

COMMISSION IMPLEMENTING REGULATION (EU) 2023/157**of 23 January 2023****amending Implementing Regulation (EU) 2021/2266 as regards the reference to the certificate and the self-certification of independent small producers of alcoholic beverages in the electronic simplified administrative document**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Directive 92/83/EEC of 19 October 1992 on the harmonization of the structures of excise duties on alcohol and alcoholic beverages ⁽¹⁾, and in particular Article 23a(4) thereof,

Whereas:

- (1) In accordance with Article 23a(1) and (2) of Directive 92/83/EEC Member States are, upon request, required to provide an annual certificate to independent small producers established in their respective territory, and to allow independent small producers to self-certify, confirming the producers' total annual production as well as their compliance with the criteria set out in that Directive. Commission Implementing Regulation (EU) 2021/2266 ⁽²⁾ specifies the information to be included in the administrative document and in the simplified accompanying document which are to refer to that certificate or self-certification for the movement of goods under Chapter IV or V of Council Directive 2008/118/EC ⁽³⁾.
- (2) Directive 2008/118/EC was replaced by Directive (EU) 2020/262 ⁽⁴⁾ with effect from 13 February 2023. The computerised system referred to in Article 1 of Decision (EU) 2020/263 of the European Parliament and of the Council ⁽⁵⁾ ('the computerised system') is used to supervise movements of excise goods under a duty suspension arrangement as referred to in Article 3, point (6), of Directive (EU) 2020/262. Directive (EU) 2020/262 extends the use of the computerised system to the supervision of excise goods released for consumption in the territory of one Member State and then moved to the territory of another Member State in order to be delivered there for commercial purposes as laid down in Chapter V, Section 2, of Directive (EU) 2020/262. Until 13 February 2023, Commission Regulation (EEC) No 3649/92 ⁽⁶⁾ applies whereby such movements take place under cover of the simplified accompanying document, a document in paper form. With effect from that date, Regulation (EEC) No 3649/92 has been repealed by Commission Delegated Regulation (EU) 2022/1636 ⁽⁷⁾ and such movements are to take place under cover of an electronic simplified administrative document submitted by the consignor by using the computerised system. For reasons of clarity, references in Implementing Regulation (EU) 2021/2266 to Directive 2008/118/EC should therefore be replaced by references to Directive (EU) 2020/262, and references to the simplified accompanying document in Implementing Regulation (EU) 2021/2266 should be deleted from that date.

⁽¹⁾ OJ L 316, 31.10.1992, p. 21.

⁽²⁾ Commission Implementing Regulation (EU) 2021/2266 of 17 December 2021 laying down rules for the application of Council Directive 92/83/EEC as regards the certification and self-certification of independent small producers of alcoholic beverages for excise duty purposes (OJ L 455, 20.12.2021, p. 26).

⁽³⁾ Council Directive 2008/118/EC of 16 December 2008 concerning the general arrangements for excise duty and repealing Directive 92/12/EEC (OJ L 9, 14.1.2009, p. 12).

⁽⁴⁾ Council Directive (EU) 2020/262 of 19 December 2019 laying down the general arrangements for excise duty (OJ L 58, 27.2.2020, p. 4).

⁽⁵⁾ Decision (EU) 2020/263 of the European Parliament and of the Council of 15 January 2020 on computerising the movement and surveillance of excise goods (OJ L 58, 27.2.2020, p. 43).

⁽⁶⁾ Commission Regulation (EEC) No 3649/92 of 17 December 1992 on a simplified accompanying document for the intra-Community movement of products subject to excise duty which have been released for consumption in the Member State of dispatch (OJ L 369, 18.12.1992, p. 17).

⁽⁷⁾ Commission Delegated Regulation (EU) 2022/1636 of 5 July 2022 supplementing Council Directive (EU) 2020/262 by establishing the structure and content of the documents exchanged in the context of movement of excise goods, and establishing a threshold for the losses due to the nature of the goods (OJ L 247, 23.9.2022, p. 2).

- (3) The structure and content of the electronic administrative documents exchanged through the computerised system are laid down in Commission Regulation (EC) No 684/2009 ⁽⁸⁾, which has been replaced by Delegated Regulation (EU) 2022/1636 with effect from 13 February 2023. Therefore, for reasons of clarity, references in Implementing Regulation (EU) 2021/2266 to Regulation (EC) No 684/2009 should be replaced by references to Delegated Regulation (EU) 2022/1636.
- (4) Implementing Regulation (EU) 2021/2266 should therefore be amended accordingly.
- (5) As the extension of the use of the computerised system laid down in Directive (EU) 2020/262 is to apply from 13 February 2023, the application of this Regulation should be deferred to that date.
- (6) The measures provided for in this Regulation are in accordance with the opinion of the Committee on Excise Duty,

HAS ADOPTED THIS REGULATION:

Article 1

Implementing Regulation (EU) 2021/2266 is amended as follows:

(1) Article 2 is amended as follows:

(a) the heading is replaced by the following:

'Article 2

Reference to the certificate in the administrative documents for the movement of excise goods';

(b) the introductory part is replaced by the following:

'For the purposes of referring to the certificate in the administrative documents mentioned in Articles 20, 26, 36 and 38 of Council Directive (EU) 2020/262 ^(*), the information to be included in them, as set out in Table 1 of Annex I to Commission Delegated Regulation (EU) 2022/1636 ^(**), shall be the following:

^(*) Council Directive (EU) 2020/262 of 19 December 2019 laying down the general arrangements for excise duty (recast) (OJ L 58, 27.2.2020, p. 4).

^(**) Commission Delegated Regulation (EU) 2022/1636 of 5 July 2022 supplementing Council Directive (EU) 2020/262 by establishing the structure and content of the documents exchanged in the context of movement of excise goods, and establishing a threshold for the losses due to the nature of the goods (OJ L 247, 23.9.2022, p. 2).';

(2) Article 3 is deleted;

(3) Article 5 is amended as follows:

(a) the heading is replaced by the following:

'Article 5

Requirements for the completion of the administrative documents in the case of self-certification for the movement of excise goods';

(b) in paragraph 1, the introductory part is replaced by the following:

'In the administrative documents mentioned in Articles 20, 26, 36 and 38 of Directive (EU) 2020/262, the status of the independent small producers shall be declared in box 171, as set out in Table 1 of Annex I to Delegated Regulation (EU) 2022/1636, in the following terms: *'It is hereby certified that the product described has been produced by'* followed by, as applicable, one of the following terms:';

⁽⁸⁾ Commission Regulation (EC) No 684/2009 of 24 July 2009 implementing Council Directive 2008/118/EC as regards the computerised procedures for the movement of excise goods under suspension of excise duty (OJ L 197, 29.7.2009, p. 24).

(c) paragraph 3 is replaced by the following:

‘3. The annual production of alcoholic beverages of the small independent producer shall be declared in box 17n of the administrative document, as set out in Table 1 of Annex I to Delegated Regulation (EU) 2022/1636. The quantity shall be indicated in hectolitres, except in case of ethyl alcohol, which shall be indicated in hectolitres of pure alcohol.’;

(4) Article 6 is deleted.

Article 2

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 13 February 2023.

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

Done at Brussels, 23 January 2023.

For the Commission
The President
Ursula VON DER LEYEN
