

**EXPLANATORY MEMORANDUM TO**  
**THE SPIRIT DRINKS (COSTS OF VERIFICATION) REGULATIONS 2013**  
**2013 No. 2949**

1. This explanatory memorandum has been prepared by the Commissioners for Her Majesty's Revenue and Customs ("the Commissioners") and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Purpose of the instrument**

2.1 This instrument provides a legislative framework for the recovery of the costs of the verification of spirit drinks produced in the United Kingdom using a registered geographical indication. The instrument provides for the publication by the Commissioners of verification schemes for the spirit drinks and the method of applying for verification. It also provides for charges to be made on producers who apply for verification. It further provides for verification work to be undertaken by agents authorised by the Commissioners and also requires the Commissioners to undertake a review of the instrument and publish a report of its conclusions.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 None.

4. **Legislative Context**

4.1 Under regulation 5(1) of the Spirits Drinks Regulations 2008 (S.I. 2008/3206) the Commissioners are designated as the authority responsible for verifying that a "relevant spirit drink" that is to be placed on the market using a geographical indication registered in Annex III to Regulation (EC) No 110/2008 complies with the specifications in the technical file relating to that geographical indication. A relevant spirit drink is defined in Article 5(2) of S.I. 2008/3206.

4.2 These Regulations implement Article 22 of Regulation (EC) No 110/2008 in relation to the verification of compliance with the specifications in the technical file and the costs of such verification of compliance A Transposition Note is included as an Annex to this explanatory memorandum.

5. **Territorial Extent and Application**

5.1 This instrument applies to all of the United Kingdom.

## **6. European Convention on Human Rights**

6.1 As the instrument is subject to the negative procedure and does not amend primary legislation, no statement is required.

## **7. Policy background**

- *What is being done and why*

7.1 Regulation (EC) No 110/2008 on the definition, description, presentation, labelling and the protection of geographical indications of spirit drinks includes a provision for Member States to introduce measures ensuring that spirit drinks marketed with a protected geographical indication are produced in accordance with the specific conditions laid down in a technical file for the product. This includes chemical, physical and oenological characteristics.

7.2 Representatives for relevant spirit drinks have applied to the EU Commission through the Department for Environment, Food and Rural Affairs for protection of their product and have registered their product at Annex III of the EU Regulation.

7.3 The Commissioners have been designated as the authority responsible for verifying spirit drinks produced in the United Kingdom and placed on the market using a geographical indication. They will design and administer verification schemes for each relevant spirit drink using a registered geographical indication.

7.4 Once each scheme has been implemented, only products that have been verified by the Commissioners can be marketed using the registered geographical indication and only producers whose production processes have been verified by the Commissioners can produce the relevant spirit drink.

7.5 The schemes will enhance the protection of relevant spirit drinks both in the United Kingdom and overseas.

7.6 Spirit drinks, produced in the United Kingdom using a registered geographical indication, that currently require verification are Scotch Whisky, Somerset Cider Brandy, Irish Whiskey produced in Northern Ireland and Irish Cream produced in Northern Ireland.

- **Consolidation**

7.7 This instrument does not amend another instrument and consolidation is therefore not required.

## **8. Consultation outcome**

8.1 The Scotch Whisky industry was consulted on the Commissioner's proposals to verify compliance with the Scotch Whisky Geographical

Indication between 12 October 2012 and 7 December 2012. In general, respondents were in favour of HMRC's proposals. Their main concern was the absence of satisfactory controls on the exports of Scotch Whisky in bulk. Since the consultation, the Commissioners have worked closely with the Department for Environment, Food and Rural Affairs and the Scotch Whisky Association to address this concern. This has been achieved by placing a requirement in the Scotch Whisky Technical File that restricts bulk exports of Scotch Whisky to businesses who have notified their details to HMRC and who have given an undertaking to keep records covering the handling and despatch of Scotch Whisky and to provide information on request to HMRC as the verifying authority.

## **9. Guidance**

9.1 HMRC will produce guidance on the requirements of each verification scheme in a public Notice, which will be published on the HMRC web site.

## **10. Impact**

10.1 There is no impact on charities or voluntary bodies, but businesses that apply for verification of their processes will have to pay a fee to cover HMRC's verification costs. The Scotch Whisky industry consider that the commercial benefit attached to the GI status is at least equal to the costs that will be recharged to industry.

10.2 There is no impact on the public sector.

10.3 A Tax Information and Impact Note has not been prepared for this instrument as it contains no substantive changes to tax policy.

## **11. Regulating small business**

11.1 The legislation applies to small businesses that produce spirit drinks with a geographical indication status, but will not have an adverse effect on those that seek verification of their processes. The verification costs incurred are likely to be off set by the commercial benefit of having a product of verified geographical indication status.

## **12. Monitoring & review**

12.1 Each verification scheme will be designed to achieve full cost recovery on financial year basis.

12.2 Fee structures and verification schemes for individual spirit drinks will be reviewed every two years after the completion of each verification cycle.

### **13. Contact**

Paul Manson at Her Majesty's Revenue and Customs telephone: 03000 588 071 or email: [paul.manson@hmrc.gsi.gov.uk](mailto:paul.manson@hmrc.gsi.gov.uk), who can answer any queries regarding the instrument.