
STATUTORY INSTRUMENTS

1996 No. 696

The Common Agricultural Policy (Wine) Regulations 1996

PART II

GENERAL PROVISIONS

Official functions and enforcement

3.—(1) Subject to the provisions of this regulation, local authorities, the Minister, the Commissioners and the Wine Standards Board are hereby designated as—

- (a) competent authorities for the purposes of the Community provisions, and
- (b) agencies for the purpose of the discharge, in relation to the wine sector, of the official functions of agencies (other than intervention agencies) under the Community provisions.

(2) For the purposes of Article 4(2) of Council Regulation (EEC) No. 2048/89 laying down general rules on controls in the wine sector, the Minister of Agriculture, Fisheries and Food is hereby designated as the liaison authority for the United Kingdom.

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

(4) The Minister, the Commissioners and the Wine Standards Board shall secure the enforcement and execution of the relevant Community provisions in so far as they relate to the importation and exportation of any wine-sector product to or from the United Kingdom.

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

(6) Nothing in this regulation shall be taken as authorising the Wine Standards Board or the Commissioners or, in relation to Scotland only, the Minister or a local authority to institute proceedings for an offence.

Definition of medium dry

4. For the purposes of Article 14(7)(b) of Commission Regulation (EEC) No. 3201/90, as amended, laying down detailed rules for the description and presentation of wines and grape musts⁽¹⁾, 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.

(1) OJ No. L309, 8.11.90, p.1, the amendments to which are specified at item 38 in column 1 of Schedule 1 to these Regulations; they are not relevant to Article 14(7)(b) of the Regulation.

Geographical ascriptions for table wine

5.—(1) In pursuance of Article 72(2) of Council Regulation (EEC) No. 822/87, as amended, on the common organization of the market in wine⁽²⁾, the use of a geographical ascription for the designation of table wine produced in any part of the United Kingdom is prohibited unless—

- (a) that table wine is produced wholly from one or more of the varieties of vine specified in Schedule 3, and
- (b) that table wine is produced 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 ascription may be used to designate a table wine obtained by the coupage of wines as permitted by Article 72(3) of Council Regulation (EEC) No. 822/87, as amended, on the common organization of the market in wine.

(3) In paragraph (1)(b) above “geographical unit” means a precisely demarcated area which—

- (a) is a part of the United Kingdom; and
- (b) satisfies the definition of “a geographical unit which is smaller than the Member State” in Article 4(1) of Council Regulation (EEC) No. 2392/89, as amended, laying down general rules for the description and presentation of wines and grape musts⁽³⁾.

(4) No geographical ascription 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 the United Kingdom.

(5) Notwithstanding paragraph (4) above, the expression “United Kingdom” may be used on the labelling or advertising of a table wine produced in any part of the United Kingdom, to describe the origin of that wine, in accordance with Article 2 of Council Regulation (EEC) No. 2392/89, as amended, laying down general rules for the description and presentation of wines and grape musts.

Exemption relating to labelling requirements

6. The relevant Community provisions relating to the information required on labels of the products mentioned in Article 1 of Council Regulation (EEC) No. 2392/89, as amended, laying down general rules for the description and presentation of wines and grape musts shall not apply to—

- (a) unlabelled products which are transported between two or more establishments or between vineyards and wine making plants, in either case belonging to the same undertaking and situated in the same local administrative area;
- (b) unlabelled quantities of grape musts and wines not exceeding 15 litres per batch and not intended for sale;
- (c) unlabelled quantities of grape musts and wines intended for the domestic consumption of the producer and his employees.

Exemption relating to planting and other prohibitions

7. The provisions of Article 13(1) of Council Regulation (EEC) No. 2389/89⁽⁴⁾, as amended, relating to the prohibition of the planting, field grafting and double-grafting of vine varieties not listed in the classification referred to in Article 1 of that Regulation shall not apply where the purpose of the planting is one of the purposes set out in the first sub-paragraph of Article 13(2) thereof.

(2) OJ No. L84, 27.3.87, p.1, the amendments to which are specified at item 26 in column 1 of Schedule 1 to these Regulations; they are not relevant to Article 72(2) of the Regulation.

(3) OJ No. L232, 9.8.89, p.13, the amendments to which are specified at item 35 in column 1 of Schedule 1 to these Regulations; they are not relevant to Article 4(1) of the Regulation.

(4) OJ No. L232, 9.8.89, p.1, the amendment to which is specified at item 33 in column 1 of Schedule 1 to these Regulations; it is not relevant to Article 13(1) of the Regulation.

Powers of authorised officers

8.—(1) An authorised officer may, on producing, if so required, some duly authenticated document showing his authority, at any reasonable time enter any land or vehicle (other than any land or a vehicle 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, 1994 or 1995 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 he 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) subject to paragraph (5) below, examine any register, record or appropriate 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) subject to paragraph (5) below, seize and retain any such register, record, document or entry which he has reason to believe may be required as evidence in proceedings under these Regulations;
- (d) undertake stock counts 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 take with him such other persons as he considers necessary.

(5) An authorised officer shall not be entitled under paragraph (2)(b) or (c) above to examine, copy, seize or retain any record or document so far as—

- (a) it is in England or Wales and comprises—
 - (i) an item subject to legal privilege within the meaning of section 10 of the Police and Criminal Evidence Act 1984⁽⁵⁾,
 - (ii) excluded material within the meaning of section 11 of that Act, or
 - (iii) special procedure material within the meaning of section 14 of that Act,
- (b) it is in Scotland and comprises an item subject to legal privilege within the meaning of section 40 of the Criminal Justice (Scotland) Act 1987⁽⁶⁾,
- (c) it is in Northern Ireland and comprises—
 - (i) an item subject to legal privilege within the meaning of article 12 of the Police and Criminal Evidence (Northern Ireland) Order 1989⁽⁷⁾,

⁽⁵⁾ 1984 c. 60.

⁽⁶⁾ 1987 c. 41.

⁽⁷⁾ S.I.1989/1341 (N.I.12).

- (ii) excluded material within the meaning of article 13 of that Order, or
- (iii) special procedure material within the meaning of article 16 of that Order.

Control on movement

9.—(1) Where an authorised officer inspects any wine-sector product he may prohibit its movement if he has reason to believe that 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, III, V or IX of Schedule 2 and that 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 officer who exercises the power conferred by paragraph (1) above shall, without delay, give to the person who appears to him to be in charge of the wine-sector product concerned notice in writing—

- (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 written consent of an authorised officer;
- (c) specifying the Community provision in respect of which he has reason to believe that an offence has been, is being or is likely to be committed; and
- (d) specifying whether he considers that it would be practicable for steps to be taken to persuade him to cease to have 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 the recipient's right, contained in 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.

(4) If the person to whom the officer gives the notice does not appear to him to be the owner of the wine-sector product concerned or an agent, contractor or employee of the owner, the officer shall use his best endeavours to bring the contents of the notice additionally to the attention of such a person as soon as possible.

(5) 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, labels warning of the exercise of the power.

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

Consent to movement

10.—(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 he, 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 of the Wine Standards Board who has been requested to give a consent under this regulation, and who refuses to do so, shall communicate that refusal in writing together with written notice of the right, contained in regulation 11, to have that refusal reviewed, and explaining how that right may be exercised and the effect of exercising that right.

Review of prohibitions etc. on movement of wine-sector products

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

- (a) has given to a person who appears to him to be in charge of a wine-sector product a notice under regulation 9(2); or
- (b) has refused to give consent to the movement of a controlled wine-sector product under regulation 10.

(2) A person to whom the notice or refusal has been given may make a written request to the Secretary to the Wine Standards Board for him to review the giving of the notice or refusal.

(3) Where a request for the review of a notice or refusal is received by the Secretary to the Wine Standards Board he shall review the notice or refusal and communicate his decision on the review within fourteen days from his receipt of the request.

(4) Where a person is dissatisfied with the decision of the Secretary to the Wine Standards Board on a review he may make a written request to the Chairman of the Wine Standards Board for a further review by the Wine Standards Board of the giving of the notice or refusal.

(5) On such a request the Wine Standards Board shall, if satisfied that the decision of the authorised officer to give the notice or refuse consent was not justified, cause the notice to be withdrawn or, as the case may be, give consent to the movement of the controlled wine-sector product concerned.

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

Authorised officer acting in good faith

12.—(1) An authorised officer shall not be personally liable in respect of any act done in the execution or purported execution of these Regulations and within the scope of his employment, if—

- (a) in relation to an act done by him, he did that act in the honest belief that these Regulations required or empowered him to do it, and
- (b) in relation to an act of a person accompanying him and acting under his instructions, he honestly believed that these Regulations empowered him to instruct that person to do it.

(2) A person accompanying an authorised officer shall not be personally liable in respect of any act done by him in the execution or purported execution of these Regulations, if—

- (a) he did that act on the instructions of the authorised officer, and
- (b) he honestly believed that these Regulations empowered the authorised officer to give him those instructions.

(3) 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.

(4) Where an action has been brought against an authorised officer in respect of an act done by him in the execution or purported execution of these Regulations and the circumstances are such that he is not legally entitled to require the enforcement authority to indemnify him, the authority may, nevertheless, indemnify him against the whole or part of any damages and costs or in Scotland of any damages and expenses which he may have been ordered to pay or which he may have incurred,

if that authority is satisfied that he honestly believed the act complained of was within the scope of his employment and that his duty under the Regulations required or entitled him to do it.

Power to require analysis or examination

13.—(1) Subject to paragraph (3) below, 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, and the costs of the analysis or examination shall be paid by the prosecutor or the person charged as the court may order.

(2) Subject to paragraph (3) below, if in a case in which an appeal is brought no action has been taken under paragraph (1) of this regulation as respects a particular article, the provisions thereof shall apply as respects that article in relation to the court by which the appeal is heard.

(3) Paragraphs (1) and (2) above shall not apply to proceedings in Scotland.

(4) Any certificate of the results of an analysis or examination, which—

- (a) in the course of proceedings in England, Wales or Northern Ireland is transmitted by a food analyst or food examiner under this regulation, or
- (b) in the course of proceedings in Scotland under these Regulations is produced by a party to the proceedings,

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 person by whom the certificate is signed.

(5) 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 him 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.