

Government Circular No. 1990/0091



Alcoholic Liquor Duties Act 1986

WINE AND MADE-WINE REGULATIONS 1990¹

Laid before Tynwald: 10th April 1990
Coming into Operation: 1st May 1990

In exercise of the powers conferred on the Treasury by sections 52(1), 57(1) and 58(3) of the Alcoholic Liquor Duties Act 1986¹, and of all other powers enabling it in that behalf, the following Regulations are hereby made:

PART I

PRELIMINARY

1 Citation and commencement

These Regulations may be cited as the Wine and Made-Wine Regulations 1990 and shall come into operation on 1st May 1990.

2 Revocation

The Wine and Made-Wine Regulations 1989² are hereby revoked.

3 Application

These Regulations apply to wine and made-wine produced in the Island for sale.

4 Interpretation

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 Treasury for the purpose of accounting for duty;

“the Act” means the Alcoholic Liquor Duties Act 1986;

“approved” means approved by the Treasury;

¹ 1986 c.35

² G.C. 138/89

“business day” means a day which is a business day within the meaning of section 92 of the Bills of Exchange Act 1883³;

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

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

“duty” means the duty of excise charged on wine or made-wine under sections 50(1) and 51(1) of the Act respectively;

“excise warehouse” has the meaning given by section 184 of the Customs and Excise Management Act 1986;

“licence” means a licence issued under section 52(1) of the Act, and “licensed” shall be construed accordingly;

“made-wine” has the meaning given by section 1(5), 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 section 75(1) and (2) of 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 of the Act;

“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

5 Application for a licence

- (1) No person shall produce wine or made-wine for sale unless he holds an excise licence issued by the Treasury.
- (2) Every person required to hold a licence shall make application to the Treasury to be licensed in respect of his premises.
- (3) 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.

³ Vol. V p.310

6 Licensing

- (1) The Treasury 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 Treasury.

7 Licences

- (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 Treasury of his intention to stop production of wine or of made-wine at any of his wineries.
- (3) A producer shall notify the Treasury of the discontinuance of trade in wine or in made-wine at any of his wineries.

8 Cancellation of licence

A licence granted under this Part may be revoked by the Treasury at any time.

PART III**ENTRIES****9 Entries**

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.

10 Withdrawal of entry

Save as the Treasury 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

11 Charge to duty

(1) Subject to regulations 12 and 13, wine or made-wine in a winery shall be charged with duty at the time it is made and the excise duty point shall be the earlier of the following times —

- (i) the time it is consumed at that winery; or
- (ii) the time it is sent out from that winery;

Provided that —

- (a) where any wine or made-wine is sent out to another winery in accordance with regulation 12(c)(i), 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;
 - (c) where the time of consumption of the wine or made-wine at a winery cannot be established to the Treasury's satisfaction (for the purposes of determining the appropriate rate of duty in relation to the excise duty point specified by subparagraph (i)), the rate of duty shall be taken to be the highest rate in force during the preceding 12 calendar months ending on the day before the time when the Treasury can, for the first time, made an assessment of the excise duty due (as governed by section 12 of the Finance Act 1994⁴) in respect of that consumption.^{2 3}
- (2) Duty charged under paragraph (1) shall be accounted for and paid in accordance with the provisions of regulation 23.

12 Removal without payment of duty

Subject to such conditions as the Treasury 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 United Kingdom;
- (b) deposit in an excise warehouse for —
 - (i) mixing with spirits;

⁴ 1994 c.9 of Parliament as applied in the Island by SD 369/94.

- (ii) exportation or shipment as stores or removal to the United Kingdom;
- (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 United Kingdom; or
- (iv) such other purpose as the Treasury 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 licensed⁴ in accordance with section 58(3) 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 Treasury may allow; or
- (e) such other purposes (except home use) as the Treasury 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, the time of that occurrence shall be the excise duty point; and the duty shall be paid in accordance with regulation 23(2).⁴

12A Constructive removal

- (1) Where wine or made-wine is held in any winery to which this regulation applies it shall be deemed to have been sent out from that winery for home use at the time of its constructive removal or, if earlier, the time it actually left that winery.
- (2) This regulation applies to a winery where the records relating to wine or made-wine sent out from the winery are kept by means approved for this purpose by the Treasury; and the Treasury may at any time revoke such approval upon giving fourteen days' notice in writing.
- (3) The producer from whose winery constructive removal may take place shall keep the records specified in a notice published by the Treasury and not withdrawn by a further notice.
- (4) Constructive removal shall mean the making of an entry in the records specified in accordance with paragraph (3) which identifies the wine or made-wine that is the subject of that entry as having been sent out from the winery for home use notwithstanding that it remains in that winery.
- (5) An entry showing the constructive removal of any wine or made-wine shall not be cancelled, amended or altered.⁵

13 Deficiencies and discontinuance of trade

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 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 for any reason (other than the reason that the cider was consumed at those premises) and the producer is unable to account for the deficiency to the Treasury's satisfaction,⁶

the excise duty point shall be 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 the duty shall be paid in accordance with regulation 23(2).

Provided that where the time that any deficiency occurred cannot be established to the Treasury's 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 before the discovery of the deficiency and the time of that discovery.⁷

PART V

PRODUCTION, STORAGE AND REMOVAL

14 Production

Save as the Treasury 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 made in a winery.⁸

15 Use

The Treasury may allow the use in a winery of wine or made-wine in the preparation of, or as an ingredient for, goods intended for exportation, shipment as stores or removal to the United Kingdom.

16 Examination and gauging of vessels

- (1) A producer shall, if so required by the Treasury, 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 Treasury, be gauged and calibrated to its satisfaction.

17 Storage

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

18 Removal by pipe-line

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

PART VI

RECORDS, ACCOUNTS AND PAYMENT OF DUTY

19 Entry book

- (1) Save as provided by paragraph (3), 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 Treasury a producer may record the information required by paragraph (1) in his business records, and this regulation and regulation 21 shall apply to such records as they apply to entry books.

20 Stocktaking

- (1) Save as the Treasury otherwise allows 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.

21 Accounts

- (1) A producer shall, in addition to the entry book (or other records permitted under regulation 19(3)), 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 Treasury otherwise allows, a producer shall preserve and keep at the winery all books (or other records approved under regulation 19(3)), 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.

22 Security

Every producer shall furnish such security for payment of duty as the Treasury requires.

23 Furnishing of returns and payment of duty

- (1) Save as the Treasury otherwise allows, 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 Treasury 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 excise duty point occurred, pay to the Collector or such other person as aforesaid the amount due.⁹

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 payable under the proviso to regulation 12, or under regulation 13, shall be paid by the producer of the wine or made-wine to the Collector or to such other person as the Treasury may direct, within seven days of that duty being demanded by the proper officer.¹⁰

PART VII

RELIEF FROM DUTY

24 Grower's domestic consumption relief

- (1) Wine and made-wine produced from ingredients grown in the Island 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 Treasury may on application from him allow.
- (2) In this regulation, "grower" includes bee-keeper and "grown" shall be construed accordingly.

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

Remission or repayment of duty under section 57(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.

26 Claim for relief on spoilt wine and made-wine

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.

MADE 23 MARCH 1990

ENDNOTES

Table of Endnote References

¹ The format of this legislation has been changed as provided for under section 75 of, and paragraph 2 of Schedule 1 to, the Legislation Act 2015. The changes have been approved by the Attorney General after consultation with the Clerk of Tynwald as required by section 76 of the Legislation Act 2015.

² Subpara (c) inserted by SD130/97.

³ Para (1) amended by SD702/96 and by SD130/97.

⁴ Reg 12 amended by SD702/96.

⁵ Reg 12A inserted by SD702/96.

⁶ Subpara (c) amended by SD130/97.

⁷ Reg 13 amended by SD702/96.

⁸ Subpara (b) amended by SD130/97.

⁹ Subpara (b) amended by SD702/96.

¹⁰ Para (2) amended by SD702/96.