SCOTTISH STATUTORY INSTRUMENTS

2002 No. 325

The Common Agricultural Policy (Wine) (Scotland) Regulations 2002

PART I

CITATION, COMMENCEMENT, EXTENT AND INTERPRETATION

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Common Agricultural Policy (Wine) (Scotland) Regulations 2002 and shall come into force on 23rd September 2002.

(2) These Regulations extend to Scotland only.

Interpretation

2.—(1) In these Regulations–

"analysis" includes microbiological assay and any technique for establishing the composition of food;

"appropriate enforcement authority", in relation to any part of Scotland means an enforcement authority in relation to that part;

"authorised officer" means any person (whether or not an officer of that authority) who is authorised for the purposes of these Regulations by an appropriate enforcement authority or, in relation to any particular provision of these Regulations, any person who is authorised by an appropriate enforcement authority for the purposes of that provision;

"Commission Regulation 3388/81" has the same meaning as it has in Schedule 1;

"Commission Regulation 3590/85" means Commission Regulation (EEC) No. 3590/1985 on the certificate and analysis report required for the importation of wine, grape juice and grape must(**1**), as amended by Commission Regulation (EEC) No. 1614/1986(**2**), Commission Regulation (EEC) No. 2039/1988(**3**), Commission Regulation (EC) No. 1648/1996(**4**) and Commission Regulation (EC) No. 960/1998(**5**);

"Commission Regulation 649/87" means Commission Regulation (EEC) No. 649/1987 laying down detailed rules for the establishment of a Community vineyard register(**6**), as amended by Commission Regulation (EEC) No. 1097/1989(**7**);

"Commission Regulation 2676/90" has the same meaning as it has in Schedule 2;

"Commission Regulation 3201/90" has the same meaning as it has in Schedule 3;

(**1**) O.J. No. L 343, 20.12.85, p.20.
(**2**) O.J. No. L 142, 28.5.86, p.22.
(**3**) O.J. No. L 179, 9.7.88, p.29.
(**4**) O.J. No. L 207, 17.8.96, p.7.
(**5**) O.J. No. L 135, 8.5.98, p.4.
(**6**) O.J. No. L 62, 5.3.87, p.10.
(**7**) O.J. No. L 116, 28.4.89, p.20.

"Commission Regulation 2238/93" means Commission Regulation (EEC) No. 2238/1993 on the accompanying documents for the carriage of wine products and the relevant records to be kept(**8**), as amended by Commission Regulation (EC) No. 1592/1999(**9**);

"Commission Regulation 554/95" means Commission Regulation (EC) No. 554/1995 laying down detailed rules for the description and presentation of sparkling and aerated sparkling wines(**10**), as amended by Commission Regulation (EC) No. 1915/1996(**11**);

"Commission Regulation 1294/96" means Commission Regulation (EC) No. 1294/1996 laying down detailed rules for the application of Council Regulation (EEC) No. 822/1987 as regards harvest, production and stock declarations relating to wine-sector products(**12**), as amended by Commission Regulation (EC) No. 2050/1996(**13**), Commission Regulation (EC) No. 225/1997(**14**), Commission Regulation (EC) No. 2735/1999(**15**) and Commission Regulation (EC) No. 838/2000(**16**);

"Commission Regulation 881/98" means Commission Regulation (EC) No. 881/1998 laying down detailed rules for the protection of the additional terms used to designate certain types of quality wine produced in specified regions (quality wine psr)(**17**), as amended by Commission Regulation (EC) No. 2215/1998(**18**), Commission Regulation (EC) No. 806/1999(**19**), Commission Regulation (EC) No. 2253/1999(**20**) and Commission Regulation (EC) No. 1608/2000(**21**);

"Commission Regulation 1227/2000" means Commission Regulation (EC) No. 1227/2000 laying down detailed rules for the application of Council Regulation (EC) No. 1493/1999 on the common organisation of the market in wine, as regards production potential(**22**), as amended by Commission Regulation (EC) No. 1253/2001(**23**) and Commission Regulation (EC) No. 784/2001(**24**);

"Commission Regulation 1607/2000" means Commission Regulation (EC) No. 1607/2000 laying down detailed rules for implementing Regulation (EC) No. 1493/1999 on the common organisation of the market in wine, in particular the Title relating to quality wine produced in specified regions(**25**), as amended by Commission Regulation (EC) No. 363/2002(**26**);

"Commission Regulation 1622/2000" has the same meaning as it has in Schedule 4;

"Commission Regulation 1623/2000" has the same meaning as it has in Schedule 5;

"the Commissioners" means the Commissioners of Customs and Excise;

"Community provision" means any provision of any Regulation, Decision or Act of the European Communities which is referred to in Schedule 6, or of the Treaties relating to the accession to the European Communities, respectively, of the Hellenic Republic signed at

(**8**) O.J. No. L 200, 10.8.93, p.10.
(**9**) O.J. No. L 188, 21.7.99, p.33.
(**10**) O.J. No. L 56, 14.3.95, p.3.
(**11**) O.J. No. L 252, 4.10.96, p.10.
(**12**) O.J. No. L 166, 5.7.96, p.14.
(**13**) O.J. No. L 274, 26.10.96, p.17.
(**14**) O.J. No. L 37, 7.2.97, p.1.
(**15**) O.J. No. L 328, 22.12.99, p.50.
(**16**) O.J. No. L 102, 27.4.00, p.33.
(**17**) O.J. No. L 124, 25.4.98, p.22.
(**18**) O.J. No. L 279, 16.10.98, p.4.
(**19**) O.J. No. L 102, 17.4.99, p.67.
(**20**) O.J. No. L 275, 26.10.99, p.8.
(**21**) O.J. No. L 185, 25.7.00, p.24.
(**22**) O.J. No. L 143, 16.6.00, p.1.
(**23**) O.J. No. L 173, 27.6.01, p.31.
(**24**) O.J. No. L 113, 24.4.01, p.4.
(**25**) O.J. No. L 185, 25.7.00, p.17.
(**26**) O.J. No. L 58, 28.2.02, p.7.

Athens on 28th May 1979(**27**), of the Kingdom of Spain and the Portuguese Republic signed, respectively, at Madrid and Lisbon on 12th June 1985(**28**) and of the Kingdom of Sweden, the Republic of Austria and the Republic of Finland signed, respectively, at Stockholm, Vienna and Helsinki on 24th June 1994(**29**), and where any such provision has been adapted by the European Economic Area Agreement, includes the adaptation to it effected thereby;

"controlled wine-sector product" means any wine-sector product the movement of which is for the time being prohibited pursuant to regulation 8;

"Council Regulation 357/79" has the same meaning as it has in Schedule 7;

"Council Regulation 2392/86" means Council Regulation (EEC) No. 2392/1986 establishing a Community vineyard register(**30**), as amended by Council Regulation (EC) No. 1549/1995(**31**), Council Regulation (EC) No. 1596/1996(**32**) and Council Regulation (EC) No. 1631/1998(**33**);

"Council Regulation 1601/91" means Council Regulation (EEC) No. 1601/1991 laying down general rules on the description and presentation of aromatized wines, aromatized wine-based drinks and aromatized wine-product cocktails(**34**), as amended by Council Regulation (EEC) No. 3279/1992(**35**), Regulation (EC) No. 3378/1994 of the European Parliament and the Council(**36**), Commission Regulation (EC) No. 122/1994(**37**), and Regulation No. 2061/1996 of the European Parliament and Council(**38**);

"Council Regulation 1493/1999" has the same meaning as it has in Schedule 8;

"enforcement authority" means–

(a) the Commissioners;

(b) the Wine Standards Board;

(c) the Scottish Ministers;

(d) in relation to the area of a local authority, the local authority;

"the European Economic Area Agreement" has the same meaning as has "the Agreement" in section 6(1) of the European Economic Area Act 1993(**39**);

"examination" means microbiological examination;

"food analyst" and "food examiner" mean a person who is a food analyst or a food examiner, as the case may be, for the purposes of section 30 of the Food Safety Act 1990(**40**);

"local authority" means an authority which is a food authority for the purposes of the Food Safety Act 1990;

"manufacturing" means using wine or other wine-sector products, for the purposes of a trade or business (other than a catering business), in the composition, manufacture or preparation of any product;

(**27**) O.J. No. L 291, 19.11.79, p.9.
(**28**) O.J. No. L 302, 15.11.85, p.9.
(**29**) O.J. No. C 241, 29.8.94, p.1; as amended by Council Decision No. 95/1 adjusting the instruments concerning the accession of new member states to the European Union (O.J. No. L 1, 1.1.95, p.1). The amendments made by Council Decision No. 95/1 are not relevant to these Regulations.
(**30**) O.J. No. L 208, 31.7.86, p.1.
(**31**) O.J. No. L 148, 30.6.95, p.37.
(**32**) O.J. No. L 206, 16.8.96, p.38.
(**33**) O.J. No. L 210, 28.7.98, p.14.
(**34**) O.J. No. L 149, 14.6.91, p.1.
(**35**) O.J. No. L 327, 13.11.92, p.1.
(**36**) O.J. No. L 366, 31.12.94, p.1.
(**37**) O.J. No. L 21, 26.1.94, p.7.
(**38**) O.J. No. L 277, 30.10.96, p.1.
(**39**) 1993 c. 51.
(**40**) 1990 c. 16.

"relevant Community provision" means any Community provision referred to in column 1 or column 2 of Schedule 9;

"retail sale" means any sale to a person buying otherwise than for the purpose of resale but does not include a sale to a caterer in the course of the caterer's catering business or to a manufacturer in the course of the manufacturer's manufacturing business;

"third country" means any country or territory not forming part of the United Kingdom;

"the Wine Standards Board" means the Wine Standards Board of The Vintners' Company.

(2) Other expressions used in these Regulations have, in so far as the context admits, the same meanings as in Council Regulation 1493/1999 and, in relation to aromatized wines, in Council Regulation 1601/91.

(3) In these Regulations any reference to a numbered regulation or Schedule shall be construed as a reference to the regulation or Schedule so numbered in these Regulations.

(4) Column 3 of Schedule 9 (which provides in relation to each relevant Community provision an indication of the subject matter of the measure) shall not be read as limiting the scope of any relevant Community provision and shall be disregarded in relation to any question arising as to the construction of these Regulations.

PART II

GENERAL PROVISIONS

Official functions and enforcement

3.—(1) Subject to the provisions of this regulation, local authorities, the Scottish Ministers, the Commissioners and the Wine Standards Board are hereby designated as the authorities responsible for ensuring compliance with the Community provisions.

(2) Each local authority shall secure the enforcement of the relevant Community provisions in so far as they relate to the retail sale of products within its area.

(3) The Scottish Ministers, the Commissioners and the Wine Standards Board shall secure the enforcement of the relevant Community provisions in so far as they relate to the importation and exportation of any wine-sector product into Scotland from a third country or from Scotland to a third country.

(4) The Scottish Ministers and the Wine Standards Board shall secure the enforcement of the relevant Community provisions in so far as they relate to any matter not mentioned in paragraphs (2) or (3) above.

Definition of medium dry

4. For the purposes of Article 14(7)(b) of Commission Regulation 3201/90, wine may be labelled and described as "medium dry" if it has a residual sugar content not exceeding 18 grams per litre where the total acidity content of that wine expressed as grams of tartaric acid per litre is not more than 10 grams per litre below its residual sugar content.

Vine varieties

5. For the purposes of Article 19(1) and (2) of Council Regulation 1493/1999 and Article 20 of Commission Regulation 1227/2000, the vine varieties classified for the production of wine in Scotland are those specified in Schedule 10.

Geographical indications for table wine

6.—(1) In pursuance of Article 51(3) of Council Regulation 1493/1999, the use of a geographical indication for the designation of table wine produced in any part of Scotland is prohibited unless that table wine is produced–

(a) wholly from one or more of the varieties of vine specified in Schedule 10; and

(b) subject to paragraph (2) below, exclusively from grapes harvested in the geographical unit the name of which is used for the designation of that table wine.

(2) Notwithstanding paragraph (1)(b) above, a geographical indication may be used to designate a table wine obtained by the coupage of wines as permitted by Article 51(2) of Council Regulation 1493/1999.

(3) In paragraph (1)(b) above, "geographical unit" means a precisely demarcated area which–

(a) is a part of Scotland; and

(b) falls within the definition of a "geographical unit which is smaller than the Member State" in Article 51(1) of Council Regulation 1493/1999.

(4) Subject to point A, paragraph 2, of Annex VII to Council Regulation 1493/1999, no geographical indication other than the name of a geographical unit as specified in this regulation shall be used on the labelling or advertising of a table wine produced in any part of Scotland.

Powers of authorised officers

7.—(1) An authorised officer may, on producing, if so required, some duly authenticated document showing the authority of that officer, at any reasonable time enter any land or vehicle (other than where used solely as a dwelling), for the purpose of ascertaining whether any offence under these Regulations has been or is being committed or whether any offence under the Common Agricultural Policy (Wine) Regulations 1993(**41**), 1994(**42**), 1995(**43**) or 1996(**44**) has been committed.

(2) An authorised officer who has entered any land or vehicle in accordance with paragraph (1) above may, for the purpose specified in that paragraph or for the purpose of securing evidence of any such offence which the officer has reason to believe is or may be being, or has been or may have been, committed–

(a) inspect any materials or articles found in or on that land or vehicle;

(b) examine any register, record or document–

(i) which any person is required to keep under any relevant Community provision, or

(ii) which is in the possession or under the control of any person,

and may take copies of any such register, record or document, or of any entry in any such register, record or document and where any such register, record or document is kept by means of a computer, have access to, and inspect the operation of, any computer and any associated apparatus or material which is or has been in use in connection with that register, record or document and require such register, record, document or entry to be produced in a form in which it may be taken away;

(c) seize and retain any such register, record, document or entry which the authorised officer has reason to believe may be required as evidence in proceedings under these Regulations or under the Common Agricultural Policy (Wine) Regulations 1993, 1994, 1995 or 1996;

(**41**) S.I.1993/517, amended by S.I. 1993/3071 and revoked by S.I. 1994/674.
(**42**) S.I. 1994/674, revoked by S.I. 1995/615.
(**43**) S.I. 1995/615, revoked by S.I. 1996/696.
(**44**) S.I. 1996/696, amended by S.I. 1997/542, 1998/453 and 1999/482 and revoked by regulation 19 of these Regulations.

(d) undertake an inventory of products and of anything which may be used in the preparation of products; and

(e) purchase or take samples of any product and of anything which may be used for the preparation of any product.

(3) An authorised officer who has procured a sample of any product may analyse or examine that sample or have that sample analysed or examined.

(4) An authorised officer entering any land or vehicle by virtue of this regulation may be accompanied by such other persons as the officer considers necessary.

Control on movement

8.—(1) Where an authorised officer inspects any wine-sector product, the officer may prohibit the movement of the product if the officer has reason to believe that–

(a) an offence has been, is being or is likely to be committed in respect of it by contravention of, or failure to comply with, any relevant Community provision referred to in columns 1 or 2 of Part I, II, IV or VIII of Schedule 9; and

(b) there is or is likely to be a risk to public health in relation to that product or there has been or is likely to be any fraudulent treatment of that product.

(2) An authorised officer who exercises the power conferred by paragraph (1) above shall, without delay, give to the person who appears to the officer to be in charge of the wine-sector product concerned notice either in writing or in electronic form–

(a) specifying the wine-sector product in relation to which the power has been exercised;

(b) stating that the wine-sector product may not be moved without the consent of an authorised officer which may be given in writing or in electronic form;

(c) specifying the relevant Community provision in respect of which the officer has reason to believe that an offence has been, is being or is likely to be committed;

(d) specifying whether the officer considers that it would be practicable for steps to be taken to persuade the officer that the officer no longer has reason for that belief and, if so, what those steps should be.

(3) Where a notice described in paragraph (2) above is given by an authorised officer of the Wine Standards Board, that notice shall also contain information of–

(a) the right of the owner of the wine-sector product concerned, conferred by regulation 10, to have the giving of that notice reviewed, as to how that right may be exercised and of the effect of exercising that right; and

(b) the duty imposed by paragraph (5) below.

(4) Where a notice described in paragraph (2) above is given by an authorised officer of an appropriate enforcement authority other than the Wine Standards Board that notice shall also contain information of–

(a) the right of the owner of the wine-sector product concerned, conferred by regulation 11, to have the giving of that notice reviewed, and as to how that right may be exercised, and of the effect of exercising that right; and

(b) the duty imposed by paragraph (5) below.

(5) When the person in charge of a wine-sector product becomes aware of a prohibition on the movement of that product under regulation 8(1), that person shall without delay notify the relevant enforcement authority of the name and address of the owner of the wine-sector product concerned.

(6) When the relevant enforcement authority receives notification of the name and address of the owner of the wine-sector product concerned, the enforcement authority shall, without delay, give a

notice under paragraph (2) to the owner, unless the enforcement authority has already given such notice under paragraph (7) below.

(7) If the person to whom the officer gives notice does not appear to the officer to be the owner of the wine-sector product concerned or an agent, contractor or employee of the owner, the officer shall use best endeavours to give a notice under paragraph (2) above additionally to the owner as soon as possible, unless the enforcement authority has already given such notice under paragraph (6) above.

(8) An authorised officer may affix to any wine-sector product in relation to which the power conferred by paragraph (1) above has been exercised, or to any container in which the wine-sector product is packed, a label warning of the exercise of the power.

(9) An authorised officer who is satisfied that the steps specified in the notice under paragraph (2) (d) above have been taken shall remove the prohibition on movement imposed pursuant to paragraph (1) above.

Consent to movement

9.—(1) An authorised officer may, at any time, give written consent to the movement of a controlled wine-sector product.

(2) An authorised officer shall, upon request, give written consent to the movement of a controlled wine-sector product if the officer, or another authorised officer, has been given a written undertaking to the effect that–

(a) the wine-sector product will be moved to a place approved by an authorised officer; and

(b) the wine-sector product will not be moved from that place without the written consent of an authorised officer.

(3) A consent given by an authorised officer under this regulation shall–

(a) specify the wine-sector product to which it relates; and

(b) state that the wine-sector product continues to be controlled.

(4) An authorised officer who has been requested to give a consent under this regulation, and who refuses to do so, shall communicate that refusal together with notice of the right, conferred by regulation 10 or 11, to have that refusal reviewed, and an explanation as to how that right may be exercised and the effect of exercising that right.

Review of prohibitions etc. on movement of wine-sector products by Wine Standards Board

10.—(1) This regulation applies where an authorised officer of the Wine Standards Board–

(a) has given to a person who appears to the officer to be in charge of a wine-sector product a notice under regulation 8(2); or

(b) has refused to give consent to the movement of a controlled wine-sector product under regulation 9.

(2) The owner of the wine-sector product concerned may make a request either in writing or in electronic form to the Chief Executive of the Wine Standards Board for the Chief Executive to review the giving of the notice or refusal.

(3) Where a request for the review of a notice or of a refusal is received by the Chief Executive of the Wine Standards Board the Chief Executive shall within fourteen days from the receipt by the Chief Executive of the request–

(a) afford the aggrieved person an opportunity of making representations to the Chief Executive;

(b) following consideration of those representations review the notice or refusal; and

(c) communicate the Chief Executive's decision on the review together with a statement giving the full reasons for the decision to the aggrieved person.

(4) Where a person is dissatisfied with the decision of the Chief Executive of the Wine Standards Board on a review, that person may make a request either in writing or in electronic form to the Chairman of the Wine Standards Board for a further review by the Wine Standards Board (which, for the avoidance of doubt, shall not include the Chief Executive) of the giving of the notice or of the refusal.

(5) The procedure and quorum for a meeting of the Wine Standards Board considering a request for the review of a notice or of a refusal under this regulation shall be such as it determines.

(6) The Wine Standards Board shall communicate its decision on the review together with a statement giving the full reasons for the decision to the aggrieved person.

(7) Where review of the giving of the notice or refusal is requested the Chief Executive of the Wine Standards Board or the Wine Standards Board, as the case may be, shall, if satisfied that the decision of the authorised officer to give the notice or refuse consent was not justified, cause the prohibition on movement and the notice to be withdrawn or, as the case may be, give consent to the movement of the controlled wine-sector product concerned.

Review of prohibitions etc. on movement of wine-sector products by enforcement authorities other than the Wine Standards Board

11.—(1) This regulation applies where an authorised officer of an appropriate enforcement authority other than the Wine Standards Board–

(a) has given to a person who appears to the officer to be in charge of a wine-sector product a notice under regulation 8(2); or

(b) has refused to give consent to the movement of a controlled wine-sector product under regulation 9.

(2) The owner of the wine-sector product concerned may each make a request either in writing or in electronic form to the relevant enforcement authority for the enforcement authority to review the giving of the notice.

(3) Where a request for the review of a notice or of a refusal is received by the appropriate enforcement authority, the enforcement authority shall–

(a) afford the aggrieved person an opportunity of making representations for consideration by an officer of the enforcement authority who has not been involved in the initial decision who will prepare a report following consideration of those representations;

(b) supply a copy of the report by that officer to the aggrieved person;

(c) consider the report by that officer before making a decision on the review; and

(d) communicate the decision on the review together with a statement giving the full reasons for the decision to the aggrieved person.

(4) The enforcement authority shall, if satisfied that the decision of the authorised officer to give the notice or refuse consent was not justified, cause the prohibition on movement and the notice to be withdrawn or, as the case may be, give consent to the movement of the controlled wine-sector product concerned.

Authorised officer acting in good faith

12.—(1) Subject to paragraph (2) below, an authorised officer or a person accompanying an authorised officer shall not be liable in any civil or criminal proceedings for anything done in the purported exercise of the functions conferred by these Regulations if the court is satisfied that–

(a) the act was done in good faith;

(b) there were reasonable grounds for doing it; and

(c) it was done with reasonable skill and care.

(2) Nothing in paragraph (1) above shall be construed as relieving an enforcement authority from any liability in respect of the acts of its authorised officers.

(3) Where a claim has been made against an authorised officer in respect of an act done by the officer in the purported exercise of the functions conferred by these Regulations and the circumstances are such that the officer is not legally entitled to require indemnification from the enforcement authority, the authority may, nevertheless, indemnify the officer against the whole or part of the claim and any expenses, if the authority is satisfied that–

(a) the act was done in good faith;

(b) there were reasonable grounds for doing it; and

(c) it was done with reasonable skill and care.

Power to require analysis or examination

13.—(1) The court before which any proceedings are brought for an offence under these Regulations may, if it thinks fit for the purposes of the proceedings, cause any article which is the subject of the proceedings, and, if it has already been analysed or examined, is capable of being further analysed or examined, to be sent to a food analyst or food examiner, who shall make such analysis or examination as is appropriate and transmit to the court a certificate of the result thereof.

(2) If in a case in which an appeal is brought no action has been taken under paragraph (1) above in respect of a particular article, the provisions thereof shall apply as respects that article in relation to the court by which the appeal is heard.

(3) Any certificate of the results of an analysis or examination, which, in the course of proceedings is transmitted by a food analyst or food examiner under this regulation, shall be signed by that food analyst or food examiner, but the analysis or examination may be made by any person acting under the direction of the food analyst or food examiner by whom the certificate is signed.

(4) In any proceedings under these Regulations, the transmission to the court under this regulation or production by one of the parties–

(a) of a document purporting to be a certificate given by a food analyst or food examiner; or

(b) of a document supplied to that party by the other party as being a copy of such a certificate,

shall be sufficient evidence of the facts stated in it unless any party to the proceedings requires that the person by whom the certificate is signed be called as a witness.

PART III

OFFENCES, PENALTIES AND REVOCATIONS

Offences and penalties

14.—(1) Any person who contravenes, or fails to comply with, regulation 6 or any obligation or condition contained in any of the relevant Community provisions referred to in column 1 or 2 of Parts I, II, IV or VIII of Schedule 9, shall be guilty of an offence and liable–

(a) on summary conviction, to a fine not exceeding the statutory maximum; or

(b) on conviction on indictment, to a fine.

(2) Any person who–

(a) contravenes, or fails to comply with, any obligation or condition contained in any of the relevant Community provisions referred to in column 1 or 2 of Parts III, V, VI or VII of Schedule 9; or

(b) discloses to any other person any information obtained by the person making the disclosure in pursuance of the duties of the last mentioned person under these Regulations, unless the disclosure is made in, or for the purposes of, the performance by that person or any other person of any functions under these Regulations, or in pursuance of a Community obligation,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

Movement of a controlled wine-sector product

15.—(1) Any person who, knowing a wine-sector product to be a controlled wine-sector product–

(a) moves it; or

(b) causes it to be moved,

without the written consent of an authorised officer shall be guilty of an offence.

(2) Any person who, knowing a wine-sector product to be a controlled wine-sector product–

(a) removes from it; or

(b) causes to be removed from it,

a label which has been affixed under regulation 8(6) shall be guilty of an offence.

(3) Any person who fails to comply with an undertaking given by that person for the purposes of regulation 9(2) shall be guilty of an offence.

(4) It shall be a defence for a person charged with any offence under this regulation to prove that–

(a) when the power conferred by regulation 8(1) was exercised, no offence had been, was being or was likely to be committed in respect of the wine-sector product concerned; and

(b) there was a reasonable excuse for the act or omission in respect of which that person is charged.

(5) A person guilty of an offence under this regulation shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Obstruction

16. Any person who–

(a) intentionally obstructs an authorised officer exercising functions conferred by these Regulations;

(b) fails to give any such officer any assistance or information or to provide any facilities which that officer may reasonably require of that person for the purposes of the functions of the officer under these Regulations; or

(c) contravenes or fails to comply with regulation 8(5),

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Offences by officers of bodies corporate

17.—(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 be attributable to

any neglect on the part of, any person who is a director, manager, secretary or a similar officer of the body corporate, or who was purporting to act in any such capacity, that person 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 the functions of management of that member as if that member were a director of the body corporate.

Defence of due diligence

18. In any proceedings for an offence under regulation 14 or 16(b) it shall be a defence for the person charged to prove that that person took all reasonable precautions and exercised all due diligence to avoid committing the offence and to avoid the commission of the offence by a person under the control of the person charged.

Revocations

19. The Common Agricultural Policy (Wine) Regulations 1996(**45**), the Common Agricultural Policy (Wine) (Amendment) Regulations 1997(**46**), the Common Agricultural Policy (Wine) (Amendment) Regulations 1998(**47**) and the Common Agricultural Policy (Wine) (Amendment) Regulations 1999(**48**) are hereby revoked.

St Andrew's House,
Edinburgh
27th June 2002

ROSS FINNIE
A member of the Scottish Executive

(**45**) S.I. 1996/696, amended by S.I. 1997/542, 1998/453 and 1999/482.
(**46**) S.I. 1997/542.
(**47**) S.I. 1998/453.
(**48**) S.I. 1999/482.