

Status: Point in time view as at 16/01/2009.

Changes to legislation: There are currently no known outstanding effects for the The Spirit Drinks Regulations 2008. (See end of Document for details)

SCHEDULE 1

Regulation 2

REVOCATIONS

The Spirit Drinks Regulations 1990(1)

The Spirit Drinks (Scotland) Regulations 1990(2)

The Spirit Drinks Regulations (Northern Ireland) 1990(3)

The Spirit Drinks (Scotland) Amendment Regulations 1995(4)

The Spirit Drinks (Amendment) Regulations 1995(5)

The Spirit Drinks (Amendment) Regulations (Northern Ireland) 1995(6)

SCHEDULE 2

Regulation 3(3), 4(1), 11(5) and 21(3)

COMMUNITY PROVISIONS CONTRAVENTION OF WHICH IS AN OFFENCE

PART 1

Interpretation

In this Schedule—

“categories 1 to 14” means the categories of spirit drinks numbered 1 to 14 in Annex II to Regulation (EC) No 110/2008; and

“categories 1 to 46” means the categories of spirit drinks numbered 1 to 46 in Annex II to Regulation (EC) No 110/2008.

PART 2

The provisions of Regulation (EC) No 110/2008

Column 1	Column 2	Column 3
Relevant provision of Regulation (EC) No 110/2008	Provisions to be read with the provision of Regulation (EC) No 110/2008 mentioned in column 1	Subject matter
Article 3(1)	Annex I to the E.E.C. Treaty	Agricultural origin of ethyl alcohol used in the production of spirit drinks and their components.

(1) S.I. 1990/1179, amended by S.I. 1990/2486, 1995/732.

(2) S.I. 1990/1196 (S. 136), amended by S.I. 1990/2625 (S. 220), 1995/484 (S. 33).

(3) S.R. (NI) 1990 No 219, amended by S.R. (NI) 1991 No 203, 1995 No 105.

(4) S.I. 1995/484 (S. 33).

(5) S.I. 1995/732.

(6) S.R. (NI) 1995 No 105.

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Column 1	Column 2	Column 3
Article 3(2)	Annex I(1) to Regulation (EC) No 110/2008	Ethyl alcohol used in the production of spirit drinks: compliance with the definition in Annex I(1) to Regulation (EC) No 110/2008.
Article 3(3)		The dilution and dissolution of colourants, flavourings and other authorised additives.
Article 3(4)	Annex I to the E.E.C. Treaty	Prohibition on the use of alcohol of synthetic origin and other alcohol of non-agricultural origin.
Article 5(1)	Paragraphs (3) and (5) of Annex I to Regulation (EC) No 110/2008	General requirements relating to the production, content and sweetening of spirit drinks falling within categories 1 to 14.
Article 5(2)	Annex I to the E.E.C. Treaty, paragraphs (3), (5) and (10) of Annex I to Regulation (EC) No 110/2008, and Article 1(2)(b)(i) and (ii) and 1(2)(c) of Council Directive 88/388/EEC(7) on the approximation of the laws of the Member States relating to flavourings for use in foodstuffs and to source materials for their production	General requirements relating to the production, content and sweetening of spirit drinks falling within the categories of spirit drinks numbered 15 to 46 in Annex II to Regulation (EC) No 110/2008.
Article 5(3)	Annex I to the E.E.C. Treaty, paragraphs (3), (5) and (10) of Annex I to Regulation (EC) No 110/2008, and Article 1(2)(a) of Directive 88/388/EEC on the approximation of the laws of the Member States relating to flavourings for use in foodstuffs and to source materials for their production	General requirements relating to the production, content and sweetening of spirit drinks other than those falling within categories 1 to 46.
Article 9(1)	Article 9(3) of Regulation (EC) No 110/2008	Sales denominations for spirit drinks falling within categories 1 to 46.
Article 9(2)	Articles 2 and 9(5) of, and categories 1 to 46 of Annex II to, Regulation (EC) No 110/2008	Use of the “spirit drink” sales denomination for spirit drinks that do not fall within any of the categories numbered 1 to 46.

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

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Column 1	Column 2	Column 3
Article 9(4)	Annexes II and III to Regulation (EC) No 110/2008	Prohibition on the sales denominations for the spirit drinks falling within categories 1 to 46 being used for other drinks.
Article 9(5)	Chapter III of, and Annex III to, Regulation (EC) No 110/2008	Restriction on the supplementation or replacement of a sales denomination with a geographical indication.
Article 9(6)	Articles 17(1) and 20 of, and Annex III to, Regulation (EC) No 110/2008	Restriction on the supplementation of registered Annex III geographical indications.
Article 9(7)	Categories 1 to 46 of Annex II and Annex III to Regulation (EC) No 110/2008	Prohibition on the use of associating words or phrases such as “like”, “type”, “style”, “made”, “flavour” and any other similar terms with any of the sales denominations laid down for spirit drinks falling within categories 1 to 46 and any of the registered Annex III geographical indications.
Article 9(8)		Prohibition on the substitution of the sales denomination for a spirit drink with a trade mark, brand name or fancy name.
Article 9(9)	Categories 1 to 46 of Annex II to Regulation (EC) No 110/2008 and Directive 2000/13/EC(8) of the European Parliament and of the Council on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs	Ingredients listing.
Article 10(1)	Article 10(3) and (4) of, and categories 1 to 46 of Annex II and Annex III to, Regulation (EC) No 110/2008	Requirements relating to compound terms and allusions.
Article 10(2)		Prohibition on the use of a compound term including a sales denomination for a spirit drink falling within a

(8) OJ No L 109, 6.5.2000, p 29, last amended by Commission Directive 2007/68/EC (OJ No L 310, 28.11.2007, p 11).

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Column 1	Column 2	Column 3
		category numbered 1 to 46, or a registered Annex III geographical indication, where a spirit drink has been diluted below the relevant alcoholic minimum strength for that drink.
Article 11(1)	Paragraph (5) of Annex I, and categories 1 to 14 of Annex II, to Regulation (EC) No 110/2008	Mixtures: prohibition against using a sales denomination for a spirit drink falling within a category numbered 1 to 14 where alcohol has been added to the drink.
Article 11(2)	Article 11(3) of, and categories 1 to 46 of Annex II to, Regulation (EC) No 110/2008	Mixtures: requirements relating to the use of the “spirit drinks” sales denomination.
Article 11(4)	Article 11(2) of, and Annex II to, Regulation (EC) No 110/2008	Mixtures: restrictions on the use of the sales denominations for spirit drinks falling within categories 1 to 46, and use of the term “mixed spirit drink”.
Article 11(5)	Article 11(2) and (4) of Regulation (EC) No 110/2008	Mixtures: listing of alcoholic ingredients.
Article 12(1)		Raw material indications.
Article 12(2)	Paragraph (7) of Annex I to Regulation (EC) No 110/2008	Restrictions on the use the supplemental terms “blend”, “blending” and “blended” in the description, presentation or labelling of a spirit drink.
Article 12(3)		Restrictions on the specification of the maturation period or age of a spirit drink.
Article 13		Prohibition on the covering of closing devices with lead-based capsules or foil.
Article 14(1)	Article 14(3) and (4) of Regulation (EC) No 110/2008	Language to be used in the description, presentation and labelling of spirit drinks.
Article 14(2)	Annexes II and III to Regulation (EC) No 110/2008	Prohibition on the translation of the terms in italics in Annex II to Regulation (EC) No 110/2008 and of registered Annex III geographical indications.

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Column 1	Column 2	Column 3
Article 15(4)	Articles 17(1) and 22 of, and Annex III to, Regulation (EC) No 110/2008	Compliance with technical file specifications for spirit drinks bearing a registered Annex III geographical indication.

SCHEDULE 3

Regulation 22

PENALTY OFFENCES

1. Article 3(1).
2. Article 9(1).
3. Article 9(2).
4. Article 9(5).
5. Article 9(6).
6. Article 9(7).
7. Article 9(9).
8. Article 11(4).
9. Article 11(5).
10. Article 12(1).
11. Article 13.
12. Article 14(1).

SCHEDULE 4

Regulation 24(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. Harm or potential harm to human health.
3. Financial harm to consumers.
4. Financial harm to competitors.
5. Duration of non-compliance.
6. Evidence of intention behind the non-compliance.
7. History of non-compliance of the person (“P”) to whom the penalty notice is to be given.

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8. Financial gain made by P as a result of non-compliance.
9. Financial resources of P.
10. Size of P's business.
11. Availability of non-compliant product, including the number of retail shops in which it has been marketed.
12. Where P is a retailer with a number of retail outlets, the number of retail outlets 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 outlets).
13. The conduct of P after the non-compliance had come to the attention of the enforcement authority.
14. 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 damage 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 non-compliant product, including the number of retail shops in which it has been marketed.
8. The conduct of P after the non-compliance was drawn 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.

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