



Alcoholic Liquor Duties Act 1979

1979 CHAPTER 4

PART III

BEER

[^{F1}[^{F2}Beer from small breweries]

Textual Amendments

- F1** Ss. 36A-36H inserted (retrospective to 1.6.2002 (except s. 36H in force at 24.7.2002)) by [Finance Act 2002 \(c. 23\)](#), s. 4, [Sch. 1 para. 2](#)
- F2** S. 36A cross-heading substituted (1.10.2011) by [Finance Act 2011 \(c. 11\)](#), s. [14\(3\)\(7\)](#)

36A Beer from small breweries: introductory

- (1) For the purposes of section 36(1AA) above (but subject to subsection (2) below)—
- whether beer produced in a singleton brewery is “small brewery beer” is determined in accordance with section 36C below, and
 - whether beer produced in a co-operated brewery is “small brewery beer” is determined in accordance with section 36E below.
- (2) Beer is not small brewery beer if it is produced by a person on any premises in circumstances in which he is required to be, but is not, registered under section 47 below in respect of those premises.

36B Interpretation of provisions relating to small brewery beer

- (1) The following provisions of this section have effect for the purposes of section 36(1AA) above, section 36A above, this section and sections 36C to 36F below.
- (2) A brewery is a “singleton brewery” at any particular time in a calendar year if it is not a co-operated brewery at that time.

Status: Point in time view as at 24/03/2014.

Changes to legislation: There are currently no known outstanding effects for the Alcoholic Liquor Duties Act 1979, Cross Heading: Beer from small breweries. (See end of Document for details)

- (3) A brewery is a “co-operated brewery” at any particular time in a calendar year if—
- (a) a person who produces beer in the brewery at that time or any earlier time in that year, or
 - (b) a person connected with such a person, also produces beer in any other brewery at that time or any earlier time in that year.
- (4) “Brewery” means premises (whether or not in the United Kingdom) on which beer is produced and that are situated physically apart from any other premises on which beer is produced.
- (5) “The standard beer duty rate” means the rate of [^{F3}general beer] duty specified by section 36(1AA)(a) above.
- (6) References to “the grossed-up amount” of an estimate of the amount of a brewery’s production in a calendar year are to the amount given by—
- $$E(365N) \times 365$$
- where—
- E is the amount of the estimate, and
- N is the number of days (if any) in the calendar year before the brewery begins to be used as beer-production premises.
- (7) References to a brewery being used as beer-production premises are, in the case of a brewery in the United Kingdom, to there being at least one person who is required to be registered under section 47 below in respect of the brewery.
- (8) Any question whether a person is connected with another shall be determined in accordance with [^{F4}section 1122 of the Corporation Tax Act 2010] .

Textual Amendments

- F3** Words in s. 36B(5) inserted (19.7.2011) by [Finance Act 2011 \(c. 11\)](#), [Sch. 1 para. 5](#)
- F4** Words in s. 36B(8) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), [Sch. 1 para. 169](#) (with [Sch. 2](#))

36C Meaning of “small brewery beer”: beer from singleton breweries

- (1) This section applies to beer produced in a brewery at a time in a calendar year (“the current year”) when the brewery is a singleton brewery.
- (2) The beer is “small brewery beer” if the following conditions are satisfied; but this is subject to subsections (9) and (10) below.
- (3) The first condition is that either—
- (a) no beer was produced in the brewery in the previous calendar year (“the previous year”), or
 - (b) the amount of beer produced in the brewery in the previous year was not more than [^{F5}60,000 hectolitres] .

Status: Point in time view as at 24/03/2014.

Changes to legislation: There are currently no known outstanding effects for the Alcoholic Liquor Duties Act 1979, Cross Heading: Beer from small breweries. (See end of Document for details)

- (4) For the purposes of subsection (3)(b) above, where the brewery was in use as beer-production premises during part only of the previous year, the amount of beer produced in the previous year in the brewery shall be taken to have been—

$$AD \times 365$$

where—

A is the amount of beer actually produced in the previous year in the brewery, and

D is the number of days in that part of the previous year.

- (5) The second condition is that the amount of the estimate under subsection (9) below of the brewery's production in the current year is not more than [^{F6}60,000 hectolitres] .
- (6) The third condition is that if the brewery begins to be used as beer-production premises part-way through the current year, the grossed-up amount of that estimate is not more than [^{F7}60,000 hectolitres] .
- (7) The fourth condition is that less than half of the beer produced in the brewery in the previous year was produced under licence.
- (8) The fifth condition is that the beer is not produced under licence.
- (9) Beer produced in the brewery in the current year before the person who first produces beer in the brewery in that year has made a reasonable estimate of the amount of beer that will be produced in the brewery in that year is not small brewery beer.
- (10) Beer produced in the brewery in the current year after the amount of beer produced in the brewery in the current year has reached [^{F8}60,000 hectolitres] is not small brewery beer.
- (11) Subsection (10) above is without prejudice to section 167(4) of the Customs and Excise Management Act 1979 (recovery of duty unpaid by reason of untrue document or statement).

Textual Amendments

- F5** Words in s. 36C(3) substituted (1.6.2004) by [The Beer from Small Breweries \(Extension of Reduced Rates of Excise Duty\) Order 2004 \(S.I. 2004/1296\)](#), arts. 1, **3(2)**
- F6** Words in s. 36C(5) substituted (1.6.2004) by [The Beer from Small Breweries \(Extension of Reduced Rates of Excise Duty\) Order 2004 \(S.I. 2004/1296\)](#), arts. 1, **3(2)**
- F7** Words in s. 36C(6) substituted (1.6.2004) by [The Beer from Small Breweries \(Extension of Reduced Rates of Excise Duty\) Order 2004 \(S.I. 2004/1296\)](#), arts. 1, **3(2)**
- F8** Words in s. 36C(10) substituted (1.6.2004) by [The Beer from Small Breweries \(Extension of Reduced Rates of Excise Duty\) Order 2004 \(S.I. 2004/1296\)](#), arts. 1, **3(2)**

36D Rate of [^{F9}general beer] duty for small brewery beer [^{F10}(other than lower strength beer)] from singleton breweries

- (1) This section applies to small brewery beer produced in a brewery at a time in a calendar year (“the current year”) when the brewery is a singleton brewery.

Status: Point in time view as at 24/03/2014.

Changes to legislation: There are currently no known outstanding effects for the Alcoholic Liquor Duties Act 1979, Cross Heading: Beer from small breweries. (See end of Document for details)

- (2) The rate of [^{F11}general beer] duty in the case of that beer (“the brewery rate”) is determined in accordance with this section [^{F12}, unless the beer is within section 36(1AA)(za) (rate for lower strength beer)].
- (3) Subsection (4) below applies if—
- (a) beer was produced in the brewery in the previous calendar year (“the previous year”) and the amount produced in the brewery in that year was not more than 5,000 hectolitres, or
 - (b) no beer was produced in the brewery in the previous year and the grossed-up amount of the estimate under section 36C(9) above of the brewery’s production in the current year is not more than 5,000 hectolitres.
- (4) If this subsection applies, “the brewery rate” is 50% of the standard beer duty rate at the time concerned; but this is subject to rounding under subsection (7) below.
- (5) Subsection (6) below applies if—
- (a) beer was produced in the brewery in the previous year and the amount produced in the brewery in that year was more than 5,000 hectolitres but not more than 30,000 hectolitres, or
 - (b) no beer was produced in the brewery in the previous year and the grossed-up amount of the estimate under section 36C(9) above of the brewery’s production in the current year is more than 5,000 hectolitres but not more than 30,000 hectolitres.
- (6) If this subsection applies, “the brewery rate” is, subject to rounding under subsection (7) below, given by—
- $$P \times \frac{2,500}{P} \times \text{the standard beer duty rate at the time concerned}$$
- where—
- if this subsection applies by reason of subsection (5)(a) above, P is the amount, in hectolitres, of beer produced in the brewery in the previous year, and
- if this subsection applies by reason of subsection (5)(b) above, P is the grossed-up amount (expressed in hectolitres) mentioned in subsection (5)(b).
- [Subsection (6B) below applies if—
- ^{F13}(6A) (a) beer was produced in the brewery in the previous year and the amount produced in the brewery in that year was more than 30,000 hectolitres but not more than 60,000 hectolitres, or
- (b) no beer was produced in the brewery in the previous year and the grossed-up amount of the estimate under section 36C(9) above of the brewery’s production in the current year is more than 30,000 hectolitres but not more than 60,000 hectolitres.
- (6B) If this subsection applies, “the brewery rate” is, subject to rounding under subsection (7) below, given by—
- $$\frac{P(2500 + 33\% \text{ of } P \text{ in excess of } 30,000 \text{ hectolitres})}{P} \times \text{the standard beer duty rate at the time concerned}$$
- where—
- if this subsection applies by reason of subsection (6A)(a) above, P is the amount, in hectolitres, of beer produced in the brewery in the previous year, and

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if this subsection applies by reason of subsection (6A)(b) above, P is the grossed-up amount (expressed in hectolitres) mentioned in subsection (6A)(b).]

- (7) Where a rate given by subsection (4) [F14, (6) or (6B)] above would (apart from this subsection) not be a whole number of pennies, the rate given by that subsection shall be taken to be the rate actually given by that subsection rounded up to the nearest penny.
- (8) Where the brewery was in use as beer-production premises during part only of the previous year, for the purposes of subsections (3)(a), (5)(a) [F15, (6), (6A)(a) and (6B)] above the amount of beer produced in the brewery in the previous year shall be taken to have been—

$$AD \times 365$$

where—

A is the amount of beer actually produced in the previous year in the brewery, and

D is the number of days in that part of the previous year.

Textual Amendments

- F9** Words in s. 36D heading inserted (19.7.2011) by Finance Act 2011 (c. 11), **Sch. 1 para. 6(3)**
- F10** Words in s. 36D heading inserted (1.10.2011) by Finance Act 2011 (c. 11), **s. 14(4)(b)(7)**
- F11** Words in s. 36D(2) inserted (19.7.2011) by Finance Act 2011 (c. 11), **Sch. 1 para. 6(2)**
- F12** Words in s. 36D(2) inserted (1.10.2011) by Finance Act 2011 (c. 11), **s. 14(4)(a)(7)**
- F13** S. 36D(6A)(6B) inserted (1.6.2004) by The Beer from Small Breweries (Extension of Reduced Rates of Excise Duty) Order 2004 (S.I. 2004/1296), arts. 1, **3(3)**
- F14** Words in s. 36D(7) substituted (1.6.2004) by The Beer from Small Breweries (Extension of Reduced Rates of Excise Duty) Order 2004 (S.I. 2004/1296), arts. 1, **3(4)**
- F15** Words in s. 36D(8) substituted (1.6.2004) by The Beer from Small Breweries (Extension of Reduced Rates of Excise Duty) Order 2004 (S.I. 2004/1296), arts. 1, **3(5)**

36E Meaning of “small brewery beer”: beer from co-operated breweries

- (1) This section applies to beer produced in a brewery at a time in a calendar year (“the current year”) when the brewery is a co-operated brewery.
- (2) The beer is “small brewery beer” if the following conditions are satisfied; but this is subject to subsections (10) and (11) below.
- (3) In this section—
- “the group” means the group of breweries consisting of—
- (a) the co-operated brewery, and
- (b) every brewery (other than the co-operated brewery) in which beer is produced at the time mentioned in subsection (1) above, or at any earlier time in the current year, by—
- (i) a person who produces beer in the co-operated brewery at the time so mentioned or at any earlier time in the current year, or
- (ii) a person connected with such a person;
- “group brewery” means a brewery that is in the group;
- “the previous year” means the calendar year immediately preceding the current year.

Status: Point in time view as at 24/03/2014.

Changes to legislation: There are currently no known outstanding effects for the Alcoholic Liquor Duties Act 1979, Cross Heading: Beer from small breweries. (See end of Document for details)

- (4) The first condition is that either—
- (a) no beer was produced in the previous year in the group, or
 - (b) the amount given by $PY + GE$ is not more than [^{F16}60,000 hectolitres] ,
where—
 - PY is the amount of beer produced in the previous year in the group, and
 - GE is the aggregate of the grossed-up amount of each estimate that—
 - (i) is an estimate for the purposes of subsection (10) below of the amount of the production in the current year in a group brewery in which no beer was produced in the previous year, and
 - (ii) is made no later than the time mentioned in subsection (1) above.
- (5) For the purposes of subsection (4)(b) above, where a group brewery was in use as beer-production premises during part only of the previous year, the amount of beer produced in the previous year in that brewery shall be taken to have been—
- $$AD \times 365$$
- where—
- A is the amount of beer actually produced in the previous year in that brewery, and
- D is the number of days in that part of the previous year.
- (6) The second condition is that the aggregate of each estimate that—
- (a) is an estimate for the purposes of subsection (10) below of the amount of a group brewery's production in the current year, and
 - (b) is made no later than the time mentioned in subsection (1) above,
- is not more than [^{F17}60,000 hectolitres] .
- (7) The third condition is that if any group brewery begins to be used as beer-production premises part-way through the current year, the aggregate of the grossed-up amount of each estimate that—
- (a) is an estimate for the purposes of subsection (10) below of the amount of a group brewery's production in the current year, and
 - (b) is made no later than the time mentioned in subsection (1) above,
- is not more than [^{F18}60,000 hectolitres] .
- (8) The fourth condition is that less than half of the beer produced in the previous year in each group brewery was produced under licence.
- (9) The fifth condition is that the beer is not produced under licence.
- (10) Beer produced in the co-operated brewery at an unestimated time is not small brewery beer; and here “unestimated time” means a time in the current year when there is a group brewery for which there does not exist a reasonable estimate, made by the person who first produces beer in that brewery in that year, of the amount of beer that will be produced in that brewery in that year.
- (11) Beer produced in the co-operated brewery in the current year after the amount of beer produced in the group in the current year has reached [^{F19}60,000 hectolitres] is not small brewery beer.

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Changes to legislation: There are currently no known outstanding effects for the Alcoholic Liquor Duties Act 1979, Cross Heading: Beer from small breweries. (See end of Document for details)

- (12) Subsection (11) above is without prejudice to section 167(4) of the Customs and Excise Management Act 1979 (recovery of duty unpaid by reason of untrue document or statement).

Textual Amendments

- F16** Words in s. 36E(4) substituted (1.6.2004) by [The Beer from Small Breweries \(Extension of Reduced Rates of Excise Duty\) Order 2004 \(S.I. 2004/1296\)](#), arts. 1, **3(6)**
- F17** Words in s. 36E(6) substituted (1.6.2004) by [The Beer from Small Breweries \(Extension of Reduced Rates of Excise Duty\) Order 2004 \(S.I. 2004/1296\)](#), arts. 1, **3(6)**
- F18** Words in s. 36E(7) substituted (1.6.2004) by [The Beer from Small Breweries \(Extension of Reduced Rates of Excise Duty\) Order 2004 \(S.I. 2004/1296\)](#), arts. 1, **3(6)**
- F19** Words in s. 36E(11) substituted (1.6.2004) by [The Beer from Small Breweries \(Extension of Reduced Rates of Excise Duty\) Order 2004 \(S.I. 2004/1296\)](#), arts. 1, **3(6)**

36F Rate of [^{F20}general beer] duty for small brewery beer [^{F21}(other than lower strength beer)] from co-operated breweries

- (1) This section applies to small brewery beer produced in a brewery at a time in a calendar year (“the current year”) when the brewery is a co-operated brewery.
- (2) The rate of [^{F22}general beer] duty in the case of that beer (“the brewery rate”) is determined in accordance with this section [^{F23}, unless the beer is within section 36(1AA)(za) (rate for lower strength beer)].
- (3) In this section—
- “the group” means the group of breweries consisting of—
 - (a) the co-operated brewery, and
 - (b) every brewery (other than the co-operated brewery) in which beer is produced at the time mentioned in subsection (1) above, or at any earlier time in the current year, by—
 - (i) a person who produces beer in the co-operated brewery at the time so mentioned or at any earlier time in the current year, or
 - (ii) a person connected with such a person;
 - “group brewery” means a brewery that is in the group;
 - “the previous year” means the calendar year immediately preceding the current year;
 - “the notional previous year’s production” has the meaning given by subsection (4) below.
- (4) In this section “the notional previous year’s production” means the amount, in hectolitres, given by $PY + GE$ where—
- PY is the amount of beer produced in the group in the previous year, and
 - GE is the aggregate of the grossed-up amount of each estimate that—
 - (a) is an estimate for the purposes of section 36E(10) above of the amount of the production in the current year in a group brewery in which no beer was produced in the previous year, and
 - (b) is made no later than the time mentioned in subsection (1) above.

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Changes to legislation: There are currently no known outstanding effects for the Alcoholic Liquor Duties Act 1979, Cross Heading: Beer from small breweries. (See end of Document for details)

- (5) Where a group brewery was in use as beer-production premises during part only of the previous year, in calculating PY for the purposes of subsection (4) above the amount of beer produced in that brewery in the previous year shall be taken to have been—

$$AD \times 365$$

where—

A is the amount of beer actually produced in the previous year in that brewery, and

D is the number of days in that part of the previous year.

- (6) Subsection (7) below applies if—

- (a) beer was produced in at least one group brewery in the previous year and the notional previous year's production is not more than 5,000 hectolitres, or
- (b) no beer was produced in the group in the previous year and the aggregate of each estimate that—
 - (i) is an estimate for the purposes of section 36E(10) above of the amount of a group brewery's production in the current year, and
 - (ii) is made no later than the time mentioned in subsection (1) above, is not more than 5,000 hectolitres.

- (7) If this subsection applies, “the brewery rate” is 50% of the standard rate at the time mentioned in subsection (1) above; but this is subject to rounding under subsection (10) below.

- (8) Subsection (9) below applies if—

- (a) beer was produced in at least one group brewery in the previous year and the notional previous year's production is more than 5,000 hectolitres but not more than 30,000 hectolitres, or
- (b) no beer was produced in the group in the previous year and the aggregate mentioned in subsection (6)(b) above is more than 5,000 hectolitres but not more than 30,000 hectolitres.

- (9) If this subsection applies, “the brewery rate” is, subject to rounding under subsection (10) below, given by—

$$P2,500P \times \text{the standard rate}$$

where—

if this subsection applies by reason of subsection (8)(a) above, P is the previous year's notional production,

if this subsection applies by reason of subsection (8)(b) above, P is the amount, in hectolitres, of the aggregate mentioned in subsection (6)(b) above, and

“the standard rate” means the standard beer duty rate at the time mentioned in subsection (1) above.

- [Subsection (9B) below applies if—

- ^{F24}(9A) (a) beer was produced in at least one group brewery in the previous year and the notional previous year's production is more than 30,000 hectolitres but not more than 60,000 hectolitres, or

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- (b) no beer was produced in the group in the previous year and the aggregate mentioned in subsection (6)(b) above is more than 30,000 hectolitres but not more than 60,000 hectolitres.

- (9B) If this subsection applies, “the brewery rate” is, subject to rounding under subsection (10) below, given by—

$$P(25008.33\% \text{ of } P \text{ in excess of } 30,000 \text{ hectolitres}) \times \text{the standard rate}$$

where—

if this subsection applies by reason of subsection (9A)(a) above, P is the previous year’s notional production,

if this subsection applies by reason of subsection (9A)(b) above, P is the amount, in hectolitres, of the aggregate mentioned in subsection (6)(b) above, and

“the standard rate” means the standard beer duty rate at the time mentioned in subsection (1) above.]

- (10) Where a rate given by subsection (7) [^{F25}, (9) or (9B)] above would (apart from this subsection) not be a whole number of pennies, the rate given by that subsection shall be taken to be the rate actually given by that subsection rounded up to the nearest penny.

Textual Amendments

- F20** Words in s. 36F heading inserted (19.7.2011) by [Finance Act 2011 \(c. 11\), Sch. 1 para. 7\(3\)](#)
F21 Words in s. 36F heading inserted (1.10.2011) by [Finance Act 2011 \(c. 11\), s. 14\(5\)\(b\)\(7\)](#)
F22 Words in s. 36F(2) inserted (19.7.2011) by [Finance Act 2011 \(c. 11\), Sch. 1 para. 7\(2\)](#)
F23 Words in s. 36F(2) inserted (1.10.2011) by [Finance Act 2011 \(c. 11\), s. 14\(5\)\(a\)\(7\)](#)
F24 S. 36F(9A)(9B) inserted (1.6.2004) by [The Beer from Small Breweries \(Extension of Reduced Rates of Excise Duty\) Order 2004 \(S.I. 2004/1296\)](#), arts. 1, **3(7)**
F25 Words in s. 36F(10) substituted (1.6.2004) by [The Beer from Small Breweries \(Extension of Reduced Rates of Excise Duty\) Order 2004 \(S.I. 2004/1296\)](#), arts. 1, **3(8)**

36G Assessments where incorrectly low rate of duty applied

- (1) Subsection (3) below applies if—
- [^{F26}general beer duty is charged] on any beer, and
 - it appears at the excise duty point that the beer is small brewery beer for the purposes of section 36(1AA) above, but
 - it turns out that the beer was not small brewery beer for those purposes (because, for example, circumstances were not as they appeared at that point or they subsequently changed).
- (2) Subsection (3) below also applies if—
- [^{F27}general beer duty is charged] on any beer that is small brewery beer for the purposes of section 36(1AA) above, and
 - the rate of duty that at the excise duty point appeared to be the correct rate turns out to have been lower than the correct rate (because, for example, circumstances were not as they appeared at that point or they subsequently changed).
- (3) In any such case the Commissioners—
- may assess the amount that is the difference between—

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- (i) the actual amount of the [^{F28}general beer duty charged on the beer],
and
 - (ii) the lower amount that, at the excise duty point, appeared to be the
amount charged,
as being excise duty due from the person liable to pay the [^{F28}general beer
duty charged on the beer], and
 - (b) may notify him or his representative accordingly.
- (4) Where two or more persons are liable to pay the [^{F29}general beer duty charged] on
the beer—
- (a) the reference in subsection (3)(a) above to the person liable to pay [^{F30}that
duty] is to any one or more of those persons, and
 - (b) the reference in subsection (3)(b) above to notifying the person liable or his
representative is to notifying each person assessed or his representative.]

Textual Amendments

- F26** Words in s. 36G(1)(a) substituted (19.7.2011) by [Finance Act 2011 \(c. 11\)](#), [Sch. 1 para. 8\(2\)](#)
- F27** Words in s. 36G(2)(a) substituted (19.7.2011) by [Finance Act 2011 \(c. 11\)](#), [Sch. 1 para. 8\(3\)](#)
- F28** Words in s. 36G(3)(a) substituted (19.7.2011) by [Finance Act 2011 \(c. 11\)](#), [Sch. 1 para. 8\(4\)](#)
- F29** Words in s. 36G(4) substituted (19.7.2011) by [Finance Act 2011 \(c. 11\)](#), [Sch. 1 para. 8\(5\)\(a\)](#)
- F30** Words in s. 36G(4)(a) substituted (19.7.2011) by [Finance Act 2011 \(c. 11\)](#), [Sch. 1 para. 8\(5\)\(b\)](#)

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There are currently no known outstanding effects for the Alcoholic Liquor Duties Act 1979,
Cross Heading: Beer from small breweries.