

Procedural Guidelines for Alcohol Product Seizure

This document should be read in conjunction with section 125A of the Finance Act 2001 and section 1094 of the Taxes Consolidation Act 1997

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1. Overview of Guidelines

These guidelines apply where a person is required to hold a licence for the wholesale or retail sale of alcohol products and a tax clearance certificate is required for the granting of that licence, and either:

- (a) an application for that licence has been refused solely or partly on the grounds that the applicant does not hold a tax clearance certificate, or
- (b) no application has been made for a licence or tax clearance certificate requirements have not been fulfilled.

In such circumstances, alcohol products held for wholesale or retail sale are liable to forfeiture.

The purpose of this document is to provide guidance to officers on the procedures which should be followed in such cases.

The applicable statutory provisions are section 125A of the Finance Act 2001, which concerns the forfeiture of alcohol products on unlicensed premises, and section 1094 of the Taxes Consolidation Act 1997, which concerns tax clearance certificates in relation to certain licences.

2. Objective

The primary aim of the relevant legislation is to address situations where a person does not hold the necessary licence relating to the wholesale or retail sale of alcohol products and does not hold a current tax clearance certificate.

In such circumstances, products are liable to forfeiture where the person has:

- (a) been made aware of the seriousness of the situation by virtue of the 20-day warning letter under section 125A of the Finance Act 2001, and
- (b) has failed to engage with Revenue following the issue of a 20-day warning letter ([see Section 8](#)).

3. Enforcement Authorisation Procedures

An officer does not require authorisation to issue a 20-day warning letter. However, it is recommended that letters are issued by Assistant Principals.

Seizure is affected under section 141 of the Finance Act 2001. Seizure action can only be taken by officers authorised by the Revenue Commissioners to exercise that power. Assistant Principals in Enforcement Units should ensure that all officers undertaking enforcement action under that provision are appropriately authorised by the Revenue Commissioners.

4. Liaison between the local Excise Control Unit and Enforcement Units

The operation of section 125A of the Finance Act 2001 requires active cooperation and liaison between the local Excise Control Unit and Enforcement Units.

Where a person 'genuinely engages' ([see section 8](#)) with Revenue following receipt of the 20-day warning letter, it may be appropriate to discontinue further action.

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[...]

7. Notification Procedures

7.1. 20-day Warning Letter

Once a case is selected as suitable for seizure action by the local Excise Control Unit, a 20-day warning letter should be issued in accordance with section 125A(2) of Finance Act 2001. This should be issued by registered post and in the approved format (see Appendix 2).

The letter should be addressed to the person who:

- is required to hold a licence in relation to the sale of alcohol at the premises concerned, and
- in relation to that licence, is also required to hold a tax clearance certificate.

The 20-day warning letter must be accompanied by a schedule of outstanding taxes and returns in the format provided in Appendix 3 which clearly outlines the amounts of outstanding taxes and the number of outstanding returns. A copy of the warning letter should also be forwarded on the date of issue to the Assistant Principal responsible for enforcement.

In the case of a partnership and where there are several partners, the outstanding taxes or liabilities owed by the partnership can be included in the schedule of outstanding liabilities and sent to the Precedent Partner. However, the outstanding taxes of each individual partner cannot and should not be sent to the Precedent Partner. The details of their individual tax liabilities can only be given to each partner separately.

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[...]

8. Genuine Engagement

Genuine engagement is where the taxpayer submits all outstanding returns and payments to the Collector General's Division or submits acceptable proposals to the Collector General's Division to begin a tax payment arrangement in line with Revenue's "[Guidelines for Phased Payment/Instalment Arrangements](#)".

If the Collector General's Division is satisfied that the taxpayer has genuinely engaged with Revenue within 20 days of the delivery of the warning letter, then this fact should be recorded on ITS/CRS or RCM and the Assistant Principal in the local Excise Control Unit should be informed that the proposed seizure action should be discontinued.

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12. Seizure Procedures

12.1. Powers of officers

Alcohol products liable to forfeiture under section 125A of Finance Act 2001 should be seized by an officer of the Revenue Commissioners authorised for the purposes of section 141 of the Finance Act 2001.

12.2. Access to premises

A search warrant is required and should be prepared for submission to a Judge of the District Court in accordance with the requirements and example at Appendix 4.

Accompanying Information is also required for the application to the District Court Judge. Samples of these documents and associated general guidance are included in Appendix 4.

A search warrant should be sworn before a District Court Judge. A copy of the warning letter issued and the schedule of outstanding taxes that accompanied the letter should also be provided to the Judge.

A warrant should not seek authority for a search for alcohol products held in any part of a premises that is a private dwelling or is in amounts that indicate that the products are for private use and not for wholesale or retail sale.

12.3. Seizure

The seizing officer must comply with the provisions of the search warrant and the relevant legislation regarding a Notice of Seizure.

A detailed inventory of all products seized from a premises must be prepared and the inventory should be confirmed and signed by the owner/person in charge of the premises. If the owner/person in charge refuses to sign the inventory, the officer should note this on the inventory and sign the document. A copy of the inventory should be included with the Notice of Seizure. Additional information is provided in Appendix 4.

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13. Post seizure

A Notice of Seizure under section 142 Finance Act 2001 should be issued in all cases except instances where the alcohol products are seized in the presence of the owner who received a warning letter. Guidelines on issuing a Notice of Seizure are provided in Appendix 4.

A party may make a claim to Revenue, in accordance with section 127 of Finance Act 2001, that the goods seized are not liable to forfeiture, within one month of the date of the seizure of the goods or the date of a Notice of Seizure.

A notice of claim should be acknowledged and forwarded to the National Prosecutions and Seizures Office, Business Division for processing in accordance with sections 127 and 128 of the Finance Act 2001.

The return of the seized goods, other than on foot of a notice of claim, may be allowed in accordance with Revenue's discretion under section 144(2) of Finance Act 2001 if a party genuinely engages with the CGs within 30 days of the seizure.

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Appendix 2: Warning Letter

Date Day, Month, 20XX

Ref:

[XXXXXXX VAT/PREM Local Property Tax] Quoting references for all taxheads for which there are tax arrears]

Name:

Address:

Re: Notification of Liability to Forfeiture of Alcohol Products under section 125A of Finance Act 2001

Dear Sir/Madam,

Our records show that you do not hold a current Intoxicating Liquor Licence for the sale of alcohol products at [**Name and Address of the Public House or other outlet concerned**]. Please note that you are required to have such a licence and to furnish a tax clearance certificate pursuant to section 1094 of the Taxes Consolidation Act 1997 in connection with that licence.

Our records also show that, because you have outstanding tax liabilities and /or returns, as set out in the attached schedule, a Tax Clearance Certificate could not be granted to you in present circumstances. [**This will need to be adapted in the case of a partnership, partner, or other person referred to in section 1094(2)(a), (2)(b) or (2)(c) respectively**].

Under section 125A of the Finance Act 2001, any alcohol products that are held for sale on an unlicensed premises are liable to forfeiture, where the person who should hold the licence does not satisfy all the requirements for a tax clearance certificate. Any alcohol products that are held for sale at the premises named above are, accordingly, liable to forfeiture, and may be seized by an authorised Revenue Officer after twenty days from the date of this notification.

To apply for a Tax Clearance Certificate, or advance an application already made, you must arrange to settle all the outstanding tax liabilities [**and submit all outstanding returns**].

Yours faithfully,

Assistant Principal

Address:

Telephone:

E mail:

Appendix 3: Sample Schedule of Outstanding Taxes

Taxpayer's Name:

Ref:

Please note that interest has been accruing at the applicable rate from the due dates on the schedule.

XX Month 20XX

Reg. No.	Tax	No. of outstanding returns	Period	Due Date	Charge	Amount
1234567A	PAYE/PRSI/USC	0	1/12/2020 to 31/12/2020	23/01/2021	Monthly Employer PAYE Return	€5,800
1234567A	VAT	1	1/11/2020 to 31/12/2020	19/01/2021	S22 Est.	€8,120
TOTAL:		1				€13,920

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Notice of Seizure

Notice of Seizure

Section 142 Finance Act 2001

(as amended by section 47(a) Finance Act 2011)

Revenue Commissioners

Name and Address of Owner

Notice is hereby given that certain goods, to wit;

were seized by me, pursuant to Section 141 of the Finance Act 2001, as amended, on the _____ day of _____ 20XX at _____
_____ on the grounds that the said goods were liable to forfeiture under Section 125A of the Finance Act 2001.

Dated this _____ day of _____ 20XX.

Signed: _____

Print Name and Mobile Number

Officer of Customs and Excise

Authorised Officer of the Revenue Commissioners

Information regarding Seized Goods

Section 141 of the Finance Act 2001 empowers an authorised officer to seize any goods or vehicles that are liable to forfeiture under the law relating to excise.

When goods, including means of transportation of the goods, are seized, the Revenue Commissioners may decide to offer terms and settle the case by agreement, or to refuse settlement.

The seizure of goods may be contested by the person from whom they have been seized, or by their owner, or a person authorised by him/her by lodging a Notice of Claim. The Notice of Claim must:

- be made within one month from the date of the notice of seizure;
- where no such notice has been given, within one month from the date of seizure;
- be made in writing;
- clearly state the claimant's full name and address;
- state the basis on which the claim is grounded;
- be addressed to either:
 - a. the Officer who seized the goods, or
 - b. the Assistant Principal of the Office of the Revenue Commissioners in whose area the goods were seized, or
 - c. the Revenue Commissioners, National Prosecutions and Seizures Office, Áras Áiligh, Bridgend, Co Donegal.

When a Notice of Claim is received, the Revenue Commissioners may:

- offer settlement terms,
or
- institute legal proceedings for the forfeiture of the goods.

If a Notice of Claim is not received, the goods are by law deemed to be forfeit to the State and the Revenue Commissioners may:

- offer settlement terms,
or
- dispose of the goods.

When an excise offence is committed, in addition to seizure of the goods, the offender is liable to prosecution.

Note:

On receipt of a Notice of Claim and unless settlement terms are offered and accepted, civil proceedings for the condemnation and forfeiture of the goods will be instituted by the Revenue Commissioners which will necessitate the appearance in Court of the person making the claim or his/her legal representative.

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