

1989 No. 1356

CUSTOMS AND EXCISE

The Wine and Made-wine Regulations 1989

<i>Made - - - -</i>	<i>3rd August 1989</i>
<i>Laid before Parliament</i>	<i>11th August 1989</i>
<i>Coming into force</i>	<i>1st September 1989</i>

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The Commissioners of Customs and Excise, in exercise of the powers conferred upon them by sections 56(1), 61(1) and 62(5) of the Alcoholic Liquor Duties Act 1979(a), and of all other powers enabling them in that behalf, hereby make the following Regulations:

(a) 1979 c.4; section 56(1) was amended by section 114 of and Part IV of Schedule 23 to the Finance Act 1986 (c.41).

PART I

PRELIMINARY

Citation and commencement

1. These Regulations may be cited as the Wine and Made-wine Regulations 1989 and shall come into force on 1st September 1989.

Revocation

2. The Wine and Made-wine Regulations 1979(a) are hereby revoked.

Application

3. These Regulations apply to wine and made-wine produced in the United Kingdom for sale.

Interpretation

4. In these Regulations –

“accounting period” means a calendar month or any period of 4 or, as the case may be, 5 weeks allowed by the Commissioners for the purpose of accounting for duty;

“the Act” means the Alcoholic Liquor Duties Act 1979;

“approved” means approved by the Commissioners;

“business day” means a day which is a business day within the meaning of the Bills of Exchange Act 1882(b) for the purposes of the General Account of the Commissioners of Customs and Excise at the Bank of England in London;

“cider” has the meaning given by section 1(6)(c), but subject to section 1(10)(d), of the Act;

“the Collector” means the Collector of Customs and Excise for the Collection in which the winery is situate;

“duty” means the duty of excise charged on wine or made-wine under sections 54(1) and 55(1)(e) of the Act respectively;

“excise warehouse” has the meaning given by section 1(1) of the Customs and Excise Management Act 1979(f);

“licence” means a licence issued under section 54(2) or 55(2) of the Act, and “licensed” shall be construed accordingly;

“made-wine” has the meaning given by section 1(5)(g), but subject to section 1(10) of the Act;

“officer” means the proper officer of Customs and Excise;

“producer” means a producer of wine or of made-wine who is or is required to be licensed;

“sparkling” has the meaning given to it by paragraphs 1 and 2 of Schedule 1(h) to the Act;

“still wine” and “still made-wine” mean any wine or made-wine, as the case may be, which is not sparkling;

“strength” in relation to any liquor means its alcoholic strength computed in accordance with section 2(i) of the Act;

(a) S.I. 1979/1240, as amended by regulation 4 of S.I. 1980/992 and by S.I. 1985/404. (b) 1882 c.61; section 92 was amended by section 4(4) of the Banking and Financial Dealings Act 1971 (c.80). (c) Section 1(6) was amended by section 1(5) of the Finance Act 1984 (c.43). (d) Section 1(10) was added by paragraph 1(4) of Part II of Schedule 1 to the Finance Act 1988 (c.39). (e) Section 55(1) was amended by section 1(4) of the Finance Act 1984. (f) 1979 c.2. (g) Section 1(5) was amended by paragraph 1(3) of Part II of Schedule 1 to the Finance Act 1988. (h) Paragraphs 1 and 2 of Schedule 1 were added by section 1 of and Schedule 1 to the Finance Act 1984. Paragraph 1 was amended by section 7 of the Finance Act 1988. (i) Section 2(2) was amended by article 6 of S.I. 1979/241. Section 2(3A) was added by section 11(1) of and paragraph 10 of Schedule 8 to the Finance Act 1981 (c.35).

“wine” has the meaning given by section 1(4) of the Act;

“winery” means the premises, rooms, places and vessels entered by a licensed producer for use by him in his trade as a producer.

PART II LICENSING

Application for a licence

5.—(1) Every person required to hold a licence shall make application to the Commissioners to be licensed in respect of his premises.

(2) A separate application shall be made in respect of each of the premises on which the applicant produces or intends to produce wine or made-wine.

Licensing

6.—(1) The Commissioners may license the applicant in respect of each of the premises in respect of which application is made, and may issue a separate licence in respect of each of those premises.

(2) The licence shall remain the property of the Commissioners.

Licences

7.—(1) Every licence shall be kept at all times on the premises to which it relates, and shall be produced for inspection to an officer on demand.

(2) A producer shall notify the Commissioners of his intention to stop production of wine or of made-wine at any of his wineries.

(3) A producer shall notify the Commissioners of the discontinuance of trade in wine or in made-wine at any of his wineries.

Cancellation of licence

8.—(1) Where the Commissioners are satisfied that a producer has ceased to trade at a winery, or that either wine or made-wine is not being produced on premises in respect of which he is licensed for that purpose, they may cancel the relevant licence at any time.

(2) Without prejudice to paragraph (1) above, the Commissioners may, for reasonable cause, cancel the licence in respect of the premises of any producer, provided that the Commissioners shall give three months' notice in writing of such cancellation.

PART III ENTRIES

Entries

9. A producer shall not begin to produce wine or made-wine on any premises in respect of which he is licensed until he has made entry of all rooms, places and vessels intended to be used by him thereon for that purpose.

Withdrawal of entry

10. Save as the Commissioners may otherwise allow, a producer shall not withdraw his entry in respect of a winery while there remains in any place specified therein any wine or made-wine on which duty has not been paid or remitted or any materials for making wine or made-wine.

PART IV

DETERMINATION OF DUTY AND THE RATES THEREOF

Charge to duty

11.—(1) Subject to regulations 12 and 13 below, wine or made-wine in a winery shall be charged with duty at the time it is sent out of that winery and at the rate in force at that time;

Provided that –

- (a) where any wine or made-wine is sent out to another winery in accordance with regulation 12(c)(i) below, that other winery shall be treated as being the winery in which the wine or made-wine was produced and the producer licensed in respect of that other winery shall be treated accordingly;
- (b) where any wine or made-wine is sent out of a winery at a strength not exceeding 1.2 per cent. the duty charged thereon shall be remitted.

(2) Duty charged under paragraph (1) above shall be accounted for and paid in accordance with the provisions of regulation 23 below.

Removal without payment of duty

12. Subject to such conditions as the Commissioners may impose, including any condition that security shall be given to their satisfaction, a producer may send wine or made-wine chargeable with duty out from a winery without payment of the duty for any of the following purposes –

- (a) exportation, shipment as stores or removal to the Isle of Man;
- (b) deposit in an excise warehouse for –
 - (i) mixing with spirits;
 - (ii) exportation or shipment as stores or removal to the Isle of Man;
 - (iii) use as ingredients of goods permitted to be produced in an excise warehouse and intended for exportation or shipment as stores or removal to the Isle of Man; or
 - (iv) such other purposes as the Commissioners may allow;
- (c) removal, subject to the prior approval of the officer –
 - (i) to another winery;
 - (ii) to the premises of a vinegar maker for use in the production of vinegar; or
 - (iii) in the case of made-wine only, to premises in respect of which any person is registered in accordance with section 62(2) of the Act as a maker of cider, for use as an ingredient in the making of cider on those premises;
- (d) such use as trade samples as the Commissioners may allow; or
- (e) such other purposes (except home use) as the Commissioners may allow.

Provided that if any wine or made-wine which has been sent out of a winery under the foregoing provisions of this regulation is applied to some purpose other than one therein mentioned, that wine or made-wine shall be charged with duty at the time it is so applied, and at the rate in force at that time; and the duty shall be paid in accordance with regulation 23(2) below.

Deficiencies and discontinuance of trade

13. Where either –

- (a) the business of producing wine or made-wine is discontinued at a winery having wine or made-wine therein; or
- (b) a licence held under regulation 6 above in respect of a winery having wine or made-wine therein is surrendered or cancelled; or
- (c) any wine or made-wine is found to be deficient or missing from a winery and the producer is unable to account for the deficiency to the Commissioners' satisfaction,

the duty on the wine or made-wine shall be charged at the time of discontinuance or at the time of the surrender or cancellation of the licence or at the time the deficiency occurred, as the case may be, and at the rate in force at that time; and the duty shall be paid in accordance with regulation 23(2) below.

Provided that where the time that any deficiency occurred cannot be established to the Commissioners' satisfaction, the rate of duty shall be taken to be the highest rate in force between the time of the latest stocktaking made under regulation 20 below before the discovery of the deficiency and the time of that discovery.

PART V

PRODUCTION, STORAGE AND REMOVAL

Production

14. Save as the Commissioners may otherwise allow –

- (a) wine or made-wine for the production of which a licence is not required may not be produced in a winery;
- (b) cider may not be produced in a winery.

Use

15. The Commissioners may allow the use in a winery of wine or made-wine in the preparation of, or as ingredients for, goods intended for exportation, shipment as stores or removal to the Isle of Man.

Examination and gauging of vessels

16.—(1) A producer shall, if so required by the Commissioners, place and fix every vessel in which wine or made-wine is produced or stored in a place convenient for examination, and with safe means of access so as to allow the contents to be accurately ascertained by gauge or measure; and shall not alter any such vessel in shape, position or capacity unless he has given forty-eight hours written notice to the officer.

(2) All vessels required to be fixed by paragraph (1) of this regulation shall, if so required by the Commissioners, be gauged and calibrated to their satisfaction.

Storage

17. A producer shall keep stock entered for payment or for remission of duty under regulation 11(1)(b) above segregated from stock which has neither been entered for payment nor for remission of duty.

Removal by pipe-line

18. Save as approved by the Commissioners, a producer shall not send out wine or made-wine from a winery by pipe-line.

PART VI
RECORDS, ACCOUNTS AND PAYMENT OF DUTY

Entry book

19.—(1) Save as provided by paragraph (3) below, for every winery in respect of which he holds a licence a producer shall obtain from the officer an entry book in an approved form and shall —

- (a) keep the entry book in the winery at all times ready for inspection by an officer and permit him at any time to inspect it and to make notes therein or to take copies thereof or extracts therefrom; and
- (b) make entries in the entry book at such times and in such detail as specified therein or as otherwise directed by the officer.

(2) No entry in the entry book shall be obliterated or, except with the permission of the officer, cancelled or altered.

(3) Subject to prior approval by the Commissioners a producer may record the information required by paragraph (1) above in his business records, and this regulation and regulation 21 below shall apply to such records as they apply to entry books.

Stocktaking

20.—(1) Save as the Commissioners otherwise allow, a producer shall, twice in every year on approved dates, take stock of all wine and made-wine at each winery in respect of which he holds a licence, and shall deliver the returns of stock to the officer within twenty-eight days of the dates approved for the stocktaking.

(2) The return of stock required by this regulation shall, in relation to still wine, sparkling wine, still made-wine and sparkling made-wine, deal separately with liquors of a strength not exceeding 1.2 per cent., of a strength exceeding 1.2 per cent. but not exceeding 5.5 per cent., and of a strength exceeding 5.5 per cent., and shall state in respect of each of those categories of liquor the following particulars —

- (a) the name and number of every entered vessel containing such liquors and the quantity therein;
- (b) the number of casks, cases or other containers and unpacked bottles of each size, and the separate quantities of liquors contained therein;
- (c) the total quantities of such liquors in stock; and
- (d) the details of any surplus, deficiency or other discrepancy revealed by the stocktaking.

Accounts

21.—(1) A producer shall, in addition to the entry book (or other records permitted under regulation 19(3) above), keep accounts of the quantities of all materials used in the winery in producing wine or made-wine.

(2) A producer shall –

- (a) in respect of wine and made-wine of a strength not exceeding 1.2 per cent.;
- (b) in respect of wine and made-wine of a strength exceeding 1.2 per cent. but not exceeding 5.5 per cent.; and
- (c) in respect of wine and made-wine of a strength exceeding 5.5 per cent.;

keep account of the quantities produced in, rendered sparkling in, received at, returned to, and removed from, the winery.

(3) A producer shall at any reasonable time permit an officer to inspect, make entries in, copy and take extracts from any records relating to his business as a producer which the officer may require to inspect.

(4) Save as the Commissioners otherwise allow, a producer shall preserve and keep at the winery all books (or other records approved under regulation 19(3) above), accounts and other documents relating to his business as a producer at that winery for not less than two years from the date of the last entry therein.

Security

22. Every producer shall furnish such security for payment of duty as the Commissioners require.

Furnishing of returns and payment of duty

23.—(1) Save as the Commissioners otherwise allow, every licensed producer shall—

- (a) not later than the fifteenth day of every accounting period furnish to the Collector, or to such other person as the Commissioners may direct, a return in approved form of all wine and made-wine sent out from his winery for home use during the preceding accounting period and of the duty charged thereon;
- (b) not later than the fifteenth day of the accounting period following that in which the charge to duty was incurred, pay to the Collector or such other person as aforesaid the amount due.

Provided that where the last day for furnishing a return and making a payment would, if determined in accordance with the foregoing provisions of this paragraph, fall on a day which is not a business day the return shall be furnished and payment shall be made not later than the last business day before that date.

(2) Any duty charged under the proviso to regulation 12 above, or under regulation 13 above, shall be paid by the producer of the wine or made-wine to the Collector or to such other person as the Commissioners may direct, within seven days of that duty being demanded by the proper officer.

PART VII RELIEF FROM DUTY

Grower's domestic consumption relief

24.—(1) Wine and made-wine produced from ingredients grown in the United Kingdom may be sent out from a winery without payment of duty for the domestic consumption of the grower of the ingredients in such quantity as the Commissioners may on application from him allow.

(2) In this regulation, "grower" includes bee-keeper and "grown" shall be construed accordingly.

Conditions for relief from duty on spoilt wine and made-wine

25. Remission or repayment of duty under section 61(1) of the Act in respect of wine or made-wine which has accidentally become spoilt or unfit for use shall be subject to the conditions that –

- (a) the wine or made-wine has not been subjected to any process of production or dilution since it was sent out from the winery; and
- (b) the producer has complied with the requirements of regulation 26 below.

Claim for relief on spoilt wine and made-wine

26. A producer claiming remission or repayment of duty in respect of wine or made-wine which has been sent out or removed from his winery and which has accidentally become spoilt or otherwise unfit for use shall –

- (a) notify the officer immediately any such wine or made-wine has been returned to the winery;
- (b) retain such wine or made-wine in the vessels in which it was returned to the winery, and without making any addition thereto, for a period of forty-eight hours after its return or until such earlier time as the officer authorises the disposal or other processing thereof;
- (c) make his claim for relief in writing; and
- (d) provide the officer with proof that the duty which was due on the wine or made-wine when it was sent out or removed from the winery was paid, and with such other particulars as are necessary to substantiate the claim.

New King's Beam House
22 Upper Ground
London SE1 9PJ
3rd August 1989

P. G. Wilmott
Commissioner of Customs and Excise

EXPLANATORY NOTE

(This note is not part of the Regulations)

1. These Regulations, applying to wine and made-wine produced in the United Kingdom for sale, come into force on 1st September 1989. They revoke and replace, with some amendments and rearrangement, the Wine and Made-wine Regulations 1979.

2. The principal changes introduced by the Regulations are:-

- (a) a requirement is included for a licensed producer to notify the Commissioners of intention to stop production, or of discontinuance of trade;
- (b) provision is made for the Commissioners to cancel a producer's licence for reasonable cause;
- (c) provision is made for duty to be remitted on wine or made-wine sent out of a winery at a strength not exceeding 1.2 per cent.;
- (d) provision is made for wine or made-wine to be sent out without payment of duty for such additional purposes (except home use) as the Commissioners may allow;
- (e) wine or made-wine for the production of which a licence is not required, or cider, may not be produced in a winery save as the Commissioners allow;

- (f) the regulations on stocktaking and accounts provide for the recording of separate particulars for products of a strength not exceeding 1.2 per cent., exceeding 1.2 per cent. but not exceeding 5.5 per cent., and exceeding 5.5 per cent.;
- (g) when the fifteenth day of an accounting period is not a business day, the periodic return and duty payment are to be made not later than the preceding business day;
- (h) the provisions for relief of duty on spoilt wine or made-wine have been revised to clarify the scope of the relief; and
- (j) the restriction on the proportions of mixing wine with made-wine is removed, and segregation of wine from made-wine in storage is no longer required.

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