

S.I. No. 254/1998 — European Communities (Definition, Description and Presentation of Aromatized Wines, Aromatized Wine-Based Drinks and Aromatized Wine-Product Cocktails) Regulations, 1998.

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EUROPEAN COMMUNITIES (DEFINITION, DESCRIPTION AND
PRESENTATION OF AROMATIZED WINES, AROMATIZED WINE-BASED
DRINKS AND AROMATIZED WINE-PRODUCT COCKTAILS) REGULATIONS,
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EUROPEAN COMMUNITIES (DEFINITION, DESCRIPTION AND
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DRINKS AND AROMATIZED WINE-PRODUCT COCKTAILS) REGULATIONS,
1998.

I, Joe Walsh, Minister for Agriculture and Food, in exercise of the powers conferred on me by Section 3 of the European Communities Act, 1972 (No. 27 of 1972), and for the purpose of giving effect to Council Regulation (EEC) No. 1601/91 of 10 June 1991⁽¹⁾, Council Regulation (EEC) No 3279/92 of 9 November 1992⁽²⁾, Commission Regulation (EC) No 122/94 of 25 January 1994⁽³⁾, Regulation (EC) No 3378/94 of the European Parliament and of the Council of 22 December 1994⁽⁴⁾ and Regulation (EC) No 2061/96 of the European Parliament and of the Council of 8 October 1996⁽⁵⁾ hereby make the following Regulations:

¹ OJ No. L 149 of 14.6.1991

² OJ No. L 327 of 13.11.1992

³ OJ No. L 21 of 26.1.1994

⁴ OJ No. L 366 of 31.12.1994

⁵ OJ No. L 277 of 30.10.1996

1. These Regulations may be cited as the European Communities (Definition, Description and Presentation of Aromatized Wines, Aromatized Wine-Based Drinks and Aromatized Wine-Product Cocktails) Regulations, 1998.

2. In these Regulations:

"the Minister" means the Minister for Agriculture and Food;

"Council Regulation" means Council Regulation (EEC) No. 1601/91 of 10 June 1991, as amended by Council Regulation (EEC) No 3279/92 of 9 November 1992, the Act of Accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden published in the Official Journals No. C241 dated 29 August 1994 and No. L. 1 dated 1 January 1995, Regulation (EC) No. 3378/94 of the European Parliament and of the Council of 22 December 1994, Regulation (EC) No. 2061/96 of the European Parliament and of the Council of 8 October 1996 together with Commission Regulation (EC) No 122/94 of 25 January 1994;

"authorised officer" means -

(a) a person appointed in writing by the Minister to be an authorised officer for the purposes of these Regulations, or

(b) an officer of a Health Board authorised in writing by the Chief Executive Officer of the Board to be an authorised officer for the purposes of these Regulation, or

(c) a person appointed in writing by the Director of Consumer Affairs to be an authorised officer for the purposes of these Regulations, or

(d) an officer of the Revenue Commissioners duly appointed as an officer of Customs and Excise.

3 (1) These Regulations shall apply to aromatized wines, aromatized wine-based drinks and aromatized wine-product cocktails as defined in Article 2 of Council Regulation (EEC) 1601/91 of 10 June 1991, as amended in accordance with the Council Regulation.

(2) A word or expression that is used in these Regulations and is also used in the Council Regulation has, unless the contrary intention appears, the same meaning in

these Regulations that it has in the Council Regulation.

4. The aromatized wines, aromatized wine-based drinks or aromatized wine-product cocktails referred to in Regulation 3(1) shall not be manufactured, imported, exported, sold, held or offered for sale other than in accordance with the Council Regulation.

5. (1) An authorised officer shall be furnished with a warrant of his/her appointment as an authorised officer or a certificate of the Revenue Commissioners that he/she is an officer of the Revenue Commissioners duly appointed as an officer of Customs and Excise and when exercising any power conferred by these Regulations, shall, if requested by any person affected, produce the warrant or certificate, as appropriate, to that person.

(2) A person shall not obstruct or interfere with an authorised officer in the course of exercising a power conferred on her/him by these Regulations and shall comply with a request made by such officer pursuant to these Regulations.

6. (1) An authorised officer may with such other authorised officers, such members of the Garda Síochána or Officers of Customs and Excise (if any) as she/he considers appropriate at all reasonable times enter (if necessary by force) -

(a) any premises in which she/he has reasonable grounds for believing that any aromatized wines, aromatized wine-based drinks or aromatized wine-product cocktails to which these Regulations relate are kept, sold or being manufactured, or

(b) stop and enter any railway wagon, vehicle, ship, vessel or aircraft in which she/he has reasonable grounds for believing that any aromatized wines, aromatized wine-based drinks or aromatized wine-product cocktails to which these Regulations apply are being transported for sale or kept for sale,

and : -

(i) inspect such premises, railway wagon, vehicle, ship, vessel or aircraft,

(ii) inspect and take copies of or extracts from any books, documents or other records which she/he finds in the course of the inspection,

(iii) examine and copy any data or data material (within the meaning in each case of the Data Protection Act, 1988) she/he finds there, extract information from any such data and take extracts from any such material,

(iv) carry out such examinations, tests and inspections, as she/he may consider appropriate for the purposes of the Council Regulation or these Regulations, and

(v) take such samples, including samples of wrapping, packaging, labelling or advertising material as she/he may consider appropriate for the said purposes.

(2) Where a sample of aromatized wines, aromatized wine-based drinks or aromatized wine-product cocktails is taken pursuant to this Regulation, the authorised officer concerned shall divide the sample into not more than three approximately equal parts each of which shall be marked in such a way as to identify it as part of the sample taken and she/he shall send or cause to be sent one or more of such parts for examination and testing.

(3) In proceedings for an offence under these Regulations, the result of any test, examination or analysis of, or report on a sample taken pursuant to paragraph (1) of this Regulation shall not be adduced unless one of the parts into which the sample was divided pursuant to this Regulation was, at the time it was divided left with or transmitted to the defendant.

(4) A person in charge of premises or of a railway wagon, vehicle, ship, vessel or aircraft shall-

(a) afford to an authorised officer such facilities and assistance as are reasonably necessary to enable the officer to perform her/his functions under this Regulation,

(b) produce to an authorised officer any books, documents or other records or material which she/he may reasonably require

(c) give to an authorised officer any information which she/he may reasonably require regarding-

(i) any aromatized wines, aromatized wine-based drinks or aromatized wine-product cocktails on the premises or in the wagon, vehicle, ship, vessel or aircraft, or

(ii) any books documents or other records or other material produced to her/him pursuant to this Regulation.

7. (1) Any person who contravenes a provision of Regulation 4, 5(2), or 6(4) shall be guilty of an offence.

(2) A person guilty of an offence under these Regulations shall be liable on summary

conviction to a fine not exceeding £1,500, or at the discretion of the Court to imprisonment for a term not exceeding 12 months or to both such fine and such imprisonment.

(3) Where an offence under these Regulations is committed by a body corporate and is proved to have been so committed with the consent or connivance of or to be attributable to any neglect on the part of a director, manager, secretary or other officer of the body corporate, the director, manager, secretary or other officer or any person purporting to act in such capacity shall, as well as the body corporate, be guilty of an offence and shall be liable to be proceeded against and punished accordingly.

(4) Notwithstanding section 10(4) of the Petty Sessions (Ireland) Act, 1851, proceedings for an offence under these Regulations may be instituted within 12 months from the date of the offence.

8. An offence under these Regulations may be prosecuted by the Minister, the Director of Consumer Affairs or the Revenue Commissioners or by a Health Board in whose functional area the offence was committed.

Given under my Official Seal, this 22nd day of July 1998

Joe Walsh

Minister for Agriculture, and Food

EXPLANATORY NOTE

The principal effects of these Regulations are to confer powers of entry on authorised officers and to provide for penalties for breaches of the provisions of the Council Regulation 1601/91 as amended on the general rules for the definition, description and presentation of aromatized wines, aromatized wine-based drinks and aromatized wine-product cocktails and as supplemented by the detailed rules contained in Commission Regulation 122/94.

The Regulations also give effect to Regulation No. 3378/94/EC on the prevention of the unlawful use of geographical designations of aromatized wines, aromatized wine-based drinks and aromatized wine-product cocktails protected by a third country member of the World Trade Organisation,

