

ORDINANCE ON THE TERMS AND PROCEDURES FOR PLANTING NEW VINES, REPLANTING, ENGRAFTMENT AND GRUBBING UP OF EXISTING VINES

Adopted by Council of Ministers Decree № 178/9 Aug 2002, SG 80/ 20 Aug 2002, amend. SG 31/ 4 Apr 2003, amend. SG 60/ 4 Jul 2003, amend. SG 24/ 23 Mar 2004, amend. SG 65/ 11 Aug 2006

CHAPTER I GENERAL PROVISIONS

Article 1. The Ordinance governs the terms and procedures for:

1. planting new vines, replanting, engraftment and grubbing up of existing vines of wine grape varieties intended for the production of wine and other grapes and wine products;
2. Establishment of a National reserve of planting rights herewith referred to as the “National reserve”.

Article 2. (1) Only those varieties which are classified as recommended, authorized and temporarily authorized pursuant to the provisions of the Ordinance on the rules for classification of wine varieties, adopted under art.24, para 1 of the Wine and Spirit Drinks Act (WSDA), shall be planted, replanted or engrafted.

(2)(suppl.,SG 65/2006) According to the rules of this Ordinance, planting, replanting, engraftment and grubbing up of existing vines shall be carried out by legal entities and natural persons which are registered in the Register of producers of wine grapes, wine and other products made of grapes or wine at the National Chamber on Vine and Wine (NCVW).

(3) (revoked, SG 65/2006)

Article 3. (1) Planting of vines shall be carried out upon granting:

1. new planting right;
2. replanting right;
3. planting right granted from the National reserve.

(2) The Executive Agency on Vine and Wine (EAVW) shall grant the rights referred to in para 1 for an area determined in decares.

(3) EAVW shall keep an information database for all granted rights according para 1.

CHAPTER II

PLANTING OF NEW VINES, REPLANTING, ENGRAFTMENT AND GRUBBING UP OF EXISTING VINES

Section I

Terms and Procedures for planting new vines

Article 4. New planting right shall be granted to producers in respect of areas:

1. intended for new planting carried out under measures concerning compulsory purchases in the public interest under the conditions and procedures of Chapters III of the Law on state property and the Law on municipal property;

2. intended for wine-growing experiments;

3. (amend., SG 60/2003) intended for graft nurseries;

4. (holds until the date of the acceptance of the Republic of Bulgaria to the European Union, SG 65/2006) intended for the production of quality wine of a certain region and/or a regional wine.

Article 5. (1) New planting right under art.4, point 1, shall be granted to a producer for an area not greater than 105 % of the area under vines which was the subject of the measure concerning compulsory purchase in the public interest.

(2)(amend., SG 60/2003) New planting right under art.4, p. 2 and 3, shall be granted to a producer for the period of the wine growing experiment, respectively – for the period of production of graft nurseries.

(3) During the periods, referred to in para 2, the products of the plantings shall not be marketed.

(4) New planting right shall be used by the producer to whom it was granted and shall not be transferred to another producer.

Article 6. (1) For the acquisition of a new planting right the producer shall apply before the regional service of EAVW where his vine holding is registered. The application shall be submitted in three copies, according to the form as shown in Annex 1.

(2) The submitted application shall be certified with signature and stamp by an officer in the regional service of EAVW.

(3) The first copy of the application shall remain in the regional service and the other two copies shall be returned to the applicant.

Article 7. The application as referred to in art.6, para 1, shall be accompanied by the following documents:

1. a copy of title deed or other property documents or an entitlement to use the vineyard holding or part of it;

2. (amend., SG 31/2003, amend., SG 60/2003) a layout of the vineyard holding, issued by the municipal services "Agriculture and forestry";

3. a copy of the certificate for registration in the Register of producers of wine grapes, wine and other products made of grapes or wine at the National Chamber on Vine and Wine;

4. a copy of a lease or rent contract, certified by a notary, in cases where the producer is not the owner of the vineyard holding.

Article 8. In cases under:

1. art.4, p. 1 – the application shall be accompanied by a title deed for ownership for the area which was the subject of compensation in a compulsory purchase in the public;

2. art.4, p. 2 - the application shall be accompanied by a description of the experiment, the expected result and the period of the experiment;

3. (holds until the date of the acceptance of the Republic of Bulgaria to the European Union, SG 65/2006) art 4, p. 4 - the application shall be accompanied by a detailed description, which shall comprise data on: the location of the area, wine varieties which will be planted, vineyard management techniques and expected harvest.

Article 9. (1)(amend., SG 65/2006) Within 10 days upon the submission of the application as referred to in art 6, para. 1, the officers in the regional service of the EAVW, who are duly authorized by the executive director of the EAVW, shall check the submitted documents. In cases where incompleteness or imperfections of the documents are found, the applicant shall be notified in written form for their correction.

(2) The applicant shall correct the documents within 10 days upon notification.

(3) The documents shall be left with no further attention in cases where the 10 days period is not kept.

Article 10. (1) Within a 10-days period upon submission of the application, or the correction respectively, the file with the documents shall be sent to EAVW.

(2) Within a 7-working-days period upon receiving the file, the executive director of EAVW or another authorized officer, shall issue an act for the granting of new planting right.

(3) The act for the granting of new planting right shall indicate:

1. the legal grounds for the issuing of the act;

2. name/company name of the producer;

3. registration number of the producer and identification number of the vineyard holding;

4. the purpose for which the new planting right is granted;

5. (amend., SG 65/2006) information on the area for which the new planting right is granted - total area; form of use;

6. wine variety;

7. period of exercising the granted right ;

8. details on appeal;

9. other relevant data.

(4) In cases where the act is not issued within the period referred to in para 2 this shall be construed as a tacit rejection and may be appealed pursuant to the Law on the administrative procedures (LAP).

Article 11. (1) Within a 30-days period of the planting the producer shall fill in the second and third copies of the application the date when the planting was completed and shall submit the second copy with the regional service of the EAVW.

(2) (amend., SG 65/2006) Within 10-days period of the receipt of the second copy of the application the officers at the regional service shall carry out an on-the-spot- check.

(3) The check as referred to in para 2 shall be completed with a written report signed by both parties as regards the compliance of the planting with the terms laid down in the act.

(4) The documents as referred to in para 2 and 3 shall be sent to EAVW.

Article 12. (1) New planting rights shall be used in respect of the area and for the purposes for which they were granted.

(2)(amend., SG 65/2006) New planting right shall be used before the end of the second year after the one in which it was granted.

Article 13. New planting rights not so used shall be lapsed.

Article 14. (1) (amend., SG 60/2003) In cases of art. 4, p. 2 and 3, after the period of the experiment, respectively after the life period of the graft nurseries designated for production of grafts, the vines may be retained or grubbed up .

(2) The producer may retain or grub up the vines and may market the grapes and/or wine made of these vines, only after notifying in written form the regional service of EAVW.

(3)(new-SG60/2003) The graft nurseries developed according to art. 4, p. 3 and designated for production of padding notches shall be grubbed up.

(4) (prev para 3-SG 60/2003) The notification as referred to in para. 2 shall be done within a 14-days period upon expiry of the period laid down in the act issued under art. 10, para 2.

Section II

Terms and procedures for replanting, engraftment and grubbing up of existing vines

Article 15. (1) Replanting right shall be acquired upon grubbing up of an area of vines.

(2) Replanting right may be used for the purpose of a wine growing experiment or production of graft nurseries.

(3) The products made of plantings as referred to in para 2 within the period of the experiment or within the period for production of graft nurseries, shall not be marketed.

Article 16. (1) The replanting right shall be exercised on the holding in respect of which it was acquired.

(2) The replanting right may be transferred entirely or partially to another holding, where the holding concerned is transferred to another holding within the limits of the same wine growing region.

(3) In cases under para 2, within a 1-month period upon transfer of the vineyard holding, the producer shall notify in written form the regional service of the EAVW where the holding has been registered. The notification shall be accompanied by a copy of the title deed or other property documents certifying the transfer.

Article 17. (1) The replanting right shall be used by the producer by the end of the fifth year after the end of the one during which the grubbing up took place.

(2) The replanting right may be used within eight years where the replanting was carried out on the same area where the grubbing up took place.

(3) Replanting rights not so used shall be allocated to the National reserve.

Article 18. (1) Producers who undertake to grub up their vines shall submit in the regional service of the EAVW where the holding is registered a declaration in three copies according to an example as shown in Annex № 2. The declaration shall be certified with signature and stamp by the officer at the regional service.

(2) The declaration shall be submitted not later than one month before the grubbing up of the vines.

(3) The first copy of the declaration shall remain in the regional service, and the other two copies shall be returned to the producer.

(4) (amend., SG 31/2003, amend., SG60/2003) The declaration shall be accompanied by a copy of a property document or an entitlement to use the holding, a layout of the holding, issued by the municipal service "Agriculture and forestry", and a copy of the certificate for registration in the Register of producers of wine grapes, wine and other products made of grapes or wine at the National Chamber on Vine and Wine .

(5) A copy of a lease or rent contract, certified by a notary, in cases where the producer is not the owner of the vineyard holding, shall be enclosed, too.

(6) (new-SG 60/2003) Within a 10-days period upon the submission of the documents under para 4 the officers at the regional service of EAVW, shall check the presented documents. In cases where incompleteness or imperfections of the documents are found, the applicant shall be notified in written form for their correction.

(7) (new- SG 60/2003) The applicant shall correct the documents within 10 days upon notification.

Article 19. (amend., SG 65/2006) Within 10 day after the submission of the declaration for grubbing up the officers of EAVW may carry out an on the spot check.

Article 20. (1)(amend., SG 65/2006) After the beginning and after the completion of the grubbing up the producer shall fill in the second and the third copies of the declaration the date of beginning and the date of completion of the grubbing up.

(2) The second copy of the declaration as referred to in para 18 shall be submitted with the regional service of EAVW not later than one month after the completion of the grubbing up.

(3)(amend., SG 60/2003, amend., SG 65/2006) Within 10-days period upon receipt of the declaration as referred to in para 2 and in cases where the submitted documents do not suffer of incompleteness or imperfection or the latter have been corrected, the file with the documents shall be sent to EAVW.

Article 21. (1) Within a 7-working-days period upon receiving the file, the executive director of EAVW shall issue an act for replanting right.

(2) The act for the replanting right shall indicate:

1. the legal grounds for the issuing of the act;
2. name/company name of the producer;
3. registration number of the producer and identification number of the vineyard holding;
4. (amend. SG 65/2006) information on the area for which the new planting right is granted - total area; form of use;
5. wine variety;
6. period of exercising the granted right;
7. details of appeal;
8. other relevant data.

(3) In cases where the act is not issued within the period referred to in para 1 this shall be construed as a tacit rejection and may be appealed pursuant to the Law on the administrative procedures (LAP).

Article 22. (1) Not later than one month before the replanting the producer shall submit a declaration for replanting (Annex № 3) in the regional service of EAVW where the registration of the vineyard holding took place.

(2) The declaration shall be certified with signature and stamp by an officer at the regional service whereas a copy remains in the service and the other two copies shall be returned to the producer.

Article 23. (1)(amend., SG 65/2006) After the beginning and after the completion of the replanting the producer fills in the second copy of the declaration as referred to in art.22, para. 1, the date of beginning and the date of completion of replanting and submits it with the regional service of EAVW.

(2) The declaration I para. 1 shall be submitted within one month upon completion of replanting.

Article. 24. (1)(amend., SG 65/2006) Within 10-working-day's period after the submission of the replanting declaration the officers at the regional service of EAVW shall carry out a check on the spot for the compliance between the terms laid down in the act issued under art. 21, the data filled in the declaration, and the planted vines.

(2) The check shall be completed with a written report signed by both parties.

(3) The written report and the declaration under art. 22 and 23 shall be sent to EAVW.

Article 25. (1) In cases of art. 15, para. 2, after the period of the experiment and the production of graft nurseries the vines may be retained or grubbed up .

(2) The producer may retain or grub up the vines and may market the wine made of these vines, only after notifying in written form the regional service of EAVW.

(3) The notification as referred to in para. 2 shall be done within a 14-days period upon expiry of the period laid down in the act issued under art. 21.

Article 26. (1) Each producer may carry out engraftment with wine varieties as referred to in art. 2, para. 1.

(2) In cases where the engraftment will be done by replacing the wine variety the producer shall submit a declaration in a form as shown in Annex № 3 with the regional service of EAVW where the vineyard holding is registered not later than one month before the engraftment.

CHAPTER III NATIONAL RESERVE OF PLANTING RIGHTS

Article. 27. (1) A National Reserve of planting rights is hereby established.

(2) EAVW shall manage the allocation to and granting of planting rights from the reserve.

Article 28. The following shall be allocated to the National reserve:

1. replanting rights, which spring upon writing-off and uprooting of vineyards, which have occurred after 1985;
2. replanting rights which were not used in the period specified in art.17, para 1 and 2;
3. replanting rights, which spring upon the uprooting of vines, by virtue of art.58, p.3, “c” of the Wine and Spirit Drinks Act.
4. planting rights granted from the National reserve of planting rights and which were not used within the time limits specified in art. 29, para. 2.

Article 29. (1) The EAVW shall grant planting rights from the reserve to producers as referred to in art. 2, para. 2 according to the procedure laid down in art. 31.

(2) The planting rights granted under para 1 shall be used before the end of second year after the one during which they were granted. After the expiry of this period the planting rights not so used shall be allocated to the National reserve.

Article 30. (1) The planting rights allocated to the reserve shall be granted to the producers regardless of the location of the vineyard holdings.

(2) The planting right granted from the reserve shall not be transferred to other producers by the producer to whom it was granted.

Article 31. (1) For the acquisition of planting rights from the reserve the producer shall submit with EAVW an application in a form as shown in Annex № 4.

(2) The application shall be filled in three copies. The first copy shall be certified by an officer with signature and stamp and remains with EAVW. The other two copies shall be returned to the producer.

(3) The application shall be accompanied by the following:

1. a copy of a property document or an entitlement to use the holding;
2. (amend., SG 31/2003, amend., SG 60/2003) a layout of the vineyard holding, issued by the municipal services “Agriculture and forestry”;
3. a copy of the certificate for registration in the Register of producers of wine grapes, wine and other products made of grapes or wine at the National Chamber on Vine and Wine .
4. a copy of a lease or rent contract, certified by a notary, in cases where the producer is not the owner of the vineyard holding;
5. in cases where the planting right is granted for the purpose of production of quality wines of a certain region or regional wines – a detailed description including data on the location of the vineyard, wine varieties, vineyard management techniques, estimated harvest.

Article 32. (1)(amend., SG 65/2006) Within a 10-days period upon submission of the application the officers at EAVW shall check the documents presented. In cases where incompleteness or imperfections of the documents are found, the applicant shall be notified in written form for their correction.

(2) The applicant shall correct the documents within 10 days upon notification.

(3) The documents shall be left with no further attention in cases where the 10 days period is not kept.

(4)(New-SG, 65/2006) Within 10-working-days period upon submission of the application, as referred to in para 31 and in cases where the submitted documents do not suffer of incompleteness or imperfection or the latter have been corrected, the file with the documents shall be sent to EAVW.

Article 33. (1)(amend., SG 65/2006) Within 7 day’s period upon submission of declaration, the executive director of EAVW or an authorized officer shall issue an act for planting rights.

(2) The planting right act shall indicate:

1. the legal grounds for the issuing of the act;
2. name/company name of the producer;

3. registration number of the producer and identification number of the vineyard holding;
4. the purpose for which the new planting right is granted;
5. (amend., SG 65/2006) information on the area for which the new planting right is granted - total area; form of use;
6. wine variety;
7. period of period of exercising the granted right;
8. details on appeal;
9. other relevant data.

(3) In cases where the act is not issued within the period referred to in para 1 this shall be construed as a tacit rejection and may be appealed pursuant to the Law on the administrative procedures (LAP).

Article 34. (1) (amend., SG 65/2006) Within a 30 days period upon planting the producer shall fill in the second and the third copies of the application the date of the beginning and the date of completion of planting and shall submit the second copy with EAVW.

(2) (amend., SG 65/2006) Within 10-working-days period upon receipt of the second copy of the application the officers at the shall carry out an on-the-spot- check

(3) The check as referred to in para 2 shall be completed with a written report signed by both parties as regards the compliance of the planting with the terms laid down in the act under art. 33.

CHAPTER IV CONTROL

Article 35. (1) (previous text of art. 35-SG 65/2006) The control for the implementation of the ordinance shall be carried out by officers of EAVW authorized by the executive director of EAVW.

(2)(new-SG 65/2006) The control expresses in check on the spot for the compliance between the information of declarations and the applications submitted by the producers, following the order specified in this ordinance, and the planted and rubbed-up area.

(3)(new-SG 65/2006) Written reports of the control are compiled by authorized officers of EAVW.

(4)(new-SG 65/2006) When a check shows discrepancy between the information given by the producers and the actual result of the check, an act for administrative violation is formed.

Art. 36. (amend., SG 65/2006) The producers are obliged to ensure the authorized officers of EAVW access to the vineyard holdings and to the documents for check of the circumstances specified in art.35, para 2.

ADDITIONAL PROVISION

§ 1. The following definitions shall apply to this ordinance:

1. "Wine growing experiment" means the planting or replanting with vines for the purpose of experimental purposes, scientific research or reproduction activities;

2. "Planting" means the definitive establishment of vine plants or parts of them, whether or not grafted, with a view to producing grapes;

3 (amend., SG 60/2003) "Grubbing up" means the complete elimination of all vine stocks, including their roots;

4. "Vineyard holding" means an area, which is delimited according to property right and planted with wine grapes, whether or not harvested;

5. "Area" means an agricultural land, which is planted only with or from which vines have been uprooted;

6. "New planting right" means the right to plant new vines under the terms and procedures of Chapter II, section I;

7. "Replanting right" means the right to plant vines for an area equivalent to that from which vines have been grubbed up, and which is exercised under the terms and procedures laid down in Chapter II, section II and Chapter III;

8. "Replanting" means the planting of vines after the grubbing up of vines on an equivalent area;

9. "Grafting" means the placing of a part of a plant on a part of another plant in a way that they accrete and

form a plant.

TRANSITIONAL AND FINAL PROVISIONS

§ 2. (1) Copies of the documents under Chapter II and III shall be kept in the regional services of EAVW where the registration of the vineyard holding took place. (2) The acts issued under art. 10, para. 2, art. 21 and 33 shall be made aware to the producers concerned according to the procedures of the Civil Procedures Code.

§ 3. (1)(amend. SG 60/2003, amend., SG 24/2004) Until the 01.01.2005 the producers may certify before EAVW grubbing up that has taken place before the entry into force of this ordinance. The grubbing up shall be certified with official documents ascertaining, that the previous grubbing up was after 1985.

(2) (amend., SG 60/2003) In cases under para 1 the producers shall submit with EAVW a declaration for replanting pursuant to art.22, which shall be accompanied by a certificate issued by the municipal service “Agriculture and forestry”, indicating that on the areas concerned a grubbing up of vines has taken place during the period laid down in art. 17, layouts of the vineyards before and after the grubbing up, issued by the municipal service “Agriculture and forestry”, written report by the regional service of EAVW, certifying that on the plots indicated no wine varieties exist, a copy of a title deed or of an entitlement to use or a lease contract, certified by a notary.

(3) (amend., SG 60/2003) Within a period of 30 days the executive director of EAVW shall issue a replanting right according to art. 21.

(4)(new-SG 60/2003) After the completion of the replanting the producer shall notify EAVW under the procedure laid down in art. 23.

(5) (prev. para 4 – SG 60/2003) After the expiry of the period in para 1, the rights which have not been ascertained before EAVW shall be allocated to the National reserve.

(6) (prev. para 5, amend., SG 60/2003) Replanting rights, which have sprung upon writing-off and uprooting of vineyards, which have occurred after 1985, as referred to in art.28, p.1, shall be ascertained by:

1. official documents for grubbing up which have been issued after 1985;

2. a digital model of the civil coordinate system 1970 for all lands on the territory of Bulgaria, where vines have been grown. The model shall be made on the basis of information presented by an official authority.

§ 3a (new-SG 65/2006) The provisions of art.4, p. 4 and art 8, p.3 are in force until the date of acceptance of Republic of Bulgaria to the European Union.

§ 4. This ordinance is adopted pursuant to art.23a of the Wine and Spirits Drinks Act.

§ 5. The Minister of agriculture and forestry shall be responsible for the implementation of the ordinance.

ADDITIONAL PROVISIONS

TO DECREE № 70 OF MARCH 26, 2003 OF AMENDMENT AND SUPPLEMENT OF THE REGULATION FOR APPLYING THE LAW OF THE OWNERSHIP AND THE USE OF THE FARM LAND (PROM. SG 34/91)

(PROM. SG 31/2003)

§ 47. (1) In art.18e, para 1, second sentence, in art. 19, para 13, second sentence and in art.25, para 5, second sentence, the term “commission” is to be replaced by “regional service of agriculture and forestry”.

(2) The terms “land commission”, “the land commission”, “the municipal land commission”, “the land commissions” and “the land commissions”, used in the regulation as well as in the other legal acts, are to be replaced by “regional service of agriculture and forestry”, “the regional service of agriculture and forestry”, regional services of agriculture and forestry” and “the regional service of agriculture and forestry” as well.

Appendix №1 to art. 6