act 1979) Regulations 1992**

<i>Made</i>	- - - -	<i>10th December 1992</i>
<i>Laid before Parliament</i>		<i>14th December 1992</i>
<i>Coming into operation</i>		<i>1st January 1993</i>

The Commissioners of Customs and Excise, being a Department designated for the purposes of section 2(2) of the European Communities Act 1972<sup>(1)</sup> in relation to excise matters of the European Communities<sup>(2)</sup>, in exercise of the powers conferred upon them by the said section 2(2) and all other powers enabling them in that behalf, hereby make the following Regulations—

**Citation and commencement**

1. These Regulations may be cited as The Excise Duty (Amendment of the Alcoholic Liquor Duties Act 1979 and the Hydrocarbon Oil Duties Act 1979) Regulations 1992, and shall come into operation on 1st January 1993.

**Amendment of the Alcoholic Liquor Duties Act 1979**

2.—(1) The Alcoholic Liquor Duties Act 1979<sup>(3)</sup> shall be amended as follows.

(2) For section 1(2)<sup>(4)</sup> there shall be substituted the following section—

“(2) “Spirits” means, subject to subsections (7) to (9) below—

- (a) spirits of any description which are of a strength exceeding 1.2 per cent
- (b) any such mixture, compound or preparation made with spirits as is of a strength exceeding 1.2 per cent or
- (c) liquors contained, with any spirits, in any mixture which is of a strength exceeding 1.2 per cent.,

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(1) 1972 c. 68.

(2) S.I.1980/865.

(3) 1979 c. 4.

(4) Section 1(2) was amended by the Finance Act 1988 (c. 39), section 1(5) and Schedule 1, Part II, paragraph 1(1), and that amendment was brought into force by S.I. 1988/1634.

but does not include methylated spirits.”

(3) In section 2(1) (ascertainment of strength etc. of alcohol) after the word “spirits”, in the first place where it occurs, there shall be inserted “anything that would be spirits if it were of a strength exceeding 1.2 per cent.”.

(4) After section 6 there shall be inserted the following section—

**“Repayment of duty on spirits used for low alcohol products.**

**6A.—**(1) Subject to the following provisions of this section, where any person proves to the satisfaction of the Commissioners that any spirits on which duty has been paid have been used as an ingredient in the production or manufacture of—

- (a) a beverage of an alcoholic strength not exceeding 1.2 per cent.;
- (b) chocolates for human consumption which contain alcohol such that 100 kilograms of the chocolates would not contain more than 8.5 litres of alcohol; or
- (c) any other food for human consumption which contains alcohol such that 100 kilograms of the food would not contain more than 5 litres of alcohol,

he shall be entitled to obtain from the Commissioners the repayment of the duty paid thereon.

(2) A repayment of duty shall not be made under this section except to a person who—

- (a) carries on a business of supplying by wholesale any beverages, chocolates or food falling within subsection (1)(a) to (c) above;
- (b) is the person who used the spirits on which the duty was charged as an ingredient in any such beverage, chocolates or food;
- (c) produced or manufactured the beverage, chocolates or food for the purposes of the business mentioned in paragraph (a) above;
- (d) makes a claim for the repayment in accordance with the following provisions of this section; and
- (e) satisfies the Commissioners as to the matters mentioned in paragraph (a) to (c) above and that the repayment claimed does not relate to any duty which has been repaid or drawn back prior to the making of the claim.

(3) A claim for a repayment under this section shall be in writing and shall contain such particulars as the Commissioners may require for the purposes of subsection (2)(e) above.

(4) Except so far as the Commissioners otherwise allow, a person shall not make a claim for a repayment under this section unless—

- (a) the claim relates to duty paid on spirits used as ingredients in the course of a period of three months ending not more than one month before the making of the claim; and
- (b) the amount of the repayment which is claimed is not less than £250.

(5) There may be remitted by the Commissioners any duty charged either—

- (a) on spirits imported into the United Kingdom at a time when they are contained as an ingredient in any chocolates or food falling within subsection (1)(b) or (c) above; or
- (b) on spirits used as an ingredient in the manufacture or production in an excise warehouse of any such chocolates or food.

(6) References in this section to chocolates or food do not include references to any beverages.”

(5) In Schedule 1 (table of rates of duty)(5), for the two entries relating to wine or made-wine of strength exceeding 15 per cent. but not exceeding 22 per cent., there shall be substituted the following entry—

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“Wine or made-wine of a strength exceeding 15 209.93”  
per cent. but not exceeding 22 per cent.

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(6) In section 57 (mixing of made-wine and spirits), for “18.3 per cent.” there shall be substituted “22 per cent.”.

### **Amendment of the Hydrocarbon Oil Duties Act 1979**

**3.—**(1) For subsection (2) and (3) of section 9 of the Hydrocarbon Oil Duties Act 1979(6) (delivery of oil without payment of duty) there shall be substituted—

“(2) the uses of hydrocarbon oil qualifying for relief under this section are all uses which do not consist in either—

- (a) the use of the oil as fuel for any engine, motor or other machinery; or
- (b) the use of the oil as heating fuel.”

(2) In subsection (5) of that section, paragraph (b) and the word “and” immediately preceding it shall cease to have effect.

New King’s Beam House,  
22 Upper Ground,  
London SE1 9PJ  
10th December 1992

*Leonard Harris*  
Commissioner of Customs and Excise

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(5) The Finance Act 1992 (c. 20), section 1(3) substituted a new table of rates of duty on wine and made-wine in Schedule 1 to the Alcoholic Liquor Duties Act 1979 (c. 4) which is set out in the Schedule to that Finance Act.  
(6) 1979 c. 5.

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations which come into force on 1 January 1993 amend the Alcoholic Liquor Duties Act to give effect to provisions of Council Directive 92/83/EEC(7) on the structures of excise duties on alcohol and alcoholic beverages. They also amend the Hydrocarbon Oil Duties Act 1979 to give effect to provisions of Council Directive 92/81/EEC(8) on the structures of excise duties on mineral oil.

### *Alcoholic Liquor Duties Act 1979*

(1) Regulation 2(2) amends the definition of spirits in section 1(2) of the Act, so that the spirits that are to be governed by the Act are limited to those of a strength exceeding 1.2 per cent.

Regulations 2(3) introduces into the Act a provision enabling the methods for measuring the alcoholic strength of liquors, provided by section 2 of the Act, to be used, where they would not otherwise be available, for determining whether or not the spirits under examination are of a strength exceeding 1.2 per cent.

Regulations 2(4) introduces duty reliefs on spirits used as an ingredient in the production of certain beverages, chocolates and other food, provided the alcoholic content of the product does not exceed the specified limits, and provided those products are to be supplied wholesale by the manufacturer.

Regulation 2(5) introduces the same reduced rate of duty on wines and made wines of two categories of strength: those exceeding 15 per cent. but not exceeding 18 per cent., and those exceeding 18 per cent. but not exceeding 22 per cent.

Regulation 2(6) increases the permitted strength of mixtures produced from the addition of spirits to made-wine carried out in an excise warehouse.

### *Hydrocarbon Oil Duties Act 1979*

(2) Regulation 3 broadens the relief for oils used for certain industrial purposes to cover use for any purpose other than as fuel for any engine, motor or other machinery or heating fuel.

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(7) OJNo. L316, 31.10.92, p. 21.

(8) OJ NO. L316, 31.10.92, p. 12.