

**EXPLANATORY MEMORANDUM TO**  
**THE ALCOHOLIC LIQUOR DUTIES (ALCOHOLIC INGREDIENTS RELIEF)**  
**REGULATIONS 2015**

**2015 No. 2050**

**1. Introduction**

- 1.1 This explanatory memorandum has been prepared by Her Majesty's Revenue & Customs and is laid before Parliament by Command of Her Majesty.

**2. Purpose of the instrument**

- 2.1 These Regulations amend section 4 of the Finance Act 1995, which sets out the requirements for making a claim for Alcoholic Ingredients Relief (AIR). The AIR scheme provides for the repayment of excise duty where alcohol has been used in the manufacture of a foodstuff, beverage or vinegar, subject to certain conditions.
- 2.2 These Regulations change three of the conditions for making a claim, so that: (i) claims are no longer restricted to wholesale manufacturers, (ii) a claim must be submitted no later than three years after the end of the three month period during which the alcohol was used in the product, and (iii) there is no minimum amount for making a claim.

**3. Matters of special interest to Parliament**

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

- 3.1 None.

*Other matters of interest to the House of Commons*

- 3.2 As this instrument is subject to the negative procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

**4. Legislative Context**

- 4.1 These Regulations amend section 4 of the Finance Act 1995, which implements Article 27(1)(c) and (f) of Directive 92/83/EEC of 19th October 1992 on the harmonisation of the structures of excise duties on alcohol and alcoholic beverages. These amendments are made in the light of *Repertoire Culinair v the Commissioners for Her Majesty's Revenue and Customs* (Case C-163/09).

**5. Extent and Territorial Application**

- 5.1 The extent of this instrument is the United Kingdom.
- 5.2 The territorial application of this instrument is the United Kingdom.

**6. European Convention on Human Rights**

- 6.1 The Commissioners for Her Majesty's Revenue and Customs have made the following statement regarding Human Rights:

“In our view the provisions of the Alcoholic Liquor Duties (Alcoholic Ingredients Relief) Regulations 2015 are compatible with the Convention rights.”

## **7. Policy background**

### *What is being done and why*

- 7.1 Article 27 of Council Directive 92/83/EEC requires Member States of the European Union to provide an exemption from alcohol duty where alcohol is used for the production of certain foodstuffs, beverages and vinegar. Article 27 allows Member States to apply conditions to this exemption to ensure that it can be properly administered and to prevent evasion, avoidance and abuse. In the UK, this exemption is provided for by the AIR scheme in section 4 of the Finance Act 1995.
- 7.2 In *Repertoire Culinaire v The Commissioners for Her Majesty’s Revenue and Customs* (Case C-163/09), the European Court of Justice indicated that three of the conditions to make a claim for AIR imposed by the UK were restrictive in nature. The changes made by these Regulations make those three conditions less restrictive.
- 7.3 Eligibility for making a claim: previously, a claim could only be made by someone who produced or manufactured foodstuffs for wholesale supply using alcohol on which duty had been paid. This instrument removes this restriction so that the foodstuffs do not have to be for wholesale supply. In addition, whilst manufacturers and producers will normally make the claim, these changes permit the claim to be made by another party who has paid duty on the alcohol if no other claim for AIR has been made on the alcohol.
- 7.4 Time limit for claim: claims must cover a production period of three months. Previously, claims had to be submitted within a month of the end of that three month period. The changes made by this instrument mean that, from the commencement date, claims must be submitted within three years of the end of the three month production period.
- 7.5 Minimum claim amount: previously, claims had to be for a minimum of £250. These Regulations remove that requirement so that there is no longer a minimum amount that can be claimed.

### *Consolidation*

- 7.6 There are no plans for consolidation of the relevant legislation.

## **8. Consultation outcome**

- 8.1 Draft Regulations were published for comment on 1 October 2015, with a deadline of 2 November 2015.
- 8.2 No comments were received during this period.

## **9. Guidance**

- 9.1 Updated guidance on making an AIR claim will be provided in Public Notice 41, which is available from: <https://www.gov.uk/government/publications/excise-notice-41-alcoholic-ingredients-relief>.

## **10. Impact**

- 10.1 The impact on business, charities or voluntary bodies is expected to be negligible, with only possible one-off costs for businesses arising whilst familiarising themselves with the new arrangements.
- 10.2 There is no impact on the public sector.
- 10.3 A Tax Information and Impact Note covering this instrument was published on 1 October 2015 alongside the draft Alcoholic Liquor Duties (Alcoholic Ingredients Relief) Regulations 2015 and is available on the website at: [www.gov.uk/government/publications/alcoholic-ingredients-relief](http://www.gov.uk/government/publications/alcoholic-ingredients-relief). It remains an accurate summary of the impacts that apply to this instrument.

## **11. Regulating small business**

- 11.1 The legislation applies to activities that are undertaken by small businesses.
- 11.2 No specific action is proposed to minimise regulatory burdens on small businesses.
- 11.3 This instrument will only affect businesses who wish to reclaim alcohol duty under the AIR scheme.

## **12. Monitoring & review**

- 12.1 Following implementation, routine and ongoing monitoring of the number and value of claims will be carried out in accordance with normal assurance practice.

## **13. Contact**

- 13.1 Chris Gibbons at HM Revenue & Customs (telephone: 03000 588 070 or email: [chris.gibbons@hmrc.gsi.gov.uk](mailto:chris.gibbons@hmrc.gsi.gov.uk)) can answer any queries regarding the instrument.