
STATUTORY INSTRUMENTS

1994 No. 674

The Common Agricultural Policy (Wine) Regulations 1994

PART I

TITLE, COMMENCEMENT, INTERPRETATION AND REVOCATION

Title, extent and commencement

1. These Regulations may be cited as the Common Agricultural Policy (Wine) Regulations 1994, shall apply throughout the United Kingdom and shall come into force on 1st April 1994.

Interpretation and revocation

2.—(1) In these Regulations, unless the context otherwise requires—

“analysis” has, in relation to England, Wales and Scotland, the same meaning as in section 53(1) of the Food Safety Act 1990⁽¹⁾ and, in relation to Northern Ireland, the same meaning as in Article 2(2) of the Food Safety (Northern Ireland) Order 1991⁽²⁾;

“authorised officer” means any person (whether or not an officer of that authority) who is authorised for the purposes of these Regulations by an enforcement authority;

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

“Community provision” means any provision of any Regulation of the European Communities which is referred to in Schedule 1 to these Regulations, or of the Treaties relating to the accession to the European Communities, respectively, of the Hellenic Republic signed at Athens on 28th May 1979⁽³⁾ and of the Kingdom of Spain and the Portuguese Republic signed, respectively, at Madrid and Lisbon on 12th June 1985⁽⁴⁾;

“controlled wine-sector product” means any wine-sector product whose movement has been prohibited pursuant to regulation 9 of these Regulations;

“county” means in relation to England, a county established by section 1 of the Local Government Act 1972⁽⁵⁾ and in relation to Wales, a county established by section 20 of that Act;

“enforcement authority” means—

- (a) in relation to any part of the United Kingdom, the Commissioners or the Wine Standards Board;
- (b) in relation to England, the Minister of Agriculture, Fisheries and Food;
- (c) in relation to Scotland or Wales, the Secretary of State;

(1) 1990 c. 16.

(2) S.I.1991/762 (N.I.7).

(3) OJ No L291, 19.11.79, p.17.

(4) OJ No L302, 15.11.85, p.23.

(5) 1972 c. 70.

(d) in relation to Northern Ireland, the Department of Health and Social Services for Northern Ireland and the Department of Agriculture for Northern Ireland acting jointly;

(e) in relation to the area of a local authority, the local authority.

“establishment” has the same meaning as in Article 1(3) of Council Regulation (EEC) No. 2392/89, as amended, laying down general rules for the description and presentation of wines and grape musts⁽⁶⁾;

“examination” has, in relation to England, Wales and Scotland, the same meaning as in section 28(2) of the Food Safety Act 1990 and, in relation to Northern Ireland, the same meaning as in Article 2(2) of the Food Safety (Northern Ireland) Order 1991;

“food analyst” and “food examiner” have, in relation to England, Wales and Scotland, the same meanings as in section 30(9) of the Food Safety Act 1990 and, in relation to Northern Ireland, the same meanings as in Articles 30(9) and 31(3) of the Food Safety (Northern Ireland) Order 1991;

“local administrative area” has the same meaning as in Article 1(3) of Council Regulation (EEC) No. 2392/89, as amended, laying down general rules for the description and presentation of wines and grape musts;

“local authority” means—

- (i) as respects England, an authority (other than the Council of a non-metropolitan district) which is a food authority for the purpose of the Food Safety Act 1990;
- (ii) as respects Wales, a county council;
- (iii) as respects Scotland, an authority which is a food authority for the purposes of the Food Safety Act 1990;
- (iv) as respects Northern Ireland, a district council;

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

“the Minister” means, in relation to England, the Minister of Agriculture, Fisheries and Food, in relation to Scotland, or Wales, the Secretary of State and, in relation to Northern Ireland, the Department of Health and Social Services for Northern Ireland and the Department of Agriculture for Northern Ireland acting jointly;

“relevant Community provision” means any Community provision referred to in Column 1 or Column 2 of Schedule 2 to these Regulations, the subject matter of which is described in Column 3 thereof;

“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 his catering business or to a manufacturer in the course of his manufacturing business;

“the Wine Standards Board” means the Wine Standards Board of The Vintners' Company;

“wine” and “wine-sector product” shall include aromatized wine.

(2) Other expressions used in these Regulations have, in so far as the context admits, the same meanings as in Council Regulation (EEC) No. 2048/89 laying down general rules on controls in the wine sector⁽⁷⁾ and, in relation to aromatized wines, in Council Regulation (EEC) No. 1601/91, as amended, laying down general rules on the description and presentation of aromatized wines, aromatized wine-based drinks and aromatized wine-product cocktails⁽⁸⁾.

⁽⁶⁾ OJ No L232, 9.8.89, p.13, the amendments to which are specified at item 37 in column 1 of Schedule 1 to these Regulations; they are not relevant to Article 1(3) of the Regulation.

⁽⁷⁾ OJ No L202, 14.7.89, p.32.

⁽⁸⁾ OJ No L149, 14.6.91, p.1, the amendment to which is specified at item 42 in column 1 of Schedule 1 to these Regulations.

(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) The Common Agricultural Policy (Wine) Regulations 1993⁽⁹⁾ and the Common Agricultural Policy (Wine) (Amendment) Regulations 1993⁽¹⁰⁾ are hereby revoked subject to paragraph (5) below.

(5) In relation to the application of Part III of these Regulations and Schedules 4 to 6 below to any wine produced from grapes harvested before 1st September 1993, that Part and those Schedules shall be read as if their contents were identical to those of the corresponding Part of and Schedules to the Common Agricultural Policy (Wine) Regulations 1993.

PART II

GENERAL PROVISIONS

Enforcement

3.—(1) Subject to the provisions of this regulation, local authorities, the Minister, the Commissioners and the Wine Standards Board are hereby designated competent authorities or agencies for the purpose of the enforcement of 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) of this regulation.

(6) Nothing in this regulation shall be taken as authorising in the United Kingdom 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⁽¹¹⁾ 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.

⁽⁹⁾ S.I. 1993/517.

⁽¹⁰⁾ S.I. 1993/3071.

⁽¹¹⁾ OJ No L309, 8.11.90, p.1, the amendments to which are specified at item 40 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⁽¹²⁾, 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⁽¹³⁾.

(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.

Exemptions

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.

7. The provisions of Article 13(1) of Council Regulation (EEC) No. 2389/89⁽¹⁴⁾, 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.

(12) OJ No L84, 27.3.87, p.1, the amendments to which are specified at item 27 in column 1 of Schedule 1 to these Regulations; they are not relevant to Article 72(2) of the Regulation.

(13) OJ No L232, 9.8.89, p.13, the amendments to which are specified at item 37 in column 1 of Schedule 1 to these Regulations; they are not relevant to Article 4(1) of the Regulation.

(14) OJ No L232, 9.8.89, p.1, the amendment to which is specified at item 35 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, or under the Common Agricultural Policy (Wine) Regulations 1993, has been or is being 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 or have analysed or examined that sample.

(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⁽¹⁵⁾,
 - (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⁽¹⁶⁾, or
- (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⁽¹⁷⁾,

⁽¹⁵⁾ 1984 c. 60.

⁽¹⁶⁾ 1987 c. 41.

⁽¹⁷⁾ 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; and
- (c) specifying the 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.

(3) 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.

(4) 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.

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.

Authorised officer acting in good faith

11.—(1) 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 and within the scope of his employment, if he did that act in the honest belief that his duty under these Regulations required or entitled him to do it.

(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 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.

(4) In this regulation “authorised officer” includes a person accompanying him and acting under his instructions.

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, transmitted by a food analyst or food examiner under this regulation shall be signed by or on behalf of that food analyst or food examiner, but the analysis or examination may be made by any person under the direction of the person by whom the certificate is signed; and any certificate so transmitted by a food analyst or food examiner shall be evidence of the facts stated therein unless any party to the proceedings requires that the person by whom it is signed or a person acting under his direction be called as a witness.

PART III

QUALITY WINES PRODUCED IN SPECIFIED REGIONS

Interpretation of Part III

13.—(1) In this Part—

“Regulation 823/87” means Council Regulation (EEC) No.823/87, as amended, laying down special provisions relating to quality wines produced in specified regions⁽¹⁸⁾;

“quality wines psr” has the meaning assigned to it by Article 1(2) of Regulation 823/87;

“specified regions” mean, unless the context otherwise requires, English Vineyards and Welsh Vineyards as defined in regulation 14.

(2) Other expressions used in this Part have, in so far as the context admits, the same meanings as in Regulation 823/87.

⁽¹⁸⁾ OJ No.L84, 27.3.87, p.59, the amendments to which are specified at item 28 in column 1 of Schedule 1 to these Regulations.

Specified regions

14.—(1) Subject to paragraph (2) below, the specified regions in the United Kingdom for the purposes of Article 3 of Regulation 823/87 are—

- (a) English Vineyards, comprising the areas of the counties, subject to any alteration of boundaries under Part IV of the Local Government Act 1972⁽¹⁹⁾, described in Part I of Schedule 4, and
- (b) Welsh Vineyards, comprising the areas of the counties, subject to any alteration of boundaries under Part IV of the Local Government Act 1972, described in Part II of Schedule 4.

(2) There shall be excluded from the areas described in Part I and Part II of Schedule 4 any land situated at an altitude of more than 220 metres above sea level.

Vine varieties

15. For the purposes of Article 4 of Regulation 823/87, the list of vine varieties of the species *Vitis vinifera* suitable for producing quality wines psr in the specified regions is specified in Schedule 5.

Minimum natural alcoholic strength

16. The minimum natural alcoholic strength for quality wines psr produced in the specified regions shall be 6%.

Authorisation under Article 6(3) of Regulation 823/87

17. Notwithstanding the provisions of the second indent of Article 6(1) of Regulation 823/87, which requires the processing of grapes into must and the processing of that must into wine as well as the production of such wine within the specified region where the grapes used were harvested, a quality wine psr may be produced in an area in immediate proximity to a specified region.

Maximum yield

18. For the purposes of Article 11 of Regulation 823/87, the maximum yield for each hectare of land cultivated with vines for producing quality wines psr in the specified regions shall be 100 hectolitres.

Analytical test

19. The tests to be carried out for the purposes of the analytical test for quality wines psr produced in the specified regions are specified in Schedule 6.

PART IV

OFFENCES AND PENALTIES

Offences and penalties

20.—(1) If any person contravenes, or fails to comply with, regulation 5 or any of the relevant Community provisions referred to in Columns 1 or 2 of Parts I, II, III, V or IX of Schedule 2, he shall be guilty of an offence and liable—

(19) 1972 c. 70.

- (a) on summary conviction in Great Britain to a fine not exceeding the statutory maximum or on such conviction in Northern Ireland to a fine not exceeding £2,000; or
 - (b) on conviction on indictment, to a fine.
- (2) If any person—
- (a) contravenes, or fails to comply with, any of the relevant Community provisions referred to in Columns 1 or 2 of Parts IV, VI, VII or VIII of Schedule 2, or
 - (b) discloses to any other person any information obtained by him in pursuance of his duties under these Regulations, unless the disclosure is made in, or for the purposes of, the performance by him or any other person any functions under these Regulations, or in pursuance of a Community obligation,

he shall be guilty of an offence and liable on summary conviction in Great Britain to a fine not exceeding level 4 on the standard scale or on such conviction in Northern Ireland to a fine not exceeding £1,000.

Movement of a controlled wine-sector product

21.—(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 9(4) shall be guilty of an offence.

(3) Any person who fails to comply with an undertaking given by him for the purposes of regulation 10 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 9(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) that there was a reasonable excuse for the act or omission in respect of which he is charged.

(5) A person guilty of an offence under this regulation shall be liable on summary conviction in Great Britain to a fine not exceeding level 5 on the standard scale or on such conviction in Northern Ireland to a fine not exceeding £2,000.

Obstruction

22. Any person who—

- (a) intentionally obstructs an authorised officer (or a person accompanying him and acting under his instructions) acting in the execution of these Regulations; or
- (b) fails to give to any such officer any assistance or information or to provide any facilities which that officer may reasonably require of him for the purposes of his functions under these Regulations

shall be guilty of an offence and liable on summary conviction in Great Britain to a fine not exceeding level 3 on the standard scale or on such conviction in Northern Ireland to a fine not exceeding £400.

Offences by officers of bodies corporate

23.—(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 director, manager, secretary or a 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.

(3) Where an offence under these Regulations is committed in Scotland by a Scottish partnership and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner, he as well as the partnership shall be guilty of the offence and be liable to be proceeded against and punished accordingly.

Defence of due diligence

24. In any proceedings for an offence under regulation 20 or 22(b) 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 the offence by himself or by a person under his control.

In witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on

L.S.

8th March 1994.

Gillian Shephard
Minister of Agriculture, Fisheries and Food

8th March 1994

Hector Monro
Parliamentary Under-Secretary of State, Scottish
Office