



Scotch Whisky Act 1988

1988 CHAPTER 22

An Act to make provision as to the definition of Scotch whisky and as to the production and sale of whisky; and for connected purposes. [28th June 1988]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Prohibition of production in Scotland of whisky other than Scotch whisky.

(1) It shall be unlawful—

- (a) to produce in Scotland; or
- (b) to keep in Scotland for the purpose of maturation; or
- (c) to keep or use in Scotland for the purpose of blending,

a distillate of spirits produced as described in the definition of whisky contained in section 3(1) of this Act unless it is or, as the case may be, has been produced as described in any definition of Scotch whisky contained in an order under that section.

(2) If the court is satisfied, on the application of—

- (a) any person carrying on the business of producing Scotch whisky; or
- (b) any person or body appearing to the court to be representative of any group of such persons,

that any person has contravened or is contravening the provisions of subsection (1) above, the court may grant an interdict prohibiting such contravention.

(3) Where there is or has been any contravention of subsection (1) above, the spirits in question shall be liable to forfeiture.

(4) Sections 139, 141, 161, and 163 of, and Schedule 3 to, the ^{M1}Customs and Excise Management Act 1979 (which relate, among other things, to spirits liable to forfeiture) shall apply as if any reference to forfeiture under the customs and excise Acts included a reference to forfeiture under this Act.

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Annotations:**Marginal Citations**

M1 1979 c. 2.

2 Restrictions on sale of spirits as Scotch whisky.

(1) It shall be unlawful—

- (a) to sell as Scotch whisky any spirits not conforming to any definition of Scotch whisky contained in an order under section 3(1) of this Act; or
- (b) to sell Scotch whisky at an alcoholic strength less than any such strength as may be specified for the time being in an order made by the Ministers under this section.

(2) If the court is satisfied, on the application of—

- (a) any person carrying on the business of producing Scotch whisky; or
- (b) any person or body appearing to the court to be representative of any group of such persons,

that any person has contravened or is contravening the provisions of subsection (1) above, the court may grant an injunction restraining or, in Scotland, an interdict prohibiting such contravention.

Annotations:**Modifications etc. (not altering text)**C1 S. 2 amended (30.6.1999) by S.I. 1999/1756, art. 2, [Sch. para. 11](#)C2 S. 2(1)(b) excluded by S.I. 1990/997, [art.3](#)**3 Interpretation, orders and consequential amendments.**

(1) In this Act—

“the court” means, in section 1, the Court of Session and, in section 2, the High Court in relation to England and Wales and the Court of Session in relation to Scotland;

“the Ministers” means the Minister of Agriculture, Fisheries and Food and the Secretary of State, acting jointly^{F1} . . .;

“Scotch whisky” means such whisky (distilled and matured in Scotland) as conforms to a definition of Scotch whisky contained in an order made under this subsection by the Ministers;

“sell” includes offering for sale, exposing for sale and having in possession for the purpose of sale, and cognate expressions shall be construed accordingly; and

“whisky” means spirits—

- (a) which have been produced by the distillation of a mash of cereals which has been—
 - (i) saccharified by the diastase of the malt contained therein, with or without other natural enzymes; and
 - (ii) fermented by the action of yeast,

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- to an alcoholic strength of less than 94.8 per cent by volume so that the distillate has an aroma and taste derived from the raw materials used; and
- (b) which have matured for at least three years in wooden casks of a capacity not exceeding 700 litres.
- (2) The Ministers may by order amend the definition of whisky in subsection (1) above.
- (3) Orders made under this section or section 2 of this Act may make different provision for different cases.
- (4) Orders made by the Ministers under this section and section 2 of this Act shall be made by statutory instrument and shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) In paragraph 1(b) of Schedule 7 to the ^{M2}Finance Act 1969 for the words from the beginning to “in Scotland” there shall be substituted—
- “(b) the expression “Scotch whisky” shall have the same meaning as it has in section 3(1) of the Scotch Whisky Act 1988;”.

Annotations:

Amendments (Textual)

- F1** [S. 3\(1\)](#): words in definition of “the Ministers”repealed (27.3.2002) by [S.I. 2002/794](#), [art. 5\(2\)](#), [Sch. 2](#) (with [art. 6](#))

Modifications etc. (not altering text)

- C3** [S. 3](#) amended (30.6.1999) by [S.I. 1999/1756](#), [art. 2](#), [Sch. para. 11](#)
- C4** [S. 3\(1\)](#): definition of “the Ministers”amended (E.W.) (27.3.2002) by [S.I. 2002/794](#), [art. 5\(1\)](#), [Sch. 1 para. 33](#) (with [arts. 5\(3\)](#), [6](#))

Marginal Citations

- M2** [1969 c. 32](#).

4 Corresponding provision for Northern Ireland.

An Order in Council under paragraph 1(1)(b) of Schedule 1 to the ^{M3}Northern Ireland Act 1974 (legislation for Northern Ireland in the interim period) which contains a statement that it is only made for purposes corresponding to the purposes of this Act—

- (a) shall not be subject to sub-paragraphs (4) and (5) of paragraph 1 of that Schedule (affirmative resolution of both Houses of Parliament); but
- (b) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Annotations:

Marginal Citations

- M3** [1974 c. 28](#).

5 Citation, commencement and extent.

- (1) This Act may be cited as the Scotch Whisky Act 1988.

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- (2) This Act, except section 4, shall come into force on such day as the Ministers may by order made by statutory instrument appoint and different days may be so appointed for different provisions or for different purposes.
- (3) An order under subsection (2) above may include such transitional provision as appears to the Ministers to be necessary or expedient in connection with the provisions thereby brought into force.
- (4) This Act, except section 4, does not extend to Northern Ireland.

Annotations:

Modifications etc. (not altering text)

- C5** [S. 5\(2\)](#) power of appointment conferred by s. 5(2) fully exercised: 30.4.1990 appointed by [S.I. 1990/997](#), [art. 2](#)

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Changes and effects yet to be applied to the whole Act, associated Parts and Chapters:

- Act repealed by [S.I. 2009/2890 reg. 2\(1\)](#)