



WINE REGULATIONS 2020

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European Communities (Isle of Man) Act 1973

WINE REGULATIONS 2020¹

Laid before Tynwald: 19 January 2021
Coming into Operation: in accordance with regulation 2

The Council of Ministers makes the following Regulations under sections 2B and 2C of the European Communities (Isle of Man) Act 1973.

PART 1 – INTRODUCTORY

1 Title

These Regulations are the Wine Regulations 2020.

2 Commencement

These Regulations come into operation on the day they are made¹.

3 Interpretation

(1) In these Regulations –

- (a) references to any of the Regulations listed in the definition of “the retained EU Regulations” in paragraph (2) are references to those instruments as amended from time to time;²
- (b) terms used in the retained EU Regulations have the same meaning as in those Regulations.³

(2) In these Regulations –

“**the 1416/2006 prohibition**” has the meaning given in regulation 6A(1);⁴

“**authorised officer**” means a person appointed by an enforcement authority for the purposes of these Regulations;

“**Customs and Excise**” means the Customs and Excise Division of the Treasury;

¹ Section 2B(9) of the European Communities (Isle of Man) Act 1973 specifies that regulations shall be laid before Tynwald and if Tynwald at the sitting before which such instrument is so laid or at the next following sitting resolves that the instrument shall be annulled, the regulations shall thereupon cease to have effect.

“enforcement authority” means each of the Department and Customs and Excise;

“the Department” means the Department of Environment, Food and Agriculture;

“the retained EU Regulations” means —

- (a) the provisions of Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 (“Regulation (EU) 2013”)²;
- (b) Regulation (EU) No 251/2014 of the European Parliament and of the Council of 26 February 2014 on the definition, description, presentation, labelling and the protection of geographical indications of aromatised wine products and repealing Council Regulation (EEC) No 1601/91³;
- (c) Commission Delegated Regulation (EU) 2017/670 of 31 January 2017 supplementing Regulation (EU) No 251/2014 of the European Parliament and of the Council as regards the authorised production processes for obtaining aromatised wine products⁴;
- (d) Commission Delegated Regulation (EU) 2018/273 of 11 December 2017 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards the scheme of authorisations for vine plantings, the vineyard register, accompanying documents and certification, the inward and outward register, compulsory declarations, notifications and publication of notified information, and supplementing Regulation (EU) No 1306/2013 of the European Parliament and of the Council as regards the relevant checks and penalties, amending Commission Regulations (EC) No 555/2008, (EC) No 606/2009 and (EC) No 607/2009 and repealing Commission Regulation (EC) No 436/2009 and Commission Delegated Regulation (EU) 2015/560⁵ (“Commission Regulation (EU) 2018/273”);
- (e) Commission Implementing Regulation (EU) 2018/274 of 11 December 2017 laying down rules for the application of Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards the scheme of authorisations for vine plantings, certification, the inward and outward register, compulsory declarations and notifications, and of Regulation (EU) No 1306/2013 of the European Parliament and of the Council as regards the relevant checks, and repealing Commission

² OJ L 347, 20.12.2013, p. 671.

³ OJ L 84, 20.3.2014, p. 14.

⁴ OJ L 97, 8.4.2017, p. 5.

⁵ OJ L 58, 28.2.2018, p. 1.

- Implementing Regulation (EU) 2015/561⁶ (“Commission Implementing Regulation (EU) 2018/274”);
- (f) Commission Delegated Regulation (EU) 2019/33 of 17 October 2018 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards applications for protection of designations of origin, geographical indications and traditional terms in the wine sector, the objection procedure, restrictions of use, amendments to product specifications, cancellation of protection, and labelling and presentation⁷;
 - (g) Commission Implementing Regulation (EU) 2019/34 of 17 October 2018 laying down rules for the application of Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards applications for protection of designations of origin, geographical indications and traditional terms in the wine sector, the objection procedure, amendments to product specifications, the register of protected names, cancellation of protection and use of symbols, and of Regulation (EU) No 1306/2013 of the European Parliament and of the Council as regards an appropriate system of checks⁸;
 - (h) Commission Delegated Regulation (EU) 2019/934 of 12 March 2019 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards wine-growing areas where the alcoholic strength may be increased, authorised oenological practices and restrictions applicable to the production and conservation of grapevine products, the minimum percentage of alcohol for by-products and their disposal, and publication of OIV files⁹; and
 - (i) Commission Implementing Regulation (EU) 2019/935 of 16 April 2019 laying down rules for the application of Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards analysis methods for determining the physical, chemical and organoleptic characteristics of grapevine products and notifications of Member States decisions concerning increases in natural alcoholic strength¹⁰;⁵

“**premises**” includes any land or vehicle; and

“**wine sector product**” means a product mentioned in Part II of Annex VII to Regulation (EU) 2013.

⁶ OJ L 58, 28.2.2018, p. 60.

⁷ OJ L 9, 11.1.2019, p. 2.

⁸ OJ L 9, 11.1.2019, p. 46.

⁹ OJ L 149, 7.6.2019, p. 1.

¹⁰ OJ L 149, 7.6.2019, p. 53.

4 Official functions and enforcement

- (1) The Department and Customs and Excise enforce the retained EU Regulations and the 1416/2006 prohibition in relation to import and export.⁶
- (2) Otherwise the Department enforces these Regulations, the 1416/2006 prohibition and the retained EU Regulations.⁷
- (3) The Department and Customs and Excise may delegate to the Attorney General functions in relation to the prosecution of an offence under these Regulations.

5 The competent authority

- (1) The Department is the competent authority for the retained EU Regulations and the 1416/2006 prohibition.⁸
- (2) But Customs and Excise is the competent authority for the purposes of Article 19 of Commission Implementing Regulation (EU) 2018/274.

PART 2 – VINEYARD INFORMATION

6 Information to be provided about the vineyard

- (1) A person who plants vines of more than 0.1 hectare, or who has increased an existing plantation of vines to one of more than 0.1 hectare, must notify the Department of the location of the vineyard and the variety or varieties of grape vine planted.
- (2) The notification required by paragraph (1) must be given within 6 months of the date of the event which triggered that requirement.

PART 3 – ENFORCEMENT

6A The 1416/2006 prohibition

- (1) In these Regulations, “the 1416/2006 prohibition” means the prohibition contained in the first sentence of Article 1 of Regulation (EC) No 1416/2006¹¹ (prohibiting the use of a US name of origin listed in the Annex to that Regulation for a wine unless it is used to designate a wine of the origin indicated by such name) as read with paragraph (2).
- (2) The prohibition referred to in paragraph (1) does not apply in relation to the use of a US name of origin listed in the Annex to Regulation (EC) No 1416/2006 for a wine where —

¹¹ Paragraph 50(3A) of the Schedule to the retention Regulations.

- (a) the name of origin used for the wine is homonymous with the US name of origin, the wine originates from the place with the homonymous name and the name is used in such a way that consumers will not be misled; or
 - (b) the name is used in the course of trade by the person under whose name the wine is produced and marketed and the US name of origin is the same as the name of that person or a predecessor of that person in business and is used in such a way that consumers will not be misled.
- (3) In this regulation, “Regulation (EC) No 1416/2006” means Commission Regulation (EC) No 1416/2006 laying down specific rules on the implementation of Article 7(2) of the Agreement between the European Community and the United States of America on trade in wine concerning the protection of US names of origin in the Community.⁹

7 Disclosure of information

- (1) Customs and Excise may disclose any information in its possession to the Department for the purposes of the retained EU Regulations or these Regulations.¹⁰
- (2) Paragraph (1) is without prejudice to any other power of Customs and Excise to disclose information.

8 Powers of authorised officers

- (1) An authorised officer may, on producing a duly authenticated authorisation if required, at any reasonable time enter any premises (except those used wholly or mainly as a private dwellinghouse) for the purpose of executing or enforcing the retained EU Regulations, the 1416/2006 prohibition or these Regulations.¹¹
- (2) An authorised officer who has entered premises, whether under paragraph (1) or under the authority of a warrant under regulation 9, may –
 - (a) inspect any materials or articles;
 - (b) have access to, and inspect and copy any documents or records (in whatever form they are held), and remove them to enable them to be copied;
 - (c) have access to, inspect and check the operation of any computer and any associated apparatus used in connection with the records, and may require any person to afford such assistance as may reasonably be required (including the provision of passwords), and may require any computer records to be produced in a form in which they may be taken away;

- (d) seize and retain anything required as evidence in proceedings under these Regulations;
 - (e) undertake an inventory of wine sector products and of anything which may be used in the preparation of wine sector products; and
 - (f) purchase or take samples of any wine sector product and of anything which may be used in the preparation of wine sector products.
- (3) An authorised officer who has procured a sample of any wine sector product or of anything which may be used in the preparation of such a product may analyse or examine that sample or have that sample analysed or examined.
- (4) An authorised officer entering any premises by virtue of this regulation or regulation 9 may be accompanied by such other person as the officer considers necessary.

9 Warrant

- (1) If a judicial officer, acting on an affidavit, is satisfied —
- (a) that there are reasonable grounds to enter any premises for the purposes of executing or enforcing the retained EU Regulations, the 1416/2006 prohibition or these Regulations; and¹²
 - (b) that any of the conditions in paragraph (2) are met,
- the judicial officer may by signed warrant authorise an authorised officer to enter the premises, if need be by reasonable force.
- (2) The conditions are that —
- (a) admission to the premises has been refused, or a refusal is expected, and (in either case) notice of the intention to apply for a warrant has been given to the occupier;
 - (b) asking for admission to the premises, or the giving of such notice, would defeat the object of the entry;
 - (c) entry is required urgently; or
 - (d) the premises are unoccupied or the occupier is temporarily absent.
- (3) A warrant is valid for three months.
- (4) An authorised officer entering any premises which are unoccupied or from which the occupier is temporarily absent must leave them as effectively secured against unauthorised entry as they were before entry.

10 Warning notices

- (1) An authorised officer who believes that a person has contravened any provision of the retained EU Regulations or the 1416/2006 prohibition may serve a notice under this regulation on the person (a “warning notice”).¹³

- (2) A warning notice must —
 - (a) state the provision of the retained EU Regulations that the officer believes has been breached or, if relevant, state that the officer believes that the 1416/2006 prohibition has been contravened;¹⁴
 - (b) notify the person that any future breach of that provision by them may render the person liable to prosecution; and
 - (c) give details of the right of appeal against the notice.

11 Enforcement notices

- (1) An enforcement notice is a notice requiring a person to take specified steps to remedy a contravention, to remedy a contravention to the fullest extent possible, or to remedy matters making it likely that a contravention will arise.
- (2) An authorised officer may serve an enforcement notice on a person if the officer is of the opinion that the person —
 - (a) has contravened regulation 6;
 - (b) has contravened, is contravening or is likely to contravene any provision of the retained EU Regulations; or¹⁵
 - (c) has contravened the 1416/2006 prohibition.¹⁶
- (3) An enforcement notice must —
 - (a) state that the officer is of that opinion;
 - (b) specify the matters constituting the contravention or the matters making it likely that the contravention will arise, as the case may be;
 - (c) specify the steps that must be taken to remedy the contravention or to remedy the matters making it likely that the contravention will arise, as the case may be;
 - (d) specify the period within which those steps must be taken; and
 - (e) give details of the right of appeal against the notice.

12 Prohibition notices

- (1) A prohibition notice is a notice prohibiting the movement, marketing or export of a wine sector product.
- (2) An authorised officer may serve a prohibition notice on a person who appears to be in control of a wine sector product if the officer is of the opinion that there has been or may have been a contravention of any provision of the retained EU Regulations or the 1416/2006 prohibition in relation to the product.¹⁷
- (3) A prohibition notice must give details of the right of appeal against the notice.

- (4) The officer may mark any wine sector product or container in relation to which a prohibition notice has been served (and remove or alter any such mark).

13 Appeals against notices etc.

- (1) A person who is aggrieved by a notice served under these Regulations may appeal against it.
- (2) The right of appeal is to a person nominated by the Department.
- (3) An appeal must be brought within the period of 28 days beginning with the date on which the notice is served.
- (4) A notice is not suspended pending an appeal unless the person nominated under paragraph (2) decides otherwise.
- (5) The person hearing the appeal may either cancel or confirm the notice, with or without modification.
- (6) A notice must be in writing.
- (7) An authorised officer may at any time withdraw or vary a notice in writing.
- (8) A person on whom an enforcement notice or a prohibition notice is served must comply with it at their own expense.

14 Offences

- (1) A person who breaches any of the following provisions of the retained EU Regulations is guilty of an offence –
 - (a) Article 103(2) of Regulation (EU) 2013 (which provides protection for protected designations of origin and protected geographical indications and the wines using those protected names in conformity with the product specification);
 - (b) the first sub-paragraph of Article 113(1) of Regulation (EU) 2013 (which protects the use of traditional terms for products produced in accordance with Article 112);
 - (c) Article 80(1), third sub-paragraph, of Regulation (EU) 2013 (which requires that wine sector products are produced and conserved in accordance with EU laws);
 - (d) Article 90(2) of Regulation (EU) 2013 (which concerns the production requirements for wine imported into the EU);
 - (e) Article 29 of Commission Regulation (EU) 2018/273 (which requires operations to be recorded in the register).¹⁸
- (1A) Any person who contravenes the 1416/2006 prohibition is guilty of an offence.¹⁹
- (2) It is an offence for a person to –

- (a) fail to comply with an enforcement notice or a prohibition notice;
 - (b) fail to comply with a provision of the retained EU Regulations at any time after that person has received a warning notice in respect of that provision.²⁰
- (3) It is an offence —
- (a) intentionally to obstruct an authorised officer acting in the execution of these Regulations or of the retained EU Regulations (including obstruction by the alteration or removal of a mark made under regulation 12(4));²¹
 - (aa) intentionally to obstruct an authorised officer acting in the enforcement of the 1416/2006 prohibition;²²
 - (b) without reasonable cause, to fail to give to any such officer any assistance or information which that officer may reasonably require;
 - (c) to furnish to any such officer any information knowing it to be false or misleading; or
 - (d) to fail to produce a document, record or passport to any such officer when required to do so.
- (4) It is an offence for a person to disclose any information received from Customs and Excise under regulation 7(1) if —
- (a) the information relates to a person whose identity is specified in the disclosure or can be deduced from the disclosure;
 - (b) the disclosure is for a purpose other than that specified in regulation 7(1); and
 - (c) Customs and Excise has not given its prior consent to the disclosure.
- (5) It is a defence for a person charged with an offence under paragraph (4) to prove that the person reasonably believed —
- (a) that the disclosure was lawful; or
 - (b) that the information had already and lawfully been made available to the public.

15 Penalties

A person guilty of an offence under these Regulations is liable to the following maximum penalties —

- (a) on summary conviction, to a fine of level 5 on the standard scale; or
- (b) on conviction on information, to a fine.

16 Transitional provision: the Trade and Cooperation Agreement

- (1) An authorised officer must not take any enforcement action under this Part, and an enforcement authority, and the Attorney General, must not prosecute an offence under regulation 14 (offences), in respect of EU Annex 15 wine (including EU Annex 15 wine labelled on or after 1 May 2021) that is placed on the market in the Isle of Man by a retailer on or after the day after the European Union and Trade Act 2019 (Amendments) (DEFA) (Food and Feed) Regulations 2023 come into operation.
- (2) In this regulation –
 - (a) “enforcement action” means the service of a notice under regulation 10 (warning notices), 11 (enforcement notices) or 12 (prohibition notices);
 - (b) “enforcement authority” has the same meaning as in regulation 3(2);
 - (c) “EU Annex 15 wine” means wine –
 - (i) to which Article 5 (transitional measures) of Annex 15 (trade in wine) to the Trade and Cooperation Agreement, as read with Article 1(1) (scope) of that Annex, applies, and
 - (ii) that is imported into the Island from a member State;
 - (d) “the Trade and Cooperation Agreement” has the same meaning as in section 37(1) of the European Union (Future Relationship) Act 2020 (of Parliament).
- (3) In this regulation, “placed on the market” is to be construed taking into account the definition of “placing on the market” in point 8 of Article 3 of Regulation (EC) No 178/2002 of the European Parliament and of the Council laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety.²³

MADE 21 DECEMBER 2020

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 (a) amended by SD2023/0284.

³ Subpara (b) amended by SD2023/0284.

⁴ Definition of “the 1416/2006 prohibition” inserted by SD2023/0284.

⁵ Definition of “the retained EU Regulations” amended by SD2023/0284.

⁶ Para (1) amended by SD2023/0284.

⁷ Para (2) amended by SD2023/0284.

⁸ Para (1) amended by SD2023/0284.

⁹ Reg 6A inserted by SD2023/0284.

¹⁰ Para (1) amended by SD2023/0284.

¹¹ Para (1) amended by SD2023/0284.

¹² Subpara (a) amended by SD2023/0284.

¹³ Para (1) amended by SD2023/0284.

¹⁴ Subpara (a) amended by SD2023/0284.

¹⁵ Subpara (b) amended by SD2023/0284.

¹⁶ Subpara (c) inserted by SD2023/0284.

¹⁷ Para (2) amended by SD2023/0284.

¹⁸ Para (1) amended by SD2023/0284.

¹⁹ Para (1A) inserted by SD2023/0284.

²⁰ Subpara (b) amended by SD2023/0284.

²¹ Subpara (a) amended by SD2023/0284.

²² Subpara (aa) inserted by SD2023/0284.

²³ Reg 16 inserted by SD2023/0284.