
STATUTORY INSTRUMENTS

2011 No. 2936

The Wine Regulations 2011

PART 3

Enforcement

Disclosure of information

7.—(1) The Commissioners for Her Majesty's Revenue and Customs may disclose any information in their possession to the Secretary of State or the Food Standards Agency for the purposes of the European Regulations or these Regulations.

(2) Paragraph (1) is without prejudice to any other power of the Commissioners to disclose information.

Powers of authorised officers

8.—(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 European Regulations or these Regulations.

(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 either or both of the following—

- (a) such other person as the officer considers necessary,
- (b) a representative of the European Commission.

Warrant

9.—(1) If a justice of the peace, on sworn information in writing, or in Scotland by evidence on oath, or in Northern Ireland on a sworn complaint in writing, is satisfied—

- (a) that there are reasonable grounds to enter any premises for the purposes of executing or enforcing the European Regulations or these Regulations; and
- (b) that any of the conditions in paragraph (2) are met,

the justice may by signed warrant authorise the 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.

(5) In this regulation, a reference to a justice of the peace—

- (a) in Scotland includes a sheriff; and
- (b) in Northern Ireland is a reference to a lay magistrate.

Warning notices

10.—(1) An authorised officer who believes that a person has contravened any provision of the European Regulations may serve a notice under this regulation on the person (a “warning notice”).

(2) A warning notice must—

- (a) state the provision of the European Regulations that the officer believes has been breached;
- (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.

Enforcement notices

11.—(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 5; or
- (b) has contravened, is contravening or is likely to contravene any provision of the European Regulations.

(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.

Prohibition notices

12.—(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 European Regulations in relation to the product.

(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).

Appeals against notices etc.

13.—(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 Food Standards Agency.

(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.

Offences

14.—(1) A person who breaches any of the following provisions of the European Regulations is guilty of an offence—

- (a) Article 118m(2) of Council Regulation [\(EC\) No 1234/2007](#) (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 118v(1) of Council Regulation [\(EC\) No 1234/2007](#) (which protects the use of traditional terms for products produced in accordance with Article 118u(1));
- (c) Article 120c of Council Regulation [\(EC\) No 1234/2007](#) (which requires that wine sector products are produced and conserved in accordance with EU laws);
- (d) Article 158a(2) of Council Regulation [\(EC\) No 1234/2007](#) (which concerns the production requirements for wine imported into the EU);

- (e) Article 41 of [Commission Regulation \(EC\) No 436/2009](#) (which requires operations to be entered into registers).
- (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 European Regulations at any time after that person has received a warning notice in respect of that provision.
- (3) It is an offence—
 - (a) intentionally to obstruct an authorised officer acting in the execution of these Regulations or of the European Regulations (including obstruction by the alteration or removal of a mark made under regulation [12\(4\)](#));
 - (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, including a servant of the Crown, to disclose any information received from the Commissioners for Her Majesty’s Revenue and Customs 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) the Commissioners have not given their 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.

Penalties

- 15.** A person guilty of an offence under these Regulations is liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum; or
 - (b) on conviction on indictment, to a fine.

Proceedings against partnerships and unincorporated associations

16.—(1) Proceedings for an offence under these Regulations alleged to have been committed by a partnership or unincorporated association may be brought against the partnership or association in the name of the partnership or association.

(2) For the purposes of such proceedings the following apply as if the partnership or unincorporated association were a body corporate—

- (a) rules of court relating to the service of documents;
- (b) section 33 of the Criminal Justice Act 1925(1) and Schedule 3 to the Magistrates’ Court Act 1980(2);

(1) [1925 c. 86](#). Section 33 was amended by Schedule 6 to the Magistrates Courts Act [1952 \(c.55\)](#), section 56(1) of and Part II of Schedule 8 to the Courts Act [1971 \(c.23\)](#) and section 109 of and paragraph 71 of Schedule 8, and Schedule 10 to Courts Act [2003 \(c.39\)](#).

- (c) section 70 and section 143 of the Criminal Procedure (Scotland) Act 1995(3);
- (d) section 18 of the Criminal Justice Act (Northern Ireland) 1945(4) and Schedule 4 to the Magistrates' Courts (Northern Ireland) Order 1981(5).

(3) A fine imposed on a partnership or unincorporated association is to be paid out of the funds of the partnership or association.

Offences by bodies corporate, partnerships and unincorporated associations

17.—(1) Where a body corporate is guilty of an offence under these Regulations and that offence is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of—

- (a) any director, manager, secretary or other similar officer of the body corporate, or
- (b) any person who was purporting to act in any such capacity,

that person, as well as the body corporate, is guilty of the offence.

(2) In paragraph (1), “director”, in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate.

(3) Where a partnership or a Scottish partnership is guilty of an offence under these Regulations and that offence is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of a partner, the partner, as well as the partnership, is guilty of the offence.

(4) In paragraph (3) “partner” includes a person purporting to act as a partner.

(5) Where an unincorporated association is guilty of an offence under these Regulations and that offence is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of an officer of the association, that officer, as well as the association, is guilty of the offence.

(6) In paragraph (5) “officer”, in relation to an unincorporated association, means—

- (a) an officer of the association or a member of its governing body; or
- (b) a person purporting to act in that capacity.

(2) 1980 c. 43. Schedule 3 was amended by sections 25(2), 101(2) of and Schedule 13 to the Criminal Justice Act 1991 (c. 53), section 47 of and paragraph 13 of Schedule 1 to the Criminal Procedure and Investigations Act 1996 (c.25), and sections 41 and 332 of and paragraph 51 of Schedule 3, and Part 4 of Schedule 37 to the Criminal Justice Act 2003 (c.44).

(3) 1995 c. 46. Section 70 was amended by article 3(1) of and paragraph 104(2) of Schedule 1 to S.I. 2001/1149, section 10(6) of the Criminal Procedure (Amendment) (Scotland) Act 2004 (asp 5) and section 28 of the Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6). Section 143 was amended by regulation 5 of and paragraph 3 of Schedule 4 to S.S.I. 2001/128 and by section 17 of the Criminal Proceedings etc. (Reform) (Scotland) Act 2007.

(4) 1945 c.15 (NI) Section 18 was amended by the Magistrates' Courts Act (NI) 1964 c.(NI), the Prosecution of Offences (NI) Order 1972 (SI No 538 (NI 1)), the Insurance Companies Act 1974 (c.49), the Banking Act 1979 (c.37), the Insurance Companies Act 1980 (c.25), and the Justice (NI) Act 2002 (c.26).

(5) S.I. 1981/1675 (N.I. 26).