

2019 No. 1289

FOOD

INTELLECTUAL PROPERTY

**The Spirit Drinks and Scotch Whisky (Amendment) Regulations
2019**

<i>Made</i> - - - -	<i>28th September 2019</i>
<i>Laid before Parliament</i>	<i>30th September 2019</i>
<i>Coming into force</i> - -	<i>31st October 2019</i>

The Secretary of State makes these Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(a), being a Minister designated(b) for the purposes of section 2(2) of that Act in relation to measures relating to the description of, and other requirements relating to, spirit drinks.

There has been consultation as required by Article 9 of Regulation (EC) No 178/2002 of the European Parliament and of the Council laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety(c) during the preparation, evaluation and revision of food law in relation to these Regulations.

Citation and commencement

1. These Regulations may be cited as the Spirit Drinks and Scotch Whisky (Amendment) Regulations 2019 and come into force on 31st October 2019.

Amendment of the Spirit Drinks Regulations 2008

2.—(1) The Spirit Drinks Regulations 2008(d) are amended as follows.

(2) In regulation 3—

(a) after the definition of “premises” insert—

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- (a) 1972 c. 68. Section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c. 51) and section 3 of and Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c. 7). It is prospectively repealed by section 1 of the European Union (Withdrawal) Act 2018 (c. 16) from exit day (see section 20 of that Act).
- (b) S.I. 1989/1327, to which there are amendments not relevant to these Regulations. It is prospectively revoked by S.I. 2018/1011 from exit day. The functions of the Minister of Agriculture, Fisheries and Food were transferred to the Secretary of State by the Ministry of Agriculture, Fisheries and Food (Dissolution) Order 2002 (S.I. 2002/794).
- (c) OJ No L 31, 1.2.2002, p. 1, to which there are amendments not relevant to these Regulations.
- (d) S.I. 2008/3206, as amended by S.I. 2011/1043, 2012/1809, 2014/1855. This instrument is prospectively amended by S.I. 2019/865 from exit day.

““registered geographical indication” means a geographical indication listed in Annex 3 of Regulation (EC) No 110/2008 or a geographical indication included in any register drawn up in accordance with Article 33(1) of Regulation (EU) 2019/787;”;

- (b) omit the definition of “registered Annex III geographical indication”;
- (c) after the definition of “Regulation (EC) No 110/2008” insert—

““Regulation (EU) 2019/787” means Regulation (EU) 2019/787 of the European Parliament and of the Council on the definition, description, presentation and labelling of spirit drinks, the use of the names of spirit drinks in the presentation and labelling of other foodstuffs, the protection of geographical indications for spirit drinks, the use of ethyl alcohol and distillates of agricultural origin in alcoholic beverages, and repealing Regulation (EC) No 110/2008;”.

(3) In regulation 4—

- (a) for paragraph (1) substitute—

“(1) A person is guilty of an offence if they contravene or fail to comply with—

- (a) any provision of Regulation (EC) No 110/2008 mentioned in column 1 of Part 2 of Schedule 2, or
- (b) any provision of Regulation (EU) 2019/787 mentioned in column 1 of Part 3 of Schedule 2,

as read with any provision mentioned in any corresponding entry in column 2 of that Part of that Schedule.”;

- (b) in paragraph (2)—

- (i) in sub-paragraph (a)—

- (aa) omit “Annex III”;

- (bb) for “Article 16(a) of Regulation (EC) No 110/2008” substitute “Article 21(2)(a) of Regulation (EU) 2019/787”;

- (ii) in sub-paragraph (b), omit “Annex III”;

- (iii) in sub-paragraphs (c) and (d) for “Annex III product” substitute “geographical indication”;

- (c) in paragraph (3)—

- (i) in sub-paragraph (a)(ii) omit “or”;

- (ii) at the end insert—

“(c) as regards the description, presentation or labelling of a spirit drink that is labelled before 8th June 2019 if that description, presentation or labelling complies with Articles 16 and 23 of Regulation (EC) No 110/2008.”;

- (d) omit paragraph (4).

(4) In regulation 5—

- (a) in the heading, for “Article 22 of Regulation (EC) No 110/2008” substitute “Article 38 of Regulation (EU) 2019/787”;

- (b) in paragraph (1)—

- (i) after “using a” insert “registered”;

- (ii) omit “registered in Annex III to Regulation (EC) No 110/2008”;

- (c) in paragraph (2)(a)—

- (i) after “uses a” insert “registered”;

- (ii) omit “registered in Annex III to Regulation (EC) No 110/2008”;

- (iii) at the end, omit “or”;

- (d) at the end of paragraph (2) insert—

“(c) it is a liqueur produced in Northern Ireland that uses the geographical indication “Irish Cream”;

(d) it is a spirit drink produced in Northern Ireland that uses the geographical indication “Irish Poteen” or “Irish Poitín”.”.

(5) In regulation 6—

(a) for the heading substitute—

“Designation of competent authorities”;

(b) at the end insert—

“(3) Each food authority is designated as the competent authority for the purpose of Articles 39(1) and (2) of Regulation (EU) 2019/787 for surveillance and enforcement of the use of registered geographical indications in its area except to the extent that a port health authority is designated as the competent authority within any part of that area under paragraph (4).

(4) Each port health authority is designated as the competent authority for the purpose of Articles 39(1) and (2) of Regulation (EU) 2019/787 for the surveillance and enforcement of the use of registered geographical indications in its district for drinks being imported into or exported from the United Kingdom.”.

(6) In regulation 11(5)—

(a) in point (a) omit “or”;

(b) after point (a) insert—

“(aa) that O reasonably believes contravenes any provision of Regulation (EU) 2019/787 mentioned in column 1 of Part 3 of Schedule 2, as read with any provision mentioned in any corresponding entry in column 2 of that Part of that Schedule; or”.

(7) Schedule 2 is amended in accordance with paragraphs (8) and (9).

(8) In the table at Part 2—

(a) in row 10 (Article 9(4)), in the second column, for “Annexes II and III” substitute “Annex 2”;

(b) in row 11 (Article 9(5)), for the entry in the second column substitute “Chapter 3 of Regulation (EU) 2019/787”;

(c) in row 12 (Article 9(6))—

(i) for the entry in the second column substitute “Articles 23(2) and 24(9) of Regulation (EU) 2019/787”;

(ii) in the third column, omit “Annex III”;

(d) in row 13 (Article 9(7))—

(i) in the second column—

(aa) omit “and Annex III”;

(bb) at the end insert “and Article 21(2)(b) of Regulation (EU) 2019/787”;

(ii) in the third column, omit “Annex III”;

(e) in row 16 (Article 10(1)), in the second column, omit “and Annex III”;

(f) in row 17, in the third column, omit “Annex III”;

(g) in row 27 (Article 14(2))—

(i) in the second column, for “Annexes II and III” substitute “Annex 2”;

(ii) in the third column, omit “Annex III”;

(h) omit row 28 (Article 15(4)).

(9) After Part 2 insert—

“PART 3

The provisions of Regulation (EU) 2019/787

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
Relevant provision of Regulation (EU) 2019/787	Provisions to be read with the provision of Regulation (EU) 2019/787 mentioned in column 1	Subject matter
Article 22(1)	Articles 23 and 38 of Regulation (EU) 2019/787 and Article 17(2) of, and Annex 3 to, Regulation (EC) 110/2008	Compliance with product specification for spirit drinks bearing a registered geographical indication”

Amendment of the Scotch Whisky Regulations 2009

3.—(1) The Scotch Whisky Regulations 2009(a) are amended as follows.

(2) In regulation 4—

(a) after the definition of “Regulation (EC) No 110/2008” insert—

““Regulation (EU) 2019/787” means Regulation (EU) 2019/787 of the European Parliament and of the Council on the definition, description, presentation and labelling of spirit drinks, the use of the names of spirit drinks in the presentation and labelling of other foodstuffs, the protection of geographical indications for spirit drinks, the use of ethyl alcohol and distillates of agricultural origin in alcoholic beverages, and repealing Regulation (EC) No 110/2008;”.

(3) Omit regulation 7(2).

(4) Omit regulation 14.

(5) In regulation 22, for “7(1), (2) or (3)” substitute “7(1) or (3)”.

(6) In regulation 27, for “7(1), (2) or (3)” substitute “7(1) or (3)”.

(7) In regulation 32, for “7(1), (2) or (3)” substitute “7(1) or (3)”.

(8) In regulation 40, in paragraphs (1) and (3), for “7(1), (2) or (3)” substitute “7(1) or (3)”.

Zac Goldsmith
Minister of State

28th September 2019

Department for Environment, Food and Rural Affairs

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Spirit Drinks Regulations 2008 (S.I. 2008/3206) and the Scotch Whisky Regulations 2009 (S.I. 2009/2890).

Regulation 2 makes amendments to the Spirit Drinks Regulations 2008 to reflect the repeal of Chapter 3 of Regulation (EC) No 110/2008 and the introduction of new provisions relating to geographical indications in Regulation (EU) 2019/787. These amendments include an updated

(a) S.I. 2009/2890, as amended by S.I. 2018/942.

definition of registered geographical indication and provision for a new transitional period in respect of products labelled before 8th June 2019.

Regulation 3 makes amendments to the Scotch Whisky Regulations 2009 to reflect the repeal of Chapter 3 of Regulation (EC) No 110/2008 and the introduction of new provisions relating to geographical indications in Regulation (EU) 2019/787. It also revokes spent transitional provisions.

An Impact Assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sectors is foreseen.

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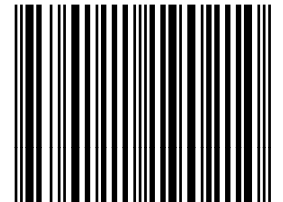
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