
STATUTORY INSTRUMENTS

1979 No. 1095

AGRICULTURE

The Hops Certification Regulations 1979

<i>Made</i>	- - - -	<i>29th August 1979</i>
<i>Laid before Parliament</i>		<i>10th September 1979</i>
<i>Coming into Operation</i>		<i>1st October 1979</i>

The Minister of Agriculture, Fisheries and Food and the Secretary of State, being Ministers designated⁽¹⁾ for the purposes of section 2(2) of the European Communities Act 1972 in relation to the common agricultural policy of the European Economic Community, acting jointly in exercise of the powers conferred on them by the said section 2(2), hereby make the following regulations:—

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Hops Certification Regulations 1979 and shall come into operation on 1st October 1979.

(2) In these regulations, unless the context otherwise requires,—

“the appropriate Minister” means, in relation to England, the Minister of Agriculture, Fisheries and Food, and in relation to any other part of the United Kingdom, the Secretary of State;

“certification” means certification under the Community provisions, and cognate expressions shall be construed accordingly;

“certification centre” means a place for the time being designated by the appropriate Minister for the purposes of certification;

“certifying officer” means a person for the time being authorised by the appropriate Minister to certify hops and hop products;

“the Commissioners” means the Commissioners of Customs and Excise;

“the Community provisions” means the provisions of the following EEC regulations, that is to say,—

- (a) Council Regulation (EEC) No. 1696/71⁽²⁾ on the common organisation of the market in hops;
- (b) Council Regulation (EEC) No. 1170/77 amending it;
- (c) Council Regulation (EEC) No. 1784/77 concerning the certification of hops;

(1) S.I. 1972/1811.

(2) (O.J./S.E. 1971 (II), p. 634).

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- (d) Commission Regulation (EEC) No. 890/78 laying down detailed rules for the certification of hops;
- (e) Commission Regulation (EEC) No. 3076/78 on the importation of hops from non-member countries;
- (f) Commission Regulation (EEC) No. 1465/79 amending both the said Commission Regulations;

“hop products” means those products prepared or derived from hops which are mentioned in Article 1 of Council Regulation (EEC) No. 1696/71;

“prescribed” means prescribed by the Community provisions; and other expressions have the same meaning as in the Community provisions.

Certification

2. Where, under the Community provisions, hops or hop products are required to be certified in the United Kingdom, the certification shall be carried out in accordance with those provisions by a certifying officer, and no document purporting to be a certificate shall be valid unless it is issued by a certifying officer.

Sale, etc. contrary to Community provisions

3.—(1) No person shall—

- (a) sell any harvested hops required by the Community provisions to be certified before being marketed, or any hop products so required, unless they have been certified;
- (b) sell, or expose for sale, any certified hops or certified hop products otherwise than in packages which are marked and sealed in accordance with the Community provisions;
- (c) sell any hop cones imported from a third country and falling within heading No. ex 12.06 of the Common Customs Tariff unless there has been issued in respect of those hop cones either the attestation of equivalence provided for in Article 5(2) of Council Regulation (EEC) No. 1696/71 or the control attestation referred to in Article 4 of Commission Regulation (EEC) No. 3076/78;
- (d) sell any hop products imported from a third country unless there has been issued in respect thereof the attestation of equivalence provided for in Article 5(2) of Council Regulation (EEC) No. 1696/71;
- (e) except as provided for in Article 1(1)(a) of Council Regulation (EEC) No. 1784/77 (which relates to hops harvested on land owned by a brewer and used by him in the natural or processed state), use for the manufacture of hop products any hops imported from a third country unless there has been issued in respect thereof the attestation of equivalence provided for in Article 5(2) of Council Regulation (EEC) No. 1696/71.

(2) A person who without reasonable excuse contravenes any provision of paragraph (1) above shall be guilty of an offence and liable on summary conviction or, in Scotland, on conviction before a court of summary jurisdiction, to a fine not exceeding £50.

Restrictions on movement of unattested third country hop cones

4.—(1) Where a person imports from a third country a consignment of hop cones falling within heading No. ex 12.06 of the Common Customs Tariff without producing to the Commissioners in respect of the consignment the attestation of equivalence referred to in Article 5(2) of Council Regulation (EEC) No. 1696/71, the Commissioners may require that person to give them a signed undertaking—

- (a) that the consignment shall be moved forthwith to a place specified in the undertaking, being either a certification centre or a place for the time being approved by the appropriate Minister for the purposes of this regulation and notified by him to the Commissioners, and
- (b) that no part of the consignment shall be moved from that place unless there has been issued in respect of that part the control attestation referred to in Article 4 of Commission Regulation (EEC) No. 3076/78.

(2) Where the Commissioners have required such an undertaking to be given in respect of any consignment, the consignment shall not be released from customs and excise charge unless the undertaking is given.

(3) Where, without reasonable excuse, any goods subject to such an undertaking are dealt with contrary to any term of the undertaking, the giver of the undertaking and any person knowingly concerned in so dealing with the goods shall be guilty of an offence and liable on summary conviction or, in Scotland, on conviction before a court of summary jurisdiction, to a fine not exceeding £200.

Inspectors

5.—(1) The appropriate Minister may appoint, as inspectors to assist him in the official surveillance of certification required by the Community provisions, such number of his officers appearing to him to be qualified for the purpose as he considers appropriate from time to time.

(2) An inspector appointed in pursuance of paragraph (1) above may, at all reasonable times and on producing written evidence of his authority if required to do so,—

- (a) enter and inspect any certification centre, or any premises or place used for any of the activities mentioned in regulation 8(1) below, and inspect and take samples of any hops or hop products found there;
- (b) require any person having control of any such centre, premises or place, and any certifying officer, to give the inspector such assistance and afford him such facilities as the inspector may reasonably ask for in connection with his powers under this regulation;
- (c) require any person to produce and permit the inspector to inspect any documents in that person's possession or control, being documents which any person is required by any provision of the Community provisions or of these regulations to prepare or maintain.

Obstruction, etc

6. Any person who—

- (a) intentionally obstructs an inspector appointed in pursuance of regulation 5 above in the exercise of the powers conferred on him by any provision of that regulation; or
- (b) without reasonable excuse fails to provide facilities or assistance or to produce or permit the inspection of any document which he is required to provide or produce in pursuance of any provision of that regulation,

shall be guilty of an offence and liable on summary conviction or, in Scotland, on conviction before a court of summary jurisdiction, to a fine not exceeding £200.

Brewers' and processors' declarations

7.—(1) A brewer required by article 10(a) of Commission Regulation (EEC) No. 890/78 to send to the control body referred to in Article 1(6) of Council Regulation (EEC) No. 1784/77, a declaration giving the particulars of hops harvested on his land and used by him which are mentioned in the said Article 10(a) shall forward the declaration, not later than 31st October in each year, to the appropriate Minister or to such other person as that Minister shall by notice to the brewer from time to time direct.

(2) A processor required by article 10(b) of the said Commission Regulation to send to the control body referred to in Article 1(6) of the said Council Regulation a declaration of the quantities of isomerized hop extracts produced and marketed by him shall forward the declaration, not later than 31st December in each year, to the appropriate Minister or to such other person as that Minister shall by notice to the processor from time to time direct.

(3) Any person who without reasonable excuse contravenes paragraph (1) or (2) above shall be guilty of an offence and liable on summary conviction or, in Scotland, on conviction before a court of summary jurisdiction, to a fine not exceeding £50.

Records

8.—(1) The appropriate Minister may, by notice given to any person engaged, whether as principal or agent, in the production, grading, processing, packing or sale of any hops or hop products (not being hops or hop products exempt from certification) require that person to keep such records of any of those activities as may be specified in the notice: and that person shall comply with the requirement.

(2) Every person so required to keep records shall retain them for three years from the end of the calendar year to which they relate, and produce them on demand to any authorised officer of the appropriate Minister who presents his credentials.

(3) A person who without reasonable excuse contravenes any of the foregoing provisions of this regulation shall be guilty of an offence and liable on summary conviction or, in Scotland, on conviction before a court of summary jurisdiction, to a fine not exceeding £50.

Removal, falsification, etc. of marks or certificates; false entries

9. If any person—

- (a) without due authority and with intent to deceive, removes, alters, conceals or defaces any certificate, or any prescribed seal or mark, lawfully applied to, accompanying or relating to any hops or hop products;
- (b) without due authority and with intent to deceive applies to any hops or hop products, any certificate or any prescribed seal or mark;
- (c) with intent to deceive applies to any hops or hop products any document, seal or mark so closely resembling a certificate or a prescribed seal or mark as to be likely to deceive;
- (d) knowingly makes a false entry in any declaration, certificate, book, account or record which is required by the Community provisions or these regulations to be made, issued, kept or produced, or, with intent to deceive, makes use of any such entry knowing the entry to be false;

he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £400 or to imprisonment for a term not exceeding three months or both.

Defence available to person charged with an offence

10. In any proceedings for an offence under these regulations, it shall be a defence for the person charged to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence; and, without prejudice to the generality of the foregoing, if that person proves that he took all the precautions and exercised all the diligence required by the Community provisions he shall be deemed to have established that defence.

Supplementary

11.—(1) Where an offence under these regulations which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he as well as the body corporate shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members the provisions of paragraph (1) above shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

Notices

12.—(1) Any notice required or authorised by these regulations to be given to or served on any person shall be in writing and shall be sufficiently given or served if it is delivered to him personally or left at his last known place of abode or business or sent to him by post in a letter addressed to him at that place of abode or business.

(2) Any notice required or authorised by these regulations to be given to or served on an incorporated company or body shall be sufficiently given or served if given to or served on the secretary or clerk of the company or body. For the purposes of these regulations and of section 7 of the Interpretation Act 1978, the proper address of such secretary or clerk shall be that of the registered or principal office of the company or body.

Repeals and revocation

13.—(1) The Hop Trade Act 1814 and the Hop (Prevention of Frauds) Act 1866 are hereby repealed.

(2) The Hops (Import Regulation) Order 1961 is hereby revoked.

In Witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 23rd August 1979.

L.S.

Peter Walker
Minister of Agriculture, Fisheries and Food

29th August 1979

George Younger
Secretary of State

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EXPLANATORY NOTE

These Regulations make provision for the implementation in the United Kingdom of the Community hop certification system set up under the Community provisions referred to in regulation 1(2). Regulation 2 provides for certification to be carried out by certifying officers authorised for that purpose by the Minister of Agriculture, Fisheries and Food or the Secretary of State. Regulation 3 creates offences of selling uncertified or improperly packaged hops or hop products of Community origin; selling imported third country hop cones without an attestation of equivalence or control attestation; selling imported third country hop products without an attestation of equivalence; and, except in the case of hops harvested on land owned by a brewer and used by him, using for the manufacture of hop products third country hops imported without an attestation of equivalence. Regulation 4 imposes restrictions on the movement of third country hop cones imported without an attestation of equivalence.

Regulation 5 provides for inspection of certification centres and premises where hops and hop products are to be found and regulation 6 makes it an offence to obstruct an inspector. Regulation 7 provides for the submission of brewers' and processors' declarations and regulation 8 for the keeping and production of records. Regulation 9 creates offences of removing, falsifying, etc. marks or certificates and making or using false entries in records.

Regulation 10 provides for defences; regulations 11 and 12 are supplementary. Regulation 13 repeals the Hop Trade Act 1814 and the Hop (Prevention of Frauds) Act 1866 and revokes the Hops (Import Regulation) Order 1961.