STATUTORY INSTRUMENTS

# 2015 No. 1516

# EXCISE

## The Wholesaling of Controlled Liquor Regulations 2015

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| *Made - - - -* | *15th July 2015* |
| *Laid before the House of Commons - - - -* | *16th July 2015* |
| *Coming into force - -* | *1st October 2015* |

The Commissioners for Her Majesty's Revenue and Customs, in exercise of the powers conferred by sections 88A(7), 88B(1), 88C(3), 88E and 88I of the Alcoholic Liquor Duties Act 1979(**1**) and section 133 of the Finance Act 1999(**2**) make the following Regulations:

## PART 1

## PRELIMINARY

### Citation and commencement

**1.** These Regulations may be cited as the Wholesaling of Controlled Liquor Regulations 2015 and come into force on 1st October 2015.

### Interpretation

**2.** In these Regulations—

"the Act" means the Alcoholic Liquor Duties Act 1979;

"prescribed" means prescribed by the Commissioners in a published notice, as revised or replaced from time to time and "prescribe" is construed accordingly;

(**1**) 1979 c. 4; sections 88A, 88B, 88C, 88E and 88I were inserted by the Finance Act 2015 (c. 11), section 54(3). The power to make regulations under those sections is conferred on "the Commissioners" and, by virtue of section 4(3), "the Commissioners" has the same meaning as given in the Customs and Excise Management Act 1979 (c. 2). Section 1 (1) of that Act (as amended by the Commissioners for Revenue and Customs Act 2005 (c. 11), Schedule 4, paragraphs 20 and 22 (b)) defines "the Commissioners" as "the Commissioners for Her Majesty's Revenue and Customs".

(**2**) 1999 c. 16; the reference to the Commissioners of Customs and Excise in section 133 is to be taken as a reference to the Commissioners for Her Majesty's Revenue and Customs by virtue of section 50(1) of the Commissioners for Revenue and Customs Act 2005 (c. 11).

"relevant information" means information (including information contained in an application under Part 2 or Part 3 of these Regulations) which is required or authorised by virtue of these Regulations to be delivered to the Commissioners; and

"representative member" means the representative member for a group.

# PART 2

## APPROVAL, REGISTRATION, ETC.

### Application for approval

**3.**—(1) Every person who is required to be approved under section 88C of the Act (the "applicant") must apply on a prescribed form to the Commissioners for approval in respect of all the premises on which the applicant carries on or intends to carry on a controlled activity.

(2) An application for approval must contain full information about every matter referred to in the prescribed form.

(3) The Commissioners may require the applicant to make a declaration that the information provided in the application is true and complete.

### Letters of registration

**4.**—(1) The Commissioners must notify every person they approve by issuing a letter of registration.

(2) The Commissioners may prescribe the information which must be contained in a letter of registration.

(3) A letter of registration must contain the information (if any) prescribed and may contain such other information as the Commissioners consider appropriate in any individual case.

(4) If the Commissioners refuse an application for approval they must notify the person who made the application of that fact and give the reasons for the refusal.

### Requirement to notify changes

**5.**—(1) An approved person must give to the Commissioners notice of any change in—

(a) the information contained in the letter of registration; or

(b) such other information as the Commissioners may prescribe.

(2) Where –

(a) an approved person gives notice in accordance with paragraph (1); or

(b) without any such notice having been given, it appears to the Commissioners that the letter of registration requires correction,

the Commissioners may, unless they revoke the approval, issue an amended letter of registration.

(3) Where an approved person intends to cease to carry on a controlled activity he must give notice of that fact to the Commissioners no later than 30 days before the day on which the activity will cease.

### Unique reference numbers

**6.**—(1) The Commissioners may assign a unique reference number (the "URN") to approved persons.

(2) Where, under Part 3 of these Regulations, group treatment applies to two or more bodies corporate, the Commissioners may assign one URN to all the bodies corporate to which group treatment applies.

(3) An approved person must make the URN available to customers and suppliers and include it on prescribed forms of documentation or communications associated with the business.

**Conditions and restrictions**

**7.** In addition to any conditions or restrictions that the Commissioners may think fit to impose on an approved person under section 88C(3) of the Act, the approval of a person is subject to such conditions and restrictions as the Commissioners may prescribe.

**Record keeping**

**8.**—(1) An approved person must keep and make available such records relating to controlled activities as the Commissioners may prescribe.

(2) An approved person required by this regulation to keep a record must do so at the time of or as soon as possible after —

(a) the happening of the event that is required to be recorded; and

(b) in any other case, the moment when the information that is required to be recorded is first known to the approved person.

(3) Any record that is required to be kept by this regulation must be preserved for a period of six years, or such lesser period as the Commissioners may allow, starting on the day that the obligation to keep the record arises.

**Sales treated as sales of controlled liquor**

**9.** For the purposes of Part 6A of the Act, a sale is to be treated as a sale of controlled liquor if—

(a) the sale of the liquor is made at a time before the excise duty point for that liquor falls; and

(b) in relation to that sale, the purchaser takes delivery of the liquor on or after the excise duty point.

**Excluded sales**

**10.** The Commissioners may prescribe descriptions of sales that are excluded sales for the purposes of Part 6A of the Act.

# PART 3

## GROUPS

**Applications for approval and registration of bodies corporate which are members of the same group**

**11.** This Part applies where two or more bodies corporate are members of a group for the purposes of Part 6A of the Act (for which see section 88J of the Act (**3**)).

(**3**) Section 88J was inserted by section 54(3) of the Finance Act 2015.

**12.**—(1) Where this Part applies, an application may be made for each member of the group who is required to be approved under section 88C of the Act to be approved and registered under a single registration ("group treatment").

(2) In this regulation "registered" means entered on the register maintained by the Commissioners in accordance with section 88D(1) of the Act(**4**) and "registration" is construed accordingly.

**13.**—(1) The application must contain the information (or any part of the information) mentioned in regulation 3(2) in respect of each of the bodies corporate that are the subject of the application for group treatment.

(2) The person making the application must satisfy the Commissioners that the bodies corporate which are the subject of the application have consented to group treatment.

(3) The Commissioners may require the person making the application to make a declaration that the information is true and complete.

(4) The application must specify which one of the bodies corporate that are the subject of the application will be the representative member.

(5) If the Commissioners accept the application, they must notify the representative member of the date on which group treatment will commence.

(6) If the Commissioners refuse the application, they must notify the representative member.

(7) The Commissioners may refuse any application under this Part if it appears necessary to do so for the protection of the revenue.

(8) A body corporate may not be treated under this Part as a member of more than one group at the same time.

**Applications by a representative member**

**14.**—(1) This regulation applies where two or more bodies corporate are treated as members of a group and the representative member applies to the Commissioners for—

(a) another body corporate (which is eligible under this Part) to be treated as a member of the group;

(b) a body corporate to cease to be treated as a member of the group;

(c) the bodies corporate no longer to be treated as members of the group; or

(d) another member to be substituted as the group's representative member.

(2) In respect of an application under paragraph (1)(a), the representative member must satisfy the Commissioners that—

(a) the existing members of the group; and

(b) any body corporate which is the subject of the application,

have consented to group treatment.

(3) A body corporate is to be treated as a member of the group only—

(a) if the application is accepted by the Commissioners; and

(b) from a date notified by the Commissioners to the representative member.

(4) In respect of an application under paragraph 1(b) or (c), a body corporate is to be treated as not being a member of the group only—

(a) if the application is accepted by the Commissioners; and

(**4**) Section 88D was inserted by section 54(3) of the Finance Act 2015.