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*(Acts whose publication is obligatory)*

**COUNCIL REGULATION (EEC) No 2687/84**

**of 18 September 1984**

**amending Regulation (EEC) No 2179/83 laying down general rules for distillation operations involving wine and the by-products of wine-making**

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>, as last amended by Regulation (EEC) No 1208/84 <sup>(2)</sup>, and in particular Articles 11 (4), 12a (4), 15 (8), 39 (7), 40 (5) and 41 (6) thereof,

Having regard to the proposal from the Commission,

Whereas Regulation (EEC) No 2179/83 <sup>(3)</sup> was applicable for the first time in the 1983/84 marketing year; whereas experience has shown that some difficulties of application need to be overcome;

Whereas certain definitions and certain operations should be clarified;

Whereas Article 15 (2a) of Regulation (EEC) No 337/79 lays down that with effect from the 1984/85 marketing year the support distillation provided for in that Article may be restricted to producers who have delivered wine for preventive distillation as referred to in Article 11 of the said Regulation; whereas it should therefore be laid down that, where use is made of this possibility, approval of the contracts in respect of support distillation shall be subject to production of proof that wine has been delivered for preventive distillation;

Whereas Article 9 of Regulation (EEC) No 2179/83 provides that the distiller may apply for an advance on the amount of the aid on condition that he has lodged, for the benefit of the intervention agency, a security equal to 110 % of the aid; whereas as the level of the

security may in the case of the distillation operation referred to in Article 11 of Regulation (EEC) No 337/79 be insufficient to guarantee the execution of the contracts concluded, the level of this security should be raised;

Whereas the quantity and characteristics of the product derived from the distillation operation on the basis of which the amount of the aid is calculated are not yet known at the time of the application for the advance; whereas the amount of the advance should therefore be calculated on the basis of the wine delivered for distillation; whereas the remainder must be settled when the security is released following submission of distillation proof;

Whereas in accordance with Article 12 (2) of Regulation (EEC) No 2179/83, the buying-in price of wine deliveries shall apply ex distiller's premises; whereas in certain cases, transport is ensured by the distiller on practical grounds; whereas in order not to disturb this practice which is often necessary, it should be specified that in such cases the transport costs will be deducted from the buying-in price;

Whereas in order to be in a position to monitor the products delivered for compulsory distillation as provided for by Regulation (EEC) No 337/79, the intervention agency must know, for each producer, the quantities and characteristics of the products delivered; whereas, however, administration should be streamlined and the information submitted by the distiller in the form of a summary; whereas similarly, in cases where an accompanying document is prescribed by Community rules, only a reference to that document should be required and, in other cases a reference to the document used in accordance with national provisions;

Whereas quarterly reporting of the level of alcohol stocks would be adequate and would ease the administrative burden on Member States;

<sup>(1)</sup> OJ No L 54, 5. 3. 1979, p. 1.

<sup>(2)</sup> OJ No L 115, 1. 5. 1984, p. 77.

<sup>(3)</sup> OJ No L 212, 3. 8. 1983, p. 1.

Whereas Article 26 (4) of Regulation (EEC) No 2179/83 lays down that the aid is to be paid to the maker of fortified wine on condition that he provides a security equal to 110 % of the aid to be received; whereas it is laid down that the maker is to provide a single security when producing fortified wine for different distillation operations governed by Regulation (EEC) No 337/79; whereas this obligation may constitute a disadvantage where operations extend over a long period; whereas this procedure should be made optional;

Whereas payment of the aid to the maker of fortified wine also entails serious difficulties for both the operators and the intervention agencies where the distillation of fortified wine takes place in a Member State other than that in which the contract or declaration was approved; whereas a second system for payment of the aid should be introduced, the two systems offering the same safeguards, however,

HAS ADOPTED THIS REGULATION:

*Article 1*

Regulation (EEC) No 2179/83 is hereby amended as follows:

1. Article 2 (1) (a), (b), (c) and (d) is replaced by the following:

(a) "producer":

- for the purposes of Title I: any natural or legal person or group of such persons having produced wine from fresh grapes, grape must or partially fermented grape must, obtained personally or purchased,
- for the purposes of Title II: any natural or legal person or group of such persons having produced wine from fresh grapes, grape must or partially fermented grape must or from new wine still in fermentation, obtained personally or purchased, or any natural or legal person or group of such persons subject to the obligations referred to in Article 39 of Regulation (EEC) No 337/79;

(b) "distiller": any natural or legal person or group of such persons:

- distilling wine, fortified wine or the by-products of wine-making or of any other form of processing grapes, and
- approved by the competent authorities in the Member State in the territory of which the distillation plant is located;

(c) "maker of fortified wine": any natural or legal person or group of such persons other than a distiller:

- engaged in processing wine into fortified wine, and
- approved by the competent authorities in the Member State in the territory of which the processing plant is located;

(d) "competent intervention agency":

- where the reception and approval of contracts or declarations relating to the delivery of wine for distillation and reception and approval of contracts relating to the delivery of wine for fortification are concerned, the intervention agency designated by the Member State on the territory of which the wine is located at the time when the contract or declaration is submitted,
- for the purposes of paying the aid to the maker of fortified wine as provided for in Article 26 (4), the intervention agency designated by the Member State in the territory of which fortification of the wine takes place,
- in all other cases, the intervention agency designated by the Member State in the territory of which distillation takes place.

2. In Article 2 (2):

- (a) first subparagraph: 'groups of persons' is replaced by 'groups of such persons';
- (b) the second subparagraph is replaced by the following:  
'Persons or groups deemed to be distillers shall be subject to the same obligations and enjoy the same rights as distillers.'

3. Article 3 (2) is replaced by the following text:

'2. If wine suitable for production of certain spirituous beverages with a registered designation of origin is delivered to undergo one of the distillation operations specified in Article 1, it may be decided that only a product with an alcoholic strength of at least 92 % by volume may be obtained by the direct distillation of such wine.'

4. In Article 4 (2) the following subparagraph is added:

'Where the option provided for in Article 15 (2a) of Regulation (EEC) No 337/79 is exercised, submission of proof as referred to in the fourth paragraph of this paragraph shall be required.'

5. In Article 6 (1) 'and in no circumstances less than 10 hectolitres' is deleted.

6. The first subparagraph of Article 9 (1) is replaced by the following :

'1. The distiller or, in the case referred to in Article 7 (2), the producer may request that an amount equal to the lesser sum of distillation aid fixed for the distillation operation in question be advanced to him on condition that he has lodged a security for the benefit of the intervention agency. This security shall be equal to 110 % of the said amount in respect of all distillation operations, with the exception of the distillation operation provided for in Article 11 of Regulation (EEC) No 337/79 for which the security shall be equal to 120 % of the said amount.

The amount referred to in the first subparagraph shall be calculated for % volume of alcohol indicated in respect of the wine referred to in the contract or the delivery declaration and per hectolitre of that wine.'

7. Article 12 :

(a) paragraph 2 is replaced by the following :

'2. The buying-in price referred to in paragraph 1 shall apply to bulk merchandise ex distiller's premises.

However, where the transport costs payable by the producer are borne by the distiller, the amount of these costs shall be deducted from the buying-in price to be paid by the distiller.'

(b) the following paragraph is inserted :

'3. The buying-in prices referred to in Articles 40 (3) and 41 (4) of Regulation (EEC) No 337/79 shall apply to bulk merchandise ex producer's premises.'

8. Article 17 (1) is replaced by the following :

'1. In all cases covered the distiller shall submit an application to the intervention agency before a date to be fixed enclosing, in respect of the quantities for which aid is requested :

(a) a list of the deliveries made by each producer giving at least :

— the quantity, colour and the alcoholic strength by volume of the wines or in the case of the distillation operation provided for in Article 39 of Regulation (EEC) No 337/79, the quantity and nature of the by-products of wine-making,

— the number of the document provided for in Article 53 (1) of Regulation (EEC) No 337/79 where this document is required for the transport of the products to the distiller's premises or, where it is not

required, the reference to the document used in accordance with national provisions ;

(b) a declaration, endorsed by the competent authority designated by the Member State of the quantities of products obtained by distillation, broken down into the categories specified in Article 3 (1).

The intervention agency shall pay the distiller the aid fixed for the distillation operation in question within three months of submission of the application and documents referred to in the preceding subparagraph.'

9. Article 20 is replaced by the following :

*'Article 20*

The Member States shall notify the Commission every three months of the stocks and strength of the alcohol held by their intervention agencies following distillation under Article 39, 40 or 41 of Regulation (EEC) No 337/79.'

10. Article 23 (3) (this amendment concerns the German text only).

11. In Article 25 (1) the following subparagraph is added :

'However, wine suitable for producing spirituous beverages of designated origin may not be fortified for distillation if, in accordance with Article 3 (2), it has been decided that only a product with an alcoholic strength of at least 92 % by volume may be obtained by the distillation of such wine.'

12. The second subparagraph of Article 26 (4) is replaced by the following :

'Where the maker fortifies wine for distillation operations governed by various provisions of Regulation (EEC) No 337/79, he may provide a single security. In such case the security shall be equal to 110 % of all the aid to be paid to the maker in respect of the said distillation operations.'

13. The following Article is inserted :

*'Article 26a*

1. Where fortified wine is distilled in a Member State other than that in which the contract or declaration was approved, the aid payable in respect of distillation operations may, by way of derogation from Article 26 (4), be paid to the distiller on condition that he submits an application within two months following the deadline specified for carrying out the distillation operation in question to the intervention agency of the Member State on whose territory the distillation has taken place.

2. The application referred to in paragraph 1 shall be accompanied by the following:

- a document endorsed by the competent authorities of the Member State in the territory of which the fortified wine was made, transferring entitlement to the aid from the maker of the fortified wine to the distiller and showing the quantities of fortified wine concerned and the amount of the corresponding aid,
- a copy of the contract or declaration referred to in Article 26 (1), approved by the relevant intervention agency,
- a copy of the analysis report referred to in Article 25,
- proof of payment of the minimum purchase price of the wine to the producer,
- the document required under Article 53 of Regulation (EEC) No 337/79 for the transport of fortified wine to the distillery, showing the increase in actual alcoholic strength by

volumè, expressed in % vol, by indicating the strength before and after addition of the distillate to the wine,

- proof of distillation of the fortified wine concerned.

3. In cases covered by paragraph 1 the maker of fortified wine shall not be required to lodge the security provided for in Article 26 (4).

4. The aid shall be paid by the intervention agency not later than three months after the application and the documents referred to in paragraph 2 have been submitted.

#### *Article 2*

This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Communities*.

It shall apply from 1 September 1984 with the exception of Article 1 (6) which shall apply from the day of its entry into force.

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

Done at Brussels, 18 September 1984.

*For the Council*

*The President*

A. DEASY

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