

## **Guidelines for Consideration when selecting an appropriate method for retrieval of containers from pub cellars**

### **Introduction**

There are three determining factors which will need to be considered to determine the most suitable approach to the recovery of containers from pub cellars:

- Health & Safety
- Environmental
- Economic inc. recovery of duty, replacement of stock, logistics of container removal (payment of third parties to uplift containers)

Irrespective of the above considerations, and whilst the process may be shortened if brewers are prepared to write-off duty reclaim, the destruction of beer in cellars and the associated requirements are likely to take some time to organise and undertake. These guidelines, and the associated annex, were prepared to assist brewers to understand the various options that may be considered and in order to facilitate the recovery of containers from cellars as quickly as possible and in order that pubs can be resupplied in readiness for re-opening

**In relation to the excise related elements HMRC confirm that the details contained within the guide are consistent with and support their requirements.**

*Annex 1 of these guidelines represents options for the different approaches that may be taken based on the main routes to market and with reference to the information below.*

### **Retrieval of Containers**

The impact of COVID-19 and the rapid closure of pubs has left cellars full of beer kegs and casks. These will need to be retrieved in order that they can be re-filled in advance of pubs re-opening and once restrictions placed on the general population have been lifted. Similar restrictions further complicate retrieval of containers by preventing more than one person from working in a cellar and which under normal circumstances would be undertaken by a minimum of two persons.

The weight of full and part-full beer kegs and casks presents a potential health and safety risk with regards to uplift from cellars. To ensure manual handling risks are minimised as far as is reasonably practicable, the following factors may be taken into account when considering how to retrieve containers from cellars:

- Current working restrictions based on social distancing mean that recovery of empty containers will be the safest way to retrieve kegs and casks from cellars, particularly if these are subterranean.
- In addition to recovery of containers from cellars it will be important to consider transfer of containers to the recovery vehicle i.e. via use of mechanical lifting aids or tail-lift vehicles
- Collection of full or part full containers may be possible where the numbers of such containers are small enough or are of a volume (no greater than 11g/50 litres) or where it is possible to

phase the recovery process to reduce the impact from repetitive, manual work on individuals i.e. via safe use of nets, rope, ramps or other manual lifting aids.

- Location of the pub i.e. rural vs urban/city locations, connections to the foul sewer and any local waste treatment restrictions which would not allow beer to be emptied to drain on-site

### **Emptying Containers in Pub Cellars**

Individual operators will need to consider the risks associated with emptying containers to allow for their retrieval from pub cellars to determine an approach that reduces economic, health and safety and environmental risks as far as is reasonably practicable.

It is likely that for the vast majority of producers, the only safe way to recover kegs and casks is if these are collected as empties. In connection with emptying of kegs and casks there are a number of factors that should be considered

#### Seeking the permission of the owning brewer

In particular when the brewer is seeking to recover duty; a verifiable form of permission e.g. on-line survey, email, must be sought from the owning brewer for all relevant containers before beer can be destroyed. This is necessary to ensure that duty can be recovered for the beer in question and as detailed in the BBPA protocol for destruction of beer in pub cellars [LINK]

Where a brewer, or their Authorised Brewery Representative, wish to act as a 'Lead Brewer' for a given premises; to oversee or verify the destruction of all beer on premises. Permission must be sought in advance from each brand owner either individually or with reference to any collective agreements i.e. held by a sector Trade Association.

If however the brewer is willing to waive duty recovery and prioritise destruction in order to more quickly to recover the container then destruction can proceed more quickly. It will still be necessary to consider the potential environmental impact or strain on local waste treatment.

#### Informing the local water retailer or EA office

Once permission has been granted it is vital to consider potential environmental factors associated with emptying beer to waste. Prior to destruction of beer it will be necessary to take one of the following steps:

- **If a pub waste system connects with the local municipal sewerage system** (i.e. via the foul sewer) - in order to avoid any risks of prosecution associated with overwhelming the local sewage plant, you must first contact your water retailer who will liaise with the local sewerage undertaker to discuss and advise on any requirements for controlled destruction. Details of your water retailer can be found on your most recent water bill.
  - *It is important to note that some sewerage undertakers may have produced Regulatory Position Statements for destruction of beer, these should be available via their websites.*
- **If a pub does not have access to a wastewater sewerage system** (i.e. more likely in rural communities) - destruction of beer to drain will likely only be possible via the sewerage undertaker's surface water sewer which will ultimately discharge directly into watercourse.

Before attempting to discharge directly to watercourse, i.e. via a surface water sewer, you must contact the Environment Agency to discuss obtaining and complying with an environmental permit.

Restricting the impact of beer destruction on the environment will almost certainly include the need for gradual destruction. This will include pouring beer to drain on a controlled, gradual rate i.e. no greater than one broached container per hour. Additional phasing or prioritisation of destruction will also be required to reduce the strain on local sewage treatment infrastructure taking into account beer destruction being undertaken simultaneously across the country.

Therefore, in addition to any recommendation made by the local water retailer, producers may also wish to consider the following as options on which to base prioritisation. Such options may also include coordination of plans for destruction at sectoral level:

- Broached vs un-broached (this may also be a consideration where a local water retailer has established a base position to destruction of beer in order to simplify the approach)
- Destruction based on pub location - rural vs city/urban centre
- Container type - cask vs keg
- Container best before date

### **Practicalities of Emptying Containers**

The approach to emptying containers will likely be driven by availability of staff and the relationship with the trading site. There are a number of options that might be considered based on who may be best placed to undertake this work.

Broadly, beer destruction may be undertaken by the licensee on behalf of the owning brewer according to the recent flexibility introduced by HMRC for remote destruction of beer in pub cellars. Destruction may also be carried out by a brewer's own nominated representative (Authorised Brewery Representative) and which may include the following:

- Brewer
- In-house or independent technical services operative
- BDM or area managers (including those of other pub operators)
- Brewery sales staff

Historical/delivery records may be used to validate stock delivered to a pub. Where the licensee is given permission to destroy beer, verification of destruction and the associated volumes will also be required in order that duty can be reclaimed. Forms of verification that are acceptable to HMRC include:

Manual/Physical measurement:

- Liquid volume (via measuring jugs or cylinders)
- Container weight
- Dip stick (cask beer only)

Sales data/flow monitoring:

- EPOS (where this can be linked with container volume)
- Vianet/Brulines

Digital:

- Photographic
- Video

Remote verification in the presence of an Authorised Brewery Representative:

- Zoom/Skype/FaceTime etc.

In order to manage the physical process, phasing the approach to destruction of beer will almost certainly be necessary. Companies may wish to permit a licensee to destroy beer on their behalf and only following receipt of necessary records (including specific product information, quantities of containers to be destroyed which may also be accompanied by forms of supporting evidence i.e. a photograph to confirm container numbers/numbers of taps at the bar).

Verification of destruction may then be undertaken via sales/stock control data or other technical/remote solutions *or instead* verification of destruction will be undertaken by an authorised brewery representative who will visit the account to confirm the numbers of containers that have been destroyed and in preparation for uplift.

Alternatively, the brewery may use the licensee to notify and record relevant containers ready for destruction. The destruction process and necessary verification will then be undertaken simultaneously by the authorised brewery representative when they visit the account.

The brewer and licensee (where necessary through third party distributors/wholesalers) must agree in advance a process for destruction and verification that is both practicable and verifiable through a suitable audit trail, including highlighting the potential risks of attempting to defraud HMRC with regards to duty reclaim. HMRC have expressed that a common sense approach should be taken when determining this process.

To assist producers/retailers to decide who best to deploy to destroy or verify beer destruction as detailed above the following may be considered:

- Licensee
  - Under the increased flexibility granted by HMRC it is possible for the licensee to act on behalf of the brewer to destroy beer remotely. This is subject to specific conditions and which are detailed in the protocol issued by BBPA on destruction of beer in pub cellars [LINK].
  - Verification of destruction is possible via self-certification but which must be supported by a digital record of destruction **unless** remote forms of verification are used i.e. via video call with an authorised brewery representative or use of remote flow measurement. HMRC have confirmed that all photographic or video forms of evidence in support of destruction may be held by the licensee and will only be requested where an audit of the process becomes necessary.

- Can destroy cask beer in the cellar or via the pub dispense system but will only be able to destroy beer from keg via the pub dispense system unless relevant training in the use of specialist equipment has been provided.
  - Will be able to re-start the dispense system but will not be able to resolve technical issues that arise as a consequence of this i.e. equipment failure, gas leak etc.
- Technical Services
    - In-house technical services teams typically already act as a nominated brewery representative for destruction of beer and will therefore be able to verify those containers identified for destruction.
    - Will be able to dispense beer through the dispense system or via use of specialist equipment intended to empty pressurised containers without connection to the pub dispense system.
    - Are trained to resolve technical issues which affect the normal operation of cellar/dispense equipment should this occur
- Brewer
    - As an authorised brewery representative for destruction of beer, will therefore be able to verify those containers identified for destruction.
    - Will be able to destroy beer via the dispense system *and only if suitably trained* via use of specialist equipment intended to empty pressurised containers without connection to the pub dispense system.
    - May be able to resolve some technical issues affecting the operation of the dispense system.
- BDM/Area Managers/Brewery Sales Staff
    - As a authorised brewery representative for destruction of beer, will therefore be able to verify those containers identified for destruction.
    - Will be able to destroy beer via the dispense system *and only if suitably trained* via use of specialist equipment intended to empty pressurised containers without connection to the pub dispense system.
    - May be able to re-start the dispense system but will not be able to resolve technical issues that arise as a consequence of this i.e. equipment failure, gas leak etc.

When planning the process of destruction the following may also be considered:

- Risk assessment process - there are a variety of risks that it will be important to consider and in particular in connection with lone working. Producers may need to consider existing risk assessments for site working or access and the need to develop a safe system of work i.e. establish a system to allow regular communication, consider use of personal CO2 monitors.
- Rather than use of dispense gas, where possible and only by trained technical representatives, air compressors may be used to dispense beer for destruction. This will likely save resources as well as mitigate potential risks associated with specific beverage gases.
- The quantity of foam that will be produced when pouring beer to drain will further slow the process and should be avoided where possible. It is advisable that water is used i.e. from a hose or tap, at the same time the beer is being poured to drain to reduce the amount of any foam that will be produced.

### **Industry Collaboration**

Given the scale of the task of beer destruction there will likely be a requirement for brewers to pool resources where possible.

In particular for the independent free trade such opportunities may include:

- Destruction of beer and/or verification
- Logistics activities and recovery for containers

The lead brewer process established under 'must buy, must sell' represents a logical approach to determine who might undertake destruction for a given account via deployment of technical services staff.

However this will require ensuring a transparent process to track what beer has been destroyed and cross reference this against supplier (wholesaler) retail data but additionally to manage this process in such a way that this does not place a disproportionate burden on individual brewers. Maintaining a clear understanding of destruction of beer will also be an important factor for the management of duty/stock credit or stock replacement.

In addition there will be a need to consider the recovery of containers by logistics operators and who under normal circumstances would typically only deliver or recover from specific accounts. Whilst this may remain a more practical approach to the recovery of containers, there may be advantages to coordinating a consolidated approach to container collection, in particular from Independent Free Trade accounts.

Whilst this will speed up the process of recovery, there will likely be some delay or additional requirement to sort containers and repatriate these as quickly as possible. This will also need to consider the management of SIBA containers that have been delivered with orange stickers and those that have been delivered through the direct delivery scheme.

**ANNEX 1. - Options for Recovery of Containers Based on Route to Market**

Brewer Owned Pub	Pub Company		Independent Free Trade	
	Leased/Tenancy	Managed	Direct Delivery	Supply by Wholesale/Third Party
<b>Initial identification &amp; verification of stock:</b>				
Licensee records all cellar stock (written by container type and inc. photograph of total stock/taps) and seeks permission to destroy from brewer <b>or,</b> Brewer instructs licensee based on estate audit/delivery records	Supplier instructs licensee based on stock control/delivery records		Brewer instructs licensee based on cellar audit/delivery records	Supplier instructs licensee based on stock control/delivery records
<b>Determination of stock for retrieval or destruction:</b>				
Brewer delivers direct or will require agreement of supplier/distributor	Will require agreement of supplier/distributor		Brewer delivers direct or will require agreement of supplier/distributor	
<p align="center"><i><u>In most cases containers will need to be emptied in order that they can be retrieved.</u></i></p> <p align="center">However,</p> <p align="center">In some cases retrieval of full/part-full containers may be possible:</p> <ul style="list-style-type: none"> <li>- Containers not kept in subterranean cellar (i.e. at ground level and with direct access to the delivery point)</li> <li>Container size (i.e. no greater than 22g) and numbers <ul style="list-style-type: none"> <li>- Use of mechanical aids: rope/nets, lifts, hoists</li> <li>- Use of specialist vehicles: tail-lift, vehicles fitted with hoists</li> </ul> </li> </ul>				
<p align="center">Stock identified for retrieval at a later date <b>must</b> be identified and separated from stock to be destroyed <b>and,</b> All containers collected by the original delivery operator for repatriation via usual route</p>				
<b>Confirmation of environmental restrictions/conditions for stock prior to destruction:</b>				
<p align="center">Confirmation of any restrictions or conditions for destruction of beer must be sought prior to destruction:</p> <ul style="list-style-type: none"> <li>- Site connected to foul sewer; contact local water retailer</li> <li>- Site connected to surface water sewer; contact local EA office</li> </ul> <p align="center">In both cases the address of the premises <b>and</b> an approximate volume of beer to be destroyed will be needed</p>				
<b>Destruction of beer may be undertaken by:</b>				
<p align="center">Licensee <b>or</b> Authorised Brewery Representative (with prior agreement on behalf of all brands in cellar):</p> <ul style="list-style-type: none"> <li>- Brewer</li> <li>- In-house/contracted cellar service technician</li> </ul>				
<b>Verification of beer destruction on site:</b>				
<b>The brewer and licensee (where necessary through third party distributors/wholesalers) must agree a process for destruction and verification that is both practicable and verifiable through a suitable audit trail. HMRC have expressed that a common sense approach should be taken when determining this process</b>				
<p align="center">Authorised Brewery Representative verifies:</p> <p>Prior to <b>or</b> at point of destruction (only by ABR trained in destruction), <b>or</b> Post destruction by licensee (on-site or remotely via video call; including ABR not trained in destruction i.e. BDM, sales staff etc.)</p> <p align="center"><b>or</b></p> <p>Licensee may self-certify but <b>must</b> be supported by digital record of stock/destruction <b>unless</b> remote verification i.e. via video call with ABR, flow measurement etc.</p> <p><i>Options for verification of quantities include; physical measurement (liquid volume or container weight), use of sales data/flow monitoring linked with container volume (including EPOS/Vianet/Brulines)</i></p>	<p align="center">Authorised Brewery Representative verifies:</p> <p>Prior to <b>or</b> at point of destruction (only by ABR trained in destruction), <b>or</b> Post destruction by licensee (on-site or remotely via video call; including ABR not trained in destruction i.e. BDM, sales staff etc.)</p> <p align="center"><b>or</b></p> <p>Licensee may self-certify but <b>must</b> be supported by digital record of stock/destruction <b>unless</b> remote verification via video call with ABR, flow measurement etc.</p> <p><i>Options for verification of quantities include; physical measurement (liquid volume or container weight), use of sales data/flow monitoring linked with container volume (including EPOS/Vianet/Brulines)</i></p>		<p align="center">Authorised Brewery Representative verifies:</p> <p>Prior to <b>or</b> at point of destruction (only by ABR trained in destruction), <b>or</b> Post destruction by licensee (on-site or remotely via video call; including ABR not trained in destruction i.e. BDM, sales staff etc.)</p> <p>An Authorised Brewery Representative may verify for all containers (with prior agreement) on behalf of all brands in cellar and to cross reference against supplier (wholesaler) retail data</p>	
<b>Duty credit or stock replacement:</b>				
<p align="center">To licensee direct: Duty/stock credit <b>or</b> Stock replacement (when safe to deliver)</p>	<p align="center">To licensee direct or via pub company: Duty/stock credit <b>or</b> Stock replacement (when safe to deliver)</p>		<p align="center">To licensee direct: Duty/stock credit <b>or</b> Stock replacement (when safe to deliver)</p>	<p align="center">To Supplier/ Wholesaler to pass on: Duty/stock credit <b>or</b> Stock replacement (when safe to deliver)</p> <p align="center">Industry coordination may be required to process credit through wholesalers</p>