

New rules banning the sale of alcohol below cost (defined as duty +VAT) are due to come into force in mid-May 2014. These rules set the minimum price beneath which no alcohol product will be permitted to be sold.

The ban is a new licensing condition of the Mandatory Code of Practice. The Mandatory Code of Practice applies to all licensed premises, meaning a breach of the rules would be a breach of your licence conditions, and can be enforced by your licensing authority.

The Home Office have issued detailed guidance on how to ensure compliance with the ban, which is available on their website, and contains details of how to calculate the 'cost' of products, including a list of product categories and their applicable duty rates.

However, it has come to light that there is still some confusion over the duty category of some specific products, especially some high strength ciders. The information below aims to provide clarity on these products and the applicable duty rates. If you are unsure of the correct duty rate to be applied, then more information on duty rates is available from HM Revenue and Customs. Your trade association, local licensing or trading standards teams may also be able to help. If you remain unclear, Home Office guidance advises retailers to charge the higher price to ensure compliance.

Cider and Perry Duty Rates

Cider and perry (made from pears) are included in the duty rate for cider.

Within this category there are four existing duty rates based upon the strength of the product and whether it is classified as still or sparkling. The duty rates for high strength, sparkling cider are significantly higher (up to 7 times) than the other cider duty categories. Confusion remains over how to classify high strength carbonated cider, as the guidance lists the minimum price of a 2l bottle of sparkling cider, with a 7.5% abv, as £6.20.

However, according to HMRC definitions, 'sparkling cider' must be: "in a closed bottle with excess pressure, due to carbon dioxide, of three bars or more at 20°C, or, regardless of pressure, is contained in a closed bottle with a 'mushroom shaped stopper' held in place by a tie or fastening."

Due to this, most carbonated ciders sold in PET (plastic) packaging are subject to the duty rate for still cider, which under previous duty rates would have a minimum sale price of around £1.60.

Lager and Beer

Lager falls under the beer duty category. This is defined as including ale, porter, stout and any other description of beer, and any liquor which is made or sold as a description of beer or as a substitute for beer, whose alcoholic strength exceeds 0.5% ABV. Within this category there are three separate duty rates based on product strength. Barley wine is classified as a beer for duty purposes.

Spirits and Ready-to Drink Products (Including Alcopops)

There is one duty rate for products where the alcohol content comes from spirits. The majority of alcopops are therefore included in the same duty rate as spirits.

Wine and Made Wine

Wine is defined as a drink produced from fermented grapes. This includes fortified wines, including sherry and port. Made-wine is any other drink - apart from beer or cider - containing alcohol that is made by fermentation.

The table overleaf highlights some products which have been brought to our attention as having confusion over their duty rate.

Product	ABV	Duty category	Size	Minimum permitted sale price
3 Hammers	7.50%	Still Cider	1 litre bottle	£0.48
3 Hammers	7.50%	Still Cider	1.5 litre bottle	£0.72
3 Hammers	7.50%	Still Cider	2 litre bottle	£0.96
3 Hammers	7.50%	Still Cider	3 litre bottle	£1.43
Amorino Bianco	7.50%	Still Cider	0.75 litre bottle	£0.36
Amorino Bianco	7.50%	Still Cider	1.5 litre bottle	£0.72
Barley Gold	7.40%	Beer	1 x 330ml can	£0.55
Bavaria	7.90%	Beer	1 x 500ml can	£1.14
Black Ace	7.50%	Still Cider	1 x 500ml can	£0.24
Crest Super	10.00%	Beer	1 x 500ml can	£1.45
Crest Super	10.00%	Beer	4 x 500ml cans	£5.77
Diamond White	7.50%	Still Cider	1 x 500ml can	£0.24
Diamond White	7.50%	Still Cider	2 litre bottle	£0.96
Diamond White	7.50%	Still Cider	4 x 500ml cans	£0.96
Frosty Jacks	7.50%	Still Cider	1 litre bottle	£0.48
Frosty Jacks	7.50%	Still Cider	1 x 500ml can	£0.24
Frosty Jacks	7.50%	Still Cider	2 litre bottle	£0.96
Frosty Jacks	7.50%	Still Cider	2 x 3 litre bottles	£2.86
Frosty Jacks	7.50%	Still Cider	3 litre bottle	£1.43
Frosty Jacks	7.50%	Still Cider	4 x 3 litres	£5.72
Frosty Jacks Amber	7.50%	Still Cider	3 litre bottle	£1.43
HSL Kings	7.50%	Beer	1 x 500ml can	£0.85
K Cider	8.40%	Still Cider	1 x 500ml can	£0.36
K Cider	8.40%	Still Cider	2 x 500ml cans	£0.72
K Cider	8.40%	Still Cider	4 x 500ml cans	£1.43
Karpackie	9.00%	Beer	1 x 500ml can	£1.30
Karpackie	9.00%	Beer	4 x 500ml cans	£5.20
Kestrel Super	9.00%	Beer	1 x 500ml can	£1.30
Kestrel Super	9.00%	Beer	4 x 500ml cans	£5.20
Kestrel Super	9.00%	Beer	6 x 500ml cans	£7.79
Lambrini	7.50%	Still cider	1.5 litre bottle	£0.72
Lynx	7.50%	Beer	1 x 500ml can	£0.84
Lynx	7.50%	Beer	4 x 500ml cans	£3.36
Omega	7.50%	Still cider	2 litre bottle	£0.96
Omega	7.50%	Still cider	3 litre bottle	£1.43
Oranjeboom XS	8.50%	Beer	1 x 500ml can	£1.23
Oranjeboom XS	8.50%	Beer	4 x 500ml cans	£4.91
Perla Extra Strong	7.60%	Beer	1 x 500ml can	£1.10
Redrow Cider	7.50%	Still Cider	1 x 500ml can	£0.24
Skol Super	9.00%	Beer	1 x 500ml can	£1.30
Skol Super	9.00%	Beer	24 x 500ml	£31.15
Skol Super	9.00%	Beer	4 x 500ml cans	£5.20
Special Brew	9.00%	Beer	1 x 500ml can	£1.30
Special Brew	9.00%	Beer	24 x 500ml	£31.15
Special Brew	9.00%	Beer	4 x 440ml cans	£4.57
Special Brew	9.00%	Beer	6 x 500ml cans	£7.79
Tennants Super	9.00%	Beer	1 x 500ml can	£1.30
Tennants Super	9.00%	Beer	4 x 500ml cans	£5.20
Tennants Super	9.00%	Beer	6 x 500ml cans	£7.79
Union Black	8.40%	Still cider	4 x 500ml cans	£1.43
White Ace	7.50%	Still Cider	1 litre bottle	£0.48
White Ace	7.50%	Still Cider	1 x 500ml can	£0.24
White Ace	7.50%	Still Cider	2 litre bottle	£0.96
White Ace	7.50%	Still Cider	3 litre bottle	£1.43
White Ace	7.50%	Still Cider	4 x 500ml cans	£0.96
White Star	7.50%	Still Cider	1 litre bottle	£0.48
White Star	7.50%	Still Cider	2 litre bottle	£0.96
White Star	7.50%	Still Cider	3 litre bottle	£1.43
White Star	7.50%	Still Cider	4 x 500ml cans	£0.96
Zeppelin Cider	7.50%	Still Cider	3 litre bottle	£1.43