

***EXC 2006/3 -***



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# Excise (Alcoholic strength of excisable beverages) Determination 2006 (No. 1)

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## *Excise Act 1901*

Under section 65 of the *Excise Act 1901* (Excise Act) I make the following determination:

### **Citation**

1. This determination may be cited as the *Excise (Alcoholic strength of excisable beverages) Determination 2006 (No. 1)*.

### **Legislative instrument**

2. This determination is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

### **Commencement**

3. This determination commences on 1 July 2006.

### **Application**

4. This determination applies to excisable beverages delivered for home consumption on or after the date of commencement.

### **Object**

5. Under section 65 of the Excise Act, the CEO may determine rules for working out the volume, weight or strength of alcohol in excisable goods.
6. These rules govern the measurement of the alcoholic strength of excisable beverages and provide permitted variations in strength from the actual strength for the purpose of determining duty payable.

### **Interpretation**

7. In this determination:  
**CEO** means the Commissioner of Taxation (see subsection 4(1) of the Excise Act)  
**strength** means percentage by volume of alcohol at 20°C.

### **Sampling & analysis**

8. The alcoholic strength of the beverage must be measured by analysing samples of the product after it has reached its full alcoholic strength, using equipment which has been calibrated at intervals of one year or less against standard instruments certified by an independent authority approved by the National Association of Testing Authorities (NATA).

9. Sufficient samples must be taken from each run to ensure the measured strength accurately reflects the true strength of the beverage.
10. The strength of the beverage:
  - 10.1. is taken to be the average of the strength of all the sample measurements;
  - 10.2. is to be expressed as a percentage, if the alcohol were measured at a temperature of 20°C; and
  - 10.3. if a calculation for the purposes of ascertaining that volume is made by reference to the specific gravity of alcohol, the calculation is to be made on the basis that, at a temperature of 20°C and in a vacuum, the specific gravity of alcohol in relation to water is 0.79067.

### **Measuring & equipment**

11. The instruments and processes used to measure the strength of excisable beverages must be able to produce a result with a tolerance of plus or minus 0.2% of the actual alcoholic strength.
12. Permissible methods are:
  - 12.1. gas chromatography;
  - 12.2. near infra-red spectrometry;
  - 12.3. distillation followed by the gravimetric measurement of the distillate or by measurement in a density meter; or
  - 12.4. any other method that consistently produces a similar result.
13. If a brewery produces less than 100,000 litres of beer in a calendar year, the brewery may use a hydrometer and a formula to measure the alcoholic strength of the beer, provided the formula is supported by a documented testing process and the records are kept. The records are to be retained for 5 years after a formula has ceased to be used.

### **Permitted variations**

14. For the purposes of working out the excise duty payable on beer:
  - 14.1. If the actual strength of beer, other than beer subject to secondary fermentation, does not exceed the labelled (or otherwise indicated) strength by more than 0.2%, the strength is the labelled (or otherwise indicated) strength and the tariff rate applicable to that strength applies.
  - 14.2. If the actual strength of beer, other than beer subject to secondary fermentation, exceeds the labelled (or otherwise indicated) strength by more than 0.2%, the strength is the actual strength and the tariff rate applicable to that strength applies.
  - 14.3. If the actual strength of beer subject to secondary fermentation does not exceed the labelled (or otherwise indicated) strength by more than 0.3%, the strength is the labelled (or otherwise indicated) strength and the tariff rate applicable to that strength applies.
  - 14.4. If the actual strength of beer subject to secondary fermentation exceeds the labelled (or otherwise indicated) strength by more than 0.3%, the strength is the actual strength and the tariff rate applicable to that strength applies.
15. For the purposes of working out the excise duty payable on excisable beverages other than beer:

- 15.1. if the actual strength of the beverage does not exceed the labelled (or otherwise indicated) strength by more than 0.2%, the strength is the labelled (or otherwise indicated) strength and the tariff rate applicable to that strength applies;
- 15.2. if the actual strength of the beverage exceeds the labelled (or otherwise indicated) strength by more than 0.2%, the strength is the actual strength and the tariff rate applicable to that strength applies.

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Dated this 30th day of June 2006

Signed Paul Southwell

**Paul Dennis Southwell**

**Acting Deputy Commissioner and Delegate of the Commissioner of Taxation**