

Commission Regulation (EEC) No 1842/81 of 3 July 1981 laying down detailed rules for implementing Regulation (EEC) No 1188/81 relating to general rules for granting refunds adjusted in the case of cereals exported in the form of certain spirituous beverages

COMMISSION REGULATION (EEC) No 1842/81

of 3 July 1981

laying down detailed rules for implementing Regulation (EEC) No 1188/81 relating to general rules for granting refunds adjusted in the case of cereals exported in the form of certain spirituous beverages

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 2727/75 of 29 October 1975 on the common organization of the market in cereals<sup>(1)</sup>, as last amended by Regulation (EEC) No 1784/81<sup>(2)</sup>, and in particular Articles 16 (6) and 24 thereof,

Having regard to Council Regulation (EEC) No 1188/81 of 28 April 1981 laying down general rules for granting refunds adjusted in the case of cereals exported in the form of certain spirituous beverages and the criteria for fixing the amount of such refunds and amending Regulation (EEC) No 3035/80 concerning certain products not covered by Annex II to the Treaty<sup>(3)</sup>, and in particular Article 12 thereof,

Whereas pursuant to Article 4 (2) of Regulation (EEC) No 1188/81 the rate of the refund is that applicable on the day on which the cereals are placed under control; whereas the date to be taken into consideration must therefore be the date on which the customs authorities accept the payment declaration by the person concerned by which he manifests his intention to distil and to export the products and qualify for a refund; whereas this declaration must include the information necessary for calculating the refunds;

Whereas, for the purposes of Article 3 of Regulation (EEC) No 1188/81 and in particular for determining the coefficient, it is necessary to define what is meant by 'total export quantities' and 'total quantities released to the market';

Whereas it is necessary for the application of this Regulation for it to be known that the products have left the Community and in certain cases also for their destination to be known; whereas for this reason it is necessary to have recourse to the definition of exportation set out in Council Directive 81/177/EEC<sup>(4)</sup> and to the proofs provided for in Commission Regulation (EEC) No 2730/79 of 29 November 1979 laying down common detailed rules for the application of the system of export refunds on agricultural products<sup>(5)</sup>, as last amended by Regulation (EEC) No 1663/81<sup>(6)</sup>;

Whereas it should be laid down that the Member States shall pass on to the Commission the necessary information;

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Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

*Article 1* **U.K.**

1 Receipt of the export refund for cereals exported in the form of one of the spirituous beverages covered by Regulation (EEC) No 1188/81 shall be subject to the lodging with the competent authorities of a declaration, termed 'payment declaration' below, in which the operator states his intention to distil the cereals in order to produce one of the spirituous beverages covered by that Regulation.

2 The payment declaration shall include all the particulars as are necessary for determining the refund, in particular:

- a a description of the cereals or malt in accordance with the nomenclature used for refunds;
- b the net weight of the products<sup>[F1];</sup>
- <sup>[F2]</sup>c the moisture content.]

<sup>[F3]</sup> For the purposes of this Regulation, the weight of cereals to be taken into consideration for calculation of the payment shall be the net weight, if the moisture content is not more than 16 %. If the moisture content of the cereals used is more than 16 %, but not more than 17 %, the weight to be taken into consideration shall be the net weight reduced by 1 %. If the moisture content of the cereals used is more than 17 %, but not more than 18 %, the reduction shall be 2 %. If the moisture content of the cereals used is more than 18 % the reduction shall be two percentage points for each percentage point of moisture above 16 %.

For the purposes of this Regulation, the weight of malt other than green malt referred to in Article 10 to be taken into consideration for calculation of the payment shall be the net weight, if the moisture content is not more than 7 %. If the moisture content is more than 7 %, but not more than 8 %, the weight to be taken into consideration shall be the net weight reduced by 1 %. If the moisture content of the malt used is more than 8 % the reduction shall be two percentage points for each percentage point of moisture above 7 %.

The standard Community method for determining the moisture content of cereals and malt intended for production of the spirituous beverages referred to in Regulation (EEC) No 1188/81 shall be that shown in Annex II to Regulation (EEC) No 2731/75.]

**Textual Amendments**

- F1** Substituted by [Commission Regulation \(EEC\) No 897/82 of 20 April 1982 amending for the third time Regulation \(EEC\) No 1842/81 in respect of the grant of adjusted refunds in the case of cereals exported in the form of certain spirituous beverages.](#)
- F2** Inserted by [Commission Regulation \(EEC\) No 897/82 of 20 April 1982 amending for the third time Regulation \(EEC\) No 1842/81 in respect of the grant of adjusted refunds in the case of cereals exported in the form of certain spirituous beverages.](#)
- F3** Substituted by [Commission Regulation \(EEC\) No 1981/83 of 18 July 1983 amending for the sixth time Regulation \(EEC\) No 1842/81 in respect of the grant of adjusted refunds in the case of cereals exported in the form of certain spirituous beverages.](#)

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## Article 2 U.K.

1 At the time of acceptance of the payment declaration, the cereals or malt shall be placed under customs control or under the administrative control referred to in Article 3 (5) of Regulation (EEC) No 1188/81 until such time as they have been distilled.

2 The date of acceptance of the payment declaration shall determine the rate of the refund.

## Article 3 U.K.

1 The result of the examination of the payment declaration, whether or not combined with the examination of the cereals or malt, shall be used for determining the refund.

2 Paragraph 1 shall not preclude any subsequent verification by the competent authorities of the Member State concerned or any consequences of such verification which may result from the application of the provisions in force.

## Article 4 U.K.

1 As regards procedures for checking the distillation process, including the yield, the cereals or malt shall be subject to the same rules as apply in respect of inward processing arrangements.

2 The by-products of processing shall be exempt from control if it has been established that they do not exceed the quantity of by-products normally obtained.

3 No refund shall be granted where the cereals or malt are not of sound and fair merchantable quality.

## Article 5 U.K.

1 The refund shall be paid only upon presentation of a payment declaration, which shall also contain confirmation that the cereals or malt have been distilled. This confirmation shall be provided by the competent authorities.

2 The refund shall be paid by the Member State in which the payment declaration is accepted.

3 The refund shall be paid only on written application by the operator. Member States may prescribe a special form to be used for this purpose.

4 Except in cases of *force majeure* the documents required for the granting of the refund must be lodged within 12 months of the day on which the competent authorities accepted the payment declaration, otherwise entitlement to the refund shall be lost.

## <sup>F4</sup>Article 6 U.K.

1 For the purposes of Article 3 of Regulation (EEC) No 1188/81:

- a 'total export quantities' means the quantities of spirituous beverages fulfilling the terms of Article 9 (2) of the Treaty and exported to a destination for which the refund applies. The proofs to be furnished shall be those specified in Article 12;
- b 'total quantities released to the market' means the quantities of spirituous beverages fulfilling the terms of Article 9 (2) of the Treaty which have been finally dispatched for human consumption [<sup>X1</sup>from production or storage facilities.]

2 However, where Member States when authorizing import under inward processing arrangements:

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- weight the quantity of cereals presented to the customs authorities by the coefficient referred to in Article 9, and
- ensure that the quantity of cereals which, as a consequence of the weighting is released for free circulation, is also used for the manufacture of [<sup>X1</sup>spirituous beverages referred to in Article 2 of Regulation (EEC) No 1188/81.]

‘total export quantities’ and ‘total quantities released to the market’ mean the quantities of spirituous beverages referred to in paragraph 1 plus the spirituous beverages which are considered as having completed processing under inward processing arrangements.

3 The first indent of paragraph 2 shall not apply where the conditions for application of the first indent of Article 3 (2) or of Article 5 of Regulation (EEC) No 1188/81 are fulfilled.

4 Paragraph 2 shall not prejudice adjustment of the coefficient in order to ensure payment of the import levies in respect of the by-products obtained under inward processing arrangement but not intended for export.

5 Where paragraph 2 applies, cereals released for free circulation referred to in the second indent of that paragraph shall not be eligible for the export refund.]

#### Editorial Information

- X1** Substituted by [Corrigendum to Commission Regulation \(EEC\) No 2938/82 of 3 November 1982 amending for the fifth time Regulation \(EEC\) No 1842/81 in respect of the grant of adjusted refunds in the case of cereals exported in the form of certain spirituous beverages \(OJ No L 308, 4. 11. 1982\).](#)

#### Textual Amendments

- F4** Substituted by [Commission Regulation \(EEC\) No 2938/82 of 3 November 1982 amending for the fifth time Regulation \(EEC\) No 1842/81 in respect of the grant of adjusted refunds in the case of cereals exported in the form of certain spirituous beverages.](#)

#### Article 7 **U.K.**

If the refund is abolished pursuant to Article 5 of Regulation (EEC) No 1188/81 or if it is reintroduced, the coefficient referred to in Article 3 (1) of the said Regulation shall be reduced or increased, as appropriate, in proportion to the relationship between the quantities exported the previous year to the destinations for which the refund is abolished or reintroduced and the total quantities exported that year. The quantities exported may be determined from existing data.

#### Article 8 **U.K.**

For the purposes of Article 6 (a), spirituous beverages shall be deemed to have been exported on the day on which customs export formalities were completed.

However, if proof of export is furnished, pursuant to Article 14 (2), too late for the consignment to be counted in with exports carried out during the same calendar year, the export consignment in question shall be included with exports carried out in the following calendar year.

#### <sup>F5</sup>Article 9 **U.K.**

The coefficient referred to in Article 3 (1) of Regulation (EEC) No 1188/81 shall be fixed before 1 July each year.

It shall apply from that date until 30 June of the following year.

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The coefficient shall be fixed in accordance with information provided by the Member States for the period 1 January to 31 December of the year preceding the fixing thereof.]

#### Textual Amendments

- F5** Substituted by [Commission Regulation \(EEC\) No 2187/86 of 11 July 1986 amending for the seventh time Regulation \(EEC\) No 1842/81 in respect of certain dates for the granting of refunds adjusted in the case of cereals exported in the form of certain spirituous beverages.](#)

#### *[<sup>F3</sup>Article 10* **U.K.**

The coefficient to be used for calculating the barley equivalent of malt referred to in Article 7 of Regulation (EEC) No 1188/81 shall be 1,33.

However, where the malt that is placed under control is green malt with a moisture content of between 43 and 47 %, the coefficient to be used for calculating the equivalent weight of malt with a moisture content of 7 % shall be 0,57.]

#### Textual Amendments

- F3** Substituted by [Commission Regulation \(EEC\) No 1981/83 of 18 July 1983 amending for the sixth time Regulation \(EEC\) No 1842/81 in respect of the grant of adjusted refunds in the case of cereals exported in the form of certain spirituous beverages.](#)

#### *Article 11* **U.K.**

1 Advance payment, at the time the cereals or malt are placed under control, of a sum equal to the refund shall be subject to the lodging of a security equal to the amount to be paid plus:

- a 5 % if the operator undertakes to distil the cereals within 30 days of the date on which the payment declaration was accepted;
- b 15 % in other cases.

2 The refund due shall be set off against the amount paid in advance when proof of distillation of the cereals or malt is produced and, if paragraph 1 (a) applies, distillation has been carried out within the prescribed period.

3 The release of the security shall be subject to the production of proof that the cereals or malt have been distilled, where appropriate, before the expiry of the prescribed period. On application by the person concerned, Member States may release the security by instalments in proportion to the quantities of cereals or malt in respect of which the proof of distillation laid down has been provided.

#### *Article 12* **U.K.**

1 For the purposes of Article 6, the proof of exportation and, where Article 5 of Regulation (EEC) No 1188/81 is applicable, the proof of importation into a non-member country in respect of which the refund applies shall be the proofs provided for in Regulation (EEC) No 2730/79.

2 For the purposes of this Regulation, 'exports' means:

- exports as defined in Directive 81/177/EEC, and
- deliveries to destinations covered by Article 5 of Regulation (EEC) No 2730/79.

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[<sup>F63</sup> Products having been placed in a victualling warehouse approved pursuant to Article 26 of Regulation (EEC) No 2730/79 shall also be considered as having been exported.

When products have been placed in such warehouses, the provisions of Articles 26 to 29 of the Regulation referred to above shall apply *mutatis mutandis*.]

#### Textual Amendments

**F6** Inserted by [Commission Regulation \(EEC\) No 3237/8 of 12 November 1981 amending Regulation \(EEC\) No 1842/81 laying down detailed rules for implementing Regulation \(EEC\) No 1188/81 relating to general rules for granting refunds adjusted in the case of cereals exported in the form of certain spirituous beverages.](#)

#### Article 13 U.K.

1 For the purposes of this Regulation, the declaration submitted when the customs export formalities are completed must contain:

- a a description of the spirituous beverages concerned, in accordance with the nomenclature of the Common Customs Tariff;
- b the quantities, expressed in litres of pure alcohol, of spirituous beverages being exported;
- c a description of, or other reference to, the composition of the spirituous beverages such that the type of cereals used can be determined;
- d the Member State of production.

2 For the purposes of paragraph 1 (c), if the spirituous beverage is obtained from different types of cereals and it results from a subsequent mixture it shall be sufficient to state this in the declaration.

#### Article 14 U.K.

1 For a quantity of a spirituous beverage to be deemed to have been exported, the proofs referred to in Article 12 must be submitted to the designated authorities within six months of the date on which the customs export formalities are completed.

2 Where the proofs required cannot be submitted within the prescribed period, although the exporter has acted with all due diligence to obtain them within such period, he may be granted an extension of time. This extension shall not exceed six months.

#### Article 15 U.K.

1 In the case of cereals or malt placed under the control of a national authority in the period 1 August 1973 to 30 June 1981, operators who wish to qualify for refunds must submit an application to the competent body containing the following details:

- the quantity and type of cereals or malt used, and
- the date when they were placed under the control of the national authority concerned.

The competent body shall verify this information as necessary using any appropriate documents.

2 The Member States concerned shall provide the Commission as soon as possible with the information specified in Article 16 (2) (a), (b), (c) and (d) relating to the year 1979.

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3 The Member States concerned shall provide the Commission before 16 July 1981 with the information specified in Article 16 (2) (a), (b), (c) and (d) relating to the years 1972, 1973, 1974, 1975, 1976, 1977 and 1978.

4 The Member States concerned shall notify the Commission before 16 October 1981 of the quantities of spirituous beverages in store on 31 December of the years 1972, 1973, 1974, 1975, 1976, 1977, 1978 and 1979 and of the quantities produced during those years.

*Article 16* **U.K.**

1 Member States shall inform the Commission of the names and addresses of the competent bodies.

2 Member States shall provide the Commission with the following information before [<sup>F5</sup>16 June] each year:

- a the quantities of cereals and malt fulfilling the terms of Article 9 (2) of the Treaty and placed under control in the period 1 January to 31 December of the preceding year, broken down in accordance with the Common Customs Tariff classification;
- b the quantities of cereals and malt, broken down in accordance with Common Customs Tariff classification, which were the subject of inward processing arrangements during the same period;
- c the quantities of spirituous beverages covered by Article 2 of Regulation (EEC) No 1188/81, broken down in accordance with the categories given in Article 17, including both quantities exported and quantities released to the market during the same period;
- d the quantities of spirituous beverages produced under inward processing arrangements and exported to third countries during the same period, broken down in accordance with the categories given in Article 17;
- e the quantities of spirituous beverages in store on 31 December of the preceding year and the quantities produced during that period.

3 Member States shall also provide the Commission with the information listed under (a), (b), (c) and (d) for each calendar quarter before 16 October, 16 January and 16 April, where available.

[<sup>F74</sup> Member States applying Article 6 (2) shall communicate, together with the information referred to in paragraphs 2 and 3, information as to the quantity of cereals referred to in the second indent of Article 6 (2).]

**Textual Amendments**

- F5** Substituted by [Commission Regulation \(EEC\) No 2187/86 of 11 July 1986 amending for the seventh time Regulation \(EEC\) No 1842/81 in respect of certain dates for the granting of refunds adjusted in the case of cereals exported in the form of certain spirituous beverages.](#)
- F7** Inserted by [Commission Regulation \(EEC\) No 2938/82 of 3 November 1982 amending for the fifth time Regulation \(EEC\) No 1842/81 in respect of the grant of adjusted refunds in the case of cereals exported in the form of certain spirituous beverages.](#)

[<sup>F3</sup> *Article 17* **U.K.**

For the purposes of Article 16:

- (a) ‘grain whisky’ means whisky made from malt and cereals;
- (b) ‘malt whisky’ means whisky made exclusively from malt;



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- (c) 'Irish whiskey, category A' means whisky obtained from malt and cereals, the malt content being less than 30 %;
- (d) 'Irish whiskey, category B' means whisky made from barley and malt, with at least 30 % malt;
- (e) the percentage of the various types of cereal used in the manufacture of the spirituous beverages referred to in Article 13 (2) shall be determined taking account of the total quantities of the various types of cereals employed for the manufacture of the spirituous beverages referred to in Article 2 of Regulation (EEC) No 1188/81.]

#### Textual Amendments

- F3** Substituted by [Commission Regulation \(EEC\) No 1981/83 of 18 July 1983 amending for the sixth time Regulation \(EEC\) No 1842/81 in respect of the grant of adjusted refunds in the case of cereals exported in the form of certain spirituous beverages.](#)

#### Article 18 U.K.

This Regulation shall enter into force on the third day following its publication in the *Official Journal of the European Communities*.

It shall apply with effect from 1 July 1981.

This Regulation shall be binding in its entirety and directly applicable in all Member States.



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- (1) OJ No L 281, 1. 11. 1975, p. 1.
- (2) OJ No L 177, 1. 7. 1981, p. 1.
- (3) OJ No L 121, 5. 5. 1981, p. 3.
- (4) OJ No L 83, 30. 3. 1981, p. 40.
- (5) OJ No L 317, 12. 2. 1979, p. 1.
- (6) OJ No L 166, 24. 6. 1981, p. 9.

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**Changes and effects yet to be applied to :**

- Regulation revoked by [2023 c. 28 Sch. 1 Pt. 2](#)