
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations impose additional national requirements in relation to Scotch Whisky in addition to the requirements that apply to Scotch Whisky by virtue of Regulation (EC) No 110/2008 (OJ No L 39, 13.2.2008, p 16) of the European Parliament and of the Council on the definition, description, presentation, labelling and the protection of geographical indications of spirit drinks and repealing Council Regulation (EEC) No 1576/89. The additional national requirements regulate the manufacture (regulation 5), marketing (regulation 6), movement (regulation 7) and presentation (regulations 8 to 12 and Schedules 1 to 3) of Scotch Whisky (which is defined in regulation 3).

Scotch Whisky is a geographical indication protected under Regulation (EC) No 110/2008. That Regulation regulates all spirit drinks, including whisky, and provides for the protection of geographical indications for spirit drinks, including Scotch Whisky. The Spirit Drinks Regulations 2008 (S.I. 2008/3206) provide for the enforcement of Regulation (EC) No 110/2008 in the United Kingdom. In doing so, the Spirit Drinks Regulations 2008 apply to drinks in the United Kingdom wherever they have been produced. These Regulations supplement the provisions of Regulation (EC) No 110/2008 as underpinned by the Spirit Drinks Regulations 2008 by laying down stricter rules for the protection of Scotch Whisky (as permitted by Article 6 of Regulation (EC) No 110/2008). They apply to drinks and whisky distillates manufactured in the United Kingdom (regulation 1).

These Regulations repeal the Scotch Whisky Act 1988 (1988 c. 22) and revoke the Scotch Whisky (Northern Ireland) Order 1988 (S.I. 1988/1852 (N.I. 19)) (regulation 2).

They contain transitional provisions (regulations 13 and 14).

They designate the Commissioners for Her Majesty's Revenue and Customs as a competent authority in relation to the verification functions imposed on them by regulation 5 of the Spirit Drinks Regulations 2008 (regulation 15). They provide for food authorities and port health authorities to enforce the Regulations (regulation 16). They provide for the appointment of officers (regulation 17) and impose a duty on enforcement authorities to give assistance and information to each other (regulation 18). They confer powers of entry (regulation 19) and other powers (regulation 20), including seizure and destruction powers. They require certain procedures to be followed in the event of any exercise of the seizure powers (regulation 21). They provide for the issue of improvement notices (regulation 22) and provide for appeals against improvement notices (regulations 23 and 24). They provide for the destruction of seized products and the giving of improvement notices to be publicised (regulation 25).

They prohibit obstruction (regulation 26) create offences for the contravention or failure to comply with specified provisions of the Regulations (regulation 27) and provide for the punishment of criminal offences (regulation 28). They contain provisions relating to offences committed by a body corporate (regulation 29), the commission of an offence due to the act or default of a third person (regulation 30) and defences (regulation 31).

These Regulations also create a scheme for the issuing and payment of penalty notices for an offence under regulation 27 in relation to contravention of, or failure to comply with, specified provisions of these Regulations (regulations 32 to 39).

They enable the Court of Session in Scotland to grant an interdict, and the High Court in England, Northern Ireland and Wales to grant an injunction, prohibiting contraventions of certain provisions of these Regulations (regulation 40).

They contain provisions relating to the giving of notices (regulation 41).

Status: This is the original version (as it was originally made).

A full impact assessment of the effect that these Regulations will have on the costs of business and the voluntary sector is available at www.defra.gov.uk or from Department for Environment, Food and Rural Affairs, Nobel House, 17 Smith Square, London, SW1P 3JR. It is also annexed to the Explanatory Memorandum for these Regulations, which is available, alongside these Regulations, on the OPSI website (www.opsi.gov.uk).