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# Excise (Volume – Alcoholic excisable goods) Determination 2009 (No. 1)

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## ***Excise Act 1901***

Under section 65 of the *Excise Act 1901* (Excise Act) I make the following determination:

### **Revocation of existing determination**

1. *Excise (Volume – excisable beverages) Determination 2006 (No. 1)* (FRLI No. F2006L02171) is revoked.

### **Citation**

2. This determination may be cited as the *Excise (Volume – Alcoholic excisable goods) Determination 2009 (No. 1)*.

### **Legislative Instrument**

3. This determination is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

### **Commencement**

4. This determination commences on the day after registration.

### **Application**

5. This determination applies to alcoholic excisable goods entered for home consumption on or after the date of commencement.

### **Object**

6. Under section 65 of the Excise Act, the CEO may determine rules for working out the volume, weight or strength of alcohol in excisable goods entered for home consumption.
7. These rules govern the measurement of volumes of alcoholic excisable goods entered for home consumption and provide a means for working out the duty payable where there are variations in volume.

### **Interpretation**

8. In this determination:

***alcoholic excisable goods*** means goods which fall to tariff items 1, 2 or 3 of the *Excise Tariff Act 1921*.

***appropriate authority*** means

- a verifying or authorising authority appointed by the Chief Metrologist,
- an authority accredited by the National Association of Testing Authorities (NATA); or
- a person who holds, or an employee of a person who holds, a servicing licence under the Trade Measurement Act of the relevant State or Territory

***bulk container*** means a container that has the capacity to have packaged in it more than 2 litres of liquid.

**CEO** means the Commissioner of Taxation (see subsection 4(1) of the Excise Act).

**Chief Metrologist** means the Chief Metrologist or Acting Chief Metrologist appointed under the *National Measurement Act 1960*

**container** means any article capable of holding liquids.

### **Sampling and analysis**

9. Sufficient samples must be taken from each production or packaging run to ensure the average fill volume of the samples taken accurately reflects the average fill volume of all the containers.

### **Measuring and equipment**

10. The volume of alcoholic excisable goods must be measured using equipment which has been calibrated against standard instruments certified by an appropriate authority.

11. Accepted methods for the measurement of volume are:

- 11.1. by volumetric glassware;
- 11.2. by calibrated tank that uses a dip-stick, tape or sight glass;
- 11.3. by weight and density (where the instruments have been calibrated by an appropriate authority);
- 11.4. by flow meter calibrated by an appropriate authority; or
- 11.5. any other method that consistently produces a similar result.

12. Measurement of volume must be corrected to 20° Celsius.

### **Permitted variations**

13. For alcoholic excisable goods packaged in a **bulk container**:

- 13.1. if the volume of the contents is not nominated, the dutiable volume is the actual volume of the contents;
- 13.2. if the volume of the contents is nominated, and the actual volume of the contents does not exceed 101% of the nominated volume, the dutiable volume is the nominated volume;
- 13.3. if the volume of the contents is nominated and the actual volume of the contents exceeds 101% of the nominated volume, the dutiable volume is a volume equal to the nominated volume plus the volume by which the actual volume of the contents exceeds 101% of the nominated volume.

14. For alcoholic excisable goods packaged in **other than a bulk container**:

- 14.1. if the volume of the contents is not indicated on a label printed on or attached to the container (or otherwise indicated), the dutiable volume is the actual volume of the contents;
- 14.2. if the volume of the contents is indicated on a label printed on or attached to the container (or otherwise indicated) and the actual volume of the contents does not exceed 101.5% of the labelled (or otherwise indicated) volume, the dutiable volume is the labelled (or otherwise indicated) volume;

- 14.3.** if the volume of the contents is indicated on a label printed on or attached to the container (or otherwise indicated), and the actual volume exceeds 101.5% of the labelled (or otherwise indicated) volume, the dutiable volume is the volume equal to the labelled (or otherwise indicated) volume plus the volume by which the actual volume of the contents exceeds 101.5% of the labelled (or otherwise indicated) volume.

Dated this 4 day of March 2009

A handwritten signature in black ink, appearing to read 'TDyce', with a stylized flourish at the end.

Tim Dyce  
Deputy Commissioner and Delegate of the Commissioner of Taxation