

Scotch Whisky Association

THE SCOTCH WHISKY REGULATIONS 2009

2/12/2009

Guidance for Producers and Bottlers

The Scotch Whisky Regulations 2009 (SWR) came into force on 23 November 2009. They replaced the Scotch Whisky Act 1998 and the Scotch Whisky Order 1990. Whereas the previous legislation had only governed the way in which Scotch Whisky must be produced, the SWR also set out rules on how Scotch Whiskies must be labelled, packaged and advertised, as well as requiring Single Malt Scotch Whisky to be bottled in Scotland from 2012.

The following guidance is aimed at assisting those producing and selling Scotch Whisky, and those designing labels, packaging and advertising, to comply with the new law. Checklists are included where appropriate. This guidance covers only the main provisions of the law; the Regulations should be referred to for the full detail. The SWA's Legal Department is ready to assist with any questions. Contact details are provided at the end of this Guidance.

Guidance:

1. Production of Scotch Whisky	2
2. Definitions of Categories of Scotch Whisky	3
3. The only type of whisky which may be produced in Scotland is Scotch Whisky	4
4. Passing Off	4
5. Export of Scotch Whisky in bulk	4
6. Labelling of Scotch Whisky	4
7. Distillery Names	5
8. Locality and regional geographical indications	7
9. Prohibition of the description "pure malt"	8
10. Maturation, age and distillation statements	8
11. Transitional periods regarding labeling, packaging and advertising	9
12. Verification of the authenticity of Scotch Whisky	9
13. Enforcement	9
14. Legal Affairs Department contact details.	10

1. Production of Scotch Whisky

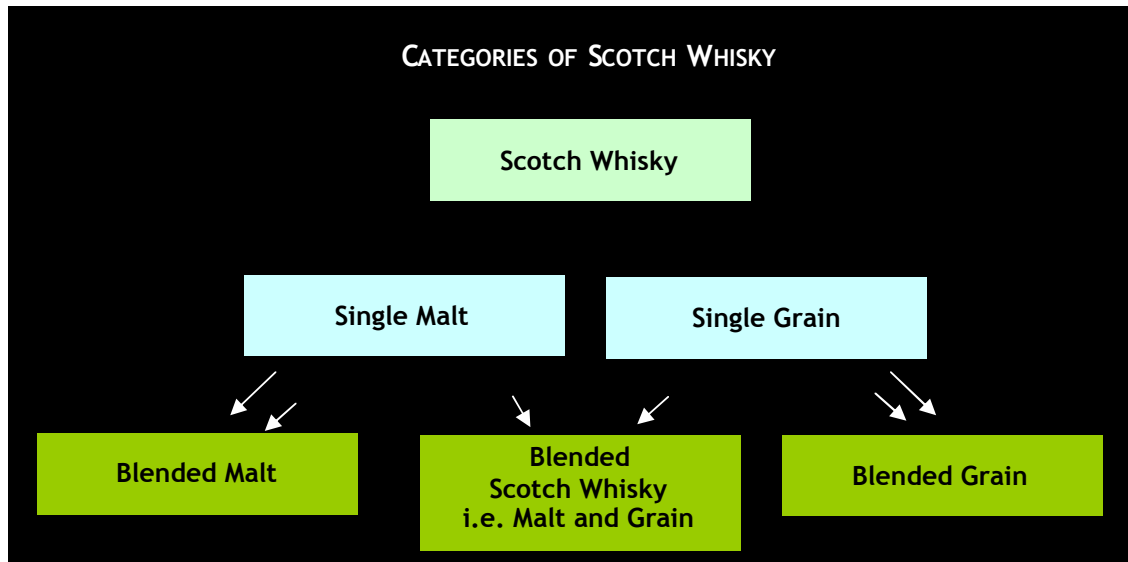
- 1.1 The SWR do not change the way that Scotch Whisky is produced. **Regulation 3.1** sets out the production method for Scotch Whisky.
- 1.2 As regards maturation, one area of possible ambiguity has been addressed. The SWR make clear that Scotch Whisky must be wholly matured in Scotland, i.e. it may not be matured in any country other than Scotland.
- 1.3 The SWR also require that all maturation must take place in an excise warehouse or in another “permitted place” regulated by Her Majesty’s Revenue & Customs (HMRC). “Permitted place” is defined in **Regulation 4** and includes any place to which spirits in an excise warehouse are moved for:-
- Re-warehousing in another excise warehouse
 - Such temporary purposes and periods as HMRC may allow
 - Scientific research and testing
 - Storage at other premises where, under the Customs and Excise Acts, goods of the same class or description may be kept without payment of excise duty
 - Such other purpose as HMRC may permit

It is only if all maturation of Scotch Whisky takes place under some form of HMRC control that they will be able to certify that the spirit is Scotch Whisky and, if an age is claimed, that the Scotch Whisky has been matured in the permitted size of oak casks for the period claimed.

- 1.4 Whereas the Scotch Whisky Order 1990 referred to the permitted use of “spirit caramel”, the SWR permit only the use of “plain caramel colouring”. This is simply a change of terminology to align with EU regulations. The type of caramel colouring which is permitted for Scotch Whisky remains the same, namely E150A.

2. Definitions of categories of Scotch Whisky

2.1 **Regulation 3(2)** contains the definitions of the different categories of Scotch Whisky.



2.2 The two basic types of Scotch Whisky, from which all blends are made, are Single Malt Scotch Whisky and Single Grain Scotch Whisky. In practice there is no change in the way that Single Malt Scotch Whisky and Single Grain Scotch Whisky must be produced.

2.3 **Single Malt Scotch Whisky** means a Scotch Whisky produced from only water and malted barley at a single distillery by batch distillation in pot stills.

2.4 **Single Grain Scotch Whisky** means a Scotch Whisky distilled at a single distillery but which, in addition to water and malted barley, may also be produced from whole grains of other malted or unmalted cereals. Excluded from the definition of “Single Grain Scotch Whisky” is any spirit which qualifies as a Single Malt Scotch Whisky or as a Blended Scotch Whisky. The latter exclusion is to ensure that a Blended Scotch Whisky produced from Single Malt(s) and Single Grain(s) distilled at the same distillery does not also qualify as Single Grain Scotch Whisky.

2.5 The definition of **Blended Scotch Whisky** does change the existing law, but reflects traditional and current practice. Before the SWR, any combination of Scotch Whiskies qualified as a Blended Scotch Whisky, including for example a blend of Single Malt Scotch Whiskies. However, Blended Scotch Whisky is defined under the SWR as a combination of one or more Single Malt Scotch Whiskies with one or more Single Grain Scotch Whiskies, which accords with traditional practice.

2.6 **Blended Malt Scotch Whisky** means a blend of two or more Single Malt Scotch Whiskies from different distilleries, and

2.7 **Blended Grain Scotch Whisky** means a blend of two or more Single Grain Scotch Whiskies from different distilleries.

3. The only type of whisky which may be produced in Scotland is Scotch Whisky

- 3.1 As was the case under the Scotch Whisky Act 1988, **Regulation 5** stipulates that the only whisky which may be manufactured in Scotland is Scotch Whisky. The definition of “manufacture” is found at **Regulation 4**.
- 3.2 The purpose of this provision is to prevent the existence of two ‘grades’ of whisky originating from Scotland, one “Scotch Whisky”, and the other “whisky - product of Scotland” which complies with the generic standard for whisky under **EC Regulation 110/2008**. The existence of two such ‘grades’ of whisky produced in Scotland would make it extremely difficult to protect Scotch Whisky as a distinctive product.
- 3.3 In addition to prohibiting the production of whisky in Scotland other than Scotch Whisky, it is also prohibited to mature or to blend whiskies in Scotland other than Scotch Whisky. This is to prevent use of descriptions such as “whisky - matured in Scotland” or “whisky - blended in Scotland” on spirits which are not Scotch Whisky. Again, this will help to ensure that “Scotch Whisky” remains a distinctive product.

4. Passing Off

Regulation 6 makes it illegal to label, package, sell or advertise any drink as “Scotch Whisky” or “Scotch” or in such a way as to suggest indirectly that the drink is Scotch Whisky, when it does not qualify as such.

5. Export of Scotch Whisky in bulk

- 5.1 **Regulation 7** makes it illegal as from 22 November 2012 for Single Malt Scotch Whisky to be exported from Scotland other than in a bottle labelled for retail sale.
- 5.2 As it is illegal to mature Scotch Whisky outside Scotland, Regulation 7 also makes it illegal with immediate effect (as from 23 November 2009) to export any type of Scotch Whisky in an oak or other wooden cask.

6. Labelling of Scotch Whisky

For the first time the SWR introduce specific requirements for the labelling of Scotch Whiskies. It is an offence not to comply with these requirements.

6. Labelling of Scotch Whisky (contd)

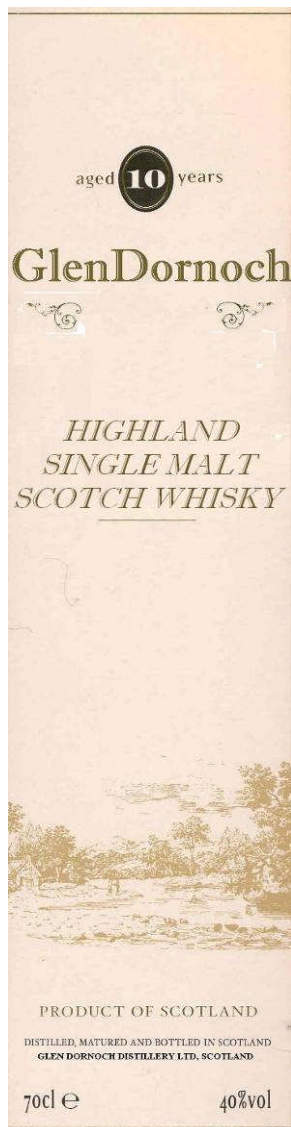
- 6.1 **Regulation 8** makes it compulsory for every Scotch Whisky to bear on the front of the bottle, and also on any individual packaging, the category to which that Scotch Whisky belongs, i.e. “Single Malt Scotch Whisky”, “Single Grain Scotch Whisky”, “Blended Scotch Whisky”, “Blended Malt Scotch Whisky” or “Blended Grain Scotch Whisky”. It is required that the category description appears on the presentation of every Scotch Whisky so it is clear it is the sales description. The category description must be as prominent as any other description of the whisky on the labels or packaging, and there are further provisions relating to how the category description must appear.
- 6.2 The only word (or words) which may be added to the category description is the name of the Scottish locality or region in which the Scotch Whisky was distilled. In other words, the description “Single Malt Scotch Whisky” must appear in exactly that form, except that it can be preceded by a description such as “Speyside” or “Islay”, if that Single Malt Scotch Whisky has been entirely distilled in that specified locality or region. For rules regarding the use of locality or regional names, see paragraph 10 below.
- 6.3 To assist designers of labels and packaging, here is a basic **checklist** on labelling requirements as regards category descriptions.

7. Distillery Names

Regulation 9 and **Schedules 1** and **2** cover the use of distillery names.

- 7.1 Regulation 9(1) makes it illegal to use as a brand name (or as part of a brand name) for a Scotch Whisky the name of any distillery listed at Schedule 1 unless the Scotch Whisky has been wholly distilled at that distillery. A similar provision applies to Scotch Whisky distilleries opened or reopened.
- 7.2 There are also provisions (Regulations 9(4) and (5)) which make it illegal to label, package, advertise or promote any Single Malt Scotch Whisky or Single Grain Scotch Whisky in a way which is likely to deceive the public into thinking it has been distilled at any distillery other than the true distillery, or
- 7.3 These provisions were introduced because complaints had been received from consumers who had bought a Single Malt Scotch Whisky sold under a brand name which they had understood to be the name of the distillery, which they later found was not the case. A fictitious example might be a Single Malt Scotch Whisky sold under the name **GLEN DORNOCH**. Because the names of many Scotch Whisky distilleries include the word “Glen”, and consist of geographical names, consumers might believe that the Single Malt Scotch Whisky had been distilled at Glen Dornoch Distillery, which does not

7. Distillery Names (contd)



Glen Dornoch Distillery Ltd

- 7.4 The risk of deception would be even greater if the labelling of GLEN DORNOCH Single Malt Scotch Whisky featured a company or trading name such as “Glen Dornoch Distillery Ltd”. That would reinforce the assumption by the consumer that the Scotch Whisky came from Glen Dornoch Distillery.
- 7.5 The test under Regulations 9(4) and (5) is a subjective one. Each brand owner must assess whether there is any risk that consumers may buy his Single Malt Scotch Whisky or Single Grain Scotch Whisky in the belief that it comes from a distillery, or a distiller, other than the true one. If such a risk does exist, the brand owner should take corrective action. There are various ways in which the risk of deception can be avoided. For example:-
- the most obvious way is to avoid the use of brand names, and company or trading names, which may be taken by consumers to be the name of a distillery (when they are not)

7. Distillery Names (contd)

- if a brand owner has an existing, well established, brand which falls into the ‘danger’ category, one way of preventing any confusion would be to state clearly on the label and packaging the name of the distillery where the Single Malt Scotch Whisky or Single Grain Scotch Whisky was actually distilled
- it may be possible to amend names which fall into the ‘danger’ category to remove the risk of confusion. For example, if a Single Malt is being sold under the name DORNOCH, which might be seen to be the name of a distillery, the name could be changed to DORNOCH CASTLE which would be less likely to be seen as the name of a distillery.

It should be stressed that this is simply guidance on the SWR. It is up to each brand owner to make his own judgment as to how to avoid confusing consumers and breaching the Regulations. If in doubt, you can contact the SWA’s Legal Department.

8. Locality and regional geographical indications

8.1 **Regulation 10** covers the use of locality and regional names.

It has long been customary to sell Single Malt Scotch Whiskies accompanied by a locality or regional geographical name to indicate where they were distilled. In order to protect and promote these names, the SWR define the five major traditional locality and regional geographical indications, which are “Highland”, “Lowland”, “Speyside”, “Islay” and “Campbeltown”. These names may be used on labels and packaging, preceding the compulsory category description, if the Scotch Whisky has been wholly distilled in the relevant locality or region, i.e. a Single Malt Scotch Whisky distilled in the Speyside region may be described on the label and carton as “Speyside Single Malt Scotch Whisky” (the words to appear in exactly that order).

8.2 The boundaries of the five protected localities and regions are set out in Regulation 10. **Schedule 3** explains where Regulation 10(1) does not apply.

8.3 It should be noted that:-

- although only the five traditional localities and regions have been defined and protected in the SWR, it is still permitted to use, in exactly the same way, another Scottish locality or regional name as long as the Scotch Whisky was entirely distilled in that place. For example, Single Malt Scotch Whiskies distilled in Orkney may be sold described as “Orkney Single Malt Scotch Whisky” (with the words appearing in exactly that order) .
- Speyside falls within the borders of the Highland region and therefore Scotch Whiskies distilled in the Speyside area may equally be described as “Highland”.
- it is illegal to use a locality or regional geographical name in relation to a Scotch Whisky which has not been distilled in the locality or region in question. There are, however, certain exceptions to this rule -

8. Locality and regional geographical indications

- ◆ this rule does not apply where the name of the protected locality or region forms part of a trade mark or company name registered before 1 September 2009, and is only included in the presentation of the Scotch Whisky as part of that trade mark or company name - e.g. “HIGHLAND QUEEN Scotch Whisky” or “Highland Distillers Ltd”.
- ◆ it is permitted on the labelling of any of the three types of Blended Scotch Whisky to refer to the localities or regions in which the Scotch Whiskies in the blend were distilled as long as all the relevant localities or regions are specified. For example on a “Blended Malt Scotch Whisky” an additional description might appear such as “a Blend of Highland and Islay malts”.
- ◆ it is also permitted that, if a brand owner has a ‘stable’ of brands, which include Single Malt Scotch Whiskies from a variety of regions, the brand owner might, for example, refer on the labelling of his Highland Single Malt Scotch Whisky that it belongs to the same ‘stable’ as his Single Malt Scotch Whisky from the Islay region.

9. Prohibition of the description "Pure Malt"

Regulation 11 bans the use of the term “Pure Malt”

Because of concerns that consumers were confused by the description “Pure Malt”, that description (and derivations of it) are prohibited in the labelling, packaging, advertising or promotion of any Scotch Whisky. The prohibition relates only to the combination of the words “pure” and “malt” (and derivations such as “Purest Malt”) and does not prevent, for example, a reference in promotional literature to the use of “pure water”.

10. Maturation, age and distillation statements

Regulation 12 regulates maturation, age and distillation statements.

10.1 The SWR maintain the longstanding rule regarding the use of age statements, namely that the only age which may be stated in the labelling, packaging or advertising of a Scotch Whisky is the age of the youngest Scotch Whisky in the product. In other words, if a Scotch Whisky contains a blend of 8, 12, and 15 year old Scotch Whiskies, the only age claim which may be made for that product is “8 years old”. (Similar statements such as “aged 8 years” may also be used, as long as the stated age is in years).

10.2 The SWR lay down new rules regarding the use of distillation or vintage years, albeit reflecting previous good practice in the industry. The SWR require that if labelling and packaging or advertising refers to a distillation or vintage year:-

- only one year may be mentioned
- all of the whisky in the product must have been distilled in that year
- the presentation of the whisky must also feature the year of bottling or an age statement
- the year of bottling or the age statement must appear in the same field of vision as the year of distillation or vintage.

10. Maturation, age and distillation statements

- 10.3 The use of other numbers, which do not relate to the age of the Scotch Whisky, should be treated with caution. If there is a likelihood that consumers believe that the number relates to the age of the product, when that is not the case, that will be an offence.

Here is a [checklist](#) regarding age statements and distillation years.

11. Transitional periods regarding labelling, packaging and advertising

[Regulations 13](#) and [14](#) provide for transitional periods regarding labelling, packaging and advertising.

- 11.1 Operators have two years to bring their labelling and packaging into compliance with the SWR. In other words, all labelling and packaging applied after 22 November 2011 must comply with all the new labelling rules. Scotch Whiskies labelled and packaged prior to 22 November 2011 may, how-
- 11.2 All advertising of Scotch Whiskies after 22 November 2011 must comply with all the new rules which cover advertising.

12. Verification of the authenticity of Scotch Whisky

[Regulation 15](#) appoints Her Majesty's Revenue and Customs (HMRC) as the competent authority for the verification of Scotch Whisky. HMRC will be responsible for ensuring compliance of Scotch Whisky with the SWR, both as regards production and labelling. The exact conduct of this verification process is still being discussed with the UK Government

13. Enforcement

[Regulations 16 to 41](#) set out the full enforcement provisions. In summary:

- any enforcement action required will be taken by Trading Standards Officers (as regards sales within the UK) or by Port Health Authorities (as regards exports and any (re)imports).
- there is a range of enforcement measures from warning notices through to criminal prosecution. Which enforcement measure is taken will depend on the circumstances of the breach, but it is anticipated that in the case of unintentional or minor breaches the enforcement authorities will seek to resolve problems by discussion first.
- Provisions are also included allowing civil enforcement of the SWR by interested parties, including the SWA ([Regulation 40](#)).

Legal Department Contacts

The SWA's Legal Department is ready to assist with any questions arising out of the SWR. The relevant contact details are:

Glen Barclay

Email: gbarclay@swa.org.uk

Tel: 0131 222 9212

Magnus Cormack

Email: mcormack@swa.org.uk

Tel: 0131 222 9213

Kenny Gray

Email: kgray@swa.org.uk

Tel: 0131 222 9211

Lindesay Low

Email: llow@swa.org.uk

Tel: 0131 222 9258

Alan Park

Email: apark@swa.org.uk

Tel: 0131 222 9214



2009 No. 2890

FOOD

The Scotch Whisky Regulations 2009

<i>Made</i> - - - -	<i>26th October 2009</i>
<i>Laid before Parliament</i>	<i>30th October 2009</i>
<i>Coming into force</i> - -	<i>23rd November 2009</i>

CONTENTS

1. Title, commencement and application
2. Repeal and revocation
3. Definition of “Scotch Whisky” and categories of Scotch Whisky
4. General interpretation
5. Manufacture
6. Marketing
7. Movement from Scotland to another country
8. Compulsory sales descriptions
9. Names of distilleries and distillers etc.
10. Locality and region geographical indications
11. Use of the words ‘pure’ and ‘malt’ and derivations
12. Maturation, age and distillation statements
13. Transitional provisions relating to labelling and packaging
14. Transitional provisions relating to advertising and promotion
15. Designation
16. Enforcement
17. Appointment of officers
18. Duty to give assistance and provide information
19. Powers of entry
20. Powers of an authorised officer
21. Procedure on seizure
22. Improvement notices
23. Appeals against improvement notices
24. Powers relating to appeals
25. Publication of notices
26. Obstruction
27. Offences
28. Fines
29. Offences by bodies corporate etc.
30. Default of third person

31. Defences
32. Giving of penalty notice for penalty offence
33. Contents and form of penalty notice
34. Amount of penalty
35. Restriction on proceedings for penalty offence
36. Payment of penalty
37. Certificate of payment or non-payment of a penalty
38. Penalty receipts
39. Withdrawal of penalty notice
40. Civil remedy
41. Giving of notices

-
- SCHEDULE 1 — DISTILLERIES TO WHICH REGULATION 9(1) APPLIES
- SCHEDULE 2 — CIRCUMSTANCES IN WHICH REGULATION 9(2) DOES NOT APPLY
- SCHEDULE 3 — CIRCUMSTANCES IN WHICH REGULATION 10(1) DOES NOT APPLY
- SCHEDULE 4 — FACTORS TO BE TAKEN INTO ACCOUNT IN DETERMINING THE AMOUNT OF A PENALTY
- PART 1 — Aggravating factors
- PART 2 — Mitigating factors

These Regulations are made in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(a).

The Secretary of State(b) is a Minister designated(c) for the purposes of section 2(2) of the European Communities Act 1972 in relation to measures relating to the description of, and other requirements relating to, spirit drinks.

There has been open and transparent public consultation during the preparation of the following Regulations as required by Article 9 of Regulation (EC) No 178/2002 of the European Parliament and of the Council(d) 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.

Accordingly, the Secretary of State makes the following Regulations.

Title, commencement and application

1.—(1) These Regulations may be cited as the Scotch Whisky Regulations 2009 and come into force on 23rd November 2009.

(a) 1972 c. 68.

(b) 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). Under section 57 of the Scotland Act 1998 (c. 46), despite the transfer to Scottish Ministers of Community law related functions in respect of devolved matters, the function of the Secretary of State continues to be exercisable by the Secretary of State as regards Scotland for the purposes specified in section 2(2) of the European Communities Act 1972.

(c) S.I. 1989/1327, to which there are amendments not relevant to these Regulations.

(d) OJ No L 31, 1.2.2002, p 1, last amended by Commission Regulation (EC) No 596/2009 (OJ No L 188, 18.7.2009, p 14).

(2) These Regulations apply to drinks and whisky distillates (whether in the form of a drink or not) manufactured in the United Kingdom.

Repeal and revocation

2.—(1) The Scotch Whisky Act 1988(a) is repealed.

(2) The Scotch Whisky (Northern Ireland) Order 1988(b) is revoked.

Definition of “Scotch Whisky” and categories of Scotch Whisky

3.—(1) In these Regulations “Scotch Whisky” means a whisky produced in Scotland—

- (a) that has been distilled at a distillery in Scotland from water and malted barley (to which only whole grains of other cereals may be added) all of which have been—
 - (i) processed at that distillery into a mash;
 - (ii) converted at that distillery into a fermentable substrate only by endogenous enzyme systems; and
 - (iii) fermented at that distillery only by the addition of yeast;
- (b) that has been distilled at an alcoholic strength by volume of less than 94.8 per cent so that the distillate has an aroma and taste derived from the raw materials used in, and the method of, its production;
- (c) that has been matured only in oak casks of a capacity not exceeding 700 litres;
- (d) that has been matured only in Scotland;
- (e) that has been matured for a period of not less than three years;
- (f) that has been matured only in an excise warehouse or a permitted place;
- (g) that retains the colour, aroma and taste derived from the raw materials used in, and the method of, its production and maturation;
- (h) to which no substance has been added, or to which no substance has been added except—
 - (i) water;
 - (ii) plain caramel colouring; or
 - (iii) water and plain caramel colouring; and
- (i) that has a minimum alcoholic strength by volume of 40%.

(2) In these Regulations—

“Single Malt Scotch Whisky” means a Scotch Whisky that has been distilled in one or more batches—

- (a) at a single distillery;
- (b) from water and malted barley without the addition of any other cereals; and
- (c) in pot stills;

“Single Grain Scotch Whisky” means a Scotch Whisky that has been distilled at a single distillery except—

- (a) Single Malt Scotch Whisky; or
- (b) a Blended Scotch Whisky;

“Blended Malt Scotch Whisky” means a blend of two or more Single Malt Scotch Whiskies that have been distilled at more than one distillery;

“Blended Grain Scotch Whisky” means a blend of two or more Single Grain Scotch Whiskies that have been distilled at more than one distillery; and

(a) 1988 c. 22.

(b) S.I. 1988/1852 (N.I. 19).

“Blended Scotch Whisky” means a blend of one or more Single Malt Scotch Whiskies with one or more Single Grain Scotch Whiskies.

General interpretation

4.—(1) In these Regulations—

“authorised officer” means any person appointed by an enforcement authority under regulation 17;

“blending” has the meaning given in the first sub-paragraph of paragraph (7) of Annex I to Regulation (EC) No 110/2008 as it applies in relation to a combination of whiskies and “blend” and “blended” shall be construed accordingly;

“enforcement authority” means an authority exercising a function conferred on it by regulation 16;

“excise warehouse” means a place of security approved under section 92(1) of the Customs and Excise Management Act 1979(a) or section 15(1) of the Alcoholic Liquor Duties Act 1979(b);

“food authority”—

(a) in relation to England, means—

- (i) a county council;
- (ii) a metropolitan district council;
- (iii) a non-metropolitan district council for an area for which there is no county council;
- (iv) a London borough council;
- (v) the Common Council of the City of London (in their capacity as a local authority); and
- (vi) the Council of the Isles of Scilly;

(b) in relation to Northern Ireland, means a district council;

(c) in relation to Scotland, means a council constituted under section 2 or 3 of the Local Government etc. (Scotland) Act 1994(c); and

(d) in relation to Wales, means a county council or a county borough council;

“manufacture” includes—

- (a) keeping for the purpose of maturation; and
- (b) keeping, or using, for the purpose of blending, except for domestic blending for domestic consumption;

“officer” —

(a) in relation to a body corporate, means a director, member of the committee of management, chief executive, manager, secretary or other similar officer of the body; and

(b) in relation to an unincorporated body, means any member of its governing body or a chief executive, manager or other similar officer of the body;

“packaging” has the meaning given in paragraph (17) of Annex I to Regulation (EC) No 110/2008;

“penalty” means the amount specified in a penalty notice;

“penalty notice” means a notice offering the opportunity, by payment, in accordance with these Regulations, of a specified amount, to discharge any liability to be convicted of the penalty offence to which the notice relates;

(a) 1979 c. 2, to which there are amendments not relevant to these Regulations.

(b) 1979 c. 4.

(c) 1994 c. 39.

“penalty offence” means an offence for which a penalty notice may be given under regulation 32;

“permitted place”, in relation to a place where a whisky has been matured in Scotland, means any place in Scotland to which a whisky (or whisky distillate) that had previously been matured in an excise warehouse in Scotland is moved for a purpose mentioned in subparagraph (a), (b), (c), (d) or (f) of regulation 16(2) of the Excise Warehousing (Etc.) Regulations 1988(a);

“port health authority” means—

- (a) in relation to the London port health district (within the meaning given by section 7(1) of the Public Health (Control of Disease) Act 1984(b)), the Common Council of the City of London; and
- (b) in relation to any port health district constituted by order under section 2(3) of that Act, the port health authority for that district;

“premises” includes any place, vehicle or trailer, shipping container (whether used for transporting cargo or for storage), stall or moveable structure, ship or aircraft;

“presentation” has the meaning given in paragraph (15) of Annex I to Regulation (EC) No 110/2008;

“protected locality” means a locality mentioned in regulation 10(5);

“protected region” means a region mentioned in regulation 10(6);

“Regulation (EC) No 110/2008” means Regulation (EC) No 110/2008(c) 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;

“relevant court” means—

- (a) in relation to England, Northern Ireland and Wales, a magistrates’ court; and
- (b) in relation to Scotland, a sheriff court;

“sell” includes offer or expose for sale or have in possession for sale;

“whisky” has the meaning given in point 2 of Annex II to Regulation (EC) No 110/2008;

“whisky-based drink” means a drink, other than whisky, that contains whisky; and

“whisky distillate” means a whisky distillate as described in point 2(a)(i) and (ii) of Annex II to Regulation (EC) No 110/2008.

(2) Other expressions used in these Regulations and Regulation (EC) No 110/2008 have their meanings in Regulation (EC) No 110/2008.

(3) In these Regulations “container” (except as used in the expression “shipping container”) has the same meaning as in paragraph (16) of Annex I to Regulation (EC) No 110/2008, and includes any cap or other device by which the receptacle has been closed, any tag attached to the receptacle, and any sheathing covering its neck, and—

- (a) any reference to a container of Scotch Whisky must be construed as a reference to a container into which Scotch Whisky has been put for the purpose of subsequent sale; and
- (b) any reference to the front of a container includes a reference to any label attached to the front of a container.

(4) In these Regulations any reference to the labelling of Scotch Whisky must be construed as a reference to the labelling of a container of Scotch Whisky for the purposes of subsequent sale (whether by attaching a label to the container, direct printing onto the container, moulding on the container or any other method by which information is included on a container).

(a) S.I. 1988/809.

(b) 1984 c. 22.

(c) OJ L 39, 13.2.2008, p 16, as last amended by Regulation (EC) No 1334/2008 of the European Parliament and of the Council (OJ No L 354, 31.12.2008, p 34).

(5) In these Regulations any reference to the packaging of Scotch Whisky must be construed as a reference to the packaging of a container of Scotch Whisky for the purposes of subsequent sale.

Manufacture

5.—(1) A person must not manufacture a whisky distillate in Scotland unless it is manufactured in the manner described in regulation 3(1)(a) and (b).

(2) A person must not manufacture any whisky in Scotland except Scotch Whisky.

Marketing

6.—(1) A person must not label, package, sell, advertise or promote any drink as Scotch Whisky or Scotch if it is not Scotch Whisky.

(2) A person must not label, package, sell, advertise or promote any drink in any other way that creates a likelihood of confusion on the part of the public as to whether the drink is Scotch Whisky.

Movement from Scotland to another country

7.—(1) A person must not move any of the following categories of Scotch Whisky from Scotland to another country in a wooden cask or other wooden holder—

- (a) Single Grain Scotch Whisky;
- (b) Blended Malt Scotch Whisky;
- (c) Blended Grain Scotch Whisky; or
- (d) Blended Scotch Whisky.

(2) During the period until (and including) 22nd November 2012, a person must not move any Single Malt Scotch Whisky from Scotland to another country in a wooden cask or other wooden holder.

(3) On and after 23rd November 2012 a person must not move any Single Malt Scotch Whisky from Scotland to another country except in a bottle (made of any inert material) that is labelled for retail sale.

(4) For the purposes of this regulation a person is regarded as having moved Scotch Whisky from Scotland to another country if they—

- (a) physically move the whisky from Scotland to another country; or
- (b) arrange (whether directly or through a third party) for another person to physically move the whisky from Scotland to another country.

(5) In this regulation “retail sale” means any sale except a sale for use or resale in the course of a trade or business.

Compulsory sales descriptions

8.—(1) The category into which a Scotch Whisky falls must be stated on—

- (a) the front of a container of Scotch Whisky; and
- (b) any individual packaging used for the transportation of the container, or used for display purposes during the marketing of the whisky, unless, in both cases, the front of the container is clearly visible through that packaging.

(2) The categories are—

- (a) Single Malt Scotch Whisky;
- (b) Single Grain Scotch Whisky;
- (c) Blended Malt Scotch Whisky;
- (d) Blended Grain Scotch Whisky; and

- (e) Blended Scotch Whisky.
- (3) The name of the category must be—
- (a) printed in a conspicuous place in such a way as to be easily visible and legible to the naked eye and indelible so that it is clear that it is the sales description of the whisky;
 - (b) printed in a way that gives equal prominence to each word making up the name of the category; and
 - (c) as prominent as any other description of the whisky on the container or packaging, except for—
 - (i) any separate use of the description “Scotch Whisky”;
 - (ii) any statement relating to the year in which the whisky was distilled, the year in which it was bottled, the period for which it was matured or the age of the whisky; and
 - (iii) any descriptive word or words forming part of the brand name.
- (4) The name of the category must not be—
- (a) overlaid or interrupted by other written or pictorial matter; or
 - (b) used in conjunction with any other words.
- (5) But paragraph (4)(b) does not prevent the name of a Scottish locality or region from being appended to the name of the category of the whisky to indicate where the Scotch Whisky was distilled if —
- (a) it appears immediately before the name of the category;
 - (b) the whisky was distilled in the named locality or region; and
 - (c) the use of that name does not otherwise contravene regulation 10.
- (6) A person must not label, package or sell any Scotch Whisky in a way that does not comply with paragraph (1), (3) or (4).
- (7) A person must not label, package, sell, advertise or promote any Scotch Whisky as falling within a category if it does not fall into that category.

Names of distilleries and distillers etc.

9.—(1) The name of a distillery mentioned in Schedule 1 must not be used as a brand name, or as part of a brand name of a Scotch Whisky, or be used in a similar fashion in terms of its positioning or prominence, unless the whisky has been wholly distilled at that distillery.

(2) Any name adopted for a Scotch Whisky distillery after these Regulations come into force, including the name of a new or re-opened Scotch Whisky distillery, must not be used by the proprietor of that distillery as a brand name, or as part of a brand name, for a Scotch Whisky, or be used in a similar fashion in terms of its position or prominence, unless the Scotch Whisky has been wholly distilled at that distillery.

(3) But paragraph (2) does not apply in the circumstances specified in Schedule 2.

(4) Scotch Whisky must not be labelled, packaged, advertised or promoted in any other way that, having regard to the presentation of the product as a whole, creates a likelihood that the public may think that it has been distilled at any distillery or place other than the distillery or place at which it was actually distilled.

(5) Single Malt Scotch Whisky and Single Grain Scotch Whisky must not be labelled, packaged, advertised or promoted in any way that, having regard to the presentation of the product as a whole, creates a likelihood that the public may think that the whisky was distilled by any person other than the person who distilled it, or the owner or operator of the distillery at which it was distilled, whether by an indication that that person is the distiller, the owner or operator of the distillery, or otherwise.

(6) A person must not label, package, advertise or promote any Scotch Whisky in a way that contravenes the requirements of paragraph (1), (2), (4) or (5), or sell any Scotch Whisky that has been labelled or packaged in that way.

Locality and region geographical indications

10.—(1) A whisky or whisky-based drink must not be labelled, packaged, advertised or promoted in a way that includes the name of a protected locality or a protected region unless—

- (a) in the case of whisky, the whisky is Scotch Whisky that has been distilled in that locality or region; or
- (b) in the case of a whisky-based drink, the only whisky in the drink is Scotch Whisky that has been distilled in that locality or region.

(2) But paragraph (1) does not apply in the circumstances specified in Schedule 3.

(3) A whisky or whisky-based drink must not be labelled, packaged, advertised or promoted in a way that includes any reference to a name that is similar to the name of a protected locality or protected region if, having regard to the presentation of the product as a whole, the reference may create a likelihood of confusion on the part of the public as to where the whisky or whisky-based drink was distilled.

(4) A person must not label, package, advertise or promote any whisky or whisky-based drink in a way that contravenes paragraph (1) or (3), or sell any whisky or whisky-based drink that has been labelled or packaged in that way.

(5) The protected localities are—

- (a) “Campbeltown”, comprising the South Kintyre ward of the Argyll and Bute Council as that ward is constituted in the Argyll and Bute (Electoral Arrangements) Order 2006(a); and
- (b) “Islay”, comprising the Isle of Islay in Argyll.

(6) The protected regions are—

- (a) “Highland”, comprising that part of Scotland that is north of the line dividing the Highland region from the Lowland region;
- (b) “Lowland”, comprising that part of Scotland that is south of the line dividing the Highland region from the Lowland region; and
- (c) “Speyside”, comprising—
 - (i) the wards of Buckie, Elgin City North, Elgin City South, Fochabers Lhanbryde, Forres, Heldon and Laich, Keith and Cullen and Speyside Glenlivet of the Moray Council as those wards are constituted in the Moray (Electoral Arrangements) Order 2006(b); and
 - (ii) the Badenoch and Strathspey ward of the Highland Council as that ward is constituted in the Highland (Electoral Arrangements) Order 2006(c).

(7) In this regulation “the line dividing the Highland region from the Lowland region” means the line beginning at the North Channel and running along the southern foreshore of the Firth of Clyde to Greenock, and from there to Cardross Station, then eastwards in a straight line to the summit of Earl’s Seat in the Campsie Fells, and then eastwards in a straight line to the Wallace Monument, and from there eastwards along the line of the B998 and A91 roads until the A91 meets the M90 road at Milnathort, and then along the M90 northwards until the Bridge of Earn, and then along the River Earn until its confluence with the River Tay, and then along the southern foreshore of that river and the Firth of Tay until it comes to the North Sea.

(a) S.S.I. 2006/378.
(b) S.S.I. 2006/372.
(c) S.S.I. 2006/481.

Use of the words ‘pure’ and ‘malt’ and derivations

11. A person must not label, package, sell, advertise or promote any Scotch Whisky in a way that includes—

- (a) the phrase ‘pure malt’ or any derivation of that phrase; or
- (b) the words ‘pure’ and ‘malt’, or any derivation of those words in a way that, although the words are separated from each other (whether by text or otherwise), the word ‘pure’ (or any derivation of it) is used adjectivally in connection with the word ‘malt’ (or any derivation of it).

Maturation, age and distillation statements

12.—(1) Without prejudice to the obligation to comply with the directly applicable requirements of Article 12(3) of Regulation (EC) No 110/2008 (which requires, among other things, that any maturation period or age may only be specified in the description, presentation or labelling of a spirit drink where it refers to the youngest alcoholic component in the drink), a person must not label, package, sell, advertise or promote any Scotch Whisky in a way that includes a reference to its maturation period or age unless the maturation period or age is expressed in years.

(2) A person must not label, package, sell, advertise or promote any Scotch Whisky in a way that includes a reference relating to when it was distilled unless—

- (a) the reference relates to a single calendar year;
- (b) all of the whisky in the drink was distilled in that year;
- (c) the presentation of the whisky also includes a reference to—
 - (i) the year of bottling of the whisky;
 - (ii) the maturation period of the whisky; or
 - (iii) the age of the whisky; and
- (d) the reference to the year of bottling, the maturation period, or age of the whisky appears in the same field of vision as the reference to the year of distillation.

(3) A person must not label, package, sell, advertise or promote any Scotch Whisky in a way that includes a reference to any number (however expressed) if the reference to that number may create a likelihood of confusion on the part of the public as to whether the number relates to the maturation period of the whisky, its age or when it was distilled.

Transitional provisions relating to labelling and packaging

13.—(1) A person is not to be taken to have contravened, or to have failed to comply with, regulation 8, 9, 10, 11 or 12 by reason of the labelling or packaging of any whisky or whisky-based drink on or before 22nd November 2011.

(2) It is for a person seeking to rely on paragraph (1) in relation to any whisky or whisky-based drink to prove that the drink was labelled or packaged on or before 22nd November 2011.

Transitional provisions relating to advertising and promotion

14. A person is not to be taken to have contravened, or to have failed to comply with regulation 8, 9, 10, 11 or 12 by reason of the advertising or promotion of any whisky or whisky-based drink on or before 22nd November 2011.

Designation

15. In relation to Scotch Whisky, the Commissioners for Her Majesty’s Revenue and Customs are designated as a competent authority for the purpose of Article 24(1) of Regulation (EC) No

110/2008 in relation to the verification function imposed on them by regulation 5(1) of the Spirit Drinks Regulations 2008(a).

Enforcement

16.—(1) Each food authority must enforce the provisions of these Regulations within its area.

(2) Each port health authority must enforce the provisions of these Regulations within its district.

Appointment of officers

17. Each food authority and each port health authority must appoint officers for the purposes of the enforcement of these Regulations.

Duty to give assistance and provide information

18. Each enforcement authority must give such assistance and information to any other enforcement authority as it may reasonably require for the purpose of its duties under these Regulations.

Powers of entry

19.—(1) An authorised officer may enter any premises at any reasonable hour for the purpose of ensuring that the provisions of these Regulations are being complied with.

(2) The authorised officer may take with them such other persons as they consider necessary.

(3) An authorised officer must not exercise the powers under paragraph (1) or (2) except on the production, if so required, of a duly authenticated document showing their authority.

(4) Admission to any premises used only as a private dwellinghouse may not be demanded as of right unless 24 hours notice of the intended entry has been given to the occupier or the entry is in accordance with a warrant granted under this regulation.

(5) If a justice of the peace, on sworn information in writing, is satisfied of the matters mentioned in paragraph (6), they may sign a warrant permitting an authorised officer to enter any premises, if needs be by reasonable force.

(6) The matters are that—

- (a) there are reasonable grounds for believing that Condition A or B is met; and
- (b) Condition C, D or E is met.

(7) Condition A is that on the premises there are items or products of the type mentioned in regulation 20(1)(a)(i) to (x) or documents or records of the type mentioned in regulation 20(1)(e) and that their inspection is likely to disclose evidence of a contravention of, or failure to comply with, these Regulations.

(8) Condition B is that a contravention of, or failure to comply with, these Regulations has occurred, is occurring or is about to occur on those premises.

(9) Condition C is that admission to the premises has been, or is likely to be, refused, and that the occupier has been informed (whether orally or in writing) that a warrant may be applied for.

(10) Condition D is that admission to the premises has been, or is likely to be, refused, and informing the occupier that a warrant under this regulation may be applied for may defeat the object of the entry.

(11) Condition E is that the premises are unoccupied or that the occupier is temporarily absent and it may defeat the object of the entry to await their return.

(12) A warrant granted under paragraph (5) —

(a) S.I. 2008/3206.

- (a) is valid for one month, beginning with the day on which it is granted; and
- (b) must be produced for inspection to the person (if there is one) who appears to the officer to be the occupier, or the person in charge, of the premises.

(13) An authorised officer who enters any premises that are unoccupied or where the occupier is temporarily absent must leave the premises as effectively secured against unauthorised entry as when they found them.

(14) In this regulation, a reference to a justice of the peace—

- (a) in Scotland includes a reference to a sheriff; and
- (b) in Northern Ireland is a reference to a lay magistrate.

Powers of an authorised officer

20.—(1) An authorised officer (“O”) entering premises under regulation 19 may—

- (a) inspect the premises, and any still and any other plant, machinery or equipment on those premises, and any of the following items found on those premises—
 - (i) any whisky partly or fully packaged ready for sale;
 - (ii) any whisky-based drink partly or fully packaged ready for sale;
 - (iii) any product purporting to be a whisky or whisky-based drink partly or fully packaged ready for sale;
 - (iv) any product that O has reasonable grounds for believing is regulated by regulation 6(2);
 - (v) any liquid that O has reasonable grounds for believing is a distillate regulated by these Regulations (including any vessel in which the liquid is found);
 - (vi) any liquid that, although not packaged ready for sale, O has reasonable grounds for believing will be used for a product regulated by these Regulations (including any vessel in which the liquid is found);
 - (vii) any raw material or ingredients that O has reasonable grounds for believing may be used to produce any distillate or drink regulated by these Regulations, including colourings and flavourings;
 - (viii) any mash that O has reasonable grounds for believing may be used to produce any distillate regulated by these Regulations;
 - (ix) any packaging or label that O has reasonable grounds for believing may be used for a product regulated by these Regulations;
 - (x) any advertising or promotional materials relating to a drink, or other documentation relating to a distillate or to a drink, that O has reasonable grounds for believing may be used for a product regulated by these Regulations;
- (b) search the premises;
- (c) take samples;
- (d) carry out any inquiries, examinations or tests;
- (e) have access to, and inspect and copy, any documents or records (in whatever form they are held) relating to matters covered by these Regulations, and remove them to enable them to be copied;
- (f) have access to, and inspect and check the data on, and operation of, any computer, and any associated electronic storage device or apparatus (“computer equipment”) that is, or has been in use in connection with, the documents or records mentioned in sub-paragraph (e), including data relating to deleted files and activity logs; and for this purpose O may require any person having charge of, or otherwise concerned with the operation of, the computer equipment to afford to O such assistance (including the provision of passwords) as O may reasonably require, and, during the course of the checks, O may recover data held on the computer equipment; and

(g) where a document or record mentioned in sub-paragraph (e) is kept by means of a computer, require the record to be produced in a form in which it may be taken away.

(2) O may direct (“a regulation 20(2) direction”) a person (“P”) that the following must be left undisturbed for as long as is reasonably necessary for the purpose of any examination or investigation—

- (a) any one or more of the items mentioned in paragraph (1)(a)(i) to (x);
- (b) any document or record mentioned in paragraph (1)(e);
- (c) any computer equipment mentioned in paragraph (1)(f); and
- (d) any premises on or in which any of those items are found.

(3) P must comply with a regulation 20(2) direction given to them by O.

(4) A person, other than O and P, who knows about a regulation 20(2) direction must not (although the direction was not given to them) disturb any item or premises in contravention of the terms of the direction.

(5) O may seize and detain any item of the type mentioned in paragraph (1)(a)(i) to (x) or document or record mentioned in paragraph (1)(e) that O has reason to believe may be required as evidence in proceedings under these Regulations.

(6) O may seize as liable to destruction any product of the type mentioned in paragraph (1)(a)(i), (ii) or (iii) that O reasonably believes contravenes any provision of these Regulations.

(7) O may seize any computer equipment for the purpose of copying documents or records of the type mentioned in paragraph (1)(e), and for checking the data on, and operation of, any computer equipment that is, or has been, in use in connection with, those documents or records, provided it is returned as soon as practicable and, in any event, within 28 days, beginning with the day on which the equipment is seized.

(8) If O is not able to remove an item, product or computer equipment seized under paragraph (5), (6) or (7) immediately, they may—

- (a) mark it in any way that they see fit; and
- (b) give the person (“P”) appearing to them to be in charge of the item, product or computer equipment a notice (“a regulation 20(8) notice”)—
 - (i) identifying it;
 - (ii) requiring the item or computer equipment to be left undisturbed until it is collected by O; and
 - (iii) prohibiting the removal of the item, product or computer equipment from the premises on which it was found until it is collected by O.

(9) P must not contravene a regulation 20(8) notice given to them by O.

(10) A person, other than O and P, who knows about a regulation 20(8) notice, must not (although the notice was not given to them) disturb or remove an item, product or computer equipment in contravention of the terms of the notice.

(11) O must not exercise the powers under this regulation except on the production, if so required, of a duly authenticated document showing their authority.

Procedure on seizure

21.—(1) An authorised officer (“O”) must follow the procedures set out in this regulation if they seize anything under regulation 20(5), (6) or (7).

(2) O must give to the person appearing to O to be in charge of the premises from which the seized item, product or computer equipment is seized (“the premises”) a notice that must state—

- (a) what O has seized;
- (b) when O seized it;
- (c) the grounds for the seizure of the item, product or equipment; and

(d) the address to which, and the period during which, a claim may be made for the return of the item, product or equipment.

(3) But where the premises are unoccupied, or no-one appears to O to be in charge of the premises, O must attach a notice to a conspicuous part of the premises, or to some conspicuous object on the premises, containing the information mentioned in sub-paragraphs (a) to (d) of paragraph (2).

(4) A person having a proprietary interest in the seized item, product or computer equipment (including a lender who has a debt secured on the item, product or equipment) may notify the enforcement authority of any claim that the seized item, product or equipment was not liable to seizure, setting out the grounds for the claim in full.

(5) The claim must be made within 28 days of the seizure, beginning on the day on which the seized item, product or computer equipment is seized, to the address specified in the seizure notice.

(6) If a notification of a claim is not received within 28 days in respect of an item seized under regulation 20(5), the enforcement authority may retain the seized item for as long as necessary while it is being held for the purpose of any criminal investigation or proceedings or for use as evidence at a trial.

(7) If a notification of a claim is received within 28 days in respect of an item seized under regulation 20(5), the enforcement authority must—

- (a) return the seized item within 14 days, beginning with the day on which the claim is received; or
- (b) retain the seized item or product for as long as necessary while it is being held for the purpose of any criminal investigation or proceedings, or for use as evidence at a trial, but it must notify the claimant that the seized item is being retained, and of the reason why it is being retained, within 14 days, beginning with the day on which the claim is received.

(8) If a notification of a claim is not received within 28 days in respect of a product seized under regulation 20(6), the enforcement authority may—

- (a) if a decision is taken by the enforcement authority not to destroy the seized product but to retain it for the purpose of any criminal investigation or proceedings, or for use as evidence at a trial, retain the seized product for as long as necessary for one of those purposes, but the enforcement authority must—
 - (i) notify the relevant person that the seized product is being retained, and of the reason why it is being retained, within 14 days of the expiry of the claim period, beginning with the day after the claim period expires; or
 - (ii) where the enforcement authority does not know who the relevant person is, and this cannot be ascertained after reasonable enquiries have been made by the enforcement authority, attach a notice to a conspicuous part of the premises, or a conspicuous object on those premises, within 14 days of the expiry of the claim period, beginning with the day after the claim period expires, stating that the seized product is being retained, and the reason why it is being retained; or
- (b) destroy the seized product within 28 days, beginning with the day after the 28 day claim period expires, if it is satisfied that the product contravenes these Regulations, and—
 - (i) notify the relevant person that the seized product has been destroyed within 10 days of its destruction, beginning on the day on which the destruction was completed; or
 - (ii) where the enforcement authority does not know who the relevant person is, and this cannot be ascertained after reasonable enquiries have been made by the enforcement authority, attach a notice to a conspicuous part of the premises, or to a conspicuous object on those premises, within 10 days of the destruction of the product, beginning with the day on which the destruction was completed stating that the seized product has been destroyed.

(9) In paragraph (8) the “relevant person” means—

- (a) if the enforcement authority knows the identity of a person with a proprietary interest in the seized product, that person or (where it knows the identity of more than one person with a proprietary interest in the seized property) each of those persons; or
- (b) if the enforcement authority does not know the identity of a person with a proprietary interest in the seized product, the person appearing to it to be in charge of the premises.

(10) In the case of any product destroyed under paragraph (8)(b), the enforcement authority may recover the following costs as a debt from any person who had a proprietary interest in the product immediately before its destruction (apart from a lender who has a debt secured on the product)—

- (a) the costs of the removal and transport of the product from the premises to the place at which it is stored;
- (b) the costs of the storage of the product for up to 28 days;
- (c) any costs for the removal and transport of the product if it is moved from one place of storage to another place of storage;
- (d) the costs of the transport of the product from the place of storage to the place of destruction; and
- (e) the costs of the destruction of the product.

(11) If a notification of a claim is received within 28 days in respect of a product seized under regulation 20(6), the enforcement authority must—

- (a) return the seized product within 14 days, beginning with the day on which the claim is received;
- (b) if a decision is taken by the enforcement authority not to destroy the seized product but to retain it for the purpose of any criminal investigation or proceedings or for use as evidence at a trial, retain the product for as long as necessary for one of those purposes but the enforcement authority must notify the claimant that the seized product is being retained, and of the reason why it is being retained, within 14 days of the claim, beginning with the day on which the claim is received; or
- (c) within 14 days of the claim, beginning with the day on which the claim is received, take proceedings (“regulation 21(11)(c) proceedings”) in a relevant court for an order giving them authority to destroy the product.

(12) In regulation 21(11)(c) proceedings the relevant court may—

- (a) authorise the enforcement authority to destroy the seized product;
- (b) authorise the enforcement authority to retain the product for the purpose of any criminal investigation or proceedings, or for use as evidence at a trial, for as long as necessary for one of those purposes; or
- (c) require the enforcement authority to return the product to the claimant and impose a deadline by which this must be done.

(13) If, in regulation 21(11)(c) proceedings, the relevant court authorises the enforcement authority to destroy the seized product, the court may also make an order requiring the claimant (but not a claimant who is a lender with a debt secured on the product) to pay such of the following costs as the court may specify—

- (a) the costs of the removal and transport of the product from the premises to the place at which it is stored;
- (b) the costs of the storage of the product for up to 28 days;
- (c) any costs for the removal and transport of the product if it is moved from one place of storage to another place of storage;
- (d) the costs of the transport of the product from the place of storage to the place of destruction; and
- (e) the costs of the destruction of the product.

(14) If a notification of a claim is received within 28 days in the case of any computer equipment seized under regulation 20(7), the enforcement authority must—

- (a) return the seized computer equipment within seven days of the claim, beginning with the day on which the claim is received, or, if shorter, within the remainder of the maximum 28 day period provided for in regulation 20(7); or
- (b) take proceedings in a relevant court within seven days of the claim, beginning with the day on which the claim is received unless there are seven days or less remaining before the expiry of the maximum 28 day period provided for in regulation 20(7), for an order authorising the enforcement authority to retain the seized computer equipment in accordance with the requirements laid down in regulation 20(7).

(15) If, in the case of any computer equipment seized under regulation 20(7), the relevant court authorises the enforcement authority to retain the seized computer equipment, the court may impose conditions as to the basis on which the equipment may continue to be retained, including the imposition of a deadline by which the equipment must be returned that is shorter than the 28 day maximum period provided for in regulation 20(7).

(16) The procedure in a magistrates' court under this regulation is by way of complaint, and—

- (a) in England and Wales, the Magistrates' Courts Act 1980(a) applies to the proceedings; and
- (b) in Northern Ireland, the Magistrates' Courts (Northern Ireland) Order 1981(b) applies to the proceedings.

(17) The procedure before a sheriff court under this regulation is by way of summary application.

Improvement notices

22.—(1) If an authorised officer (“O”) has reasonable grounds for believing that any person (“P”) is failing to comply with regulation 5, 6, 7(1), (2) or (3), 8(6) or (7), 9(6), 10(4), 11 or 12, O may give P a notice (“an improvement notice”) that—

- (a) states O's grounds for believing this;
- (b) specifies the matter that constitutes the failure to comply with these Regulations;
- (c) specifies what P must stop doing, or the measures that, in O's opinion, P must take in order to comply with these Regulations;
- (d) require P to stop doing the action specified in the notice, or take the measures specified in the notice (or, where provided for in the notice, any measures agreed by O as being at least equivalent to them), within the period (being not less than 14 days) specified in the notice;
- (e) informs P of the right of appeal to a relevant court conferred by regulation 23; and
- (f) informs P of the period within which such an appeal may be brought.

(2) A person must not contravene or fail to comply with an improvement notice.

Appeals against improvement notices

23.—(1) Any person who is aggrieved about an improvement notice may appeal against that notice to a relevant court.

(2) The procedure on an appeal to a magistrates' court under paragraph (1) is by way of complaint, and—

- (a) in England and Wales, the Magistrates' Courts Act 1980 applies to the proceedings; and
- (b) in Northern Ireland, the Magistrates' Courts (Northern Ireland) Order 1981 applies to the proceedings.

(3) An appeal to a sheriff court under paragraph (1) is by summary application.

(a) 1980 c. 43.

(b) S.I. 1981/1675 (N.I. 26).

(4) The period within which an appeal may be brought is 28 days, beginning with the day on which the improvement notice is given.

Powers relating to appeals

24.—(1) The relevant court may suspend an improvement notice pending an appeal.

(2) On an appeal against an improvement notice the relevant court may either cancel or confirm the notice with or without modification.

Publication of notices

25.—(1) An enforcement authority must publicise the cases in which any product seized under regulation 20(6) has been destroyed, in such manner as it sees fit.

(2) But an enforcement authority must not publish the destruction of any item seized under regulation 20(6) where it considers that it would be inappropriate to do so.

(3) An enforcement authority must publicise the cases in which improvement notices have been given by it under regulation 22, in such manner as it sees fit.

(4) But an enforcement authority must not publicise an improvement notice given by it under regulation 22—

- (a) until the time for appealing against the imposition of the improvement notice has passed;
- (b) during the period that any appeal against the imposition of the improvement notice is ongoing;
- (c) where an appeal against the imposition of the improvement notice is successful; or
- (d) in any other case where the enforcement authority considers that it would be inappropriate to do so.

Obstruction

26.—(1) A person (“P”) must not obstruct any person acting in the execution of these Regulations (“O”).

(2) P must give to O any assistance or information that O may reasonably require of P for the performance of O’s functions under these Regulations.

(3) P must not furnish any false or misleading information to O.

(4) P must produce a record to O when required to do so by O.

Offences

27. A person is guilty of an offence if they contravene, or fail to comply with regulation 5, 6, 7(1), (2) or (3), 8(6) or (7), 9(6), 10(4), 11, 12, 20(3), (4), (9) or (10), 22(2) or 26.

Fines

28. A person guilty of any offence under regulation 27 is liable—

- (a) on conviction on indictment, to a fine; and
- (b) on summary conviction, to a fine not exceeding the statutory maximum.

Offences by bodies corporate etc.

29.—(1) Where an offence committed by a body corporate (other than a limited liability partnership or a Scottish partnership) is proved to have been committed with the consent or connivance of, or is attributable to the neglect of, an officer of the body corporate, or a person purporting to act in such a capacity, that officer or person (as well as the body corporate) is guilty of the offence and is liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, paragraph (1) applies in relation to the acts and defaults of a member, and a person purporting to act in such a capacity, in connection with the member's functions of management as it applies to an officer of a body corporate.

(3) Where an offence committed by an unincorporated body (other than an unincorporated partnership) is proved to have been committed with the consent or connivance of, or is attributable to the neglect on the part of, any officer of that body or a person purporting to act in such a capacity, that officer or person (as well as the unincorporated body) is guilty of the offence and liable to be proceeded against and punished accordingly.

(4) Where an offence committed by a partnership (including a Scottish partnership but excluding a limited liability partnership) is proved to have been committed with the consent or connivance of, or is attributable to the neglect of a partner, or a person purporting to act in such a capacity, the partner or person (as well as the partnership) is guilty of the offence and liable to be proceeded against and punished accordingly.

(5) Where an offence committed by a limited liability partnership is proved to have been committed with the consent or connivance of, or is attributable to the neglect of, a member of that partnership, or a person purporting to act in such a capacity, that member or person (as well as the limited liability partnership) is guilty of the offence and is liable to be proceeded against and punished accordingly.

(6) In this regulation "offence" means an offence under these Regulations.

Default of third person

30. Where the commission by one person ("A") of an offence under these Regulations is due to the act or default of another ("B"), B also commits the offence, and B may be charged with and convicted of the offence by virtue of this paragraph whether or not proceedings are taken against A.

Defences

31.—(1) In proceedings for an offence under these Regulations in Scotland it is a defence for the accused to prove that they took all reasonable steps and exercised all due diligence to avoid committing the offence.

(2) In proceedings for an offence under these Regulations in the remainder of the United Kingdom it is a defence for the defendant to prove that they took all reasonable steps and exercised all due diligence to avoid committing the offence.

(3) A person may not rely on a defence that involves an allegation that the commission of the offence was due to the act or default of another person unless—

- (a) in Scotland at least seven clear days before the trial diet the accused has given to the procurator fiscal a notice in writing giving such information identifying or assisting in the identification of the other person as was then in their possession;
- (b) in the remainder of the United Kingdom at least seven clear days before the hearing the defendant has given to the prosecutor a notice in writing giving such information identifying or assisting in the identification of the other person as was then in their possession; or
- (c) the court grants them leave.

Giving of penalty notice for penalty offence

32. An enforcement authority that has reason to believe that a person has committed an offence under regulation 27 ("the relevant offence") in relation to a contravention or failure to comply with regulation 5, 6, 7(1), (2) or (3), 8(6) or (7), 9(6), 10(4), 11, 12, 20(3), (4), (9) or (10) or 22(2) may give a penalty notice to that person.

Contents and form of penalty notice

- 33.** A penalty notice given by an enforcement authority must—
- (a) give such particulars of the circumstances alleged to constitute the offence as are necessary for giving reasonable information about the offence;
 - (b) state the amount of the penalty;
 - (c) state the period during which, by virtue of regulation 35, proceedings will not be taken for the offence;
 - (d) state the person to whom, and the address at which, the penalty may be paid and the ways in which the penalty may be paid; and
 - (e) state that payment must not be made in cash.

Amount of penalty

34.—(1) The amount of the penalty must be determined by the enforcement authority and must neither be less than £1,000 nor more than £4,000.

(2) The factors to be taken into account by the enforcement authority in determining the amount of the penalty may include (but are not limited to) one or more of the factors mentioned in Schedule 4.

Restriction on proceedings for penalty offence

35.—(1) Where a person is given a penalty notice—

- (a) no proceedings may be brought against them for the penalty offence to which that notice relates before the end of the period of 28 days, beginning with the day on which they were given the notice; and
- (b) that person may not be convicted of the offence if the penalty is paid in accordance with regulation 36 before the end of that period.

(2) Paragraph (1) does not apply if the penalty notice is withdrawn in accordance with regulation 39.

Payment of penalty

36.—(1) Payment of any penalty must be made to the person specified in the penalty notice by sending it by post or by such method as may be specified in the notice.

(2) Payment of any penalty may not be made in cash.

Certificate of payment or non-payment of a penalty

37. In any proceedings a certificate purporting to be signed by or on behalf of the enforcement authority, stating that payment in respect of a penalty notice was or was not received on or before a date specified in the certificate, is evidence of the facts stated.

Penalty receipts

38. Penalties paid to an enforcement authority must be paid into the Consolidated Fund.

Withdrawal of penalty notice

39.—(1) A penalty notice may be withdrawn by an enforcement authority which has reason to believe that it ought not to have been given (whether to the person named in the penalty notice or otherwise).

(2) A penalty notice may be withdrawn by the enforcement authority giving notice to the person named in the penalty notice before or after the payment of the penalty.

(3) Where an enforcement authority withdraws a penalty notice it must repay any penalty paid under the penalty notice to the person named in the penalty notice within 28 days, beginning with the day on which the notice of the withdrawal of the penalty notice is given.

Civil remedy

40.—(1) If the Court of Session is satisfied, on the application of a person mentioned in paragraph (4), that any person has contravened regulation 5, 6, 7(1), (2) or (3), 8(6) or (7), 9(6), 10(4), 11 or 12, in Scotland, the Court may grant an interdict prohibiting such contravention.

(2) If the High Court is satisfied, on the application of a person mentioned in paragraph (4), that any person has contravened regulation 6, 8(6) or (7), 9(6), 10(4), 11 or 12 in England, Northern Ireland or Wales, the Court may grant an injunction prohibiting such contravention.

(3) If the High Court is satisfied, on the application of a person mentioned in paragraph (4), that any person has contravened regulation 7(1), (2) or (3) in a case where regulation 7(4)(b) applies and the person arranging the movement of the whisky is in England, Northern Ireland or Wales, the Court may grant an injunction prohibiting such contravention.

(4) The persons are—

- (a) any distiller or blender of Scotch Whisky;
- (b) the owner of a brand of Scotch Whisky;
- (c) The Scotch Whisky Association; or
- (d) any other person appearing to the court to be representative of a group of persons who are distillers or blenders of Scotch Whisky or owners of brands of Scotch Whisky.

Giving of notices

41.—(1) Any notice required to be given under these Regulations to any person may be given to them by—

- (a) delivering it to them;
- (b) leaving it at their proper address; or
- (c) sending it to them by post at that address.

(2) The notice may be given to a body corporate by being given to an officer of that body.

(3) The notice may be given to a limited liability partnership by being given to a member of the partnership or a person having the control or management of the partnership business.

(4) The notice may be given to a Scottish partnership or unincorporated partnership by being given to a partner or a person having the control or management of the partnership business.

(5) The notice may be given to any other unincorporated body by being given to an officer of that body.

(6) For the purposes of this regulation and section 7 of the Interpretation Act 1978(a) (service of documents by post) in its application to this regulation, the proper address of any person to whom a notice is to be given is—

- (a) in the case of a body corporate, the address of the registered or principal office of the body;
- (b) in the case of a limited liability partnership or a Scottish partnership, the address of the registered or principal office of the partnership;
- (c) in the case of an unincorporated partnership or any other unincorporated body, the address of the principal office of the partnership or body;

(a) 1978 c. 30.

(d) in the case of a person to whom the notice is given in reliance on any of paragraph (2), (3), (4) or (5), the proper address of the body corporate, partnership or other unincorporated body in question; and

(e) in any other case, the last known address of the person in question.

(7) For the purposes of paragraph (6) the references to “the principal office” in relation to a company which is registered outside the United Kingdom, a partnership which is carrying on business outside the United Kingdom and any other unincorporated body which has its principal office outside the United Kingdom, include a reference, in each case, to their principal office within the United Kingdom (if any).

(8) Paragraph (9) applies if a person to be given a notice under these Regulations has specified an address (“the specified address”) within the United Kingdom other than their proper address (as decided under paragraph (6)) as the one at which they, or someone on their behalf, will accept documents of the same description as a notice given under these Regulations.

(9) The specified address is also to be treated for the purposes of this regulation and section 7 of the Interpretation Act 1978 in its application to this regulation as the person’s proper address.

(10) In relation to Wales, any notice required to be given under these Regulations to any person must be in English and Welsh.

(11) In this regulation “body corporate” does not include a limited liability partnership or a Scottish partnership.

Jim Fitzpatrick

Minister of State

26th October 2009

Department for Environment, Food and Rural Affairs

SCHEDULE 1

Regulation 9(1)

DISTILLERIES TO WHICH REGULATION 9(1) APPLIES

Column (1)

Aberfeldy

Aberlour

Abhainn Dearg (also known as Red River)

Ailsa Bay

Allt a’ Bhainne

Ardbeg

Ardmore

Auchentoshan

Auchroisk

Aultmore

Balblair

Balmenach

Balvenie

Ben Nevis

Benriach

Benrinnes

Benromach

Bladnoch

Column (2)

Glenmorangie

Glen Moray (also known as Glen Moray-Glenlivet)

Glen Ord

Glenrothes

Glen Scotia

Glen Spey

Glentauchers

Glenturret

Highland Park

Inchgower

Invergordon

Isle of Arran

Isle of Jura

Kilchoman

Kilkerran

Kininvie

Knockando

Knockdhu

Column (1)

Blair Athol
Bowmore
Braeval
Bruichladdich
Bunnahabhain
Cameronbridge
Caol Ila
Caperdonich
Cardhu
Clynelish
Cragganmore
Craigellachie
Daftmill
Dailuaine
Dalmore
Dalwhinnie
Deanston
Dufftown (also known as Dufftown-Glenlivet)
Edradour
Fettercairn
Girvan
Glenallachie
Glenburgie
Glencadam
Glendronach
Glendullan
Glen Elgin
Glenfarclas
Glenfiddich
Glen Garioch
Glenglassaugh
Glengoyne
Glen Grant
Glen Keith
Glenkinchie
Glenlossie

Column (2)

Lagavulin
Laphroaig
Linkwood
Loch Ewe
Loch Lomond
Longmorn
Macallan
Macduff
Mannochmore
Miltoduff
Mortlach
North British
Oban
Port Dundas
Pulteney
Roseisle
Royal Brackla
Royal Lochnagar
Scapa
Speyburn
Speyside
Springbank
Strathclyde
Strathisla
Strathmill
Talisker
Tamdhu
Tamnavulin
Teaninich
The Glenlivet
Tobermory
Tomatin
Tomintoul
Tormore
Tullibardine

SCHEDULE 2

Regulation 9(3)

**CIRCUMSTANCES IN WHICH REGULATION 9(2) DOES NOT
APPLY**

Regulation 9(2) does not apply where a distillery has changed its name and the new name for the distillery is used as a brand name, or as part of a brand name (or is used in a similar fashion in terms of its position or prominence) for a Scotch Whisky distilled at that distillery before the new name had been adopted.

SCHEDULE 3

Regulation 10(2)

CIRCUMSTANCES IN WHICH REGULATION 10(1) DOES NOT APPLY

1. Regulation 10(1) does not apply where the name of a protected locality or a protected region forms part of a trade mark or company name registered before 1st September 2009 and the name of the protected locality or protected region is only included on the labelling or packaging of a Scotch Whisky, or a Scotch Whisky-based drink, as part of that trade mark or company name.

2. Regulation 10(1) does not apply where the name of a protected locality or a protected region is mentioned only as part of the address of the distiller, producer, bottler, brand owner or seller of the drink.

3. In relation to a Blended Malt Scotch Whisky, a Blended Grain Scotch Whisky or a Blended Scotch Whisky, regulation 10(1) does not apply where—

- (a) a protected locality or protected region is only mentioned by a reference to the individual whiskies that have been blended together to make the whisky; and
- (b) the individual whiskies that have been blended together to make the whisky were not distilled anywhere else but in the specified localities or regions.

4. Regulation 10(1) does not apply where a brand owner refers in the labelling, packaging or advertising of one of their brands of Scotch Whisky to another brand of Scotch Whisky owned by them and the reference to the other brand includes a reference to a protected locality or protected region in which that other brand is distilled.

SCHEDULE 4

Regulation 34(2)

FACTORS TO BE TAKEN INTO ACCOUNT IN DETERMINING THE AMOUNT OF A PENALTY

PART 1

Aggravating factors

- 1.** Seriousness of the non-compliance.
- 2.** Financial harm to consumers.
- 3.** Financial harm to competitors.
- 4.** Duration of non-compliance.
- 5.** Evidence of intention behind the non-compliance.
- 6.** History of non-compliance of the person (“P”) to whom the penalty notice is to be given.
- 7.** Financial gain made by P as a result of the non-compliance.
- 8.** Financial resources of P.
- 9.** Size of P’s business.
- 10.** Availability of the non-compliant product, including the number of retail shops in which it has been marketed.

11. Where P is a retailer with a number of retail shops, the number of retail shops operated by them (whether or not there is evidence that the non-compliant product has been, or may have been, marketed in all of those shops).

12. The conduct of P after the non-compliance is drawn to their attention by an enforcement authority.

13. Previous action taken by the enforcement authority to help P comply with the Regulations.

PART 2

Mitigating factors

1. Action taken to eliminate or reduce the risk of harm resulting from the non-compliance.

2. Action taken by P to repair the harm done by the non-compliance.

3. Any co-operation given to the enforcement authority by P in responding to the non-compliance.

4. Whether P reported the non-compliance to the enforcement authority.

5. Financial resources of P.

6. Size of P's business.

7. Availability of the non-compliant product, including the number of retail shops in which it has been marketed.

8. The conduct of P after the non-compliance is drawn to their attention by an enforcement authority.

9. Where the non-compliance was committed by an employee of P, the extent to which the employee was acting outside of their authority.

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).

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).

REGULATION (EC) No 110/2008 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**of 15 January 2008****on the definition, description, presentation, labelling and the protection of geographical indications of spirit drinks and repealing Council Regulation (EEC) No 1576/89**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 95 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee ⁽¹⁾,

Acting in accordance with the procedure laid down in Article 251 of the Treaty ⁽²⁾,

Whereas:

- (1) Council Regulation (EEC) No 1576/89 of 29 May 1989 laying down general rules on the definition, description and presentation of spirit drinks ⁽³⁾ and Commission Regulation (EEC) No 1014/90 of 24 April 1990 laying down detailed implementing rules on the definition, description and presentation of spirit drinks ⁽⁴⁾ have proved successful in regulating the spirit drinks sector. However, in the light of recent experience it is necessary to clarify the rules applicable to the definition, description, presentation and labelling of spirit drinks as well as on the protection of geographical indications of certain spirit drinks, while taking into account traditional production methods. Regulation (EEC) No 1576/89 should therefore be repealed and replaced.
- (2) The spirit drinks sector is important for consumers, producers and the agricultural sector in the Community. The measures applicable to the spirit drinks sector should contribute to the attainment of a high level of consumer protection, the prevention of deceptive practices and the attainment of market transparency and fair competition. By doing so, the measures should safeguard the reputation which Community spirit drinks have achieved in the Community and on the world market by continuing to take into account the traditional practices used in the production of spirit drinks as well as increased demand for consumer protection and information. Technological innovation should also be taken into account in the categories where such innovation serves to improve quality, without affecting the traditional character of the spirit drinks concerned.

(3) The production of spirit drinks constitutes a major outlet for Community agricultural products. This strong link to the agricultural sector should be emphasised by the regulatory framework.

(4) To ensure a more systematic approach in the legislation governing spirit drinks, this Regulation should set out clearly defined criteria for the production, description, presentation and labelling of spirit drinks as well as on the protection of geographical indications.

(5) In the interests of consumers, this Regulation should apply to all spirit drinks placed on the market in the Community, whether produced in the Community or in third countries. With a view to the export of high quality spirit drinks and in order to maintain and improve the reputation of Community spirit drinks on the world market, this Regulation should also apply to such drinks produced in the Community for export. This Regulation should also apply to the use of ethyl alcohol and/or distillates of agricultural origin in the production of alcoholic beverages and to the use of the names of spirit drinks in the presentation and labelling of foodstuffs. In exceptional cases where the law of an importing third country so requires, this Regulation should allow for a derogation to be granted from the provisions of Annexes I and II to this Regulation in accordance with the regulatory procedure with scrutiny.

(6) In general, this Regulation should continue to focus on definitions of spirit drinks which should be classified into categories. Those definitions should continue to respect the traditional quality practices but should be completed or updated where previous definitions were lacking or insufficient or where such definitions may be improved in the light of technological development.

(7) To take into account consumer expectations about the raw materials used for vodka especially in the traditional vodka producing Member States, provision should be made for adequate information to be provided on the raw material used where the vodka is made from raw materials of agricultural origin other than cereals and/or potatoes.

⁽¹⁾ OJ C 324, 30.12.2006, p. 12.

⁽²⁾ Opinion of the European Parliament of 19 June 2007 (not yet published in the Official Journal) and Council Decision of 17 December 2007.

⁽³⁾ OJ L 160, 12.6.1989, p. 1. Regulation as last amended by the 2005 Act of Accession.

⁽⁴⁾ OJ L 105, 25.4.1990, p. 9. Regulation as last amended by Regulation (EC) No 2140/98 (OJ L 270, 7.10.1998, p. 9).

- (8) Moreover, the ethyl alcohol used for the production of spirit drinks and other alcoholic beverages should be exclusively of agricultural origin, so as to meet consumer expectations and conform to traditional practices. This should also ensure an outlet for basic agricultural products.
- (9) Given the importance and complexity of the spirit drinks sector, it is appropriate to lay down specific measures on the description and presentation of spirit drinks going beyond the horizontal rules established in Directive 2000/13/EC of the European Parliament and of the Council of 20 March 2000 on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs⁽¹⁾. Those specific measures should also prevent the misuse of the term 'spirit drink' and the names of spirit drinks for products which do not meet the definitions set out in this Regulation.
- (10) While it is important to ensure that in general the maturation period or age specifies only the youngest alcoholic component, this Regulation should allow for a derogation to take account of traditional ageing processes regulated by the Member States.
- (11) In accordance with the Treaty, in applying a quality policy and in order to allow a high level of quality of spirit drinks and diversity in the sector, Member States should be able to adopt rules stricter than those laid down in this Regulation on the production, description, presentation and labelling of spirit drinks produced in their own territory.
- (12) Council Directive 88/388/EEC of 22 June 1988 on the approximation of the laws of the Member States relating to flavourings for use in foodstuffs and to source materials for their production⁽²⁾ applies to spirit drinks. It is only necessary therefore to lay down in this Regulation rules not already provided for in that Directive.
- (13) It is important to have due regard to the provisions of the Agreement on Trade-related Aspects of Intellectual Property Rights (hereinafter TRIPs Agreement), and in particular Articles 22 and 23 thereof, and of the General Agreement on Tariffs and Trade, which form an integral part of the Agreement establishing the World Trade Organisation approved by Council Decision 94/800/EC⁽³⁾.
- (14) Given that Council Regulation (EC) No 510/2006 of 20 March 2006 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs⁽⁴⁾ does not apply to spirit drinks, the rules for protection of geographical indications on spirit drinks should be laid down in this Regulation. Geographical indications should be registered, identifying spirit drinks as originating in the territory of a country, or a region or locality in that territory, where a given quality, reputation or other characteristic of the spirit drink is essentially attributable to its geographical origin.
- (15) A non-discriminatory procedure for the registration, compliance, alteration and possible cancellation of third country and EU geographical indications in accordance with the TRIPs Agreement should be laid down in this Regulation whilst recognising the particular status of established geographical indications.
- (16) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission⁽⁵⁾.
- (17) In particular, the Commission should be empowered to: grant derogations from certain parts of this Regulation where the law of an importing country so requires; lay down a maximum level of sweetening for rounding off; grant a derogation from the rules governing the indication of a maturation period or age; adopt decisions on applications for registration, on cancellation and on removal of geographical indications, as well as on the alteration of the technical file; amend the list of technical definitions and requirements, the definitions of spirit drinks classified into categories, and the list of registered geographical indications; and to derogate from the procedure governing the registration of geographical indications and the alteration of the technical file. Since those measures are of general scope and are designed to amend non-essential elements of this Regulation, *inter alia* by deleting some of those elements or by supplementing this Regulation with new non-essential elements, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.
- (18) The transition from the rules provided for in Regulation (EEC) No 1576/89 to those in this Regulation could give rise to difficulties which are not dealt with in this Regulation. The measures necessary for this transition, as well as the measures required to solve practical problems specific to the spirit drinks sector, should be adopted in accordance with Decision 1999/468/EC.

⁽¹⁾ OJ L 109, 6.5.2000, p. 29. Directive as last amended by Commission Directive 2007/68/EC (OJ L 310, 28.11.2007, p. 11).

⁽²⁾ OJ L 184, 15.7.1988, p. 61. Directive as last amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Council (OJ L 284, 31.10.2003, p. 1).

⁽³⁾ OJ L 336, 23.12.1994, p. 1.

⁽⁴⁾ OJ L 93, 31.3.2006, p. 12. Regulation as amended by Regulation (EC) No 1791/2006 (OJ L 363, 20.12.2006, p. 1).

⁽⁵⁾ OJ L 184, 17.7.1999, p. 23. Decision as amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11).

(19) To facilitate the transition from the rules provided for in Regulation (EEC) No 1576/89, the production of spirit drinks under that Regulation should be permitted during the first year of application of this Regulation. The marketing of existing stocks should also be foreseen until they run out,

HAVE ADOPTED THIS REGULATION:

CHAPTER I

SCOPE, DEFINITION AND CATEGORIES OF SPIRIT DRINKS

Article 1

Subject matter and scope

1. This Regulation lays down rules on the definition, description, presentation and labelling of spirit drinks as well as on the protection of geographical indications of spirit drinks.

2. This Regulation shall apply to all spirit drinks placed on the market in the Community whether produced in the Community or in third countries, as well as to those produced in the Community for export. This Regulation shall also apply to the use of ethyl alcohol and/or distillates of agricultural origin in the production of alcoholic beverages and to the use of the names of spirit drinks in the presentation and labelling of foodstuffs.

3. In exceptional cases where the law of the importing third country so requires, a derogation may be granted from the provisions of Annexes I and II in accordance with the regulatory procedure with scrutiny referred to in Article 25(3).

Article 2

Definition of spirit drink

1. For the purpose of this Regulation, 'spirit drink' means an alcoholic beverage:

- (a) intended for human consumption;
- (b) possessing particular organoleptic qualities;
- (c) having a minimum alcoholic strength of 15 % vol.;
- (d) having been produced:
 - (i) either directly:
 - by the distillation, with or without added flavourings, of naturally fermented products, and/or

- by the maceration or similar processing of plant materials in ethyl alcohol of agricultural origin and/or distillates of agricultural origin, and/or spirit drinks within the meaning of this Regulation, and/or

- by the addition of flavourings, sugars or other sweetening products listed in Annex I(3) and/or other agricultural products and/or foodstuffs to ethyl alcohol of agricultural origin and/or to distillates of agricultural origin and/or to spirit drinks, within the meaning of this Regulation,

(ii) or by the mixture of a spirit drink with one or more:

- other spirit drinks, and/or

- ethyl alcohol of agricultural origin or distillates of agricultural origin, and/or

- other alcoholic beverages, and/or

- drinks.

2. However, drinks falling within CN codes 2203, 2204, 2205, 2206 and 2207 shall not be considered spirit drinks.

3. The minimum alcoholic strength provided for in paragraph 1(c) shall be without prejudice to the definition for the product in category 41 in Annex II.

4. For the purpose of this Regulation the technical definitions and requirements are laid down in Annex I.

Article 3

Origin of ethyl alcohol

1. The ethyl alcohol used in the production of spirit drinks and all of their components shall not be of any origin other than agricultural, within the meaning of Annex I to the Treaty.

2. The ethyl alcohol used in the production of spirit drinks shall comply with the definition provided for in Annex I(1) to this Regulation.

3. The ethyl alcohol used to dilute or dissolve colorants, flavourings or any other authorised additives used in the preparation of spirit drinks shall be ethyl alcohol of agricultural origin.

4. Alcoholic beverages shall not contain alcohol of synthetic origin, nor other alcohol of non-agricultural origin within the meaning of Annex I to the Treaty.

*Article 4***Categories of spirit drinks**

Spirit drinks shall be classified into categories according to the definitions laid down in Annex II.

*Article 5***General rules concerning the categories of spirit drinks**

1. Without prejudice to the specific rules laid down for each of the categories numbered 1 to 14 in Annex II, the spirit drinks defined therein shall:

- (a) be produced by the alcoholic fermentation and distillation exclusively obtained from the raw material provided for in the relevant definition for the spirit drink concerned;
- (b) have no addition of alcohol as defined in Annex I(5), diluted or not;
- (c) not contain added flavouring substances;
- (d) only contain added caramel as a means to adapt colour;
- (e) solely be sweetened to round off the final taste of the product, according to Annex I(3). The maximum level for the products used for rounding off listed under Annex I(3)(a) to (f) shall be decided upon in accordance with the regulatory procedure with scrutiny referred to in Article 25(3). The particular legislation of the Member States shall be taken into account.

2. Without prejudice to the specific rules laid down for each of the categories numbered 15 to 46 in Annex II, the spirit drinks defined therein may:

- (a) be obtained from any agricultural raw material listed in Annex I to the Treaty;
- (b) have addition of alcohol as defined in Annex I(5) to this Regulation;
- (c) contain natural or nature-identical flavouring substances and preparations as defined in Article 1(2)(b)(i) and (ii) and in Article 1(2)(c) of Directive 88/388/EEC;
- (d) contain colouring as defined in Annex I(10) to this Regulation;
- (e) be sweetened to correspond to particular product characteristics and according to Annex I(3) to this Regulation and taking into account the particular legislation of the Member States.

3. Without prejudice to the specific rules laid down in Annex II, other spirit drinks which do not meet the requirements of categories 1 to 46 may:

- (a) be obtained from any agricultural raw material listed in Annex I to the Treaty and/or foodstuff suitable for human consumption;
- (b) have addition of alcohol as defined in Annex I(5) to this Regulation;
- (c) contain one or more of the flavourings as defined in Article 1(2)(a) of Directive 88/388/EEC;
- (d) contain colouring as defined in Annex I(10) to this Regulation;
- (e) be sweetened to correspond to particular product characteristics and according to Annex I(3) to this Regulation.

*Article 6***Member States' legislation**

1. In applying a quality policy for spirit drinks which are produced on their own territory and in particular for geographical indications registered in Annex III or for the establishment of new geographical indications, Member States may lay down rules stricter than those in Annex II on production, description, presentation and labelling in so far as they are compatible with Community law.

2. Member States shall not prohibit or restrict the import, sale or consumption of spirit drinks which comply with this Regulation.

CHAPTER II

DESCRIPTION, PRESENTATION AND LABELLING OF SPIRIT DRINKS*Article 7***Definitions**

For the purpose of this Regulation the terms 'description', 'presentation' and 'labelling' are defined in Annex I(14), (15) and (16).

*Article 8***Sales denomination**

In accordance with Article 5 of Directive 2000/13/EC, the name under which a spirit drink is sold (sales denomination) shall be subject to the provisions laid down in this Chapter.

*Article 9***Specific rules concerning sales denominations**

1. Spirit drinks which meet the specifications for the products defined in categories 1 to 46 of Annex II shall bear in their description, presentation and labelling the sales denomination assigned therein.
2. Spirit drinks which meet the definition laid down in Article 2 but which do not meet the requirements for inclusion in categories 1 to 46 of Annex II shall bear in their description, presentation and labelling the sales denomination 'spirit drink'. Without prejudice to paragraph 5 of this Article, that sales denomination shall not be replaced or altered.
3. Where a spirit drink meets the definition of more than one category of spirit drink in Annex II, it may be sold under one or more of the names listed for those categories in Annex II.
4. Without prejudice to paragraph 9 of this Article and to Article 10(1), the names referred to in paragraph 1 of this Article shall not be used to describe or present in any way whatsoever any drink other than the spirit drinks for which those names are listed in Annex II and registered in Annex III.
5. Sales denominations may be supplemented or replaced by a geographical indication registered in Annex III and in accordance with Chapter III, or supplemented in accordance with national provisions by another geographical indication, provided that this does not mislead the consumer.
6. The geographical indications registered in Annex III may only be supplemented either:
 - (a) by terms already in use on 20 February 2008 for established geographical indications within the meaning of Article 20, or
 - (b) according to the relevant technical file provided for under Article 17(1).
7. An alcoholic beverage not meeting one of the definitions listed under categories 1 to 46 of Annex II shall not be described, presented or labelled by associating words or phrases such as 'like', 'type', 'style', 'made', 'flavour' or any other similar terms with any of the sales denominations provided for in this Regulation and/or geographical indications registered in Annex III.
8. No trade mark, brand name or fancy name may be substituted for the sales denomination of a spirit drink.
9. The names referred to in categories 1 to 46 of Annex II may be included in a list of ingredients for foodstuffs provided that the list is in accordance with Directive 2000/13/EC.

*Article 10***Specific rules concerning the use of sales denominations and geographical indications**

1. Without prejudice to Directive 2000/13/EC, the use of a term listed in categories 1 to 46 of Annex II, or of a geographical indication registered in Annex III in a compound term or the allusion in the presentation of a foodstuff to any of them shall be prohibited unless the alcohol originates exclusively from the spirit drink(s) referred to.
2. The use of a compound term as referred to in paragraph 1 shall also be prohibited where a spirit drink has been diluted so that the alcoholic strength is reduced to below the minimum strength specified in the definition for that spirit drink.
3. By way of derogation from paragraph 1, the provisions of this Regulation shall not affect the possible use of the terms 'amer' or 'bitter' for products not covered by this Regulation.
4. By way of derogation from paragraph 1 and in order to take account of established production methods, the compound terms listed in category 32(d) of Annex II may be used in the presentation of liqueurs produced in the Community under the conditions set out therein.

*Article 11***Description, presentation and labelling of mixtures**

1. Where there has been addition of alcohol, as defined in Annex I(5), diluted or not, to a spirit drink listed in categories 1 to 14 of Annex II, that spirit drink shall bear the sales denomination 'spirit drink'. It may not bear in any form a name reserved in categories 1 to 14.
2. Where a spirit drink listed in categories 1 to 46 of Annex II is mixed with:
 - (a) one or more spirit drinks, and/or
 - (b) one or more distillates of agricultural origin,

it shall bear the sales denomination 'spirit drink'. This sales denomination shall be shown clearly and visibly in a prominent position on the label and shall not be replaced or altered.

3. Paragraph 2 shall not apply to the description, presentation or labelling of a mixture referred to in that paragraph if it meets one of the definitions laid down in categories 1 to 46 of Annex II.

4. Without prejudice to Directive 2000/13/EC, the description, presentation or labelling of the spirit drinks resulting from the mixtures referred to in paragraph 2 of this Article may show one or more of the terms listed in Annex II only if that term does not form part of the sales denomination but is solely listed in the same visual field in the listing of all the alcoholic ingredients contained in the mixture, preceded by the term 'mixed spirit drink'.

The term 'mixed spirit drink' shall be labelled in uniform characters of the same font and colour as those used for the sales denomination. The characters shall be no larger than half the size of the characters used for the sales denomination.

5. For the labelling and presentation of the mixtures referred to in paragraph 2 and to which the requirement to list alcoholic ingredients under paragraph 4 applies, the proportion of each alcoholic ingredient shall be expressed as a percentage in descending order of quantities used. That proportion shall be equal to the percentage by volume of pure alcohol it represents in the total pure alcohol content by volume of the mixture.

Article 12

Specific rules concerning the description, presentation and labelling of spirit drinks

1. Where the description, presentation or labelling of a spirit drink indicates the raw material used to produce the ethyl alcohol of agricultural origin, each agricultural alcohol used shall be mentioned in descending order of quantity used.

2. The description, presentation or labelling of a spirit drink may be supplemented by the term 'blend', 'blending' or 'blended' only where the spirit drink has undergone blending, as defined in Annex I(7).

3. Without prejudice to any derogation adopted in accordance with the regulatory procedure with scrutiny referred to in Article 25(3), a maturation period or age may only be specified in the description, presentation or labelling of a spirit drink where it refers to the youngest alcoholic component and provided that the spirit drink was aged under revenue supervision or supervision affording equivalent guarantees.

Article 13

Prohibition of lead-based capsules or foil

Spirit drinks shall not be held with a view to sale or placed on the market in containers fitted with closing devices covered by lead-based capsules or foil.

Article 14

Use of language in the description, presentation and labelling of spirit drinks

1. The particulars provided for in this Regulation shall be given in one or more official languages of the European Union in such a way that the final consumer can easily understand each of those items of information, unless the consumer is provided with the information by other means.

2. The terms in italics in Annex II and the geographical indications registered in Annex III shall not be translated on the label nor in the presentation of the spirit drink.

3. In the case of spirit drinks originating in third countries, use of an official language of the third country in which the spirit drink was produced shall be authorised if the particulars provided for in this Regulation are also given in an official language of the European Union in such a way that the final consumer can easily understand each item.

4. Without prejudice to paragraph 2, in the case of spirit drinks produced in the Community and intended for export, the particulars provided for in this Regulation may be repeated in a language other than an official language of the European Union.

CHAPTER III

GEOGRAPHICAL INDICATIONS

Article 15

Geographical indications

1. For the purpose of this Regulation a geographical indication shall be an indication which identifies a spirit drink as originating in the territory of a country, or a region or locality in that territory, where a given quality, reputation or other characteristic of that spirit drink is essentially attributable to its geographical origin.

2. The geographical indications referred to in paragraph 1 are registered in Annex III.

3. The geographical indications registered in Annex III may not become generic.

Names that have become generic may not be registered in Annex III.

A name that has become generic means the name of a spirit drink which, although it relates to the place or region where this product was originally produced or placed on the market, has become the common name of a spirit drink in the Community.

4. Spirit drinks bearing a geographical indication registered in Annex III shall comply with all the specifications of the technical file provided for under Article 17(1).

Article 16

Protection of geographical indications

Without prejudice to Article 10, the geographical indications registered in Annex III shall be protected against:

- (a) any direct or indirect commercial use in respect of products not covered by the registration in so far as those products are comparable to the spirit drink registered under that geographical indication or insofar as such use exploits the reputation of the registered geographical indication;
- (b) any misuse, imitation or evocation, even if the true origin of the product is indicated or the geographical indication is used in translation or accompanied by an expression such as 'like', 'type', 'style', 'made', 'flavour' or any other similar term;
- (c) any other false or misleading indication as to the provenance, origin, nature or essential qualities on the description, presentation or labelling of the product, liable to convey a false impression as to its origin;
- (d) any other practice liable to mislead the consumer as to the true origin of the product.

Article 17

Registration of geographical indications

1. An application for a geographical indication to be registered in Annex III shall be submitted to the Commission in one of the official languages of the European Union or accompanied by a translation into one of those languages. That application shall be duly substantiated and shall include a technical file setting out the specifications with which the spirit drink concerned must comply.

2. With regard to geographical indications within the Community, the application referred to in paragraph 1 shall be made by the Member State of origin of the spirit drink.

3. With regard to geographical indications within a third country, the application referred to in paragraph 1 shall be sent to the Commission, either directly or via the authorities of the third country concerned, and shall include proof that the name in question is protected in its country of origin.

4. The technical file referred to in paragraph 1 shall include at least the following main specifications:

- (a) the name and category of the spirit drink including the geographical indication;
- (b) a description of the spirit drink including the principal physical, chemical and/or organoleptic characteristics of the

product as well as the specific characteristics of the spirit drink as compared to the relevant category;

- (c) the definition of the geographical area concerned;
- (d) a description of the method for obtaining the spirit drink and, if appropriate, the authentic and unvarying local methods;
- (e) the details bearing out the link with the geographical environment or the geographical origin;
- (f) any requirements laid down by Community and/or national and/or regional provisions;
- (g) the name and contact address of the applicant;
- (h) any supplement to the geographical indication and/or any specific labelling rule, according to the relevant technical file.

5. The Commission shall verify, within 12 months of the date of submission of the application referred to in paragraph 1, whether that application complies with this Regulation.

6. If the Commission concludes that the application referred to in paragraph 1 complies with this Regulation, the main specifications of the technical file referred to in paragraph 4 shall be published in the *Official Journal of the European Union*, C Series.

7. Within six months of the date of publication of the technical file, any natural or legal person that has a legitimate interest may object to the registration of the geographical indication in Annex III on the grounds that the conditions provided for in this Regulation are not fulfilled. The objection, which must be duly substantiated, shall be submitted to the Commission in one of the official languages of the European Union or accompanied by a translation into one of those languages.

8. The Commission shall take the decision on registration of the geographical indication in Annex III in accordance with the regulatory procedure with scrutiny referred to in Article 25(3), taking into account any objection raised in accordance with paragraph 7 of this Article. That decision shall be published in the *Official Journal of the European Union*, C Series.

Article 18

Cancellation of a geographical indication

If compliance with the specifications in the technical file is no longer ensured, the Commission shall take a decision cancelling the registration in accordance with the regulatory procedure with scrutiny referred to in Article 25(3). That decision shall be published in the *Official Journal of the European Union*, C Series.

*Article 19***Homonymous geographical indications**

A homonymous geographical indication meeting the requirements of this Regulation shall be registered with due regard for local and traditional usage and the actual risk of confusion, in particular:

- a homonymous name which misleads the consumer into believing that products come from another territory shall not be registered even if the name is accurate as far as its wording is concerned for the actual territory, region or place of origin of the spirit drink in question,
- the use of a registered homonymous geographical indication shall be subject to there being a clear distinction in practice between the homonym registered subsequently and the name already on the register, having regard to the need to treat the producers concerned in an equitable manner and not to mislead consumers.

*Article 20***Established geographical indications**

1. For each geographical indication registered in Annex III on 20 February 2008, Member States shall submit a technical file as provided for under Article 17(1) to the Commission not later than 20 February 2015.
2. Member States shall ensure that this technical file is accessible to the public.
3. Where no technical file has been submitted to the Commission by 20 February 2015, the Commission shall remove the geographical indication from Annex III in accordance with the regulatory procedure with scrutiny referred to in Article 25(3).

*Article 21***Alteration of the technical file**

The procedure provided for in Article 17 shall apply *mutatis mutandis* where the technical file referred to in Articles 17(1) and 20(1) is to be altered.

*Article 22***Verification of compliance with the specifications in the technical file**

1. In respect of the geographical indications within the Community, verification of compliance with the specifications in the technical file, before placing the product on the market, shall be ensured by:

- one or more competent authorities referred to in Article 24(1), and/or

- one or more control bodies within the meaning of Article 2 of Regulation (EC) No 882/2004 of the European Parliament and of the Council of 29 April 2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules ⁽¹⁾, operating as a product certification body.

Notwithstanding national legislation, the costs of such verification of compliance with the specifications in the technical file shall be borne by the operators subject to those controls.

2. In respect of the geographical indications within a third country, verification of compliance with the specifications in the technical file, before placing the product on the market, shall be ensured by:

- one or more public authorities designated by the third country, and/or
- one or more product certification bodies.

3. The product certification bodies referred to in paragraphs 1 and 2 shall comply with, and from 1 May 2010 be accredited in accordance with, European standard EN 45011 or ISO/IEC Guide 65 (General requirements for bodies operating product certification systems).

4. Where the authorities or bodies referred to in paragraphs 1 and 2 have chosen to verify compliance with the specifications in the technical file, they shall offer adequate guarantees of objectivity and impartiality and have at their disposal the qualified staff and resources necessary to carry out their functions.

*Article 23***Relation between trade marks and geographical indications**

1. The registration of a trade mark which contains or consists of a geographical indication registered in Annex III shall be refused or invalidated if its use would lead to any of the situations referred to in Article 16.

2. With due regard to Community law, a trade mark the use of which corresponds to one of the situations referred to in Article 16 which has been applied for, registered, or established by use, if that possibility is provided for by the legislation concerned, in good faith within the territory of the Community, before either the date of protection of the geographical indication in the country of origin or before 1 January 1996, may continue to be used notwithstanding the registration of a geographical indication, provided that no grounds for its invalidity or revocation exist as specified by First Council

⁽¹⁾ OJ L 165, 30.4.2004, p. 1, corrected by OJ L 191, 28.5.2004, p. 1. Regulation as last amended by Council Regulation (EC) No 1791/2006.

Directive 89/104/EEC of 21 December 1988 to approximate the laws of the Member States relating to trade marks ⁽¹⁾ or Council Regulation (EC) No 40/94 of 20 December 1993 on the Community trade mark ⁽²⁾.

3. A geographical indication shall not be registered where, in the light of a trade mark's reputation and renown and the length of time it has been used in the Community, registration is liable to mislead the consumer as to the true identity of the product.

CHAPTER IV

GENERAL, TRANSITIONAL AND FINAL PROVISIONS

Article 24

Control and protection of spirit drinks

1. Member States shall be responsible for the control of spirit drinks. They shall take the measures necessary to ensure compliance with the provisions of this Regulation and in particular they shall designate the competent authority or authorities responsible for controls in respect of the obligations established by this Regulation in accordance with Regulation (EC) No 882/2004.

2. Member States and the Commission shall communicate to each other the information necessary for the application of this Regulation.

3. The Commission, in consultation with the Member States, shall ensure the uniform application of this Regulation and if necessary shall adopt measures in accordance with the regulatory procedure referred to in Article 25(2).

Article 25

Committee

1. The Commission shall be assisted by the Committee for Spirit Drinks.

2. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at three months.

⁽¹⁾ OJ L 40, 11.2.1989, p. 1. Directive as amended by Council Decision 92/10/EEC (OJ L 6, 11.1.1992, p. 35).

⁽²⁾ OJ L 11, 14.1.1994, p. 1. Regulation as last amended by Regulation (EC) No 1891/2006 (OJ L 386, 29.12.2006, p. 14).

3. Where reference is made to this paragraph, Articles 5a and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

Article 26

Amendment of the Annexes

The Annexes shall be amended in accordance with the regulatory procedure with scrutiny referred to in Article 25(3).

Article 27

Implementing measures

The measures necessary for the implementation of this Regulation shall be adopted in accordance with the regulatory procedure referred to in Article 25(2).

Article 28

Transitional and other specific measures

1. In accordance with the regulatory procedure with scrutiny referred to in Article 25(3), measures to amend this Regulation shall be adopted, where appropriate:

- (a) to facilitate by 20 February 2011 the transition from the rules provided for in Regulation (EEC) No 1576/89 to those established by this Regulation;
- (b) to derogate from Articles 17 and 22 in duly justified cases;
- (c) to establish a Community symbol for geographical indications for the spirit drinks sector.

2. In accordance with the regulatory procedure referred to in Article 25(2), measures shall be adopted, where appropriate, to resolve specific practical problems, such as by making it obligatory, in certain cases, to state the place of manufacture on the labelling to avoid misleading the consumer and to maintain and develop Community reference methods for the analysis of spirit drinks.

3. Spirit drinks not meeting the requirements of this Regulation may continue to be produced in accordance with Regulation (EEC) No 1576/89 until 20 May 2009. Spirit drinks not meeting the requirements of this Regulation but which have been produced in accordance with Regulation (EEC) No 1576/89 prior to 20 February 2008 or until 20 May 2009 may continue to be placed on the market until stocks run out.

*Article 29***Repeal**

1. Regulation (EEC) No 1576/89 is hereby repealed. References made to the repealed Regulation shall be construed as being made to this Regulation.

2. Commission Regulations (EEC) No 2009/92 ⁽¹⁾, (EC) No 1267/94 ⁽²⁾ and (EC) No 2870/2000 ⁽³⁾ shall continue to apply.

*Article 30***Entry into force**

This Regulation shall enter into force on the seventh day following its publication in the *Official Journal of the European Union*.

It shall apply from 20 May 2008.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Strasbourg, 15 January 2008.

For the European Parliament

The President

H.-G. PÖTTERING

For the Council

The President

J. LENARČIČ

⁽¹⁾ Commission Regulation (EEC) No 2009/92 of 20 July 1992 determining Community analysis methods for ethyl alcohol of agricultural origin used in the preparation of spirit drinks, aromatized wines, aromatized wine-based drinks and aromatized wine-product cocktails (OJ L 203, 21.7.1992, p. 10).

⁽²⁾ Commission Regulation (EC) No 1267/94 of 1 June 1994 applying the agreements between the European Union and third countries on the mutual recognition of certain spirit drinks (OJ L 138, 2.6.1994, p. 7). Regulation as amended by Regulation (EC) No 1434/97 (OJ L 196, 24.7.1997, p. 56).

⁽³⁾ Commission Regulation (EC) No 2870/2000 of 19 December 2000 laying down Community reference methods for the analysis of spirit drinks (OJ L 333, 29.12.2000, p. 20). Regulation as amended by Regulation (EC) No 2091/2002 (OJ L 322, 27.11.2002, p. 11).

ANNEX I

TECHNICAL DEFINITIONS AND REQUIREMENTS

The technical definitions and requirements, as referred to in Article 2(4) and Article 7, are the following:

(1) *Ethyl alcohol of agricultural origin*

Ethyl alcohol of agricultural origin possesses the following properties:

- (a) organoleptic characteristics: no detectable taste other than that of the raw material;
- (b) minimum alcoholic strength by volume: 96,0 %;
- (c) maximum level of residues:
 - (i) total acidity, expressed in grams of acetic acid per hectolitre of 100 % vol. alcohol: 1,5,
 - (ii) esters expressed in grams of ethyl acetate per hectolitre of 100 % vol. alcohol: 1,3,
 - (iii) aldehydes expressed in grams of acetaldehyde per hectolitre of 100 % vol. alcohol: 0,5,
 - (iv) higher alcohols expressed in grams of methyl2 propanol1 per hectolitre of 100 % vol. alcohol: 0,5,
 - (v) methanol expressed in grams per hectolitre of 100 % vol. alcohol: 30,
 - (vi) dry extract expressed in grams per hectolitre of 100 % vol. alcohol: 1,5,
 - (vii) volatile bases containing nitrogen expressed in grams of nitrogen per hectolitre of 100 % vol. alcohol: 0,1,
 - (viii) furfural: not detectable.

(2) *Distillate of agricultural origin*

Distillate of agricultural origin means an alcoholic liquid which is obtained by the distillation, after alcoholic fermentation, of an agricultural product or products listed in Annex I to the Treaty which does not have the properties of ethyl alcohol or of a spirit drink but still retains the aroma and taste of the raw material(s) used.

Where reference is made to the raw material used, the distillate must be obtained exclusively from that raw material.

(3) *Sweetening*

Sweetening means using one or more of the following products in the preparation of spirit drinks:

- (a) semi-white sugar, white sugar, extra-white sugar, dextrose, fructose, glucose syrup, sugar solution, invert sugar solution, invert sugar syrup, as defined in Council Directive 2001/111/EC of 20 December 2001 relating to certain sugars intended for human consumption ⁽¹⁾;
- (b) rectified concentrated grape must, concentrated grape must, fresh grape must;
- (c) burned sugar, which is the product obtained exclusively from the controlled heating of sucrose without bases, mineral acids or other chemical additives;

⁽¹⁾ OJ L 10, 12.1.2002, p. 53.

- (d) honey as defined in Council Directive 2001/110/EC of 20 December 2001 relating to honey ⁽¹⁾;
- (e) carob syrup;
- (f) any other natural carbohydrate substances having a similar effect to those products.

(4) *Mixing*

Mixing means combining two or more different drinks to make a new drink.

(5) *Addition of alcohol*

Addition of alcohol means the addition of ethyl alcohol of agricultural origin and/or distillates of agricultural origin to a spirit drink.

(6) *Addition of water*

In the preparation of spirit drinks, the addition of water shall be authorised, provided that the quality of the water is in conformity with Council Directive 80/777/EEC of 15 July 1980 on the approximation of the laws of the Member States relating to the exploitation and marketing of natural mineral waters ⁽²⁾ and Council Directive 98/83/EC of 3 November 1998 on the quality of water intended for human consumption ⁽³⁾, and that the water added does not change the nature of the product.

This water may be distilled, demineralised, permuted or softened.

(7) *Blending*

Blending means combining two or more spirit drinks of the same category, distinguished only by minor differences in composition due to one or more of the following factors:

- (a) the method of preparation;
- (b) the stills employed;
- (c) the period of maturation or ageing;
- (d) the geographical area of production.

The spirit drink so produced shall be of the same category of spirit drink as the original spirit drinks before blending.

(8) *Maturation or ageing*

Maturation or ageing means allowing certain reactions to develop naturally in appropriate containers, thereby giving the spirit drink in question organoleptic qualities previously absent.

(9) *Flavouring*

Flavouring means using in the preparation of a spirit drink one or more of the flavourings defined in Article 1(2)(a) of Directive 88/388/EEC.

(10) *Colouring*

Colouring means using in the preparation of a spirit drink one or more colorants, as defined in Directive 94/36/EC of the European Parliament and of the Council of 30 June 1994 on colours for use in foodstuffs ⁽⁴⁾.

⁽¹⁾ OJ L 10, 12.1.2002, p. 47.

⁽²⁾ OJ L 229, 30.8.1980, p. 1. Directive as last amended by Regulation (EC) No 1882/2003.

⁽³⁾ OJ L 330, 5.12.1998, p. 32. Directive as amended by Regulation (EC) No 1882/2003.

⁽⁴⁾ OJ L 237, 10.9.1994, p. 13. Directive as amended by Regulation (EC) No 1882/2003.

(11) *Alcoholic strength by volume*

Alcoholic strength by volume means the ratio of the volume of pure alcohol present in the product in question at 20 °C to the total volume of that product at the same temperature.

(12) *Volatile substances content*

Volatile substances content means the quantity of volatile substances other than ethyl alcohol and methanol contained in a spirit drink obtained exclusively by distillation, as a result solely of the distillation or redistillation of the raw materials used.

(13) *Place of manufacture*

Place of manufacture means the place or region where the stage in the production process of the finished product which conferred on the spirit drink its character and essential definitive qualities took place.

(14) *Description*

Description means the terms used on the labelling, presentation and packaging; on the documents accompanying the transport of a drink; on the commercial documents, particularly the invoices and delivery notes; and in its advertising.

(15) *Presentation*

Presentation means the terms used on the labelling and on the packaging, including in advertising and sales promotion, in images or such like, as well as on the container, including the bottle and the closure.

(16) *Labelling*

Labelling means all descriptions and other references, signs, designs or trade marks which distinguish a drink and which appear on the same container, including its sealing device or the tag attached to the container and the sheathing covering the neck of the bottle.

(17) *Packaging*

Packaging means the protective wrappings, such as papers, envelopes of all kinds, cartons and cases, used in the transport and/or sale of one or more containers.

ANNEX II

SPIRIT DRINKS

*Categories of spirit drinks*1. **Rum**

- (a) Rum is:
- (i) a spirit drink produced exclusively by alcoholic fermentation and distillation, either from molasses or syrup produced in the manufacture of cane sugar or from sugar-cane juice itself and distilled at less than 96 % vol. so that the distillate has the discernible specific organoleptic characteristics of rum, or
 - (ii) a spirit drink produced exclusively by alcoholic fermentation and distillation of sugar-cane juice which has the aromatic characteristics specific to rum and a volatile substances content equal to or exceeding 225 grams per hectolitre of 100 % vol. alcohol. This spirit may be placed on the market with the word 'agricultural' qualifying the sales denomination 'rum' accompanied by any of the geographical indications of the French Overseas Departments and the Autonomous Region of Madeira as registered in Annex III.
- (b) The minimum alcoholic strength by volume of rum shall be 37,5 %.
- (c) No addition of alcohol as defined in Annex I(5), diluted or not, shall take place.
- (d) Rum shall not be flavoured.
- (e) Rum may only contain added caramel as a means to adapt colour.
- (f) The word '*traditionnel*' may supplement any of the geographical indications mentioned in category 1 of Annex III where the rum is produced by distillation at less than 90 % vol., after alcoholic fermentation of alcohol-producing materials originating exclusively in the place of production considered. This rum must have a volatile substances content equal to or exceeding 225 grams per hectolitre of 100 % vol. alcohol and must not be sweetened. The use of the word '*traditionnel*' does not prevent the use of the terms 'from sugar production' or 'agricultural' which may be added to the sales denomination 'rum' and to geographical indications.

This provision shall not affect the use of the word '*traditionnel*' for all products not covered by this provision, according to their own specific criteria.

2. **Whisky or Whiskey**

- (a) *Whisky* or *whiskey* is a spirit drink produced exclusively by:
- (i) distillation of a mash made from malted cereals with or without whole grains of other cereals, which has been:
 - saccharified by the diastase of the malt contained therein, with or without other natural enzymes,
 - fermented by the action of yeast;
 - (ii) one or more distillations at less than 94,8 % vol., so that the distillate has an aroma and taste derived from the raw materials used,
 - (iii) maturation of the final distillate for at least three years in wooden casks not exceeding 700 litres capacity.

The final distillate, to which only water and plain caramel (for colouring) may be added, retains its colour, aroma and taste derived from the production process referred to in points (i), (ii) and (iii).

- (b) The minimum alcoholic strength by volume of *whisky* or *whiskey* shall be 40 %.

- (c) No addition of alcohol as defined in Annex I(5), diluted or not, shall take place.
- (d) *Whisky* or *whiskey* shall not be sweetened or flavoured, nor contain any additives other than plain caramel used for colouring.

3. **Grain spirit**

- (a) Grain spirit is a spirit drink produced exclusively by the distillation of a fermented mash of whole grain cereals and having organoleptic characteristics derived from the raw materials used.
- (b) With the exception of '*Korn*', the minimum alcoholic strength by volume of grain spirit shall be 35 %.
- (c) No addition of alcohol as defined in Annex I(5), diluted or not, shall take place.
- (d) Grain spirit shall not be flavoured.
- (e) Grain spirit may only contain added caramel as a means to adapt colour.
- (f) For a grain spirit to bear the sales denomination 'grain brandy', it must have been obtained by distillation at less than 95 % vol. from a fermented mash of whole grain cereals, presenting organoleptic features deriving from the raw materials used.

4. **Wine spirit**

- (a) Wine spirit is a spirit drink:
 - (i) produced exclusively by the distillation at less than 86 % vol. of wine or wine fortified for distillation or by the redistillation of a wine distillate at less than 86 % vol.,
 - (ii) containing a quantity of volatile substances equal to or exceeding 125 grams per hectolitre of 100 % vol. alcohol,
 - (iii) having a maximum methanol content of 200 grams per hectolitre of 100 % vol. alcohol.
- (b) The minimum alcoholic strength by volume of wine spirit shall be 37,5 %.
- (c) No addition of alcohol as defined in Annex I(5), diluted or not, shall take place.
- (d) Wine spirit shall not be flavoured. This shall not exclude traditional production methods.
- (e) Wine spirit may only contain added caramel as a means to adapt colour.
- (f) Where wine spirit has been matured, it may continue to be placed on the market as 'wine spirit' provided it has been matured for as long as, or longer than, the period stipulated for the spirit drink defined under category 5.

5. **Brandy or Weinbrand**

- (a) *Brandy* or *Weinbrand* is a spirit drink:
 - (i) produced from wine spirit, whether or not wine distillate has been added, distilled at less than 94,8 % vol., provided that that distillate does not exceed a maximum of 50 % of the alcoholic content of the finished product,
 - (ii) matured for at least one year in oak receptacles or for at least six months in oak casks with a capacity of less than 1 000 litres,

- (iii) containing a quantity of volatile substances equal to or exceeding 125 grams per hectolitre of 100 % vol. alcohol, and derived exclusively from the distillation or redistillation of the raw materials used,
- (iv) having a maximum methanol content of 200 grams per hectolitre of 100 % vol. alcohol.
- (b) The minimum alcoholic strength by volume of *brandy* or *Weinbrand* shall be 36 %.
- (c) No addition of alcohol as defined in Annex I(5), diluted or not, shall take place.
- (d) *Brandy* or *Weinbrand* shall not be flavoured. This shall not exclude traditional production methods.
- (e) *Brandy* or *Weinbrand* may only contain added caramel as a means to adapt colour.

6. **Grape marc spirit or grape marc**

- (a) Grape marc spirit or grape marc is a spirit drink which meets the following conditions:
 - (i) it is produced exclusively from grape marc fermented and distilled either directly by water vapour or after water has been added;
 - (ii) a quantity of lees may be added to the grape marc that does not exceed 25 kg of lees per 100 kg of grape marc used;
 - (iii) the quantity of alcohol derived from the lees shall not exceed 35 % of the total quantity of alcohol in the finished product;
 - (iv) the distillation shall be carried out in the presence of the marc itself at less than 86 % vol.;
 - (v) redistillation at the same alcoholic strength is authorised;
 - (vi) it contains a quantity of volatile substances equal to or exceeding 140 grams per hectolitre of 100 % vol. alcohol and has a maximum methanol content of 1 000 grams per hectolitre of 100 % vol. alcohol.
- (b) The minimum alcoholic strength by volume of grape marc spirit or grape marc shall be 37,5 %.
- (c) No addition of alcohol as defined in Annex I(5), diluted or not, shall take place.
- (d) Grape marc spirit or grape marc shall not be flavoured. This shall not exclude traditional production methods.
- (e) Grape marc spirit or grape marc may only contain added caramel as a means to adapt colour.

7. **Fruit marc spirit**

- (a) Fruit marc spirit is a spirit drink which meets the following conditions:
 - (i) it is obtained exclusively by fermentation and distillation at less than 86 % vol. of fruit marc except grape marc;
 - (ii) it contains a minimum quantity of volatile substances of 200 grams per hectolitre of 100 % vol. alcohol;
 - (iii) the maximum methanol content shall be 1 500 grams per hectolitre of 100 % vol. alcohol;
 - (iv) the maximum hydrocyanic acid content shall be 7 grams per hectolitre of 100 % vol. alcohol in the case of stone-fruit marc spirit;
 - (v) redistillation at the same alcoholic strength according to (i) is authorised.

- (b) The minimum alcoholic strength by volume of fruit marc spirit shall be 37,5 %.
- (c) No addition of alcohol as defined in Annex I(5), diluted or not, shall take place.
- (d) Fruit marc spirit shall not be flavoured.
- (e) Fruit marc spirit may only contain added caramel as a means to adapt colour.
- (f) The sales denomination shall consist of the name of the fruit followed by 'marc spirit'. If marcs of several different fruits are used, the sales denomination shall be 'fruit marc spirit'.

8. Raisin spirit or *raisin brandy*

- (a) Raisin spirit or *raisin brandy* is a spirit drink produced exclusively by the distillation of the product obtained by the alcoholic fermentation of extract of dried grapes of the 'Corinth Black' or Moscatel of the Alexandria varieties, distilled at less than 94,5 % vol., so that the distillate has an aroma and taste derived from the raw material used.
- (b) The minimum alcoholic strength by volume of raisin spirit or *raisin brandy* shall be 37,5 %.
- (c) No addition of alcohol as defined in Annex I(5), diluted or not, shall take place.
- (d) Raisin spirit or *raisin brandy* shall not be flavoured.
- (e) Raisin spirit or *raisin brandy* may only contain added caramel as a means to adapt colour.

9. Fruit spirit

- (a) Fruit spirit is a spirit drink:
 - (i) produced exclusively by the alcoholic fermentation and distillation of fleshy fruit or must of such fruit, berries or vegetables, with or without stones,
 - (ii) distilled at less than 86 % vol. so that the distillate has an aroma and taste derived from the raw materials distilled,
 - (iii) having a quantity of volatile substances equal to or exceeding 200 grams per hectolitre of 100 % vol. alcohol,
 - (iv) in the case of stone-fruit spirits, having a hydrocyanic acid content not exceeding 7 grams per hectolitre of 100 % vol. alcohol.
- (b) The maximum methanol content of fruit spirit shall be 1 000 grams per hectolitre of 100 % vol. alcohol.

However for the following fruit spirits the maximum methanol content shall be:

- (i) 1 200 grams per hectolitre of 100 % vol. alcohol obtained from the following fruits or berries:
 - plum (*Prunus domestica* L.),
 - mirabelle (*Prunus domestica* L. subsp. *syriaca* (Borkh.) Janch. ex Mansf.),
 - quetsch (*Prunus domestica* L.),
 - apple (*Malus domestica* Borkh.),
 - pear (*Pyrus communis* L.) except for Williams pears (*Pyrus communis* L. cv 'Williams'),
 - raspberries (*Rubus idaeus* L.),
 - blackberries (*Rubus fruticosus* auct. aggr.),

- apricots (*Prunus armeniaca* L.),
 - peaches (*Prunus persica* (L.) Batsch);
- (ii) 1 350 grams per hectolitre of 100 % vol. alcohol obtained from the following fruits or berries:
- Williams pears (*Pyrus communis* L. cv 'Williams'),
 - redcurrants (*Ribes rubrum* L.),
 - blackcurrants (*Ribes nigrum* L.),
 - rowanberries (*Sorbus aucuparia* L.),
 - elderberries (*Sambucus nigra* L.),
 - quinces (*Cydonia oblonga* Mill.),
 - juniper berries (*Juniperus communis* L. and/or *Juniperus oxicedrus* L.).
- (c) The minimum alcoholic strength by volume of fruit spirit shall be 37,5 %.
- (d) No addition of alcohol as defined in Annex I(5), diluted or not, shall take place.
- (e) Fruit spirit shall not be flavoured.
- (f) The sales denomination of fruit spirit shall be 'spirit' preceded by the name of the fruit, berry or vegetable, such as: cherry spirit or *kirsch*, plum spirit or *slivovitz*, mirabelle, peach, apple, pear, apricot, fig, citrus or grape spirit or other fruit spirits.

It may also be called *wasser*, with the name of the fruit.

The name of the fruit may replace 'spirit' preceded by the name of the fruit, solely in the case of the following fruits:

- mirabelle (*Prunus domestica* L. subsp. *syriaca* (Borkh.) Janch. ex Mansf.),
- plum (*Prunus domestica* L.),
- quetsch (*Prunus domestica* L.),
- fruit of *arbutus* (*Arbutus unedo* L.),
- 'Golden Delicious' apple.

Should there be a risk that the final consumer does not easily understand one of these sales denominations, the labelling shall include the word 'spirit', possibly supplemented by an explanation.

- (g) The name *Williams* may be used only to sell pear spirit produced solely from pears of the 'Williams' variety.
- (h) Whenever two or more fruits, berries or vegetables are distilled together, the product shall be sold under the name 'fruit spirit' or 'vegetable spirit', as appropriate. The name may be supplemented by that of each fruit, berry or vegetable, in decreasing order of quantity used.

10. Cider spirit and perry spirit

- (a) Cider spirit and perry spirit are spirit drinks:
 - (i) produced exclusively by the distillation at less than 86 % vol. of cider or perry so that the distillate has an aroma and taste derived from the fruits,
 - (ii) having a quantity of volatile substances equal to or exceeding 200 grams per hectolitre of 100 % vol. alcohol,
 - (iii) having a maximum methanol content of 1 000 grams per hectolitre of 100 % vol. alcohol.
- (b) The minimum alcoholic strength by volume of cider spirit and of perry spirit shall be 37,5 %.
- (c) No addition of alcohol as defined in Annex I(5), diluted or not, shall take place.
- (d) Neither cider spirit nor perry spirit shall be flavoured.
- (e) Cider spirit and perry spirit may only contain added caramel as a means to adapt colour.

11. Honey spirit

- (a) Honey spirit is a spirit drink:
 - (i) produced exclusively by fermentation and distillation of honey mash,
 - (ii) distilled at less than 86 % vol. so that the distillate has the organoleptic characteristics derived from the raw material used.
- (b) The minimum alcoholic strength by volume of honey spirit shall be 35 %.
- (c) No addition of alcohol as defined in Annex I(5), diluted or not, shall take place.
- (d) Honey spirit shall not be flavoured.
- (e) Honey spirit may only contain added caramel as a means to adapt colour.
- (f) Honey spirit may only be sweetened with honey.

12. Hefebrand or lees spirit

- (a) *Hefebrand* or lees spirit is a spirit drink produced exclusively by the distillation at less than 86 % vol. of lees of wine or of fermented fruit.
- (b) The minimum alcoholic strength by volume of *Hefebrand* or lees spirit shall be 38 %.
- (c) No addition of alcohol as defined in Annex I(5), diluted or not, shall take place.
- (d) *Hefebrand* or lees spirit shall not be flavoured.
- (e) *Hefebrand* or lees spirit may only contain added caramel as a means to adapt colour.
- (f) The sales denomination *Hefebrand* or lees spirit shall be supplemented by the name of the raw material used.

13. Bierbrand or eau de vie de bière

- (a) *Bierbrand* or *eau de vie de bière* is a spirit drink obtained exclusively by direct distillation under normal pressure of fresh beer with an alcoholic strength by volume of less than 86 % such that the distillate obtained has organoleptic characteristics deriving from the beer.
- (b) The minimum alcoholic strength by volume of *Bierbrand* or *eau de vie de bière* shall be 38 %.
- (c) No addition of alcohol as defined in Annex I(5), diluted or not, shall take place.
- (d) *Bierbrand* or *eau de vie de bière* shall not be flavoured.
- (e) *Bierbrand* or *eau de vie de bière* may only contain added caramel as a means to adapt colour.

14. Topinambur or Jerusalem artichoke spirit

- (a) *Topinambur* or Jerusalem artichoke spirit is a spirit drink produced exclusively by fermentation and distillation at less than 86 % vol. of Jerusalem artichoke tubers (*Helianthus tuberosus* L.).
- (b) The minimum alcoholic strength by volume of *topinambur* or Jerusalem artichoke spirit shall be 38 %.
- (c) No addition of alcohol as defined in Annex I(5), diluted or not, shall take place.
- (d) *Topinambur* or Jerusalem artichoke spirit shall not be flavoured.
- (e) *Topinambur* or Jerusalem artichoke spirit may only contain added caramel as a means to adapt colour.

15. Vodka

- (a) Vodka is a spirit drink produced from ethyl alcohol of agricultural origin obtained following fermentation with yeast from either:
 - (i) potatoes and/or cereals, or
 - (ii) other agricultural raw materials,

distilled and/or rectified so that the organoleptic characteristics of the raw materials used and by-products formed in fermentation are selectively reduced.

This process may be followed by redistillation and/or treatment with appropriate processing aids, including treatment with activated charcoal, to give it special organoleptic characteristics.

Maximum levels of residue for ethyl alcohol of agricultural origin shall meet those laid down in Annex I, except that the methanol content shall not exceed 10 grams per hectolitre of 100 % vol. alcohol.

- (b) The minimum alcoholic strength by volume of vodka shall be 37,5 %.
- (c) The only flavourings which may be added are natural flavouring compounds present in distillate obtained from the fermented raw materials. In addition, the product may be given special organoleptic characteristics, other than a predominant flavour.
- (d) The description, presentation or labelling of vodka not produced exclusively from the raw material(s) listed in paragraph (a)(i) shall bear the indication 'produced from ...', supplemented by the name of the raw material(s) used to produce the ethyl alcohol of agricultural origin. Labelling shall be in accordance with Article 13(2) of Directive 2000/13/EC.

16. Spirit (preceded by the name of the fruit) obtained by maceration and distillation

- (a) Spirit (preceded by the name of the fruit) obtained by maceration and distillation is a spirit drink:
- (i) produced by maceration of fruit or berries listed under point (ii), whether partially fermented or unfermented, with the possible addition of a maximum of 20 litres of ethyl alcohol of agricultural origin or spirit and/or distillate deriving from the same fruit per 100 kg of fermented fruit or berries, followed by distillation at less than 86 % vol.
 - (ii) obtained from the following fruits or berries:
 - blackberry (*Rubus fruticosus* auct. aggr.),
 - strawberry (*Fragaria* spp.),
 - bilberry (*Vaccinium myrtillus* L.),
 - raspberry (*Rubus idaeus* L.),
 - redcurrant (*Ribes rubrum* L.),
 - sloe (*Prunus spinosa* L.),
 - rowanberry (*Sorbus aucuparia* L.),
 - service-berry (*Sorbus domestica* L.),
 - hollyberry (*Ilex cassine* L.),
 - checkerberry (*Sorbus torminalis* (L.) Crantz),
 - elderberry (*Sambucus nigra* L.),
 - rosehip (*Rosa canina* L.),
 - blackcurrant (*Ribes nigrum* L.),
 - banana (*Musa* spp.),
 - passion fruit (*Passiflora edulis* Sims),
 - ambarella (*Spondias dulcis* Sol. ex Parkinson),
 - hog plum (*Spondias mombin* L.).
- (b) The minimum alcoholic strength by volume of a Spirit (preceded by the name of the fruit) obtained by maceration and distillation shall be 37,5 %.
- (c) Spirit (preceded by the name of the fruit) obtained by maceration and distillation shall not be flavoured.
- (d) As regards the labelling and presentation of Spirit (preceded by the name of the fruit) obtained by maceration and distillation, the wording 'obtained by maceration and distillation' must appear on the description, presentation or labelling in characters of the same font, size and colour and in the same visual field as the wording 'Spirit (preceded by the name of the fruit)' and, in the case of bottles, on the front label.

17. Geist (with the name of the fruit or the raw material used)

- (a) Geist (with the name of the fruit or the raw material used) is a spirit drink obtained by maceration of unfermented fruits and berries listed in category 16(a)(ii) or vegetables, nuts, or other plant materials such as herbs or rose petals in ethyl alcohol of agricultural origin, followed by distillation at less than 86 % vol.

- (b) The minimum alcoholic strength by volume of *Geist* (with the name of the fruit or the raw material used) shall be 37,5 %.
- (c) *Geist* (with the name of the fruit or the raw material used) shall not be flavoured.

18. **Gentian**

- (a) Gentian is a spirit drink produced from a distillate of gentian, itself obtained by the fermentation of gentian roots with or without the addition of ethyl alcohol of agricultural origin.
- (b) The minimum alcoholic strength by volume of gentian shall be 37,5 %.
- (c) Gentian shall not be flavoured.

19. **Juniper-flavoured spirit drinks**

- (a) Juniper-flavoured spirit drinks are spirit drinks produced by flavouring ethyl alcohol of agricultural origin and/or grain spirit and/or grain distillate with juniper (*Juniperus communis* L. and/or *Juniperus oxicedrus* L.) berries.
- (b) The minimum alcoholic strength by volume of juniper-flavoured spirit drinks shall be 30 %.
- (c) Other natural and/or nature-identical flavouring substances as defined in Article 1(2)(b)(i) and (ii) of Directive 88/388/EEC and/or flavouring preparations defined in Article 1(2)(c) of that Directive, and/or aromatic plants or parts of aromatic plants may be used in addition, but the organoleptic characteristics of juniper must be discernible, even if they are sometimes attenuated.
- (d) Juniper-flavoured spirit drinks may bear the sales denominations *Wacholder* or *genebra*.

20. **Gin**

- (a) *Gin* is a juniper-flavoured spirit drink produced by flavouring organoleptically suitable ethyl alcohol of agricultural origin with juniper berries (*Juniperus communis* L.).
- (b) The minimum alcoholic strength by volume of *gin* shall be 37,5 %.
- (c) Only natural and/or nature-identical flavouring substances as defined in Article 1(2)(b)(i) and (ii) of Directive 88/388/EEC and/or flavouring preparations as defined in Article 1(2)(c) of that Directive shall be used for the production of *gin* so that the taste is predominantly that of juniper.

21. **Distilled gin**

- (a) Distilled *gin* is:
 - (i) a juniper-flavoured spirit drink produced exclusively by redistilling organoleptically suitable ethyl alcohol of agricultural origin of an appropriate quality with an initial alcoholic strength of at least 96 % vol. in stills traditionally used for *gin*, in the presence of juniper berries (*Juniperus communis* L.) and of other natural botanicals provided that the juniper taste is predominant, or
 - (ii) the mixture of the product of such distillation and ethyl alcohol of agricultural origin with the same composition, purity and alcoholic strength; natural and/or nature-identical flavouring substances and/or flavouring preparations as specified in category 20(c) may also be used to flavour distilled *gin*.
- (b) The minimum alcoholic strength by volume of distilled *gin* shall be 37,5 %.
- (c) *Gin* obtained simply by adding essences or flavourings to ethyl alcohol of agricultural origin is not distilled *gin*.

22. London gin

- (a) *London gin* is a type of distilled *gin*:
 - (i) obtained exclusively from ethyl alcohol of agricultural origin, with a maximum methanol content of 5 grams per hectolitre of 100 % vol. alcohol, whose flavour is introduced exclusively through the re-distillation in traditional stills of ethyl alcohol in the presence of all the natural plant materials used,
 - (ii) the resultant distillate of which contains at least 70 % alcohol by vol.,
 - (iii) where any further ethyl alcohol of agricultural origin is added it must be consistent with the characteristics listed in Annex I(1), but with a maximum methanol content of 5 grams per hectolitre of 100 % vol. alcohol,
 - (iv) which does not contain added sweetening exceeding 0,1 gram of sugars per litre of the final product nor colorants,
 - (v) which does not contain any other added ingredients other than water.
- (b) The minimum alcoholic strength by volume of *London gin* shall be 37,5 %.
- (c) The term *London gin* may be supplemented by the term 'dry'.

23. Caraway-flavoured spirit drinks

- (a) Caraway-flavoured spirit drinks are spirit drinks produced by flavouring ethyl alcohol of agricultural origin with caraway (*Carum carvi* L.).
- (b) The minimum alcoholic strength by volume of caraway-flavoured spirit drinks shall be 30 %.
- (c) Other natural and/or nature-identical flavouring substances as defined in Article 1(2)(b)(i) and (ii) of Directive 88/388/EEC and/or flavouring preparations as defined in Article 1(2)(c) of that Directive may additionally be used but there must be a predominant taste of caraway.

24. Akvavit or aquavit

- (a) *Akvavit* or *aquavit* is a caraway and/or dillseed-flavoured spirit drink flavoured with a distillate of plants or spices.
- (b) The minimum alcoholic strength by volume of *akvavit* or *aquavit* shall be 37,5 %.
- (c) Other natural and/or nature-identical flavouring substances as defined in Article 1(2)(b)(i) and (ii) of Directive 88/388/EEC and/or flavouring preparations as defined in Article 1(2)(c) of that Directive may additionally be used, but the flavour of these drinks is largely attributable to distillates of caraway (*Carum carvi* L.) and/or dill (*Anethum graveolens* L.) seeds, the use of essential oils being prohibited.
- (d) The bitter substances must not obviously dominate the taste; the dry extract content shall not exceed 1,5 grams per 100 millilitres.

25. Aniseed-flavoured spirit drinks

- (a) Aniseed-flavoured spirit drinks are spirit drinks produced by flavouring ethyl alcohol of agricultural origin with natural extracts of star anise (*Illicium verum* Hook f.), anise (*Pimpinella anisum* L.), fennel (*Foeniculum vulgare* Mill.), or any other plant which contains the same principal aromatic constituent, using one of the following processes or a combination thereof:
 - (i) maceration and/or distillation,
 - (ii) redistillation of the alcohol in the presence of the seeds or other parts of the plants specified above,
 - (iii) addition of natural distilled extracts of aniseed-flavoured plants.

- (b) The minimum alcoholic strength by volume of aniseed-flavoured spirit drinks shall be 15 %.
- (c) Only natural flavouring substances and preparations as defined in Article 1(2)(b)(i) and Article 1(2)(c) of Directive 88/388/EEC may be used in the preparation of aniseed-flavoured spirit drinks.
- (d) Other natural plant extracts or aromatic seed may also be used, but the aniseed taste must remain predominant.

26. **Pastis**

- (a) *Pastis* is an aniseed-flavoured spirit drink which also contains natural extracts of liquorice root (*Glycyrrhiza* spp.), which implies the presence of the colorants known as 'chalcones' as well as glycyrrhizic acid, the minimum and maximum levels of which must be 0,05 and 0,5 grams per litre respectively.
- (b) The minimum alcoholic strength by volume of *pastis* shall be 40 %.
- (c) Only natural flavouring substances and preparations as defined in Article 1(2)(b)(i) and Article 1(2)(c) of Directive 88/388/EEC may be used in the preparation of *pastis*.
- (d) *Pastis* contains less than 100 grams of sugars per litre, expressed as invert sugar, and has a minimum and maximum anethole level of 1,5 and 2 grams per litre respectively.

27. **Pastis de Marseille**

- (a) *Pastis de Marseille* is a *pastis* with an anethole content of 2 grams per litre.
- (b) The minimum alcoholic strength by volume of *pastis de Marseille* shall be 45 %.
- (c) Only natural flavouring substances and preparations as defined in Article 1(2)(b)(i) and Article 1(2)(c) of Directive 88/388/EEC may be used in the preparation of *pastis de Marseille*.

28. **Anis**

- (a) *Anis* is an aniseed-flavoured spirit drink whose characteristic flavour is derived exclusively from anise (*Pimpinella anisum* L.) and/or star anise (*Illicium verum* Hook f.) and/or fennel (*Foeniculum vulgare* Mill.).
- (b) The minimum alcoholic strength by volume of *anis* shall be 35 %.
- (c) Only natural flavouring substances and preparations as defined in Article 1(2)(b)(i) and Article 1(2)(c) of Directive 88/388/EEC may be used in the preparation of *anis*.

29. **Distilled anis**

- (a) Distilled *anis* is *anis* which contains alcohol distilled in the presence of the seeds referred to in category 28(a), and in the case of geographical indications mastic and other aromatic seeds, plants or fruits, provided such alcohol constitutes at least 20 % of the alcoholic strength of the distilled *anis*.
- (b) The minimum alcoholic strength by volume of distilled *anis* shall be 35 %.
- (c) Only natural flavouring substances and preparations as defined in Article 1(2)(b)(i) and Article 1(2)(c) of Directive 88/388/EEC may be used in the preparation of distilled *anis*.

30. Bitter-tasting spirit drinks or bitter

- (a) Bitter-tasting spirit drinks or *bitter* are spirit drinks with a predominantly bitter taste produced by flavouring ethyl alcohol of agricultural origin with natural and/or nature-identical flavouring substances as defined in Article 1(2)(b)(i) and (ii) of Directive 88/388/EEC and/or flavouring preparations as defined in Article 1(2)(c) of that Directive.
- (b) The minimum alcoholic strength by volume of bitter-tasting spirit drinks or *bitter* shall be 15 %.
- (c) Bitter tasting spirit drinks or *bitter* may also be sold under the names 'amer' or 'bitter' with or without another term.

31. Flavoured vodka

- (a) Flavoured vodka is vodka which has been given a predominant flavour other than that of the raw materials.
- (b) The minimum alcoholic strength by volume of flavoured vodka shall be 37,5 %.
- (c) Flavoured vodka may be sweetened, blended, flavoured, matured or coloured.
- (d) Flavoured vodka may also be sold under the name of any predominant flavour with the word 'vodka'.

32. Liqueur

- (a) Liqueur is a spirit drink:
 - (i) having a minimum sugar content, expressed as invert sugar, of:
 - 70 grams per litre for cherry liqueurs the ethyl alcohol of which consists exclusively of cherry spirit,
 - 80 grams per litre for gentian or similar liqueurs prepared with gentian or similar plants as the sole aromatic substance,
 - 100 grams per litre in all other cases;
 - (ii) produced by flavouring ethyl alcohol of agricultural origin or a distillate of agricultural origin or one or more spirit drinks or a mixture thereof, sweetened and with the addition of products of agricultural origin or foodstuffs such as cream, milk or other milk products, fruit, wine or aromatised wine as defined in Council Regulation (EEC) No 1601/91 of 10 June 1991 laying down general rules on the definition, description and presentation of aromatized wines, aromatized wine-based drinks and aromatized wine-product cocktails ⁽¹⁾.
- (b) The minimum alcoholic strength by volume of liqueur shall be 15 %.
- (c) Only natural flavouring substances and preparations as defined in Article 1(2)(b)(i) and Article 1(2)(c) of Directive 88/388/EEC and nature-identical flavouring substances and preparations as defined in Article 1(2)(b)(ii) of that Directive may be used in the preparation of liqueur.

However, nature-identical flavouring substances and preparations as defined in Article 1(2)(b)(ii) of that Directive shall not be used in the preparation of the following liqueurs:

- (i) Fruit liqueurs:
 - blackcurrant,
 - cherry,
 - raspberry,

⁽¹⁾ OJ L 149, 14.6.1991, p. 1. Regulation as last amended by the 2005 Act of Accession.

- mulberry,
 - bilberry,
 - citrus fruit,
 - cloudberry,
 - arctic bramble,
 - cranberry,
 - lingonberry,
 - sea buckthorn,
 - pineapple;
- (ii) plant liqueurs:
- mint,
 - gentian,
 - aniseed,
 - g n pi,
 - vulnerable.
- (d) The following compound terms may be used in the presentation of liqueurs produced in the Community where ethyl alcohol of agricultural origin is used to mirror established production methods:
- *prune brandy*,
 - *orange brandy*,
 - *apricot brandy*,
 - *cherry brandy*,
 - *solbaerrom*, also called blackcurrant rum.

As regards the labelling and presentation of those liqueurs, the compound term must appear on the labelling in one line in uniform characters of the same font and colour and the word 'liqueur' must appear in immediate proximity in characters no smaller than that font. If the alcohol does not come from the spirit drink indicated, its origin must be shown on the labelling in the same visual field as the compound term and the word 'liqueur' either by stating the type of agricultural alcohol or by the words 'agricultural alcohol' preceded on each occasion by 'made from' or 'made using'.

33. Cr me de (followed by the name of a fruit or the raw material used)

- (a) Spirit drinks known as Cr me de (followed by the name of a fruit or the raw material used), excluding milk products, are liqueurs with a minimum sugar content of 250 grams per litre expressed as invert sugar.
- (b) The minimum alcoholic strength by volume of Cr me de (followed by the name of a fruit or the raw material used) shall be 15 %.
- (c) The rules on flavouring substances and preparations for liqueurs laid down under category 32 shall apply to this spirit drink.

- (d) The sales denomination may be supplemented by the term 'liqueur'.

34. **Crème de cassis**

- (a) *Crème de cassis* is a blackcurrant liqueur with a minimum sugar content of 400 grams per litre expressed as invert sugar.
- (b) The minimum alcoholic strength by volume of *crème de cassis* shall be 15 %.
- (c) The rules on flavouring substances and preparations for liqueurs laid down under category 32 shall apply to *crème de cassis*.
- (d) The sales denomination may be supplemented by the term 'liqueur'.

35. **Guignolet**

- (a) *Guignolet* is a liqueur obtained by maceration of cherries in ethyl alcohol of agricultural origin.
- (b) The minimum alcoholic strength by volume of *guignolet* shall be 15 %.
- (c) The rules on flavouring substances and preparations for liqueurs laid down under category 32 shall apply to *guignolet*.
- (d) The sales denomination may be supplemented by the term 'liqueur'.

36. **Punch au rhum**

- (a) *Punch au rhum* is a liqueur for which the alcohol content is provided exclusively by rum.
- (b) The minimum alcoholic strength by volume of *punch au rhum* shall be 15 %.
- (c) The rules on flavouring substances and preparations for liqueurs laid down under category 32 shall apply to *punch au rhum*.
- (d) The sales denomination may be supplemented by the term 'liqueur'.

37. **Sloe gin**

- (a) *Sloe gin* is a liqueur produced by maceration of sloes in *gin* with the possible addition of sloe juice.
- (b) The minimum alcoholic strength by volume of *sloe gin* shall be 25 %.
- (c) Only natural flavouring substances and preparations as defined in Article 1(2)(b)(i) and Article 1(2)(c) of Directive 88/388/EEC may be used in the preparation of *sloe gin*.
- (d) The sales denomination may be supplemented by the term 'liqueur'.

38. **Sambuca**

- (a) *Sambuca* is a colourless aniseed-flavoured liqueur:
- (i) containing distillates of anise (*Pimpinella anisum* L.), star anise (*Illicium verum* L.) or other aromatic herbs,
 - (ii) with a minimum sugar content of 350 grams per litre expressed as invert sugar,
 - (iii) with a natural anethole content of not less than 1 gram and not more than 2 grams per litre.
- (b) The minimum alcoholic strength by volume of *sambuca* shall be 38 %.

- (c) The rules on flavouring substances and preparations for liqueurs laid down under category 32 apply to *sambuca*.
- (d) The sales denomination may be supplemented by the term 'liqueur'.

39. **Maraschino, Marrasquino or Maraskino**

- (a) *Maraschino, marrasquino* or *maraskino* is a colourless liqueur the flavour of which is given mainly by a distillate of marasca cherries or of the product obtained by macerating cherries or parts of cherries in alcohol of agricultural origin with a minimum sugar content of 250 grams per litre expressed as invert sugar.
- (b) The minimum alcoholic strength by volume of *maraschino, marrasquino* or *maraskino* shall be 24 %.
- (c) The rules on flavouring substances and preparations for liqueurs laid down under category 32 shall apply to *maraschino, marrasquino* or *maraskino*.
- (d) The sales denomination may be supplemented by the term 'liqueur'.

40. **Nocino**

- (a) *Nocino* is a liqueur the flavour of which is given mainly by maceration and/or distillation of whole green walnuts (*Juglans regia* L.) with a minimum sugar content of 100 grams per litre expressed as invert sugar.
- (b) The minimum alcoholic strength by volume of *nocino* shall be 30 %.
- (c) The rules on flavouring substances and preparations for liqueurs laid down under category 32 shall apply to *nocino*.
- (d) The sales denomination may be supplemented by the term 'liqueur'.

41. **Egg liqueur or advocaat or avocat or advokat**

- (a) Egg liqueur or *advocaat* or *avocat* or *advokat* is a spirit drink, whether or not flavoured, obtained from ethyl alcohol of agricultural origin, distillate and/or spirit, the ingredients of which are quality egg yolk, egg white and sugar or honey. The minimum sugar or honey content must be 150 grams per litre expressed as invert sugar. The minimum content of pure egg yolk must be 140 grams per litre of the final product.
- (b) By way of derogation from Article 2(1)(c), the minimum alcoholic strength by volume of egg liqueur or *advocaat* or *avocat* or *advokat* shall be 14 %.
- (c) Only natural or nature-identical flavouring substances and preparations as defined in Article 1(2)(b)(i) and (ii) and in Article 1(2)(c) of Directive 88/388/EEC may be used in the preparation of egg liqueur or *advocaat* or *avocat* or *advokat*.

42. **Liqueur with egg**

- (a) Liqueur with egg is a spirit drink, whether or not flavoured, obtained from ethyl alcohol of agricultural origin, distillate and/or spirit, the characteristic ingredients of which are quality egg yolk, egg white and sugar or honey. The minimum sugar or honey content must be 150 grams per litre expressed as invert sugar. The minimum egg yolk content must be 70 grams per litre of the final product.
- (b) The minimum alcoholic strength by volume of liqueur with egg shall be 15 %.
- (c) Only natural flavouring substances and preparations as defined in Article 1(2)(b)(i) and Article 1(2)(c) of Directive 88/388/EEC may be used in the preparation of liqueur with egg.

43. Mistrà

- (a) *Mistrà* is a colourless spirit drink flavoured with aniseed or natural anethole:
 - (i) with an anethole content of not less than 1 gram and not more than 2 grams per litre,
 - (ii) that may also contain a distillate of aromatic herbs,
 - (iii) containing no added sugar.
- (b) The minimum alcoholic strength by volume of *mistrà* shall be 40 % and the maximum alcoholic strength by volume shall be 47 %.
- (c) Only natural flavouring substances and preparations as defined in Article 1(2)(b)(i) and Article 1(2)(c) of Directive 88/388/EEC may be used in the preparation of *mistrà*.

44. Väkevã glögi or spritglögg

- (a) *Väkevã glögi* or *spritglögg* is a spirit drink produced by flavouring ethyl alcohol of agricultural origin with natural or nature identical aroma of cloves and/or cinnamon using one of the following processes: maceration and/or distillation, redistillation of the alcohol in the presence of parts of the plants specified above, addition of natural or nature identical flavour of cloves or cinnamon or a combination of these methods.
- (b) The minimum alcoholic strength by volume of *väkevã glögi* or *spritglögg* shall be 15 %.
- (c) Other natural or nature identical plant extracts or flavours in conformity with Directive 88/388/EEC may also be used, but the flavour of the specified spices must be predominant.
- (d) The content of wine or wine products shall not exceed 50 % of the final product.

45. Berenburg or Beerenburg

- (a) *Berenburg* or *Beerenburg* is a spirit drink:
 - (i) produced using ethyl alcohol of agricultural origin,
 - (ii) with the maceration of fruit or plants or parts thereof,
 - (iii) containing as specific flavour distillate of gentian root (*Gentiana lutea* L.), of juniper berries (*Juniperus communis* L.) and of laurel leaves (*Laurus nobilis* L.),
 - (iv) varying in colour from light to dark brown,
 - (v) which may be sweetened to a maximum of 20 grams per litre expressed as invert sugar.
- (b) The minimum alcoholic strength by volume of *Berenburg* or *Beerenburg* shall be 30 %.
- (c) Only natural flavouring substances and preparations as defined in Article 1(2)(b)(i) and Article 1(2)(c) of Directive 88/388/EEC may be used in the preparation of *Berenburg* or *Beerenburg*.

46. Honey or mead nectar

- (a) Honey or mead nectar is a spirit drink produced by flavouring the mixture of fermented honey mash and honey distillate and/or ethyl alcohol of agricultural origin, which contains at least 30 % vol. of fermented honey mash.
- (b) The minimum alcoholic strength by volume of honey or mead nectar shall be 22 %.

- (c) Only natural flavouring substances and preparations as defined in Article 1(2)(b)(i) and Article 1(2)(c) of Directive 88/388/EEC may be used in the preparation of honey or mead nectar provided that the honey taste is predominant.
- (d) Honey or mead nectar may be sweetened only with honey.

Other spirit drinks

1. *Rum-Verschnitt* is produced in Germany and obtained by mixing rum and alcohol, whereby a minimum proportion of 5 % of the alcohol contained in the final product must come from rum. The minimum alcoholic strength by volume of *Rum-Verschnitt* shall be 37,5 %. As regards the labelling and presentation of the product *Rum-Verschnitt* the word *Verschnitt* must appear on the description, presentation and labelling in characters of the same font, size and colour as, and on the same line as, the word '*Rum*' and, in the case of bottles, on the front label. Where this product is sold outside the German market, its alcoholic composition must appear on the label.
 2. *Slivovice* is produced in the Czech Republic and obtained by the addition to the plum distillate, before the final distillation, of a maximum proportion of 30 % by volume of ethyl alcohol of agricultural origin. This product must be described as 'spirit drink' and may also use the name *slivovice* in the same visual field on the front label. If this Czech *slivovice* is placed on the market in the Community, its alcoholic composition must appear on the label. This provision is without prejudice to the use of the name *slivovice* for fruit spirits according to category 9.
-

ANNEX III

GEOGRAPHICAL INDICATIONS

Product category	Geographical indication	Country of origin (the precise geographical origin is described in the technical file)
1. Rum		
	<i>Rhum de la Martinique</i>	France
	<i>Rhum de la Guadeloupe</i>	France
	<i>Rhum de la Réunion</i>	France
	<i>Rhum de la Guyane</i>	France
	<i>Rhum de sucrerie de la Baie du Galion</i>	France
	<i>Rhum des Antilles françaises</i>	France
	<i>Rhum des départements français d'outre-mer</i>	France
	<i>Ron de Málaga</i>	Spain
	<i>Ron de Granada</i>	Spain
	<i>Rum da Madeira</i>	Portugal
2. Whisky/Whiskey		
	<i>Scotch Whisky</i>	United Kingdom (Scotland)
	<i>Irish Whiskey/Uisce Beatha Eireannach/Irish Whisky</i> ⁽¹⁾	Ireland
	<i>Whisky español</i>	Spain
	<i>Whisky breton/Whisky de Bretagne</i>	France
	<i>Whisky alsacien/Whisky d'Alsace</i>	France
3. Grain spirit		
	<i>Eau-de-vie de seigle de marque nationale luxembourgeoise</i>	Luxembourg
	<i>Korn/Kornbrand</i>	Germany, Austria, Belgium (German-speaking Community)
	<i>Münsterländer Korn/Kornbrand</i>	Germany
	<i>Sendenhorster Korn/Kornbrand</i>	Germany
	<i>Bergischer Korn/Kornbrand</i>	Germany
	<i>Emsländer Korn/Kornbrand</i>	Germany
	<i>Haselünner Korn/Kornbrand</i>	Germany
	<i>Hasetaler Korn/Kornbrand</i>	Germany
	<i>Samanė</i>	Lithuania
4. Wine spirit		
	<i>Eau-de-vie de Cognac</i>	France
	<i>Eau-de-vie des Charentes</i>	France
	<i>Eau-de-vie de Jura</i>	France
	<i>Cognac</i>	France
	(The denomination 'Cognac' may be supplemented by the following terms:	
	— <i>Fine</i>	France
	— <i>Grande Fine Champagne</i>	France
	— <i>Grande Champagne</i>	France
	— <i>Petite Fine Champagne</i>	France
	— <i>Petite Champagne</i>	France
	— <i>Fine Champagne</i>	France

Product category	Geographical indication	Country of origin (the precise geographical origin is described in the technical file)
	— <i>Borderies</i>	France
	— <i>Fins Bois</i>	France
	— <i>Bons Bois</i>)	France
	<i>Fine Bordeaux</i>	France
	<i>Fine de Bourgogne</i>	France
	<i>Armagnac</i>	France
	<i>Bas-Armagnac</i>	France
	<i>Haut-Armagnac</i>	France
	<i>Armagnac-Ténarèze</i>	France
	<i>Blanche Armagnac</i>	France
	<i>Eau-de-vie de vin de la Marne</i>	France
	<i>Eau-de-vie de vin originaire d'Aquitaine</i>	France
	<i>Eau-de-vie de vin de Bourgogne</i>	France
	<i>Eau-de-vie de vin originaire du Centre-Est</i>	France
	<i>Eau-de-vie de vin originaire de Franche-Comté</i>	France
	<i>Eau-de-vie de vin originaire du Bugey</i>	France
	<i>Eau-de-vie de vin de Savoie</i>	France
	<i>Eau-de-vie de vin originaire des Coteaux de la Loire</i>	France
	<i>Eau-de-vie de vin des Côtes-du-Rhône</i>	France
	<i>Eau-de-vie de vin originaire de Provence</i>	France
	<i>Eau-de-vie de Faugères/Faugères</i>	France
	<i>Eau-de-vie de vin originaire du Languedoc</i>	France
	<i>Aguardente de Vinho Douro</i>	Portugal
	<i>Aguardente de Vinho Ribatejo</i>	Portugal
	<i>Aguardente de Vinho Alentejo</i>	Portugal
	<i>Aguardente de Vinho da Região dos Vinhos Verdes</i>	Portugal
	<i>Aguardente de Vinho da Região dos Vinhos Verdes de Alvarinho</i>	Portugal
	<i>Aguardente de Vinho Lourinhã</i>	Portugal
	<i>Сунгурларска гроздова ракия/Гроздова ракия от Сунгурларе/Sungurlarska grozdova rakya/Grozdova rakya from Sungurlare</i>	Bulgaria
	<i>Сливенска перла (Сливенска гроздова ракия/Гроздова ракия от Сливен)/Slivenska perla (Slivenska grozdova rakya/Grozdova rakya from Sliven)</i>	Bulgaria
	<i>Стралджанска Мускатова ракия/Мускатова ракия от Стралджа/Straldjanska Muscatova rakya/Muscatova rakya from Straldja</i>	Bulgaria
	<i>Полорийска гроздова ракия/Гроздова ракия от Полорие/Pomorijska grozdova rakya/Grozdova rakya from Pomorie</i>	Bulgaria
	<i>Русенска бисерна гроздова ракия/Бисерна гроздова ракия от Русе/Russenska biserna grozdova rakya/Biserma grozdova rakya from Russe</i>	Bulgaria
	<i>Бургаска Мускатова ракия/Мускатова ракия от Бургас/Bourgaska Muscatova rakya/Muscatova rakya from Bourgas</i>	Bulgaria
	<i>Добруджанска мускатова ракия/Мускатова ракия от Добруджа/Dobrudjanska muscatova rakya/muscatova rakya from Dobrudja</i>	Bulgaria
	<i>Сухиндолска гроздова ракия/Гроздова ракия от Сухиндол/Suhindolska grozdova rakya/Grozdova rakya from Suhindol</i>	Bulgaria
	<i>Карловска гроздова ракия/Гроздова Ракия от Карлово/Karlovska grozdova rakya/Grozdova Rakya from Karlovo</i>	Bulgaria
	<i>Vinars Târnave</i>	Romania
	<i>Vinars Vaslui</i>	Romania
	<i>Vinars Murfatlar</i>	Romania
	<i>Vinars Vrancea</i>	Romania
	<i>Vinars Segarcea</i>	Romania

Product category	Geographical indication	Country of origin (the precise geographical origin is described in the technical file)
	<i>Τσίπουρο Μακεδονίας/Tsipouro of Macedonia</i>	Greece
	<i>Τσίπουρο Θεσσαλίας/Tsipouro of Thessaly</i>	Greece
	<i>Τσίπουρο Τυρνάβου/Tsipouro of Tyrnavos</i>	Greece
	<i>Eau-de-vie de marc de marque nationale luxembourgeoise</i>	Luxembourg
	<i>Ζιβανία/Τζιβανία/Ζιβάνα/Zivania</i>	Cyprus
	<i>Törkölypálinka</i>	Hungary
9. Fruit spirit		
	<i>Schwarzwälder Kirschwasser</i>	Germany
	<i>Schwarzwälder Mirabellenwasser</i>	Germany
	<i>Schwarzwälder Williamsbirne</i>	Germany
	<i>Schwarzwälder Zwetschgenwasser</i>	Germany
	<i>Fränkisches Zwetschgenwasser</i>	Germany
	<i>Fränkisches Kirschwasser</i>	Germany
	<i>Fränkischer Obstler</i>	Germany
	<i>Mirabelle de Lorraine</i>	France
	<i>Kirsch d'Alsace</i>	France
	<i>Quetsch d'Alsace</i>	France
	<i>Framboise d'Alsace</i>	France
	<i>Mirabelle d'Alsace</i>	France
	<i>Kirsch de Fougerolles</i>	France
	<i>Williams d'Orléans</i>	France
	<i>Südtiroler Williams/Williams dell'Alto Adige</i>	Italy
	<i>Südtiroler Aprikot/Aprikot dell'Alto Adige</i>	Italy
	<i>Südtiroler Marille/Marille dell'Alto Adige</i>	Italy
	<i>Südtiroler Kirsch/Kirsch dell'Alto Adige</i>	Italy
	<i>Südtiroler Zwetschgeler/Zwetschgeler dell'Alto Adige</i>	Italy
	<i>Südtiroler Obstler/Obstler dell'Alto Adige</i>	Italy
	<i>Südtiroler Gravensteiner/Gravensteiner dell'Alto Adige</i>	Italy
	<i>Südtiroler Golden Delicious/Golden Delicious dell'Alto Adige</i>	Italy
	<i>Williams friulano/Williams del Friuli</i>	Italy
	<i>Sliwovitz del Veneto</i>	Italy
	<i>Sliwovitz del Friuli-Venezia Giulia</i>	Italy
	<i>Sliwovitz del Trentino-Alto Adige</i>	Italy
	<i>Distillato di mele trentino/Distillato di mele del Trentino</i>	Italy
	<i>Williams trentino/Williams del Trentino</i>	Italy
	<i>Sliwovitz trentino/Sliwovitz del Trentino</i>	Italy
	<i>Aprikot trentino/Aprikot del Trentino</i>	Italy
	<i>Medronho do Algarve</i>	Portugal
	<i>Medronho do Buçaco</i>	Portugal
	<i>Kirsch Friulano/Kirschwasser Friulano</i>	Italy
	<i>Kirsch Trentino/Kirschwasser Trentino</i>	Italy
	<i>Kirsch Veneto/Kirschwasser Veneto</i>	Italy
	<i>Aguardente de pêra da Lousã</i>	Portugal
	<i>Eau-de-vie de pommes de marque nationale luxembourgeoise</i>	Luxembourg
	<i>Eau-de-vie de poires de marque nationale luxembourgeoise</i>	Luxembourg
	<i>Eau-de-vie de kirsch de marque nationale luxembourgeoise</i>	Luxembourg
	<i>Eau-de-vie de quetsch de marque nationale luxembourgeoise</i>	Luxembourg
	<i>Eau-de-vie de mirabelle de marque nationale luxembourgeoise</i>	Luxembourg
	<i>Eau-de-vie de prunelles de marque nationale luxembourgeoise</i>	Luxembourg

Product category	Geographical indication	Country of origin (the precise geographical origin is described in the technical file)
	<i>Wachauer Marillenbrand</i>	Austria
	<i>Szatmári Szilvapálinka</i>	Hungary
	<i>Kecskeméti Barackpálinka</i>	Hungary
	<i>Békési Szilvapálinka</i>	Hungary
	<i>Szabolcsi Almapálinka</i>	Hungary
	<i>Gönci Barackpálinka</i>	Hungary
	<i>Pálinka</i>	Hungary, Austria (for apricot spirits solely produced in the Länder of: Niederösterreich, Burgenland, Steiermark, Wien)
	<i>Bošácka slivovica</i>	Slovakia
	<i>Brinjevec</i>	Slovenia
	<i>Dolenjski sadjevec</i>	Slovenia
	<i>Троянска сливова ракия/Сливово ракия от Троян/Troyanska slivova rakya/Slivova rakya from Troyan</i>	Bulgaria
	<i>Силистренска кайсиева ракия/Кайсиева ракия от Силистра/Silistrenska kaysieva rakya/Kaysieva rakya from Silistra</i>	Bulgaria
	<i>Тервелска кайсиева ракия/Кайсиева ракия от Тервел/Tervelska kaysieva rakya/Kaysieva rakya from Tervel</i>	Bulgaria
	<i>Ловешка сливова ракия/Сливово ракия от Ловеч/Loveshka slivova rakya/Slivova rakya from Lovech</i>	Bulgaria
	<i>Pălincă</i>	Romania
	<i>Țuică Zetea de Medieșu Aurit</i>	Romania
	<i>Țuică de Valea Milcovului</i>	Romania
	<i>Țuică de Buzău</i>	Romania
	<i>Țuică de Argeș</i>	Romania
	<i>Țuică de Zalău</i>	Romania
	<i>Țuică Ardeleanească de Bistrița</i>	Romania
	<i>Horincă de Maramureș</i>	Romania
	<i>Horincă de Cărmărzana</i>	Romania
	<i>Horincă de Seini</i>	Romania
	<i>Horincă de Chioar</i>	Romania
	<i>Horincă de Lăpuș</i>	Romania
	<i>Turț de Oaș</i>	Romania
	<i>Turț de Maramureș</i>	Romania
10. Cider spirit and perry spirit		
	<i>Calvados</i>	France
	<i>Calvados Pays d'Auge</i>	France
	<i>Calvados Domfrontais</i>	France
	<i>Eau-de-vie de cidre de Bretagne</i>	France
	<i>Eau-de-vie de poiré de Bretagne</i>	France
	<i>Eau-de-vie de cidre de Normandie</i>	France
	<i>Eau-de-vie de poiré de Normandie</i>	France
	<i>Eau-de-vie de cidre du Maine</i>	France
	<i>Aguardiente de sidra de Asturias</i>	Spain
	<i>Eau-de-vie de poiré du Maine</i>	France

Product category	Geographical indication	Country of origin (the precise geographical origin is described in the technical file)
15. Vodka		
	<i>Svensk Vodka/Swedish Vodka</i>	Sweden
	<i>Suomalainen Vodka/Finsk Vodka/Vodka of Finland</i>	Finland
	<i>Polska Wódka/Polish Vodka</i>	Poland
	<i>Laugaricio vodka</i>	Slovakia
	<i>Originali lietuviška degtinė/Original Lithuanian vodka</i>	Lithuania
	Herbal vodka from the North Podlasie Lowland aromatised with an extract of bison grass/ <i>Wódka ziołowa z Niziny Północnopodlaskiej aromatyzowana ekstraktem z trawy żubrowej</i>	Poland
	<i>Latvijas Dzidrais</i>	Latvia
	<i>Rīgas Degvīns</i>	Latvia
	<i>Estonian vodka</i>	Estonia
17. Geist		
	<i>Schwarzwälder Himbeergeist</i>	Germany
18. Gentian		
	<i>Bayerischer Gebirgsenzian</i>	Germany
	<i>Südtiroler Enzian/Genziana dell'Alto Adige</i>	Italy
	<i>Genziana trentina/Genziana del Trentino</i>	Italy
19. Juniper-flavoured spirit drinks		
	<i>Genièvre/Jenever/Genever</i>	Belgium, The Netherlands, France (Départements Nord (59) and Pas-de-Calais (62)), Germany (German Bundesländer Nordrhein-Westfalen and Niedersachsen)
	<i>Genièvre de grains, Graanjenever, Graangenever</i>	Belgium, The Netherlands, France (Départements Nord (59) and Pas-de-Calais (62))
	<i>Jonge jenever, jonge genever</i>	Belgium, The Netherlands
	<i>Oude jenever, oude genever</i>	Belgium, The Netherlands
	<i>Hasseltse jenever/Hasselt</i>	Belgium (Hasselt, Zonhoven, Diepenbeek)
	<i>Balegemse jenever</i>	Belgium (Balegem)
	<i>O' de Flander-Oost-Vlaamse Graanjenever</i>	Belgium (Oost-Vlaanderen)
	<i>Peket-Pekêt/Pèket-Pèkèt de Wallonie</i>	Belgium (Région wallonne)
	<i>Genièvre Flandres Artois</i>	France (Départements Nord (59) and Pas-de-Calais (62))
	<i>Ostfriesischer Korngenever</i>	Germany
	<i>Steinhäger</i>	Germany
	<i>Plymouth Gin</i>	United Kingdom
	<i>Gin de Mahón</i>	Spain
	<i>Vilniaus Džinas/Vilnius Gin</i>	Lithuania
	<i>Spišská borovička</i>	Slovakia
	<i>Slovenská borovička Juniperus</i>	Slovakia
	<i>Slovenská borovička</i>	Slovakia
	<i>Inovecká borovička</i>	Slovakia
	<i>Liptovská borovička</i>	Slovakia

Product category	Geographical indication	Country of origin (the precise geographical origin is described in the technical file)
24. Akvavit/aquavit		
	<i>Dansk Akvavit/Dansk Aquavit</i>	Denmark
	<i>Svensk Aquavit/Svensk Akvavit/Swedish Aquavit</i>	Sweden
25. Aniseed-flavoured spirit drinks		
	<i>Anís español</i>	Spain
	<i>Anís Paloma Monforte del Cid</i>	Spain
	<i>Hierbas de Mallorca</i>	Spain
	<i>Hierbas Ibicencas</i>	Spain
	<i>Évora anisada</i>	Portugal
	<i>Cazalla</i>	Spain
	<i>Chinchón</i>	Spain
	<i>Ojén</i>	Spain
	<i>Rute</i>	Spain
	<i>Janeževc</i>	Slovenia
29. Distilled Anís		
	<i>Ouzo/Oύζο</i>	Cyprus, Greece
	<i>Oύζο Μυτιλήνης/Ouzo of Mitilene</i>	Greece
	<i>Oύζο Πλωμαρίου/Ouzo of Plomari</i>	Greece
	<i>Oύζο Καλαμάτας/Ouzo of Kalamata</i>	Greece
	<i>Oύζο Θράκης/Ouzo of Thrace</i>	Greece
	<i>Oύζο Μακεδονίας/Ouzo of Macedonia</i>	Greece
30. Bitter-tasting spirit drinks/bitter		
	<i>Demänovka bylinná horká</i>	Slovakia
	<i>Rheinberger Kräuter</i>	Germany
	<i>Trejos devyneries</i>	Lithuania
	<i>Slovenska travarica</i>	Slovenia
32. Liqueur		
	<i>Berliner Kümmel</i>	Germany
	<i>Hamburger Kümmel</i>	Germany
	<i>Münchener Kümmel</i>	Germany
	<i>Chiemseer Klosterlikör</i>	Germany
	<i>Bayerischer Kräuterlikör</i>	Germany
	<i>Irish Cream</i>	Ireland
	<i>Palo de Mallorca</i>	Spain
	<i>Ginjinha portuguesa</i>	Portugal
	<i>Licor de Singeverga</i>	Portugal
	<i>Mirto di Sardegna</i>	Italy
	<i>Liquore di limone di Sorrento</i>	Italy
	<i>Liquore di limone della Costa d'Amalfi</i>	Italy
	<i>Genepi del Piemonte</i>	Italy
	<i>Genepi della Valle d'Aosta</i>	Italy
	<i>Benediktbeurer Klosterlikör</i>	Germany
	<i>Ettaler Klosterlikör</i>	Germany

Product category	Geographical indication	Country of origin (the precise geographical origin is described in the technical file)
	<i>Ratafia de Champagne</i>	France
	<i>Ratafia catalana</i>	Spain
	<i>Anis português</i>	Portugal
	<i>Suomalainen Marjalikööri/Suomalainen Hedelmälikööri Finsk Bärlikör/Finsk Fruktlikör/ Finnish berry liqueur/Finnish fruit liqueur</i>	Finland
	<i>Grossglockner Alpenbitter</i>	Austria
	<i>Mariazeller Magenlikör</i>	Austria
	<i>Mariazeller Jagasaftl</i>	Austria
	<i>Puchheimer Bitter</i>	Austria
	<i>Steinfelder Magenbitter</i>	Austria
	<i>Wachauer Marillenlikör</i>	Austria
	<i>Jägertee/Jagertee/Jagatee</i>	Austria
	<i>Hüttentee</i>	Germany
	<i>Allažu Ķīmelis</i>	Latvia
	<i>Čepkelių</i>	Lithuania
	<i>Demänovka Bylinný Likér</i>	Slovakia
	<i>Polish Cherry</i>	Poland
	<i>Karlovarská Hořká</i>	Czech Republic
	<i>Pelinkovec</i>	Slovenia
	<i>Blutwurz</i>	Germany
	<i>Cantueso Alicantino</i>	Spain
	<i>Licor café de Galicia</i>	Spain
	<i>Licor de hierbas de Galicia</i>	Spain
	<i>Génépi des Alpes/Genepi degli Alpi</i>	France, Italy
	<i>Μαστίχα Χίου/Masticha of Chios</i>	Greece
	<i>Κίτρο Νάξου/Kitro of Naxos</i>	Greece
	<i>Κουμκουάτ Κέρκυρας/Koum Kouat of Corfu</i>	Greece
	<i>Τεντούρα/Tentoura</i>	Greece
	<i>Poncha da Madeira</i>	Portugal
34. Crème de cassis		
	<i>Cassis de Bourgogne</i>	France
	<i>Cassis de Dijon</i>	France
	<i>Cassis de Saintonge</i>	France
	<i>Cassis du Dauphiné</i>	France
	<i>Cassis de Beaufort</i>	Luxembourg
40. Nocino		
	<i>Nocino di Modena</i>	Italy
	<i>Orehovec</i>	Slovenia
Other spirit drinks		
	<i>Pommeau de Bretagne</i>	France
	<i>Pommeau du Maine</i>	France
	<i>Pommeau de Normandie</i>	France
	<i>Svensk Punsch/Swedish Punch</i>	Sweden
	<i>Pacharán navarro</i>	Spain
	<i>Pacharán</i>	Spain
	<i>Inländerrum</i>	Austria
	<i>Bärwurz</i>	Germany

Product category	Geographical indication	Country of origin (the precise geographical origin is described in the technical file)
	<i>Aguardiente de hierbas de Galicia</i>	Spain
	<i>Aperitivo Café de Alcoy</i>	Spain
	<i>Herbero de la Sierra de Mariola</i>	Spain
	<i>Königsberger Bärenfang</i>	Germany
	<i>Ostpreußischer Bärenfang</i>	Germany
	<i>Ronmiel</i>	Spain
	<i>Ronmiel de Canarias</i>	Spain
	<i>Genièvre aux fruits/Vruchtenjenever/Jenever met vruchten/Frucht-genever</i>	Belgium, The Netherlands, France (Départements Nord (59) and Pas-de-Calais (62)), Germany (German Bundesländer Nordrhein-Westfalen and Niedersachsen)
	<i>Domači rum</i>	Slovenia
	<i>Irish Poteen/Irish Poitín</i>	Ireland
	<i>Trauktinė</i>	Lithuania
	<i>Trauktinė Palanga</i>	Lithuania
	<i>Trauktinė Dainava</i>	Lithuania

⁽¹⁾ The geographical indication *Irish Whiskey/Usce Beatha Eireannach/Irish Whisky* covers *whisky/whiskey* produced in Ireland and Northern Ireland.

LABELLING REQUIREMENTS – Basic Checklist

1. Gather together all labelling and packaging for the brand. This should include any carton, and the closure if it bears any text. In this example there is no text on the closure and only a neck label, front label and back label to consider.

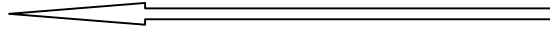


2. Determine the correct category name for the brand. In this case it is “Blended Malt Scotch Whisky”.
3. Make a list of all other “descriptions of the whisky” appearing anywhere on the container or packaging. These are words which identify a characteristic or quality of the whisky. Working from top to bottom, the descriptions of the whisky appearing in this example, apart from the category name, are:

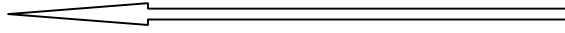
The diagram shows the main label with arrows pointing to the following descriptive terms:

- (a) De Luxe: points to the 'DE LUXE' text on the green banner.
- (b) Rare: points to 'REYNIER'S RARE'.
- (c) Aged 12 years: points to the '12 YEARS' seal.
- (d) Choice Scotch Whiskies: points to 'CHOICE SCOTCH WHISKIES'.
- (e) Blended and Bottled in Scotland: points to 'BLENDED AND BOTTLED IN SCOTLAND'.
- (f) Product of Scotland: points to 'PRODUCT OF SCOTLAND'.
- (g) Twelve Years Old: points to 'TWELVE YEARS OLD'.

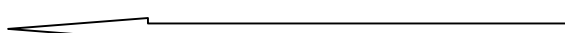
(h) Rare



(i) Aged 12 years



(j) Scotch Whisky



Note: The Royal warrant, the brand name (in this case Reynier's), the words "Edinburgh" and "Green Banner", the mandatory indications of volume and strength, the company name and address and the date the company was established, are not "descriptions of the whisky".

4. From the above list, ignore any descriptions which are specifically exempted [Regulation 8(3)(c)]. These are:
 - (a) Any separate use of the description "Scotch Whisky". In this case the words "Scotch Whisky" appear separately on the back label.
 - (b) Any age statement - in this case, "Aged 12 Years" and "Twelve Years Old". Distillation and bottling dates would also qualify.
 - (c) Any descriptive word or words forming part of the brand name. In this case, the word "Rare". Whether such words, which are in normal course descriptive, form part of the brand name is a question which will be judged in the circumstances of each case. If in doubt it is suggested that you contact the SWA legal department.
5. The descriptions you are left with are:
 - (a) De Luxe
 - (b) Choice Scotch Whiskies
 - (c) Blended and Bottled in Scotland
 - (d) Product of Scotland
6. Check that the category name ("Blended Malt Scotch Whisky") is as prominent as the descriptions in paragraph 5, irrespective of where they appear on the container and packaging.
7. In addition, check that the category name ("Blended Malt Scotch Whisky") is
 - (a) Printed on the front of the container and on the front of any individual carton.
 - (b) Printed in a conspicuous place in such a way as to be easily visible, legible to the naked eye, and indelible.
 - (c) Printed so that it appears clearly as the sales description of the whisky.
 - (d) Printed in a way that gives equal prominence to each word making up the name of the category
 - (e) Not overlaid or interrupted by other written or pictorial matter.
 - (f) Not used in conjunction with any other words except for a Locality or Regional name in accordance with Regulation 8(5).
8. Examples of acceptable and unacceptable practice in relation to points 7(d), (e) and (f) are shown below:

SINGLE MALT SCOTCH WHISKY



BUT NOT

SINGLE MALT SCOTCH WHISKY



SINGLE MALT SCOTCH WHISKY



BUT NOT

SINGLE MALT  SCOTCH WHISKY



SINGLE MALT SCOTCH WHISKY



BUT NOT

FINEST SINGLE MALT SCOTCH WHISKY



ORKNEY SINGLE MALT SCOTCH WHISKY



BUT NOT

SINGLE ORKNEY MALT SCOTCH WHISKY



LABELLING REQUIREMENTS – Age Statement Checklist

1. Gather together all packaging, labelling and advertising for the brand. Check whether any reference to the maturation period or age of the whisky is made. If so, check that

a. the reference is only to the youngest whisky in the brand. Examples of acceptable age statements are:

“Aged 10 Years”
“12 Years Old”
“Over 10 Years Old”

Examples of statements that are **prohibited** are:

“aged five to ten years”
“minimum age 5 years: maximum age 10 years”
“The average age of the whiskies in the blend is ten years”
“Contains whiskies up to 60 years old”
“80% 10 year old; 20% 25 year old Scotch Whisky”

b. the maturation period or age is only expressed in years, and consists of one number only.

Examples of statements that are **prohibited** are:

“Aged 36 months”
“Aged 3 Years - 36 Months”
“Aged for 12 maturation cycles”

2. Check whether any reference is made to the distillation year of the whisky. If so, check that

a. the reference relates to a single calendar year.

Examples of statements which are **prohibited** are:

“This 21 year old whisky contains whiskies distilled in 1960 and 1970”
“Distilled 1991 or earlier”
“Contains whiskies dating back to the 1950s”

b. all of the whisky was distilled in the single year mentioned.

c. each reference to the distillation year appears in the same field of vision as one of the following:

- the year of bottling eg “Bottled 2009”



(this option should only be used where the spirit has spent the entire intervening period between distillation and bottling maturing in Scotland under revenue supervision in oak casks of a capacity not exceeding 700 litres)

or

- the maturation period eg “10 Years in cask” or the age of the whisky eg “Aged 10 Years”



3. Other numerals or dates, or words referring to periods of time, should not be used on labels, packaging or advertising if they could be mistaken for an age statement or distillation date. Particular care should be taken where English is not widely understood and where consumers will therefore not understand the context in which a numeral appears. The use of any number (however expressed) which is likely to lead to confusion as to the age or date of distillation of a Scotch Whisky is **prohibited**.

4. Ensure that customers do not use inappropriate age statements in any material they produce. It is recommended that this be made a condition of contract, and that breach of this condition be treated as a material breach of contract.