

Government Circular No. 1990/0091



*Alcoholic Liquor Duties Act 1986*

## **WINE AND MADE-WINE REGULATIONS 1990<sup>1</sup>**

*Laid before Tynwald:* 10<sup>th</sup> 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 1986<sup>1</sup>, 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 1989<sup>2</sup> 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;

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<sup>1</sup> 1986 c.35

<sup>2</sup> 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 1883<sup>3</sup>;

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

“the Collector” [Revoked]<sup>2</sup>

“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;

“return” means a return that is required to be furnished in accordance with regulation 23;<sup>3</sup>

“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 and any other premises on which wine or made-wine is made by a producer for use by him in his trade as a producer.<sup>4</sup>

## 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.

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<sup>3</sup> Vol. V p.310

- (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.

## **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;

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), 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 1994<sup>4</sup>) in respect of that consumption.<sup>5 6</sup>
- (2) Duty charged under paragraph (1) shall be accounted for and paid in accordance with the provisions of regulation 23.
- (3) In this regulation "excise duty point" means the time when the duty is payable by a person whether or not payment may be deferred, and is prescribed by Part 2 of the Excise Goods (Holding, Movement and Duty Point) Regulations 2010.<sup>7</sup>
- (4) References to "excise duty point" in regulation 23(2) and (4) include an excise duty point within the meaning of paragraph (3).<sup>8</sup>

#### 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;

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

- (b) deposit in an excise warehouse for —
  - (i) mixing with spirits;
  - (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 licensed<sup>4</sup> 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) or, as the case may be, regulation 23(7).<sup>9</sup>

## 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.<sup>10</sup>

### 13 Discontinuance of trade<sup>11</sup>

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,
- (c) [Revoked]<sup>12</sup>

the excise duty point shall be the time of discontinuance or at the time of the surrender or cancellation of the licence, as the case may be; and the duty shall be paid in accordance with regulation 23(2).<sup>13</sup>

## 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.<sup>14</sup>

### 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 [Revoked]<sup>15</sup>

### 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 [Revoked]<sup>16</sup>

20 [Revoked]<sup>17</sup>

21 [Revoked]<sup>18</sup>

22 [Revoked]<sup>19</sup>

**23 Furnishing of returns and payment of duty**

- (1) Save as the Treasury otherwise allows, every producer shall —
- (a) not later than the fifteenth day of every accounting period furnish to the Treasury, 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;<sup>20</sup>

(b) [Revoked]<sup>21</sup>

Provided that where the last day for furnishing a return 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 not later than the last business day before that date.<sup>22</sup>

- (2) Unless payment of the duty is deferred, it must be paid at or before the excise duty point.<sup>23</sup>
- (3) A licensed producer is approved for the purpose of deferring payment of the duty for so long as he complies with the conditions imposed by or under this regulation.<sup>24</sup>
- (4) A licensed producer who is approved may defer payment of duty that is payable by him until the fifteenth day of the accounting period following that in which the excise duty point fell.

But if that day is not a business day, payment may only be deferred until the last business day before that day.<sup>25</sup>

- (5) As a condition of his being approved (or continuing to be approved), the Treasury may require a licensed producer to provide security, or further security, for duty.<sup>26</sup>
- (6) It is a condition of approval that any security must be given in the form and amount that the Treasury requires.<sup>27</sup>
- (7) Where, for the purposes of destruction, —

- (a) the Treasury has allowed spoilt wine or made-wine to be sent out from a winery without payment of duty; and
  - (b) an excise duty point arises under the proviso to regulation 12, the person liable to pay the duty shall be the person holding the wine or made-wine at the excise duty point.<sup>28</sup>
- (8) Where paragraph (7) applies, the producer who sent the wine or made-wine out without payment of duty shall be jointly and severally liable to pay the duty with the person specified in that paragraph.<sup>29</sup>

## 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 Drawback of duty

- (1) Where —
  - (a) any wine or made-wine has been sent out or removed from a winery;
  - (b) the wine or made-wine has become spoilt or otherwise unfit for use; and
  - (c) the Treasury is satisfied that the wine or made-wine has not been and will not be consumed in the Island,then, subject to paragraph (2), the producer shall be entitled to drawback of duty in respect of the wine or made-wine.
- (2) The producer must comply with the conditions set out in this part of these Regulations and with such other conditions (if any) as the Treasury sees fit to impose in a notice published by it and not withdrawn by a further notice.<sup>30</sup>

#### 26 Conditions for drawback of duty

- (1) A producer claiming drawback of duty must —
  - (a) satisfy the Treasury that —



- (i) duty has been paid on the wine or made-wine;
    - (ii) he was the person who paid that duty; and
    - (iii) the duty has not been repaid or drawn back;
  - (b) subject to paragraph (3), destroy the wine or made-wine so that it is rendered unsaleable as a beverage to the satisfaction of the Treasury;
  - (c) if the Treasury so requires, give to it prior notice of any planned destruction; and
  - (d) keep and preserve such records as the Treasury may specify in a notice published by it and not withdrawn by a further notice.
- (2) For the purposes of paragraph (1)(a), duty shall be deemed to have been paid on the spoilt wine or made-wine if it is accounted for on the return for the same accounting period as that in which the claim for drawback of duty in relation to that wine or made-wine is made.
- (3) A producer may re-process spoilt wine or made-wine in a manner which is satisfactory to the Treasury, but no claim for drawback of duty shall be made for any spoilt wine or made-wine to which this paragraph applies unless and until the re-processing of that wine or made-wine has commenced.
- (4) No claim for drawback of duty shall be allowed in respect of any spoilt wine or made-wine that has been adulterated or diluted since it was sent out from the winery.
- (5) No claim for drawback of duty shall be made if the event giving rise to the claim occurred more than three years after the duty on the wine or made-wine was paid.<sup>31</sup>

## 27 Notice of destruction

The period of notice which the Treasury may require of any planned destruction shall be —

- (a) two clear business days, in the case of destruction at a winery; or
- (b) five clear business days, in the case of destruction at any other premises.<sup>32</sup>

## 28 Claims

- (1) A producer shall make a claim for drawback of duty to the Treasury on his return of duty.
- (2) Where, by virtue of his being licensed in respect of more than one winery, he makes more than one return for the same accounting period, he shall make the claim on the return relating to the winery in respect of which the return of duty was made.<sup>33</sup>

**29 Cancellation of drawback**

- (1) The Treasury may at any time cancel drawback of duty granted in accordance with these Regulations where it is satisfied that a contravention of any condition imposed by or under these Regulations has taken place.
- (2) Where drawback of duty has been cancelled in accordance with paragraph (1), the person to whom sums were paid or credited in respect of the drawback shall be liable to the Treasury for such sums.<sup>34</sup>

MADE 23 MARCH 1990

## ENDNOTES

### Table of Endnote References

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<sup>1</sup> 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.

<sup>2</sup> Definition of “the Collector” revoked by SD288/06.

<sup>3</sup> Definition of “return” inserted by SD642/08.

<sup>4</sup> Definition of “winery” amended by SD288/06.

<sup>5</sup> Subpara (c) inserted by SD130/97 and amended by SD198/10.

<sup>6</sup> Para (1) amended by SD702/96, by SD130/97 and by SD198/10.

<sup>7</sup> Para (3) inserted by SD198/10.

<sup>8</sup> Para (4) inserted by SD198/10.

<sup>9</sup> Reg 12 amended by SD702/96 and by SD642/08.

<sup>10</sup> Reg 12A inserted by SD702/96.

<sup>11</sup> Reg 13 heading amended by SD198/10.

<sup>12</sup> Subpara (c) revoked by SD198/10.

<sup>13</sup> Reg 13 amended by SD702/96, by SD288/06 and by SD198/10.

<sup>14</sup> Subpara (b) amended by SD130/97.

<sup>15</sup> Reg 16 revoked by SD288/06.

<sup>16</sup> Reg 19 revoked by SD288/06.

<sup>17</sup> Reg 20 revoked by SD288/06.

<sup>18</sup> Reg 21 revoked by SD288/06.

<sup>19</sup> Reg 22 revoked by SD43/07.

<sup>20</sup> Subpara (a) amended by SD288/06.

<sup>21</sup> Subpara (b) revoked by SD43/07.

<sup>22</sup> Para (1) amended by SD288/06 and by SD43/07.

<sup>23</sup> Para (2) substituted by SD43/07 and amended by SD198/10.

<sup>24</sup> Para (3) inserted by SD43/07.

<sup>25</sup> Para (4) inserted by SD43/07.

<sup>26</sup> Para (5) inserted by SD43/07.

<sup>27</sup> Para (6) inserted by SD43/07.

<sup>28</sup> Para (7) inserted by SD642/08.

<sup>29</sup> Para (8) inserted by SD642/08.

<sup>30</sup> Reg 25 substituted by SD642/08.

<sup>31</sup> Reg 26 substituted by SD642/08.

<sup>32</sup> Reg 27 inserted by SD642/08.

<sup>33</sup> Reg 28 inserted by SD642/08.

<sup>34</sup> Reg 29 inserted by SD642/08.