

## COUNCIL REGULATION (EEC) No 343/79

of 5 February 1979

laying down general rules governing certain distillation operations in the wine sector

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 337/79 of 5 February 1979 on the common organization of the market in wine <sup>(1)</sup>, and in particular Articles 11 (3), 12 (3), 13 (3), 40 (5) and 41 (3) thereof,

Having regard to the proposal from the Commission <sup>(2)</sup>,

Whereas the conditions should be laid down under which the distillation operations provided for in Articles 11, 12, 13, 40 and 41 of Regulation (EEC) No 337/79 are to be carried out;

Whereas the different prices for wines for distillation laid down in the aforementioned Articles normally render it impossible to market the products of distillation at market prices; whereas it is therefore necessary to determine the criteria for fixing the amount of aid so as to enable the products obtained to be disposed of;

Whereas provision should be made for the minimum price guaranteed to the producer to be paid to him, as a general rule, within time limits which will enable him to obtain a profit comparable to that which he would have obtained from a commercial sale;

Whereas provision should be made for producers to conclude contracts with distillers subject to approval by the intervention agency, in order to facilitate the control of the progress of operations and of the observance of the obligations of both parties; whereas this system would have the added advantage of making it easier to monitor the quantitative effects of distillation on the market;

Whereas, in order to ensure appropriate control of the distillation provided for in Articles 11, 12, 13, 40 and 41 of Regulation (EEC) No 337/79, distillers should be subject to a system of approval;

Whereas, on the basis of experience gained and pending the adoption of new rules in the matter, a certain margin should be allowed for the quantity of wine indicated in certain contracts for the delivery of wines concluded during the 1976/77, 1977/78 and 1978/79 marketing years; whereas, moreover, provision should be made in chance circumstances or cases of *force majeure*, for aid to be paid in respect of the quantity of wine which has actually been distilled,

HAS ADOPTED THIS REGULATION:

*Article 1*

1. Producers undertaking the distillation of wine pursuant to Articles 11, 12, 13, 40 and 41 of Regulation (EEC) No 337/79 shall conclude contracts for the delivery of wine with an approved distiller before a date to be fixed.

These contracts shall not be valid unless approved by the intervention agency before a date to be fixed.

2. These contracts shall cover:

- (a) the purchase by the distiller of the quantity of wine entered in the contract;
- (b) the obligation for the distiller to process the wine into a product with a strength of 86% vol or more, or into a product with a strength of 85% vol or less and to pay for it at least the price referred to in Articles 11 (2), 12 (2), 13 (2), 40 (3) and 41 (2) of Regulation (EEC) No 337/79, as appropriate, such price being applicable to unpacked goods ex producer's premises.

*Article 2*

1. The intervention agency shall pay aid for each hectolitre of wine distilled.

2. The amount of the aid shall be fixed on the basis of the minimum buying-in price referred to in Article 1 (2) (b), the standard processing costs and the price of the products obtained by distillation, so as to enable these products to be disposed of.

<sup>(1)</sup> See page 1 of this Official Journal.

<sup>(2)</sup> OJ No C 276, 20. 11. 1978, p. 52.

3. The amount of aid granted shall vary depending on whether the products of distillation have an alcoholic strength by volume of:

- 86% vol or more, or
- 85% vol or less.

However, the amount of aid granted for products with an alcoholic strength by volume of 85% vol or less may not exceed the amount of aid granted for products with an alcoholic strength by volume of 86% vol or more.

#### Article 3

Should Article 13 (1) of Regulation (EEC) No 337/79 apply, it may be decided to limit distillation to products with an alcoholic strength by volume of 86% vol or more.

In this case, Articles 1 and 2, in so far as they refer to a product with an alcoholic strength by volume of 85% vol or less, shall not apply.

#### Article 4

1. When the total quantity of wine in the contract enters the distillery, the distiller shall pay the producer at least the difference between the minimum buying-in price referred to in Article 1 (2) (b) and the aid provided for in Article 2.

2. Within two weeks of entry into the distillery of the total quantity of wine in the contract, the intervention agency shall pay the producer an amount equal to 30% of the minimum buying-in price referred to in Article 1 (2) (b) to be deducted from the aid provided for in Article 2. In no case may this amount be greater than the said aid.

3. When proof is supplied that the total quantity of wine in the contract has been distilled, the intervention agency shall pay the producer the difference between the aid provided for in Article 2 and the amount referred to in paragraph 2.

4. Member States may provide that the amount referred to in paragraph 2 shall be paid:

- by the intervention agency to the producer within two weeks of approval of the contract,
- by the distiller.

In the latter case the intervention agency shall reimburse this amount to the distiller when the proof referred to in paragraph 3 is supplied.

5. Where distillation takes place in a Member State other than the Member State where the producer is

located, the minimum buying-in price referred to in Article 1 (2) (b) shall be paid by the distiller.

6. By way of derogation from paragraphs 1 to 4, the minimum buying-in price may be paid by the intervention agency or the distiller in one payment after distillation of the total quantity of wine appearing in the contract.

#### Article 5

Distillation shall take place during periods to be fixed.

It may, however, be decided to bring forward the completion date for the distillation operations referred to in Articles 11, 12 and 13 of Regulation (EEC) No 337/79, should the economic situation of the market require it, with due consideration for *inter alia*:

- the weighted average price level,
- market availability,

in the case of the types of wine affected by the distillation measures in question.

#### Article 6

1. A margin of 10 % more or less than the quantity of wine indicated in the contracts referred to in Article 1 shall be permitted.

This margin shall not, however, be permitted in the case of contracts regarding the distillation referred to in Article 40 or for that referred to in Article 41 of Regulation (EEC) No 337/79.

2. Where, due to chance circumstances or for reasons of *force majeure*, all or some of the wine covered by a contract referred to in Article 1 cannot be distilled, the distiller or the producer shall immediately so inform:

- the intervention agency of the Member State in whose territory the distillation premises are located and,
- if the producer's winery is located in another Member State, the intervention agency of the second Member State.

3. In the cases referred to in paragraphs 1 and 2 the intervention agency shall pay the aid referred to in Article 2 (3) in respect of that quantity of wine which has actually been distilled.

4. This Article shall apply to delivery contracts concluded during the 1976/77, 1977/78 and 1978/79 marketing years.

*Article 7*

For the purposes of this Regulation an approved distiller means a distiller included on a list to be compiled by the competent authorities of the Member States.

Under conditions to be laid down as part of the implementing rules, approval may be withdrawn by these authorities from distillers who do not fulfil their obligations under this Regulation.

*Article 8*

1. Member States shall appoint an intervention agency to be responsible for implementing this Regulation.
2. The intervention agency responsible shall in every case be that located on the territory where distillation takes place.

*Article 9*

1. Council Regulation (EEC) No 1931/76 of 20 July 1976 laying down general rules governing the distillation of wines provided for in Articles 6b, 6c, 6d, 24a and 24b of Regulation (EEC) No 816/70 <sup>(1)</sup>, as last amended by Regulation (EEC) No 2609/78 <sup>(2)</sup>, is hereby repealed.

2. References to the Regulation repealed by paragraph 1 shall be construed as references to this Regulation.

References to the Articles of the repealed Regulation shall be read in accordance with the table of equivalence set out in the Annex.

*Article 10*

This Regulation shall enter into force on 2 April 1979.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 5 February 1979.

*For the Council*

*The President*

P. MEHAIGNERIE

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ANNEX

TABLE OF EQUIVALENCE

Regulation (EEC) No 1931/76	This Regulation
Article 2a	Article 3
Article 3	Article 4
Article 4	Article 5
Article 4a	Article 6
Article 5	Article 7
Article 6	Article 8

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<sup>(1)</sup> OJ No L 211, 5. 8. 1976, p. 5.

<sup>(2)</sup> OJ No L 315, 9. 11. 1978, p. 10.