

## **The Weights and Measures (Intoxicating Liquor) Order 1988**

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1988 No. 2039

## **Weights and Measures (Intoxicating Liquor) Order 1988**

*Made 16th November 1988*

*Coming into force 1<sup>st</sup> January 1989*

Whereas the Secretary of State pursuant to section 86(2) of the Weights and Measures Act 1985 has consulted with organisations appearing to him to be representative of interests substantially affected by this Order and considered the representations made to him by such organisations with respect to the subject matter of this Order:

And whereas a draft of this Order has been laid before Parliament and approved by resolution of each House of Parliament pursuant to section 86(5) of that Act:

Now, therefore, the Secretary of State, in exercise of the powers conferred on him by sections 22(1) and (2), 24(1) and 86(1) of that Act and of all other powers enabling him in that behalf, hereby makes the following Order

1. (1) This Order may be cited as the Weights and Measures (Intoxicating Liquor) Order 1988 and shall come into force on 1st January 1989.

[(2) In this Order, except where the context expressly otherwise requires—

“the 1979 Act” means the Alcoholic Liquor Duties Act 1979;

“beer” and “cider” have the same meanings respectively as in section 1 of the 1979 Act but, in the case of “cider”, as if the definition in section 1(6) did not include the words “(or perry)” in either place where they occur or “or pear”;

“CN code” means a code comprised in the Combined Nomenclature;

“the Combined Nomenclature” means the Combined Nomenclature of the [European Union<sup>1</sup>];

“made-wine” and “wine” have the same meanings respectively as in section 1 of the 1979 Act; and references to a subheading are to a subheading of the Combined Nomenclature.<sup>2</sup>]

(3) The Orders specified in column 1 of Schedule 2 hereto are hereby revoked to the extent specified in column 3 of that Schedule.

2. (1) Unless pre-packed in a securely closed container and except when sold as a constituent of a mixture of two or more liquids, beer or cider shall be sold by retail—

(a) only in a quantity of 1/3 pint, 1/2 pint [, 2/3 pint<sup>3</sup>] or a multiple of 1/2 pint; and

(b) subject to paragraph (2) below, where sold for consumption on the premises of the seller, only in a capacity measure of the quantity in question.

<sup>1</sup> Substituted by SI 2011/1043, Art 4(1).

<sup>2</sup> Substituted by SI 2009/663, Reg 4(1), 4(2).

<sup>3</sup> Inserted by SI 2011/2331, Art 4(1), 4(2).

(2) Paragraph (1)(b) above shall not apply where—

- (a) the quantity of the intoxicating liquor the subject of the sale is ascertained by means of measuring equipment stamped in accordance with regulation 16(2) of the Measuring Equipment (Intoxicating Liquor) Regulations 1983;
- (b) the liquor in question is delivered directly from the measuring equipment into the container in which it is intended the buyer should receive it;
- (c) the liquor in question is so delivered after the buyer has ordered it; and
- (d) the measuring equipment (or that part of it from which the liquor is delivered) is installed in such a position that the delivery of the liquor into the container can readily be seen by customers in that part of the premises where the buyer ordered the liquor.

**3.** (1) Subject to paragraphs (2) and (3) below, unless pre-packed in a securely closed container, intoxicating liquor of any of the following descriptions, that is to say, gin, rum, vodka and whisky, shall be sold by retail for consumption on the premises at which it is sold only—

- (a) in, or in a multiple of, one of the following quantities, which shall be the same for those parts of any licensed premises or licensed canteen within the meaning of the Licensing Act 1964 or the Licensing (Scotland) Act 1976 of which any person is the licensee and for all those liquors, that is to say, 1/4 gill, 1/5 gill [, 1/6 gill, 25 ml or 35 ml<sup>4</sup>]; and
- (b) if there is displayed on those in such a position and manner as to be readily available without special request for inspection by the buyer before the sale is made, a statement in writing showing in which of those quantities those liquors are offered for sale on those premises.

[Provided that the quantities of 1/4 gill, 1/5 gill and 1/6 gill referred to in sub-paragraph (a) of this paragraph shall not be permitted after December 1994.<sup>5</sup>]

(2) Any such liquor shall be exempted from the requirements of this article when it forms a constituent of a mixture of three or more liquids.

(3) Nothing in this article shall make unlawful the sale at the express request of the buyer of any mixture of liquids containing any of those liquors in a quantity not otherwise permitted by this article.

**[3A.** (1) Subject to paragraph (2), the intoxicating liquors specified in column 1 of Schedule A1 to this Order may be pre-packed only if they are made up in one of the quantities specified in column 3, subject to the exceptions specified in column 4.

(2) Paragraph (1) does not apply to the intoxicating liquors specified in column 1 of Schedule A1 to this Order when they are sold duty-free for consumption outside the European Union.

(3) Where two or more pre-packages make up a multi-pack, the quantities specified in column 3 of Schedule A1 to this Order apply to each pre-package.

(4) For the purposes of this article—

- (a) “pre-package” means a combination of a product and the individual package in which it is pre-packed; and
- (b) “pre-packed” means made up in advance ready for retail sale or wholesale in a securely closed container.<sup>6</sup>]

<sup>4</sup> Substituted by SI 1994/1883, Art 3.

<sup>5</sup> Inserted by SI 1990/1550, Art 2(b)(ii).

**4.**[...<sup>7</sup>]

**5.** (1) Subject to paragraph (2) of this article, wine and made-wine for consumption on the premises at which it is sold shall—

[(a) be pre-packed only in one of the following quantities, that is to say, 25 cl, 50 cl, 75 cl or 1 L;<sup>8</sup>

(b) when not pre-packed, be sold only in those quantities; and

(c) whether pre-packed or not, be sold only if a statement in writing showing the quantities in which wine or made-wine is for sale is either displayed on those premises in such a position and manner as to be readily available without special request for inspection by the buyer before the sale is made, or is contained in every wine list and menu which is available to the buyer on those premises before the sale is made and which indicates that wine or made-wine is for sale for consumption on those premises.

(2) Paragraph (1) above shall not apply in the case of wine or made-wine which—

(b) is pre-packed in a securely closed container whether or not it is to be decanted at the request of the buyer before being served; or

(c) [subject to article 5A below,<sup>9</sup>] is sold in the glass or other vessel from which it is intended to be drunk.

**[5A.<sup>10</sup>]** [(1) For the purposes of this article—

(a) “wine” (except when used in the expression “wine fortified for distillation”) means the intoxicating liquor and other liquids specified in column 1 of Part 1 of Schedule 1 to this Order, other than wine fortified for distillation; and

(b) “wine fortified for distillation” has the same meaning as in the additional notes to Chapter 22 of the Combined Nomenclature.

(2) Subject to paragraph (3), when sold in the glass or other vessel from which it is intended to be drunk, for consumption on the premises at which it is sold—

(a) wine shall be sold only in, or in a multiple of, the following quantities, that is to say, 125 ml and 175 ml; and

(b) wine fortified for distillation shall be sold only in, or in a multiple of, in the following quantities, that is to say, 50 ml and 70 ml

and, in either case, only if a statement in writing of the kind required by subparagraph (c) of article 5(1) is displayed or otherwise provided as required by that sub-paragraph.

(3) Nothing in this article shall make unlawful the sale—

(a) at the express request of the buyer, of any mixture of liquids containing, in a quantity not permitted by this article—

(i) wine; or

<sup>6</sup> Inserted by SI 2009/663, Reg 4(1), 4(3).

<sup>7</sup> Omitted by SI 2009/663, Reg 4(1), 4(4).

<sup>8</sup> Substituted by SI 1994/2868, Art 2, Schedule.

<sup>9</sup> Inserted by SI 1990/1550, Art 2(c).

<sup>10</sup> Inserted by SI 1990/1550, Art 2(d).

- (ii) wine fortified for distillation; or

(b) of wine in a quantity of less than 75 ml, without the display or provision of a statement in writing of the kind referred to in paragraph (2).<sup>11]</sup>

6. [(1) Where intoxicating liquor or other liquids specified in column 1 of Schedule 1—

- (a) are pre-packed in a closed container for direct sale (within the meaning of Article 2(2)(e) of the FIC Regulation<sup>12]</sup>; or
- (b) are, in the case of those specified in Part III of Schedule 1, made up in a closed container for relevant wholesale.

the container must, subject to the exemptions specified in column 4 of Schedule 1, be marked with an indication of quantity by volume.<sup>13]</sup>

(2) Intoxicating liquor of any other description shall be pre-packed [for direct sale (within the meaning of Article 2(2)(e) of the FIC Regulation)<sup>14]</sup> in a closed container in a quantity of 5 ml or more but not exceeding 5 L only if the container is marked with an indication of quantity by volume.

[(3) For the purposes of the Article —

- (a) “mass caterer” means any establishment (including a vehicle or fixed mobile stall), such as restaurants, canteens, schools, hospitals and catering enterprises in which, in the course of business, food is prepared to be ready for consumption by the final consumer; and
- (b) “relevant wholesale” in relation to food to which this Article applies, means a sale by way of wholesale, but does not include any of the following:
  - (i) a sale to a mass caterer;
  - (ii) a supply of food that is prepacked food within the meaning of the FIC Regulation intended for sale to the final consumer or to a mass caterer, or any other supply of food that is made up in advance ready for retail sale in an open container; or
  - (iii) a supply to which Article 8(8) of the FIC Regulation<sup>15]</sup> applies.<sup>16]</sup>

7. (1) Without prejudice to the provisions of section 25 of the [Weights and Measures Act 1985<sup>17]</sup>, if article 2(1)(b), 3(1)(b) [, 5(1)(c) or 5A(2)(b)<sup>18]</sup> above is contravened, the occupier of the premises in question shall be guilty of an offence.

(2) Any person guilty of an offence under paragraph (1) above shall be liable on summary conviction to a fine not exceeding £2,000.

<sup>11</sup> Substituted by SI 2011/2331, Art 4(1), 4(3).

<sup>12</sup> The FIC Regulation means Regulation (EU) No 1169/2011 of the European Parliament and of the Council on the provision of food information to consumers, as defined in Section 94(1) of the Weights and measures Act 1985.

<sup>13</sup> Substituted by SI 2014/2975, Reg 34(a).

<sup>14</sup> Inserted by SI 2014/2975, Reg 34(b).

<sup>15</sup> Article 8(8) of the FIC Regulation sets out the application of the FIC Regulation to food business operators that supply food not intended for the final consumer or mass caterers to other food business operators. In those circumstances, sufficient information must be provided to the recipient food business operator to enable that food business operator to meet its obligations under Article 8(2) of the FIC Regulation, which requires the food business operator to ensure the presence and accuracy of the food information in accordance with the applicable food information law and relevant national provisions.

<sup>16</sup> Inserted by SI 2014/2975, Reg 34(c).

<sup>17</sup> Substituted by SI 2009/663, Reg 4(1), 4(5).

<sup>18</sup> Substituted by SI 1990/1550, Art 2(e).

8. Nothing in this Order shall require any container to be marked with any information or to enclose intoxicating liquor or other liquids of a particular quantity if all the following provisions are satisfied:—

- (a) the contents of the container in which any intoxicating liquor or other liquids is pre-packed consist of two or more packs of goods;
- (b) where the goods in any pack, if sold individually, would be required by the Order to be made up in a specified quantity, the goods in any such pack are so made up;
- (c) where any pack, if sold individually, would be required by the Order to be marked with an indication as to the quantity of the goods, the pack is so marked;
- (d)
  - (i) the container is marked with a description of the goods in each pack, the total number of packs containing goods of each description and, where paragraph (c) above applies, with an indication as to the quantity of the goods in each such pack; or
  - (ii) where each pack to which paragraph (c) above applies contains the same quantity of identical goods, an indication as to the quantity of the goods in at least one such pack is clearly visible, and the total number of such packs is clearly visible and capable of being easily counted, through the container; or
  - (iii) where each pack does not contain goods of the same description or does contain such goods but does not contain them in the same quantity, an indication as to the quantity of any goods in each pack to which paragraph (c) above applies, or, if there are two or more identical such packs, an indication as to the quantity of the goods in at least one of them is clearly visible, and the total number of such packs of each description is clearly visible and capable of being easily counted, through the container.

[Schedule A1<sup>19</sup>

(1) Product	(2) Product Definition	(3) Specified Quantities	(4) Exceptions
Still wine	[Wine as defined in [point (1) of Part II of Annex VII to the Regulation of the European Parliament and of the Council adopted on 16 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No. 922/72, (EEC) No. 234/79, (EC) No. 1037/2001 and (EC) No 1234/2007, as amended from time to time <sup>20</sup> , <sup>21</sup> ]	Only the following specified quantities: 100 ml 187 ml 250 ml 375 ml 500 ml 750 ml 1000 ml 1500 ml	Containers of a capacity of less than 100 ml or more than 1500 ml
Yellow wine	[Wine using the traditional term “vin jaune” listed and defined in the “E-Bacchus” database in accordance with Article 40(1) of Commission Regulation (EC) No. 607/2009 laying down certain detailed rules for the implementation of Council Regulation (EC) No. 479/2008 as regards protected designations of origin and geographical indications, traditional terms, labelling and presentation of certain wine sector products. <sup>22</sup> ]	Only the following specified quantity: 620 ml	Containers of a capacity of less than 100 ml or more than 1500 ml
[Sparkling wine, quality sparkling wine, quality aromatic sparkling wine, aerated sparkling wine, semi-sparkling wine and aerated semi-sparkling wine <sup>23</sup> ]	[As those wines are defined (respectively) in [points (4) to (9) of Part II of Annex VII to the Regulation of the European Parliament and of the Council adopted on 16 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No. 922/72, (EEC) No. 234/79, (EC) No. 1037/2001 and (EC) No. 1234/2007, as amended from time to time <sup>24</sup> , <sup>25</sup> ]	Only the following specified quantities: 125 ml 200 ml 375 ml 750 ml 1500 ml	Containers of a capacity of less than 125 ml or more than 1500 ml

<sup>19</sup> Inserted by SI 2009/663, Reg 4(1), 4(6), Schedule.

<sup>20</sup> Substituted by SI 2013/3235, Reg 12(1), 12(2)(a).

<sup>21</sup> Substituted by SI 2011/2936, Reg 19(1)(b)(i).

<sup>22</sup> Substituted by SI 2011/2936, Reg 19(1)(b)(ii).

<sup>23</sup> Substituted by SI 2011/2936, Reg 19(1)(a).

<sup>24</sup> Substituted by SI 2013/3235, Reg 12(1), 12(2)(b).

<sup>25</sup> Substituted by SI 2011/2936, Reg 19(1)(b)(iii).

Liqueur wine	[Liqueur wine as defined in [point (3) of Part II of Annex VII to the Regulation of the European Parliament and of the Council adopted on 16 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No.922/72, (EEC) No 234/79, (EC) No. 1037/2001 and (EC) No. 1234/2007, as amended from time to time <sup>26</sup> ]. <sup>27</sup> ]	Only the following specified quantities: 100 ml 200 ml 375 ml 500 ml 750 ml 1000 ml 1500 ml	Containers of a capacity of less than 100 ml or more than 1500 ml
Aromatised wine	Aromatised wine as defined in Article 2(1)(a) of Council Regulation (EEC) No. 1601/91 of 10 June 1991 laying down general rules on the definition, description and presentation of aromatised wines, aromatised wine-based drinks and aromatised wine-product cocktails (OJ L 149, 14.6.1991, p.1) as last amended by the Treaty concerning the accession of the Republic of Bulgaria and Romania to the European Union (OJ L 157, 21.6.2005, p.1) (CN code 2205).	Only the following specified quantities: 100 ml 200 ml 375 ml 500 ml 750 ml 1000 ml 1500 ml	Containers of a capacity of less than 100 ml or more than 1500 ml
Spirit drinks	Spirit drinks as defined in Article 1(2) of Council Regulation (EEC) No 1576/89 of 29 May 1989 laying down general rules on the definition, description and presentation of spirit drinks (OJ L 160, 12.6.1989, p.1) as last amended by the Treaty concerning the accession of the Republic of Bulgaria and Romania to the European Union (OJ L 157, 21.6.2005, p.1) (CN code 2208).	Only the following specified quantities: 100 ml 200 ml 350 ml 500 ml 700 ml 1000 ml 1500 ml 1750 ml 2000 ml	Containers of a capacity of less than 100 ml or more than 2000 ml]

<sup>26</sup> Substituted by SI 2013/3235, Reg 12(1), 12(2)(c).

<sup>27</sup> Substituted by SI 2011/2936, Reg 19(1)(b)(iv).

## Schedule 1

Articles 4 and 6

## Part I

(1) <i>Description and subheading</i>	(2) [... <sup>28</sup> ]	(3) [... <sup>26</sup> ]	(4) <i>Exemptions from quantity marking</i>
Wine of fresh grapes; grape must with fermentation prevented or arrested by the addition of alcohol, including wine made of unfermented grape juice blended with alcohol, grape must in fermentation or with fermentation arrested otherwise than by the addition of alcohol, of subheadings 2204 21 21 to 2204 21 39 inclusive, 2204 29 21 to 2204 29 39 inclusive and 2204 30 10.	[... <sup>26</sup> ]	[... <sup>26</sup> ]	Less than 5 ml, more than 10 L
"Yellow" wines entitled to use the following designations of origin: "Côte du Jura", "Arbois", "L'Etoile" and "Château-Chalon".	[... <sup>26</sup> ]		

## Part II

(1) <i>Description and subheading</i>	(2) [... <sup>26</sup> ]	(3) [... <sup>26</sup> ]	(4) <i>Exemptions from quantity marking</i>
Sparkling wine and wine in bottles with "mushroom" stoppers held in place by ties or fastenings, and wine otherwise made up with an excess pressure of not less than one bar but less than three bar, measured at a temperature of 20°C, of subheadings 2204 10 11, 2204 10 19, 2204 10 90, 2204 21 10 and 2204 29 10	[... <sup>26</sup> ]	[... <sup>26</sup> ]	Less than 5 ml, more than 10 L

<sup>28</sup> Omitted by SI 2009/663, Reg 4(1), 4(7).

## Part III

(1) <i>Description and subheading</i>	(2) [... <sup>26</sup> ]	(3) [... <sup>26</sup> ]	(4) <i>Exemptions from quantity marking</i>
Spirits, liqueurs and other spirituous beverages and compound alcoholic preparations of a kind used for the manufacture of beverages, of subheadings 2208 1010 to 2208 90 79 inclusive	[... <sup>26</sup> ]	[... <sup>26</sup> ]	Less than 5 ml, more than 10 L

FOR  
GUIDANCE  
PURPOSES  
ONLY

## Schedule 2

Article 1(3)

(1) <i>Orders revoked</i>	(2) <i>References</i>	(4) <i>Extent of revocation</i>
The Weights and Measures Act 1963 (Intoxicating Liquor) Order 1984.	SI 1984/1314	The whole Order
The Weights and Measures Act 1963 (Various Foods) (Amendment No 2) Order 1985.		

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