

# **ADMINISTRATION & CONTROL OF TAX WAREHOUSES MANUAL**

## **Part 3 – Distilleries**

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## **Section 1. Introduction**

### **1.1. Administration & Control of Tax Warehouses Manual**

Revenue's **Administration & Control of Tax Warehouses Manual** is a three-part manual issued for the information and guidance of Revenue Officers with responsibility for the administration, control and audit of authorised warehousekeepers and approved tax warehouses.

This is **Part 3** of the manual which provides operational guidelines for staff with responsibility for the administration and control of **distilleries**. A distillery is a type of approved manufacturing tax warehouse where production, processing and holding of spirits on which Alcohol Products Tax has not been paid, takes place.

**Parts 1 and 2** of the manual have been issued separately as follows:

- [Part 1 – General Warehousing Provisions](#), and
- [Part 2 – Breweries, Micro-breweries and Cider Manufacturers](#).

Officers should note that **Part 1 – General Warehousing Provisions** is specifically relevant to the administration and control of distilleries and should be read in conjunction with these guidelines.

For information on procedures for the authorisation of persons as warehousekeepers, and approval of premises as tax warehouses, Officers should refer to Revenue's manual: [Authorisation of Warehousekeepers and Approval of Tax Warehouses](#).

### **1.2. Cancellation of Instructions**

This manual supersedes and/or cancels the following:

<b>Instruction</b>	<b>Section</b>
Instructions relating to Distilleries and Distillers' Warehouses (1930)	All

### **1.3. Legislation and Public Notices**

#### **1.3.1. EU General Excise Law**

The EU law concerning the general arrangements for Excise duty is set down in [Council Directive 2008/118/EC](#) of 16 December 2008 (The Directive), which repealed [Council Directive 92/12/EEC](#). In

addition to the provisions for chargeability, liability, certain reliefs, and production, processing and holding, the Directive covers the arrangements for the movement of excisable products within the European Union.

### **1.3.2. National Law**

The national provisions for the general arrangements for excise duties are in [Part 2 of the Finance Act 2001](#), which has been substantially amended by the Finance Act 2010 to take account of the new Directive. All references in this manual to sections are, unless otherwise stated, to sections of that Part.

Section 108A covers production processing and holding in a tax warehouse, and section 109 provides for the authorisation of warehousekeepers and the approval of tax warehouses. In addition, the Alcohol Products Tax Regulations 2004 ([S.I. No 379 of 2004](#)) set down requirements and procedures in the tax warehouse.

[Part 2 of Finance Act 2003](#) (as amended) provides for the charging, liability and payment of APT.

[The Irish Whiskey Act, 1980](#) defines Irish Whiskey and certain descriptions used in relation to Irish Whiskey.

### **1.3.3. Public Notices**

The following Public Notices should be read in conjunction with this manual:

- [Public Notice 1877](#): Excise: Revenue's Guide for Tax Warehousekeepers,
- [Public Notice 1890](#): Excise: Authorisation of Warehousekeepers and the Approval of Tax Warehouses,
- [Public Notice 1880](#): Consignment of Excisable Products from EU Member States for Commercial Purposes,
- [Public Notice 1886](#): Alcohol Products Tax,
- [Public Notice 1887](#): Procedures relating to undenatured and denatured alcohol products.

## **1.4. Definitions**

Following is a list of key definitions relevant to distilleries and the distilling process:

**“Compounder”** is a person who makes compounds i.e. spirits prepared by re-distilling spirits with flavouring ingredients or by adding to the spirits any flavouring materials,

**“Distiller”** means an authorised warehousekeeper approved to produce spirits,

**“Distillery”** means any tax warehouse, or any part of such warehouse designated under the terms of approval of such warehouse, approved for the production of spirits (Regulation 3, [S.I. 379 of 2004 refers](#)),

**“EEC Alcohol Hydrometer”** means the alcohol hydrometer of Class II accuracy described in the Annex to Council Directive 76/765 EEC of 27 July 1976, bearing the EEC pattern approval sign and EEC verification mark referred to in that Directive,

**“Feints”** Intermediate spirits produced for further distillation and conveyed to a feints receiver,

**“Low Wines”** Spirits produced from the first extraction and conveyed to the low wines receiver,

**“Materials”** means any ingredient or other substance intended to be used in the production of, or for incorporation in, any alcohol product (Section 73(1) Finance Act, 2003),

**“Practical Alcohol Tables”** means the alchometric tables entitled “Practical Alcohol Tables, Volume 2” drawn up on the basis of the formula shown in the Annex to Directive 76/766 EEC of the 27 July 1976, and published by the Commission of the European Communities.

**“Production”** includes manufacturing, the blending of alcohol products and the blending of any alcohol product with any non-alcoholic beverage or with any other substance, and cognate words shall be construed accordingly (Section 73(1) Finance Act, 2003),

**“Rectifier”** is a person who refines or purifies spirits by repeated distillation or other processes,

**“Saccharometer”** means instrument used for determining the amount of sugar in a solution,

**“Still”** means the apparatus, or any part of an apparatus, in which spirits are produced,

**“Spirits”** means any product which exceeds 1.2% vol and which is-

- (a) distilled ethyl alcohol,
- (b) an alcoholic beverage the full alcohol content of which is the result of a process of distillation,
- (c) any other product falling within CN Code 2207 or 2208, even when such product forms part of a product which is not an alcohol product, **or**
- (d) any beverage exceeding 22% vol,

and includes any such product which contains a non-alcoholic product, whether in solution or not (Section 73(1) Finance Act 2003),

**“Wash”** means any wort in which fermentation has begun (Section 73(1) Finance Act 2003),

**“Wort”** means the liquid, which is intended for fermentation as part of the process of producing spirits (Section 73(1) Finance Act 2003),

**“% vol”** means alcoholic strength by volume which is the ratio, expressed as a percentage, of the volume of alcohol present in a product to the total volume of the product at a temperature of 20° Celsius (Section 73(1) Finance Act 2003),

### **1.5. Application for Approval**

The approval of a distillery is dealt with under Sec 109 of the Finance Act 2001 as a manufacturing tax warehouse. The procedures for approval as outlined in section 3 of the [Authorisation of Warehousekeepers and Approval of Tax Warehouses Manual](#) should be followed.

Officers should pay particular attention to par 3.14 of the above manual which provides guidelines on Financial Security/Bonds required to secure the excise duty at risk in approved tax warehouses. Pending completion of a general review of bonds/security requirements, the calculation model set out in par 3.11.4 should be used when calculating bonds for distillery warehouses.

### **1.6. Restrictions**

A premises or place may only be approved as a distillery where it contains a still of a capacity of not less than 1800 litres. The Revenue Commissioners may waive this requirement where they are satisfied that exceptional circumstances apply and sufficient controls and ongoing administration can be put in place (see Regulation 5 of [S.I. 379 of 2004](#)).

### **1.7. Excise Licence**

All Distillers, Rectifiers and Compounders of spirits require a manufacturer's excise licence. This licence also authorises wholesale dealing in spirits at the distillery where the spirits have been distilled. The licence is issued by the National Excise Licence Office (NELO), Waterford.

For further information on excise licences Officers should refer to Revenue's [Guide to Excise Licences](#).

## **Section 2.        Production Process**

### **2.1. Introduction**

The Revenue Officer should acquire a detailed knowledge of the distillation processes, and an understanding of terms used (see also [par 1.4](#) on key definitions). The following is a broad outline of the stages of cereal based spirit production in the State. This production is normally by way of distillation of fermented beverages.

The basic materials used in distilling are cereals, yeast and water. The distillation stages are as follows;

- **Mashing:** The cereal is milled or crushed before being mixed with hot water which converts the starch to sugar. The sugar substance dissolves into the hot water to produce a sweet liquid called wort,
- **Fermentation:** The wort is separated from the residual grains and the addition of yeast produces fermentation and the sugars are converted to low strength alcohol or wash,
- **Distillation:** The wash is pumped into the column still or Pot still and goes through a process of heat, steam condensation and vaporisation whereby the alcohol is extracted from the wash resulting in a distillate (spirits),
- **Ageing:** Certain distilled spirits are matured in wooden casks where they develop a distinctive aroma and colour,
- **Blending:** Some spirits go through a process whereby two or more spirits of the same category are combined.

The main by-product from the distillation process is waste malt from the mash tun after the wort has been produced (which can be sold as animal feed).

### **2.2. Records of Operations**

A distiller shall comply with such conditions or requirements as the Revenue Officer may require in relation to any particular operation or process in the manufacture of spirits.

In addition to the record requirements set out in par 3.2.5 of [Part 1](#) of the manual the distiller is required to keep a record of every operation relating to the production and warehousing of spirits. These records must include the details of:

- Quantity and type of cereals being used,

- Quantity and original gravity of wort prior to fermentation, quantity, and
- Final gravity of wort after fermentation, quantity and strength of all spirits made, and quantity and strength of spirits warehoused,
- Dates of production.

All records must be kept up to date, retained for a period of six years and be available for inspection by a Revenue Officer at all reasonable times.

The commercial records of the distiller in relation to the production, storage and sale of the distillation products and by-products must be retained for a period of six years and be made available for examination by a Revenue Officer when required.

### **2.3. Advance Notice of Distillation Periods**

The distiller must record and notify the Revenue Officer in advance of the dates of commencement and conclusion of the separate operations within the distillation process as per Regulation 12 of [S.I. 379 of 2004](#). The amount of advance notice varies according to the operation. Information on advance notices will be conveyed to applicants on a case-by-case basis. It can be taken that where continuous production is in operation, and where the operations of the trader are considered satisfactory, the only notices that will normally be required are the declarations of the start and finish of the accounting periods.

A period of four hours notice must be given of the intention to take account in the spirit receivers of the spirits made. The four hour notice period may be subject to agreed local arrangements.

### **2.4. Accounting Periods**

Accounting periods for the manufacture of spirits are the durations of time within which wash produced is distilled into spirits. Normally these accounting periods should not exceed five weeks and within this proviso, setting the duration of the periods will be left to the discretion of the distiller. If longer periods than five weeks are desired special application should be made to the Revenue Officer. The dates of commencement and of finishing of periods must always be communicated in advance to the Revenue Officer. These can be either by formal notice or by entry into a special register approved by the Revenue Officer for notices and declarations.

### **2.5. Materials for Manufacture of Wash**

A distiller may use in the brewing of, or making of wash, any material or mixture of materials, provided the gravity of the wash produced can be



ascertained by the approved saccharometer, Regulation 13 of [S.I. 379 of 2004](#).

A distiller may use sugar provided the sugar is stored in a nominated secure room, is used only for the manufacture of spirits and a stock record showing dates and times of receipts and removals is maintained.

The description Irish Whiskey can only be applied to spirits produced from a mash of malt and cereals, including maturation in casks for over 3 years and complies with the [Irish Whiskey Act, 1980](#), and [Council Regulation \(EC\) No 110/2008](#).

## **2.6. Wash**

A record must be kept of the amounts of the materials being used for each separate brewing operation. If continuous brewing is in operation the hourly usage rate is to be shown.

At the conclusion of brewing, wash for fermentation must be removed to an approved wash back (fermentation vessel).

Immediately after the collection of wash into a fermentation vessel, the distiller must ascertain the original gravity and quantity of the wash and immediately record in writing his/her findings together with the number of the vessel in which the wash is contained.

After fermentation has finished in any vessel, the distiller must ascertain the final gravity and quantity of the wash and immediately record in writing his findings together with the number of the vessel in which the wash is contained.

A saccharometer of an approved type must be used to determine the gravity of any wort or wash.

Fermented wash for distillation must be first removed to a wash charger and from such to a still for distillation.

Note: “**Wash Back**” is a vessel in which material for fermentation is accounted for and in which the fermentation takes place, and “**Wash Charger**” is a vessel in which fermented material is collected from the wash backs prior to removal to the stills.

## **2.7. Methods of Measuring Spirits**

Part 4 of the Alcohol Products Tax Regulations 2004 ([S.I. 379 of 2004](#)) specifies that:

- (i) The EEC Alcohol Hydrometer described in the Annex to Council Directive 76/765 EEC, may be used in conjunction with the Practical Alcohol Tables drawn up by the EU Commission under Council Directive 76/766 EEC, and
- (ii) A thermometer, graduated to 0.5°C. may be used to determine the strength of spirits for excise duty purposes, or by such other methods that have been approved by Revenue. The results produced must be accurate, and in the event of a dispute, the measurements provided by the hydrometer shall be definitive.

The distiller must record strength and volume during an operation as accurately as possible to ensure that the correct amount of duty is paid when it becomes due. Adjustment should be made for any obscuration caused by the presence of sweetening, colouring, or other ingredients. Strength should be recorded to one decimal place only, rounded down. Figures beyond the first decimal place should be disregarded. For example, if the average strength resulting from an operation, or separate fills within it, falls between 40.01% and 40.09%, the strength should be recorded as 40.00%. These records should be kept for a maximum of 6 years except where otherwise allowed (Regulation 27 of [S.I. 379 of 2004](#)).

## **Section 3. Taking Account of Spirits Produced**

### **3.1. Introduction**

This section provides general guidelines on procedures relating to taking account of the quantity and strength of spirits produced within a distillery, including how to deal with losses in store. Taking account of spirits is generally referred to within the trade as “*taking the charge*”.

### **3.2. Spirit Vessels**

Officers should ensure that all vessels containing spirits within a distillery are fitted with dipping points. The valves controlling the filling and emptying of spirit receivers must be capable of being locked. It is a requirement that when distillation is in progress the filling valve and the emptying valve of each spirit receiver must never be opened at the same time. The outlet pipe from all spirit receivers must only be connected to the Spirit Store, see [par 3.4](#) below.

### **3.3. General Procedures**

A distiller shall give notice of the time and specify the vessels in which it is intended to take account of spirits at least four hours prior to the event. In the case of continuous production the period of notice may be subject to local arrangement. The account of spirits in the spirits receivers should always be taken by a responsible official within the distillery.

When account is being taken, both the filling and emptying valves of the relevant receivers must be closed.

Particulars of the account of spirits (date, time, vessel number, dip, temperature, T.C.F.( Thermal Correction Factor), bulk quantity, actual strength, litres of alcohol) taken in the spirits receivers are to be entered immediately in an appropriate record specifically kept for this purpose. The date and time of the entry is also to be shown.

Spirits may not be removed from vessels in which accounts have been taken within one hour from the time of entry in the records of the account taken to allow official checking before pumping to the spirit store.

### **3.4. Spirit Store**

A spirit store is an area in which spirits produced in a distillery are accounted for prior to warehousing. All spirits produced and accounted for must, prior to warehousing, be removed from the spirit receivers direct to the spirit store.

Spirits may be warehoused from the store either in bulk or in casks.

A record of spirits warehoused from the store must be entered immediately in the warehouse records.

All spirits produced in an accounting period must at the end of the period be reconciled with:

- (i) the spirits warehoused, and
- (ii) the losses in store.

#### **3.4.1. Losses in Spirit Store**

The Revenue Officer should agree the expected percentage losses known as the “*agreed normal*” with the distiller before operations commence. This agreed losses figure should be commensurate with the normal losses expected during production.

Any losses greater than the “*agreed normal*” must be immediately notified to the Revenue Officer and investigated by the distiller. A written report may also be required after the investigation depending on the scale of the loss and the nature of the explanation provided. Duty may be called for on any excessive losses for which a satisfactory explanation has not been given.

### **3.5. Additional Returns**

In addition to requirements of par 3.5 of Part 1 of this manual, a distiller must maintain a record of all the spirits produced by the distillery for each accounting period and forward a signed copy of the return to the Revenue Officer. The return should contain:

- (i) For each fermentation vessel used during the period:
  - the quantity in the vessel prior to fermentation,
  - the original gravity of the wash prior to fermentation, and
  - the final gravity of the wash after fermentation.
- (ii) The litres of alcohol calculated as being capable of being produced

from the fermented wash. This is termed the *Attenuation Charge* and is calculated by assuming that one litre of alcohol is produced from 100 litres of wash for every 8.8 degrees difference between the original gravity and the final gravity of the wash.

- (iii) The quantity of spirits produced in the accounting period removed to the spirit store,
- (iv) The quantity of spirits produced in the accounting period and carried forward for re-distillation in the following period,
- (v) The quantity of spirits warehoused from the spirits produced during the period,
- (vi) The loss in store calculated as the difference between the spirits produced in the accounting period and the quantity of spirits warehoused.

### **3.6. Attenuation Charge**

In the case of spirits produced in the State by a process of distillation, where the quantity of spirits produced is less than the quantity capable of being produced from the wort or wash used in such process, the Commissioners may require that, instead of a charge on the quantity of spirits produced, Alcohol Products Tax be charged on the quantity capable of being produced from such wort or wash. This is referred to as the *Attenuation Charge* and is based on the assumption that from every hectolitre of wort or wash one litre of alcohol is produced for every 8.8 degrees of attenuation, i.e. for every 8.8 degrees of difference between the highest gravity of the wort and the lowest gravity of the wash before distillation (see [section 75\(2\) of Part 2 of Finance Act 2003](#)).

**(Litres of Wort multiplied by Degrees Attenuated divided by 880 = Litres of pure alcohol)**

## **Section 4. Revenue Controls**

### **4.1. Responsibilities of Officers**

In addition to the controls and physical checks set out in par 3.4 and 5.4 of [Part 1](#) of this manual, Officers should also:

- Attend occasionally and closely observe the conduct of the various types of operations to ensure that there is no variation from the distillation specification provided by the distiller, and that any deviation is documented and reported,
- Ensure that the distiller provides advance notice of distillation periods and also that the procedures for taking account of spirits (charges) are adhered to, including:
  - Timely taking of charges,
  - Timely recording of charges in the appropriate record kept for this purpose by the distiller.
- Ensure that the number of charges to be verified is commensurate with the risk rating applied by the district to each Manufacturing Tax Warehouse (Distillery) (see par 3.3.4 of [Part 1](#) of this manual).
- Inspect the distiller's records of charges and strengths regularly to ensure that all entries are recorded in a timely manner. Any instances or failure to maintain the distiller's record of charges and strengths in a proper and timely manner, and where the distiller fails to respond to the Officer's request for corrective action, are to be reported in the first instance to the Assistant Principal for any necessary action.
- Where deficiencies are identified in the way operations are being conducted or how losses recorded and addressed, such matters should be raised with the distiller without delay with a view to resolving the matter at the earliest opportunity.

### **4.2. Stocktaking**

An annual stock-take should be carried out in all major distilleries by the Revenue Officer to verify the balances in the distiller's period account. For smaller distilleries the frequency or otherwise of stocktakes should at all times be commensurate with the risk rating applied by the District.

### **4.3. Certificate of Age**

Age certificates (C&E 96 Rev 1 – sample available at [Appendix 1](#)) are necessary for consignments of Irish Whiskey being exported to third countries and must be countersigned by Revenue Officers. Distillers who require an age certificate must use form C&E 96 Rev 1 and lodge it with the Revenue Officer in advance of dispatch of goods.

The applicant distiller must retain a record of the usage of these forms. This record must be kept up to date by the distiller and inspected by the Revenue Officer on a regular basis.

## Appendix 1



### Certificate of Origin, Age and Conformity with the Immature Spirits Acts for Spirits Exported to .....

<b>Exporter</b>	<b>To the Revenue Officer</b>			
<p>The spirits contained in the undermentioned packages which were delivered for exportation on the day of ..... have been distilled in Ireland and also stored there in wood/oak* containers in bond for a period of not less than ..... years. The spirits conform to the requirements of the Immature Spirits Acts and are admissible for home consumption.</p> <p>I/We* request a certificate that these statements are true</p> <p>Signature of Applicant .....</p> <p style="text-align: right;">..... Date .....</p> <p>*Delete as appropriate</p>				
<b>Number of Cases Casks or Tanks</b>	<b>Description of Spirits</b>	<b>Rotation Nos</b>	<b>From</b>	<b>To</b>
<b>Total</b>	<b>Total Litres of Alcohol</b>			
<p>..... Revenue Officer</p> <p>..... Office Address</p> <p>..... District</p> <p>..... Date</p> <p>C&amp;E No. 96(a)</p>				