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# Importation and movement of wine products

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[helpline@foodstandards.gsi.gov.uk](mailto:helpline@foodstandards.gsi.gov.uk)

For any technical queries relating to this guidance please contact your Regional Wine Inspector whose details can be found at

<http://www.food.gov.uk/business-industry/winestandards/contactinspectors>

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## Summary

<b>Intended audience:</b>	Importers and shippers
<b>Which UK nations does this cover?</b>	All UK nations
<b>Purpose:</b>	Requirements of EC Regulations and enforcement checks carried out by Wine Standards Inspectors
<b>Legal status:</b>	Regulatory guidance
<b>Key words</b>	Wine, Importer, third country, documents
<b>Review date</b>	November 2018

## Revision history

<b>Revision No.</b>	<b>Revision date</b>	<b>Revision</b>	<b>Revised by</b>
1	May 2016	Update to contact details and legislation.	Graham Finch

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## Intended audience

1. This guidance is directed at importers, shippers and keepers of bonded warehouses and others who are responsible for the movement or holding of wine.

## Purpose of guidance

2. These guidance notes have been produced to provide advice on:
  - the legal requirements of Commission Regulation (EC) No: 555/2008 “laying down detailed rules for implementing Council Regulation (EC) No: 479/2008\* on the common organisation of the market in wine as regards.... trade with third countries...”; and
  - Commission Regulation (EC) No: 436/2009 “laying down detailed rules for the application of Council Regulation (EC) No: 479/2008\* as regards .... the documents to accompanying consignments of wine products and the wine sector registers to be kept”

\***Note** - Regulation (EC) No:479/2008 has been superseded by Regulation (EC) No:1308/2013 although the requirements are essentially the same. Regulations (EC) No: 555/2008 and (EC) No: 436/2009 have yet to be amended to account of this change.

This guidance summarises the use of documentation to accompany the movements of wine sector products in so far as they relate to their certification and authentication. It does not attempt to address the wider issues of fiscal or quota controls which are the responsibility of H.M. Revenue and Customs.

It does not cover Table Grapes, British (made) wine, fruit wine, wine with added flavouring (e.g. Aromatised Wine) or de-alcoholised wine.

## Legal status of guidance

3. The guidance notes have no direct statutory role but if you follow the guidance notes they will help you to comply with the law. The guidance cannot cover every situation and you may need to refer to the relevant legislation itself to see how it applies in your circumstances.

Businesses with specific queries may wish to seek the advice of their local Wine Standards Inspector whose contact details can be found at:

<http://www.food.gov.uk/business-industry/winestandards/contactinspectors>

## Regulations - background

4. These notes reflect the requirements of the following EU regulations:-

### **Regulation (EC) No: 555/2008**

This regulation covers the use of documentation issued by the authorities in Third Countries to support the entry of wine sector products into the Community and any subsequent movements of these products up to the moment of entry into free circulation (the VI system).

In the UK, the rules concerning the use of these documents for fiscal purposes is enforced by HM Revenue and Customs, and for certification and authentication purposes by the Food Standards Agency, Wine Standards Inspectors .

### **Regulations (EC) No: 684/2009 and (EC) No: 3649/92**

These regulations (which relate to Directive 2008/118) cover the general requirement for the use of documentation covering the movement between Member States of excisable goods which are under duty-suspension arrangements or which have already been released for consumption. These fiscal documents (the electronic Administrative Document under the Electronic Movement Control system and the Simplified Accompanying Document) will, in certain circumstances, also satisfy the requirements of the wine regime for the movement within the Community of wine products. The rules concerning the use of these documents for fiscal purposes are enforced by HM Revenue and Customs.

### **Regulation (EC) No: 436/2009**

This regulation sets out the requirements of the EC wine regime for documentation to cover the movement of wine products within the Community for certification and authentication purposes. Enforcement of this regulation is primarily the responsibility of the FSA Wine Standards team even though, in many instances, the actual documents used will be basically the same as those required for fiscal purposes.

## Free Circulation and excise duty

5. Goods produced within the European Union are subject to the principle of free circulation, In other words they are not liable to “import duties” and they may move freely from one Member State to another. Such goods may, however, still be subject to excise duties and VAT in the Member State where they are sold.

Goods may move under “duty suspension” where excise duty is suspended until the point of release for sale, or they may be moved as duty paid goods once the appropriate excise duty has been paid.

Goods under duty suspension may only be stored at or moved from licensed premises, or in certain cases, from premises with duty deferment arrangements. In either case these premises fall under the strict control of HMRC.

Products from third countries are normally liable for import duties as they enter the European Union. However, the concept of “free circulation” also applies to imported goods which have been released for free circulation after payment of the import duties to which they are liable.

The status of the product is therefore relevant to which accompanying documents may subsequently be required as the product moves within the EU.

## Document checks by Wine Standards Inspectors

6. The Food Standards Agency is responsible for the enforcement of the regulations referred to in paragraph 4 as regards the traceability\ authenticity and quality of wine products. This responsibility, together with the powers of its Inspectors to enter premises, examine and, if necessary, copy documents and sample and\or detain stock, are set out in a UK Statutory Instrument No:2396, The Wine Regulations 2011 (as amended).

It is standard practice therefore for Inspectors to examine the accompanying documents required for certification and authentication purposes when visiting wine importers and wholesalers, or those premises involved with storing or moving wine (e.g. warehouses, registered consignees etc.).

The responsibility for producing or obtaining the required documentation lies with the owner or the importer of the wine. In practice however, Inspectors understand that when either:-

- a . wine goes directly on arrival in the UK into a Tax warehouse or into duty paid storage at premises other than the owner's or importer's premises, or
- b . where wine is delivered initially to the owner's or importer's premises but the duty responsibility is discharged by a registered consignee,

the relevant documentation will normally be held by the warehouse/ registered consignee as appropriate.

Such a practice is acceptable to the FSA provided that the documentation is readily available for inspection or easily obtainable on demand.

However if this approach is adopted, it should be remembered that the onus for checking the product and its labelling against the details on the relevant documents prior to putting it onto the market remains with the importer or owner.

Indeed, if for any reason a defence of 'due diligence' is needed at any stage, it is difficult to see how this could be sustained if such checks had not taken place. With this in mind, owners/traders are strongly advised to obtain a copy of the relevant accompanying documents from the warehouse/ registered consignee.

## Importation of Third Country wines

7. With a few exceptions for small or non commercial imports (see Regulation (EC) No: 555/2008, Art 42), most Third Country wines entering the Community must be accompanied by a VI document until such wine is put into free circulation or re-exported to another Third Country. The detailed rules for the content and use of VI documents are contained in Regulation (EC) No: 555/2008.

However, as a result of bilateral agreements with the EU, producers in certain countries (USA, Australia and Chile) need only use a simplified certificate.

The VI document must show a detailed description of the product, a Certificate of compliance with E.C production criteria, and an Analysis Report. Responsibility for ensuring that the product (as specified in the Analysis Report) complies with EU regulations, and that the labelling and presentation are consistent with the VI document, lies with the importer.

In this context, the FSA will (at least in the first instance) regard the UK trader identified as the 'Importer' on the labelling or, if the designated 'Importer' operates in another Member State or if no 'Importer' is shown, the owner of the wine at the time it entered the UK, as being the person responsible for the wine.

UK importers/owners of Third Country wine should make arrangements, not only for checking VI documentation to ensure the product is legal, but also for checking the labelling of stock against VI documentation immediately the wine arrives in the UK.

Any subsequent movement of consignments of imported wine within the Community prior to payment of Customs duty must be accompanied by the original VI1 document or a VI2 prepared by the consignor (VI2 forms should be obtained from HMRC).

If a Third Country wine is already in free circulation when it is moved into the UK, the rules of Regulation (EC) No: 436/2009 apply and it is not legally necessary for the VI documents to accompany further movement of the wine,

Nonetheless, the UK trader receiving and/or responsible for the wine would be well advised to ensure that a copy of the original VI form is available in case of later difficulties. This would avoid possible delays and/or restrictions on further movement of the wine should an Inspector have serious concern as to its provenance, quality and/or labelling.

Any further movement of the wine within the UK while in free circulation is covered in paragraph 8 below. In this situation, the accompanying document must quote the number of the relevant VI document, the date on which it was completed and the details of the responsible Third Country's control authority.

## Wine in free circulation in the Community

8. The wine regime's rules on the documentation to accompany movements of wine in free circulation are contained in Regulation (EC) No: 436/2009.

This regulation sets out to avoid wherever possible the requirement for separate fiscal and authentication documents by amplifying the procedures for the fiscal documents introduced by Directive 2008/118.

HM Revenue and Customs is responsible in the UK for the implementation



of Directive 2008/118 and the associated Electronic Control Movement System, and their Notices including 197 (Excise Goods) are the main source of fiscal related information.

With a few exceptions, an 'accompanying document' is required for wine regime purposes for all movements of the wine products.

The exemptions listed in Article 25 of Regulation (EC) No: 436/2009 are:-

- Labelled containers of not more than 5 litres, with a non-reusable closure which identifies the bottler, where the total consignment does not exceed 100 litres, (5 litres in the case of concentrated grape must);
- Diplomatic supplies;
- Personal stocks of private individuals;
- Stocks on board ships, aircraft and trains for consumption thereon;
- Commercial samples, or samples for an official agency or laboratory.

9. The documents which may be used as the accompanying document for wine regime purposes (i.e. certification and authentication) are set out in paragraphs (10) – (13) below.

#### Movements between Member States

10. For excisable products under excise duty suspension arrangements, including Third Country products on which Customs duty has been paid, the electronic administrative document (eAD) or a paper based equivalent, introduced by Regulation (EC) No: 684/2009 for fiscal purposes, will normally be used.

The Simplified Accompanying Document (SAD) described in Regulation (EC) No: 3649/92 may be used for goods released for consumption prior to being moved.

#### Movements within a Member State

11. Member States are given considerable discretion over the documentation which may accompany movements which begin and end on their own Territory. For certification and authentication purposes any document acting as the accompanying document must comply with Annex VI of Regulation (EC) No: 436/2009 and must include the trade description of the product.

For movements of bulk wine, some additional information is required, namely

the actual alcoholic strength, the wine growing zone of origin and the production operations which the product has undergone.

Instructions relating to the provision of all this information are contained in Annex VI to Regulation (EC) No: 436/2009. This regulation also specifies certain other rules which generally apply to accompanying documents.

An accompanying document may be used only for a single journey, but may cover more than one batch of product moving from a single consignor to a single consignee.

In practical terms, the requirements for the movement of wine products in free circulation (under excise duty suspension) as they relate to UK traders are as follows:-

#### Movements into the UK

12. As the documentation for the shipments of EU wine will originate from the consignor in another Member State, UK traders may reasonably expect it to conform to the provisions of Regulation (EC) No: 436/2009.

Nonetheless, to satisfy the requirements of 'due diligence', UK traders should ensure that the accompanying documents are legitimate and match the wine in question, including also the use of the correct CN code for the product.

For Third Country wine in free circulation, traders are advised to obtain from their supplier copies of the original VI documentation, thus pre-empting any queries about the authenticity or characteristics of the wine.

Wine Inspectors will be particularly concerned with the documentation relating to movements of bulk wine of whatever origin and of Third Country wine either in bulk or bottled.

#### Movements within the UK

13. The standard electronic documentation required by HMRC for movements of bulk or bottled wine while under duty suspension (i.e. inter-bond transfers) will be accepted by Inspectors as meeting the requirements of Regulation (EC) No: 436/2009 provided that a detailed description of the product, conforming to the requirements of the wine regime, is available in the documentation 'pack'. The most effective way of meeting this condition and pre-empting further enquiries, is to ensure that a copy of the document which accompanied the wine on entry

into the UK (plus, for Third Country wine, a copy of the original VI document) is included in the 'pack'.

## **HM Revenue & Customs requirements**

14. Further information about accompanying documentation required by HMRC is given in Notice 197 Excise Goods: Holding and Movement

<https://www.gov.uk/government/publications/excise-notice-197-receipt-into-and-removal-from-an-excise-warehouse-of-excise-goods>

## Wine products after payment of excise duty

The documents which may be used are as follows:-

### 15. Movements between Member States

The SAD (or commercial document) in accordance with Regulation (EC) No:3649/92 as amplified by Regulation (EC) No: 436/2009

#### Movements within the UK

When wine is moved after release for consumption, invoices or transit/delivery notes will suffice for bottled/bagged wine provided that a full description of the product is shown. However for bulk wine, the use of a Commercial Accompanying Document (CAD) is obligatory: this is available from the FSA Wine Standards website

<http://www.food.gov.uk/sites/default/files/multimedia/pdfs/wsb15.pdf>

Where wine products which are not subject to excise duty (e.g. fresh grapes/must/juice) are concerned, and no exemptions apply, similar procedures must be followed.

## **Certification of Origin**

16. The documents used as accompanying documents for movements of wine products may also be used by producer Member States to certify the origin of Protected Designation of Origin and Protected Geographical Indication wines under certain specific conditions. These conditions (see Regulation (EC) No:436/2009 Art 31) concern the status of the person initiating the accompanying document, the manner in which the document is filled in, and the certification processes. Member States are permitted to make such certification compulsory for wines produced on their own territory.

If accompanying documents are used for this purpose, the following statements must be made under datagroup 17.2 (Wine product) of the electronic administrative document or noted on the SAD:-

- For PDO wines: "This document certifies the protected designation of origin No ...of the E-Bacchus register"
- PGI wines : "This document certifies the protected geographical indication No ...of the E-Bacchus register"
- Varietal Wines : This document certifies [the vintage year]\* and [the wine-grape variety (ies)(varietal wines)]\* in accordance with Article 120 of Regulation (EC) No:1308/2013.

*\* delete either part if not applicable*

The statements must be validated by the stamp and signature of the responsible authority.

## Review

17. The guidance will be reviewed in November 2018. If you wish to give comments on this guidance please email [winestandards@foodstandards.gsi.gov.uk](mailto:winestandards@foodstandards.gsi.gov.uk)

## Appendix - Summary of required documents

<b>Status</b>	<b>Document</b>
Third country wine to EU (initial import)	VI 1
Third country wine not in free circulation MS to MS	eAD and VI 2
Third country wine in free circulation under duty suspension	eAD and VI 2
Third country wine in free circulation MS to MS	eAD
EU goods under duty suspension	eAD
Duty paid goods	SAD (invoice)
Duty paid bulk wine	CAD

### **Key**

- VI 1 Document including analysis issued by the official laboratory in the exporting country
- VI 2 the analysis section of the VI document
- eAD the electronic accompanying document replicating the information on the EMCS
- SAD the Simplified Accompanying Document e.g. invoice
- CAD Commercial Accompanying Document