STATUTORY RULES OF NORTHERN IRELAND

2009 No. 354

AGRICULTURE

The Wine Regulations (Northern Ireland) 2009

Made - - - -	*29th October 2009*
Coming into operation	*1st December 2009*

The Department of Agriculture and Rural Development being a Department designated(**1**) for the purposes of section 2(2) of the European Communities Act 1972(**2**) in relation to the common agricultural policy of the European Community, makes the following Regulations in exercise of the powers conferred by that section.

PART 1

Introduction

Title and commencement

1. These Regulations may be cited as the Wine Regulations (Northern Ireland) 2009 and come into operation on 1st December 2009.

Interpretation

2.—(1) In these Regulations—

"the Agency" means the Food Standards Agency;

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

"authorised officer" means any person (whether or not an officer of an enforcement 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;

"the Commissioners" means the Commissioners for Revenue and Customs;

"controlled wine-sector product" means any wine-sector product the movement of which is for the time being prohibited pursuant to regulation 10;

(**1**) S. I. 2000/2812
(**2**) 1972 c. 68.

"the Department" means the Department of Agriculture and Rural Development;

"enforcement authority" means—

(a) the Commissioners or the Agency;

(b) the Department;

(c) in relation to the area of a district council, the district council;

"examination" means microbiological examination;

"food analyst" and "food examiner" mean, a person who is a food analyst or a food examiner for the purposes of articles 30 and 31 of the Food Safety (Northern Ireland) Order 1991(**3**);

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

"quality wines psr" has the meaning assigned to it by Article 54 of Council Regulation (EC) No 1493/1999 on the common organisation of the market in wine(**4**);

"Regulation 2392/86" means Council Regulation (EEC) No 2392/86 establishing a Community vineyard register(**5**);

"Regulation 2676/90" means Commission Regulation (EEC) No 2676/90 determining Community methods for the analysis of wines(**6**);

"Regulation 1601/91" means Council Regulation (EEC) No 1601/91 laying down general rules on the definition, description and presentation of aromatized wines, aromatized wine- based drinks and aromatized wine-product cocktails(**7**)

"Regulation 1493/99" means Council Regulation (EC) No 1493/99 on the common organisation of the market in wine;

"Regulation 1607/2000" means Commission Regulation (EC) No. 1607/2000 laying down detailed rules for implementing Regulation (EC) No. 1493/99 on the common organisation of the market in wine, in particular the Title relating to quality wine produced in specified regions(**8**);

"Regulation 884/2001" means Commission Regulation (EC) No 884/2001 laying down detailed rules of application concerning the documents accompanying the carriage of wine products and the records to be kept in the wine sector(**9**);

"Regulation 1282/2001" means Commission Regulation (EC) No 1282/2001 laying down detailed rules for the application of Council Regulation (EC) No 1493/99 as regards the gathering of information to identify wine products and to monitor the wine market(**10**);

"Regulation 753/2002" means Commission Regulation (EC) No 753/2002 laying down certain rules for applying Council Regulation (EC) No 1493/99 as regards the description, designation, presentation and protection of certain wine-sector products(**11**);

(**3**) S.I. 1991/762 (N.I. 7)
(**4**) OJ No. L179, 14.7.1999, p. 1 as last amended by Council Regulation (EC) No 1332/2008 (OJ No. L354, 31.12.2008, p. 7).
(**5**) OJ No. L208, 31.7.1986, p. 1 as last amended by Council Regulation (EC) No 1631/98 (OJ No. L201, 28.7.1998, p. 14).
(**6**) OJ No. L 272, 3.10.1990, p. 1 as last amended by Commission Regulation (EC) No 1293/2005 (OJ No. L205, 6.8.2005, p. 12).
(**7**) OJ No. L149, 14.6.1991, p. 1 as last amended by the Regulation (EC) No 1334/2008 of the European Parliament and of the Council (OJ No. L354, 31.12.2008, p. 34)
(**8**) OJ No. L185, 25.7.2000, p. 17 as last amended by Commission Regulation (EC) No. 2030/2006 (OJ No. L414, 30.12.2006, p. 40).
(**9**) OJ No. L128, 10.5.2001, p. 32 as last amended by Commission Regulation (EC) No 2016/2006 (OJ No. L384, 29.12.2006, p. 38).
(**10**) OJ No. L176, 29.6.2001, p 14 as last amended by Commission Regulation (EC) No 23/2009 (OJ No. L10, 15.1.2009, p. 6)
(**11**) OJ No. L118, 4.5.2002, p. 1 as last amended by Commission Regulation (EC) No 1471/2007 (OJ No. L329, 14.12.2007, p. 9).

"Regulation 423/2008" means Commission Regulation (EC) No 423/2008 on laying down certain detailed rules for implementing Council Regulation (EC) No. 1493/99 and establishing a Community code of oenological practices and processes(**12**);

"Regulation 479/2008" means Council Regulation (EC) No 479/2008 on the common organisation of the market in wine(**13**);

"relevant Community provision" means any Community provision referred to in column 1 of Schedule 1, the subject matter of which is described in column 2 of that Schedule;

"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 a catering business or to a manufacturer in the course of a manufacturing business;

"wine-sector product" for the purposes of these Regulations, includes any aromatized wine;

(2) The Interpretation Act (Northern Ireland) 1954(**14**) shall apply to these Regulations as it applies to an Act of the Assembly.

PART 2

General Provisions

3.—(1) The district council must enforce these Regulations in so far as they relate to retail sale.

(2) The Department, the Commissioners and the Agency must enforce these Regulations insofar as they relate to import and export.

(3) Otherwise, the Agency or the Department must enforce these Regulations.

(4) Nothing in this regulation authorises the Commissioners to institute proceedings for an offence.

(5) The Department is the competent authority for the Council and Commission Regulations enforced by these Regulations.

Offences in Schedule 1

4. Any person who breaches any provision set out in Schedule 1 is guilty of an offence.

Table wine with a geographical indication and quality wines psr

5. Schedule 2 makes provision for table wines with a geographical indication, and Schedule 3 makes provision for quality wines psr.

Accreditation as an organiser of an organoleptic assessment panel

6.—(1) Any application for accreditation as an organiser of an organoleptic assessment panel must be made to the Department and must specify—

(a) the criteria the applicant will use in selecting panel members;

(b) the method of organoleptic assessment that the panel will use to determine whether wine submitted to it is of a satisfactory standard for regional wine; and

(c) the basis on which that determination will be made.

(**12**) OJ No. L127, 15.5.2008, p. 13 as last amended by Commission Regulation (EC) No 1087/2008 (OJ No. L297, 6.11.2008, p. 11).
(**13**) OJ No. L148, 6.6.2008, p. 1 as last amended by Council Regulation (EC) No 72/2009 (OJ No. L30, 31.1.2009, p. 1).
(**14**) 1954 c. 33 (N.I.)

(2) The Department must grant accreditation on being satisfied that—

(a) the applicant is a fit and proper person to appoint such a panel;

(b) the criteria that the applicant will use in selecting panel members will result in persons with a wide variety of interests in wine and the wine industry (which may include consumers of wine) being selected as members of the panel;

(c) the method of organoleptic assessment is satisfactory; and

(d) the basis on which a determination will be made by a panel as to whether the wine is of a satisfactory organoleptic standard for a regional wine is a satisfactory basis for making such a determination.

(3) The Department must notify the applicant within fourteen days of reaching the decision to accept or refuse the application.

(4) Where the application is refused, the notification must include the reason.

(5) The accreditation may be time-limited.

(6) An accredited organiser must select panel members in accordance with the criteria specified in the application and must require any panel to use the methods specified in the application.

(7) The Department may cancel the accreditation of an organiser of an organoleptic assessment panel if that person ceases to be a fit and proper person to organise a panel or has failed to comply with the requirements of paragraph (6).

(8) When an accreditation is cancelled the Department must serve on the organiser concerned notice of—

(a) the decision;

(b) the reason for the decision; and

(c) the date when the cancellation takes effect.

(9) An accredited organiser may resign at any time.

(10) If an accreditation is cancelled, or an accredited organiser resigns, the panel appointed by that person is dissolved from the date of the cancellation or resignation.

Powers of authorised officers

7.—(1) An authorised officer may, on producing a duly authenticated authorisation if required, at any reasonable time enter any land or vehicle (other than any land or a vehicle used solely as a dwelling), for the purpose of enforcing these Regulations or ascertaining whether there has been a breach of any relevant Community provision.

(2) An authorised officer who has entered any land or vehicle 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; and

(i) have access to, inspect and check the operation of any computer and any associated apparatus used in connection with the records; and

(ii) may require any person to afford such assistance as may reasonably be required; and

(iii) may require any computer records to be produced in a form in which they may be taken away;

(c) seize and retain anything required as evidence in proceedings under these Regulations;

(d) undertake an inventory of wine-sector products and of anything which may be used in the preparation of products; and

(e) purchase or take samples of any wine-sector product and of anything which may be used for the preparation of any product.

(3) An authorised officer who has procured a sample of any product may analyse or examine that sample or have that sample analysed or examined.

(4) An authorised officer entering any land or vehicle by virtue of this regulation may be accompanied by such other persons as is necessary or by a representative of the European Commission.

Control on movement

8.—(1) An authorised officer of the Agency who inspects any wine-sector product may prohibit its being moved if there is reason to believe—

(a) there has been or may have been a breach of these Regulations in relation to that product; or

(b) there is or may be a risk to public health in relation to that product.

(2) An officer who does so must, without delay, give to the person who appears to be in charge of the wine-sector product concerned notice in writing—

(a) specifying the product concerned;

(b) stating that the product may not be moved without the written consent of an authorised officer;

(c) specifying the provision that has been or may have been breached; and

(d) specifying whether it would be practicable for steps to be taken to demonstrate to the officer that there is no longer any reason for that belief and, if so, what those steps should be.

(3) Where such a notice is given that notice must also contain information of the recipient's right, conferred by regulation 10, to have the giving of that notice reviewed, and as to how that right may be exercised, and of the effect of exercising that right.

(4) If the person to whom the officer gives the notice does not appear to the officer to be the owner of the wine-sector product concerned or an agent, contractor or employee of the owner, the officer must use best endeavours to bring the contents of the notice to the attention of such a person as soon as possible.

(5) An authorised officer of the Agency may affix to any wine-sector product in relation to which the power conferred by paragraph (1) has been exercised, or to any container in which the wine-sector product is packed, labels warning of the exercise of the power.

(6) An authorised officer of the Agency who is satisfied that the steps specified in the notice under paragraph 2(d) have been taken must immediately remove the prohibition on movement.

Consent to movement

9.—(1) An authorised officer of the Agency may, at any time, give written consent to the movement of a controlled wine-sector product.

(2) An authorised officer of the Agency must, upon request, give written consent to the movement of a controlled wine-sector product if that officer, or another authorised officer of the agency, has been given a written undertaking to the effect that the wine-sector product—

(a) will be moved to a place approved by an authorised officer of the Agency; and

(b) will not be moved from that place without the written consent of an authorised officer of the Agency.

(3) A consent given under this regulation must—