



# How HMRC propose to verify Scotch Whisky

**Summary of Responses**  
January 2014

# Contents

1	Introduction	3
2	Responses	7
3	Next steps	13
Annex A	List of stakeholders consulted	15

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# 1. Introduction

## Scotch Whisky Geographical Indication verification scheme

1.1 HMRC published a consultation document on their proposals to verify the Geographical Indication (GI) for Scotch Whisky on 12 October 2012. The consultation closed on 7 December 2012. This document summarises the responses received and explains HMRC's further proposals on this subject.

1.2 Between the closure of the consultation and the publication of this document, the three main stakeholders have worked together closely to finalise the details of the verification scheme and to introduce controls on the removal of Scotch Whisky in bulk outside Scotland. These three stakeholders are HMRC as verifying authority for UK produced spirit drinks with a GI indication, Defra as policy owner for GIs in the UK and the Scotch Whisky Association as the industry body with an interest in protecting, promoting and representing Scotch Whisky.

### Consultation

1.3 The consultation sought comment on:

- HMRC's proposals to verify compliance with the Scotch Whisky Geographical Indication
- recover associated costs
- the intention to replace Certificates of Age and Origin with Certificates of Verification

from any person, business or representative body who:

- is involved in any of the five identified Scotch Whisky production processes (fermentation, distillation, maturation, blending and bottling/labelling)
- has an interest in the verification of the Scotch Whisky GI

1.4 GIs are a type of intellectual property. They are forms of identification which designate a product as originating in a region or locality in a particular country. The product's reputation for quality or authenticity is intimately linked to its geographical origin. Scotch Whisky is protected under European legislation as a GI product and therefore the relevant underlying production processes must each be verified as compliant with its Technical File in order that the product be marketed as Scotch Whisky.

1.5 The consultation document set out how HMRC proposes to verify Scotch Whisky brands; checking that their manufacturing processes have been correctly set up to create products that comply with the specifications detailed in the Scotch Whisky Technical File.

1.6 A total of 19 responses were received from a range of businesses, representative and professional bodies. These are listed at Annex A.

1.7 The responses to the consultation are described in more detail in chapter 2 of this document, but, in summary, the views expressed by those who replied on each of the questions included in the consultation were broadly as follows:

Question	Number of respondents expressing a view	Summary of respondents comments
<p>Q1 What are your views on the proposed verification scheme, particularly:</p> <ul style="list-style-type: none"> <li>• the concept of verifying brands of Scotch Whisky by assuring the processes used to create them, and</li> <li>• the level of evidence expected of you to demonstrate compliance?</li> </ul>	11	All respondents who expressed an opinion agreed that "the only practicable way of verifying brands of Scotch Whisky is to verify ... the processes used".
<p>Q2 What are your views on how HMRC propose to verify production processes outside the UK?</p>	10	All respondents who expressed an opinion considered that "the proposals for the verification of production processes outside the UK were <u>not</u> acceptable".
<p>Q3 What are your views on how HMRC propose to collect brand names from the final production process?</p>	10	Most respondents were in favour of brand names being collected from the final production process (Bottlers/Labellers), though sought to expand this to allow provision of this information from industry producers.
<p>Q4 How often do you think it would be necessary to refresh the list of verified brands, i.e. how often are new brands created?</p>	10	Most respondents confirmed that brand extensions, rather than new brands, are introduced regularly, and suggested it would be more helpful to the industry, and the public, to search for verified brands by both brand name and proprietor (brand owner).
<p>Q5 What are your views on the proposed verification checks?</p>	10	Most respondents supported the proposed verification checks, with one respondent seeking clarification on a specific technical point.
<p>Q6 What are your views on the Technical File detailing the specifications with which Scotch Whisky must comply?</p>	10	All respondents who expressed an opinion considered that "the absence of controls on bulk exports of Scotch Whisky from Scotland means the proposed technical file is not fit for purpose", though recognised that "responsibility for the technical file lies with Defra".

<p>Q7 What are your views on our proposal for a new Certificate of Verification? For example:</p> <ul style="list-style-type: none"> <li>• considering cost and benefit, what level of security printing is appropriate?</li> <li>• will the proposed Certificate meet the needs of industry and export markets?</li> </ul>	12	<p>Most respondents were in favour of the transition towards a standard Certificate of Verification. However some respondents were concerned that "the proposals could have a detrimental impact on independent bottlers and the traded cask market for Scotch Whisky".</p>
<p>Q8 Do you consider charging a flat fee per production process an appropriate method of recovering costs of verification?</p>	10	<p>Most respondents agreed "that a flat fee per production process operating in each of the premises to be verified is the simplest and most appropriate way of recovering the costs of verification" within the UK, recognising that a different charging regime would be required for production processes outside the UK.</p>
<p>Q9 Are there any alternative methods of apportioning the costs of verification that you would prefer, and why?</p>	10	<p>No alternative methods for apportioning costs were proposed by any respondents.</p>
<p>Q10 What are your views on the draft charging regulations which HMRC propose to make?</p>	10	<p>Most respondents referenced back to the detail of their responses to Q8 to ensure that the Charging Regulations would allow recovery of fees chargeable to any "overseas producer undergoing verification".</p>
<p>Q11 Do you agree with the assessments of impacts indicated?</p>	10	<p>Most respondents suggested a revised calculation for the impact on individuals and households by reference to Litres of Pure Alcohol (lpa). This translates the current estimate of verification costs to "just under 0.1 pence per lpa" or '0.03 pence per bottle".</p>
<p>Other Comments/Questions</p>	1	<p>One respondent sought clarification of the definition of enforcement agencies within the UK. This was referred to Defra as outside the scope of HMRC's verification role.</p>

1.8 Most respondents were in favour of HMRC's proposals but there were significant concerns about how HMRC proposed to verify production processes outside the UK (Q2) and the proposed replacement of Certificates of Age and Origin with a Certificate of Verification (Q7). HMRC's responses to those concerns are outlined in Chapter 2 of this document. There were also concerns regarding the absence of export controls on bulk Scotch Whisky, which have since been allayed by the introduction of undertakings as explained below.

1.9 Chapter 3 of this document sets out the next steps relating to the introduction of a Scotch Whisky Geographical Indication verification scheme.

## 2. Responses

The consultation document sought comments on the questions identified below.

### **Q1 What are your views on the proposed verification scheme, particularly:**

- **the concept of verifying brands of Scotch Whisky by assuring the processes used to create them, and**
- **the level of evidence expected of you to demonstrate compliance?**

2.1.1 In general, respondents were in favour of HMRC's proposals, subject to clarification of a number of technical points.

2.1.2 There was general support for the concept of verifying brands of Scotch Whisky by assuring the processes used to create them.

2.1.3 Regarding the level of evidence expected to demonstrate compliance, aside from undergoing a visit to assure relevant production processes comply with the Scotch Whisky Technical File, there was general acceptance that producers receiving Scotch Whisky in bulk for further processing should be required to produce records evidencing that all inward deliveries have come from a 'verified' source. Since the consultation, this has been carried forward through a requirement set out in the Technical File that bulk Scotch Whisky may only be consigned to someone who has given their details to HMRC and also provided an undertaking covering record keeping and the supply of information to HMRC on request.

2.1.4 Some larger producers indicated that some records which may be required during a verification visit to assure production processes may be held centrally, rather than be available at the production facility during a visit, and requested that the verification scheme facilitate document inspections at a central point, possibly addressing a particular check for more than one production facility.

2.1.5 A number of issues and concerns were identified as common to most respondents, e.g. the definition of Blending and Bottling/Labelling, which process specific actions should fall within and also the transitional arrangements.

### **HMRC's intentions**

2.1.6 HMRC will verify brands of Scotch Whisky by assuring the processes used to create them. We will continue to liaise closely with the Scotch Whisky industry on the detail our assurance programme and on the development of guidance for the industry.

2.1.7 The verification scheme will be published as a separate document and will also be reproduced in a Notice, which will provide explanatory information to the industry about the scheme.

## **Q2 What are your views on how HMRC propose to verify production processes outside the UK?**

2.2.1 Most respondents recognised that it would be impractical for HMRC to visit overseas operators, but held the view that to protect Scotch Whisky exported in bulk it would be necessary for HMRC to have a greater level of control over the persons verifying overseas production processes on their behalf.

2.2.2 Some respondents argued that the proposed arrangements introduced an unacceptable risk in the application of different standards, undermining the integrity of the verification scheme.

### **HMRC's intentions**

2.2.3 HMRC explored the procurement of an overseas agent to carry out physical checks at producers' premises situated outside the UK but found this was impractical and would involve potentially disproportionate costs for overseas operators. Instead, HMRC will require legal undertakings from businesses carrying out production processes in a place outside Scotland. As part of the discussions with the SWA and Defra since the consultation in October 2012, it has been agreed that only those production premises in Scotland will be subject to on site verification, as this is where the first three production stages are carried out. Satisfactory verification of producers located elsewhere can be achieved by checking compliance with the required undertakings. The Technical File contains the requirement that Scotch Whisky may only be moved outside Scotland to a consignee who has provided their details to HMRC and given an undertaking in respect of record keeping, the supply of information to HMRC and the onward supply of bulk Scotch Whisky. The undertaking offers satisfactory means of verifying compliance with the requirements of the Scotch Whisky Technical file.

## **Q3 What are your views on how HMRC propose to collect brand names from the final production process?**

2.3.1 Most respondents confirmed that brand names should be collected from Bottler/Labellers, as the final production process, though there were some suggestions that brand names should be notified to HMRC by either producers or operators, particularly citing "large companies, whose operations are controlled from one location".

2.3.2 Most respondents also suggested that the facility to "upload their list of brands online" would be supported.

2.3.3 Most respondents indicated that the statement "a brand which does not appear on the HMRC website cannot be legally marketed" may not be strictly correct, but supported the notion that the HMRC website should serve as prime facie evidence of whether or not a brand has been verified.



## HMRC's intentions

2.3.4. HMRC will collect brand names from the bottlers/labellers of the final product and make this available on its web site.

2.3.5 HMRC cannot allow direct access to its database and will update its web site with the information provided by brand owners.

2.3.6 HMRC maintain that the recording of an individual brand on their website as a 'verified' brand is a summary record of the information that has been provided through verification visits and/or from information provided by industry process operators. HMRC maintain that any brand which is not recorded on the database cannot be considered 'verified', otherwise the integrity and effectiveness of the scheme would be called into question.

## Q4 How often do you think it would be necessary to refresh the list of verified brands, i.e. how often are new brands created?

2.4.1 Most responses offered a definition of 'brand name' and what may or may not be considered a 'notifiable' brand name.

2.4.2 Most responses also indicated that, for commercial reasons, new brands may be presented to the market at short notice to avoid giving competitors notice of their intention or launch.

2.4.3 No respondent suggested a frequency by which any list of verified brands should be 'refreshed'.

2.4.4 Most respondents felt it would be helpful to the industry and members of the public to be able to search for verified brands either individually or by company.

2.4.5 It was also suggested that some time limited "anniversary or special event" brands should be removed from the database after an appropriate time, and that brands, as well as production facilities, should "show the date verification expires".

## HMRC's intentions

2.4.6 HMRC intends to refresh the list of verified brands every 24 hours. The list of verified brands will be published at the end of the first verification cycle, which is envisaged to be towards the end of 2015.

2.4.7 HMRC will provide a search facility for the trade and consumers of Scotch Whisky.

2.4.8. It is not intended to remove 'time limited' brands from the list of verified brands as some of these may become collectors items and their verified status may be required to be recognised for many years - one respondent stated they are marketing Scotch Whisky which is 70 years old.

## **Q5 What are your views on the proposed verification checks?**

2.5.1 Most responses recognised that the proposed verification checks had been subject to Scotch Whisky Association working group consideration and were accepted on that basis.

2.5.2 One response requested that a list of "approved processing aids" should be identified against specific checks, particularly referencing the fermentation process.

### **HMRC's intentions**

2.5.3 HMRC is content that the proposed verification checks provide adequate assurance of the requirements set out in the Scotch Whisky Technical File.

2.5.4 Defra and the Scotch Whisky Association will be consulted regarding the identification of "approved processing aids" and, where appropriate and possible, these will be included in the Technical File and/or HMRC's list of verification checks published in their Notice.

## **Q6 What are your views on the Technical File detailing the specifications with which Scotch Whisky must comply?**

2.6.1 The principal concern noted in most responses was the lack of control on bulk exports of Scotch Whisky from Scotland.

### **HMRC's intentions**

2.6.2 Since the consultation in October 2012, HMRC and Defra have worked with the SWA to develop export controls, which are now contained in the Technical File. These controls prohibit the removal of Single Grain Scotch Whisky, Blended Malt Scotch Whisky, Blended Grain Scotch Whisky or Blended Scotch outside Scotland other than:

- in a bottle (made of any inert material) that is labelled for retail sale
- to an importer, bottler or blender who has given such undertakings to HMRC as are prescribed in a verification scheme, as revised or replaced from time to time

## **Q7 What are your views on our proposal for a new Certificate of Verification? For example:**

- **considering cost and benefit, what level of security printing is appropriate?**
- **will the proposed Certificate meet the needs of industry and export markets?**

2.7.1 Most respondents did not comment on the particular benefits or disadvantages of the proposed Certificate of Verification. However, two respondents expressed particular concern over their introduction.

2.7.2 Most respondents stressed that the level of security printing appropriate to Certificates of Verification should match the current specification for Certificates of Age and Origin.

2.7.3 Most respondents suggested amendments to the draft Certificate of Verification included in the consultation document.

2.7.4 Most respondents emphasised the need to forewarn officials in the importing countries of the new Certificate of Verification. The two respondents who were particularly concerned about their introduction spoke of a possible detrimental effect on current commercial arrangements.

### **HMRC's intentions.**

2.7.5 HMRC maintains that the Certificates of Verification will go beyond the current Certificates of Age and Origin in giving customer reassurance in certifying authentic product.

2.7.6 The arrangements through which HMRC currently issues Certificates of Age and Origin which facilitate the export of Scotch Whisky, and other spirit drinks, will stay in place, pending the introduction of Certificates of Verification.

2.7.7 The introduction of a single Certificate of Verification will be dependant on the acceptability of such a change by the relevant export markets and the importing authorities. It is unlikely to happen until late 2015.

2.7.8 HMRC is happy to bring in the Certificates of Verification over a transitional; period and will consult the industry on their development and eventual introduction.

### **Q8 Do you consider charging a flat fee per production process an appropriate method of recovering costs of verification?**

2.8.1 All respondents who commented accepted the proposed charging regime to the extent that it related to the verification fee to be charged by HMRC to UK processors.

2.8.2 Most respondents recognised that a different charging regime would be appropriate in respect of non-UK processors, particularly as these verification visits would be undertaken by agents of HMRC.

### **HMRC's intentions**

2.8.3 HMRC will continue to use the flat fee per production process as the preferred method of recovering verification costs from processors in Scotland, who will be subject to verification at their production premises. This is currently £1630 per process at each production premises. This will be adjusted to reflect any changes in costs as these are confirmed, and reviewed and adjusted as appropriate at least every two years. The fees will be reviewed after the completion of the first cycle of verification visits in 2015

2.8.4 Businesses outside Scotland that carry out production processes must provide an undertaking and will be subject to a lower verification fee of £520 per process. The lower fee is to reflect the fact that their premises will not be subject to physical verification.

### **Q9 Are there any alternative methods of apportioning the costs of verification that you would prefer, and why?**

2.9.1 No respondents suggested an alternative method of apportioning costs which could affect the proposed charging mechanism.

#### **HMRC's intentions**

2.9.2 HMRC will continue to use the flat fee per production process as the preferred method of recovering verification costs, as indicated at paragraphs 2.8.3 and 2.8.4.

### **Q10 What are your views on the draft charging regulations which HMRC propose to make?**

2.10.1 Most respondents referenced back to their comments in respect of Q8.

#### **HMRC's intentions**

2.10.2 HMRC will ensure that the draft Charging Regulations i.e. the Spirit Drinks (Cost of Verification) Regulations 2013, supporting Article 22(1) of the European Regulation 110/2008/EC are fit for purpose and will be made and laid before Parliament in the autumn 2013

### **Q11 Do you agree with the assessments of impacts indicated?**

2.11.1 Most respondents suggested an alternative calculation of the impact on individuals and households by reference to Litres of Pure Alcohol (lpa).

#### **HMRC's intention**

2.11.2 HMRC is grateful for the suggestion of an alternative calculation of the impact on individuals and households and will adopt this where appropriate.

This calculation will translate the current estimate of verification costs to "just under 0.1 pence per lpa" or "0.03 pence per bottle".

#### **Other Comments**

2.12.1 Almost all respondents made comments which went beyond those covered above.

## **HMRC's intentions**

2.12.2 The public notice covering the Scotch Whisky verification scheme will cover all relevant information regarding the scheme and how it operates.

## 3. Next steps

### Industry Consultation

3.1 HMRC will continue to liaise with the industry, industry representatives and other stakeholders as appropriate

### Publication of Verification Scheme

3.2 The verification scheme is published as a stand alone document and also as part of a technical note on the HMRC website.

The technical note addresses issues, concerns or questions raised during consultation and set out details of the verification fee calculations

### Launch of the verification scheme and completion of the first cycle of verification visits

HMRC will launch the verification scheme on 10 January 2014 and anticipates that all initial verification visits for producers based in Scotland and verification of undertakings provided by producers outside Scotland will be completed by late 2015.

### IT Requirements

3.4 When considering IT Requirements and developing IT solutions, HMRC will continue to consider the cost benefit of industry expectations detailed in consultation responses. Bearing in mind security implications HMRC will provide a flexible but robust platform capable of long term use as an integral part of the verification scheme.

### Certificates of Verification

3.7 HMRC will work with industry and other stakeholders to develop a Certificate of Verification that:

- meets the current industry demands for Certificates of Age and Origin
- is fit for purpose as an integral part of the verification scheme
- is acceptable to export markets/import authorities as a replacement for the current Certificates of Age and Origin
- considers the benefits in its application to both Scotch Whisky and other spirit drinks

Current arrangements for the issue of Certificates of Age and Origin will continue to operate until further notice.

It is anticipated that Certificates of Verification will not be introduced until autumn 2015 at the earliest.

# Annex A: List of stakeholders consulted

1. Aceo Limited
2. Beam Inc.
3. Chivas Brothers Limited
4. Consumer Focus Scotland
5. Diageo Scotland
6. The Edrington Group Limited
7. The English Whisky Company Limited
8. Glengassaugh Distillery Company Limited
9. Gordon & MacPhail
10. Houston Bottling and Co Pack
11. Inver House Distillers Limited
12. Loch Lomond Distillery
13. Moon Import
14. Morrison Bowmore Distillers Limited
15. The Scottish Council for Development and Industry (SCDI)
16. The Society of Chief Officers of Trading Standards in Scotland (SCOTSS)
17. The Scotch Whisky Association
18. Seabrook Warehousing Limited
19. Speciality Drinks Limited