

Commonwealth of Australia Gazette (No. GN 12, 26 March 2003)

Excise Act 1901

I, MARGOT RUSHTON, Assistant Commissioner Excise in the Australian Taxation Office and delegate of the Commissioner of Taxation, make this Determination under section 77FB of the *Excise Act 1901*.

1 Name of Determination

This Determination may be cited as the Excise Act (Alcoholic strength of beer) Determination 2003.

2 Commencement

This Determination commences on and from the date of publication of the Determination in the *Gazette*.

3 Definitions

In this Determination:

- **beer** means a beverage that meets the definition of beer in the Schedule to the *Excise Tariff Act 1921*;
- **CEO** means the Commissioner of Taxation;
- **strength** means the percentage by volume of alcohol at 20 degrees Celsius.

4 Application of Determination

This Determination applies to beer entered for home consumption on or after the date of commencement of the Determination.

5 Measuring equipment

- (a) You must ascertain the alcoholic strength of beer by one or more of the following processes:
 - (i) by the use of gas chromatography;
 - (ii) by the use of near infra red spectrometry; or
 - (iii) by distillation followed by the gravimetric measurement of the distillate or by measurement in a density meter.
- (b) If the brewery produces less than 100,000 litres of beer in a financial year, a hydrometer and a formula approved by the CEO may, with permission, be used to measure beer's alcoholic strength.
- (c) You must calibrate the accuracy of the measuring instruments (eg, volumetric glassware, hydrometer, pycnometer, thermometer), at intervals of one year or less, against standard instruments that have been certified by an independent authority approved by the National Association of Testing Authorities (NATA). The standard instruments must be calibrated by an independent NATA approved authority at intervals of five years or less.

6 Sampling and analysis

- (a) You must ascertain the alcoholic strength of the beer by analysing samples of the product after it has reached its full alcoholic strength and is ready for packaging or

has been packaged. Sufficient samples must be taken from each run to ensure the strength measured in accordance with paragraph 6(b) accurately reflects the true strength of the beer.

- (b) You must analyse the samples with the approved calibrated equipment. The alcoholic strength of the beer is taken to be the average of the strength of all the readings. The alcoholic strength calculated is to be expressed as the volume that would be the volume of that alcohol if the alcohol were measured at a temperature of 20 degrees Celsius. Calculation by reference to the specific gravity of alcohol is to be made on the basis that, at a temperature of 20 degrees Celsius and in a vacuum, the specific gravity of alcohol in relation to water is 0.79067.

7 Permitted variations

For the purposes of working out the excise duty payable:

- (a) The strength of beer, other than beer subject to secondary fermentation, is taken to be its nominated or labelled strength if the nominated or labelled strength does not exceed the actual strength by more than 0.2%.
- (b) The strength of beer subject to secondary fermentation is taken to be its nominated or labelled strength if the nominated or labelled strength does not exceed the actual strength by more than 0.3%.
- (c) If the actual strength of beer, other than beer subject to secondary fermentation, exceeds the nominated or labelled strength by more than 0.2%, the strength is the actual strength.
- (d) If the actual strength of beer subject to secondary fermentation exceeds the nominated or labelled strength by more than 0.3%, the strength is the actual strength.

Dated 18 March 2003

MARGOT RUSHTON
Delegate of the Commissioner of Taxation