

S.I. No. 154/1978 □ European Communities (Wine) Regulations, 1978.

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I, DESMOND O'MALLEY, Minister for Industry, Commerce and Energy, in exercise of the powers conferred on me by section 3 of the European Communities Act, 1972 (No. 27 of 1972), and for the purpose of giving effect to the Council Regulation and the Commission Regulation (withing the meaning, in each case, of Regulation 3 of the following Regulations), hereby make the following Regulations:

1. These Regulations may be cited as the European Communities (Wine) Regulations, 1978.
2. These Regulations shall come into operation on the twentieth day of June, 1978.
3. (1) In these Regulations □

"authorised officer" means an officer of the Minister for Industry, Commerce and Energy appointed in writing by the Minister for Industry, Commerce and Energy for the purposes of these Regulations, the Council Regulation and the Commission Regulation;

"the Commission Regulation" means Commission Regulation (EEC) No. 1608/76 of 4 June, 1976¹, as amended by Commission Regulation (EEC) No. 1054/77 of 13 May, 1977², Commission Regulation (EEC) No. 1802/77 of 4 August, 1977³, and Commission Regulation (EEC) No. 793/78⁴ of 18 April, 1978;

¹ OJ No. L 183 of 8.7.76 p 1

² OJ No. L 130 of 25.5.77 p 1

³ OJ No. L 198 of 5.8.77 p 12

⁴ OJ No. L 109 of 22.4.78 p 1

"the Council Regulation" means Council Regulation (EEC) No. 2133/74 of 8 August, 1974⁵, as amended by Council Regulation (EEC) No. 1890/75 of 22 July, 1975⁶, Council Regulation (EEC) No. 1168/76 of 17 May, 1976⁷, and Council Regulations (EEC) No. 1475/77 of 20 June, 1977⁸.

⁵ OJ No. L 227 of 17.8.74 p 1

⁶ OJ No. L 193 of 25.7.75 p 1

⁷ OJ No. L 135 of 24.5.76 p 46

⁸ OJ No. L 164 of 2.7.77 p 1

(2) A word or expression that is used in these Regulations and is also used in the Council Regulation or the Commission Regulation shall, except where the context otherwise

requires, have in these Regulations the meaning that it has in the Council Regulation or the Commission Regulation, as the case may be.

4. (1) (a) Where there is in the State a contravention of or failure to comply with a provision of the Council Regulation, any person who effects, authorises or procures the contravention or failure shall be guilty of an offence.

(b) A person who holds for sale, or places on the market, in the State a product to which the Council Regulation applies and in relation to which there is a contravention of or failure to comply with a provision of the Council Regulation shall be guilty of an offence.

(2) (a) Where there is in the State a contravention of or failure to comply with a provision of the Commission Regulation, any person who effects, authorises or procures the contravention or failure shall be guilty of an offence.

(b) A person who holds for sale, or places on the market, in the State a product to which the Commission Regulation applies and in relation to which there is a contravention of or failure to comply with a provision of the Commission Regulation shall be guilty of an offence.

(3) Where, in relation to a product to which the Council Regulation applies, there is in the State a contravention of or failure to comply with paragraph 1 or 2 of Article 43 of the Council Regulation, the person who procured or on whose behalf there was procured the publicity or advertising to which the contravention or failure relates shall be guilty of an offence.

(4) A person guilty of an offence under this Regulation shall be liable on summary conviction to a fine not exceeding £300.

5. (1) In any proceedings for an offence under Regulation 4 of these Regulations it shall, subject to paragraph (2) of this Regulation, be a defence for the person charged to prove

(a) that the commission of the offence was due to a mistake or the reliance on information supplied to him or to the act or default of another person, an accident or some other cause beyond his control and

(b) that he took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence by himself or any other person under his control.

(2) If in any case the defence provided by paragraph (1) of this Regulation involves the allegation that the commission of the offence was due to the act or default of another person or to reliance on information supplied by another person, the person charged shall not, without leave of the court, be entitled to rely on that defence unless, not less than 7 clear days before the hearing, he has served on the prosecutor a notice in writing giving such information identifying or assisting in the identification of that other person as was then in his possession

(3) In any proceedings for an offence under Regulation 4 of these Regulations, it shall be a defence for the person charged to prove that he did not know, and could not with reasonable diligence have ascertained, that there was such a contravention or failure.

6. (1) In the case of table wines which originate within the Community, to which paragraph 4 of Article 3 of the Council Regulation applies and which are distributed in

bottles, the information concerning the bottler and the place of bottling referred to in the said paragraph 4 may be indicated on labels on the bottles in the form of a code.

(2) In the case of quality wines which originate within the Community, to which paragraph 4 of Article 13 of the Council Regulation applies and which are distributed in bottles, the information concerning the bottler and the place of bottling referred to in the said paragraph 4 may be indicated on labels on the bottles in the form of a code.

(3) In the case of imported wines to which paragraph 6 of Article 30 of the Council Regulation applies and which are distributed in bottles, the information concerning the bottler, the place of bottling and, where appropriate, the importer referred to in the said paragraph may be indicated on labels on the bottles in the form of a code approved of by the competent national authority.

7. (1) In the case of table wines which originate within the Community and to which paragraph 3 of Article 11 of the Council Regulation applies, the information referred to in the said paragraph 3 may be given in the commercial documents referred to in that paragraph in the form of a code which is such as to enable an authorised officer to identify rapidly the description of the wine concerned.

(2) In the case of quality wines which originate within the Community and to which paragraph 3 of Article 21 of the Council Regulation applies, the information referred to in the said paragraph 3 may be given in the commercial documents referred to in that paragraph in the form of a code which is such as to enable an authorised officer to identify rapidly the description of the wine concerned.

(3) In the case of products other than table wines or quality wines PSR, the information referred to in Article 22 of the Council Regulation may be given in the commercial documents referred to in paragraph 6 of Article 26 of that Regulation in the form of a code which is such as to enable an authorised officer to identify rapidly the description of the product concerned.

(4) In the case of imported products distributed in the State, the information referred to in Articles 27, 28 and 29 of the Council Regulation may be given in the commercial documents referred to in paragraph 4 of Article 38 of that Regulation in the form of a code which is such as to enable an authorised officer to identify rapidly the description of the product concerned.

8. (1) Nothing in the Council Regulation shall operate to prohibit or restrict, in relation to

(a) table wines originating within the Community to which Article 3 of the Council Regulation applies,

(b) quality wines originating within the Community to which Article 13 of the Council Regulation applies, or

(c) imported wines to which Article 30 of the Council Regulation applies,

which are marketed in bottles in the State, the giving of information as to the dietetic use of the wines on labels on the bottles.

(2) Nothing in the Council Regulation shall operate to prohibit or restrict, in relation to grape musts to which Article 23 of the Council Regulation applies and which are marketed in the State, the giving of information as to the dietetic use of the musts on labels on the containers of the musts.

9. Notwithstanding the requirements in paragraphs 1 and 2 of Article 8 of the Commission Regulation that the alcoholic strengths referred to in that Article shall be shown on labels in the terms specified in the said paragraphs, the said terms may be given in an abbreviated form in the Irish language or the English language or in both such languages.

10. Nothing in the Council Regulation or the Commission Regulation shall operate to prohibit or restrict the use of the word "wine" in the manner and circumstances specified in paragraph 2 of Article 44 of the Council Regulation or paragraph 1 of Article 20 of the Commission Regulation:

Provided, however, that:

(a) the word "wine" when used as aforesaid shall be used only in a composite name and in no circumstances on its own,

(b) the composite names referred to in paragraph 1 of the said Article 20 shall be shown on the relevant labels in lettering of the same type and the same colour and of such a height that they are clearly distinguishable from other information, and

(c) any use of the composite names referred to in paragraph 2 of the said Article 44 shall be such as to avoid any confusion with the products referred to in paragraph 1 of that Article.

11. Nothing in the Council Regulation shall operate to prohibit or restrict, during the period ending on the 1st day of September, 1979, the use of supplementary information permitted on the 1st day of September, 1976, for products to which Article 46 of the Council Regulation applies held for sale or placed on the market in the State.

12. An authorised officer shall be furnished with a warrant of his appointment as an authorised officer and when exercising any power conferred on an authorised officer by these Regulations shall, if requested by any person affected, produce the warrant to that person.

13. (1) An authorised officer may, for the purpose of these Regulations and the Council Regulation and the Commission Regulation, at all reasonable times enter□

(a) any premises in which he has reasonable grounds for believing that a product to which the Council Regulation or the Commission Regulation relate or a label, official document or commercial document or advertising material, relating to such a product is kept, or

(b) any railway wagon, vehicle, ship, vessel or aircraft in which he has reasonable grounds for believing that such a product, label, official document or commercial document or advertising material is being transported,

and make such examination, tests and inspections and take such reasonable samples of any such product which he finds in the course of his inspection as he considers appropriate and make copies of and take extracts from any such label, document or material and take such reasonable samples of any such label or material as he considers appropriate.

(2) A person who obstructs or interferes with an authorised officer when he is exercising a power conferred by this Regulation shall be liable on summary conviction to a fine not exceeding □300.

14. An offence under these Regulations may be prosecuted by the Minister for Industry, Commerce and Energy.

GIVEN, under my Official Seal, this 7th day of June, 1978.

DESMOND O'MALLEY,

Minister for Industry, Commerce and Energy.

EXPLANATORY NOTE.

The principal effects of these Regulations are to provide for penalties for breaches of certain provisions of Regulations (EEC) No. 2133/74 (as amended) and 1608/76 (as amended) which relate to the description and presentation of wines and grape musts and to confer powers of entry to premises on authorised officers.