



MANUFACTURE OF INTOXICATING LIQUOR  
(BEER DUTY) REGULATIONS 1987

T. TANGAROA, Queen's Representative

ORDER IN EXECUTIVE COUNCIL

At Avarua, Rarotonga, this 22nd day of December 1987

Present:

HIS EXCELLENCY THE QUEEN'S REPRESENTATIVE  
IN EXECUTIVE COUNCIL

PURSUANT to Section 5B of the Cook Islands Amendment Act 1961 (as inserted by the Cook Islands Amendment Act 1986-87), His Excellency the Queen's Representative acting by and with the advice and consent of the Executive Council, hereby makes the following Regulations.

ANALYSIS

- |                                             |                                              |
|---------------------------------------------|----------------------------------------------|
| 1. Short Title and commencement             | 13. Requisition to produce records           |
| 2. Interpretation                           | 14. Power to impound records                 |
| 3. Imposition of beer duty                  | 15. Collector may enter brewery              |
| 4. Rate of beer duty                        | 16. Taking of samples                        |
| 5. Payment of duty                          | 17. Defrauding the Revenue                   |
| 6. Returns by manufacturer                  | 18. Knowingly false of erroneous declaration |
| 7. Assessment of beer duty                  | 19. Offences by corporation                  |
| 8. Recovery of beer duty paid in error      | 20. Offences punishable on conviction        |
| 9. Refund of beer duty paid in error        | 21. Production of false documents            |
| 10. Recovery of beer duty refunded in error | 22. Obstruction                              |
| 11. Refund of duty on spoilt beer           | 23. General penalty                          |
| 12. Power to question persons               | 24. Keeping of business records              |
|                                             | 25. Giving of notices                        |

Manufacture of Intoxicating Liquor  
(Beer Duty) Regulations 1987

1987/35

## REGULATIONS

1. Short Title and commencement - (1) These Regulations may be cited as the Manufacture of Intoxicating Liquor (Beer Duty) Regulations 1987.

(2) These regulations shall come into force on the 1st day of January 1988.

2. Interpretation - In these regulations unless the context otherwise requires -

"Beer" means intoxicating liquor that:

(a) On analysis is found to contain 2 or fewer parts per cent of proof spirit; and

(b) Is derived from a mash of malted grain or hops or any extract thereof or other harmless vegetable bitters.

and includes any other ale, malt liquor or fermented beverage made in imitation of beer or malt liquor and which on analysis is found to contain 2 or fewer parts per cent of proof spirit.

"Brewer" means a person engaged in the manufacture of beer and "brew" has a corresponding meaning.

"Brewery" means any premises used for the manufacture of beer.

"Collector" means the Collector of Customs or any Customs Officer acting on behalf of or with the authority of the Collector.

3. Imposition of beer duty - Beer duty shall be paid by every person manufacturing beer, on all beer delivered from or consumed in the premises in which it was manufactured.

4. Rate of beer duty - Beer duty shall be assessed and paid at the rate of 20 cents per litre.

5. Payment of beer duty - Beer duty shall be paid not later than the 20th day of the month following the month in which the beer the subject of such duty was delivered from or consumed in the premises where it was manufactured.

6. Returns by manufacturer - (1) Every person who manufactures beer shall forward to the Collector a return in such form as may from time to time be designated by the Collector, of all beer delivered from or consumed in the premises where such beer was manufactured, and, in the case of beer delivered from the premises, the name and address of the person to whom it was delivered.

(2) The return referred to in subsection (1) shall be delivered to the Collector not later than the day on which payment of beer duty in respect of that beer was due.

7. Assessment of beer duty - (1) The Collector may rely upon any return filed pursuant to section 6 as sufficient proof of the matters therein contained and assess beer duty accordingly.

Manufacture of Intoxicating Liquor  
(Beery Duty) Regulations 1987

(2) If the Collector has reason to believe that the matters contained in any return are not correct, he may assess beer duty at such amount as he thinks proper, and any such assessment shall be presumed to be correct unless the contrary is proven.

8. Recovery of beer duty paid in error - At any time within 1 year after payment of any sum by way of beer duty the person by whom payment was so made may institute proceedings against the Collector for a refund of such duty, or of any part thereof on the ground that the beer duty was not lawfully chargeable or was charged in excess and whether the error alleged is one of fact or of law.

9. Refund of beer duty paid in error - If the Collector is satisfied that any beer duty has been paid in error whether of fact or of law he may refund it -

- (a) At any time within 1 year after it has been paid; or
- (b) At any later time on an application made within such year.

10. Recovery of beer duty refunded in error - All money refunded in error, whether of fact or of law by the Collector shall be recoverable by action at the suit of the Collector at any time within 3 years after the payment thereof, or without limit of time if the refund has been obtained by fraud.

11. Refund of duty on spoilt beer - Where the Collector is satisfied that any beer delivered from any brewery has through accident or misfortune without the wilful Act of the brewer been spoiled before delivery from the brewery, the Collector may cause any such beer to be destroyed or otherwise dealt with and he may refund or remit any duty paid or payable thereon.

12. Power to question persons - (1) The Collector may question any person as to the particulars shown in any document delivered to him by any brewer in accordance with these regulations and may if he thinks fit require from such person proof by declaration or by the production of records of the content of such document.

(2) Any person who on being so questioned refuses or fails to answer any question so put to him or to answer any such question if so required by the Collector or answers any such question incorrectly or refuses or fails without reasonable cause to make any such declaration or to produce any such records commits an offence.

13. Requisition to produce records - (1) Where any question has arisen under these regulations, the Collector may, by order under his hand require any person -

Manufacture of Intoxicating Liquor  
(Beer Duty) Regulations 1987

- (a) To furnish in writing any information and produce for inspection any record to the Collector being information or records which the Collector considers necessary or relevant to the administration or enforcement of the regulations; or
- (b) To allow the Collector to make copies of or extracts from those records; or
- (c) To appear before the Collector and to answer all question put to him concerning those records;
- (d) Any person who knowingly fails or refuses to comply with any order made under this section or on being questioned fails or refuses to answer any question put to him, or to answer any such question in writing if so required by the Collector or knowingly answers any such question incorrectly, commits an offence against these regulations.

14. Power to impound records - The Collector may impound or retain any records presented in connection with any document required to be produced under these regulations but the person otherwise entitled to the records shall be entitled in their place to a copy certified as correct by the Collector.

15. Collector may enter brewery - The Collector or any Customs officer may at all times enter any brewery and have free access to every part thereof and may remain therein as long as he deems necessary for the purposes of inspecting such brewery and may take account of all materials received or used therein and of all beer therein and may gauge or otherwise ascertain the capacity or contents of every vessel used or intended for use in such brewery.

16. Taking of samples - (1) The Collector may at any time take a sample of any sort of beer or beer free of charge in the prescribed manner, in order to ascertain the specific gravity or alcoholic strength.

(2) Such sample shall be divided into 3 approximately equal parts which shall be sealed and 1 part shall be handed to the brewer, 1 shall be retained by the Collector, and 1 shall be referred by the Collector to the Department of Health for analysis and report.

(3) The report of the Department of Health shall be proof of the correct specific gravity and alcoholic strength unless the contrary is proved.

17. Defrauding the Revenue - (1) Every person who contravenes any provision of these regulations with intent to defraud the revenue -

- (a) By evading or enabling any other person to evade payment of any duty; or



Manufacture of Intoxicating Liquor  
(Beer Duty) Regulations 1987

- (b) By obtaining or enabling any other person to obtain any money by way of refund of any duty; or
- (c) In any other manner whatsoever in relation to beer duty, or who conspires with any other person (whether that person is in the Cook Islands or not) so as to defraud the revenue in relation to any beer duty, commits an offence and shall be liable to a fine not exceeding \$500.

18. Knowingly false or erroneous declaration - Every person who knowingly makes any false or erroneous declaration under these regulations commits an offence.

19. Offences by corporation - (1) Where an offence under these regulations which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or is attributable to any knowledge on the part of any director, manager, secretary or other similar officer of the body corporate, or of any person who was purporting to act in any such capacity he as well as the body corporate shall be guilty of the offence and shall be able to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members this provision shall apply in relation to the acts of a member in connection with his functions of management as if he were a director of the body corporate.

20. Offences punishable on conviction - Except where these regulations otherwise provide every offence against these regulations shall be punishable on conviction.

21. Production of false documents - Every person who knowingly produces or delivers to the Collector in the execution of his office any document as genuine that is not genuine, or any document as true that is in any respect erroneous, commits an offence against these regulations.

22. Obstruction - Every person commits an offence who wilfully obstructs the Collector in the exercise or performance of any duty imposed on the Collector by these regulations.

23. General penalty - Every person who commits an offence against these regulations for which no other penalty is provided shall be liable to a fine not exceeding \$500.

24. Keeping of business records - (1) Subject to subsection (2), every brewer shall keep sufficient records to the satisfaction of the Collector, and shall retain all such records for a period of at least 7 years after the completion of the transactions, acts or operations to which they relate.

Manufacture of Intoxicating Liquor  
(Beer Duty) Regulations 1987

(2) This section shall not require the retention of any records -

- (a) In respect of which the Collector has given notice that retention is not required;
- (b) Of a company that has been wound up and finally dissolved.
- (3) Every brewer who fails to keep records in accordance with this section commits an offence and shall be liable to a fine not exceeding \$500.

25. Giving of notices - (1) Any notice required by this Act to be given by the Collector to any person may be -

- (a) Given to him personally; or
  - (b) Sent to him by post addressed to him at his usual or last known place of abode or business; or
  - (c) Given personally to any other person authorised to act on behalf of that person; or
  - (d) Sent to that other person addressed to him at his usual or last known place of abode or business.
- (4) Any notice sent by post to any person shall be deemed to have been received by him when in the normal course of post it would be delivered.

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P. TANGATA  
Clerk of the Executive Council

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These Regulations are administered by the Customs Department.

BY AUTHORITY:  
T. KAPI, Government Printer, Rarotonga, Cook Islands - 1987