
STATUTORY INSTRUMENTS

1995 No. 484 (S.33)

FOOD

The Spirit Drinks (Scotland) Amendment Regulations 1995

Made - - - - 27th February 1995
Laid before Parliament 9th March 1995
Coming into force - - 3rd April 1995

The Secretary of State, in exercise of the powers conferred on him by section 17(2) of the Food Safety Act 1990(1), and being one of the Ministers designated(2) for the purposes of section 2(2) of the European Communities Act 1972(3) in relation to measures relating to the description of and other requirements relating to spirit drinks, in exercise of the powers conferred on him by the said section 2(2) (as read with section 3(3) of the European Economic Area Act 1993(4) (save for paragraph (a) thereof)), and of all other powers enabling him in that behalf, hereby makes the following Regulations:

Citation, extent and commencement

1. These Regulations may be cited as the Spirit Drinks (Scotland) Amendment Regulations 1995, shall extend to Scotland only and shall come into force on 3rd April 1995.

Amendments to the Spirit Drinks (Scotland) Regulations 1990

2.—(1) The Spirit Drinks (Scotland) Regulations 1990(5) shall be amended in accordance with the following paragraphs of this Regulation.

(2) In regulation 2(1) (interpretation)—

(a) after the definition of “the Act” there shall be inserted the following definition:—

““the Commission Regulation” means Commission Regulation (EEC) No.1014/90 laying down detailed implementing rules on the definition, description and presentation of spirit drinks(6), as amended by Commission Regulation (EEC) No.1180/91(7), Commission Regulation (EEC) No.1781/91(8), Commission

(1) 1990 c. 16; section 4(1) contains a definition of “the Ministers” relevant to the exercise of the statutory powers under which these Regulations are made.
(2) S.I. 1989/1327.
(3) 1972 c. 68.
(4) 1993 c. 51.
(5) S.I. 1990/1196, amended by S.I. 1990/2625.
(6) OJ No.L105, 25.4.90, p.9.
(7) OJ No.L115, 8.5.91, p.5.

Regulation (EEC) No.3458/92⁽⁹⁾, Commission Regulation (EC) No.2675/94⁽¹⁰⁾ (as corrected at OJ No.L28, 7.2.95, p.14) and Chapter XXVII of Annex II to the European Economic Area Agreement”;

(b) for the definition of “the Council Regulation” the following definition shall be substituted:

—
 ““the Council Regulation” means Council Regulation (EEC) No.1576/89 laying down general rules on the definition, description and presentation of spirit drinks⁽¹¹⁾ (as corrected at OJ No.L223, 2.8.89, p.27), as amended by Council Regulation (EEC) No.3280/92⁽¹²⁾ and Chapter XXVII of Annex II to the European Economic Area Agreement”;

(c) after the definition of “the Council Regulation” there shall be inserted the following definition:—

““the European Economic Area Agreement” has the same meaning as does “the Agreement” in section 6(1) of the European Economic Area Act 1993”; and

(d) for the definition of “specified Community provision” the following definition shall be substituted:—

““specified Community provision” means—

(a) any provision of the Council Regulation—

- (i) which is specified in column 1 of Part I of the Schedule to these Regulations, and
- (ii) whose subject-matter is specified in the corresponding entry in column 2 of that Part;

(b) any provision of the Commission Regulation—

- (i) which is specified in column 1 of Part II of the Schedule to these Regulations, and
- (ii) whose subject-matter is specified in the corresponding entry in column 2 of that Part; and

(c) Article 1(1) of Commission Regulation (EC) No.1267/94 applying the agreements between the European Union and third countries on the mutual recognition of certain spirit drinks⁽¹³⁾

(3) Regulation 3(3) (enforcement) shall be revoked.

(4) Regulation 4 (powers of authorised officers) shall be revoked.

(5) In regulation 5(2) (offences and penalties)—

(a) for the phrase “Article 1” there shall be substituted the phrase “Article 1(4)”; and

(b) after the word “beverages” there shall be inserted the phrase “, as amended by Commission Regulation (EEC) No.1759/90⁽¹⁴⁾, Commission Regulation (EEC) No.3207/90⁽¹⁵⁾ and Commission Regulation (EEC) No.3750/90⁽¹⁶⁾”.

⁽⁸⁾ OJ No.L160, 25.6.91, p.5.

⁽⁹⁾ OJ No.L350, 1.12.92, p.59.

⁽¹⁰⁾ OJ No.L285, 4.11.94, p.5.

⁽¹¹⁾ OJ No.L160, 12.6.89, p.1.

⁽¹²⁾ OJ No.L327, 13.11.92, p.3.

⁽¹³⁾ OJ No.L138, 2.6.94, p.7.

⁽¹⁴⁾ OJ No.L162, 28.6.90, p.23.

⁽¹⁵⁾ OJ No.L307, 7.11.90, p.11.

⁽¹⁶⁾ OJ No.L360, 22.12.90, p.40.

(6) For the Schedule there shall be substituted the Schedule set out in the Schedule to these Regulations.

Exclusion of the operation of section 3(1) of the European Economic Area Act 1993

3. The operation of section 3(1) of the European Economic Area Act 1993 is hereby excluded insofar as it would otherwise apply in relation to the definition for which another is substituted by regulation 2(2)(b) of these Regulations.

St Andrew's House,
Edinburgh
27th February 1995

Hector Monro
Parliamentary Under Secretary of State, Scottish
Office

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SCHEDULE

Regulation 2(6)

SCHEDULE TO BE SUBSTITUTED IN THE PRINCIPAL REGULATIONS

“SCHEDULE

Regulation 2

SPECIFIED COMMUNITY PROVISIONS

PART I

PROVISIONS OF THE COUNCIL REGULATION

<i>(1) Provision</i>	<i>(2) Subject-matter</i>
Article 2, read with Article 1(4) of the Council Regulation and Articles 1 to 7 of the Commission Regulation	Requirements relating to the marketing for human consumption of spirit drinks under specified designations
Article 3(1), read with Annex III	Minimum alcoholic strength by volume of spirit drinks to be released for human consumption in the Community
Article 4(1)	Restriction on the marketing under a reserved name of spirit drinks to which an unauthorised substance has been added
Article 4(5)	Requirements relating to the use of natural flavouring substances and preparations
Article 4(7), read with Annex I	Conditions as to the use of ethyl alcohol in the preparation of spirit drinks
Article 5(1)	Restriction on the use of reserved names
Article 5(2) and (3)(a) and (b)	Conditions as to the use of supplementary geographical indications and designations
Article 7(1) and (2)	Requirements relating to the labelling, presentation and advertising of spirit drinks and the containers into which spirit drinks may be put
Article 7(4)	Requirement to give particulars in an official language of the Communities understood by the final consumer
Article 7(5)	Prohibition on the translation of specified designations
Article 8	Prohibition on the use of associating words or phrases to describe spirit drinks produced in the Community marketed for human consumption
Article 9(1)	Prohibition on the use of reserved generic names for specified spirit drinks containing added ethyl alcohol of agricultural origin

<i>(1) Provision</i>	<i>(2) Subject-matter</i>
Article 9(2)	Requirements relating to the compositional labelling and presentation of Rum-Verschnitt
Article 12(1)	Application of Community rules to spirit drinks intended for export

part ii

PROVISIONS OF THE COMMISSION REGULATION

<i>(1) Provision</i>	<i>(2) Subject-matter</i>
Article 7a, read with the Annex	Restriction on the use of reserved terms
Article 7b(1)	Restriction on the use of a generic term in a compound term
Article 7b(2)	Restriction on the use of compound terms for liqueurs
Article 7b(3)	Requirements relating to the labelling and presentation of specified liqueurs using compound terms
Article 7c	Requirements relating to the description, etc., of mixtures of spirit drinks”.

EXPLANATORY NOTE

(This note is not part of the Regulations)

1. These Regulations amend the Spirit Drinks (Scotland) Regulations 1990 (S.I. 1990/1196), as amended by S.I. 1990/2625.

2. Those Regulations (“the 1990 Regulations”), which extend to Scotland only, make provision for the administration, execution and enforcement of community provisions relating to the definition, description and presentation of spirit drinks set out in Council Regulation (EEC) No.1576/89 (OJ No.L160, 12.6.89, p.1).

3. These Regulations (which likewise extend to Scotland only) make provision for the enforcement and execution of—

- (a) Commission Regulation (EEC) No.1014/90 laying down detailed implementing rules on the definition, description and presentation of spirit drinks (OJ No.L105, 25.4.90, p.9) as amended by Commission Regulation (EEC) No.1180/91 (OJ No.L115, 8.5.91, p.5), Commission Regulation (EEC) No.1781/91 (OJ No.L160, 25.6.91, p.5), Commission Regulation (EEC) No.3458/92 (OJ No.L350, 1.12.92, p.59), Commission Regulation (EC) No.2675/94 (OJ No.L285, 4.11.94, p.5) (as corrected at OJ No.L28, 7.2.95, p.14) and Chapter XXVII of Annex II to the Agreement on the European Economic Area signed at

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Oporto on 2nd May 1992 (OJ No.L1, 3.1.94, p.3) as adjusted by the Protocol signed at Brussels on 17th March 1993 (OJ No.L1, 3.1.94, p.572), by—

- (i) inserting into regulation 2(1) of the 1990 Regulations a definition of that first mentioned Commission Regulation,
 - (ii) substituting for the existing Schedule to the 1990 Regulations a new Schedule which refers to particular provisions of that Commission Regulation, and
 - (iii) substituting for the existing definition of the phrase “specified Community provision” in regulation 2(1) of the 1990 Regulations a definition of that phrase which makes reference, inter alia, to the said provisions;
- (b) Council Regulation (EEC) No.1576/89 by substituting for the existing definition of that Community instrument in regulation 2(1) of the 1990 Regulations a definition which takes account of the corrections made to it at OJ No.L223, 2.8.89, p.27 and the amendments made to it by Council Regulation (EEC) No.3280/92 (OJ No.L327, 13.11.92, p.3) and Chapter XXVII of Annex II to the Agreement referred to in sub-paragraph (a) above; and
- (c) Article 1(1) of Commission Regulation (EC) No.1267/94 applying the agreements between the European Union and third countries on the mutual recognition of certain spirit drinks (OJ No.L138, 2.6.94, p.7) by including that provision in the definition of “specified Community provision” substituted as described in sub-paragraph (a)(iii) of this paragraph.

4. These Regulations also revoke regulations 3(3) and 4 of the 1990 Regulations.

5. These Regulations, additionally, substitute in regulation 5(2) of the 1990 Regulations for the existing reference to Article 1 of Commission Regulation (EEC) No.3773/89 laying down transitional measures relating to spirituous beverages (OJ No.L365, 15.12.89, p.48) a reference to Article 1(4) of that instrument as amended by Commission Regulation (EEC) No.1759/90 (OJ No.L162, 28.6.90, p.23), Commission Regulation (EEC) No.3207/90 (OJ No.L307, 7.11.90, p.11) and Commission Regulation (EEC) No.3750/90 (OJ No.L360, 22.12.90, p.40).