

EXPLANATORY MEMORANDUM TO
THE DENATURED ALCOHOL (AMENDMENT) REGULATIONS 2013
2013 No. 1195

1. This explanatory memorandum has been prepared by HM Revenue and Customs (HMRC) and is laid before Parliament by Command of Her Majesty.

2. **Purpose of the instrument**

2.1 The purpose of this instrument is to amend the Denatured Alcohol Regulations 2005 (“the 2005 Regulations”) to (a) allow educational establishments to receive (and use) small amounts of industrial denatured alcohol (“IDA”) and trade-specific denatured alcohol (“TSDA”) without prior written authorisation from HMRC, (b) allow the supply of free samples of IDA and TSDA without prior written authorisation and (c) alter the prescribed formulation for ‘completely denatured alcohol’ (“CDA”).

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 None.

4. **Legislative Context**

4.1 Article 27 of Council Directive 92/83/EEC requires the member states to exempt from excise duty alcoholic products which have been denatured in accordance with the requirements of the member states and which are not used in the manufacture of products for human consumption.

4.2 In implementation of the Directive, section 5(1) of the Finance Act 1995 (“FA95”) provides that “denatured alcohol” is not subject to excise duty. Section 5(2) defines denatured alcohol as “any dutiable alcoholic liquor which has been mixed in the prescribed manner with a prescribed substance” and defines “prescribed” as “prescribed by the Commissioners” in Regulations.

4.3 Section 77 of the Alcoholic Duties Act 1979 (“ALDA”) allows the Commissioners of Revenue and Customs (“the Commissioners”), “with a view to protecting the Revenue”, to make Regulations regulating the “supply, storage, removal, sale, delivery, receipt, use and export or shipment as stores of denatured alcohol”. Such Regulations may make specific provision for different classes or kinds of denatured alcohol. (Section 4 ALDA defines “denatured alcohol” as “denatured alcohol within the meaning of section 5 of the Finance Act 1995”).

4.4 The 2005 Regulations are made under section 77 ALDA and section 5 FA95 (as well as under other provisions not relevant here). Part 4 of the 2005 Regulations provides that no-one may receive or use “industrial denatured

alcohol” or “trade-specific denatured alcohol” (which are both defined in regulation 4), unless they are duly authorised by the Commissioners. Suppliers must require their customers to give written proof that they are so authorised. Schedule 1 sets out the prescribed formulations for the three types of denatured alcohol: ‘completely denatured’, ‘industrial’ and ‘trade-specific’. The formulation for CDA involves the addition of wood naphtha or a substitute for wood naphtha.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

As the instrument is subject to the negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- ***What is being done and why***

7.1 Denatured alcohol is alcohol that is not suitable for human consumption and which (in accordance with section 80 ALDA) may not be used for or in a beverage or medicine. It is not subject to excise duty. Under Part 4 of the 2005 Regulations, no person may use or receive IDA or TSDA, in any amount, unless first authorised for the purpose by the Commissioners. Suppliers must obtain proof from their customers that they are duly authorised. Around 800 applications for authorisation are received each year and each application normally takes several weeks to process.

7.2 The relevant trade associations have more than once represented that these requirements hinder the supply of trade samples (which are normally in small amounts). Various educational establishments which purchase small amounts for use in study and research have also represented that they should be freed from the obligation to seek authorisation.

7.3 HMRC accepts these representations (and indeed many applications for authorisation come from persons who receive free samples or only small amounts) and have satisfied themselves that such small supplies represent only a minimal revenue risk. Therefore, these Regulations will (by making the appropriate amendments to the 2005 Regulations) exempt from the requirement to be authorised (a) persons who receive only free samples and (b) educational establishments that purchase no more than 5 litres of IDA and 5 litres of TSDA per year. Those who supply to such persons will no longer need to require from them proof of authorisation.

7.4 The European Commission has proposed a new formulation for CDA, to be used by all the member states. HMRC considers that the new formulation is simpler and just as effective (in terms of rendering the resulting mixture completely unpalatable). Furthermore, it is less harmful to human health

because it does not contain methanol (CDA made in accordance with the current UK formulation is usually made with wood naphtha substitute, which normally contains methanol). To adopt the new formulation (along with the rest of Europe) should give UK manufacturers opportunities to expand their market and should also benefit importers and exporters.

7.5 This measure will not increase costs for traders or HMRC. On the contrary, the removal of the need for authorisation will free the persons concerned from the administrative burden and delay of the authorisation process as well as reducing the number of applications that HMRC has to process. The change to a simpler, and more widely used, CDA formulation should be similarly beneficial.

- ***Consolidation***

7.6 There are no plans for consolidation.

8. Consultation outcome

8.1 HMRC policy-holders met representatives of the main chemical industry associations in April 2011 to discuss the proposed removal of the need for authorisation for free samples and small amounts used by educational establishments. Nearly all concerned welcomed the proposal.

8.2 HMRC carried out a consultation on the proposed change to the UK CDA formulation between 9 November 2012 and 11 January 2013. None of the respondents opposed the proposed change although one was concerned about HMRC's suggested inclusion of a methyl violet dye. Accordingly, HMRC has decided not to require the inclusion of methyl violet dye.

9. Guidance

9.1 HMRC will provide guidance in the form of an update to Notice 473 *Production, Distribution and Use of Denatured Alcohol*, which will be accessible on the HMRC website at www.hmrc.gov.uk

10. Impact

10.1 The impact on business, charities or voluntary bodies is negligible.

10.2 There is no impact on the public sector.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation applies to small business.

11.2 There are no additional requirements imposed by this instrument on small businesses. The legislation benefits small businesses in relation to

obtaining free samples since the time and costs of obtaining authorisation (or proof of authorisation) are more burdensome for them.

12. Monitoring & review

12.1 HMRC will monitor the new measure to ensure that it achieves its policy objective.

13. Contact

Sharon McDermott at HMRC Tel: 0161 827 0970 or email: sharon.mcdermott@hmrc.gsi.gov.uk who can answer any queries regarding this instrument.