# Excise Regulations 1925

**Statutory Rules 1925 No. 181 as amended**

made under the

*Excise Act 1901*

This compilation was prepared on 22 March 2006
taking into account amendments up to SLI 2006 No. 58

This document has been split into two volumes
**Volume 1** contains Parts I to XIII,
Volume 2 contains Parts XIV to XXII, Schedules 1, 2
and the Notes
Each volume has its own Table of Contents

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# Contents

# Part I Preliminary

## 1 Name of Regulations [*see* Note 1]

These Regulations are the *Excise Regulations 1925*.

## 2 Definitions

(1) In these Regulations, unless the contrary intention appears:

***Bass Strait Oil*** has the same meaning as in the *Customs Tariff (Stand-By Duty) Act 1985*.

***brewery*** has the meaning given by section 77A of the Act.

***domestic free market sale*** means any sale of Bass Strait Oil to a refiner at a price other than the Import Parity Price within the meaning of subsection 6B (1) of the *Excise Tariff Act 1921*.

***microbrewery*** has the meaning given by regulation 2AB.

***other excisable beverage*** has the meaning given by the Schedule to the *Excise Tariff Act 1921*.

***refiner*** has the same meaning as in the *Customs Tariff (Stand-By Duty) Act 1985*.

***the Act*** means the *Excise Act 1901*.

(2) In these Regulations, a reference to a Form shall be read as a reference to a Form in Schedule 1.

## 2AB Microbreweries

A ***microbrewery*** is a brewery that has all the following characteristics:

(a) it is legally and economically independent of any other brewery;

(b) in the previous financial year, the total production of beer by the brewery did not exceed 30 000 litres;

(c) in the current financial year, it is likely that the total production of beer by the brewery will not exceed 30 000 litres;

(d) it sells beer (whether wholesale or retail), on which excise has been paid, directly from the manufacturing premises of the brewery.

## 2A Prescribed cases etc for purposes of section 24 of the Act

For the purposes of section 24 of the Act:

(a) the cases specified in column 2 of Schedule 2 are prescribed; and

(b) the conditions set out in column 3 of Schedule 2 in an item in that Schedule are prescribed in relation to the cases specified in column 2 of that Schedule in that item.

# Part II Tobacco

## Division 1 Tobacco leaf

### 3 Statistics to be kept by producer

Every producer of tobacco shall keep an account of the number of hectares on which the producer grows tobacco leaf, the quantity of tobacco leaf harvested, the quantity of tobacco leaf cured, and all sales of tobacco leaf.

### 4 Tobacco leaf producer's book

The book to be kept by producers of tobacco leaf shall be according to Form 1.

### 5 Annual statistics compiled by producer

On or immediately after the 31st December of each year the producer shall total up the entries in the producer's book, and show the balance of tobacco leaf, if any, on hand, which the producer shall carry forward to the next year.

### 6 Producer's return

Every producer shall, not later than the fifteenth day of January in each year, furnish to the Collector a return and declaration in accordance with Form 2, with respect to the producer's operations during the twelve months ended on the thirty-first day of December immediately preceding.

### 7 Statistics to be kept by dealer

Every dealer in tobacco leaf shall keep an account of all tobacco leaf purchased and sold by the dealer, distinguishing between Australian-grown tobacco leaf and imported tobacco leaf.

### 8 Tobacco leaf dealer's book

The book to be kept by dealers in tobacco leaf shall be according to Form 3.

### 9 Quarterly statistics compiled by dealer

At the end of each quarter the dealer shall total up the entries in the dealer's book, and show the balances of tobacco leaf, if any, on hand, which the dealer shall carry forward to the next quarter.

### 10 Dealer's return

Every dealer shall not later than the fifteenth day of January, April, July, and October in each year furnish to the Collector a return verified by declaration, in accordance with Form 4, with respect to the dealer's operations during the immediately preceding quarter of the year.

## Division 2 Manufacturers of tobacco, cigars, cigarettes and snuff

### 11 Application for manufacturer's licence

The drawings and particulars to accompany applications for licences to manufacture tobacco, cigars, cigarettes, and snuff shall be as follows:

(1) A plan and sectional elevation of the factory buildings;

(2) The name and situation of the factory;

(3) The material of which the factory is constructed;

(4) The number of flats or stories in the building or buildings;

(5) The number of rooms in each story, and for what purpose each room or story is intended to be used;

(6) The number and position, with relation to the principal building of the factory, of any detached buildings used, or proposed to be used, as part of the factory, together with number of rooms in each such detached building; and

(7) Such other particulars as the Collector may require.

### 12 Fee for manufacturer's licence

For section 16 of the Act, the sum in which security is to be given by an applicant for a licence to manufacture tobacco, cigars, cigarettes and snuff is the amount specified in the second column of the following table in relation to the quantity of tobacco, cigars, cigarettes and snuff, specified in the first column of that table, that the holder of the licence is authorized to manufacture in a year.

| First Column<br>Quantity of tobacco, cigars, cigarettes and snuff that may be manufactured in a year | Second Column<br>Amount to be given in security |
|---|---|
| | $ |
| 2,250 kg or less | 400 |
| More than 2,250 kg, but not more than 4,500 kg | 600 |
| More than 4,500 kg, but not more than 9,000 kg | 1,000 |
| More than 9,000 kg, but not more than 22,500 kg | 1,600 |
| More than 22,500 kg, but not more than 45,000 kg | 2,400 |
| More than 45,000 kg, but not more than 90,000 kg | 3,600 |
| More than 90,000 kg, but not more than 157,500 kg | 5,000 |
| More than 157,500 kg, but not more than 225,000 kg | 7,000 |
| More than 225,000 kg, but not more than 450,000 kg | 10,000 |
| More than 450,000 kg | 15,000 |

## Division 4 Disposal of stalks, refuse, clippings and waste resulting from the manufacture of tobacco, cigars and cigarettes

### 29 Destruction of manufacturing residue

(2) Stalks, refuse, clippings or waste arising from the manufacture of tobacco, cigarettes and cigars in a factory may be destroyed:

(a) by burning;

(aa) by spraying with a solution of a kind approved by the Collector so as to denature the stalks, refuse, clippings or waste; or

(b) where the product is to be used for agricultural or horticultural purposes or for any other purpose approved by the CEO, by:

(i) reduction to a fine powder by a method approved by the CEO;

(ii) spraying and mixing effectively with phenyle emulsion prepared by dissolving 150 grams of commercial phenyle and 3 grams of a red coal tar dye approved by the CEO in 1 litre of water in the proportion of 1 litre of dyed emulsion for each 5 kg of stalks, refuse, clippings and waste;

(iii) spraying with any other denaturant approved by the CEO; or

(iv) chemical treatment necessary for the complete extraction of nicotine.

## Division 5 Delivery of tobacco leaf or Australian tobacco for use in the manufacture of other products

### 33 Application to use tobacco for purposes of this Division

Australian tobacco leaf or Australian manufactured tobacco may on application be delivered for making sheep-wash, or for any agricultural or horticultural purpose, when treated in the manner hereinafter provided.

### 34 Form of application

Applications for delivery of Australian tobacco leaf or manufactured tobacco, in accordance with the preceding regulation, shall be made according to Form 6.

### 35 Exercise of Collector's discretion

The application may be approved or disapproved by the Collector.

### 36 Procedure when application approved

Where an application under regulation 33 of these Regulations is approved, the tobacco leaf or tobacco to which it relates shall be destroyed by one of the methods specified in paragraph (b) of subregulation (2) of regulation 29 of these Regulations.

### 39A Application for permission to destroy tobacco leaf

(1) Producers and dealers may apply for permission to destroy Australian tobacco leaf stored on their premises. If the application is approved the tobacco leaf shall be destroyed by one of the methods prescribed in regulation 29. Provided that approval may be given to producers and dealers in remote districts to destroy tobacco leaf by using it to make an aqueous spraying extract and by subsequently disposing of any residue by burning or by such other means as the Collector approves.

(2) A producer or dealer who destroys tobacco leaf in accordance with an approval given by the Collector under the last preceding subregulation shall, forthwith after the destruction of the tobacco leaf, furnish to the Collector evidence that the tobacco leaf has been destroyed in the prescribed manner.

## Division 6 Packages of tobacco or snuff

### 40 Packaging of tobacco

(1) The manufacturer of tobacco shall not pack tobacco, not being cut tobacco, manufactured by the manufacturer, into a package containing less than 450 grams, net weight, of tobacco.

(2) The manufacturer of tobacco shall mark each package of tobacco, not being cut tobacco, manufactured by the manufacturer with the following particulars, that is to say:

(a) either the name of the manufacturer and the address of the factory at which the tobacco was manufactured or the number allotted by the Collector to that factory and the number allotted by the Collector to the State in which the tobacco was manufactured;

(b) the words Made in Australia, or words approved by the Collector indicating that the tobacco was manufactured in Australia;

(c) the net weight of the contents of the package; and

(d) if the Collector has approved the placing of any additional markings on packages of tobacco manufactured by the manufacturer — those additional markings.

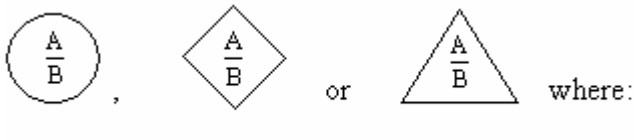
(3) The manufacturer of plug or piece tobacco, not being cut tobacco, shall mark each of the plugs or pieces of tobacco manufactured by the manufacturer and contained in a package with the following particulars, that is to say:

(a) either the name of the manufacturer and the address of the factory at which the tobacco was manufactured or the number allotted by the Collector to the factory and the number allotted by the Collector to the State in which the tobacco was manufactured; and

(b) the words Made in Australia, or words approved by the Collector indicating that the tobacco was manufactured in Australia.

(4) The manufacturer of tobacco shall so mark a package containing tobacco, or plugs or pieces of tobacco, manufactured by the manufacturer with the particulars required by subregulation (2) or (3), whichever is applicable, of this regulation that the particulars are easily readable.

(5) The number allotted to the factory and the number allotted to the State on a package or on a plug or piece of tobacco shall be enclosed in a circle, diamond or triangle, as follows;




***A*** is the number allotted to the factory; and

***B*** is the number allotted to the State.

## 41 Packaging of small quantities of tobacco or snuff

Small tins or packets of cut tobacco or snuff may be packed in outer containers each of which contains not less than 450 grams of tobacco or snuff.

## 42 Packaging of cut tobacco or snuff

(1) The manufacturer of cut tobacco or snuff shall mark each tin or packet of tobacco or snuff, and an outer package containing tins or packets of tobacco or snuff, with the following particulars, that is to say:

(a) either the name of the manufacturer and the address of the factory at which the tobacco or snuff was manufactured or the number allotted by the Collector to that factory and the number allotted by the Collector to the State in which the tobacco or snuff was manufactured;

(b) the words ‘Made in Australia’, or words approved by the Collector indicating that the tobacco or snuff was manufactured in Australia;

(c) the net weight of the contents of the tin, packet or package; and

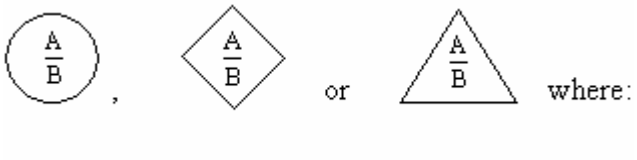
(d) if the Collector has approved the placing of any additional markings on tins, packets or packages of cut tobacco or snuff manufactured by the manufacturers — those additional markings.

(2) Particulars of the net weight shall be marked in a prominent position and in association with the other particulars.

(3) The manufacturer of cut tobacco shall mark each package of tobacco manufactured by the manufacturer that is packed in bulk with the particulars required by subregulation (1) of this regulation to be marked on a tin of tobacco and, in addition, with particulars of the gross weight of the package.

(4) The manufacturer of cut tobacco or snuff shall so mark a tin, packet or package containing tobacco or snuff with the particulars required by subregulation (1) or (3), whichever is applicable, of this regulation that the particulars are easily readable.

(5) The number allotted to the factory and the number allotted to the State on a tin, packet or package of snuff shall be enclosed in a circle, diamond or triangle, as follows;




***A*** is the number allotted to the factory; and

***B*** is the number allotted to the State.

## 42A Maximum weight for cut tobacco packages

(1) Except as provided by this regulation, cut tobacco shall not be put up in packages containing more than 500 grams net weight.

(2) Where:

(a) cut tobacco is to be delivered to an institution; and

(b) a written application is made by the chief executive officer of the institution certifying that the tobacco is to be distributed to inmates of the institution;

the Collector may authorize the putting up of cut tobacco in packages containing more than 500 grams net weight but not more than 12 kilogrammes net weight for delivery to the institution.

(3) Where cut tobacco is to be removed under the CEO's control from one factory to another for further manufacture or packing in accordance with these Regulations, the Collector may authorize the putting up of cut tobacco in packages containing more than 500 grams net weight but not more than 35 kilogrammes net weight.

(4) A blender may make written application to the Collector for authority to receive cut tobacco in packages exceeding 500 grams net weight for the purposes of blending tobacco at premises specified in the application.

(5) Where:

(a) the Collector grants an application made under the last preceding subregulation; and

(b) the blender gives security in an amount approved by the Collector that the tobacco will be used for blending purposes only and that the blended tobacco will be sold by the blender by retail only;

the Collector may authorize the putting up of cut tobacco in packages containing more than 500 grams net weight but not more than 12 kilogrammes net weight for delivery to the blender.

(6) A person other than:

(a) a manufacturer;

(aa) the proprietor of an approved place;

(b) a chief executive officer of an institution to which the Collector has authorized the delivery of cut tobacco in accordance with subregulation (2) of this regulation;

(c) a blender to whom the Collector has authorized the delivery of cut tobacco in accordance with subregulation (5) of this regulation; or

(d) the licensee of a warehouse licensed under the *Customs Act 1901*;

shall not be in possession, custody or control of more than 10 kilogrammes net weight of cut tobacco not put up in packages in accordance with subregulation (1) of this regulation.

(7) For the purposes of this regulation:

***blender*** means a person who blends or packs different kinds of tobacco and sells, or disposes of, the tobacco so blended or packed by retail.

***institution*** means an institution or establishment conducted by a State or an institution or establishment approved by the Collector.

## Division 7 Packages of cigars

### 43 Packaging of cigars

Cigars may be put up in packages containing such number as the Collector may approve, and may be removed from the factory in parcels of not less than twenty-five.

## 44 Marking of cigar packages

(1) The manufacturer of cigars shall mark each packet or box containing cigars manufactured by the manufacturer with the following particulars, that is to say:

(a) either the name of the manufacturer and the address of the factory at which the cigars were manufactured or the number allotted by the Collector to that factory and the number allotted by the Collector to the State in which the cigars were manufactured;

(b) the words 'Made in Australia', or words approved by the Collector indicating that the cigars were manufactured in Australia;

(c) the number of cigars contained in the packet or box;

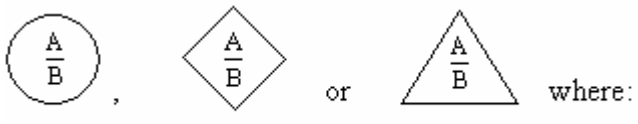
(d) the brand or make of cigar contained in the packet or box; and

(e) if the Collector has approved the placing of any additional markings on packets or boxes of cigars manufactured by the manufacturer — those additional markings.

(2) Where packets or boxes of cigars are packed into an outer container, the immediate outer container shall be marked as required by the last preceding subregulation and, in addition, shall be marked with the following particulars, namely, the number of cigars contained in the container.

(3) The manufacturer of cigars shall so mark a packet, box or outer container containing cigars with the particulars required by subregulation (1) or (2), whichever is applicable, of this regulation that the particulars are easily readable.

(4) The number allotted to the factory and the number allotted to the State on a packet, box or outer container containing cigars shall be enclosed in a circle, diamond or triangle, as follows;

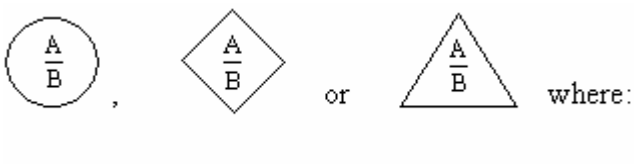



***A*** is the number allotted to the factory; and

***B*** is the number allotted to the State.

### 45 Marking of cigar wrappings

Where the manufacturer of cigars wraps the cigars in paper, cardboard or other wrappers before packing them into packages of the prescribed size, the manufacturer shall mark the paper, cardboard or other wrapper in which the cigars are wrapped with particulars of the number allotted to the manufacturer's factory and the number allotted to the State in which the cigars were manufactured, enclosed in a circle, diamond or triangle, as follows;




***A*** is the number allotted to the factory; and

***B*** is the number allotted to the State.

## Division 8 Packages of cigarettes

### 46 Packaging of cigarettes

Cigarettes may be put up in packages containing such number as the Collector may approve, and may be removed from the factory in parcels of not less than 250 cigarettes.

### 47 Marking of cigarette packages

(1) The manufacturer of cigarettes shall mark each tin, packet or box containing cigarettes manufactured by the manufacturer with the following particulars, that is to say:

(a) either the name of the manufacturer and the address of the factory at which the cigarettes were manufactured or the number allotted by the Collector to that factory and the number allotted by the Collector to the State in which the cigarettes were manufactured;

(b) the words 'Made in Australia', or words approved by the Collector indicating that the cigarettes were manufactured in Australia;

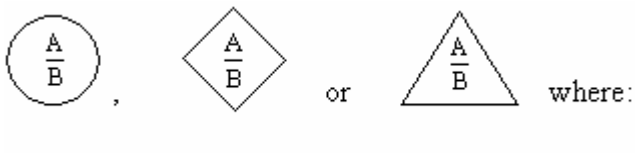
(c) the brand or make of the cigarettes; and

(d) if the Collector has approved the placing of any additional markings on tins, packets or boxes of cigarettes manufactured by the manufacturer — those additional markings.

(2) Where tins, packets or boxes containing cigarettes are packed into outer containers, the immediate outer container shall be marked with the particulars required by the last preceding subregulation to be marked on each tin, packet or box and, in addition, with particulars of the number of cigarettes contained in the container.

(3) The manufacturer of cigarettes shall so mark a tin, packet, box or outer container containing cigarettes with the particulars required by whichever of the last two preceding subregulations is applicable that the particulars are easily readable.

(4) The number allotted to the factory and the number allotted to the State on a tin, packet, box or outer container containing cigarettes shall be enclosed in a circle, diamond or triangle, as follows;




***A*** is the number allotted to the factory; and

***B*** is the number allotted to the State.

## 48 Marking of large container holding small packages

(1) Where the manufacturer of goods, being tobacco, cut tobacco, cigars, cigarettes or snuff, packs small packages of the goods into a larger container, the manufacturer shall mark the following particulars on the outside of the container, that is to say:

(a) either the name of the manufacturer and the address of the factory at which the goods were manufactured or the number allotted by the Collector to that factory and the number allotted by the Collector to the State in which the goods were manufactured;

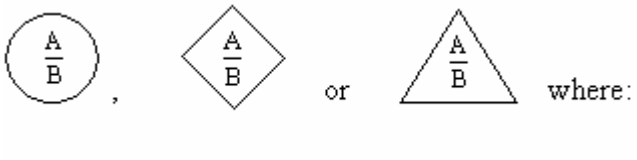
(b) the words ‘Made in Australia’, or words approved by the Collector indicating that the goods were manufactured in Australia;

(c) the gross weight of the container; and

(d) if the Collector has approved the placing of any additional markings on containers containing small packages of those goods manufactured by the manufacturer — those additional markings.

(2) The manufacturer shall so mark a container of goods with the particulars required by subregulation (1) of this regulation that the particulars are easily readable.

(3) The number allotted to the factory and the number allotted to the State on a container of goods shall be enclosed in a circle, diamond or triangle, as follows;




***A*** is the number allotted to the factory; and

***B*** is the number allotted to the State.

## 49 Marking of packages under regulation 21

The manufacturer of tobacco, cigars, cigarettes and snuff manufactured from unmanufactured tobacco delivered under subregulation (2) of regulation 21 of these Regulations shall mark the immediate outer packages containing small tins, packets or boxes in which the goods are placed with the words ‘For Export Only’.

# Division 9 Amount of duty for penalties relating to tobacco leaf

## 49AA Amount of duty

(1) This regulation explains how to work out the amount of duty that is to be used to determine the amount of a penalty, relating to a quantity of tobacco leaf, under the following provisions of the Act:

(a) section 28;
(b) section 30;
(c) section 31;
(d) section 33;
(e) section 35;
(f) section 39K;
(g) section 39M;
(h) section 44;
(i) section 117C;
(j) section 117D;
(k) section 117F;
(l) section 117H.

(2) If the tobacco leaf was seized in a bale, the amount of duty is:

$$(\text{weight} - 2) \times \text{rate}$$

where:

***rate*** is the rate of excise duty applicable, on the penalty day, to a kilogram of tobacco leaf that is manufactured into excisable goods and entered for home consumption.

***weight – 2*** is the gross weight of the bale and the tobacco leaf, in kilograms, minus 2 kilograms.

(3) If tobacco leaf was not seized, but there is sufficient evidence available to show that the quantity of tobacco leaf was in a bale, the amount of duty is:

$$\text{weight} \times \text{rate}$$

where:

***rate*** is rate of excise duty applicable, on the penalty day, to a kilogram of tobacco leaf that is manufactured into excisable goods and entered for home consumption.

***weight*** is 100 kilograms.

(4) If the tobacco leaf was seized in unbaled form, the amount of duty is:

$$\text{weight} \times \text{rate}$$

where:

***rate*** is the rate of excise duty applicable, on the penalty day, to a kilogram of tobacco leaf that is manufactured into excisable goods and entered for home consumption.

***weight*** is the weight of the tobacco leaf in kilograms.

(5) If tobacco leaf was not seized, but there is sufficient evidence available to show that the quantity of tobacco leaf was in unbaled form, the amount of duty is:

$$\text{weight} \times \text{rate}$$

where:

***rate*** is the rate of excise duty applicable, on the penalty day, to a kilogram of tobacco leaf that is manufactured into excisable goods and entered for home consumption.

***weight*** is the weight of the tobacco leaf, in kilograms, as shown by the evidence.

*Note* ***Penalty day*** is defined in section 4 of the Act.

# Part III Remissions, rebates and refunds of excise duty

## 49A Remission — rounding down duty paid in cash

For the purposes of section 78 of the Act, if an amount of Excise duty:

(a) is to be paid in cash; and

(b) is not a multiple of 5 cents;

the number of cents in excess of the next lower multiple of 5 cents must be remitted.

## 50 Circumstances under which refunds, rebates and remissions are made

(1) Each of the following circumstances is prescribed for the purposes of section 78 of the Act, namely where:

(a) the goods on which Excise duty has been paid or is payable have, while subject to the CEO's control:

(i) deteriorated or been damaged, pillaged, lost or destroyed; or

(ii) become unfit for human consumption; or

(b) the goods on which Excise duty has been paid or is payable, being goods that are subject to the CEO's control, are not worth the amount of Excise duty paid or payable on the goods;

(c) Excise duty has been paid through manifest error of fact or patent misconception of the law;

(d) the goods on which Excise duty has been paid have, by virtue of section 160A of the Act, become goods that are not liable to Excise duty;

(da) after duty has been paid on goods, a by-law is made under Part XV of the Act the effect of which is that duty is not payable on those goods or duty is payable on those goods at a rate which is less than the rate which was applicable when the goods were entered for home consumption;

(db) after Excise duty has been paid on goods:

(i) any Minister of State requests that the goods be withdrawn from sale or distribution on grounds stated by the Minister to be grounds of public health or safety; and

(ii) the goods:

(A) are so withdrawn; and

(B) are returned to the manufacturer of those goods;

(e) Australian wine or lees to which spirit for fortifying Australian wine or Australian grape must has been added (being spirit on which Excise duty has been paid) is or are distilled in a distillery or by a vigneron;

(f) while subject to the CEO's control:

(i) Australian wine or lees to which spirit for fortifying Australian wine or Australian grape must has been added (being spirit on which Excise duty is payable) is or are removed from an approved place to a distillery or the premises of a vigneron and distilled at that distillery or at those premises; or

(ii) lees to which spirit for fortifying Australian wine or Australian grape must has been added (being spirit on which Excise duty is payable and being lees that are stored at an approved place) are so diluted by adding water that the alcoholic strength of the lees is reduced to not more than 9 per centum by volume of alcohol;

(h) tobacco, cigarettes, cigars or snuff on which Excise duty has been paid are returned, or are to be deemed to have been returned, to the manufacturer of those goods;

(k) beer on which Excise duty has been paid (being beer contained in a bulk container):

(i) is returned to the brewery at which it was made in the bulk container in which it was contained when it was removed from the brewery; or

(ii) is destroyed by permission of a Collector;

(n) stabilized crude petroleum oil on which Excise duty has been paid:

(i) has been exported after 30 June 1983; or

(ii) has been sold in domestic free market sales after 31 December 1984;

(s) for a quantity of stabilised crude petroleum oil (unless paragraph (sc) applies to the oil):

(i) excise duty has been paid (whether before or after the commencement of this provision); and

(ii) because of an error in measurement or calculation of the quantity of the oil, the duty paid is more than the correct amount;

(sa) for stabilised crude petroleum oil produced by a person in a financial year:

(i) section 6B, 6C or 6D of the *Excise Tariff Act 1921* applies; and

(ii) excise duty has been paid for oil entered for home consumption in a month of the financial year; and

(iii) a Collector is satisfied that the quantity of oil that is likely to be entered by the person for home consumption for the financial year will be less than a dutiable quantity;

(sb) for stabilised crude petroleum oil produced by a person in a financial year:

(i) section 6B, 6C or 6D of the *Excise Tariff Act 1921* applies; and

(ii) excise duty for the oil for each month of the financial year has been ascertained under that section; and

(iii) the duty ascertained has been paid; and

(iv) the total duty paid is more than the total duty payable on the total quantity of oil entered by the person for home consumption during the financial year;

(sc) for stabilised crude petroleum oil produced by a person in a financial year:

(i) excise duty has been paid in relation to which a credited adjustment amount subsequently applies under section 6B, 6C or 6D of the *Excise Tariff Act 1921*; and

(ii) account is taken of the credited adjustment amount in a calculation under subsection 6B (3), 6C (3) or 6D (3), as appropriate, of that Act; and

(iii) the amount ascertained under that subsection to be the amount of duty for the oil to which the subsection applies (that is, relevant oil, new oil or intermediate oil, as the case may be) is a negative amount (that is, an amount less than zero);

(t) a determination under subsection 7 (3) of the *Petroleum Excise (Prices) Act 1987* of the final VOLWARE price in relation to a month in respect of excisable crude petroleum oil is amended (whether before or after the commencement of this provision) under subsection 7 (9) of that Act;

(ta) goods on which excise duty is payable:

(i) are delivered for home consumption in accordance with a permission given under section 61C of the Act; and

(ii) are for sale for:

(A) the official use of a diplomatic mission of an overseas country, or the personal use of a person mentioned in paragraph 9 (1) (b) or (c) of the *Diplomatic Privileges and Immunities Act 1967*; or

(B) the official use of a consular post of the kind described in paragraph 7 (1) (a) of the *Consular Privileges and Immunities Act 1972* or the personal use of a person mentioned in paragraph 7 (1) (b) or (c) of that Act;

(tb) goods on which excise duty has been paid are sold to a person for:

(i) the official use of a diplomatic mission of an overseas country, or the personal use of a person mentioned in paragraph 9 (1) (b) or (c) of the *Diplomatic Privileges and Immunities Act 1967*; or

(ii) the official use of a consular post of the kind described in paragraph 7 (1) (a) of the *Consular Privileges and Immunities Act 1972* or the personal

use of a person mentioned in paragraph 7 (1) (b) or (c) of that Act;

(tc) excise duty has been paid on goods:

(i) that are purchased by a person for use by a Government of a country other than Australia and for the official use of that Government, as prescribed by by-laws, being goods referred to in sub-item 13 (A) of the Schedule to the *Excise Tariff Act 1921*; and

(ii) in respect of which no refund is able to be claimed under paragraph (u);

(u) goods on which Excise duty has been paid are sold to a person for use by a Government of a country other than Australia and for the official use of that Government, as prescribed by by-laws, being goods referred to in sub-item 13 (A) in the Schedule to the *Excise Tariff Act 1921* and:

(i) the price at which the goods were sold to that person was a price that did not include an amount in respect of Excise duty; or

(ii) if the price at which the goods were sold to that person was a price that did include an amount in respect of Excise duty, an amount equal to the amount of Excise duty has been refunded or credited to that person;

(ua) goods on which Excise duty has been paid are sold to, or for use by, a person covered by a Status of Forces Agreement between the Government of the Commonwealth of Australia and the Government of another country, as prescribed by by-laws, being goods referred to in sub-item 13 (B) in the Schedule to the *Excise Tariff Act 1921* and:

(i) the price at which the goods were sold to that person did not include an amount for Excise duty; or

(ii) if the price at which the goods were sold to that person included an amount for Excise duty, an amount equal to the amount of Excise duty has been refunded or credited to that person;

(ub) excise duty has been paid on goods:

(i) that are purchased by a person covered by a Status of Forces Agreement between the Government of the Commonwealth of Australia and the Government of another country for use by a person covered by that Agreement, as prescribed by by-laws, being goods referred to in sub-item 13 (B) of the Schedule to the *Excise Tariff Act 1921*; and

(ii) in respect of which no refund is able to be claimed under paragraph (ua);

(v) Excise duty has been paid on petrol and that petrol, in whole or in part is returned to a manufacturer or to a warehouse;

(zg) duty is payable on a clean petroleum product that:

(i) is a clean fuel within the meaning of subsection 4 (1) of the Act; and

(ii) falls within a classification in item 11 or 12 in the Schedule to the *Excise Tariff Act 1921*; and

(iii) is suitable for use as a fuel in an internal combustion engine; and

(iv) is delivered, for use otherwise than as a fuel, in accordance with a permission given under section 61C of the Act that is expressed to be given for the purposes of ensuring the efficacy of the fuel as a solvent;

(zh) duty has been paid on a clean petroleum product, other than diesel fuel, that:

(i) is a clean fuel within the meaning of subsection 4 (1) of the Act; and

(ii) falls within a classification in item 11 or 12 in the Schedule to the *Excise Tariff Act 1921*; and

(iii) has been used only as a solvent;

(zt) excise duty is payable on petroleum, or shale spirit, that:

(i) is classified to item 11 in the Schedule to the *Excise Tariff Act 1921*; and

(ii) is not gasoline; and

(iii) has a flash point of less than 0 degrees Celsius when tested in an Abel Pensky (closed test) apparatus; and

(iv) is for either of the following demonstrated uses:

(A) as a solvent;

(B) another use (otherwise than as a fuel) approved by a Collector; and

(v) is delivered in accordance with a permission given under section 61C of the Act for a demonstrated use otherwise than as a fuel;

(zu) excise duty has been paid on petroleum, or shale spirit, that:

(i) is classified to item 11 in the Schedule to the *Excise Tariff Act 1921*; and

(ii) is not gasoline; and

(iii) has a flash point of less than 0 degrees Celsius when tested in an Abel Pensky (closed test) apparatus; and

(iv) is demonstrated to have been used:

(A) as a solvent; or

(B) for another use (otherwise than as a fuel);

(zv) excise duty is payable on kerosene that:

(i) is a clean fuel within the meaning of subsection 4 (1) of the Act; and

(ii) is classified to item 11 in the Schedule to the *Excise Tariff Act 1921*; and

(iii) is delivered in accordance with a permission given under section 61C of the Act for use, by a business entity, in an internal combustion engine used for the propulsion of a marine vessel;

(zw) excise duty has been paid on kerosene that:

(i) is a clean fuel within the meaning of subsection 4 (1) of the Act; and

(ii) is classified to item 11 in the Schedule to the *Excise Tariff Act 1921*; and

(iii) has been used, by a business entity, in an internal combustion engine used for the propulsion of a marine vessel;

(zx) excise duty is payable on a recycled product that:

(i) is classified to item 11 in the Schedule to the *Excise Tariff Act 1921*; and

(ii) is not recycled diesel fuel or recycled gasoline; and

(iii) is demonstrated to be for use for the purpose for which it was used before being recycled; and

(iv) is delivered in accordance with a permission given under section 61C of the Act for the use for which it was recycled;

(zy) excise duty has been paid on a recycled product that:

(i) is classified to item 11 in the Schedule to the *Excise Tariff Act 1921*; and

(ii) is not recycled diesel fuel or recycled gasoline; and

(iii) has been used for the purpose for which it was used before being recycled;

(zz) excise duty is payable on a recycled product:

(i) that is hydraulic oil, brake fluid, transmission oil, transformer oil or heat transfer oil classified to subitem 15 (B) of the Schedule to the *Excise Tariff Act 1921*; and

(ii) for which no benefit is payable under the *Product Stewardship (Oil) Regulations 2000*; and

(iii) that is demonstrated to be for the use for which it was used before being recycled; and

(iv) that is delivered in accordance with a permission given under section 61C of the Act;

(zza) excise duty has been paid on a recycled product:

(i) that is hydraulic oil, brake fluid, transmission oil, transformer oil or heat transfer oil classified to subitem 15 (B) of the Schedule to the *Excise Tariff Act 1921*; and

(ii) for which no benefit is payable under the *Product Stewardship (Oil) Regulations 2000*; and

(iii) that has been used for the same purpose for which it was used before being recycled;

(zzb) excise duty has been paid on goods:

(i) for the official use of an international organisation to which the *International Organisations (Privileges and Immunities) Act 1963* applies; and

(ii) acquired in an acquisition of goods that are exempt from duties of excise;

(zzc) excise duty has been paid on goods for the personal use of the holder of a high office in an international organisation to which the *International Organisations (Privileges and Immunities) Act 1963* applies, if the holder is exempt from duties of excise in accordance with regulations made under that Act;

(zzd) excise duty has been paid on beer manufactured in a microbrewery during a financial year, and the amount of refund paid during the financial year does not exceed:

(i) if the brewery is a microbrewery at the start of the financial year — $10 000; or

(ii) if the microbrewery first becomes a microbrewery after the start of the financial year — an amount worked out by:

(A) multiplying $10 000 by the number of days in the period starting when the brewery first becomes a microbrewery and ending at the end of the financial year; and

(B) dividing the result by 365.

(2) For the purposes of paragraphs (e) and (f) of subregulation (1):

***distillery*** means the premises of a person who is the holder of a spirit maker's licence granted under the *Distillation Act 1901*.

***vigneron*** means a person who is the holder of a vigneron's licence granted under the *Distillation Act 1901*.

(3) For the purposes of paragraph (h) of subregulation (1), tobacco, cigarettes, cigars or snuff shall be deemed to have been returned to the manufacturer of those goods if those goods are returned to a person authorized by the manufacturer to receive those goods on behalf of the manufacturer.

(4AA) For paragraph (1) (sa):

***dutiable quantity*** means the quantity worked out using the formula:

(a) for oil to which section 6B of the *Excise Tariff Act 1921* applies:

$$A \times B; \text{ or}$$

(b) for oil to which section 6C of the *Excise Tariff Act 1921* applies:

$$A \times 10B; \text{ or}$$

(c) for oil to which section 6D of the *Excise Tariff Act 1921* applies:

$$A \times 6B;$$

where:

***A*** is the number of days in the financial year concerned; and

***B*** has the same meaning as it has in section 6B, 6C or 6D of the *Excise Tariff Act 1921*, as appropriate.

(4AB) For paragraph (1) (sc):

***credited adjustment amount*** has the same meaning as in section 6B, 6C or 6D of the *Excise Tariff Act 1921*, as appropriate.

***intermediate oil*** has the same meaning as in subsection 3 (1) of the *Excise Tariff Act 1921*.

***new oil*** has the same meaning as in subsection 3 (1) of the *Excise Tariff Act 1921*.

***relevant oil*** has the same meaning as in section 6B of the *Excise Tariff Act 1921*.

(6) For the purposes of paragraph (1) (v), ***petrol*** has the same meaning as in regulation 161.

## 51 Requirements for remission, rebate or refund

(1) Subject to subregulation (2), a remission, rebate or refund of Excise duty shall not be allowed in a circumstance specified in subregulation 50 (1) unless an application for the remission, rebate or refund in accordance with regulation 52 is delivered to a Collector.

(2) Subregulation (1) does not apply where the circumstance in which a remission of Excise duty may be allowed is such that the goods on which Excise duty was payable have been totally lost or destroyed or have otherwise ceased to exist.

## 52 Application for remission, rebate or refund

(1) An application for a remission, rebate (other than a rebate to which section 78A of the Act relates) or refund of Excise duty shall:

(a) be in writing, signed by the applicant; and

(b) state, as far as practicable, the nature and particulars of the claim.

(2) For the purpose of enabling a Collector to verify that a prescribed circumstance applies in relation to goods to which an application relates, a Collector may require the applicant to produce records or to give further information, or both, and the applicant shall comply with the requirement accordingly.

## 52AAAA Naphtha

(1) For paragraph 78AAAA (2) (a) of the Act, the Industry Minister may approve a plant at which naphtha is produced if the plant is designed to demonstrate the application of particular technology for the extraction of hydrocarbons from shale.

(2) The approval of a plant is not affected by the later commencement of production of naphtha by a separately operating commercial plant which makes use of the same technology as the approved plant.

(3) For subregulation (2), ***separately operating commercial plant*** means a plant, the operations of which are performed independently of those of the approved plant despite:

(a) any degree of commonality of ownership; and

(b) any sharing of premises by the plants.

(4) The following provisions of this regulation are made for subsection 78AAAA (1) of the Act.

(5) An application under that subsection must:

(a) be signed by or on behalf of the applicant; and

(b) state the volume of naphtha that is the subject of the application (the ***application volume***); and

(c) state the volume of unleaded gasoline that can be obtained from the application volume, according to whether the refinery in Australia where the gasoline was obtained includes an isomerisation unit; and

(d) be given to a Collector within 12 months of delivery of the application volume to that refinery.

(6) The volume of unleaded gasoline that can be obtained from a volume of naphtha is:

(a) if the equipment for obtaining the gasoline includes an isomerisation unit — 89.73% of the volume of the naphtha; or

(b) if the equipment for obtaining the gasoline does not include an isomerisation unit — 90.11% of the volume of the naphtha.

(7) The amount of excise duty payable on the volume of unleaded gasoline that can be obtained from a volume of naphtha is worked out using the rate of duty applying on the date of the delivery of that volume of naphtha to the refinery where it was used to obtain gasoline.

(8) An applicant is not entitled to a payment for naphtha unless the application volume was used to obtain unleaded gasoline at a refinery in Australia.

(9) For assessing an application, a Collector may give the applicant a notice to produce records or give additional information, or both, within the period specified in the notice or such further period as the Collector, in writing, allows.

(10) An applicant who does not comply with a notice given under subregulation (9) is taken to have withdrawn the application.

## 52AAA Refunds of excise duty on beer

If refunds of excise duty may be allowed in respect of beer in the circumstances specified in paragraph 50 (1) (zzd), the amount of refund of excise duty for subsection 78 (1) of the Act is 60%.

## 52B Rate, or amount, of rebate, refund, etc of excise duty — stabilised crude petroleum oil

(1) Where a rebate of excise duty is allowed in respect of stabilized crude petroleum oil (in this regulation referred to as ***oil***) in the circumstance referred to in paragraph 50 (1) (n), the amount of rebate that may be allowed for the purposes of subsection 78 (1) of the Act to a person in respect of oil exported or sold as a domestic free market sale by the person during the period specified in column 2 of an item in the following table is the amount determined in accordance with such of the rates set out in column 3 of that item as are applicable having regard to the volume of oil so exported or sold as a domestic free market sale:

| Column 1 | Column 2 | Column 3 | |
|---|---|---|---|
| | | Rates | |
| Item | Period | Volume of oil in respect of which rate is applicable | Amount per kilolitre |
| | | | $ |
| 1 | Financial year commencing on 1 July 1983 | In respect of so much of the oil exported by a person as does not exceed 642,301.5 kilolitres..... | 8.21586369 |
| | | In respect of so much of the oil exported by a person as exceeds 642,301.5 kilolitres but does not exceed 818,483.1 kilolitres..... | 8.34210672 |
| | | In respect of so much of the oil exported by a person as exceeds 818,483.1 kilolitres..... | Nil |

**Regulation 52B**

| Column 1 | Column 2 | Column 3 | |
|---|---|---|---|
| | | Rates | |
| Item | Period | Volume of oil in respect of which rate is applicable | Amount per kilolitre |
| | | | $ |
| 2 | Period commencing on 1 July 1984 and ending on the expiration of 31 December 1984 | In respect of so much of the oil exported by a person as does not exceed 786,441.7 kilolitres..... | 7.89019491 |
| | | In respect of so much of the oil exported by a person as exceeds 786,441.7 kilolitres but does not exceed 970,889.8 kilolitres..... | 12.4914896 |
| | | In respect of so much of the oil exported by a person as exceeds 970,889.8 kilolitres..... | Nil |
| 3 | Period commencing on 1 January 1985 and ending at the expiration of 31 December 1985 | In respect of so much of the oil exported or sold as a domestic free market sale by a person as does not exceed 3,963,514.1 kilolitres..... | 11.795095463 |
| | | In respect of so much of the oil exported or sold as a domestic free market sale by a person as exceeds 3,963,514.1 kilolitres but does not exceed 4,067,713.1 kilolitres..... | 3.810756149 |
| | | In respect of so much of the oil exported or sold as a domestic free market sale by a person as exceeds 4,067,713.1 kilolitres..... | Nil |

**Regulation 52B**

| Column 1 | Column 2 | Column 3 | |
|---|---|---|---|
| | | Rates | |
| Item | Period | Volume of oil in respect of which rate is applicable | Amount per kilolitre |
| | | | $ |
| 4 | Period commencing on 1 January 1986 and ending at the expiration of 31 August 1986 | In respect of so much of the oil exported or sold as a domestic free market sale by a person as does not exceed 726,758.1 kilolitres..... | 6.155500104 |
| | | In respect of so much of the oil exported or sold as a domestic free market sale by a person as exceeds 726,758.1 kilolitres but does not exceed 761,906.3 kilolitres..... | 375.115345878 |
| | | In respect of so much of the oil exported or sold as a domestic free market sale by a person as exceeds 761,906.3 kilolitres..... | Nil |
| 5 | Period commencing on 1 September 1986 and ending at the expiration of 30 September 1986 | In respect of so much of the oil exported or sold as a domestic free market sale by a person as does not exceed 220,287.0 kilolitres..... | 32.583220708 |
| | | In respect of so much of the oil exported or sold as a domestic free market sale by a person as exceeds 220,287.0 kilolitres but does not exceed 295,587.5 kilolitres..... | 8.805459592 |

**Regulation 52B**

| Column 1 | Column 2 | Column 3 | |
|---|---|---|---|
| | | Rates | |
| Item | Period | Volume of oil in respect of which rate is applicable | Amount per kilolitre |
| | | | $ |
| | | In respect of so much of the oil exported or sold as a domestic free market sale by a person as exceeds 295,587.5 kilolitres..... | Nil |
| 6 | Period commencing on 1 October 1986 and ending at the expiration of 31 October 1986 | In respect of so much of the oil exported or sold as a domestic free market sale by a person as does not exceed 366,793.10 kilolitres..... | 31.996111214 |
| | | In respect of so much of the oil exported or sold as a domestic free market sale by a person as exceeds 366,793.10 kilolitres but does not exceed 562,311.0 kilolitres..... | 40.514907996 |
| | | In respect of so much of the oil exported or sold as a domestic free market sale by a person as exceeds 562,311.0 kilolitres..... | Nil |

(2) The amount of remission, rebate or refund of duty allowed in the circumstance mentioned in paragraph 50 (1) (s) is the amount of the difference between the amount of duty paid and the correct amount of duty.

(3) The amount of remission, rebate or refund of duty allowed in the circumstance mentioned in paragraph 50 (1) (sa) is the whole of the duty paid.

(4) The amount of remission, rebate or refund of duty allowed in the circumstance mentioned in paragraph 50 (1) (sb) is the amount of the difference between the amount of duty paid and the amount of the duty ascertained at the end of the financial year concerned under section 6B, 6C or 6D, as applicable, of the *Excise Tariff Act 1921*.

(5) The amount of remission, rebate or refund of duty allowed in the circumstance mentioned in paragraph 50 (1) (sc) is an amount equal to the negative amount mentioned in the paragraph.

## 53 Period for making of application

(1) Except as provided in this regulation, a refund of Excise duty shall not be allowed in a circumstance specified in paragraph 50 (1) (a), (b), (c), (d) or (da) unless an application for the refund in accordance with regulation 52 is delivered to a Collector:

(a) in the case of an application for refund in a circumstance referred to in paragraph 50 (1) (da) in consequence of the making of a by-law — within 12 months after the date on which that by-law was made; or

(b) in any other case — within 14 days after the date on which the Excise duty was paid.

(2) Where:

(a) the information necessary to verify an application of a kind referred to in subregulation (1) had come into the possession of the CEO before the delivery from the CEO's control of the goods or of the packages in which the goods were originally packed or were assumed to have been packed; or

(b) for some other reason, it is equitable that the period within which an application of a kind referred to in subregulation (1) may be made should be extended;

the application may be made within 12 months after the date on which Excise duty was paid.

(3A) A refund of excise duty must not be allowed in the circumstance specified in paragraph 50 (1) (sa) or (sb) unless an application for a refund under regulation 52 is given to a Collector:

(a) if the circumstance occurred after 1 July 1997 — before the end of 12 months after the end of the financial year in which the excise duty was paid; or

(b) if the circumstance occurred before 1 July 1997 — before 1 July 1998.

(3B) A refund of excise duty must not be allowed in the circumstance mentioned in paragraph 50 (1) (sc) unless an application for a refund under regulation 52 is given to a Collector before:

(a) the end of 12 months after the day on which the final VOLWARE price for the month from which the credited adjustment amount mentioned in that paragraph is derived is determined under subsection 7 (3) of the *Petroleum Excise (Prices) Act 1987*; or

(b) if that price was determined before 1 July 1997 — 1 July 1998.

(4) A refund of Excise duty shall not be allowed in the circumstance specified in paragraph 50 (1) (t) unless an application for the refund in accordance with regulation 52 is delivered to a Collector not later than 12 months after the day on which the relevant determination of the final VOLWARE price is amended as referred to in that paragraph.

## 54 Goods to be destroyed under supervision

(1) A remission or refund of Excise duty shall not be allowed in a circumstance specified in paragraph 50 (1) (a), (b) or (db) unless the goods (not being goods that were pillaged, lost or destroyed, while subject to the CEO's control) are destroyed under the supervision of an officer.

(2) Where a manufacturer requests that the services of an officer be made available in order to supervise the destruction of goods to which paragraph 50 (1) (a) or (b) applies, the manufacturer shall pay to a Collector a charge calculated at the rate prescribed by regulation 209A.

## 55 Tobacco products to have lost their identity

(1) A refund of Excise duty shall not be allowed in a circumstance specified in paragraph (h) of subregulation (1) of regulation 50:

(a) unless:

(i) in the case of tobacco — the tobacco is destroyed or is so mixed in a factory with other tobacco (not being tobacco that is to be used in the manufacture of cigarettes or cigars) that its identity is lost;

(ii) in the case of cigarettes or cigars — the tobacco contained in the cigarettes or cigars is destroyed or is so mixed in a factory with other tobacco that is to be used in the manufacture of cigarettes or cigars, as the case may be, that its identity is lost; and

(iii) in the case of snuff — the snuff is destroyed or is so mixed in a factory with other snuff that its identity is lost; and

(b) unless the manufacturer of the goods has given notice of intention to destroy the goods, or so to mix the goods, to a Collector at least seven days before the goods are destroyed or so mixed, as the case may be.

(2) In subregulation (1), ***factory***, in relation to tobacco, cigarettes, cigars or snuff that is returned to the manufacturer of those goods or that is, for the purposes of paragraph (h) of subregulation (1) of regulation 50, to be deemed to have been so returned, means a factory specified in a licence held by the manufacturer, being a licence that is in force.

## 56 Beer returned or destroyed

A refund of Excise duty shall not be allowed in a circumstance specified in paragraph 50 (1) (k) unless:

(a) if the beer has been returned to the brewery at which it was made, it was so returned within 90 days after it was first removed from the brewery; or

(b) if the beer has been destroyed:

(i) it was destroyed because it had become unfit for human use; and

(ii) the permission of a Collector for the destruction of the beer was sought within 90 days after it was first removed from the brewery at which it was made;

and the quantity of beer that was in the bulk container when it was returned to the brewery at which it was made or was destroyed was not less than 87.5% of the volume of the bulk container as determined under section 77B of the Act at the time it was entered for home consumption.

## 57AA Eligibility with respect to refund on petrol

(1) A refund of Excise duty is not to be allowed in a circumstance specified in paragraph 50 (1) (v) unless:

(a) the applicant for the refund keeps such records as to enable an officer to readily determine and verify:

(i) the volume of petrol returned; and

(ii) that Excise duty has been paid on the petrol returned to the manufacturer or to a warehouse; and

(b) in the case of the return of contaminated petrol:

(i) notice of the proposed return of that petrol to a manufacturer or to a warehouse has been given to and received by an officer before the return of the petrol; and

(ii) the composition of the contaminated petrol and the ratios of petrol and other substance present in the contaminated petrol has, where required, been determined by analysis in accordance with subregulation (2).

(2) The amount of petrol present in a quantity of contaminated petrol is to be determined as follows:

(a) an officer may require that a sample of the contaminated petrol be taken for analysis to determine the composition of the contaminated petrol and the ratios of petrol and other substance present in the contaminated petrol; and

(b) if the officer so determines, the sample taken under paragraph (a) must be taken in the presence of an officer; and

(c) the analysis of the sample must be undertaken in a laboratory that is a registered member of the National Association of Testing Authorities Australia.

(3) The cost of the analysis referred to in paragraph (2) (c) is to be borne by the applicant for the refund.

(4) The amount of any refund of Excise duty in respect of petrol on which duty has been paid is to be based on the rate of duty applicable in relation to that petrol at the time that the petrol was entered for home consumption.

(5) In this regulation:

***contaminated petrol*** means petrol that has been contaminated by being mixed with another substance.

***petrol*** has the same meaning as in regulation 161.

## 58 Collector may make remission, rebate or refund

(1) A remission, rebate or refund of Excise duty may, subject to the Act and these Regulations, be made by a Collector.

(2) A Collector may make arrangements with a person to whom a rebate or refund of Excise duty may be allowed whereby the amount of the rebate or refund may be set off against the whole or part of that person's liability for Excise duty, and an amount that has been so set off in pursuance of such an arrangement shall, for the purposes of the Act and these Regulations, be deemed to have been paid to that person.

# Part IV Drawback

## 76 Drawback of excise duty on goods

(1) This regulation applies to any excisable goods on which excise duty has been paid except:

(a) excisable goods that have been used in the manufacture of goods, or have been subjected to a process or to treatment, in the Commonwealth;

(b) coal;

(c) liquefied petroleum gas obtained from unstabilized crude petroleum oil or from naturally occurring petroleum gas;

(d) liquid petroleum obtained from naturally occurring petroleum gas; and

(e) stabilized crude petroleum oil.

(2) Subject to this Part, drawback of excise duty may be paid on the exportation of excisable goods to which this regulation applies.

## 77 Drawback of excise duty on specified goods

(1) In this regulation:

***specified goods*** means:

(a) manufactured goods in the manufacture of which excisable goods have been used; or

(b) excisable goods that have been subjected to a process or to treatment in Australia.

***excisable goods***, in relation to specified goods, means excisable goods:

(a) on which excise duty has been paid; and

(b) that have not been used in the Commonwealth otherwise than:

(i) in the manufacture of the specified goods or in being subjected to a process or to treatment for the purpose

of producing the specified goods, as the case may be; or

(ii) for the purpose of being inspected or exhibited;

other than coal, liquefied petroleum gas obtained from unstabilized crude petroleum oil or from naturally occurring petroleum gas, liquid petroleum obtained from naturally occurring petroleum gas, stabilized crude petroleum oil and excisable goods included in a class of goods declared by the Minister, by notice published in the *Gazette*, to be a class of goods to which this regulation does not apply.

(2) On the exportation of specified goods, drawback of excise duty may, subject to this Part, be paid in respect of:

(a) the excisable goods used in the manufacture of the specified goods; or

(b) the excisable goods that were subjected to a process or to treatment for the purpose of producing the specified goods;

as the case may be, and also in respect of any excisable goods lost or wasted in the manufacture of the specified goods.

(3) Drawback of excise duty is not payable on the exportation of specified goods if the goods have been used in Australia otherwise than for the purpose of being inspected or exhibited.

## 78 Drawback of duty not payable in certain circumstances

(1) Drawback of excise duty is not payable under regulation 76 of these Regulations on the exportation of goods if the value of the goods for home consumption is less than the amount of drawback that, but for this regulation, would be payable on the exportation of the goods, unless the CEO approves payment of drawback in respect of the goods.

(2) Where the CEO makes a decision not to approve payment of drawback to a person in accordance with subregulation (1), the CEO shall, by notice in writing given not later than 30 days after the date of the decision, inform the person of that decision.

(3) Drawback of excise duty is not payable under regulation 76 on the exportation of goods if:

(a) the excise duty paid on the goods has been refunded; or

(b) after exportation, the goods are relanded in Australia.

## 78A Conditions relating to payment of drawback of duty

(1) Drawback of excise duty is not payable on the exportation of goods unless:

(a) before the exportation, the owner of the goods gives to the Collector a notice in an approved form, of the owner's intention to claim drawback on the exportation; and

(b) before exportation, the goods are available at all reasonable times for examination by an officer; and

(c) records that show:

(i) that duty has been paid on the goods; and

(ii) relevant details of the receipt, use and disposal of the goods by the owner;

are available at all reasonable times for examination by an officer; and

(d) a claim for drawback of excise duty paid in respect of the goods that:

(i) is in an approved form; and

(ii) sets out the amount of the claim and such other information as that form requires;

is given by the owner referred to in paragraph (a) to the Collector:

(iii) after exportation; and

(iv) not later than 12 months after the day on which the goods are exported; and

(e) the person making the claim states in the form of claim that, to the best of the knowledge, information and belief of that person, those goods:

(i) have not been, and are not intended to be, relanded in Australia; and

(ii) in the case of specified goods referred to in regulation 77, have not been used in Australia other than for the purpose of being inspected or exhibited; and

(f) the amount of the drawback:

(i) is at least $50; or

(ii) being less than $50, is claimed at the same time and in the same form referred to in paragraph (2) (d) as another claim, or other claims, made by the owner referred to in paragraph (2) (a), in relation to drawback of excise duty on the exportation of other goods, that together result in an aggregate amount of drawback of $50 or more.

(2) Without limiting the application of subregulation (1), drawback of excise duty is not payable on the exportation of specified goods within the meaning of regulation 77:

(a) if the goods were manufactured in Australia — unless the manufacturer of the goods informed a Collector, in writing before he or she commenced to manufacture the goods, that he or she intended to manufacture the goods for exportation; or

(b) in the case of specified goods that consist of excisable goods that were subjected to a process or to treatment in Australia — unless the owner of the goods informed a Collector, in writing before he or she commenced to subject the goods to a process or to treatment, that he or she intended to subject the goods to a process or to treatment for the purpose of exportation; or

(c) unless the manufacturer or the owner, as the case may be, of the goods complied with the provisions of any notice given to him or her by the Collector under subregulation (3) that relates to the goods.

(3) Where a person, being the manufacturer or owner of specified goods within the meaning of regulation 77, has informed the Collector with respect to the goods in accordance with subregulation (2), the Collector may, by notice in writing to the person, require the person:

(a) to cause the manufacture of the goods to take place under the supervision of an officer; or

(b) to cause the subjecting of the goods to a process or to treatment to take place under the supervision of an officer;

as the case may be.

(4) Paragraph (1) (a) does not apply in relation to drawback of excise duty on the exportation of goods if the CEO:

(a) in writing, exempts an owner from the application of that paragraph; or

(b) approves payment of drawback notwithstanding the fact that the notice of intention was not given to the Collector as required by that paragraph.

## 78B Amount of claim for drawback of excise duty

For the purposes of paragraph 78A (1) (d), the amount of a claim for drawback of excise duty paid on the exportation of goods must not exceed the amount of excise duty:

(a) paid on the goods; or

(b) in the case of specified goods within the meaning of regulation 77 — paid on the excisable goods referred to in subregulation 77 (2).

## 78C Examination etc of goods to be exported

(1) Subject to subregulation (2), where a person has given to the Collector a notice of intention to claim for drawback on the exportation of goods, the Collector may, by notice in writing to the person, require the person to do all or any of the following:

(a) produce the goods to an officer for examination before the exportation of the goods;

(b) cause the goods to be packed, in the presence of an officer, into the packages in which they are intended to be exported;

(c) cause the goods to be secured to the satisfaction of an officer after they have been packed into the packages in which they are intended to be exported;

(d) mark each of the packages into which any of the goods are packed for the purpose of being exported with a distinctive mark or label;

(e) cause a distinctive label to be affixed to any goods that are to be exported without having been packed into a package.

(2) Paragraph (1) (b) does not apply in relation to excisable goods that:

(a) are intended to be exported in the packages in which they were packed when entered for home consumption; or

(b) are intended to be exported without having been packed into packages.

(3) Where the Collector has given notice under subregulation (1) to a person who has given a notice of intention to claim for drawback in respect of goods, drawback of excise duties is not payable on the exportation of the goods unless the person complied with the provisions of the notice.

## 78CA Deduction of rebates from drawback payable

Where:

(a) except for the operation of this regulation, drawback of import duty may be paid on the exportation of goods; and

(b) any rebate of that import duty has been made;

the amount of drawback that may be paid is to be reduced by an amount equal to the amount of the rebate made.

## 78D Assistance to be given to Excise Officers

A person who intends to claim drawback on the exportation of goods shall, by all reasonable means, facilitate the examination or re-examination of the goods by an officer, the taking of a correct account of the goods by an officer and the supervision, by an officer, of the packing of the goods.

# Part IVA Duty free shops

## 79 Outwards duty free shops

(1) In this regulation, unless the contrary intention appears:

***departure area*** means a part of an airport or wharf that is set aside for the reception of relevant travellers:

(a) after the travellers have complied with the requirements of the laws of the Commonwealth relating to the departure of persons for places outside Australia; and

(b) before the travellers embark on an aircraft or ship for a relevant flight or relevant voyage.

***duty free shop*** means an outwards duty free shop.

***off-airport duty free shop*** means a duty free shop that is not an on-airport duty free shop.

***on-airport duty free shop*** means a duty free shop that is located in a departure area of an airport.

***relevant flight***, in relation to a person who is a relevant traveller, means the international flight in relation to which the person is a relevant traveller.

***relevant voyage***, in relation to a person who is a relevant traveller, means the international voyage in relation to which the person is a relevant traveller.

(2) Words and phrases that are used in this regulation and in section 61D of the Act have, in this regulation, unless the contrary intention appears, the same respective meanings as in that section.

(3) A Collector shall not give permission under subsection 61D (2) of the Act otherwise than upon the making, in accordance with this regulation, of an application for such permission.

(4) An application for permission under subsection 61D (2) of the Act:

(a) shall be made in writing;

(b) shall relate to a single duty free shop;

(c) shall specify:

(i) the name of the proprietor of the duty free shop;

(ii) the name of the duty free shop; and

(iii) the address at which the duty free shop is situated; and

(d) shall be lodged with a Collector for the place at which the duty free shop is situated.

(5) The following matter is prescribed to be taken into account by a Collector when deciding whether to give permission under subsection 61D (2) of the Act, namely, whether the proprietor of the duty free shop in respect of which the permission is sought is likely to be able, in the event of permission being given, to comply with the conditions set out in paragraphs (7) (g), (h) and (j).

(6) Permission under subsection 61D (2) of the Act shall have effect for such period, commencing on the day on which the permission is given, as the permission specifies.

(7) Permission under subsection 61D (2) of the Act in relation to an off-airport duty free shop is subject to the following conditions:

(a) that the proprietor must not sell goods to a person who is in the shop unless:

(i) the person is a relevant traveller; and

(ii) the person has shown to the proprietor a ticket, or other document approved by a Collector under paragraph 61D (7) (b) of the Act, that shows that the person is entitled to make the relevant flight or relevant voyage;

(b) that the proprietor must not enter into an agreement to sell goods to a person who is not in the shop unless:

(i) the person is a relevant traveller; and

(ii) the person has given, whether orally or in writing, to the proprietor the particulars of the intended exportation of the goods by the person required under subparagraph (e) (ii); and

(iii) the agreement is subject to the condition that the sale takes place in the shop;

(ba) that the proprietor must not deliver goods to a relevant traveller to whom the goods are sold under an agreement referred to in paragraph (b) unless the traveller has shown to the proprietor the ticket, or other document approved by a Collector under paragraph 61D (7) (b) of the Act, that confirms the particulars given to the proprietor under subparagraph (b) (ii);

(c) that goods shall not be delivered from the duty free shop to a relevant traveller earlier than the commencement of the 30th day before the day on which, according to the ticket or other document shown to the proprietor under subparagraph (a) (ii) or the particulars given to the proprietor under subparagraph (b) (ii), the relevant flight or relevant voyage is to depart;

(d) that goods shall not be delivered from the duty free shop to a relevant traveller unless they are enclosed in a package:

(i) that is sealed in such a manner that the goods cannot be removed from it without the seal being broken; and

(ii) the outside of which is clearly marked to show:

(A) that it contains goods that were sold in a duty free shop; and

(B) the name of that shop; and

(iii) if the package is of a size that it may, in accordance with the conditions applicable to the carriage of the relevant traveller on the relevant flight or relevant voyage, be carried in the cabin of the aircraft or ship — that is transparent enough for the goods to be easily identified;

(e) that, at the time of each sale of goods required to be sold in a sealed package at the duty free shop, the proprietor shall prepare, in triplicate, an invoice, being one of a series of sequentially numbered invoices, specifying:

(i) the name and usual residential address of the relevant traveller;

(ii) the following particulars of the intended exportation of the goods by the relevant traveller on the relevant flight or relevant voyage:

(A) the date of departure;

(B) the airport or wharf of departure;

(C) in the case of a relevant flight — the number or other designation of the flight;

(D) in the case of a relevant voyage — the name of the ship and the number or other designation of the voyage;

(E) the number or other identification of the traveller's ticket or similar travel document approved by the Collector for the purposes of paragraph 61D (7) (b) of the Act;

(iii) a precise description of the goods, including:

(A) the quantity, in figures, of each item of the goods and the total number, in words, of items on the invoice; and

(B) the sale value, in figures, of each item or quantity of items; and

(C) the total sales value of those items and quantities of items;

being a description prepared in such a way as to make it impracticable to add other items to the description;

(f) that, upon preparing an invoice in accordance with paragraph (e), the proprietor shall:

(i) place one copy with the goods inside the package referred to in paragraph (d) and, where the package complies with subparagraph (d) (iii), position the copy so that the invoice may be read without the seal of the package being broken;

(ii) place one copy in a waterproof envelope and attach that envelope securely to the outside of the package; and

(iii) retain one copy in his own records;

(g) subject to subregulation (7A), that, before the date of departure referred to in sub-subregulation (e) (ii) (A), the proprietor shall, by telex or by such other means as are approved by a Collector, provide a Collector with the following information in relation to a sale from the duty free shop:

(i) the name of the shop;

(ii) the name of the relevant traveller;

(iii) in relation to the relevant flight or relevant voyage:

(A) the date and time of departure; and

(B) in the case of a relevant flight — the number or other designation of the flight; and

(C) in the case of a relevant voyage — the name of the ship and the number or other designation of the voyage;

(iv) a full description of any item of the goods included in the sale having a sale value of $500 or more;

(v) the total number of items of the goods included in the sale;

(vi) the total number of packages of the kind referred to in paragraph (d) in which the goods included in the sale are packed;

(vii) the total number of those packages that are, respectively:

(A) packages to which subparagraph (d) (iii) applies; and

(B) packages to which that subparagraph does not apply;

(viii) the invoice numbers in respect of all invoices relating to the sale;

(h) that the proprietor shall, in relation to each package referred to in paragraph (d) that is surrendered by the relevant traveller for carriage otherwise than in the cabin of the aircraft or ship, at the point of surrender:

(i) cause the package to be examined with a view to ascertaining whether it remains sealed as specified in subparagraph (d) (i) and has not been tampered with; and

(ii) where the package remains so sealed and has not been tampered with, cause the copy invoice referred to in subparagraph (f) (ii) to be removed from the package;

(j) that the proprietor shall, in relation to each package referred to in paragraph (d) that is taken by the relevant traveller into a departure area, within that area:

(i) cause the package to be examined with a view to ascertaining whether it remains sealed as specified in subparagraph (d) (i) and has not been tampered with;

(ii) where the package remains so sealed and has not been tampered with, cause the copy invoice referred to in subparagraph (f) (ii) to be removed from the package;

(k) that, where, upon the carrying out of the operations specified in paragraph (h) or (j), a discrepancy is detected, in that:

(i) a package is no longer sealed as specified in subparagraph (d) (i) or has been otherwise tampered with;

(ii) the invoice enclosed in the package does not correspond with the copy invoice (if any) that was attached to the package;

(iii) an invoice required to be enclosed in, or a copy invoice required to be attached to, a package is not so enclosed or attached; or

(iv) the goods enclosed in a package are not as specified in the invoice enclosed in, or the copy invoice (if any) that was attached to, the package;

the proprietor shall cause to be given immediately to a Collector notice specifying:

(v) the name of the relevant traveller;

(vi) the following particulars of the intended exportation of the goods by the relevant traveller on the relevant flight or relevant voyage:

(A) the date and time of the departure of the flight or voyage;

(B) in the case of a relevant flight — the number or other designation of the flight;

(C) in the case of a relevant voyage — the name of the ship and the number or other designation of the voyage; and

(viii) the nature of the discrepancy;

(m) that a relevant traveller to whom goods are sold in a duty free shop:

(i) shall not remove, alter or otherwise interfere with, or suffer to be removed, altered or interfered with (except as required by this regulation), an invoice attached to the outside of a package pursuant to subparagraph (f) (ii);

(ii) shall not, before the exportation of those goods, break the seals on, or otherwise tamper with the integrity of, the package in which those goods are enclosed or (except as authorized by or under the Act) suffer those seals to be broken or the integrity of the package to be otherwise tampered with;

(iii) shall:

(A) on surrendering a package containing those goods for carriage otherwise than in the cabin of an aircraft or ship;

(B) on taking a package containing those goods into a departure area;

present the package, sealed as specified in subparagraph (d) (i) and with the invoice attached as specified in subparagraph (f) (ii), to the proprietor or a servant or agent of the proprietor and permit the proprietor, or the servant or agent of the proprietor, as the case may be, to examine the package and to remove that invoice from it;

(iv) if the relevant traveller does not export the goods on the relevant flight or the relevant voyage, must, not later than noon on the next working day of the duty free shop after the date specified in the invoice relating to the goods as the time for the departure of that flight or voyage (in this subparagraph called

***scheduled departure time***), notify the proprietor accordingly, and:

(A) if the relevant traveller intends to export the goods on a subsequent flight, being a flight departing not more than 48 hours after the scheduled departure time — notify the proprietor of that intention and, at the same time, provide the proprietor with the flight number or other designation, and particulars of the intended date and time of departure, of that flight; or

(B) if the relevant traveller intends to export the goods on a subsequent voyage, being a voyage departing not more than 48 hours after the scheduled departure time — notify the proprietor of that intention and, at the same time, provide the proprietor with the name of the ship and voyage number or other designation, and particulars of the intended date and time of departure, of that voyage; or

(C) if the relevant traveller does not intend to export the goods as mentioned in sub-subparagraph (A) or (B), at the same time, notify the proprietor accordingly and, not later than the close of business of the duty free shop on the second working day of the shop after the scheduled departure time, return the goods to the shop; and

(v) if, having notified the proprietor, under sub-subparagraph (iv) (A) or (B), of his or her intention to export the goods on a flight or voyage after the relevant flight or relevant voyage, the relevant traveller does not so export the goods:

(A) not later than noon on the next working day of the duty free shop after the date of departure specified in the notification of intention, notify the proprietor that the goods have not been so exported; and

(B) not later than the close of business of the duty free shop on the second working day

after that specified date of departure, return the goods to the shop;

(n) that within 21 working days of the duty free shop after the end of a month, the proprietor must lodge with a Collector a return setting out:

(i) the name of the duty free shop; and

(ii) the invoice number of each invoice:

(A) prepared in accordance with paragraph (e) for goods delivered from the shop for export; and

(B) that specifies under sub-subparagraph (e) (ii) (A) a date of departure that is in the month; and

(C) a copy of which has not been removed during the month in accordance with subparagraph (h) (ii) or (j) (ii); and

(iii) the invoice number of each invoice:

(A) prepared in accordance with paragraph (e) for goods delivered from the shop for export; and

(B) that specifies under sub-subparagraph (e) (ii) (A) a date of departure that is in the month; and

(C) a copy of which has been removed during the month in accordance with subparagraph (h) (ii) or (j) (ii); and

(D) in respect of which an electronic record has not been provided in accordance with subregulation (9); and

(iv) in relation to an invoice referred to in subparagraph (ii) or (iii):

(A) the particulars required to be set out in the invoice; and

(B) the amount of excise duty payable in respect of the goods to which the invoice relates;

and must pay to a Collector an amount equal to the sum of the amounts of excise duty specified in the return.

(7A) Paragraph (7) (g) applies only if, in relation to a particular case, the Collector directs the proprietor to provide the information specified in that paragraph.

(8) Permission under subsection 61D (2) of the Act in relation to an on-airport duty free shop is subject to the following conditions:

(a) that the proprietor must not sell goods to a person who is in the shop unless:

(i) the person is a relevant traveller; and

(ii) the person has shown to the proprietor a ticket, or other document approved by a Collector under paragraph 61D (7) (b) of the Act, that shows that the person is entitled to make the relevant flight;

(aa) that the proprietor must not enter into an agreement to sell goods to a person who is not in the shop unless:

(i) the person is a relevant traveller; and

(ii) the person has given, whether orally or in writing, to the proprietor the particulars of the intended exportation of the goods by the person required under subparagraph (b) (ii) or (c) (i); and

(iii) the agreement is subject to the condition that the sale takes place in the shop;

(ab) that the proprietor must not deliver goods to a relevant traveller to whom the goods are sold under an agreement referred to in paragraph (aa) unless the traveller has shown to the proprietor the ticket, or other document approved by a Collector under paragraph 61D (7) (b) of the Act, that confirms the particulars given to the proprietor under subparagraph (aa) (ii);

(b) that, at the time of each sale of goods at the duty free shop, where the purchaser is a relevant traveller who is the pilot or a member of the crew of an aircraft, the proprietor shall prepare, in duplicate, an invoice, being one of a series of sequentially numbered invoices, specifying:

(i) the name and usual residential address of the relevant traveller;

(ii) the following particulars of the intended exportation of the goods by the relevant traveller:

(A) the date of departure;

(B) the airport of departure;

(C) the flight number or, where inapplicable, other designation;

in respect of the relevant flight; and

(iii) a precise description of the goods, including:

(A) the quantity, in figures, of each item of the goods; and

(B) the sale value, in figures, of each item or quantity of items; and

(C) the total sales value of those items and quantities of items;

being a description prepared in such a way as to make it impracticable to add other items to the description;

(c) that, at the time of each sale of goods at the duty free shop, where the purchaser is a relevant traveller who is a passenger on an aircraft, the proprietor shall prepare, in duplicate, an invoice, being one of a series of sequentially numbered invoices, specifying:

(i) the following particulars of the intended exportation of the goods by the relevant traveller:

(A) the date of departure;

(B) the flight number or, where inapplicable, other designation;

in respect of the relevant flight; and

(ii) a precise description of the goods, including:

(A) the total sales value of those items and quantities of items; and

(B) the quantity, in figures, of each item; and

(C) the sale value, in figures, of each such item or quantity of items;

being a description prepared in such a way as to make it impracticable to add other items to the description;

(d) that, upon preparing an invoice pursuant to paragraph (b) or (c), the proprietor shall:

(i) place 1 copy with the goods that are to be delivered to the relevant traveller; and

(ii) retain the other copy or copies, as the case requires, in the proprietor's own records.

(9) For the purpose of paragraph 61D (10) (b) of the Act, in relation to the proprietor of an off-airport duty free shop:

(a) the way for the proprietor to provide proof to the Collector in relation to goods of a kind mentioned in that paragraph is by providing an electronic record of the invoice numbers of copy invoices removed, in accordance with subparagraph (7) (h) (ii) or (7) (j) (ii), from the package of the goods; and

(b) the time within which the proprietor must provide that proof to the Collector is 10 working days of the duty free shop after the date of departure of the relevant traveller.

(10) Within 21 working days of the duty free shop after the end of a month, the proprietor must produce a computer generated list in an approved form setting out the invoice number of each invoice:

(a) that specifies under sub-subparagraph (7) (e) (ii) (A) a date of departure that is in the month; and

(b) a copy of which has been removed during the month in accordance with subparagraph (7) (h) (ii) or (7) (j) (ii); and

(c) in respect of which an electronic record has been provided in accordance with subregulation (9).

(11) Permission under subsection 61D (2) of the Act in relation to a duty free shop, being either an off-airport duty free shop or an on-airport duty free shop, is subject to the condition that the proprietor, and servants and agents of the proprietor, shall not enter into an arrangement with a relevant traveller pursuant to which goods delivered to that relevant traveller under that permission are:

(a) to be transferred to the proprietor, or any servant or agent of the proprietor, upon the return of the relevant traveller to Australia; or

(b) to remain with the proprietor or any servant or agent of the proprietor.

(12) The grounds on which a Collector may, under subsection 61D (13) of the Act, revoke a permission given under subsection 61D (2) of the Act are the following grounds:

(a) that a condition to which the permission is subject, being a condition required to be complied with by the proprietor of the duty free shop to which the permission relates or by the proprietor's servants or agents, has not been so complied with;

(b) that revocation of the permission is, for any other reason, necessary for the protection of the revenue or otherwise to ensure compliance with the Act.

(13) The revocation by a Collector, under subsection 61D (13) of the Act, of a permission given under subsection 61D (2) of the Act shall be effected by notice in writing, which shall include a statement of the reasons for the revocation, served on the person to whom the permission was given.

(14) A relevant traveller to whom goods are sold in an outwards duty free shop must, at or before the time of delivery of the goods, sign a recognition, in an approved form, of the traveller's obligations concerning the export of the goods.

## 80 Prescribed goods for home consumption

For the purposes of subsection 58E (1) of the Act, airport shop goods sold to relevant travellers in an inwards duty free shop are prescribed goods.

## 81 Inwards duty free shops

(1) In this regulation, unless the contrary intention appears:

***relevant flight***, in relation to a person who is a relevant traveller, means the international flight in relation to which the person is a relevant traveller.

(2) Words and phrases that are used in this regulation and in section 61E of the Act have, in this regulation, unless the contrary intention appears, the same respective meanings as in that section.

(3) A Collector shall not give permission under subsection 61E (2) of the Act otherwise than upon the making, in accordance with this regulation, of an application for such permission.

(4) An application for permission under subsection 61E (2) of the Act:

(a) shall be made in writing;

(b) shall relate to a single inwards duty free shop;

(c) shall specify:

(i) the name of the proprietor of the inwards duty free shop;

(ii) the name of the inwards duty free shop; and

(iii) the location of the airport at which the duty free shop is situated; and

(d) shall be lodged with the Collector.

(5) The following circumstances are prescribed as circumstances in which permission may be given by a Collector under subsection 61E (2) of the Act, namely:

(a) that the applicant is the holder of a warehouse licence within the meaning of Part V of the *Customs Act 1901* authorising the sale of airport shop goods at an inwards duty free shop; and

(b) that the applicant has been granted a lease or licence and an authority to trade under the *Airports (Business Concessions) Act 1959* for the operation of an inwards duty free shop on land within the airport.

(6) Permission under subsection 61E (2) of the Act shall have effect for such period, commencing on the day on which the permission is given, as the permission specifies.

(7) Permission under subsection 61E (2) of the Act in relation to an inwards duty free shop is subject to the following conditions:

(a) that the proprietor must not sell goods to a person who is in the shop unless:

(i) the person is a relevant traveller; and

(ii) the person has shown to the proprietor a ticket, or other document, that shows that the person has arrived in Australia on an international flight;

(aa) that the proprietor must not enter into an agreement to sell goods to a person who is not in the shop unless:

(i) the person is, or intends to be, a relevant traveller; and

(ii) the person has given, whether orally or in writing, to the proprietor the date of the person's arrival or intended arrival in Australia, and the flight number or other designation of the international flight on which the person arrived or intends to arrive; and

(iii) the proprietor has informed the person of the following:

(A) the amounts of alcoholic liquor and tobacco products that may be entered for home consumption by a relevant traveller free of duties of Excise;

(B) the conditions (if any) with which, for the purposes of the Customs Acts, a relevant traveller is to comply in relation to the purchase of goods at the shop; and

(iv) the agreement is subject to the condition that the sale takes place in the shop;

(ab) that the proprietor must not deliver goods to a relevant traveller to whom the goods are sold under an agreement referred to in paragraph (aa) unless the traveller has shown to the proprietor the ticket, or other document, that confirms the information given to the proprietor under subparagraph (aa) (ii);

(b) that the proprietor, and servants and agents of the proprietor, shall not enter into an arrangement with a relevant traveller pursuant to which goods delivered to that relevant traveller under that permission are:

(i) to be transferred to the proprietor, or any servant or agent of the proprietor, after the relevant traveller has cleared customs; or

(ii) to remain with the proprietor or any servant or agent of the proprietor;

(c) that the proprietor shall, with reasonable prominence and in numbers sufficient to give reasonable notice to relevant travellers of the matters so stated, display in the inwards duty free shop signs in a form authorised in writing by a Collector for the purposes of this provision that state clearly:

(i) the amounts of alcoholic liquor and tobacco products that may be entered for home consumption by a relevant traveller free of duties of excise; and

(ii) the conditions (if any) with which, for the purposes of the Excise Acts, a relevant traveller is to comply in relation to the purchase of goods at the shop.

(8) The grounds on which a Collector may, under subsection 61E (11) of the Act, revoke a permission given under subsection 61E (2) of the Act are the following grounds:

(a) that a condition to which the permission is subject, being a condition required to be complied with by the proprietor of the inwards duty free shop to which the permission relates or by the proprietor's servants or agents, has not been so complied with;

(b) that revocation of the permission is, for any other reason, necessary for the protection of the revenue or otherwise to ensure compliance with the Excise Acts;

(c) that any of the following, namely, a lease, licence, or authority to trade, granted under the *Airports (Business Concessions) Act 1959* has expired or been cancelled.

(9) The revocation by a Collector, under subsection 61E (11) of the Act, of a permission given under subsection 61E (2) of the Act shall be effected by notice in writing, which shall include a statement of the reasons for the revocation, served on the person to whom the permission was given.

# Part V Samples

## 83 Method of taking samples

(1) A sample taken or obtained by an officer under the provisions of section 106 or section 107 of the Act shall be dealt with in the following manner:

(a) The officer taking or obtaining the sample shall, in the presence of the person or the agent or servant of the person, from whom the sample is taken or obtained, divide the sample into three equal parts and label or mark and securely seal each part; and

(b) the officer shall hand one part to the owner or the owner's agent or servant, deliver for report another part to an analyst approved by the Collector, and retain the third part for further examination, if necessary.

(2) Delivery of the part to the analyst may be effected personally or by sending the part by registered post addressed to the analyst at the analyst's usual address, or in such other manner as the Collector approves.

(3) In the event of any dispute as to the identity of the part received by the analyst the burden of proof shall lie upon the person complaining.

(4) The production of a certificate of analysis of the part purporting to be signed by the analyst shall be sufficient evidence of the identity of the part and of the result of the analysis, without proof of the signature of the person purporting to have signed the certificate.

# Part VI Spirits

## Division 1 Fortification of Australian wine and Australian grape must

### 83A Interpretation

In this Division, ***fortifying spirit*** has the same meaning as in Part VIA of the *Distillation Act 1901*.

### 84 Delivery of spirits

Australian spirits may be delivered from an approved place, distillery or vigneron's spirit store for fortifying Australian wine or Australian grape must if the wine or grape must is manufactured wholly from grapes, products of grapes or grapes and products of grapes.

### 86 Application for approval

(1) A person shall not use Australian spirits for fortifying Australian wine or Australian grape must unless the approval of the Collector has been obtained.

### 92 Authorised use of spirits

(1) The spirits shall not be used otherwise than for fortifying Australian wine or Australian grape must and shall not be mixed with the wine or grape must except by authority.

(2) An officer may take samples and test the alcoholic strength of the wine or grape must before and after mixing.

## Division 2 Spirits for making vinegar

### 96 Application to use spirits for making vinegar

(1) Every person who desires to use spirits for making vinegar must make an application in writing to the Collector for permission to do so and furnish the following particulars:

(a) Name, in full, of applicant;

(b) Occupation;

(c) Place where vinegar factory is situated;

(d) Description of plant.

(2) The Collector may approve of the application, or may refuse it.

### 97 Security for compliance with regulations

If the application be approved by the Collector, the applicant shall give security, to the satisfaction of the Collector, for compliance with these Regulations.

### 98 Permission obtained for making vinegar

When security has been given, the Collector may grant to the applicant written permission to obtain spirits for use in making vinegar in the applicant's factory, and the applicant shall then be deemed a vinegar manufacturer.

### 100 Quantity of spirits allowable

No greater quantity of spirits shall be removed to a vinegar factory than is required for one day's operation, and such quantity of spirits shall be treated as hereinafter directed on the same day as it is received into the vinegar factory. The Collector may, subject to conditions to be specified, permit the removal of greater quantities.

### 104 Spirits to be denatured

The spirits, after being received into the factory, shall be denatured by being mixed as follows:

(a) one volume of spirit containing 57 per centum by volume of alcohol shall be mixed with not less than one volume of beer, three volumes of water and one volume of vinegar containing not less than 5 per centum of absolute acetic acid;

(b) one volume of spirit containing 57 per centum by volume of alcohol shall be mixed with not less than four volumes of wine containing not more than 16 per centum by volume of alcohol, and one volume of vinegar containing not less than 2.5 per centum of absolute acetic acid; or

(c) one volume of spirit containing 57 per centum by volume of alcohol shall be mixed with 1 per centum of glacial acetic acid and then diluted so that the mixture shall not contain more than 12 per centum by volume of alcohol.

## 105 Mixing of spirits

Beer or yeast water may be substituted for water, and the proportion of any substance other than spirits may be increased to any extent, and weaker vinegar may be used if the volume is proportionately increased.

## 106 Approval for variation of mixture

The Collector may grant permission for the use of any mixture, other than those above-mentioned, which will secure the proper denaturing of the spirit.

## 107 Liquor to be put into generators

After dilution, the liquor shall be put into the generators as soon as practicable.

## 108 Sole use of spirits

Spirits entered for use in the manufacture of vinegar shall be used for that purpose and for no other purpose.

### 109 Oxidation not to be stopped

No matter which will hinder or stop the spirits from becoming oxidized shall at any time be put into any liquid used in the making of vinegar.

### 110 Permission for Still required

No Still shall be allowed upon the premises of any vinegar manufacturer unless by the permission of the Collector.

### 112 Access to vinegar factory

Officers shall at any time have complete access to every part of the vinegar factory.

### 115 Samples

An officer may, for the purpose of testing, take samples of the spirits, acetic acid, wine, or vinegar, or any other diluent, or of the liquid during the process of making the vinegar.

### 116 Permission to manufacture may be withdrawn

The Collector may at any time withdraw a written permission to obtain spirits for the making of vinegar, and shall notify in writing its withdrawal to the person to whom the written permission was granted.

## Division 3 Spirit for use in public hospitals

### 117 Public hospital use

The application of Excise Tariff Item 2 (Q) to spirit for use in public hospitals is subject to the provisions of regulations 117A to 125 (inclusive) of these Regulations.

### 117A Spirit to be of certain strength

The spirit must contain not less than ninety-four per centum by volume of alcohol.

## 118 Distribution of spirits under this Division

The spirit may be delivered either to a State drug depot or to the principal public hospital in each State for distribution to public hospitals provided the chief executive official of such depot or principal public hospital undertakes in writing the responsibility for the safe custody and distribution of the spirit in accordance with the prescribed conditions and also furnishes security, to the satisfaction of the Collector, in accordance with Form 40 for compliance with these Regulations.

## 119 Security for compliance with regulations

Before spirit may be delivered under these Regulations to any public hospital the chief executive official must first make application in writing to the Collector, and, if the Collector so requires, furnish security to the satisfaction of the Collector, in accordance with Form 40 for compliance with these Regulations.

## 120 Delivery of spirit

Spirit received under these Regulations by any State drug depot or principal public hospital for purposes of distribution must be delivered to public hospitals either in the same condition as received or in the form of medicines, medicinal extracts, infusions, tinctures or the like.

## 121 Use of spirit

Spirit delivered under these Regulations for use in a public hospital (except spirit delivered to a principal public hospital for distribution to other public hospitals) shall be used only in the hospital in the preparation of medicines, medicinal extracts, infusions, tinctures or the like, or for scientific purposes.

## 122 Secure storage of spirit

Spirit delivered under these Regulations to any State drug depot, principal public hospital or other public hospital must be stored in a secure room provided with suitable locks and be

placed in charge of a responsible employee of such depot or hospital.

### 123 Records of spirit use

A book shall be kept by a responsible official of each institution which receives spirit under these Regulations showing particulars of all spirit received and how such spirit has been used.

### 124 Returns of spirit use

Immediately after the 30th June and 31st December of each year a return must be furnished in accordance with Form 41 by each institution which has received spirit under these Regulations showing particulars of all spirit received during the previous half-year, how such spirit has been disposed of and the balance remaining on hand.

### 125 Quantity of spirit allowable

Unless otherwise permitted by the Collector, the maximum quantity of spirit that may be delivered under these Regulations in a month to a public hospital, other than a principal public hospital, is a quantity sufficient for the normal monthly requirements of the hospital.

## Division 4 Spirit for use in the manufacture of medicinal preparations for use in public hospitals

### 125A Manufacture of medicinal preparations

The application of Excise Tariff Item 2 (Q) to spirit for use in the manufacture of medicinal preparations for use in public hospitals is subject to the provisions of regulations 125B to 126 of these Regulations.

### 125B Records of spirit use under this Division

A person who uses spirit in the manufacture of medicinal preparations for use in public hospitals shall keep a record in accordance with Form 46.

### 125C Security for compliance with regulations

The medicinal preparations referred to in regulation 125A of these Regulations may be delivered to a public hospital for use in that hospital or to a State drug depot or similar institution or the principal public hospital in each State for distribution to public hospitals provided that the chief executive official of that depot, institution or principal public hospital furnishes security, to the satisfaction of the Collector, in accordance with Form 47.

### 125D Application for delivery of preparations

Before medicinal preparations may be delivered to a public hospital, principal public hospital or State drug depot or similar institution, the chief executive official of the hospital, depot or institution shall make application in writing to the Collector for the delivery of the preparations.

### 125E Receipt issued for preparations

The chief executive official of any public hospital, principal public hospital or State drug depot or similar institution shall forward a receipt to the manufacturer or distributor for the full quantities of medicinal preparations received in pursuance of regulation 125C of these Regulations.

### 125F Receipts available for inspection

All receipts issued in accordance with the last preceding regulation shall be kept by the manufacturer or distributor for a period of not less than twelve months and be made available for inspection by an officer.

## 125G Records of use of preparations

A book shall be kept by a responsible official of each State drug depot or similar institution or principal public hospital showing particulars of all medicinal preparations received in pursuance of regulation 125C of these Regulations and the manner of disposal of those medicinal preparations.

# Part VIII Spirits for industrial or scientific purposes or educational institutions

## 142 Delivery of spirits for approved purposes under this Part

Approval may be granted by the Collector for the delivery of spirits from an approved place or a distillery for industrial or manufacturing purposes approved by the CEO.

## 143 Application for delivery of spirits

A person desiring to obtain delivery of spirits for industrial or manufacturing purposes may make application to the Collector in accordance with Form 19.

## 146 Quantity of spirit allowed

Spirits in respect of which an approval has been granted under regulation 142 of these Regulations may, with the permission of the Collector, be sold, in quantities not exceeding, in respect of any one purchaser, 25 litres in any one month to chemists or manufacturers for use in the manufacture of articles approved by the CEO.

## 148 Records of use of spirits

(1) Every person receiving spirits in pursuance of regulation 142 of these Regulations, in quantities exceeding 25 litres per month, shall keep records, in accordance with Form 21 of the receipt and disposal of the spirits.

(2) Each transaction shall be recorded immediately on completion and the account shall be balanced monthly.

## 149 Unused spirit subject to CEO's control

All spirits that are delivered under regulation 142 must remain subject to the CEO's control and, until used:

(a) must be kept separate from other goods on the premises; or

(b) if the Collector so requires, must be kept in a secure and safe room approved by the Collector.

## 151 Permission may be withdrawn

The Collector may, at any time, withdraw an approval granted under regulation 142, and shall notify the withdrawal, in writing, to the person to whom the approval was granted.

## 152 Compliance with regulations

The application of Excise Tariff Item 2 (P) to spirit for use in universities for scientific or educational purposes is subject to the provisions of regulations 153 to 160A of these Regulations.

## 153 Spirit must be of certain strength

For this Part, spirit must contain at least 94% by volume of alcohol, unless the CEO approves otherwise.

## 155 Security for compliance with regulations

Before delivery of spirit is permitted, the Registrar or other Principal Officer of the University shall make application in writing to the Collector and furnish a personal bond, with one surety, to the satisfaction of the Collector, for compliance with these Regulations.

## 157 Receipt for quantity received

Upon receipt of the spirit the Registrar or other Principal Officer of the University shall forward to the Collector a receipt stating the quantity received.

## 158 Records of spirit use

The spirit shall be in charge of a responsible officer of the University, who shall keep a book, in which shall be entered particulars of all spirit received in pursuance of these Regulations and the manner in which the spirit has been dealt with.

## 159 Returns of spirit use

The responsible officer shall furnish a return immediately after the 30th June and 31st December, in each year, setting forth the quantities of spirit received during the preceding six months, the quantity used, the purposes for which it has been used, and the stock on hand.

## 160A Interpretation

For the purposes of regulations 152 to 159 (inclusive) of these Regulations, a reference to a university shall be deemed to include a reference to a technical college or other educational institution prescribed by by-laws for the purposes of Excise Tariff Item 2 (P).

# Part IX Petrol

## 161 Interpretation

In these Regulations:

***petrol*** includes any of the following products:

(a) benzine, benzol, gasoline, naphtha or pentane;

(b) a petroleum distillate that is dutiable under item 11 or 12 of the Schedule to the *Excise Tariff Act 1921*;

(c) shale or coal tar distillate that is dutiable under item 11 of that Schedule;

(d) a product:

(i) that is dutiable under item 15 of that Schedule; and

(ii) that has not been used for a purpose that would have caused it to be dutiable under that item;

(e) biodiesel (within the meaning of Schedule 1 to the *Excise Tariff Proposal No. 4 (2003)*).

## 163 Application for licence

The drawings and particulars to accompany applications for licences shall be as follows:

(a) The name and situation of the factory;

(b) A ground plan of the buildings and premises and a description of the plant; and

(c) The estimated quantity of petrol to be manufactured in the factory during the next succeeding twelve months.

## 166 Security for compliance with Act and regulations

Before a licence to manufacture petrol is issued, security to the satisfaction of the Collector, for compliance with the Act and the regulations, shall be furnished by the applicant.

## 167 Secure storage to be provided

(1) Every manufacturer shall provide on the premises secure storage accommodation (by tank or as otherwise approved by the Collector) in which all petrol manufactured in the factory shall be stored immediately after production.

(2) The manufacturer shall provide, during such periods as the Collector requires, fastenings and locks for securing:

(a) such outlets for petrol from the storage accommodation; and

(b) such other points on the premises;

as the Collector requires.

## 170 Approved containers for removal

Petrol may be removed from the factory in containers or portable tanks of such description, size or weight as is approved by the Collector.

## 171 Containers must be distinctively marked

(1) A manufacturer must not remove from a factory petrol manufactured by the manufacturer unless its container is marked with:

(a) the manufacturer's name and the place where the petrol was manufactured; or

(b) the distinctive brand of the petrol.

(2) This regulation does not apply if petrol is removed by authority from the factory in portable tanks.

## 173 Samples may be taken

An officer may take samples of any material in the factory and if in any factory a deficiency of petrol appears on the production being checked by an officer as against the petrol content as ascertained by analysis of the material, the manufacturer shall pay the duty on the deficiency unless it is accounted for to the satisfaction of the Collector.

## 174 Capacity and contents marked on containers

Every container of petrol in the factory shall be marked with the capacity and/or actual content thereof as approved by the Collector.

# Part 10 Blended petroleum products

## 175 Interpretation

Expressions used in this Part that are defined for the purposes of Part VIIB of the Act have the same meanings respectively as in that Part.

## 176 Exempt blended petroleum products

(2) For the purposes of section 77J of the Act, the following blended petroleum products are exempt blended petroleum products:

(c) a blend of products on which duty has been paid for each of the products at a rate specified in item 15 of the Schedule to the *Excise Tariff Act 1921*;

(d) a blend of one or more additives, each of which is not dutiable under the Schedule to the *Excise Tariff Act 1921*, with:

(i) a product on which duty has been paid at a rate specified in item 15 of that Schedule; or

(ii) a blend of products on which duty has been paid for each of the products at a rate specified in that item;

(e) a blend of water with:

(i) a product on which duty has been paid at a rate specified in item 15 of the Schedule to the *Excise Tariff Act 1921*; or

(ii) a blend of products on which duty has been paid for each of the products at a rate specified in that item;

(f) a blend of oil and gasoline for use as two stroke gasoline where duty has been paid on the oil at the rate specified in item 15 and on the gasoline at the rate specified in subparagraph 11 (H) (2) (b) or (c) of the Schedule to the *Excise Tariff Act 1921*;

(g) a blend of a clean petroleum product with a dye after the clean petroleum product has been cleared from the CEO's control;

(h) a blend of a petroleum product on which duty has been paid at the rate specified in subparagraph 11 (H) (2) (b) or (c) of the Schedule to the *Excise Tariff Act 1921* and a product (an ***enhancer***) that:

(i) is used to enhance the octane rating of the petroleum product, except an enhancer that is:

(A) classified to item 11 or 12 of that Schedule; or

(B) ethanol, whether imported or not; or

(C) methanol, whether imported or not; or

(D) imported and classified or classifiable to heading 2707, 2709, 2710 or 2902 of Schedule 3 to the *Customs Tariff Act 1995*; and

(ii) is packaged into a package of not more than 10 litres capacity;

(i) a blend of a clean petroleum product with prepared additives packaged into a package of not more than 10 litres capacity, if:

(i) the additives:

(A) enhance the performance of an internal combustion engine; or

(B) assist in its maintenance; and

(ii) the duty on the clean petroleum product has been paid:

(A) at the rate specified in subparagraph 11 (H) (2) (b) or (c) of the Schedule to the *Excise Tariff Act 1921;* or

(B) at the rate specified in subparagraph 11 (C) (2) (a) in the Schedule to the *Excise Tariff Act 1921* as in force immediately before 1 July 2003; or

(C) at the rate specified in Schedule 1 to the *Excise Tariff Proposal No. 1 (2003)* for diesel having a sulphur content exceeding 50 parts per million (other than a recycled product on which Customs or Excise duty

has been paid, recovered by a process not being a process of refining); or

(D) at the rate specified in Schedule 1 to the *Excise Tariff Proposal No. 1 (2003)* for diesel having a sulphur content not exceeding 50 parts per million (other than a recycled product on which Customs or Excise duty has been paid, recovered by a process not being a process of refining); or

(E) at the rate specified in Schedule 1 to the *Excise Tariff Proposal No. 2 (2003)* for diesel having a sulphur content exceeding 50 parts per million (other than a recycled product on which Customs or Excise duty has been paid, recovered by a process not being a process of refining);

(l) a blend of leaded petrol and unleaded petrol in the petrol tanks of leaded petrol vehicles where duty has been paid on both products at the rates specified respectively in subparagraphs 11 (H) (2) (b) and (c) of the Schedule to the *Excise Tariff Act 1921*;

(m) a blend of any clean petroleum product (except a product mentioned in item 15 of the Schedule to the *Excise Tariff Act 1921*) with another substance after the clean petroleum product has been cleared from the CEO's control, where the blend is not suitable for use as a fuel;

(n) a blend of:

(i) diesel fuel or biodiesel (within the meaning of Schedule 1 to the *Excise Tariff Proposal No. 4 (2003)*); and

(ii) fuel oil;

on board a vessel where the blend is for use as a bunker fuel for that vessel;

(o) a blend of stabilised crude oil, if duty has been exempted on the stabilised crude oil under the terms of subitem 11 (F) in the Schedule to the *Excise Tariff Act 1921*, and:

(i) biodiesel (within the meaning of Schedule 1 to the *Excise Tariff Proposal No. 4 (2003)*) on which duty has been paid at the biodiesel rate (within the

meaning of Schedule 1 to the *Excise Tariff Proposal No. 4 (2003)*); or

(ii) diesel fuel on which duty has been paid:

(A) at the rate specified in subparagraph 11 (C) (2) (a) in the Schedule to the *Excise Tariff Act 1921* as in force immediately before 1 July 2003; or

(B) at the rate specified in Schedule 1 to the *Excise Tariff Proposal No. 1 (2003)* for diesel having a sulphur content exceeding 50 parts per million (other than a recycled product on which Customs or Excise duty has been paid, recovered by a process not being a process of refining); or

(C) at the rate specified in Schedule 1 to the *Excise Tariff Proposal No. 1 (2003)* for diesel having a sulphur content not exceeding 50 parts per million (other than a recycled product on which Customs or Excise duty has been paid, recovered by a process not being a process of refining); or

(D) at the rate specified in Schedule 1 to the *Excise Tariff Proposal No. 2 (2003)* for diesel having a sulphur content exceeding 50 parts per million (other than a recycled product on which Customs or Excise duty has been paid, recovered by a process not being a process of refining);

(t) blends of clean petroleum products classified to subitems 11 (B) to 11 (J) of the Schedule to the *Excise Tariff Act 1921* inclusive, not containing goods specified under subitem 11 (H) of that Schedule, if duty has been paid on all constituents of the blend:

(i) for duty payable before 1 July 2003 — at the rate specified in subparagraph 11 (C) (2) (a) in the Schedule to the *Excise Tariff Act 1921* as in force immediately before 1 July 2003; or

(ii) for duty payable between 1 July 2003 and 31 December 2003 (inclusive), if the constituent has a sulphur content exceeding 50 parts per million

(other than a recycled product on which Customs or Excise duty has been paid, recovered by a process not being a process of refining) — at the rate specified in Schedule 1 to the *Excise Tariff Proposal No. 1 (2003)* for the constituent with that sulphur content; or

(iii) for duty payable on or after 1 July 2003, if the constituent has a sulphur content not exceeding 50 parts per million (other than a recycled product on which Customs or Excise duty has been paid, recovered by a process not being a process of refining) — at the rate specified in Schedule 1 to the *Excise Tariff Proposal No. 1 (2003)* for the constituent with that sulphur content; or

(iv) for duty payable on or after 1 January 2004 — at the rate specified in Schedule 1 to the *Excise Tariff Proposal No. 2 (2003)* for diesel having a sulphur content exceeding 50 parts per million (other than a recycled product on which Customs or Excise duty has been paid, recovered by a process not being a process of refining);

(u) blends of clean petroleum products containing goods specified under subitem 11 (H) of the Schedule to the *Excise Tariff Act 1921*, where duty has been paid on all the constituents of the blend at the rate specified in subparagraph 11 (H) (2) (b) of the Schedule to the *Excise Tariff Act 1921*;

(v) a blend of fuel classified to sub-subparagraph 11 (I) (1) (b) (ii) of the Schedule to the *Excise Tariff Act 1921* if the blend is for use in diesel engines operating at less than 1 000 revolutions per minute at constant speed in a stand alone power station not connected to an electricity transmission grid, and generating in excess of 5.5 megawatts of electricity for supply to the general public; and

(i) biodiesel (within the meaning of Schedule 1 to the *Excise Tariff Proposal No. 4 (2003)*) on which duty has been paid at the biodiesel rate (within the meaning of that Schedule); or

(ii) diesel fuel on which duty has been paid:

(A) at the rate specified in subparagraph 11 (C) (2) (a) in the Schedule to the *Excise Tariff Act 1921* as in force immediately before 1 July 2003; or

(B) at the rate specified in Schedule 1 to the *Excise Tariff Proposal No. 1 (2003)* for diesel having a sulphur content exceeding 50 parts per million (other than a recycled product on which Customs or Excise duty has been paid, recovered by a process not being a process of refining); or

(C) at the rate specified in Schedule 1 to the *Excise Tariff Proposal No. 1 (2003)* for diesel having a sulphur content not exceeding 50 parts per million (other than a recycled product on which Customs or Excise duty has been paid, recovered by a process not being a process of refining); or

(D) at the rate specified in Schedule 1 to the *Excise Tariff Proposal No. 2 (2003)* for diesel having a sulphur content exceeding 50 parts per million (other than a recycled product on which Customs or Excise duty has been paid, recovered by a process not being a process of refining);

(x) a blend of fuel that is classified to sub-subparagraph 11 (I) (1) (b) (ii) of the Schedule to the *Excise Tariff Act 1921* and fuel oil classified to subheading 2710.00.60 of the Schedule to the *Customs Tariff Act 1995* or subitem 11 (D) of the Schedule to the *Excise Tariff Act 1921*, where the blend is for use as a fuel other than in an internal combustion engine;

(y) a blend of a petroleum product, on which duty has been paid at the maximum diesel rate within the meaning of subsection 120 (9) of the Act, with one or more of the following additives, being additives that are packaged into packages of at least 10 litres capacity:

(i) Cougar Oils Turbojet Multi-functional Fuel Treatment;

(ii) Dipetane;
(iii) Pro-Ma DT5 Plus Concentrated Diesel Treatment;
(iv) Pro-Ma PT5 Plus Concentrated Petrol Treatment;
(v) Wynn's EDT Enviro Diesel Treatment.

# Part XIII Returns and declarations

## 178 Return of excisable goods to be furnished

Every brewer, distiller, or manufacturer of any goods dutiable under the Excise Tariff (whether licensed under any Excise Act or not), must, if required by the Collector, furnish a return that:

(a) states the quantity of each kind of those goods:

(i) on which the excise duty has not been paid; and

(ii) that belonged to, or was in the custody or possession of, the brewer, distiller or manufacturer on a day specified in the demand; and

(b) states where the goods were on the day; and

(c) has been verified by the brewer, distiller or manufacturer by signing, at the foot of the return, a declaration in accordance with Form 23.

## 179 Full disclosure required

(1) Every brewer, distiller, or manufacturer of any goods dutiable under the Excise Tariff (whether licensed under any Excise Act or not), and the manager or person in charge of any factory or premises where any of those goods were manufactured shall, when required by the Collector or any officer authorised by the Collector, answer all questions that the Collector or officer asks in accordance with subregulation (2).

(1A) A person required to answer under subregulation (1) must do so to the best of the person's knowledge, information and belief.

(2) For the purposes of subregulation (1), the Collector or an officer referred to in subregulation (1) may ask any question relevant to the purposes of the Act, or the regulations, relating to:

(a) goods referred to in subregulation (1); or

(b) any excisable goods, or goods liable to duties of Customs, that, under section 24 of the Act, were used, or are held for use, by the brewer, distiller or manufacturer in the manufacture of excisable goods.

## 180 Records to be produced on demand

(1) When required by the Collector, a brewer, distiller or manufacturer of any goods dutiable under the Excise Tariff (whether licensed under any Excise Act or not), must produce to the Collector or an officer nominated by the Collector, all books and accounts that:

(a) contain entries relating to relevant goods; and

(b) are in the possession, custody or control of the brewer, distiller or manufacturer.

(1A) The Collector or nominated officer may inspect, and take copies of or extracts from, any such books or accounts.

(2) In this regulation:

***relevant goods*** means:

(a) goods referred to in subregulation (1); and

(b) any excisable goods, or goods liable to duties of Customs, that, under section 24 of the Act, were used, or are held for use, by the brewer, distiller or manufacturer in the manufacture of excisable goods.

## 181 Declarations

A declaration required to be made by a manufacturer, brewer, distiller, dealer or producer under the Excise Acts may be made by:

(a) the manufacturer, brewer, distiller, dealer or producer; or

(b) by a person appointed in writing to make the declaration on behalf of the manufacturer, brewer, distiller, dealer or producer.

## 182 Appointment of proxy

An appointment under the preceding regulation may be according to Form 24.

## 183 Appointment of proxy to be filed

The appointment shall be filed with the Collector, and the Collector may refuse to accept any declaration made by the appointee until the appointment has been so filed.

## 184 Effect of declaration

Any declaration made by a person appointed to make it on behalf of a manufacturer, brewer, distiller, dealer, or producer shall be held to have been made with the knowledge and consent of the manufacturer, brewer, distiller, dealer, or producer, who shall be liable to all pecuniary penalties in respect of the declaration to the same extent as if the declaration had been made by the manufacturer, brewer, distiller, dealer or producer. But nothing herein contained shall relieve the person who made the declaration from liability.

## 185 Agent may act on behalf of principal

(1) Forms containing declarations may be signed by a duly authorized agent in cases where the principal is legally incapable of making a declaration.

(2) Any officer may require from any agent the production of a written authority from the principal for whom the agent claims to act, and in default of the production of such authority may refuse to recognize the agency.

(3) Any declaration made by an agent in pursuance of this regulation shall be held to have been made with the knowledge and consent of the principal, so that in any prosecution in respect of any declaration made by any such agent the principal shall be liable only to the pecuniary punishment provided by the Act or these Regulations as if such declaration had been made by the principal.

(4) An authority under this regulation may be according to Form 39.