STATUTORY INSTRUMENTS

1979 No. 1240

CUSTOMS AND EXCISE

The Wine and Made-wine Regulations 1979

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The Commissioners of Customs and Excise, in exercise of the powers conferred upon them by sections 56(1), 61(1) and 62(5) of the Alcoholic Liquor Duties Act 1979(**a**), and of all other powers enabling them in that behalf, hereby make the following Regulations:—

PART I

Preliminary

Citation and commencement

1. These Regulations may be cited as the Wine and Made-wine Regulations 1979 and shall come into operation on 1st November 1979.

Revocation

2. The Wine and Made-wine Regulations 1975(**b**) are hereby revoked.

Application

3. These Regulations apply to wine and made-wine produced in the United Kingdom for sale.

Interpretation

4. In these Regulations—
"the Act of 1979" means the Alcoholic Liquor Duties Act 1979;
"approved" means approved by the Commissioners;
"cider" has the meaning given by section 1 of the Act of 1979;
"the Collector" means the Collector of Customs and Excise for the Collection in which a winery is situate;
"duty" means the duty of excise charged on wine or made-wine under sections 54 and 55 respectively of the Act of 1979;
"excise warehouse" has the meaning given by section 1 of the Management Act of 1979;
"licence" means a licence issued under section 54(2) or 55(2) of the Act of 1979;
"licensed" in relation to a producer of wine or of made-wine has the meaning given by section 4 of the Act of 1979;
"made-wine" has the meaning given by section 1 of the Act of 1979;
"the Management Act of 1979" means the Customs and Excise Management Act 1979(**c**);

(**a**) 1979 c.4. (**b**) S.I. 1975/1790. (**c**) 1979 c.2.

"month" means a calendar month or any period of 4 or, as the case may be, 5 weeks allowed by the Commissioners for the purpose of accounting for duty;
"officer" has the meaning given by section 1 of the Management Act of 1979;
"producer" means a producer of wine or of made-wine who is or is required to be licensed;
"proper" has the meaning given by section 1 of the Management Act of 1979;
"wine" has the meaning given by section 1 of the Act of 1979;
"winery" means the premises, rooms, places and vessels entered by a licensed producer for use by him in his trade as a producer.

PART II

Determination of Duty and the Rates thereof

Charge to duty

5.—(1) Subject to paragraphs (2) and (3) below, wine or made-wine produced in a winery shall be charged with duty at the time it is sent out of that winery and at the rate in force at that time; and the duty shall be paid in accordance with Regulation 16(1):

Provided that where any wine or made-wine is sent out to another winery in accordance with paragraph (2)(c)(i) below, that other winery shall be treated as being the winery in which the wine or made-wine was produced.

(2) Subject to such conditions as the Commissioners may impose, including any condition that security shall be given to their satisfaction, a producer may send out from a winery wine or made-wine chargeable with duty without payment of that duty for any of the following purposes—

(a) exportation or shipment as stores;
(b) deposit in an excise warehouse for—
  (i) mixing with spirits,
  (ii) exportation or shipment as stores,
  (iii) use as ingredients of goods permitted to be produced in an excise warehouse and intended for exportation or shipment as stores, or
  (iv) such other purposes as the Commissioners may allow;
(c) removal, subject to the prior approval of the proper officer—
  (i) to another winery, or
  (ii) in the case of made-wine only, to premises in respect of which any person is registered in accordance with section 62(2) of the Act of 1979 as a maker of cider, and for use as an ingredient in the making of cider on those premises; or
(d) such use as trade samples as the Commissioners may allow:

Provided that if any wine or made-wine which has been sent out of a winery under the foregoing provisions of this paragraph is applied to some purpose other than one therein mentioned, that wine or made-wine shall be charged with duty at the time it is so applied, and at the rate in force at that time; and the duty shall be paid in accordance with Regulation 16(2).

(3) Where either—

(a) the business of producing wine or made-wine is discontinued at a winery having wine or made-wine therein, or

(b) any wine or made-wine is found to be deficient or missing from a winery and the producer is unable to account for the deficiency to the Commissioners' satisfaction,

the duty on the wine or made-wine shall be charged at the time of discontinuance or at the time the deficiency occurred, as the case may be, and at the rate in force at such time; and the duty shall be paid in accordance with Regulation 16(2):

Provided that where the time that any deficiency occurred cannot be established to the Commissioners' satisfaction, the rate of duty shall be taken at the highest rate in force between the time of the latest stocktaking made under Regulation 15 before the discovery of the deficiency and the time of that discovery.

(4) The duty on wine or made-wine produced by a producer on premises in respect of which he requires but does not hold a licence, shall be charged on such quantity of wine or made-wine as in the opinion of the Commissioners appears to have been produced on those premises, and at the rate in force at the time which, in the Commissioners' opinion, was the time of production; and the duty shall be paid in accordance with Regulation 16(3).

PART III

Production, Storage and Removal

Licence to produce

6. A licence shall expire on 30th September next after it is issued.

Entry

7. No producer shall on any premises begin to produce wine or made-wine until he has made entry of those premises and of all rooms, places and vessels intended to be used by him thereon for that purpose.

Withdrawal of entry

8. Save as the Commissioners may otherwise allow, a producer shall not withdraw his entry while there remains in any place specified therein any wine or made-wine on which duty has not been paid or any materials for making wine or made-wine.

Production

9.—(1) A producer shall not mix wine with any made-wine so that the proportion of all wine in the resulting mixture would exceed 15 parts by volume of wine in 115 parts by volume of the resulting mixture.

(2) Save as the Commissioners may otherwise allow, no wine or made-wine for the production of which a licence is not required may be produced, and no cider may be made, in a winery.

Use

10. The Commissioners may allow the use in a winery of wine or made-wine in the preparation of, or as ingredients of, goods intended for exportation or shipment as stores.

Gauging and measurement

11.—(1) A producer shall, if so required by the Commissioners, place and fix every vessel in which wine or made-wine is produced or stored in a place convenient for examination and with safe means of access so as to allow the contents to be accurately ascertained by gauge or measure; and shall not alter any such vessel in shape, position or capacity unless he has given 48 hours written notice to the proper officer.

(2) All vessels required to be fixed by paragraph (1) of this Regulation shall, if so required by the Commissioners, be gauged and calibrated to their satisfaction.

Storage

12. Save as provided in paragraph (1) of Regulation 9, a producer shall segregate wine from made-wine and shall segregate duty-paid stock from stock upon which duty has not been paid.

Removal by pipe-line

13. Save as approved by the Commissioners, a producer shall not send out wine or made-wine from a winery by pipe-line.

PART IV

Records, Accounts and Payment of Duty

Entry book

14.—(1) A producer shall for every winery in respect of which he holds a licence obtain from the proper officer an entry book in an approved form and shall—

(a) keep the entry book in the winery at all times ready for inspection by any officer and permit him at any time to inspect it and to make notes therein or to take copies thereof or extracts therefrom, and

(b) make entries in the entry book at such times and in such detail as specified therein or as otherwise directed by the proper officer.

(2) No entry in the entry book shall be obliterated or, except with the permission of the proper officer, cancelled or altered.

Stocktaking

15.—(1) A producer shall twice in every year on approved dates take stock of all wine and made-wine at each winery in respect of which he holds a licence and deliver the return of stock to the proper officer immediately after the stocktaking.

(2) The return of stock required by this Regulation shall include separately, in relation to still wine, sparkling wine, still made-wine and sparkling made-wine the following particulars—

(a) the name and number of every entered vessel containing such liquors and the quantity therein,

(b) the number of casks, cases or other containers and unpacked bottles of each size and the separate quantities of liquors contained therein, and

(c) the total quantities of such liquors in stock.

Furnishing of returns and payment of duty

16.—(1) A licensed producer shall furnish to the Collector or to such other person as the Commissioners may direct a return, in approved form—

(a) not later than the 1st working day in every week of all wine and made-wine sent out for home use from the winery during the week ending on the preceding Saturday, or

(b) where the Commissioners so permit, and subject to his giving such security as they may require, not later than the 15th day of every month of all wine and made-wine sent out for home use from the winery during the preceding month,

and in either case shall at the time of making the return pay to the Collector or such other person the amount appearing by the return to be due for the period to which the return relates.

(2) Any duty charged under the proviso to paragraph (2) of Regulation 5, or under paragraph (3) of that Regulation shall be paid by the producer of the wine or made-wine to the Collector or to such other person as the Commissioners may direct within 7 days of that duty being demanded by the proper officer.

(3) Any duty charged under paragraph (4) of Regulation 5 shall be paid by the producer of the wine or made-wine or by any other person having or having had possession of the said wine or made-wine to the Collector or to such other person as the Commissioners may direct within 7 days of that duty being demanded by the proper officer.

Payment of duty on failure to furnish a return

17. If a licensed producer fails to furnish a return as required by Regulation 16(1) or furnishes an incorrect or incomplete return the Commissioners may, without prejudice to any penalties which may be incurred by him, determine the amount of duty appearing to them to be due from him; and the amount so determined shall be deemed to be the duty properly due and shall be paid within 7 days of demand, unless within that time it is shown to the satisfaction of the Commissioners that some other amount is properly due and thereupon such other amount shall immediately become due and payable.

Accounts

18.—(1) A producer shall—

(a) keep, in addition to the entry book, such accounts relating to—

(i) the materials used in the winery,

(ii) the quantities of wine and made-wine produced or rendered sparkling in the winery, and

(iii) the quantities of wine and made-wine received at, returned to and sent out or removed from the winery,

as will enable the proper officer to satisfy himself as to the correctness of any entry made in the entry book and of any return furnished under these Regulations, and

(b) at any reasonable time permit any officer to inspect and make entries in, copy or take extracts from any accounts required to be kept under this Regulation and any other books, accounts or documents relating to his business as a producer which the officer may require to inspect.

(2) Save as the Commissioners may otherwise allow, a producer shall preserve and keep at the winery all books, accounts and other documents relating to his business as a producer at that winery for not less than 2 years from the date of the last entry therein.

PART V

Relief from Duty

Relief from payment of duty

19. Wine produced from grapes grown in the United Kingdom may be sent out from a winery without payment of duty for the domestic consumption of the grower in such quantity as the Commissioners may on application from him allow.

Claim for relief

20. A producer claiming remission or repayment of duty in respect of wine or made-wine which has been sent out or removed from his winery and which has accidentally become spoilt or otherwise unfit for use shall—

(a) immediately any such wine or made-wine has been returned to the winery, give to the proper officer such particulars thereof as the Commissioners may require, and

(b) retain such wine or made-wine in the vessels in which and in the same state as it was returned to the winery until the proper officer authorises the disposal or other processing thereof.

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4th October 1979
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Commissioner of Customs and Excise

EXPLANATORY NOTE

(This Note is not part of the Regulations)

1. These Regulations, made under sections 56(1), 61(1) and 62(5) of the Alcoholic Liquor Duties Act 1979, come into force on 1st November 1979. They revoke and replace with some amendments the Wine and Made-wine Regulations 1975.

2. The principal changes introduced by the Regulations are:—
   (a) the term "non-excisable cider" is replaced by the term "cider" as a consequence of the introduction of the excise duty on cider;
   (b) provision is made for the rate of duty charged upon wine and made-wine removed from one winery to another winery to be the rate in force when the wine or made-wine is sent out from that other winery;
   (c) relief is provided from the excise duty upon made-wine authorised to be removed from a winery to the premises of a registered cider maker for use therein in making cider;
   (d) provision is made for charging the duty on wine or made-wine removed from a winery without payment of duty for any of the purposes specified in the Regulations which is subsequently applied to an unauthorised purpose;
   (e) provision is made for determining the rate of duty chargeable where the time of any deficiency of wine or made-wine from a winery cannot be established to the satisfaction of the Commissioners of Customs and Excise;
   (f) provision is made for recovering excise duty on wine or made-wine produced unlawfully; and
   (g) provision is made for the excise duty chargeable upon wine or made-wine which is—
      (i) at a winery when business is discontinued, or
      (ii) deficient or missing from a winery, or
      (iii) found to have been produced unlawfully,

   to be payable within 7 days of demand.

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