

S.I. No. 300/1995 □ European Communities (Definition, Description and Presentation of Spirit Drinks) Regulations, 1995.

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I, IVAN YATES, Minister for Agriculture, Food and Forestry 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 No. 1576/89/EEC of 29 May 1989¹, and Commission Regulation No. 1014/90/EEC of 24 April 1990², hereby make the following Regulations:

⁽¹⁾O.J. No. L160 of 12.6.1989.

⁽²⁾O.J. No. L105 of 25.4.1990.

1. These Regulations may be cited as the European Communities (Definition, Description and Presentation of Spirit Drinks) Regulations, 1995.

2. (1) In these Regulations:

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

"Council Regulation" means Council Regulation No. 1576/89/EEC of 29 May 1989, together with Commission Regulation No. 1014/90/EEC of 24 April 1990,

"authorised officer" means

(a) a person designated by the Minister for the purposes of these Regulations;

(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 Regulations;

(c) an officer of the Minister for Enterprise and Employment designated by the Director of Consumer Affairs;

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

"spirit drink" means a spirit drink to which the Council Regulation applies.

(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 as it has in the Council Regulation.

3. A spirit drink shall not be manufactured, imported, exported, sold, held or offered for sale otherwise than in accordance with the Council Regulation.

4. (1) An authorised officer when exercising any power conferred on an authorised officer by these Regulations shall, if so requested by a person affected, produce for inspection by that person a certificate of the Minister or the Chief Executive Officer of the Health Board, as the case may be, that he is an authorised officer for the purposes of these Regulations, a certificate of the Director of Consumer Affairs that he is an officer of the Minister for Enterprise and Employment or a certificate of the Revenue Commissioners that he is an officer of the Revenue Commissioners duly appointed as an officer of Customs and Excise.

(2) A document produced by a person purporting to be a document or certificate of the kind referred to in paragraph (1) shall be received in evidence as such without further proof, unless the contrary is shown.

(3) A person who obstructs or interferes with an authorised officer in the course of exercising a power conferred on him by these Regulations or fails or refuses to comply with a request made by or to answer a question asked by such officer pursuant to these Regulations shall be guilty of an offence.

5. (1) An authorised officer shall comply with such directions as may be given to him from time to time by the Minister, the Minister for Health, the Director of Consumer Affairs or the Revenue Commissioners, as the case may be, in relation to the exercise of his functions.

(2) An authorised officer may at all reasonable times enter (if necessary by force) □

(a) any premises in which he has reasonable grounds for believing that any spirit drink to which these Regulations relate is kept, sold or being manufactured, or

(b) stop and enter (if necessary by force) any railway wagon, vehicle, ship, vessel or aircraft in which he has reasonable grounds for believing that any spirit drink to which these Regulations relate is being transported for sale or kept for sale,

and with such other authorised officers, such members of the Garda Síochána or Officers of Customs and Excise (if any) as he considers appropriate □

(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 he finds in the course of his inspection,

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

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

(3) Where a sample of a spirit drink is taken pursuant to this Regulation, the authorised officer concerned shall divide the sample into not more than four approximately equal

parts each of which he shall mark in such a way as to identify it as part of the sample taken by him and he shall send or cause to be sent one or more of such parts for examination and testing.

(4) 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) or (2) of this Regulation shall not be adduced unless before the proceedings were instituted one of the parts into which the sample was divided pursuant to this Regulation was left with or transmitted to the defendant.

(5) 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 his functions under this Regulation,

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

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

(i) any spirit drink 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 him pursuant to this Regulation.

6. (1) Any person who contravenes a provision of Regulation 3, 4 (3) or 5 (5) 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.

(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.

7. An offence under these Regulations may be prosecuted by the Minister, 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 16th day of November, 1995.

IVAN YATES, T.D.,

Minister for Agriculture, Food and Forestry.

EXPLANATORY NOTE.

This principal effects of these regulations are to provide penalties for breaches of certain provisions of EC Regulations 1576/89 and 1014/90 which relate to the definition, description and presentation of spirit drinks and to confer powers of entry to premises on authorised officers.