Foreword

This notice cancels and replaces Notice 41 (June 1999). Details of any changes to the previous version can be found in paragraph 1.1 of this notice.

Update 1 (January 2003) is included in this notice.

Further help and advice

If you need general advice or more copies of Customs and Excise notices, please ring the National Advice Service on 0845 010 9000. You can call between 8.00 am and 8.00 pm, Monday to Friday.

If you have hearing difficulties, please ring the Textphone service on 0845 000 0200.

If you would like to speak to someone in Welsh, please ring 0845 010 0300, between 8.00 am and 6.00 pm, Monday to Friday.

All calls are charged at the local rate within the UK. Charges may differ for mobile phones.

1. Introduction

1.1 What is this notice about?

This notice gives information about Alcoholic Ingredients Relief (AIR). This relief provides for the repayment of excise duty charged on spirits, beer, wine, made-wine, cider and perry used in the production or manufacture of eligible articles.

It also gives general information on:

- production in warehouse
- records to be kept
- submission of relief claims and
- other procedures and requirements.

You can access details of any changes to this notice since January 2002 either on our Internet website at www.hmce.gov.uk or by telephoning the National Advice Service on 0845 010 9000.

This notice and others mentioned are available both on paper and on our website.

1.2 What are my responsibilities?

You must:
• exercise control over the production or manufacture of eligible articles
• keep complete and accurate accounts and records of the purchase and use of alcohol
• permit our officer to enter and inspect your premises and the production or manufacturing processes of any product in which alcohol is used
• upon request supply our officer with information and documents relating to the goods supplied
• submit claims within one month of the end of the production period (see paragraph 3.4) and
• comply with the requirements of this notice.

If you fail to comply with the law, heavy penalties may be imposed.

1.3 Who should I ask for advice?

If you need any advice, or any of the forms and notices mentioned in this notice, please contact our National Advice Service.

1.4 What do the technical terms in this notice mean?

We explain most of the terms used in this notice either in the glossary (see Section 7) or in the body of the notice itself.

1.5 What is the relevant law?

The main laws governing the use of spirits, beer, wine, made-wine, cider and perry in the production or manufacture of eligible articles are in:

• The Customs and Excise Management Act 1979
• The Alcoholic Liquor Duties Act 1979
• The Finance Act 1995
• The Excise Goods (Holding, Movement, Warehousing and REDS) Regulations 1992 (SI 1992/3135) and
2. Eligibility

2.1 What is an “eligible article”?

Eligible articles are:

- beverages with a strength not exceeding 1.2% abv
- chocolates containing no more than 8.5 litres of alcohol per 100 kg of chocolate
- other foods (excluding beverages) containing no more than 5 litres of alcohol per 100 kg of the final product and
- vinegar.

2.2 How do I know if my products are eligible articles?

Where your final product is a liquid, for example a soft drink, the alcoholic strength of the liquid must be less than 1.2% abv.

Where your final product is a solid or semi-solid article such as a frozen meal, the proportion of alcohol contained in the product must be compared against the net weight of the product, that is the weight excluding any:

- packaging
- inedible accessories supplied (fork, spoon, dish, etc but not inedible parts of the article itself, eg the bones in a chicken) and
- products not normally associated with the eligible article eg free gift.

2.2.1 Products that consist of separate parts

If the product consists of separate parts, not all of which contain alcoholic ingredients, for example a convenience food item consisting of a wine-based sauce with a separately packaged portion of rice, they may be taken together when assessing eligibility, provided you supply them as one product.

2.2.2 Products produced by cooking
Where a product is produced by cooking, the alcoholic ingredients will normally boil off during the cooking process leaving little or no alcohol in the final product. However, there will be occasions where the proportion of alcohol in the recipe exceeds the eligibility criteria and there is doubt as to whether the cooking process has reduced the level of alcohol to within the limit. In those cases it is your responsibility to have the product analysed in support of your claim.

2.3 Can I claim the relief?

You may claim relief from duty if you:

- produce or manufacture eligible articles for wholesale supply using duty-paid alcohols and
- comply with the requirements set out in this notice.

As an alternative to claiming relief from duty, you may be eligible to manufacture your products using duty unpaid alcohol. For information on this facility - see Section 4.

You are not eligible to claim the relief if:

- your business is mainly or wholly involved in the production of “eligible goods” for retail supply
- you produce beverages or articles for your own private use or
- you produce syrups exceeding 1.2% abv for use in vending or other point of sale dispensing machines of low alcohol or soft drinks.

2.4 What if retail supplies form only a small part of my business activities?

If your business is mainly involved in the production or manufacture of products for wholesale supply but a small proportion of your eligible articles are retailed via an on-site factory shop, you may claim relief from duty on all the eligible articles you produce.

2.5 Can I claim relief on behalf of another trader?

No. Relief may only be claimed by the person or company actually manufacturing the finished article.
If you use duty paid alcohol in the manufacture of semi-finished articles you should pass the duty charge on to the person or business manufacturing the final article. If the final article qualifies for relief and the manufacturer is an eligible claimant (see paragraphs 2.3 and 2.4 above), then that manufacturer can submit a claim for repayment of the duty.

3. Making a claim

3.1 Do I need to be authorised or licensed before I make a claim?

No. There is no requirement to apply for authorisation or give notice of your intention to claim duty. Also, if you use spirits purely for the manufacture of eligible articles you do not require a compounder’s licence.

3.2 Can I claim relief for all alcohol used in the manufacturing process if only part of that alcohol remains in the eligible article?

Yes. Although eligibility is based on the proportion of alcohol remaining in the finished article, you can reclaim the duty on the total amount of alcohol you use in manufacturing the eligible article.

3.3 Can I claim relief on imported alcohol?

Yes. Provided the UK duty has been paid and the alcohol is used as an ingredient in an eligible article.

“Eligible articles” which have been manufactured with alcohol are relieved of duty at the time of import.

3.4 How do I make a claim?

Claims are to be made on Form EX 597. You can get this form from our National Advice Service.

Separate claims are needed for each set of premises at which you manufacture eligible articles.

Claims must:

- cover a production period of 3 months
- be submitted to your local Customs and Excise Office within one month of the period end
• include all alcohols used in the production of eligible articles during that period

• amount to at least £250 (you may carry over claims until you reach £250) and

• be signed by the proprietor, partner, or the company secretary or director of the company. In special cases we will allow you to authorise an employee at supervisory level or above to sign on your behalf. You must keep your local Customs and Excise Office informed of any changes to the authorised signor of the form.

A claim period may be longer than 3 months where, after the 3 month period elapses, the amount of the claim has not reached the minimum £250. In that case, your claim period can be as long as it takes to reach the £250 figure.

The above provisions are set down in law. If these provisions are not met, the claim can only be authorised in exceptional circumstances.

If you make a claim for a period which is over 3 months, or later than one month after the period has finished, you should provide your local office, along with the claim, supporting evidence, such as declarations from company representatives, giving reasons why these requirements have not been met. Each case will be considered on its own merit.

If you do not comply with these conditions the local office is not obliged to authorise the repayment.

3.5 What else must I do?

You must ensure that:

• excise duty has been paid on the alcoholic ingredients used

• you do not claim back more duty than was originally paid on the alcohol, for example the alcohol you use may have been duty paid prior to a duty increase (your supplier should provide details of the duty paid) and

• you do not make a claim for repayment of duty which has previously been repaid or drawn back.
3.6 Must I test every batch of my product to support my claim?

No. Generally your own quality control procedures and management checks are sufficient for our needs. If, however, we are not satisfied with your procedures and checks we can require you to carry out a level of testing commensurate with the amount of duty you intend to reclaim.

3.7 What if there are any losses of duty paid product in a process?

If you can explain why the losses occurred, you can still include the relevant duty as part of your claim.

Any losses for which you cannot provide a satisfactory explanation will be excluded from your claim.

Please contact your local Customs and Excise Office as soon as any substantial loss has been detected, and record in your business records the circumstances and reasons for the loss occurring.

4. Production of eligible goods using duty unpaid alcohol

4.1 Can I be approved to manufacture eligible articles using duty unpaid alcohol?

If you are a manufacturer of:

- eligible articles (see paragraphs 2.1 and 2.2) and have an anticipated duty liability of £5,000 or more per annum; or
- semi-finished products, such as flavours and essences, for use in the production of eligible articles,

we may approve you to manufacture eligible articles under duty suspension (that is, in a trade facility warehouse using duty unpaid alcohol).

This means that your approval will be strictly limited to the production of eligible products. You will not be able to carry out any other operation under duty suspension. Notice 197 Excise goods: Holding and movements explains in detail how to apply and what criteria is required for warehouse approval. If you would like a copy of this notice, please contact our National Advice Service.

4.1.1 Spirits used to make semi-finished products
If you intend to use spirits in your manufacturing process to make semi-finished products which will not be used at your premises to produce eligible articles, you will need a compounder’s licence. To apply for a licence, just complete and sign Form L5, (see Section 7), and forward it along with your application for a warehouse approval to your local Customs and Excise Office.

There is no charge for the licence, and it lasts indefinitely. However, we can cancel your licence if you fail to comply with any of our requirements or if you stop trading. A licence is not required if you use only beer, wine, made-wine, cider and perry in your manufacturing processes.

4.2 When will you give approval?

We may visit you to look at the way you intend to control the receipt and use of alcohol and check that your business records are adequate for our purposes.

Once we are satisfied, we will send you an approval letter in duplicate, asking you to sign it and return one copy. The approval letter will set out the conditions that you must meet.

4.3 What are the conditions?

The conditions we set may vary according to individual circumstances. However, the following conditions are common to all approvals. You must:

- exercise effective management control over your accounting and production systems
- permit us to enter your premises at any reasonable time
- provide any facilities or help we need to carry out our checks and
- retain all records for at least 6 years.

4.4 What other requirements are there?

If you deliver semi-finished products to a manufacturer in an excise/trade facility warehouse your despatch note or other document accompanying the products should show:

- your name and address as the despatching warehouse
- the name and address of the receiving warehouse and
- the bulk quantity and either the alcoholic strength or the quantity of alcohol (in litres) contained in each type of product supplied.
The receiving manufacturer should acknowledge receipt of the products by endorsing the despatch note or other document and returning a copy to you. If any product is missing or damaged the manufacturer should record details on the despatch note, etc. Both you and the manufacturer must retain copies of this documentation as part of your records.

4.5 Do I need any financial security for the duty?

You are not required to provide security as a normal condition of approval. However, if we find that your compliance with our requirements is poor we may require you to provide a financial guarantee. Under these circumstances your local Customs and Excise Office will tell you what you must do.

5. Spirit-based essences and flavourings

5.1 Do I need a warehouse approval to receive spirit-based flavours and essences duty unpaid?

No. Spirit-based flavours and essences are exempt from duty. So, there is no longer a requirement for an excise or trade facility warehouse approval to receive these products without paying the duty.

5.2 Is duty payable on spirit-based flavours, essences etc received from other EU Member States?

No. Any product classified under CN Code 3302 (flavourings and essences for soft drinks, etc.) should be exempt from spirits duty under the provisions of Directive 92/83/EEC Article 27(1).

Any product classified under CN Code 3302 will be treated as duty exempt, irrespective of the spirits content. This exemption effectively removes flavours and essences from the provisions of the AIR system.

Products not classified under code 3302, such as wine/salt preparations, remain liable to duty (but are still eligible for AIR).
5.3 What about spirit-based essences/flavourings manufactured in the UK for distribution within the UK?

There is no duty liability attached to spirit-based flavours and essences when in movement. The liability of products containing essences will be determined by the final product. However, you must ensure that you keep adequate records of the receipt, distribution and use of the essences.

5.4 If I only supply spirit-based flavours and essences etc do I have to apply for an excise warehouse approval?

No. Flavours and essences are exempt from duty, even if they are spirit-based with a strength of over 1.2% abv. So you can still receive and supply them without the need for an excise or trade facility warehouse approval.

5.5 Are essences which are used to manufacture alcoholic drinks dutiable?

If you manufacture any alcoholic drink which has a strength exceeding 1.2% abv, then that drink will be liable to duty. The duty liability will be determined by the nature of the end product.

6. Records and accounts

6.1 What records and accounts must I keep?

As a revenue trader, we require you to keep records of all activities involving the use of alcohol in the production or manufacture of eligible articles. This includes information on:

- the quantity and type of alcohol received
- stockholdings
- usings in production
- the quantity and type of eligible articles manufactured and
- sales of eligible articles.

Generally your normal business records will contain or can be modified to contain the information we require. However, they must be:
• accurate and kept up to date
• completed in ink or other permanently legible material
• readily accessible to us
• kept at your premises for at least 6 years from the date of the last entry (we are aware that this may cause you storage problems, involve you in undue expense or cause you other difficulties. If so, you may ask your local Customs and Excise Office for permission to keep some of your records for a shorter period) and
• available for inspection at all reasonable times.

You must not:
• remove any information from your records or
• obliterate or delete any entry

without the agreement of your local Customs and Excise Office.

At the end of each production period (see paragraph 3.4) you must add up and record the total quantity of each type of alcohol (that is, spirits, wine, etc) used during the period and the excise duty paid on it. Wine and made-wine must be totalled and recorded by duty banding.

Please remember, if you are claiming relief on products containing made-wine, which may have been diluted after the duty was paid, you must be able to identify the amount of duty paid on that product.

6.2 What other records do I need to keep?

As a revenue trader we require you to maintain and produce for examination your records of your business activities. This includes all records and documents relating to:

• stock
• handling
• purchases
• sales
• imports
• exports and
• any losses in production of dutiable products.
In addition to these records, we may examine:

- profit and loss and trading statements
- management accounts and reports
- balance sheets and trading forecasts
- internal and external auditors reports and
- any record maintained for a business purpose.

We are aware that a great deal of information to which we have access is of a confidential nature. We take great care to ensure that respect for confidentiality is maintained.

6.3 Will you visit me to inspect my records?

Yes. We will visit you from time to time to verify your claims. When we visit, we require you to:

- admit us to your premises
- produce your records and goods for inspection
- provide facilities for examining the goods and taking account of them
- allow us to take samples and
- observe health and safety requirements.

7. Form L5: Application for a licence to carry on an Excise Trade

8. Glossary

**ABV:** Alcohol by volume

**Alcohol:** In this notice, the term includes spirits, beer, wine, made-wine, cider and perry.

**AIR:** Alcoholic Ingredients Relief.
**Beer**: Beer is a malt beverage and includes ale, porter, stout, and any liquor which is made or sold as a description of beer or as a substitute for beer of a strength exceeding 0.5% ABV. It includes mixtures of beer with non-alcoholic drinks but does not include black beer.

**British Compounded Spirits (BCS)**: Spirits which have, in the UK, had any flavour communicated to them or ingredient or material mixed with them, not being denatured alcohol; the added flavour, ingredient or material must be sufficient to distinctly alter the character or flavour of the spirits; “coolers” classified as made-wines are excluded.

**Cider**: Cider or perry which is:

- of a strength exceeding 1.2% but less than 8.5% (at a temperature of 20°C) and
- obtained from fermenting apple or pear juice without at any time adding:
  - any alcoholic liquor; or
  - any liquor or substance which gives colour or flavour, unless the Commissioners allow them as being necessary.

**Compound**: To combine or mix spirits or previously compounded spirits with any other substance, excluding water, so as to distinctly alter the character or flavour of the original spirits or compounded spirits; the process must produce BCS without subjecting the spirits to distillation.

**Duty banding**: The strength ranges for wine and made-wine set out in the Alcoholic Liquor Duties Act 1979, Schedule 1, that is:

- **wine or made-wine** of an alcoholic strength:
  - exceeding 1.2% but not exceeding 4%
  - exceeding 4% but not exceeding 5.5%

- **still wine or made-wine** of an alcoholic strength exceeding 5.5% but not exceeding 15%

- **sparkling wine or made-wine** of an alcoholic strength exceeding 5.5% but less than 8.5%; and 8.5% and above but not exceeding 15%

- **wine or made-wine** of an alcoholic strength exceeding 15% but not exceeding 22%.

**Excise duty**: The duty due on:

- spirits under section 5
- beer under section 36
- wine under section 54
made-wine under section 55; and

cider and perry under section 62


Trade facility ("warehouse"): A place of security approved by Customs and Excise for the storage of goods without payment of duty.

Made-wine: Any liquor of a strength exceeding 1.2% abv obtained from the alcoholic fermentation of any substance or by mixing any liquor or substance so obtained with any other liquor or substance; but does not include wine, beer, black beer, cider or spirits.

Spirits: Spirits of any description (other than methylated spirits) which are of a strength exceeding 1.2% abv, including all liquors mixed with spirits, and all mixtures, compounds or preparations made with spirits.

Wine: Any liquor of a strength exceeding 1.2% abv obtained from the alcoholic fermentation of fresh grapes or the must (juice) of fresh grapes, whether or not the liquor is:

• fortified with spirits or
• flavour.

Do you have any comments?

We would be pleased to receive any comments or suggestions you may have about this notice. Please write to:

HM Customs and Excise
Excise Social Regimes
Alcohol and Tobacco Branch
3rd Floor West
Ralli Quays
3 Stanley Street
Salford
M60 9LA

Please note this address is not for general enquiries. You should ring our National Advice Service about those.
If you have a complaint or suggestion

If you have a complaint please try to resolve it on the spot with our officer. If you are unable to do so, or have a suggestion about how we can improve our service, you should contact one of our Regional Complaints Units. You will find the telephone number under ‘Customs and Excise - complaints and suggestions’ in your local telephone book. Ask for a copy of our code of practice ‘Complaints and putting things right’ (Notice 1000). You will find further information on our website at http://www.hmce.gov.uk.

If we are unable to resolve your complaint to your satisfaction you can ask the Adjudicator to look into it. The Adjudicator, whose services are free, is a fair and unbiased referee whose recommendations are independent of Customs and Excise.

You can contact the Adjudicator at:

The Adjudicator's Office
Haymarket House
28 Haymarket
LONDON
SW1Y 4SP

Phone: (020) 7930 2292
Fax: (020) 7930 2298
Email: adjudicators@gtnet.gov.uk
Internet: http://www.adjudicatorsoffice.gov.uk/

Update 1 January 2003

This slip amends certain paragraphs in the Notice to take account of changes introduced in the 2002 Budget

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<th>Section</th>
<th>Ammendment</th>
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<td>‘Replace with the following 2 paragraphs</td>
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Notice 41 Alcoholic Ingredients Relief
January 2002

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<th>Spirit-based essences and flavourings</th>
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| 5.5.1 | Alcopop drinks |
| Delete paragraph |

| 5.5.2 | Alcoholic drinks of a strength over 5.5% abv |
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Update 2  September 2003

This slip amends paragraph 3.4 in the notice. This currently states claims should be submitted to local office. This has now been centralised to Glasgow NEAC.

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<th>Section</th>
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<td>Making a claim</td>
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| 3.4 | How do I make a claim? |
| Delete second bullet point and insert: |
| • be submitted within one month of the period end to: HM Customs and Excise National Excise AIR Centre (NEAC) |
Portcullis House
21 India Street
Glasgow
G2 4PZ

Final bullet point delete “...your local Customs and Excise Office” and replace with “NEAC”.

Third paragraph, after final bullet point, delete “... your local office ...” and replace with “NEAC”.

Fourth paragraph after final bullet point, delete “... the local office ...” and replace with “NEAC”.