
STATUTORY INSTRUMENTS

2020 No. 1637

The Agricultural Products, Food and Drink
(Amendment etc.) (EU Exit) Regulations 2020

PART 5

Amendment of retained direct EU legislation

Regulation (EC) No 110/2008 of the European Parliament and of the Council

17.—(1) Regulation (EC) No 110/2008 of the European Parliament and of the Council on the definition, description, presentation, labelling and the protection of geographical indications of spirit drinks is amended as follows.

(2) In Article 1—

(a) in paragraph 2—

- (i) for “the Community”, in the first place it occurs, substitute “Great Britain”;
- (ii) for “the Community”, in the second place it occurs, substitute “Great Britain, Northern Ireland”;
- (iii) for “the Community for export” substitute “Great Britain for movement to Northern Ireland or export to a third country”;

(b) in paragraph 3—

- (i) after “where” insert “a spirit drink is being moved to Northern Ireland, or exported to a third country, and the law that applies in Northern Ireland, or”;
- (ii) after “importing third country” insert “, as the case may be,”;
- (iii) for the words from “the regulatory” to the end substitute “paragraphs 4 to 6”;

(c) after paragraph 3 insert—

“4. A derogation may be granted:

- (a) by regulations, or
- (b) on application, by administrative decision, where regulations have not been made or where regulations have been made but do not apply in a particular case.

5. An application of the type referred to in paragraph 4(b) may be made:

- (a) to the Secretary of State, in the case of an operator intending to:
 - (i) export a consignment of a spirit drink from England to a relevant third country;
 - (ii) move a consignment of a spirit drink from England to Northern Ireland;
- (b) to the Scottish Ministers, in the case of an operator intending to:
 - (i) export a consignment of a spirit drink from Scotland to a relevant third country;

- (ii) move a consignment of a spirit drink from Scotland to Northern Ireland;
- (c) to the Welsh Ministers, in the case of an operator intending to:
 - (i) export a consignment of a spirit drink from Wales to a relevant third country;
 - (ii) move a consignment of a spirit drink from Wales to Northern Ireland.

6. An application of the type referred to in paragraph 4(b) must be made in relation to one type of spirit drink and on a consignment by consignment basis.

7. In this Article—

- (a) ‘consignment’ means a quantity of one type of spirit drink covered by a single document required for customs formalities and may be composed of more than one lot;
- (b) ‘lot’ has the meaning given in regulation 2 of the Food (Lot Marking) Regulations 1996⁽¹⁾, as it extends to Great Britain;
- (c) ‘relevant third country’ means a third country of the type referred to in paragraph 3.”

(3) After Article 2 insert—

“Article 2a

Definition of third country

In this Regulation, ‘third country’ means a country, other than the United Kingdom, and includes:

- (a) the Bailiwick of Guernsey;
- (b) the Bailiwick of Jersey;
- (c) the Isle of Man.”

(4) In Article 5—

- (a) in paragraph 1(e), for the words from “shall be decided” to the end substitute “may be specified in regulations”;
- (b) in paragraph 2(e) omit the words from “and taking” to the end.

(5) Omit Article 6.

(6) In Article 7, after the existing paragraph insert—

“In this Chapter, ‘Great Britain’s GIs Register’ means the register established and maintained by the Secretary of State under Article 33(1) of 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.”

(7) In Article 8, for “Article 5 of [Directive 2000/13/EC](#)(**2**)” substitute “Article 17 of Regulation (EU) No 1169/2011 of the European Parliament and of the Council on the provision of food information to consumers(**3**)”.

(1) [S.I. 1996/1502](#), amended by [S.I. 2011/1043](#) and, in relation to England, by [S.I. 2014/1855](#) and, prospectively on IP completion day, by [S.I. 2019/150](#), in relation to Scotland, by [S.S.I. 2014/312](#) and, prospectively on IP completion day, by [S.S.I. 2019/53](#) and, in relation to Wales, by [S.I. 2014/2303 \(W. 227\)](#), [2018/806 \(W. 162\)](#) and, prospectively on IP completion day, by [S.I. 2019/435 \(W. 103\)](#).

(2) OJ No. L 109, 6.5.2000, p. 29, repealed by Regulation (EU) No 1169/2011 of the European Parliament and of the Council (OJ No. L 304, 22.11.2011, p. 18).

(3) EUR 2011/1169, prospectively amended on IP completion day by [S.I. 2019/529](#), 778, 2020/1501.

- (8) In Article 9—
- (a) in paragraph 4, for “Annex III” substitute “Great Britain’s GIs Register”;
 - (b) in paragraph 5—
 - (i) for “Annex III” substitute “Great Britain’s GIs Register”;
 - (ii) after “Chapter III” insert “of Regulation (EU) 2019/787”;
 - (c) in paragraph 6—
 - (i) in the words before point (a), for “Annex III” substitute “Great Britain’s GIs Register”;
 - (ii) in point (a) omit “within the meaning of Article 20”;
 - (iii) in point (b), for “Article 17(1)” substitute “paragraph 1 of Article 22 of Regulation (EU) 2019/787, as read with paragraph 2 of that Article”;
 - (d) in paragraph 7, for “Annex III” substitute “Great Britain’s GIs Register”;
 - (e) in paragraph 9, for “[Directive 2000/13/EC](#)” substitute “Regulation (EU) No 1169/2011”;
 - (f) after paragraph 9 insert—

“**10.** In this Article, ‘established geographical indication’ means a geographical indication within the meaning of Article 3(4) of Regulation (EU) 2019/787 to which Article 54(2) of the EU withdrawal agreement applies.”.
- (9) In Article 10—
- (a) in paragraph 1—
 - (i) for “[Directive 2000/13/EC](#)” substitute “Regulation (EU) No 1169/2011”;
 - (ii) for “Annex III” substitute “Great Britain’s GIs Register”;
 - (b) in paragraph 4 omit “in the Community”.
- (10) In Article 11(4), in the first subparagraph, for “[Directive 2000/13/EC](#)” substitute “Regulation (EU) No 1169/2011”.
- (11) In Article 12(3)—
- (a) omit the words from the beginning to “25(3),”;
 - (b) at the end insert as a new sentence—

“Regulations may specify derogations in respect of this requirement.”.
- (12) In Article 14—
- (a) in paragraph 2, for “Annex III” substitute “Great Britain’s GIs Register”;
 - (b) in paragraph 4, for “the Community” substitute “Great Britain”.
- (13) Omit Articles 17(2)(4), 20(5) and 24.

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- (4) By derogation from Article 49(1) of Regulation (EU) 2019/787 of the European Parliament and of the Council (OJ No. L 130, 17.5.2019, p. 1) (which repealed Chapter 3 of Regulation (EC) No 110/2008 of the European Parliament and of the Council (OJ No. L 39, 13.2.2008, p. 16) with effect from 8th June 2019), Article 49(2)(a) of Regulation (EU) 2019/787 of the European Parliament and of the Council made provision for Article 17(2) of Regulation (EC) No 110/2008 of the European Parliament and of the Council to continue to apply until 25th May 2021, with the consequence that the incorporation provision in section 3(1) of the European Union (Withdrawal) Act 2018 applies to Article 17(2) of Regulation (EC) No 110/2008 of the European Parliament and of the Council. Regulation 17(13) of this instrument omits that provision from Regulation (EC) No 110/2008 of the European Parliament and of the Council as incorporated into the domestic law of Great Britain.
- (5) By derogation from Article 49(1) of Regulation (EU) 2019/787 of the European Parliament and of the Council (OJ No. L 130, 17.5.2019, p. 1) (which repealed Chapter 3 of Regulation (EC) No 110/2008 of the European Parliament and of the Council (OJ No. L 39, 13.2.2008, p. 16) with effect from 8th June 2019), Article 49(2)(b) of Regulation (EU) 2019/787 of the European Parliament and of the Council made provision for Article 20 of Regulation (EC) No 110/2008 of the European Parliament and of the Council to continue to apply for the period described in Article 49(2)(b) of Regulation (EU) 2019/787 of the European Parliament and of the Council, expiring no later than 25th May 2021, with the consequence that the incorporation provision

- (14) For Article 25 substitute the new Articles 25 to 25c in Schedule 1.
 (15) For Article 26 substitute—

“Article 26

Amendment of the Annexes

Annexes 1 and 2 may be amended by regulations.”.

- (16) For Article 27 substitute—

“Article 27

Implementing regulations

1. Regulations may be made to make such provision as appears necessary to the appropriate authority in relation to the implementation of this Regulation.

2. In this Article, ‘the appropriate authority’ means the person specified in Article 25(1) (a), (b)(ii) or (c)(i), as the case may be or, in a case where the Secretary of State is to exercise the power to make regulations under this Article pursuant to Article 25(2) (having obtained the necessary consents required by Article 25(2)), the Secretary of State.”.

- (17) In Article 28—

- (a) omit paragraph 1;
 (b) in paragraph 2—
 (i) for the words from the beginning to “adopted” substitute “Regulations may be made”;
 (ii) omit “Community”;
 (c) in paragraph 3—
 (i) omit the first sentence;
 (ii) in the second sentence, for “prior to 20 February 2008 or until” substitute “as it had effect in Great Britain immediately before”.

- (18) After Article 30 omit the words from “This Regulation” to “States.”.

- (19) In Annex 1—

- (a) in point (6)—
 (i) in the first paragraph, for the words from “Council [Directive 80/777/EEC](#)” to “consumption” substitute “any relevant water quality legislation”;
 (ii) after the second paragraph insert—
 “*In this point, ‘relevant water quality legislation’ means:*
 (a) in relation to spirit drinks marketed in England:
 (i) the Natural Mineral Water, Spring Water and Bottled Drinking Water (England) Regulations 2007(6);
 (ii) the Water Supply (Water Quality) Regulations 2016(7);

in section 3(1) of the European Union (Withdrawal) Act 2018 applies to Article 20 of Regulation (EC) No 110/2008 of the European Parliament and of the Council. Regulation 17(13) of this instrument omits that provision from Regulation (EC) No 110/2008 of the European Parliament and of the Council as incorporated into the domestic law of Great Britain.

- (6) S.I. 2007/2785, amended by S.I. 2009/1598, 2010/433, 2011/451, 1043, 2014/1855, 2018/352, 2019/526, 1488 and prospectively on IP completion day by S.I. 2019/150, 775, 778, 2020/1501.
 (7) S.I. 2016/614, amended by S.I. 2017/506, 2018/378, 706, 2019/526 and prospectively, on IP completion day, by S.I. 2019/558.

- (iii) the Private Water Supplies (England) Regulations 2016**(8)**;
 - (b) in relation to spirit drinks marketed in Scotland:
 - (i) the Natural Mineral Water, Spring Water and Bottled Drinking Water (Scotland) (No. 2) Regulations 2007**(9)**;
 - (ii) the Public Water Supplies (Scotland) Regulations 2014**(10)**;
 - (iii) the Water Intended for Human Consumption (Private Supplies) (Scotland) Regulations 2017**(11)**;
 - (c) in relation to spirit drinks marketed in Wales:
 - (i) the Natural Mineral Water, Spring Water and Bottled Drinking Water (Wales) Regulations 2015**(12)**;
 - (ii) the Private Water Supplies (Wales) Regulations 2017**(13)**;
 - (iii) the Water Supply (Water Quality) Regulations 2018**(14)**.”;
- (b) in point (10), for the words from “colorants” to the end substitute “colours, as defined in entry 2 of Annex 1 to Regulation [\(EC\) No 1333/2008](#) of the European Parliament and of the Council on food additives**(15)**”.
- (20) In Annex 2—
 - (a) in category 1—
 - (i) in point (a)(ii) for “Annex III” substitute “Great Britain’s GIs Register”;
 - (ii) in point (f), for “in category 1 of Annex III” insert “for rum in Great Britain’s GIs Register”;
 - (b) in category 9, in point (f), in the first subparagraph omit the second sentence;
 - (c) in category 15, in point (d), for “13(2) of [Directive 2000/13/EC](#)” substitute “13(1) of Regulation (EU) No 1169/2011”;
 - (d) in point (c) of each of categories 25, 26, 27, 28 and 29, for “1(2)(b)(i) and Article 1(2)(c) of [Directive 88/388/EEC](#)” substitute “3(2)(c) and (d) of Regulation [\(EC\) No 1334/2008](#)**(16)**”;
 - (e) in category 32, in point (d), in the first subparagraph, in the words before the first indent omit “produced in the Community”;
 - (f) in category 37, in point (c), for “1(2)(b)(i) and Article 1(2)(c) of [Directive 88/388/EEC](#)” substitute “3(2)(c) and (d) of Regulation [\(EC\) No 1334/2008](#)”;
 - (g) in category 37a—
 - (i) in the second paragraph omit “Member State or third”;
 - (ii) after the second paragraph insert—

“In the second paragraph, in relation to the United Kingdom, ‘country of the manufacture’ means the United Kingdom as a whole and does not mean England, Northern Ireland, Scotland or Wales individually.”;

(8) S.I. 2016/618, amended by S.I. 2017/506, 2018/707 and prospectively on IP completion day by S.I. 2019/558.

(9) S.S.I. 2007/483, amended by S.S.I. 2009/273, 2010/89, 127, 2011/94, S.I. 2011/1043, S.S.I. 2014/312, 2015/100, 363, 2017/287.

(10) S.S.I. 2014/364; relevant amending instruments are S.S.I. 2015/346, 2017/281.

(11) S.S.I. 2017/282, amended by S.S.I. 2017/321.

(12) S.I. 2015/1867 (W. 274), amended by S.I. 2017/935 (W. 229).

(13) S.I. 2017/1041 (W. 270); relevant amending instruments are S.I. 2019/460 (W. 110) prospectively on IP completion day and S.I. 2019/463 (W. 111).

(14) S.I. 2018/647 (W. 121), amended by itself, by S.I. 2019/460 (W. 110) prospectively on IP completion day and S.I. 2019/463 (W. 111).

(15) EUR 2008/1333, to which there are amendments not relevant to these Regulations.

(16) EUR 2008/1334, to which there are amendments not relevant to these Regulations.

- (h) in point (c) of categories 42, 43, 45 and 46, for “1(2)(b)(i) and Article 1(2)(c) of [Directive 88/388/EEC](#)” substitute “3(2)(c) and (d) of Regulation [\(EC\) No 1334/2008](#)”;
 - (i) in the category headed “*Other spirit drinks*”—
 - (i) in the paragraph numbered 1 (*Rum-Verschnitt*), in the final sentence omit the words from “Where” to “market,”;
 - (ii) in the paragraph numbered 2 (*Slivovice*), in the third sentence omit the words from “If” to “Community.”
- (21) Omit Annex 3.