



CIRCULAR ED 212-10

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GUIDELINES FOR BREW ON PREMISES OPERATIONS

This circular does not replace the law found in the *Excise Act* and its Regulations. It is provided for your reference. As it may not completely address your particular operation, you may wish to refer to the Act or appropriate Regulations or contact any Canada Customs and Revenue Agency Excise Duty regional office for additional information.

Section 172 of the *Excise Act* allows for the production of beer, exempt of excise duty, for non-commercial purposes. The following guidelines are provided to inform operators of Brew on Premises operations of their obligations under sections 11 and 172 of the Excise Act. Operators should be aware that conforming with these guidelines does not release them from their obligations in respect of provincial, municipal or other federal requirements.

Definitions and departmental interpretations to explain specific terms are provided at the end of this circular.

REFERENCES

Excise Act, sections 4, 11, 118, 172, 176 and 179

Section 11 "Every person who imports, makes, has in his possession or keeps any still, worm, mash-tub, fermenting-tun, distilling, rectifying or brewing apparatus, tobacco press or mill for cutting or grinding tobacco shall, forthwith, after the apparatus or machinery comes into his possession and in each subsequent year on or before April 10, give to the collector of the division in which the apparatus or machinery is located a full and particular list, description and return thereof, the same in nature and form as is required by this Act in an application for a licence to use similar apparatus or machinery "

Subsection 172(1) "Notwithstanding sections 170 and 171, the duties of excise thereby imposed shall not be levied or collected on beer that is made or brewed by any person for personal or family consumption or to be given away without charge and that is not for sale or commercial use. "

Subsection 172(2) "Any apparatus used only for making or brewing beer in the circumstances described in subsection (1) is exempt from the provisions of this Act respecting the possession of brewing apparatus by unlicensed persons."

COMPLIANCE

1. Prior to start-up, all Brew on Premises operators must formally notify, in writing, the local Excise duty office in their region and outline their intended operations (e.g., principals involved, location, services provided).
2. Additionally, Brew on Premises operators must complete form E111, *Description of Vessels and Utensils*, in duplicate, and submit it to their local Regional Excise office. This form lists all vessels and utensils to be used in the Brew on Premises operation. Operators must update this listing annually, on or before April 10 of each subsequent year.

3. The operator should maintain an accounting system that provides adequate internal controls to ensure the accuracy and reliability of the books and records. The accounting system must provide, as a minimum, satisfactory internal records including sequentially numbered invoices indicating customer name and address, a basic journal accounting system covering purchases of raw materials, beer in process, and sales.
4. Brew on Premises operators who intend to manufacture wort must meet the licensing requirements of the *Excise Act* and have obtained a licence to operate as a Brewery (for the Manufacture of Wort). This licence is issued solely for the purpose of manufacturing unfermented wort and does not authorize the Brew on Premises operator to engage in the manufacture of beer for sale or commercial purposes.

OPERATION STANDARDS

5. Brew on Premises operators may not use their facilities to engage in commercial brewing or offer beer for sale or sampling purposes.
6. Brew on Premises operators may only provide operations and services that allow an individual to brew beer for personal or family use, such as
 - (a) providing an unfermented wort (i.e., a wort to which no yeast has been added) or the materials for preparation of a wort,
 - (b) providing yeast,
 - (c) providing containers for the wort,
 - (d) providing technical advice on the brewing process,
 - (e) providing equipment for racking,
 - (f) providing linings and stabilizing agents,
 - (g) providing transfer, filtering, carbonation and packaging equipment,
 - (k) providing packaging materials, and
 - (i) providing testing equipment for specific gravity, alcohol content, etc.
7. Brew on Premises operators and their staff cannot physically be involved in any part of the brewing or packaging process. All operations relating to the production and packaging process must be conducted by the individual customer.
8.
 - (a) The owner of the batch, for quality assurance purposes, may do sampling of excise duty exempt beer. Sampling can only be done prior to packaging. The sample(s) cannot exceed a total of 200 ml per batch, regardless of the number of owners of that batch, or the amount and frequency allowed for sampling by Provincial regulation whichever is less.
 - (b) Under no other circumstances can excise duty exempt beer be sampled on the premise, nor may any excise duty exempt beer remain on the premises once packaged.

PENALTIES AND OFFENCES UNDER THE *EXCISE ACT*

9. Sections 118, 172, 176 and 179 of the *Excise Act* provide for penalties which, depending on the circumstances, may apply either to persons engaged in Brew on Premises operations or their customers who do not observe the above guidelines.

DEFINITIONS

"brewer" means any person who conducts, works, occupies or carries on any brewery, either personally or by an agent.

"brewery" means any place or premises where any beer is manufactured, and all offices, granaries, mash-rooms, cooling-rooms, vaults, yards, cellars and store-rooms connected therewith or in which any material to be used in the manufacture of beer is kept or stored, where any process of manufacture is carried on, where any apparatus connected with that manufacture is kept or used or where any of the products of brewing or fermentation are kept or stored, shall be held to be included in and to form part of the brewery to which they are attached or appurtenant.

"Brew on Premises Operation" means a commercial establishment providing equipment, raw materials and technical advice, where a person can brew and package beer for personal or family consumption or to be given away without charge, and not for sale or commercial use. Brew on Premises Operations are sometimes also referred to as "U-Brew Warehouses".

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CUSTOMS, EXCISE AND TAXATION, AS INFORMATION
RELATING TO THE PROVISIONS OF THE
EXCISE ACT AND REGULATIONS.**

This supersedes Circular ED 212-10, dated August 9, 1993.