SCOTTISH STATUTORY INSTRUMENTS

2002 No. 325

AGRICULTURE

The Common Agricultural Policy (Wine) (Scotland) Regulations 2002

Made - - - -	*27th June 2002*
Laid before the Scottish Parliament - - - -	*28th June 2002*
Coming into force - -	*23rd September 2002*

The Scottish Ministers, in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(**1**) and of all other powers enabling them in that behalf, hereby make the following Regulations:

PART I

CITATION, COMMENCEMENT, EXTENT AND INTERPRETATION

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Common Agricultural Policy (Wine) (Scotland) Regulations 2002 and shall come into force on 23rd September 2002.

(2) These Regulations extend to Scotland only.

Interpretation

2.—(1) In these Regulations–

"analysis" includes microbiological assay and any technique for establishing the composition of food;

"appropriate enforcement authority", in relation to any part of Scotland means an enforcement authority in relation to that part;

(**1**) 1972 c. 68; section 2(2) was amended by the Scotland Act 1998 (c. 46), Schedule 8, paragraph 15. The function conferred upon the Minister of the Crown under section 2(2) of the European Communities Act 1972, insofar as within devolved competence, was transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998.

"authorised officer" means any person (whether or not an officer of that authority) who is authorised for the purposes of these Regulations by an appropriate enforcement authority or, in relation to any particular provision of these Regulations, any person who is authorised by an appropriate enforcement authority for the purposes of that provision;

"Commission Regulation 3388/81" has the same meaning as it has in Schedule 1;

"Commission Regulation 3590/85" means Commission Regulation (EEC) No. 3590/1985 on the certificate and analysis report required for the importation of wine, grape juice and grape must(**2**), as amended by Commission Regulation (EEC) No. 1614/1986(**3**), Commission Regulation (EEC) No. 2039/1988(**4**), Commission Regulation (EC) No. 1648/1996(**5**) and Commission Regulation (EC) No. 960/1998(**6**);

"Commission Regulation 649/87" means Commission Regulation (EEC) No. 649/1987 laying down detailed rules for the establishment of a Community vineyard register(**7**), as amended by Commission Regulation (EEC) No. 1097/1989(**8**);

"Commission Regulation 2676/90" has the same meaning as it has in Schedule 2;

"Commission Regulation 3201/90" has the same meaning as it has in Schedule 3;

"Commission Regulation 2238/93" means Commission Regulation (EEC) No. 2238/1993 on the accompanying documents for the carriage of wine products and the relevant records to be kept(**9**), as amended by Commission Regulation (EC) No. 1592/1999(**10**);

"Commission Regulation 554/95" means Commission Regulation (EC) No. 554/1995 laying down detailed rules for the description and presentation of sparkling and aerated sparkling wines(**11**), as amended by Commission Regulation (EC) No. 1915/1996(**12**);

"Commission Regulation 1294/96" means Commission Regulation (EC) No. 1294/1996 laying down detailed rules for the application of Council Regulation (EEC) No. 822/1987 as regards harvest, production and stock declarations relating to wine-sector products(**13**), as amended by Commission Regulation (EC) No. 2050/1996(**14**), Commission Regulation (EC) No. 225/1997(**15**), Commission Regulation (EC) No. 2735/1999(**16**) and Commission Regulation (EC) No. 838/2000(**17**);

"Commission Regulation 881/98" means Commission Regulation (EC) No. 881/1998 laying down detailed rules for the protection of the additional terms used to designate certain types of quality wine produced in specified regions (quality wine psr)(**18**), as amended by Commission Regulation (EC) No. 2215/1998(**19**), Commission Regulation (EC) No. 806/1999(**20**), Commission Regulation (EC) No. 2253/1999(**21**) and Commission Regulation (EC) No. 1608/2000(**22**);

(**2**) O.J. No. L 343, 20.12.85, p.20.
(**3**) O.J. No. L 142, 28.5.86, p.22.
(**4**) O.J. No. L 179, 9.7.88, p.29.
(**5**) O.J. No. L 207, 17.8.96, p.7.
(**6**) O.J. No. L 135, 8.5.98, p.4.
(**7**) O.J. No. L 62, 5.3.87, p.10.
(**8**) O.J. No. L 116, 28.4.89, p.20.
(**9**) O.J. No. L 200, 10.8.93, p.10.
(**10**) O.J. No. L 188, 21.7.99, p.33.
(**11**) O.J. No. L 56, 14.3.95, p.3.
(**12**) O.J. No. L 252, 4.10.96, p.10.
(**13**) O.J. No. L 166, 5.7.96, p.14.
(**14**) O.J. No. L 274, 26.10.96, p.17.
(**15**) O.J. No. L 37, 7.2.97, p.1.
(**16**) O.J. No. L 328, 22.12.99, p.50.
(**17**) O.J. No. L 102, 27.4.00, p.33.
(**18**) O.J. No. L 124, 25.4.98, p.22.
(**19**) O.J. No. L 279, 16.10.98, p.4.
(**20**) O.J. No. L 102, 17.4.99, p.67.
(**21**) O.J. No. L 275, 26.10.99, p.8.
(**22**) O.J. No. L 185, 25.7.00, p.24.

"Commission Regulation 1227/2000" means Commission Regulation (EC) No. 1227/2000 laying down detailed rules for the application of Council Regulation (EC) No. 1493/1999 on the common organisation of the market in wine, as regards production potential(**23**), as amended by Commission Regulation (EC) No. 1253/2001(**24**) and Commission Regulation (EC) No. 784/2001(**25**);

"Commission Regulation 1607/2000" means Commission Regulation (EC) No. 1607/2000 laying down detailed rules for implementing Regulation (EC) No. 1493/1999 on the common organisation of the market in wine, in particular the Title relating to quality wine produced in specified regions(**26**), as amended by Commission Regulation (EC) No. 363/2002(**27**);

"Commission Regulation 1622/2000" has the same meaning as it has in Schedule 4;

"Commission Regulation 1623/2000" has the same meaning as it has in Schedule 5;

"the Commissioners" means the Commissioners of Customs and Excise;

"Community provision" means any provision of any Regulation, Decision or Act of the European Communities which is referred to in Schedule 6, or of the Treaties relating to the accession to the European Communities, respectively, of the Hellenic Republic signed at Athens on 28th May 1979(**28**), of the Kingdom of Spain and the Portuguese Republic signed, respectively, at Madrid and Lisbon on 12th June 1985(**29**) and of the Kingdom of Sweden, the Republic of Austria and the Republic of Finland signed, respectively, at Stockholm, Vienna and Helsinki on 24th June 1994(**30**), and where any such provision has been adapted by the European Economic Area Agreement, includes the adaptation to it effected thereby;

"controlled wine-sector product" means any wine-sector product the movement of which is for the time being prohibited pursuant to regulation 8;

"Council Regulation 357/79" has the same meaning as it has in Schedule 7;

"Council Regulation 2392/86" means Council Regulation (EEC) No. 2392/1986 establishing a Community vineyard register(**31**), as amended by Council Regulation (EC) No. 1549/1995(**32**), Council Regulation (EC) No. 1596/1996(**33**) and Council Regulation (EC) No. 1631/1998(**34**);

"Council Regulation 1601/91" means Council Regulation (EEC) No. 1601/1991 laying down general rules on the description and presentation of aromatized wines, aromatized wine-based drinks and aromatized wine-product cocktails(**35**), as amended by Council Regulation (EEC) No. 3279/1992(**36**), Regulation (EC) No. 3378/1994 of the European Parliament and the Council(**37**), Commission Regulation (EC) No. 122/1994(**38**), and Regulation No. 2061/1996 of the European Parliament and Council(**39**);

"Council Regulation 1493/1999" has the same meaning as it has in Schedule 8;

(**23**) O.J. No. L 143, 16.6.00, p.1.
(**24**) O.J. No. L 173, 27.6.01, p.31.
(**25**) O.J. No. L 113, 24.4.01, p.4.
(**26**) O.J. No. L 185, 25.7.00, p.17.
(**27**) O.J. No. L 58, 28.2.02, p.7.
(**28**) O.J. No. L 291, 19.11.79, p.9.
(**29**) O.J. No. L 302, 15.11.85, p.9.
(**30**) O.J. No. C 241, 29.8.94, p.1; as amended by Council Decision No. 95/1 adjusting the instruments concerning the accession of new member states to the European Union (O.J. No. L 1, 1.1.95, p.1). The amendments made by Council Decision No. 95/1 are not relevant to these Regulations.
(**31**) O.J. No. L 208, 31.7.86, p.1.
(**32**) O.J. No. L 148, 30.6.95, p.37.
(**33**) O.J. No. L 206, 16.8.96, p.38.
(**34**) O.J. No. L 210, 28.7.98, p.14.
(**35**) O.J. No. L 149, 14.6.91, p.1.
(**36**) O.J. No. L 327, 13.11.92, p.1.
(**37**) O.J. No. L 366, 31.12.94, p.1.
(**38**) O.J. No. L 21, 26.1.94, p.7.
(**39**) O.J. No. L 277, 30.10.96, p.1.

"enforcement authority" means–

(a) the Commissioners;

(b) the Wine Standards Board;

(c) the Scottish Ministers;

(d) in relation to the area of a local authority, the local authority;

"the European Economic Area Agreement" has the same meaning as has "the Agreement" in section 6(1) of the European Economic Area Act 1993(**40**);

"examination" means microbiological examination;

"food analyst" and "food examiner" mean a person who is a food analyst or a food examiner, as the case may be, for the purposes of section 30 of the Food Safety Act 1990(**41**);

"local authority" means an authority which is a food authority for the purposes of the Food Safety Act 1990;

"manufacturing" means using wine or other wine-sector products, for the purposes of a trade or business (other than a catering business), in the composition, manufacture or preparation of any product;

"relevant Community provision" means any Community provision referred to in column 1 or column 2 of Schedule 9;

"retail sale" means any sale to a person buying otherwise than for the purpose of resale but does not include a sale to a caterer in the course of the caterer's catering business or to a manufacturer in the course of the manufacturer's manufacturing business;

"third country" means any country or territory not forming part of the United Kingdom;

"the Wine Standards Board" means the Wine Standards Board of The Vintners' Company.

(2) Other expressions used in these Regulations have, in so far as the context admits, the same meanings as in Council Regulation 1493/1999 and, in relation to aromatized wines, in Council Regulation 1601/91.

(3) In these Regulations any reference to a numbered regulation or Schedule shall be construed as a reference to the regulation or Schedule so numbered in these Regulations.

(4) Column 3 of Schedule 9 (which provides in relation to each relevant Community provision an indication of the subject matter of the measure) shall not be read as limiting the scope of any relevant Community provision and shall be disregarded in relation to any question arising as to the construction of these Regulations.

PART II

GENERAL PROVISIONS

Official functions and enforcement

3.—(1) Subject to the provisions of this regulation, local authorities, the Scottish Ministers, the Commissioners and the Wine Standards Board are hereby designated as the authorities responsible for ensuring compliance with the Community provisions.

(2) Each local authority shall secure the enforcement of the relevant Community provisions in so far as they relate to the retail sale of products within its area.

(**40**) 1993 c. 51.
(**41**) 1990 c. 16.

(3) The Scottish Ministers, the Commissioners and the Wine Standards Board shall secure the enforcement of the relevant Community provisions in so far as they relate to the importation and exportation of any wine-sector product into Scotland from a third country or from Scotland to a third country.

(4) The Scottish Ministers and the Wine Standards Board shall secure the enforcement of the relevant Community provisions in so far as they relate to any matter not mentioned in paragraphs (2) or (3) above.

Definition of medium dry

4. For the purposes of Article 14(7)(b) of Commission Regulation 3201/90, wine may be labelled and described as "medium dry" if it has a residual sugar content not exceeding 18 grams per litre where the total acidity content of that wine expressed as grams of tartaric acid per litre is not more than 10 grams per litre below its residual sugar content.

Vine varieties

5. For the purposes of Article 19(1) and (2) of Council Regulation 1493/1999 and Article 20 of Commission Regulation 1227/2000, the vine varieties classified for the production of wine in Scotland are those specified in Schedule 10.

Geographical indications for table wine

6.—(1) In pursuance of Article 51(3) of Council Regulation 1493/1999, the use of a geographical indication for the designation of table wine produced in any part of Scotland is prohibited unless that table wine is produced–

(a) wholly from one or more of the varieties of vine specified in Schedule 10; and

(b) subject to paragraph (2) below, exclusively from grapes harvested in the geographical unit the name of which is used for the designation of that table wine.

(2) Notwithstanding paragraph (1)(b) above, a geographical indication may be used to designate a table wine obtained by the coupage of wines as permitted by Article 51(2) of Council Regulation 1493/1999.

(3) In paragraph (1)(b) above, "geographical unit" means a precisely demarcated area which–

(a) is a part of Scotland; and

(b) falls within the definition of a "geographical unit which is smaller than the Member State" in Article 51(1) of Council Regulation 1493/1999.

(4) Subject to point A, paragraph 2, of Annex VII to Council Regulation 1493/1999, no geographical indication other than the name of a geographical unit as specified in this regulation shall be used on the labelling or advertising of a table wine produced in any part of Scotland.

Powers of authorised officers

7.—(1) An authorised officer may, on producing, if so required, some duly authenticated document showing the authority of that officer, at any reasonable time enter any land or vehicle (other than where used solely as a dwelling), for the purpose of ascertaining whether any offence under these Regulations has been or is being committed or whether any offence under the Common Agricultural Policy (Wine) Regulations 1993(**42**), 1994(**43**), 1995(**44**) or 1996(**45**) has been committed.

(**42**) S.I.1993/517, amended by S.I. 1993/3071 and revoked by S.I. 1994/674.
(**43**) S.I. 1994/674, revoked by S.I. 1995/615.