

Treasury  
Customs and Excise Division

## Notice 2001 MAN

# Alcohol Wholesaler Registration Scheme (AWRS)



December 2015  
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**Isle of Man**  
Government

*Reilts Ellan Vannin*

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## Foreword

This notice explains the Alcohol Wholesaler Registration Scheme (AWRS). Certain paragraphs of this notice have the force of law under:

- The Alcoholic Liquor Duties Act 1986 (ALDA)
- The Wholesaling of Controlled Liquor Regulations 2015 (WCLR)

The text in this notice which has the force of law is indicated by being placed in a box.

### Other notices on this or related subjects

Excise Notice 196: Excise Goods - Registration and Approval of Warehousekeepers, Warehouse Premises, Owners of Goods and Registered Consignors

Excise Notice 197: Excise Goods: Receipt into and Removal from an Excise Warehouse of Excise Goods

Excise Notice 203A: Registered Consignees

Excise Notice 204A: Temporary Registered Consignees

Excise Notice 204B: Commercial importers and tax representatives - EU trade in duty-paid excise goods

Excise Notice 207: Excise Duty: drawback

Excise Notice 209: Civil penalties: fixed, geared and daily

Notice 275: Customs: Export procedures

Notice 431: Visiting Forces

VAT Notice 700: The VAT Guide

## 1. Introduction

### 1.1 What this notice is about

This Notice is issued by the Customs and Excise Division of the Treasury and sets out how the Alcohol Wholesaler Registration Scheme (AWRS) operates in the Island, and the relationship between AWRS in the Island and the corresponding Scheme administered by HMRC in the UK. Because of the Customs and Excise Agreement with the UK, and the fact that the Island and the UK operate as a single area for the purposes of the trade in alcohol and alcoholic drinks, registration under AWRS in the Island will be recognised as if it included registration in the UK and vice versa. Island-based wholesalers will also be included on HMRC's online look-up facility (see Section 8). Supplies between wholesalers in the UK and their customers in the Island, and vice versa, are to be treated as if both parties were within the UK or the Isle of Man.

AWRS introduces a requirement for anyone who sells, offers or exposes for sale, or arranges to sell, alcohol to other businesses on or after the point at which excise duty is payable, to be registered with the Treasury (if in the Isle of Man) or HMRC (if in the UK).

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Note that this Notice refers to both the Treasury and to Customs and Excise, depending on the context. Customs and Excise is a Division of the Treasury and is responsible for undertaking all administrative and operational matters in connection with AWRS.

This notice will help you to understand:

- whether you are required to be approved as a wholesaler
- how to apply for approval
- your obligations under the scheme
- what records approved wholesalers will need to keep
- any exclusions from the Scheme
- the obligations for your business if you buy alcohol from wholesalers
- the sanctions and penalties that will be imposed for failing to comply with the scheme.

## 1.2 Who should read this notice

You must read this notice if you trade, or wish to trade, in alcohol at or after the point at which Excise Duty as become payable.

## 1.3 The law

You will find primary legal provisions applicable to the contents of this notice in:

- Alcoholic Liquor Duties Act 1986 (ALDA)
- Value Added Tax Act 1996 (VATA)
- Customs and Excise Management Act 1986 (CEMA)
- Rehabilitation of Offenders Act 1993 (ROA)

You'll find detailed requirements in the Wholesaling of Controlled Liquor Regulations 2015 (WCLR).

Other legislation referred to in this notice are the Revenue Traders Accounts and Records Regulations 1993 (RTAR).

The above legislation corresponds to that in force in the UK.

## 2. The AWRS

### 2.1 Background

AWRS requires businesses who wholesale alcohol at or after the point at which Excise Duty is payable (the 'duty point') to be approved by the Treasury. Businesses will be required to apply for approval and need to pass a 'fit and proper' test in order to be approved to trade. It's an offence to trade without approval.

A register of approved wholesalers will be established. Businesses purchasing alcohol (for the purposes of this notice we refer to these businesses as 'trade buyers') from an AWRS

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wholesaler must check, via HMRC's online look up service, that the wholesaler is approved. Further details are set out in Section 8.

It is an offence to buy alcohol from an unapproved wholesaler.

## 2.2 Who is affected by the Scheme

From 1 January 2016, businesses with an establishment in the Island who sell, offer or expose for sale or arrange to sell, alcohol to other businesses at or after the duty point must apply for AWRS approval. See paragraph 3.9 for some examples of the types of businesses that fall within the scope of AWRS.

From 1 April 2017, trade buyers who buy their alcohol from wholesalers in the UK or Isle of Man for resale will need to make sure that these wholesalers are approved by the Treasury or HMRC. The check will be made using an online look up service, and using this to check the validity of wholesalers will form part of these businesses' 'due diligence' processes.

AWRS only covers sales that are made in the course of a trade or business to other businesses. For example, it does not apply to private individuals purchasing alcohol from retailers for their own use.

## 2.3 AWRS timeline

The WCLR came into operation in the Island on 1 October 2015, and from that date all existing wholesalers were able to apply for approval.

From 1 January 2016, all existing wholesalers who have not applied for approval must apply.

New wholesalers who intend to start trading from 1 April 2016 onwards need to apply at least 45 calendar days before they intend to start trading.

From 1 January 2016 to 31 March 2017 Customs and Excise will process and assure the applications from existing traders and advise applicants of whether or not they have been approved.

All applicants will have been advised of whether they have been approved. From 1 April 2017 obligations will apply to trade buyers.

The online look up service will become available for trade buyers to check the approval status of their suppliers.

## 2.4 Exclusions from the Scheme

See Section 4 for details.

## 2.5 What you need to do if you think you need to be approved for AWRS

Applications by wholesalers in the Island should be made to Customs and Excise using the application form available at -

<https://www.gov.im/media/1348882/alcohol-wholesaler-registration-scheme-application-form-july-18.pdf>

The completed application should be sent to:

The Treasury, Customs and Excise Division,  
PO Box 6, Custom House, North Quay, Douglas, Isle of Man, IM99 1AG



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Or by email to: [customs@gov.im](mailto:customs@gov.im)

## 2.6 How the Scheme will work

From 1 April 2016, no alcohol wholesalers who are required to be approved should be trading unless they have applied for approval. Once approved, the wholesaler will be allocated a Unique Reference Number (URN) and from 1 April 2017 they must provide this to their customers and include their URN on all wholesale alcohol sales invoices.

From April 2017, trade buyers who purchase alcohol from wholesalers with the aim of selling it on to their own customers should, as part of their own due diligence processes, check the wholesaler's URN via an online look up service, to ensure that the wholesaler they are purchasing from has been approved.

## 2.7 When you should apply for the Scheme

For wholesalers who will be trading on or before 31 March 2016, the window for applications runs from 1 January 2016 to 31 March 2016. You must apply within this window.

Failure to do so will mean you are liable to heavy penalties and possibly forfeiture of stock if you continue to trade after 31 March 2016. A failure to apply for approval means you are automatically considered as trading without approval.

If you plan to start trading as an alcohol wholesaler on or after 1 April 2016 you must apply at least 45 calendar days in advance of the date you intend to start trading, to allow Customs and Excise to process your application.

You will not be permitted to trade in wholesale alcohol until your approval has been granted. If you do trade without approval, you will be liable to heavy penalties and your stock may be seized as being liable to forfeiture. See Sections 16, 17 and 18.

The obligations for trade buyers to check the approval status of their suppliers comes into effect from 1 April 2017. For further details see Section 13.

## 2.8 Refusing an application

As part of the application process, your business must pass a fit and proper test. If it fails the fit and proper test you will not be approved and you will not be able to lawfully trade as a wholesaler of alcohol. For further details see paragraph 6.10.

The Treasury may also revoke any approval given if it has reasonable cause.

## 3. The scope of the Scheme

### 3.1 Who is liable to be approved under the AWRS

Part VIA of ALDA 1986 sets out the scope of AWRS. Businesses will need to consider the following questions:

- are you established in the Island? (see paragraphs 3.2 to 3.4)
- do you carry on a controlled activity? (see paragraphs 3.5 to 3.11)

You need to read through all of these sections to decide whether you need to be approved. You also need to consider whether you may fall under any of the specific exclusions from

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approval which are outlined in Section 4. Where approval is given, the approved business is known as an 'approved person'.

Use the flowcharts shown in Annex B to help you decide if you need to register for AWRS.

### 3.2 **What is meant by 'established in the Island'**

A person or business is considered to be established in the Island if they have a business establishment, or some other fixed establishment in the Isle of Man in relation to a business carried on by them.

### 3.3 **What is meant by a 'business establishment'**

The business establishment is the place where the main functions of the business's central administration are carried out. This will usually be the head office, headquarters or 'seat' from which the business is run. This is where essential day to day decisions concerning the general management of the business are taken.

### 3.4 **What is meant by a 'fixed establishment'**

A fixed establishment is an establishment other than the business establishment, which has the human and technical resources necessary for providing or receiving services permanently present. A business may have several fixed establishments, which may include a branch or agency. If you have a temporary presence of human and technical resources, this does not create a fixed establishment in the Island.

Examples of a fixed establishment include:

- an overseas business sets up a branch comprising staff and offices in the Island to arrange wholesale sales of alcohol imported from outside the Island and UK, the branch is a fixed establishment
- an overseas business sets up an Island subsidiary to act in its name to arrange wholesale sales in the Island, the overseas business has a fixed establishment in the Island created by the agency of the subsidiary.

Examples where there is not a fixed establishment include:

- an overseas company that registers or is incorporated at their accountant's address but has no other offices or staff in that country
- the presence of computer servers alone within a country
- the existence of an Isle of Man VAT registration without any supporting resources in the Island.

### 3.5 **Finding out if you carry on a controlled activity**

A controlled activity means:

- selling 'controlled liquor' wholesale
- offering or exposing controlled liquor for wholesale sale
- arranging in the course of a trade or business for controlled liquor to be sold wholesale.

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See paragraphs 3.6 and 3.8 regarding the definition of 'controlled liquor' and when controlled liquor is 'sold wholesale'.

### **What is meant by 'offering or exposing for sale'**

For the purposes of AWRS, the words 'offering or exposing for sale' have the following meaning:

- offering - where a wholesaler makes a specific proposal to enter into an agreement to sell controlled liquor to another trader for example, the wholesaler approaches a potential buyer and makes an offer to supply controlled liquor under specific terms
- exposing - where alcohol is displayed for the purpose of inducing people to enter into a contract to purchase it in circumstances in which the sale, if made, would be a wholesale sale, it covers 'invitations to treat' for example, displaying controlled liquor on premises for the purpose of inviting offers to purchase it.

It would not be necessary for anyone to actually buy the alcohol for it to be considered as being offered or exposed for sale.

### **What we mean by arranging a sale**

This refers to traders who are involved in negotiating sales, often in return for a fee or commission, without taking physical possession or ownership of the goods. The person therefore often acts as an agent for the principal who owns the goods.

There has been an action of contacting prospective customers and negotiating on behalf of the person selling goods or taking actions to ensure a sale is obtained in order for a person to be considered as arranging sales.

In considering whether someone is arranging a sale, the following factors should be taken into account:

- what does the contract say - what does the customer think they are paying for? - is it just goods or for the service provided?
- is the invoice for goods issued by the supplier directly to the customer rather than an intermediary?
- is the broker taking physical possession or ownership of the alcohol - if they do, they are a wholesaler in their own right. If they do not - they are arranging a sale.

The following are examples of the types of activity which fall under the definition of 'arranging a sale':

- an intermediary who does not take title to the goods and is therefore providing a service and being paid commission rather than buying and selling in their own right
- a person who acts on behalf of the supplier to find customers
- a person responsible for bringing 2 parties together to allow a sale to take place - for example, an auctioneer.

These type of traders are not considered to be arranging a sale:

- an importer who is responsible for accounting for duty only

- a haulier who only delivers the goods and plays no part in arranging the sale

### 3.6 What is meant by 'controlled liquor'

Controlled liquor is alcohol on which duty has been charged (at a rate greater than nil), and the duty point is at or before the time of the sale.

This means that, for example, sales where the recipient will continue to hold in duty suspension (eg in a tax or excise warehouse where duty is not yet due), duty-free alcohol and denatured alcohol would not fall within AWRS as the alcohol has not passed a duty point. See Section 4 for more information on exclusions.

#### What is meant by 'the duty point'

Alcohol is a dutiable product. This means that somewhere in the supply chain for alcohol which is sold in the Island or the UK, unless there is a specific exemption or relief that has been granted for the goods in question, duty must be paid to the Treasury.

The duty point is the time at which the requirement to pay any duty chargeable on the product takes effect whether or not payment of the duty is deferred. This is often also referred to as the time the goods are 'released for consumption'. For example, the time the goods are released from an approved tax warehouse or regulated import regime such as the Registered Consignee Scheme, or imported into the Island and UK outside of a duty suspension arrangement.

Customs and Excise and HMRC already regulate people who trade in alcohol on which the duty has not been paid, for example, held in a duty suspension arrangement, so AWRS covers anyone who is trading from the time excise duty becomes payable with the aim that all wholesalers who are trading in duty-paid alcohol are included in the scheme.

#### Alcohol received in duty suspense

Duty-suspended movements of alcohol or sales within the duty suspension regime where the recipient will continue to hold in duty suspension are not within the scope of AWRS as no excise duty point has arisen.

### 3.7 Duty-paid alcohol deliveries to customers where the exact time of the sale happens while the goods are still in duty suspension

If you have alcohol delivered from a tax warehouse or other suspension arrangement duty-paid to your customer, but the exact time of the contract of sale happens to be prior to the time of the duty-point, the sales in these particular circumstances are also regarded as sales of controlled liquor. For example, where an owner of wine is storing products in an excise warehouse and arranges for the duty-paid delivery to a customer to occur after the time of sale, the sale should be treated the same way as if it had occurred at the excise duty-point and the wholesaler would be required to be approved.

### 3.8 What is meant by the selling of controlled liquor 'wholesale'

Controlled liquor is sold wholesale if:

- (a) the seller is carrying on a trade or business and the sale is made in the course of that business;
- (b) the sale is to a buyer carrying on a trade or business, for sale or supply in the course of that business; and

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- (c) the sale is not an incidental sale, a group sale or an excluded sale. See Section 4 for more information on exclusions.

### 3.9 The types of business that fall within the scope of the Scheme

Here are some examples of wholesale activity which would require approval:

- a cash and carry selling excise duty paid alcoholic drinks (for example, selling to off-licences, supermarkets, restaurants, hotels, public houses, etc or to another wholesaler for resale)
- a merchant who buys alcoholic drinks direct from a producer or supplier and then supplies them excise duty-paid to retailers for resale to the public
- a merchant or broker who specialises in supplying excise duty paid alcoholic drinks to the on or off-trade
- a drinks merchant, such as a specialist wine merchant, supplying excise duty paid alcohol to a business enterprise for resale
- a drinks producer such as brewers, wine producers and cider-makers supplying their own products duty paid to trade buyers
- a retailer with a wholesale arm to their business
- owners of goods in warehouse or warehousekeepers who are trading their own goods at or past a duty point
- auctioneers that are arranging a wholesale sale
- businesses who act as an agent between a supplier and another business to arrange, or offer for sale alcohol to other businesses - these agents often don't take physical possession of the goods and are known in the industry as 'dry brokers'.

This is not an exhaustive list.

Note: All of the above also apply to Internet based traders see paragraph 5.3.

### 3.10 Registering for approval if you already hold an approval for a different excise regime

Even if you hold one or more excise approvals for other regimes, you will still be required to be approved if you are carrying on, or intend to carry on, a controlled activity. This is to ensure that the fit and proper test is applied to the entire population who wholesale duty-paid alcohol.

### 3.11 Registering for approval if you already hold an alcohol retail licence

If you already hold an alcohol retail licence, you will still have to be approved if you wish to carry on a controlled activity. However, please refer to paragraph 4.2 on the 'incidental sales' exemption.

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## 4. Exclusions

### 4.1 Sales between members of a corporate group

Intra-group sales (i.e. sales made between members of the same corporate group as defined in section 71J of ALDA 1986) are excluded from AWRS. There would be no requirement to apply for approval to cover these sales. This covers sales between members of a qualifying group. There is no requirement to form an AWRS group registration in order for this exclusion to apply. For more information on groups and intra-group sales, see Section 14.

### 4.2 If you unknowingly or unintentionally make an occasional wholesale sale

AWRS is not designed to capture retailers who trade with the intention of making sales solely to the general public. An 'incidental sale', that is, a wholesale sale that is not made knowingly or intentionally by the retailer, is excluded from the Scheme.

### 4.3 What is meant by an 'incidental sale'

A sale is incidental (and therefore excluded) if:

- the seller makes authorised retail sales of alcohol of any description; and
- the sale is incidental to those sales

The purpose of the incidental sales exclusion is to exclude, for example, a retailer who makes a wholesale sale unknowingly or unintentionally in the course of their day to day retail activity.

Often where the purchaser is unknown to them, the only indication a retailer may have that the purchase is being made for commercial purposes is if a tax invoice is requested.

This exclusion only refers to persons who are authorised retailers who hold a relevant authorisation for example, an alcohol retail licence. If you don't hold an alcohol retail licence or relevant authorisation and are carrying out, or intend to carry out, a controlled activity, then you must apply to be approved under AWRS.

Examples of incidental sales:

- a supermarket that sells to another business through the checkout and would not know at the time of sale that they were selling to another business, this would be unintentional and therefore an incidental sale
- a small corner shop that does not in any way set out to make wholesale sales but is aware that the local pub landlord may exceptionally run out of a particular line and call in the shop to make an ad hoc purchase - this would be an exception rather than the rule and would be classed as an incidental sale.

Use the flowcharts in Annex B to help you decide if your business is covered by the incidental sales exclusion.

### 4.4 When a retailer might also be considered a wholesaler for the purposes of AWRS

Retailers who only make retail sales to the general public are not required to be approved. But some retailers may also have a separate wholesale arm to their business or set out knowingly and intentionally to make wholesale sales. If they do, then they must be approved.

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Some examples are:

- a supermarket advertises on their website that they sell alcohol to other businesses and perhaps offers a reduced price for bulk purchases - in this example the supermarket is intentionally setting themselves out as a wholesaler as well as a retailer and would need to be approved
- a cash and carry makes wholesale and retail sales of alcohol to both the trade and the general public - customers have to be members of the cash and carry in order to make purchases (in this case the incidental sales exclusion does not apply as the cash and carry set themselves out as making wholesale as well as retail sales - they would be required to be approved)

## **5. Sales outside the scope of the Scheme**

### **5.1 Circumstances where sales are outside the scope of the Scheme**

AWRS only applies to alcoholic liquor that has been charged with excise duty and, with the exception of the situation explained in paragraph 3.7, is sold at, or after, the duty point.

Any alcoholic liquor that has been exempted from excise duty, granted a specific duty relief or is duty free is not caught by AWRS. Examples include:

- alcohol sent from an excise warehouse to an approved denaturer for denaturing or denatured alcohol that has been exempted from - see Excise Notice 473 (production, distribution and use of denatured alcohol)
- alcohol sent from an excise warehouse to an approved user of duty-free spirits (DFS) for any of the approved uses in Excise Notice 47 (duty free spirits - use in manufacture or for medical or scientific purposes)
- alcohol supplies falling under the relief provided for in the Customs and Excise (General Reliefs) Duties Act 1986, e.g. to diplomats and visiting forces
- alcohol supplied as ships stores, aircraft stores etc., unless they are supplied duty paid - see Excise Notice 69a (duty free ships' stores) and Excise Notice 198 (duty free aircraft stores).

This is also the case for duty-suspended alcohol moving from a tax warehouse in the Island to a EU tax warehouse or duty-suspended alcohol for immediate export outside of the EU, as there is no excise duty point for the supplies in question.

These sales are outside the scope of AWRS. Anyone who makes wholesale sales that fall solely within these categories will not need to be approved under the Scheme.

### **5.2 Supplies that may become eligible to duty relief after the duty point**

Wholesalers supplying duty-paid alcohol that may subsequently become eligible for duty relief or repayment after the duty point, (e.g. alcohol which qualifies for Alcoholic Ingredients Relief (AIR) or drawback), are not excluded as duty has become payable at the duty point.

Relief from excise duty is only given once all the conditions for repayment have been subsequently satisfied. The wholesaler of the duty-paid alcohol must be approved under AWRS, (e.g. a trader that wholesales duty paid alcohol which is destined for export out of the UK), would be required to be registered, even though drawback may later be claimed on the alcohol in question.

### 5.3 Internet sales

Internet sales from an Island-established Internet wholesaler to a trade buyer fall within AWRS in the same way as any other wholesale business. See paragraph 3.2 for definition of established. Internet sales to private individuals are not wholesale supplies and do not fall within the scope of AWRS.

Overseas Internet vendors, with no Island or UK establishment, do not fall within the scope of the Scheme. However, they must ensure that they use one of the appropriate methods for importing alcohol into the Island and the UK. See paragraph 5.5.

If you are importing alcohol, you only need to be approved under AWRS if you are carrying on, or intend to carry on, a controlled activity. If you're an import agent accounting for duty only, you don't need to be approved under AWRS.

### 5.4 If you're a supplier or a trade buyer based in the UK

For the purposes of AWRS:

- any wholesale suppliers based in the UK
- any trade buyers in the UK sourcing their supplies from a wholesale supplier (in the UK or the Island)
- must follow the same rules and procedures as set out in this notice.

For more information including how to apply in the UK please see HMRC Notice 2001.

### 5.5 Imports from overseas wholesalers

AWRS does not extend beyond the boundaries of the Island and the UK, so wholesalers with no establishment in the Island or UK are not required to be approved.

If you are importing alcohol for commercial purposes directly from an overseas supplier you must do so using the appropriate method. For more information on the various schemes for importing goods, visit Import alcohol into the UK (<https://www.gov.uk/guidance/import-alcohol-into-the-UK>).

### 5.6 Sales of alcohol abroad

If all your trade in alcohol takes place abroad you do not need to be approved. For example, if the alcohol you're selling is always situated outside of the Island and the UK there will never be any liability to pay excise duty which means the sales are outside the scope of AWRS.

## 6. Applying for AWRS approval

Prior to applying for approval, you should make sure that you are aware of the obligations and conditions which the Treasury imposes upon alcohol wholesalers.

Do not assume that we will automatically approve you as a wholesaler.

### 6.1 Who needs to apply

All businesses that are carrying on, or intend to carry on, a controlled activity need to apply for approval, see paragraph 3.5.



## 6.2 When you need to apply

This will depend on whether you are already trading in duty paid alcohol or will be trading by 31 March 2016, or are intending to start trading from 1 April 2016 onwards.

### Existing businesses trading before 31 March 2016

All businesses that are trading as an alcohol wholesaler on or before 31 March 2016 and intend to still be trading from 1 April 2016 onwards must apply between 1 January 2016 and 31 March 2016.

If Customs and Excise has not received your completed application by the deadline and you continue to trade from 1 April 2016 onwards, you will be treated as trading without approval and will be liable to a civil penalty or could even face criminal prosecution.

### New businesses commencing after 31 March 2016

New businesses that commence after the application window for existing businesses closes on 31 March 2016 must apply at least 45 calendar days in advance of the date they wish to commence trading.

For example this means that a wholesaler intending to start trading on 1 May 2016 needs to apply by 16 March 2016. You will not be able to trade in wholesale alcohol until you have been granted approval. If you do, you will be treated as trading without approval which means that your stock could be seized and you'll be liable to a civil penalty or could even face criminal prosecution.

**Note:**

When the Treasury refers to new businesses, this includes existing businesses who are already trading, but the wholesale of duty paid alcohol is a new aspect of their business, for example a food wholesale who decides to branch out into selling alcohol.

## 6.3 Applying for approval if you operate from more than one premises

As part of your application for approval, you will need to submit details of all of your business premises from which you are, or will be, carrying on a controlled activity. The approval Customs and Excise subsequently gives would normally be for all of these premises.

In some cases Customs and Excise may decide that it is necessary to place conditions or restrictions on your approval regarding the premises from which you can carry on a controlled activity. If this happens, Customs and Excise will explain the reasons to you. It is a condition of approval that you notify Customs and Excise of all premises from which you carry on a controlled activity. Failure to do so would be a contravention of the conditions of approval and you would be liable to a regulatory penalty and seizure of any goods on those premises. It is also likely to lead to Customs and Excise re-assessing whether you are fit and proper to be approved.

Your trading premises are also those business premises from which you are carrying on or intend to carry on a controlled activity, whether these are owned by you or a third party. This includes any premises from which you are selling, arranging, exposing or offering alcohol for wholesale sales, except where the premises in question are authorised for retail purposes and the sales are only incidental in nature see paragraph 4.3 for an explanation of 'incidental'. It also includes any storage premises, including an excise warehouse or a third party brewery, from which you directly deliver or supply the alcoholic drinks you sell to your customers.

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If you use any other premises for storing alcohol you are required to keep records of these and provide them to Customs and Excise on request.

#### 6.4 Processing your application

Applications from existing traders will receive an acknowledgement with a reference number of their application. This is not your AWRS URN. Due to the large number of applications Customs and Excise is expecting in the initial application window, it may be several months before you are contacted with a decision, or for further information.

Customs and Excise may need to contact you again in writing or by telephone, with further queries and you may receive a pre-approval visit to obtain further information to assist in the processing of the application.

You will be advised whether your application has been approved before 1 April 2017, from which date -

- (a) trade buyers must check that wholesalers are approved; and
- (b) the obligation on you to include the URN on your invoices takes effect.

For new applicants who commence trading on or after 1 April 2016, you must apply giving notice of at least 45 calendar days, to allow Customs and Excise to process your application and undertake the fit and proper test. Customs and Excise will process your application within 45 calendar days.

But note that if Customs and Excise asks you for further information, your application may take longer to process because it needs to wait until you send it what it asked for.

#### 6.5 Continuing to trade during the application window if you're an existing wholesaler

From 1 January 2016 to 1 April 2017, Customs and Excise will be reviewing all applications from existing wholesalers to ensure that only 'fit and proper' wholesalers are approved.

If you apply during the initial window for approval of 1 January 2016 to 31 March 2016 because you are already trading at that time, you can continue to trade as normal until you have received a decision from Customs and Excise.

Due to the number of applications Customs and Excise expects to receive in this period, it may take several months to get through them all. You may not hear back from Customs and Excise for some time. You do not need to contact Customs and Excise to enquire about the progress of your application during this time.

#### 6.6 How to apply

Applications by wholesalers in the Island should be made to the Customs and Excise Division using the application form available at - <https://www.gov.im/media/1348882/alcohol-wholesaler-registration-scheme-application-form.pdf>

The completed application should be sent to:

The Treasury, Customs and Excise Division  
PO Box 6, Custom House, North Quay, Douglas, Isle of Man, IM99 1AG

Or by email to [customs@gov.im](mailto:customs@gov.im)

## 6.7 Information you'll need when you apply for approval

This will depend upon what kind of business you are, however all applicants will need to provide the following as a minimum:

- legal entity name
- trading name
- VAT registration number if registered
- self assessment or income tax reference number if registered
- registered business address and how long at that address
- contact telephone number
- email address and postal address
- your estimated annual turnover (for new businesses)
- types of customer you sell to, for example pubs, restaurants
- products sold
- how many trading premises you operate and their addresses
- business names, addresses and VAT numbers (if registered) of main suppliers
- whether or not you import or export alcoholic goods.

Sole proprietors will also need to provide National Insurance number, date of birth, self assessment number and VAT number if they have one.

Partnerships will also need to provide full names and details as for sole proprietors, for all of the partners.

Limited partnerships will also need to provide details of partners, company name, trading name, company registration number and date of incorporation.

Corporate bodies (for example, limited companies) will also need to provide directors and company official details, names, addresses, National Insurance numbers etc.

Groups of companies can apply for a single registration. You can find further details in section 14. You'll need to provide the information required for corporate bodies for each member of the AWRS registration group.

You may be asked to send Customs and Excise additional information, not mentioned on the list above, following your initial application.

It is important you understand that some of the contact details you will be asked to provide in the application will appear in the online look-up service. This is so that your customers can contact you as part of their due diligence checks, for example to verify the identify of their suppliers.

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## 6.8 Who should complete the application

The application must be submitted by a responsible person within the business. This will either be:

- the sole proprietor of the business
- one of the partners if the business is a partnership
- a director or the company secretary or an authorised signatory if the business is a corporate body
- the representative member of a group, for group registrations.

The applicant should be aware that they may be prosecuted if they make false declarations.

## 6.9 How Customs and Excise will process your application

When Customs and Excise receives your application it will check it has been completed correctly and in full. If incomplete, or in any way unclear, Customs and Excise will ask you to supply the missing detail or clarify certain information. It will not be able to process your application until that has been done.

Customs and Excise will then perform checks to be satisfied that the information you have given is full and accurate and that you are suitable for approval. These will involve checks of its records to ascertain whether you have been compliant with your tax obligations and, in the case of a corporate body, are likely to include checks with the Companies Registry. It may include checks with other government departments and agencies, and with credit reference agencies. Customs and Excise will also check the criminal records of applicants for any relevant convictions.

Customs and Excise may also decide that it wants to visit your premises to look at your trading activities. Customs and Excise will ask you for details about (but not limited to) your suppliers, customers, business plans, accounting and stock control systems, premises and financial viability. For further information on what to expect, see Compliance Checks - Excise visit [Factsheet 16 \(MAN\)](#).

If Customs and Excise discovers that the information you have given is untrue or incomplete in any important aspect, your approval may be refused and you could be prosecuted or liable to penalties.

If Customs and Excise checks do not provide sufficient assurance that you are suitable to be approved, it may ask you for more information. Until this information is received and verified, your application will not be processed further.

## 6.10 The fit and proper test

Only applicants who can demonstrate that they are fit and proper to carry on a controlled activity will be granted approval. This means Customs and Excise must be satisfied the business is genuine and that all persons with an important role or interest in it are law abiding, responsible, and do not pose any significant threat in terms of potential revenue non-compliance or fraud.

Customs and Excise will assess all applicants (not just the legal entity of the business but all partners, directors and other key persons) against a number of 'fit and proper' criteria to establish that:

- 
- there is no evidence of illicit trading indicating the business is a serious threat to the revenue, or that key persons involved in the business have been previously involved in significant revenue non-compliance, or fraud, either within excise or other regimes. Some examples of evidence Customs and Excise would consider are:
    - assessments for duty unpaid stock or for other underdeclarations of tax that suggest there is a significant risk that the business would be prepared to trade in duty unpaid alcohol
    - seizures of duty unpaid products
    - penalties for wrongdoing or other civil penalties which suggest a business don't have a responsible outlook on its tax obligations
    - trading with unapproved persons
    - previous occasions where approvals have been revoked or refused for this or other regimes (including liquor licensing etc)
    - previous confiscation orders and recovery proceedings under the Proceeds of Crime Act 2008
    - key persons have been disqualified as a director under company law
  - there are no connections between the businesses, or key persons involved in the business, with other known non-compliant or fraudulent businesses
  - key persons involved in the business have no criminal convictions which are relevant (for example, offences involving any dishonesty or links to organised criminal activity) - Customs and Excise will normally disregard convictions that are spent provided there are no wider indications that the person in question continues to pose a serious threat to the revenue (an 'unspent' conviction is one that has not expired under the terms of the Rehabilitation of Offenders Act 1993)
  - the application is accurate and complete and there has been no attempt to deceive
  - there have not been persistent or negligent failures to comply with any Customs and Excise record-keeping requirements (for example poor record keeping in spite of warnings or absence of key business records)
  - the applicant, or key persons in the business, have not previously attempted to avoid being approved and traded unapproved
  - the business has provided sufficient evidence of its commercial viability and/or credibility - Customs and Excise will not approve applicants where it finds that it cannot substantiate that there is a genuine plan to legitimately trade from the proposed date of approval
  - there are no outstanding, unmanaged debts with Customs and Excise or a history of poor payment
  - the business has in place satisfactory due diligence procedures covering its dealings with customers and suppliers to protect it from trading in illicit supply-chains. See Section 12 for more information about due diligence.
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The list above is not exhaustive. Customs and Excise may refuse to approve you for reasons other than those listed, if it has justifiable concerns about your suitability to be approved for AWRS.

Customs and Excise is also unlikely to approve an application if the applicant has previously had their application for AWRS approval refused, if the reasons for the previous refusal are still relevant.

#### **6.11 What Customs and Excise means by 'key persons'**

Key persons are those who play a key role in the operation of the business to the extent that they can be seen as one of its 'guiding minds'.

For example, they have authority and responsibility for directing and controlling the activities of the business or day to day management. It also includes significant beneficiaries of the business who are not directors or partners etc.

#### **6.12 If your application details change before it's been processed**

You must tell Customs and Excise about any changes or inaccuracies in the information supplied on your application for approval immediately.

### **7. Approval**

#### **7.1 If your application is approved**

If Customs and Excise approves your application, you will receive a notification and your details will be entered onto a central register.

The notification will advise you of your AWRS URN and of any specific conditions which Customs and Excise may impose (see Section 10). One notification will be sent in respect of all your premises even if you are trading from more than one location.

#### **7.2 The AWRS Unique Reference Number**

The format for the URN will be made up of 4 alpha characters and 11 numeric characters, such as:

XXAW00000123456

You do not need to include this on your wholesale sales invoices until 1 April 2017, when it becomes a requirement to do so.

### **8. The register**

#### **8.1 What the register includes**

All approved wholesalers' details, including those who have been deregistered, will be maintained on a database maintained by HMRC. HMRC will allow trade buyers to access this through an online look up service.

#### **8.2 How the register is used**

From 1 April 2017, anyone purchasing duty paid alcohol from wholesalers for resale will need to use the register and check the URN provided by the supplier to ensure they are dealing with an approved wholesaler, as part of their due diligence processes (see Section 13).

## **9. Refusal**

### **9.1 What happens if your application is refused**

Customs and Excise will refuse your application if it has reasonable cause and there is a potential threat to the tax revenue. You will not be permitted to carry on a controlled activity. Customs and Excise will advise you if the application is refused, giving the reasons for refusal.

Refusal of an AWRS approval may also lead Customs and Excise to review whether you are fit and proper in relation to any other approvals you hold.

### **9.2 Appealing if your application is refused**

If you're not satisfied with the decision of Customs and Excise, you can ask them for a review, or appeal. The appeal process is set out at Section 19.

## **10. Wholesalers - conditions and restrictions**

### **10.1 Additional conditions or restrictions that may be applied to your approval**

Any business approved under AWRS must comply with the conditions and restrictions detailed in this Notice. In addition, Customs and Excise may decide to apply specific conditions or restrictions in particular cases where it considers that a wholesaler is fit and proper to be approved but that some additional controls are still needed.

These conditions or restrictions would be designed and used to address specific concerns Customs and Excise might have regarding the circumstances of your business. If subsequent changes to your business mean they no longer have these concerns, Customs and Excise will remove them from the approval.

If Customs and Excise considers a wholesaler is not fit and proper to be approved, it will refuse or revoke approval rather than allow that wholesaler to trade subject to added conditions.

### **10.2 Your responsibilities after you are approved**

Once approved, wholesalers will be required to comply with certain obligations that will apply to all businesses who are approved under the scheme. This is to:

- make sure that businesses continue to be fit and proper to trade as an approved wholesaler
- be vigilant and help to reduce the number of opportunities for fraudsters to infiltrate the sector.

These conditions are set out below in paragraphs 10.3, 10.4, 11.1 and Section 12.

### **10.3 Notifying customers of your URN**

This section has force of law under Regulation 7 of the Wholesaling of Controlled Liquor Regulations 2015.

If you are approved as a wholesaler of alcohol, you will be required to include your URN on all sales invoices involving controlled liquor, and provide your URN on request to anyone purchasing alcohol from you. Existing wholesalers have until 1 April 2017 to change their invoices. You may also include your URN on any other commercial documentation you deem appropriate.

#### 10.4 If your details change

This section has force of law under Regulation 6 of the Wholesaling of Controlled Liquor Regulations 2015.

To make changes to your details before a decision has been issued, see paragraph 6.12. To vary your approval after you have been registered, you must notify Customs and Excise.

For changes of partners or directors, phone number, email address, trading name and VAT number Customs and Excise must be notified as soon as possible and no later than 14 calendar days of the change having occurred.

You must tell Customs and Excise of any changes to the addresses of your principal place of business or to any of your trading premises at the very latest by the date you first intend to use any new premises for controlled activity. You should also tell Customs and Excise immediately if you intend to cease use of any of your trading premises.

For changes to any approved AWRS group, see paragraph 14.13.

Depending on the type of changes that are made it could be necessary for Customs and Excise to carry out further checks to ensure that you are still fit and proper to be approved. Once these checks are complete Customs and Excise will issue an amended letter of registration or advise you of any concerns it has.

If the legal status of the business changes, (for example a sole proprietor becomes a limited company or the business is sold to a new owner), the approval will not transfer to the new legal entity. They must submit a new application for AWRS approval and tell Customs and Excise to cancel the old legal entity's AWRS approval.

Failure to comply with any of these conditions regarding notification of changes may mean you are liable to a regulatory penalty as set out in Section 17. It may also lead Customs and Excise to reassess whether you are fit and proper to be approved.

#### 10.5 If you breach any conditions set on your approval

If you do not comply with any additional conditions of your approval, Customs and Excise may add to or vary those conditions, withdraw your approval and consider imposing financial penalties. Customs and Excise will write to you giving you notice of any action it wishes to take. If you disagree with any sanction Customs and Excise imposes you have the right to appeal (see Section 19).

### 11. Record-keeping requirements for wholesalers

#### 11.1 Records wholesalers must keep

This section has force of law under Regulation 8 of the Wholesaling of Controlled Liquor Regulations 2015.

As an approved wholesaler, you are legally obliged to keep and make available the records contained in Annex A of this notice. Any record that is required to be kept must be preserved for a period of 6 years.



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These are in addition to any other records that a revenue trader may be legally required to keep under the Revenue Traders (Accounts and Records) Regulations 1993.

### 11.2 **Where you need to keep your records**

Books, accounts and returns for a business are usually kept at the principal place of business. Normally, the principal place of business is the place where orders are received and dealt with and the day to day running of the business takes place. But you can keep these records elsewhere if you want to.

Customs and Excise can require that you make records available for inspection at your principal place of business or approved premises.

If you keep all or part of your records and accounts on a computer or other storage technology, you must make sure that copies can be easily produced and that there are adequate facilities for allowing Customs and Excise to view them when required. If your system does not meet our requirements Customs and Excise can ask you to change it.

### 11.3 **The right of Customs and Excise to see your records**

Customs and Excise have the legal right to check your records and take copies of any books, accounts, records or other documents relating to the business.

## 12. **Excise due diligence**

One of the conditions of approval requires wholesalers to carry out reasonable due diligence checks on their supply chains. Full details of the due diligence condition is set out below.

### 12.1 **What Customs and Excise means by 'due diligence'**

Due diligence is the appropriate reasonable care a company exercises when entering into business relations or contracts with other companies, and how it responds to specific trading risks it identifies.

Without effective safeguards in place, all businesses are exposed to considerable risks along alcohol supply chains and may become implicated in illicit trading.

This condition requires all excise registered businesses operating in the alcohol sector consider the risk of excise duty evasion as well as any commercial or other risks when they are trading.

Doing so will help to drive illicit trading out of alcohol supply chains, and reduce the risk to businesses of financial liabilities associated with goods on which duty has been evaded.

### 12.2 **What you need to do**

It's a condition of your approval as an alcohol wholesaler that you:

- objectively assess the risks of alcohol duty fraud within the supply chains in which you operate
- put in place reasonable and proportionate checks, in your day to day trading, to identify transactions that may lead to fraud or involve goods on which duty may have been evaded
- have procedures in place to take timely and effective mitigating action where a risk of fraud is identified

- document the checks you intend to carry out and have appropriate management governance in place to make sure that these are, and continue to be, carried out as intended.

### 12.3 Assessing risks and carrying out checks

The fraud risks within a supply chain are unique to each business, and objective assessment of the likelihood of your trading activities contributing to fraud is an essential first step to developing effective due diligence procedures. You will need to consider the full range of trading relationships you have established and the potential for fraud in each.

The main risks within the alcohol sector include:

- involvement in the supply of goods for fraud
- receiving goods that have been smuggled or diverted into the Island and the UK.

Import and warehousing procedures are often exploited to provide cover for the illicit movement of goods. Fraudsters will seek to distribute duty evaded goods as well as counterfeit alcohol into legitimate retail supply chains. It is often the point of wholesale in the supply-chain at which these goods are distributed.

To assess your exposure to this risk you will need to consider objectively whether the supply chain and trading activity is credible which includes knowing who you trade with.

#### **Risk indicators**

Possible indicators of risk include goods being received from unusually complex or apparently uneconomic supply routes. You'll also need to consider the credibility of suppliers and the level of evidence you can obtain to demonstrate the provenance and duty status of goods.

Paragraph 12.6 of this Notice provides further detail on risk indicators.

Once you have established the main risks of fraud you may be exposed to, your regular checks during trading should be of a type and level sufficient to establish the integrity of the excise transactions and supply chains you're trading in. The type and level need to be reasonable and proportionate to the risk.

Depending on the nature of your business and complexity of your transactions, checks will need to be individually tailored. In particular, they must be sufficiently sensitive, yet robust enough, to pick up potential fraud risks. These checks should provide protection from the threat of fraud or you becoming inadvertently involved in fraudulent activity.

As a general rule 'FITTED' checks should normally focus on:

- financial health of the company you intend trading with
- identity of the business you intend trading with
- terms of any contracts, payment and credit agreements
- transport details of the movement of the goods involved whether or not you are directly involved in this
- existence/provenance of goods - where goods are said to be duty paid you should normally seek sufficient detail to satisfy yourself of the status of the goods

- the Deal, understanding the nature of the transaction itself, including:
  - how the cost of the goods is built up, for example, whether it includes appropriate taxes, transport etc
  - why is it being offered
  - whether it is too good to be true
  - how the deal compares to the market generally

Paragraph 12.7 of this notice provides more examples.

#### 12.4 Responses to identified risks

It is expected that your due diligence procedures will provide effective control over the risks of fraud within your supply chains. Where your checks indicate real concerns, Customs and Excise would expect aspects of your supply chain to be changed to address this (e.g. the supplier or the destination of the goods).

However, a decision about whether or not to trade with another party remains a commercial decision for your business to take.

If your checks lead you to suspect duty fraud you should inform Customs and Excise using the Customs Hotline on 0800 595 000.

#### 12.5 Review of due diligence procedures

As part of the Customs and Excise approval process and general audit programmes, it will consider whether or not the steps you have taken to embed anti-fraud due diligence into your trading activity are sufficient and timely to address fraud risks in your supply chains. Customs and Excise will aim to establish whether you have objectively assessed the risks in your supply chain, and you must be able to demonstrate that you have put in place reasonable and proportionate checks and effective procedures to respond to fraud risks when they arise.

If your due diligence procedures are considered insufficient to address fraud risks, Customs and Excise will carefully consider the facts of the case before taking further action, but where appropriate it will seek to support you to strengthen your procedures.

In more serious cases such as a failure to consider the risks, undertake due diligence checks or respond to clear indications of fraud, Customs and Excise will apply appropriate and proportionate sanctions. For serious non-compliance, such as ignoring warnings or knowingly entering into high risk transactions, it may refuse your application or revoke your AWRS approval.

You are also reminded that holding goods liable to excise duty outside a duty suspension arrangement on which excise duty has not been paid may cause you to become liable for any excise duty payable on those goods and an excise wrongdoing penalty. Any of those goods you hold could also be liable to forfeiture.

Paragraphs 12.6 and 12.7 of this Notice provide further details on risk indicators and outline some of the checks that you may carry out to identify high risk transactions. Please note these are not intended to be prescriptive or exhaustive.

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Once you have established the most appropriate due diligence tests for your business, these should be used to test both new and existing transactions and supply chains linked to your business. Some checks may be more appropriate to your business than others.

## 12.6 Examples of due diligence risk indicators

You should be concerned about a prospective transaction where you identify one or more of the following indicators in both suppliers and customers, the presence of which may lead you to make further inquiries.

### **Financial health of the company you intend trading with**

- There are no, or poor, credit ratings but it is still able to finance substantial deals
- There are high levels of debt
- They are buying high value goods on extended credit
- They are a new company with little or no trading history
- There are little or no fixed assets.

### **Identity of the business**

- You are unable to confirm the validity of their AWRS approval status (for example, they don't provide an AWRS URN, or it appears to be for a different wholesaler)
- There is a lack of detail about the business's identity, (e.g. no address details, or approval number)
- They do not appear to be on Companies Registry or Companies House records as originally described
- They are dealing in high value goods from short term lease accommodation and/or residential addresses
- There is no general visibility of the company you intend trading with (for example, they don't appear to advertise or have a website)
- They have returned only partly completed application or trading forms

### **Terms of contract, payment and credit agreements**

- An insistence on dealing in cash, especially where the transaction is a high value one
- Cash payments made using money couriers
- Offers of credit appear to be outside normal business practice - payment terms are normally 21, 31 or 45 days, but high risk transactions may have short payment terms for example, 48 hours
- You are asked to make payment to an account or person which does not appear to be linked to the seller, or other unusual payment arrangements requested by the seller - the same applies to customers
- A valid pro-forma or purchase invoice is not/will not be provided

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- The circumstances of the trading arrangement seem false or contrived - for example, a supplier provides you with the details of a customer for the goods he is selling to you, or offers you a contract with no financial loss to you.

### **Transport**

The goods are to be received from an unusual source or supply route. For example, UK produced goods are sourced from another country and directly compete with those from a more direct supply route.

### **Existence or provenance of goods**

- The goods are claimed to be duty-paid but your supplier (or the person on whose behalf you are storing the goods) cannot provide reasonable evidence of duty payment to support the duty-paid status of the goods (for further details about what constitutes evidence of duty payment please refer to HMRC Notice 207: Excise Duty Drawback).
- Individuals in the company have little knowledge of your trade sector
- Samples are provided or the goods have been received:
  - for spirits there is no duty stamp in circumstances where there should be one or the duty stamp does not fluoresce (please refer to paragraph 5.1 of HMRC Excise Notice DS5: UK Duty Stamps Scheme for more information);
  - the goods appear counterfeit, in that, the quality of labels and or packaging is poor when compared to the genuine article;
  - the supporting paperwork seems false;
  - the goods are older than supporting evidence (such as documents demonstrating duty payment) suggest. For example, the best before dates indicate an earlier production date whereas documentation gives the impression you were buying newer stock.
- The company has only been trading for a very short period of time but has still managed to achieve a large income

### **The deal**

- The goods are to be moved in an unusual supply route that in itself would add significant logistic costs and bring into question the economics of that trade (unless duty was to be evaded)
- Supplies are offered via unsolicited emails or flyers received out of the blue
- Goods are offered at incredibly low prices which seem too good to be true
- Free gifts of similar or other excise goods not fully documented and in themselves would place a question over the deal as a whole
- There are other incentives such as contingency discounts which overall make the deal sound too good to be true.

Note, the above indicators are not exhaustive.

## 12.7 Examples of due diligence checks

### Financial health

- Undertake credit checks or other background checks on the business you intend trading with
- Where a poor credit rating is identified, establish how the transactions will be funded - what security can be offered that you will be paid
- Where credit is offered by the business, who is providing the credit facility
- What payment terms are offered and are they commercially viable

### Identity

- Check company details provided to you against other sources (for example, website, letterheads, telephone directories)
- Ask whether your customer or supplier is a member of a relevant trade association
- Obtain copies of certificates of incorporation, VAT registration certificates and excise registration certificates where appropriate and where a trade class is quoted on these check whether or not it relates to the type of trade you're engaging in
- Verify VAT and excise registration details with Customs and Excise, including checks on the online look-up system for AWRS-approved wholesalers (Customs and Excise recommends that these checks are undertaken regularly for new trading arrangements and proportionately longer for trusted ones, unless you suspect a problem)
- Obtain signed letters of introduction on headed letter paper and references from other customers or suppliers
- Insist on personal contact with a senior official of the prospective supplier and where necessary, make an initial visit to their premises - you should use this opportunity to confirm the identity of the person you intend doing business with and keep a record of your meeting
- Establish what your customer's or supplier's history in the trade is - can this be evidenced?
- Obtain the prospective customer's or supplier's bank details - in the case of an import or export, does the supplier or recipient share the same country of residence as their bank?
- Establish who you will be paying - is this the same company as the one you are directly dealing with?
- If you are providing a service who will be paying for it?

### Terms of any contracts, payments and credit agreements

- Carefully consider the terms of any contracts and credit agreements before entering into these and challenge elements which appear unusual
- What recourse is there if the goods are not as described?

- If payment is to be made to or from a third party, is there a sound commercial reason for this?
- If payment is to be made to or from a third party, is it to or from an offshore account?
- Are there normal commercial arrangements in place for the financing of the goods?
- Where payment is made from an overseas business how is it to be made?
- Has your supplier referred to a customer who is willing to buy goods of the same quantity and brand as being offered by the supplier?
- Does your supplier offer deals that carry on commercial risk for you, for example, no requirement to pay for goods until the payment is received?
- Are the goods adequately insured?
- Are high-value deals offered with no formal contractual arrangements?
- Where you are buying from a broker
  - what overall value does this link in the supply chain add?
  - is it possible to source more directly?
  - how competitive is the broker's pricing to those from a more direct route?
  - how are the savings made in a longer supply chain to make it viable?
- Where transactions are being financed by a third party, is this person a regulated financial body such as a bank?

### **Transport**

- Who is responsible for the transport - is the cost of the goods inclusive of transport - if so, does this mean that the potential logistical costs make the unit price unrealistic?
- Details of delivery vehicles should be retained and if necessary any variations to expected transport arrangements recorded.

### **Existence or provenance**

- How has the trader contacted you?
- Do the goods exist?
- Can you inspect the goods before purchasing them?
- Are they in good condition and not damaged?
- Do the quantities on offer seem credible for the type of business you intend trading with?
- Seek sufficient details to satisfy yourself that the goods are duty paid - this will be easier the closer you are in the supply chain to production.

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## The deal

- The nature of the transaction, including -
  - does it look too good to be true?
  - if the alcohol has come from abroad but is of UK origin, how did this occur and why?
  - where incentives are offered, when these are taken into consideration does this make the overall deal seem too good to be true?
  - why is it being offered?
  - have normal commercial practices been adopted in negotiating prices?
  - how does the price compete with that offered by competitors?
  - what is the age of the goods? If the stock is old you should seek an explanation as to its provenance
  - does the price seem realistic? You should be aware of unit cost when duty and VAT values are removed
- If you are already established in a trading agreement Customs and Excise would also recommend that you continue to monitor correspondence and business paperwork to identify changes in those arrangements and take any follow-up action as necessary.

### 13. Trade buyers obligations

Since 1 April 2017, it has been an offence to buy alcohol for re-sale from unapproved wholesalers in the Island or the UK. With the exception of purchases direct from overseas suppliers and purchases from licensed retailers who are making only incidental sales, trade buyers need to ensure that the wholesalers they purchase from have been approved by the Treasury or HMRC.

To ensure your purchase is legitimate, as a trade buyer you need to carry out sufficient due diligence. You must demonstrate to Customs and Excise that you requested a wholesaler's URN and checked its authenticity before you did business with them.

You should also periodically refresh these checks to the extent that you consider it necessary to ensure that a wholesaler's approval has remained valid.

If a trade buyer is found to have purchased from an unapproved wholesaler, they could face prosecution, be liable to a penalty, and alcohol stock may be seized. If the trade buyer also holds a retail licence, Customs and Excise may also apply to the relevant licensing authority, to consider sanctions to the trader's retail licence to sell alcohol.

Your wholesaler should have provided you with their Unique Reference Number (URN). If a wholesaler is approved the look-up facility will indicate this, and you should take a print (or save the page of the facility) for your records, and this check can be used to support your normal due diligence checks.

A business will be shown on the register until they are no longer approved, either when the approval is revoked or the business ceases to trade.



### 13.A1 Trade buyers obligations: example of reasonable checks

As part of your checks to verify the AWRS URN you should also consider whether the number you have been given relates to the wholesaler you are dealing with. AWRS numbers are displayed on invoices and other business correspondence so it is possible that an attempt to use a legitimate number could be made by someone who is not approved.

Stock supplied from an unapproved UK wholesaler may be seized by Customs and Excise, penalties of up to £10,000 could be applied, and a prosecution could result so you will need to satisfy yourself that you are not at risk. In addition to using the online look up service to verify the URN, reasonable checks may include, but are not limited to, considering -

- how you know the supplier;
- if the supplier acts like a legitimate business;
- how the supplier contacted you;
- if you have the suppliers contact details (names, phone numbers, business address) and if these match the AWRS record;
- how payment will be made;
- who you will make payment to;
- if the name of the business you are paying matches the name on the AWRS record;
- if the business only accepts cash;
- if you get a receipt.

#### 13.1 Checking a wholesaler is approved

An online look up service is available that allows trade buyers to look up the details of their alcohol suppliers to ensure that they are approved for AWRS.

[IOM approved traders](#)

[UK approved traders](#)

Your wholesaler should have provided you with their Unique Reference Number (URN). If a wholesaler is approved the look-up facility will indicate this, and you should take a print (or save the page of the facility) for your records, and this check can be used to support your normal due diligence checks.

A business will be shown on the register until they are no longer approved, either when the approval is revoked or the business ceases to trade.

#### 13.2 What to do if you find a wholesaler you are dealing with isn't approved

If you find that a wholesaler you're purchasing from isn't approved, you should first check to ensure that the sale is not excluded from the scheme (see Section 4).

If you are sure that the purchase should fall within the scope of AWRS, you should not continue with the purchase and you must notify Customs and Excise immediately.

You can notify Customs and Excise by contacting the Customs Hotline on 0800 595 000.

### 13.2A Trade buyer guidance for making a wholesale purchase from a business not approved for AWRS

The AWRS places a responsibility on retailers and other trade buyers to ensure that they only purchase alcohol wholesale from a business approved for AWRS.

There are however, some limited situations where you may be able to buy alcohol from a business, such as a supermarket, which is not AWRS approved. This exception applies only where you are buying from a business that does not normally sell alcohol wholesale, where that business is not aware that you are buying goods for re-sale, and where you are buying it in the same way as other customers who are taking it home to consume. For example, if you buy from the wholesale branch of a supermarket, you must check it's approved, and verify its AWRS number before purchasing.

Examples of these types of purchases might be:

- a retailer or other trade buyer, who finds it convenient to occasionally purchase alcohol through a retail supermarket online or who decides to take advantage of a promotional deal on alcohol when in a store;
- a local sports club bar who runs out of a particular line unexpectedly during an event so buys small quantities from the local corner shop or other retailer to replenish stock;
- a restaurant that needs to buy a product it doesn't normally stock, at short notice, so sends a member of staff to the local supermarket to buy it through the normal checkout till.

As with all alcohol purchases, trade buyers should undertake due diligence before they buy from a seller. It's also very important that you keep evidence of these purchases to demonstrate where the goods were purchased, the quantity and price paid.

### 13.3 If your supplier says the sale is excluded from the Scheme

If the supplier advises that the sale is excluded from AWRS:

- for incidental sales - you should check the guidance at Section 4 to confirm that the sale does meet the criteria to be treated as an incidental sale, Customs and Excise recommends you keep a receipt or invoice as part of your record keeping in case it needs to check it at a later date, if you consider it is not an incidental sale you should not proceed with the purchase
- for purchases from overseas - it is in your interests to keep some proof of the provenance of the goods to demonstrate that they were imported directly from an overseas supplier and that duty has been paid.

This evidence could be:

- a purchase invoice;
- copies or details of the relevant Customs and Excise or HMRC document to prove duty payment;
- a copy of the letter from Customs and Excise or HMRC to your supplier confirming the refusal of their application for approval.

You will also be expected to have undertaken due diligence checks on the overseas supplier as part of your normal due diligence checks.

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#### 13.4 Records you need to keep as a trade buyer

If you are an approved wholesaler you are required to keep the records specified at Section 11.

Customs and Excise are not prescribing any additional record-keeping requirements for trade buyers who are not also approved wholesalers over and above what is already required of them as revenue traders or under VAT law.

However, in order to protect yourself from buying from an unapproved wholesaler and any consequential penalties or seizure of alcohol, you should ensure that dutiable alcohol in your possession has come from a legitimate source. You should, in accordance with existing legal requirements be able to provide Customs and Excise, on request, with commercial documentation such as a purchase invoice to demonstrate this.

You may also want to keep records of any checks you perform on the online look-up services as you see fit.

#### 14. Group approval

##### 14.1 What Customs and Excise means by group approval

This is a facility which allows two or more companies within the same corporate group to be treated as a single 'approved person' for the purposes of AWRS, under one AWRS URN.

Only companies within the corporate group who wholesale alcohol need to be included in the AWRS group approval. The AWRS group must nominate one of its members to be the 'group representative' who Customs and Excise will deal with.

There will also need to be a nominated contact within the AWRS group representative company who will be responsible for completing the application and for notifying any variations to the approval, and will be the point of contact for Customs and Excise with the group on AWRS matters. All the companies in the group are jointly and severally liable for any AWRS penalties.

##### 14.2 Who can be in an AWRS group

Before applying for group approval, you should consider the following steps:

Step 1: does a corporate group exist?

To be a corporate group, the following conditions must be met:

- there must be more than one member
- all members must be corporate bodies (for example, limited companies or limited liability partnerships) that are established or have a fixed establishment in the Island or the UK - for more information about what Customs and Excise means by established etc. please see paragraph 3.2
- all members must have a controlling body (see 'control conditions' below) in common with each other (for example, a holding company).

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### **The 'control conditions'**

All members of the group must be controlled either by one member of the group or a single other 'person' who is not one of the members of the group. That person can be a body corporate, an individual or a partnership.

Where control is exercised by a person that is a partnership that control must be exercised via the partnership and not by the partners as individuals. The company shares will normally be assets of the partnership.

You control a group member if any of the following apply:

- you are the holding or parent company of the group member
- you would be a holding or parent company of the group member if you were a company
- you are empowered by statute to control that body's activities.

If you cannot meet these conditions you will not be able to be approved as a group.

If the controlling body changes you must notify Customs and Excise.

Step 2: do 2 or more of these corporate group companies make qualifying wholesale sales of alcohol?

If so, you can apply for AWRS group approval for those companies making wholesale sales.

The group must nominate a group representative (this will be an Island-based member nominated by the group who Customs and Excise will deal with and will complete the application and notify Customs and Excise of any variations on behalf of the group).

### **14.3 How to apply for AWRS group approval**

Applications for AWRS group approval are made using the same application process used for individual wholesale businesses. The application form will ask the same details for each individual group member as for an individual applicant, to allow the fit and proper test to be applied to all the group members.

As part of the application, the group representative will confirm that:

- they have the consent of all group members to act on their behalf
- all group members agree that they are jointly and severally liable for any group liabilities
- all group members meet the criteria to be approved and are carrying on an alcohol wholesale business.

### **14.4 When you must apply for AWRS group approval**

As with individual applications:

- for existing businesses that commence trading on or before 31 March 2016, you must apply during the application window, between 1 January 2016 and 31 March 2016

- new businesses commencing after 31 March 2016, must apply giving at least 45 calendar days notice for the application to be processed and all checks made.

The nominated group representative must submit the group approval application on behalf of the group and will enter the application details for all the proposed members. The new group will not be treated as a group for AWRS purposes until such time as the application has been approved.

If the group members are not already approved for AWRS, they won't be able to trade until the group has been approved.

#### **14.5 Who needs to submit the application form**

The application form must be submitted and all declarations made by the appointed group representative member.

#### **14.6 How you'll be advised whether your group application has been accepted**

If your application is accepted, the group representative will receive a notification advising them of the group URN and of the date on which group treatment will commence.

It will be the group representative's responsibility to notify the other group members.

#### **14.7 What happens if Customs and Excise refuses your group application**

Customs and Excise will refuse your application if:

- you do not meet the conditions for group approval
- one or more of the members fails the fit and proper test

Customs and Excise will advise the representative member if the application is refused, giving the reasons for refusal. If you are not satisfied with our decision, you can ask for a review, or appeal. The appeal process is set out at Section 18.

#### **14.8 If you don't make any wholesale supplies outside the corporate group**

Sales within the same corporate group (intra-group sales) where both the seller and the buyer are members of the same group are not captured by AWRS.

Bodies corporate are members of a group if each is established in the Island or the UK and any of the following are true:

- they are controlled by one member of the group
- one 'person' (for example, body corporate or individual) controls all of them
- 2 or more individuals carrying on a business in partnership control all of them.

A group that makes only intra group sales would not fall into the scheme and there would be no requirement to be approved.

#### **14.9 What happens to your original URN if you were already approved under AWRS before joining an AWRS group**

When a wholesaler group is approved, any previous URNs that individual members may have had will be cancelled and a new single URN will be issued to the group as a whole. The URN

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identifies you as a wholesaler group and will remain unchanged, even if the membership is varied or the representative member is changed. Once approved, the URN must be used by all the group members.

Similarly, if a group is disbanded, its approval will be cancelled and any members still requiring to be approved, will have to re-apply individually (or as a new group if applicable) for new AWRS URNs.

#### **14.10 Being a member of more than one AWRS group**

A corporate body may only be in one AWRS group at a time. If you are already in more than one group, you must inform Customs and Excise immediately.

#### **14.11 The name the group will be registered under**

The group will be approved and registered under the group representative's name. But trade buyers checking the online look-up system will see the names of all members of the group.

#### **14.12 What happens once you're approved as an AWRS group**

Once group approval is allowed, the representative member and all the companies in the AWRS group are liable to the same conditions and restrictions as detailed in Section 10.

If you fail to comply with these conditions you may be liable to financial penalties. Serious and persistent breaches could result in revocation of the group's approval to carry out a controlled activity.

As well as the conditions outlined in Section 10, any changes to the group structure including companies joining and leaving the group must be notified to Customs and Excise. Businesses with a separate URN joining the group will have to have their individual URN cancelled and cannot use this number once they have been approved for group membership.

Group members leaving the group but continuing to carry on a controlled activity can't use the group URN after the date their group membership has ceased.

#### **14.13 Notifying any changes to the formation of your AWRS group**

This section explains how to notify Customs and Excise of changes to the formation of an AWRS group. For general changes to individual group members' details, for example changes of address, phone number and directors etc, refer to section 10.4.

For changes to the formation of the group, you must notify Customs and Excise by submitting the relevant variation to your registered details. Please note that any changes you make to your group registration are not approved until Customs and Excise confirms this to you. The group representative will confirm that all group members agree to the changes being made or that the information being provided corrects an inaccuracy.

You must give at least 45 calendar days notice to implement any of the following changes:

- add a new group member - whether newly incorporated or already trading
- add a new group representative who wasn't previously part of the group.

This is to allow the appropriate fit and proper checks to be made. The new member will not be able to trade under the group approval until such time as confirmation has been received that they have been approved.

To change the group representative to a current member of the group, you must notify Customs and Excise of the date you wish the change to come into effect, taking into account that it may take Customs and Excise up to 45 days to consider and process the change.

The new group representative will confirm when submitting the variation that they have the consent of all group members to act on their behalf.

This section has force of law under Regulation 6 of the Wholesaling of Controlled Liquor Regulations 2015.

You must notify Customs and Excise no later than 14 calendar days following the change taking place if:

- changes to corporate ownership mean that the controlling body of the group changes or affects your eligibility to form an AWRS group
- you need to remove a group member who no longer satisfies the conditions for being in the group and wants to continue to trade in their own right. Note that it may take Customs and Excise up to 45 calendar days to approve the new registration. In the meantime, they will continue to operate under the group registration.

To remove a group member that intends to cease trading, you must notify Customs and Excise at least 30 days in advance of the planned date of cessation. If the group representative is to cease trading, you must nominate a new group representative.

#### 14.14 Time limits for notifying variations to the AWRS group member details

Other variations to the individual group member details, (for example, changes of address, changes to directors, or any other details entered on the application) must be notified to Customs and Excise. See paragraph 10.4 for the time limits for notifying these approval variations.

A penalty of £500 may be chargeable for failure to notify Customs and Excise of a variation within the time limits.

#### 14.15 What happens if an AWRS group is disbanded

If all members of an AWRS group are planning to cease trading the group representative should notify Customs and Excise at least 30 days before the intended date of cessation.

Cancellation of a group approval can also be requested by the group representative at any time. When a group is disbanded, the group URN will be cancelled.

Any members who are still liable to be approved because they are continuing to trade will need to re-apply for a new AWRS approval. It may take Customs and Excise up to 45 days to consider and process the application. In the meantime, the group members will need to continue trading under the group URN, until such time as Customs and Excise advises the former group members of their new URNs and that the group URN has been cancelled.

From the date of cessation, the online look-up service will show that the group URN is no longer valid and the members of the ceased group should make sure they no longer use the group URN on invoices after the date of cessation.

#### **14.16 If Customs and Excise terminates your AWRS group approval?**

If a group or a group member no longer meets the criteria for group approval, or for any other reasonable cause, Customs and Excise will revoke or change the group approval, depending on the case in question.

If the group representative no longer meets the criteria for group approval or their approval is terminated by Customs and Excise, the group must appoint a new group representative with immediate effect in order to continue to be treated as a group.

If Customs and Excise withdraws your group approval it will inform the group representative and the group members individually giving reasons for our action. If you are not satisfied with the decision of Customs and Excise, you can appeal or request a review. The appeal process is set out in Section 19. Customs and Excise may also revoke approval for other reasonable causes.

#### **14.17 If an AWRS group member applies to leave a group**

If a group member wants to cease to be treated as a member of an AWRS group, they must give notice to the group representative. The group representative or the group member must notify Customs and Excise of the intended change.

If they are joining another group, the new group representative will need to notify Customs and Excise. If the member wishes to continue to trade on their own they will need to apply for a new AWRS approval.

The group member is treated as leaving the group once the variation has been agreed by Customs and Excise.

### **15. Cancellation of approval**

#### **15.1 What happens if you cease to trade in alcohol**

This section has force of law under Regulation 6 of the Wholesaling of Controlled Liquor Regulations 2015.

If you are intending to cease trading alcohol, you must inform Customs and Excise at least 30 calendar days in advance of the date you plan to cease trading and make arrangements to dispose of any wholesale alcohol stock before the cessation date.

#### **15.2 How to give notice of my intention to cease trading**

If you wish to cancel your approval you must notify Customs and Excise of the intended date of cessation.

#### **15.3 How approval cancellation is processed**

If Customs and Excise has been given notice by you of cessation, your details on the register will be changed to show that your business has ceased trading from the date specified in your notification. Customs and Excise will provide you with confirmation of your approval cancellation.

You will not be able to carry on a controlled activity after this date therefore it is vital that you allow sufficient time to dispose of any stock used in your wholesale business. You will be liable to a penalty and/or forfeiture of all alcohol goods (whether duty paid or not) if you trade after the date of cessation. In serious cases, Customs and Excise may seek to prosecute you for trading without approval.



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## 15.4 Circumstances where Customs and Excise could revoke your approval

Customs and Excise is likely to revoke your approval if:

- it has reasonable cause (for example, evidence that you have been involved in fraudulent activity or trading in illicit alcohol)
- in light of any new information that comes to its attention, or as a result of changes you make, Customs and Excise is no longer satisfied that you (or partners, directors or key personnel of the business) are fit and proper to hold an AWRS approval
- you persistently fail to meet the requirements of the Scheme (for example, you don't fulfil your due diligence obligations)
- you have not notified Customs and Excise of cessation, but your business appears to have ceased or been dormant for some time.

Customs and Excise will notify you of its intention to revoke your approval. You will not be able to carry on a controlled activity after your approval has been revoked. In such cases, Customs and Excise will set out reasons for refusing or revoking your approval.

Where Customs and Excise think the circumstances merit, it may allow a reasonable period of time to wind down the business (for example, to dispose of any legitimate stock).

When an approved person becomes part of a group approval, Customs and Excise will cancel the company's individual URN from the register. See Section 14.

## 16. Sanctions and penalties

### 16.1 The criminal offences that apply to AWRS

From 1 January 2016, it is a criminal offence for a person to knowingly sell, arrange, offer or expose for sale alcohol wholesale without approval. From 1 April 2017, it is also an offence to knowingly buy alcohol wholesale from a person who should be approved. Penalties can include a fine, imprisonment for up to 7 years or both.

Existing wholesale businesses that commence trading on or before 31 March 2016 have until 31 March 2016 to submit their application for approval. Providing you submit your application by this date, you will not be considered to be trading without approval unless your application is refused and you continue to trade.

### 16.2 Civil penalties

AWRS has 2 'behavioural' civil penalties for the contraventions outlined in paragraph 16.4, as well as fixed penalties, for breaches by approved wholesalers of the conditions of the scheme. These fixed penalties are usually referred to as 'regulatory' penalties.

### 16.3 What Customs and Excise means by a 'behavioural penalty'

Behavioural penalties are already in place for other tax regimes across Customs and Excise, (for example the VAT and Excise Wrongdoing penalty), and these penalties established what Customs and Excise means by 'behaviour'. It means that it will work with you to find out what caused the contravention to occur and the type of behaviour will determine the amount of the penalty. More details of the different types of behaviour are in paragraph 16.4.

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#### 16.4 **When you will be charged with a 'behavioural penalty'**

Customs and Excise will charge you with a behavioural penalty if you:

- carry on a controlled activity without approval
- buy from an unapproved wholesaler (applicable to all trade buyers, including wholesalers buying from other wholesalers who are not approved).

Existing wholesale businesses that commence trading on or before 31 March 2016 have until 31 March 2016 to submit their application for approval. Providing you submit your application by this date, you will not be considered to be trading without approval unless your application is refused and you continue to trade.

Customs and Excise will look at each individual case to assess whether the criminal or civil routes are appropriate. A criminal offence may not always be a proportionate response. Customs and Excise will consider application of a behavioural penalty where it considers a criminal prosecution is not appropriate.

Customs and Excise will work with you to find out why this has happened. Customs and Excise refer to this as 'behaviour'. The type of behaviour will affect the amount of the penalty. The different types of behaviour are:

##### **Non-deliberate**

This is where you failed to tell Customs and Excise about trading without approval/buying from an unapproved wholesaler, but the failure was not deliberate but not concealed or deliberate and concealed.

##### **Deliberate but not concealed**

This is where you knew that you should have told Customs and Excise but you chose not to.

##### **Deliberate and concealed**

This is where you knew that you should have told Customs and Excise but you chose not to. As well as choosing not to tell Customs and Excise, you also took active steps to hide the failure.

#### 16.5 **Reducing the amount of the penalty you may be charged**

Customs and Excise can reduce the amount of any penalty it charges you depending on its view of how much assistance you gave. Customs and Excise refer to this assistance as the 'quality of disclosure' or as 'telling, helping and giving'.

Examples of telling, helping and giving include:

- telling Customs and Excise about, or agreeing that there is a failure and how and why it happened
- telling Customs and Excise everything you can about the extent of the failure as soon as you know about it
- telling and helping Customs and Excise by answering its questions in full
- helping Customs and Excise to understand your accounts or records

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- helping Customs and Excise by replying to its letters quickly
  - helping Customs and Excise by agreeing to attend any meetings, or visits, at a mutually convenient time
  - helping Customs and Excise by checking your own records to identify the extent of the failure
  - giving Customs and Excise access to documents it has asked for without unnecessary delay
  - giving Customs and Excise access to documents it may not know about, as well as those that it asks to see.

Customs and Excise will reduce the penalty by the maximum amount possible if you:

- tell Customs and Excise everything you can about any wrongdoing as soon as you know about it or you believe Customs and Excise is about to find it
- do everything you can to help Customs and Excise correct it.

If you delay telling Customs and Excise, you may still be entitled to a reduction but it will be smaller. If Customs and Excise do not need any extra assistance from you, it will give you the full reduction that the law allows for telling, helping and giving.

#### **16.6 When Customs and Excise won't charge a behavioural penalty**

Customs and Excise will not charge a behavioural penalty if you:

- have a reasonable excuse and the failure was not deliberate - see paragraph 17.3 regarding reasonable excuse
- notified Customs and Excise without unreasonable delay after your reasonable excuse ended.

#### **16.7 Calculate the amount of behavioural penalty charged**

The maximum AWRS behavioural penalty is £10,000. The actual penalty to be applied will be calculated based on the behaviour and quality of disclosure.

Further details regarding AWRS behavioural penalties can be found in [Factsheet 27 MAN](#).

#### **16.8 Other actions Customs and Excise may take if you receive a behavioural penalty**

There may be implications for your own approval application if you are found trading without approval and subsequently apply. Customs and Excise may also consider revoking an approval from an approved wholesaler where they have bought goods from an unapproved supplier.

In addition, if a retailer is found to have purchased from an unapproved wholesaler, Customs and Excise may also apply to the relevant licensing authority for them to consider sanctions to the trader's retail licence to sell alcohol.

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## **17. Regulatory penalties**

Regulatory penalties may be charged for contraventions of the Wholesaling of Controlled Liquor Regulations 2015 or of the conditions of an AWRS approval (for example, record keeping breaches or failure to notify Customs and Excise of a variation to an approval).

### **17.1 When you would receive a fixed regulatory penalty**

As an approved wholesaler you have legal obligations, and failure to fulfil these obligations or observe any condition of your approval could result in one or all of the following:

- restriction of your approval
- revocation of approval
- the imposition of a financial penalty of £500 for each breach of the regulations or conditions or restriction of an AWRS approval.

In addition, any goods concerned may be liable to forfeiture.

### **17.2 If you are liable to a regulatory penalty and think you have an excuse**

You may not be liable to a regulatory penalty if Customs and Excise, or the independent tribunal, agree that there is a reasonable excuse for the breach.

### **17.3 What Customs and Excise means by 'reasonable excuse'**

There is no legal definition of what constitutes a reasonable excuse but Customs and Excise will look closely at the circumstances in each case, and the conduct that led to the breach.

It is not considered a reasonable excuse if you relied on some other person to perform any task for you, unless you can demonstrate that you took reasonable steps to avoid the contravention.

### **17.4 How penalties will be notified**

Customs and Excise will notify you or, if you are a member of a group for the purposes of AWRS, the group representative, in writing. You have the right to appeal if Customs and Excise issues you with a penalty (see Section 19).

### **17.5 Other penalties**

The new penalties introduced with AWRS do not prejudice any potential liability to other penalties which already exist in the excise regimes, for example:

- regulatory penalties for breaches of an excise approval to produce/hold/store goods in duty suspension
- failure to notify and excise wrong-doing penalties for handling goods subject to unpaid excise duty that arise under Schedule 41 of the Finance Act 2008 (as it has effect in the Island).

## **18. Circumstances where Customs and Excise will consider seizing goods**

Customs and Excise may seize controlled liquor (whether or not the duty has been paid) where:

- 
- you carry on a controlled activity without approval
  - you breach any of the conditions or restrictions of an AWRS approval
  - you continue to trade after cancellation or revocation of an approval
  - you buy controlled liquor from an unapproved wholesaler.

## **19. Reviews and appeals**

### **19.1 If you disagree with a decision of Customs and Excise**

Decisions which you can asked to be reviewed and may appeal are decisions to:

- refuse approval or to revoke an approval
- apply a penalty and the amount of any penalty
- apply any additional conditions or restrictions.

If you do not agree with any of these decisions, you can:

- tell the person who issued the decision if you have further information or you think Customs and Excise has missed something
- ask for it to be reviewed by an officer not previously involved in the matter
- appeal to an independent tribunal.

### **19.2 Time limits for requesting a review or an appeal**

If you want Customs and Excise to review a decision, you must write to the person who issued the decision letter within 30 days from the date of that letter. Your written request should set out clearly the full details of your case, the reasons why you disagree with the decision and you should provide any supporting documentation.

You should also state what result you expect from the Customs and Excise review. Customs and Excise will complete a review within 45 days, unless it agrees another deadline with you.

### **19.3 Appealing after Customs and Excise have completed their review**

If you still want to appeal to the Tribunal after the Customs and Excise review has been completed you should send details of your appeal to the Tribunal within 30 days of the date of the Customs and Excise review decision letter.

### **19.4 Getting more information**

You can find further information about reviews and appeals on our website at <https://www.gov.im/categories/tax-vat-and-your-money/customs-and-excise/public-notice/> or you can download a copy of [Factsheet 1](#).

If you want to find out more about the Tribunals Service (which administers the independent VAT and Duties Tribunal) visit their [website](#) or phone them on Telephone: 0300 123 1024.

## Glossary

<b>Term</b>	<b>Definition</b>
Alcohol/alcoholic liquor	Spirits, beer, wine, made-wine, cider and perry, as defined in the Alcoholic Liquor Duties Act 1986.
Authorised retail sale	An authorised retail sale is one that is made in accordance with the requirements under a retailer's alcohol licence or similar authorisation.
Controlled activity	Any activity which involves sale, arranging to sell, or offering or exposing for sale controlled liquor wholesale.
Controlled liquor	Alcohol which has duty charged at a rate greater than nil and is passing or has passed a duty point.
Denatured alcohol	Alcohol which has been denatured and marked in accordance with the requirements set out in the Denatured Alcohol Regulations 2005 or Notice 473.
Duty Free Spirits (DFS)	Spirits delivered free of Excise Duty under the Alcoholic Liquor Duties Act 1986.
Duty Point	The time when the duty becomes payable, whether or not payment is deferred.
Excise Duty	For the purposes of this notice, an indirect tax on alcohol. Isle of Man, UK and EU produced and imported goods are subject to excise duty.
Fit and proper test	The test applied to applicants, including directors, partners and other key persons in the business, to assess their suitability to be approved to carry on a controlled activity.
Group	A group of corporate bodies that apply for a single AWRS Group approval to simplify administration and to operate under a single URN.
Group Representative	A member of a group elected to be the single point of contact for the group's AWRS affairs.
Intra group sales	Sales made between members of the same corporate group.
Key persons	Persons that play a key role in the day to day operation of a business to the extent that they can be seen as one of its 'guiding minds'.
Legal entity	An organisation such as a limited company, limited liability partnership, partnership, sole proprietor, etc.
Online look up service	An online system for alcohol buyers to check the approval status of their wholesale suppliers. Administered by HMRC.
Trade Buyer	Someone who purchases alcohol from a wholesaler to either sell on to trade or to sell to private individuals (for example, a retailer).
URN	Unique reference number
Wholesaler	For the purposes of this notice, a trader who sells, arranges to sell, or offers or exposes for sale duty paid alcohol to another trader.

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## Contacting Customs and Excise

Isle of Man Customs and Excise  
PO Box 6, Custom House  
North Quay  
Douglas, Isle of Man, IM99 1AG

Tel: (01624) 648100

Fax: (01624) 661725

Email: [customs@gov.im](mailto:customs@gov.im)

Website: <https://www.gov.im/categories/tax-vat-and-your-money/customs-and-excise/>

## Putting things right

If you are unhappy with the service of Customs and Excise, contact the person or office you have been dealing with. They will try to put things right. If you are still unhappy, they will tell you how to complain.

If you want to know more about making a complaint go to <https://www.gov.im/categories/tax-vat-and-your-money/customs-and-excise/public-notices/>

## Privacy Notice

The Treasury collects information about you in order to administer taxation and carry out other functions for which it is responsible (e.g. National Insurance, customs and excise duties, property rates, social security benefits, state pensions and legal aid etc.), and for the detection and prevention of crime.

Whilst that information will primarily be provided by you, where the law allows we may also get information about you from other organisations, or give information about you to them. This may be to check the accuracy of the information provided, prevent or detect crime or protect public funds in other ways. These organisations may include other government departments, the police and other agencies.

To find out more about how we collect and use personal information, contact any of our offices or visit our website at: <https://www.gov.im/about-the-government/departments/the-treasury/privacy-notice/>

**Annex A**  
(referred to in paragraph 11.1)

This annex has force of law under Regulation 8(1) of the Wholesaling of Controlled Liquor Regulations 2015.

**Items and records to be kept and preserved:**

- (1) An approved wholesaler who receives, prepares, maintains or issues an item described in the list of required records below must -
  - (a) in the case of a received item, keep and preserve the item;
  - (b) in the case of an issued item, keep and preserve a copy of the item; and
  - (c) in the case of an item that is prepared or maintained and which hasn't been received or which isn't issued, preserve the item.
- (2) An approved wholesaler must keep and preserve a record of -
  - (a) the production, buying, selling, importation, exportation, dealing in or handling of controlled liquor carried on by him;
  - (b) the goods (whether or not they are controlled liquor) or services received by him in connection with or to enable him to undertake a transaction or activity described in sub-paragraph (a) of this paragraph; and
  - (c) the financing or the facilitation, made or effected by him, of a transaction or activity described in sub-paragraph (a) of this paragraph (whether or not that transaction or activity was carried on by him).
- (3) The record, required of an approved wholesaler by paragraph (2), must include:
  - (a) in the case of a receipt by him of controlled liquor, the date of receipt, and the name and address of the supplier of those goods to him;
  - (b) in the case of the disposal by him of controlled liquor, the name and address, except where disposed of by retail sale, of the person who acquires them, and the date of that disposal; and
  - (c) in the case of a transaction described in sub-paragraph (c) of paragraph (2) (financing or facilitation):
    - (i) the date of receipt and the name and address of the person making or effecting that transaction, where the approved wholesaler (keeping and preserving a record as required by paragraph (2)) is the recipient of that transaction;
    - (ii) the date of making or effecting that transaction and the name and address of the recipient of it, where the approved wholesaler (keeping and preserving a record as required by paragraph (2)) is making or effecting that transaction.
- (4) The record, required of an approved wholesaler by paragraph (2) of this annex must contain sufficient information, by way of cross referencing or otherwise, to enable an officer to trace readily any payments, made or received by that trader in respect of any controlled liquor or of any financing or facilitation described in sub-paragraph (c) of paragraph (2).



### **Records which must be maintained**

Received, Prepared, Maintained or Issued Items:

- an invoice
- a credit note
- a debit note
- a statement of account
- a record relating to an importation or to an exportation
- daily record of payments to suppliers and of receipts from customers
- a journal or ledger
- a profit and loss account, trading account, management account, management report or balance sheet
- an internal or external auditor's report
- any other record maintained for a trading or business purpose.

In addition, as an approved wholesaler, you're required to keep:

- copies of delivery documents, accessible to Customs and Excise on-site
- name and URN of suppliers
- an auditable stock control system - this could include invoices, credit notes or other records that allow stock to be identified
- details of any premises used for storage.

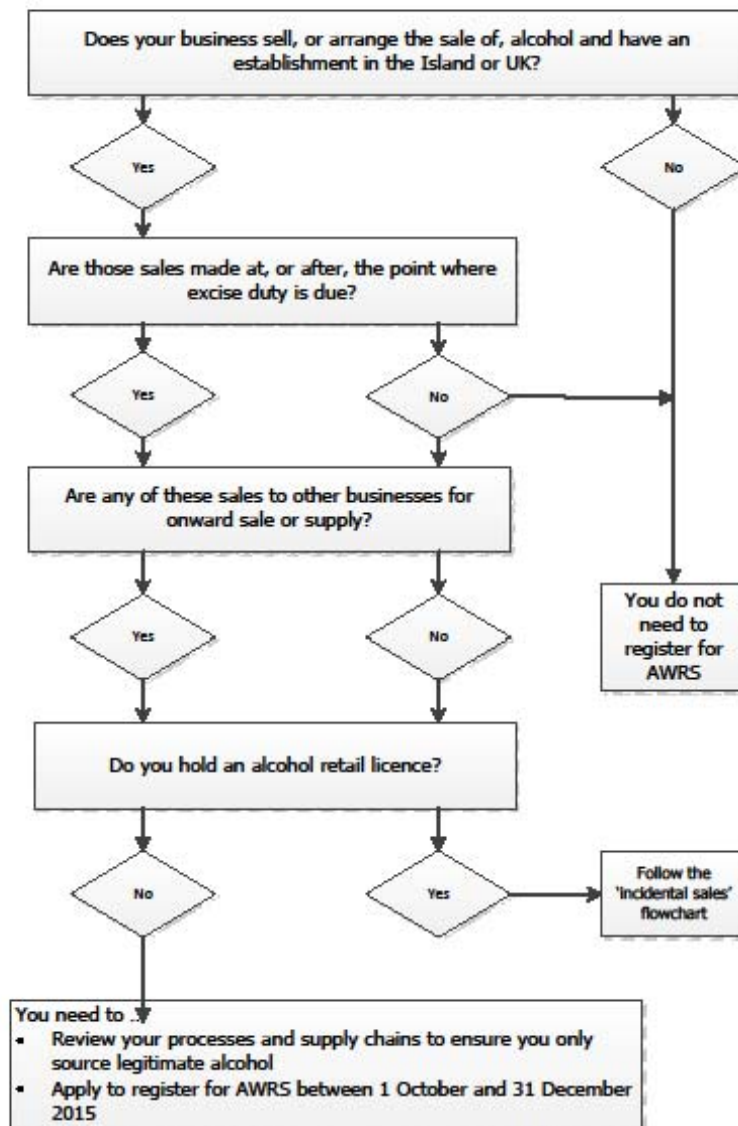
## Annex B

### Flowcharts

(referred to in paragraphs 3.1 and 4.3)

### Alcohol Wholesaler Registration Scheme (AWRS)

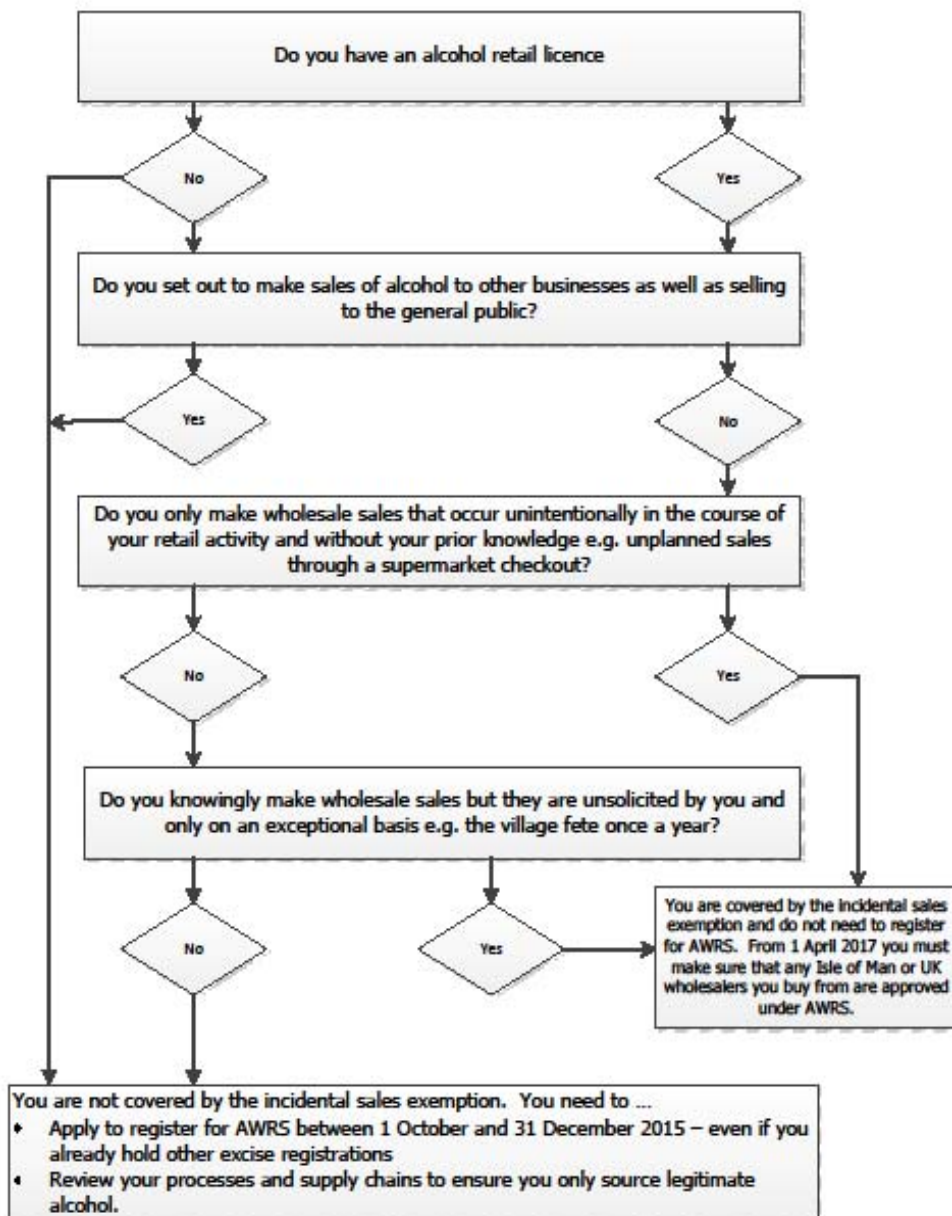
Do you need to apply to register?



NB: If your circumstances change you may need to register for AWRS

## Alcohol Wholesaler Registration Scheme (AWRS)

Is your Alcohol Retail business covered by the incidental sales exemption?



NB: If your circumstances change you may need to register for AWRS

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**Amendments made to this Notice**

30 June 2016	Paragraph 12.6 re evidence of existence or provenance of goods amended.
7 April 2017	Paragraph 13 amended to reflect the online look up service being live.
6 June 2017	Paragraphs 13.A1 and 13.2A inserted, and paragraphs 13.1 and 13.3 amended.
12 March 2018	Annex A amended to provide a definition of auditable stock control system.
30 May 2018	Privacy notice added

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**Isle of Man**  
**Government**

*Reilrys Ellan Vannin*