
WELSH STATUTORY INSTRUMENTS

2001 No. 2193

**The Common Agricultural Policy
(Wine) (Wales) Regulations 2001**

PART II

GENERAL PROVISIONS

Official functions and enforcement

3.—(1) Subject to the provisions of this regulation, local authorities, the National Assembly, 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 and execution of the relevant Community provisions in so far as they relate to the retail sale of products within its area.

(3) The National Assembly, 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 into Wales from a third country or from Wales to a third country.

(4) The National Assembly 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 (2) or (3) above.

(5) Nothing in this regulation shall be taken as authorising the Wine Standards Board or the Commissioners to institute proceedings for an offence.

Definition of medium dry

4. For the purposes of Article 14(7)(b) of Commission Regulation (EEC) 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.

Vine varieties

5. For the purposes of Article 19(1) and (2) of Council Regulation (EC) 1493/1999 and Article 20 of Commission Regulation (EC) 1227/2000 laying down detailed rules for the application of Council Regulation 1493/1999 on the common organisation of the market in wine, as regards production potential⁽²⁾, the vine varieties classified for the production of wine in Wales are those specified in Schedule 3, amongst which those that are not permitted for the production of quality wines psr in the specified regions are indicated by an asterisk.

(1) OJNo. L309, 8.11.90, p.1, as last amended by Commission Regulation (EC) 2770/98 (OJ No. L346, 22.12.98, p.25); the amendments are not relevant to Article 14(7)(b) of the Regulation.

(2) OJ No. L143, 16.6.2000, p.1.

Geographical indications for table wine

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

- (a) wholly from one or more of the varieties of vine specified in Schedule 3, and
- (b) 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 the said Council Regulation (EC) 1493/1999.

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

- (a) is a part of Wales; and
- (b) falls within the definition of a “geographical unit which is smaller than the Member State” in Article 51(1) of the said Council Regulation (EC) 1493/1999.

(4) Subject to Point A, paragraph 2 of Annex VII to the said Council Regulation (EC) 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 Wales.

Powers of authorised officers

7.—(1) An authorised officer may, on producing, if so required, some duly authenticated document showing his or her 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, 1995 or 1996 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 or she 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 or she has reason to believe may be required as evidence in proceedings under 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 take with him or her such other persons as he or she 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 it comprises—

- (a) an item subject to legal privilege within the meaning of section 10 of the Police and Criminal Evidence Act 1984(3),
- (b) excluded material within the meaning of section 11 of that Act, or
- (c) special procedure material within the meaning of section 14 of that Act.

Control on movement

8.—(1) Where an authorised officer inspects any wine-sector product he or she may prohibit its being moved if he or she 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 or her 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 or she has reason to believe that an offence has been, is being or is likely to be committed; and
- (d) specifying whether he or she considers that it would be practicable for steps to be taken to persuade him or her that he or she 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 the recipient's right, conferred by regulation 10, 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 or her to be the owner of the wine-sector product concerned or an agent, contractor or employee of the owner, the officer shall use his or her 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

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 he or she, 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, conferred by regulation 10, 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 notices and refusals on movement of wine-sector products

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

- (a) has given to a person who appears to him or her 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) A person to whom the notice or refusal has been given may make a written request to the Chief Executive of the Wine Standards Board for him or her 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 Chief Executive of the Wine Standards Board he or she shall review the notice or refusal and communicate his or her decision on the review within fourteen days from receipt of the request.

(4) Where a person is dissatisfied with the decision of the Chief Executive of the Wine Standards Board on a review he or she 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

11.—(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 or her employment, if—

- (a) in relation to an act done by him or her, he or she did that act in the honest belief that these Regulations required or empowered him or her to do it, and

- (b) in relation to an act of a person accompanying him or her and acting under his or her instructions, he or she honestly believed that these Regulations empowered him or her 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 or her in the execution or purported execution of these Regulations, if—
 - (a) he or she did that act on the instructions of the authorised officer, and
 - (b) he or she honestly believed that these Regulations empowered the authorised officer to give him or her 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 or her in the execution or purported execution of these Regulations and the circumstances are such that he or she is not legally entitled to require the enforcement authority to indemnify him or her, the authority may, nevertheless, indemnify him or her against the whole or part of any damages and costs, if that authority is satisfied that he or she honestly believed the act complained of was within the scope of his or her employment and that his duty under these Regulations required or entitled him or her to do it.

Power to require analysis or examination

12.—(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, and the costs of the analysis or examination shall be paid by the prosecutor or the person charged as the court may order.

(2) 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) 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 person 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 him or her 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.