

EXC 2019/1 -



Legislative Instrument

Excise (Alcoholic Strength of Excisable Goods) Determination 2019

I, **Timothy Dyce**, Deputy Commissioner of Taxation, make this determination under section 65 of the *Excise Act 1901*.

Signed by Timothy Dyce

Deputy Commissioner of Taxation

Dated: 01 March 2019

1. Name of determination

This determination is the *Excise (Alcoholic Strength of Excisable Goods) Determination 2019*.

2. Commencement

This determination commences on the day after it is registered on the Federal Register of Legislation.

3. Application

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

4. Revoking previous determination

This instrument repeals and replaces *Excise (Alcoholic strength of excisable goods) Determination 2009 (No. 1)* (F2009L00998), registered on 12 March 2009.

5. Determination

Sampling and Analysis

5.1 The alcoholic strength of alcoholic excisable goods must be measured by analysing samples of the product after it has reached its final alcoholic strength.

5.2 Packaged **alcoholic excisable goods** may either be:

5.2.1 sampled in the header vessel immediately prior to packaging; or

5.2.2 sampled directly from the packaging line.

5.3 Bulk **alcoholic excisable goods** may be sampled at any point after reaching final alcoholic strength.

- 5.4 For non-commercial beer produced at **BOPS**, it is sufficient to use the strength obtained from the test brews of each recipe, as opposed to sampling each batch produced. The strength of the recipes should be re-established where there is a change to the recipe.
- 5.5 Where sampling is required, sufficient samples must be taken to ensure an accurate actual strength of the alcoholic excisable good is established.
- 5.6 The alcoholic strength of a particular alcoholic excisable good:
 - 5.6.1 is taken to be the average of the strength of all the sample measurements for that particular alcoholic excisable good;
 - 5.6.2 is to be expressed as a percentage, if the alcohol were measured at a temperature of 20°C; and
 - 5.6.3 when calculating volume by reference to the specific gravity of alcohol, the calculation is to be made on the basis that the specific gravity of alcohol in relation to water is 0.79067 (based on a temperature of 20°C and in a vacuum).

Measuring and Equipment

- 5.7 The instruments used to measure the alcoholic strength of alcoholic excisable goods, including hydrometers, thermometers and weighing instruments, must conform to legal requirements pertaining to measurement.
- 5.8 The methods that may be used are:
 - 5.8.1 gas chromatography
 - 5.8.2 near infra-red spectrometry
 - 5.8.3 distillation followed by the gravimetric measurement of the distillate or by measurement in a density meter; or
 - 5.8.4 any other method capable of measuring the alcoholic strength of an alcoholic excisable good to an accuracy of plus or minus 0.2 percentage points of the actual strength.
- 5.9 Alcohol manufacturers producing less than 100,000 litres of fermented beverages (including beer) in a financial year may use a hydrometer and a formula to determine the alcoholic strength of each fermented beverage, provided the formula is supported by a documented testing process that shows the formula produces accurate results.

Permitted Variations

- 5.10 For the purposes of working out the excise duty payable on **alcoholic excisable goods** (excluding beer subject to secondary fermentation):
 - 5.10.1 if the actual strength does not exceed the labelled (or otherwise indicated) strength by more than 0.2 percentage points, the strength is the labelled (or otherwise indicated) strength and the tariff classification applicable to that strength applies.
 - 5.10.2 if the actual strength exceeds the labelled (or otherwise indicated) strength by more than 0.2 percentage points, the strength is the actual strength and the tariff classification applicable to that strength applies.

5.11 For the purposes of working out the excise duty payable on beer subject to secondary fermentation:

5.11.1 if the actual strength does not exceed the labelled (or otherwise indicated) strength by more than 0.3 percentage points, the strength is the labelled (or otherwise indicated) strength and the tariff classification applicable to that strength applies.

5.11.2 if the actual strength exceeds the labelled (or otherwise indicated) strength by more than 0.3 percentage points, the strength is the actual strength and the tariff classification applicable to that strength applies.

6. Definitions

In this determination:

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

BOPS means brew on premises shops. BOPS are breweries licensed to provide to the public commercial facilities and equipment for the manufacture of beer for non-commercial purposes.

strength means percentage by volume of alcohol at 20°C.