

NEW ZEALAND CUSTOMS SERVICE**CUSTOMS AND EXCISE ACT 1996****CUSTOMS (VOLUME OF ALCOHOL) RULES 2013**

PURSUANT to Section 288(1)(g) of the Customs and Excise Act 1996, the chief executive hereby makes the following rules prescribing the manner in which the volume of alcohol in an alcoholic beverage is to be ascertained and revokes the Customs (Volume of Alcohol) Rules 2007.

RULES**1. Title, Commencement, Application and Purpose**

- (1) These rules may be cited as the Customs (Volume of Alcohol) Rules 2013.
- (2) These rules shall come into force on the 28th day after the day of the publication of these rules in the *Gazette*.
- (3) These rules shall apply for the purposes of prescribing the manner in which the volume of alcohol in an alcoholic beverage is to be ascertained.
- (4) The volume of alcohol in an alcoholic beverage shall be ascertained by multiplying the quantity of litres of the particular beverage by its alcoholic strength in accordance with these rules.

2. Interpretation

In these rules, unless the context otherwise requires:

- (a) The term "the Act" means the Customs and Excise Act 1996.
- (b) Any terms used in these rules which are defined in Section 2 of the Act shall have the meanings given to them by that section.
- (c) "Targeted strength" means the intended percentage of alcohol by volume for each product, and each brand of the product in relation to alcoholic beverages, as advised by the manufacturer in accordance with such conditions as may be specified under section 12(2) of the Act.
- (d) "Weighted mean value", in relation to beer which is accounted for in an entry for home consumption, means the percentage of alcohol by volume obtained by dividing the total quantity of litres of alcohol, as ascertained in accordance with these rules, by the total quantity of litres of beer so entered.

3. Methods to ascertain volume of alcohol in beer

The volume of alcohol in beer may be ascertained by any one or more of the following processes:

- (a) by use of a Servo Chem Automatic Beer Analyser; or
- (b) by use of headspace gas chromatography; or
- (c) by use of gas chromatography with liquid injection; or
- (d) by way of distillation followed either by the gravimetric measurement of the distillate or by measurement in an oscillating U-tube type density meter; or
- (e) by use of near infra red spectroscopy.

4. Methods to ascertain volume of alcohol in alcoholic beverages other than beer

- (1) The volume of alcohol in alcoholic beverages other than beer may be ascertained by any one or more of the following processes:
 - (a) by use of headspace gas chromatography; or
 - (b) by use of gas chromatography with liquid injection; or
 - (c) by way of distillation followed either by the gravimetric measurement of the distillate or by measurement in an oscillating U-tube type density meter; or
 - (d) by use of near infra red spectroscopy; or
 - (e) by way of Hydrometric testing using an OIML hydrometer of the British Standard BS 5470, in the case of goods of a class or kind which, if imported, would be classified in Tariff headings 2208.20 to 2208.60, or in Tariff items 2208.90.42 or 2208.90.48.
- (2) If the chief executive has reason to believe that any alcoholic beverage analysed by use of the process specified in subparagraph (1)(e) of this rule has had added to it any substance so as to impair the hydrometer reading, he or she may disregard the results so obtained and require the beverage to be analysed using any one or more of the processes specified in subparagraphs (1)(a), (1)(b), (1)(c) or (1)(d) of this rule.

5. Manner of calculating the volume of alcohol

- (1) For the purposes of the Act, the volume of alcohol present in an alcoholic beverage shall be calculated on an entry as the amount corresponding to the value of "C" in accordance with the formula:

$$C = A \times B$$

where:

A is the total quantity of the beverage, in liquid litres, to which the entry relates; and

B is the alcohol strength of the beverage.

- (2) For the purposes of paragraph (1) of this rule, in respect of alcoholic beverages, other than beer, the alcohol strength is:
 - (a) the targeted strength providing that, when tested, it is equal to the strength obtained from analysis in accordance with these rules; or
 - (b) where the targeted strength is not confirmed when tested, the result obtained by analysis in accordance with these rules.
- (3) Subject to paragraph (5) of this rule, for the purposes of paragraph (1) of this rule, in respect of beer the alcohol strength is:
 - (a) subject to paragraph (4) of this rule, where the targeted strength is confirmed within plus 0.04% by the weighted mean value, the targeted strength stated to 2 decimal places; or
 - (b) subject to paragraph (4) of this rule, where the targeted strength is not confirmed pursuant to subparagraph (3)(a) of this rule when tested and the weighted mean value exceeds the targeted strength by more than 0.04%, the weighted mean value stated to 2 decimal places; or
 - (c) the weighted mean value where the targeted strength is not confirmed when tested and the weighted mean value is less than the targeted strength. Provided that where the weighted mean value is less than the targeted strength for more than two consecutive entries the alcoholic strength shall, in the third entry and all entries made thereafter, be declared as the targeted

strength stated to 2 decimal places, until such time as the targeted strength or more than such strength is achieved.

- (4) Notwithstanding subparagraphs (3)(a) and (3)(b) of this rule, with respect to beer, if in the case of two successive entries the weighted mean value exceeds the targeted strength, the alcoholic strength for the purposes of paragraph (1) of this rule shall, for the third entry and all entries made thereafter be the weighted mean value until that value is equal to or is less than the targeted strength.
- (5) Where the production of beer at any one place of manufacture:
- (a) is not expected to exceed 2,000,000 litres per annum intended to be entered for home consumption; and
 - (b) analyses are not done in accordance with paragraph (3) of this rule the alcoholic strength is:
 - (i) the targeted strength when confirmed by analyses of three consecutive brews of that beer, at intervals not exceeding 6 months, obtained by using any one or more of the methods to ascertain the volume of alcohol in beer as set out in rule 3 of these rules; or
 - (ii) where the beer is packaged with a stated label strength, or, in the case of bulk beer, where the product is otherwise packaged with a stated label strength; and
 - (iii) the label strength is no less than the targeted strength for the product, the alcoholic strength for the purposes of paragraph (1) of this rule shall be the label strength.

6. Revocation of the Customs (Volume of Alcohol) Rules 2007 –

The Customs (Volume of Alcohol) Rules 2007 (CR 1G/2007)* are hereby revoked.

Dated at Wellington this 23rd day of August 2013.

Carolyn Tremain
Chief Executive

Notice Under Section 288(7) of the Act.

Copies of these rules are available for inspection on the Customs Service website at (<http://www.customs.govt.nz/news/resources/legal/Pages/default.aspx>) or at any of the following Customs Offices:

- Auckland – The Customhouse, 50 Anzac Avenue, Auckland Central, Auckland 1010
- Wellington – The Customhouse, 1 Hinemoa Street, Harbour Keys, Wellington
6 Orchard Road, Christchurch Airport
- Christchurch – The Customhouse, 6 Orchard Road, Christchurch Airport, Christchurch 8053
- Dunedin – The Customhouse, 32 Portsmouth Drive, South Dunedin, Dunedin 9012

Copies of these rules may be purchased from the New Zealand Customs Service, Private Bag 1928, Dunedin 9054.

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