SCOTTISH STATUTORY INSTRUMENTS

2002 No. 325

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

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(**1**), the Common Agricultural Policy (Wine) (Amendment) Regulations 1997(**2**), the Common Agricultural Policy (Wine) (Amendment) Regulations 1998(**3**) and the Common Agricultural Policy (Wine) (Amendment) Regulations 1999(**4**) are hereby revoked.

(**1**) S.I.1996/696, amended by S.I. 1997/542, 1998/453 and 1999/482.
(**2**) S.I. 1997/542.
(**3**) S.I. 1998/453.
(**4**) S.I. 1999/482.