

**EXPLANATORY MEMORANDUM FOR EUROPEAN UNION LEGISLATION  
WITHIN THE SCOPE OF THE UK/EU WITHDRAWAL AGREEMENT AND  
NORTHERN IRELAND PROTOCOL**

**7639/22 + ADD 1-3**

**COM (2022) 134 FINAL + ANNEXES 1-3**

**PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF  
THE COUNCIL ON EUROPEAN UNION GEOGRAPHICAL INDICATIONS FOR  
WINE, SPIRIT DRINKS AND AGRICULTURAL PRODUCTS, AND QUALITY  
SCHEMES FOR AGRICULTURAL PRODUCTS, AMENDING REGULATIONS (EU)  
NO 1308/2013, (EU) 2017/1001 AND (EU) 2019/787 AND REPEALING  
REGULATION (EU) NO 1151/2012**

Submitted by the Department for Environment, Food and Rural Affairs

4 May 2022

**SUBJECT MATTER**

1. The European Commission has published its proposal for a new framework governing Geographical Indications (GI). The legislative proposal will repeal the existing agri-food GIs Regulation 1151/2012 and amend the provisions relating to wine GIs in Regulation (EU) No 1308/2013 (the CMO Regulation) and the provisions relating to spirit drinks GIs in Regulation (EU) 2019/787 (the Spirit Drinks Regulation) and (EU) 2017/1001 (EU Trade Mark Regulations).
2. This primarily relates to protected food and drink names. The Commission is proposing changes to streamline and harmonise some of their administrative processes, including the registration process, and to address infringements of GIs on the internet.
3. A minor amendment is also proposed to the EU Trade Mark Regulation, (EU) 2017/1001, to outsource some procedural responsibilities for GIs to the EU Intellectual Property Office (EUIPO), the EU agency which administers unitary trade marks and design rights.

**SCRUTINY HISTORY**

4. The Parliamentary scrutiny history relevant to this Explanatory Memorandum is contained in Annex A.

## **MINISTERIAL RESPONSIBILITY**

5. The Secretary of State for The Department for Environment, Food and Rural Affairs has primary responsibility for GI policy.
6. The Secretary State for Business, Energy and Industrial Strategy has an interest given the interaction between GIs and other intellectual property rights, including specific provisions relating to trade marks within the proposal.

## **INTEREST OF THE DEVOLVED ADMINISTRATIONS**

7. The UK's policy on geographical Indications is a reserved matter under the UK's devolution settlements, and consultation is not required for the purposes of this EM. However, as the proposals will apply in Northern Ireland, and all devolved administrations have an interest in the registration and enforcement of protected food and drink names, the devolved administrations have been consulted in the preparation of this EM. No substantive policy comments or concerns were received although the Northern Ireland Executive provided input particularly in respect of the impact of this proposal on the regulatory scheme in place in Northern Ireland.

## **LEGAL AND PROCEDURAL ISSUES**

8.

**i. Legal Base**

Articles 43 (CAP) and 118 (intellectual property) of the Treaty of the Functioning of the European Union

**ii. Voting Procedure**

The EU's ordinary legislative procedure applies.

**iii. Timetable for adoption and implementation**

The Commission are aiming for the negotiating mandates of both co-legislators to be agreed by the start of 2023 and to conclude the file before 2024.

## **POLICY IMPLICATIONS**

9. The UK GI schemes protect registered product names when they are sold in Great Britain (England, Scotland and Wales). The EU GI schemes protect registered products names when they are sold in Northern Ireland and the EU. The proposed

Regulation is concerned with the EU GI Schemes that apply in Northern Ireland and the EU. UK Government maintain the role of Competent Authority for delivery of these EU Regulations within NI and therefore the changes proposed would amend our operational responsibilities.

10. Whilst the proposal will largely harmonise the legislative framework governing GIs as they apply in NI, meaning most of the provisions for agri-food, wine and spirit GIs will be in a single regulation, the changes are moderate, largely a like-for-like of the current legislation. The implications for the UK as a Third Country are limited. However, there are several areas where we will take a keen interest in the development of EU frameworks and policy governing GIs. There are implications under the Northern Ireland Protocol arising from this proposal which have a direct impact on UK Government delivery of EU Regulations in NI. Notably these include:

- shorter streamlined registration procedure: This will merge the differing GI registration procedures for agri-foods wine and spirit drinks into one simplified process. The time it takes to reach registration will be shorter as there will no longer be a requirement to lodge a notice of intention to object prior to the submission of a reasoned statement of opposition. Consultations between opposing parties must commence within five months of the publication of the application;
- sustainability: producers may choose to define in the product specification specific sustainability practices which must be adhered to;
- greater online protection: protection against false or misleading indication as to the origin qualities or characteristics of the product that is used on packaging, advertising material, documents or information including those provided on websites. There is also protection against the 'bad faith' use and registration of domain names which include GI products. The Department for Digital, Culture, Media & Sport (DCMS) lead on policy for domain names so will need to be engaged with as this proposal progresses.
- greater empowerment of producer groups: with agreement of at least two-thirds of producers, a particular group of producers can be designated as the 'recognised' producer group. This producer group will be able to take increased responsibility in the enforcement and management of the GI. They will also be granted access to anti-counterfeiting authorities and customs in Member States;
- outsourced administrative faculties: cooperation between the Commission and EUIPO to assist with the administrative burdens of the scheme such as scrutinising applications and the opposition procedure. This is designed to

alleviate the time taken for applications to progress to registration. Early indications suggest this is proving controversial among Members States.

- Traditional Specialities Guaranteed (TSG) Scheme: simplification and greater clarity of the requirement to improve understanding of TSGs for both producers and consumers.
- The Spirit Drink Regulations 2008 (S.I. 2008/3206), the Wine Regulations 2011 (S.I. 2011/2936) and the Quality Schemes (Agricultural Products and Foodstuffs) Regulations 2018 (S.I. 2018/1275) currently underpin the enforcement in Northern Ireland of EU Regulations 1151/2012, 1308/2013 and 2019/787, which are being revoked or amended by the proposed Regulation. Those statutory instruments (or their successors where relevant) may need to be either amended, or revoked and replaced, so far as they apply to Northern Ireland, to provide for the enforcement of the new proposed Regulation.

11. The proposed changes include a consolidation of the provisions which underpin the interaction between GIs and trade marks. The Intellectual Property Office, an executive agency of the Department for Business, Energy and Industrial Strategy (BEIS) leads on trade mark policy and the administration of the UK's domestic trade mark scheme. Initial analysis suggests that the provisions largely maintain the status quo however close liaison between IPO, Defra and BEIS Legal will be essential as the file progresses.

12. We recognise the impact the Northern Ireland Protocol is having on the ground. The UK Government has been clear for some time that the Protocol has been causing serious problems. We are continuing to work with the EU to find a solution to sort out these very real issues for the people of Northern Ireland. It is perfectly possible for the United Kingdom and EU to work out a solution which delivers for the people of Northern Ireland.

## **CONSULTATION**

13. The European Commission published an inception impact assessment on 28/10/2020, followed by a public consultation which was open from 15 January 2021 to 9 April 2021.

14. The Government has not undertaken any consultation of external stakeholders, nor have any impact assessments been produced.

## **FINANCIAL IMPLICATIONS**

15. No new systems are required, and no charges are being introduced, as this is primarily altering how the EU administer their GI scheme. However, we will need to consider amendments to our enforcement regulations (as per policy implications above) which will therefore require further review of potential administrative costs.

*Victoria Prentis*

**VICTORIA PRENTIS MP  
MINISTER OF STATE FOR FARMING, FISHERIES AND FOOD  
DEPARTMENT FOR ENVIRONMENT, FOOD AND RURAL AFFAIRS**

PARLIAMENTARY SCRUTINY HISTORY RELEVANT TO A:

PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON EUROPEAN UNION GEOGRAPHICAL INDICATIONS FOR WINE, SPIRIT DRINKS AND AGRICULTURAL PRODUCTS, AND QUALITY SCHEMES FOR AGRICULTURAL PRODUCTS, AMENDING REGULATIONS (EU) NO 1308/2013, (EU) 2017/1001 AND (EU) 2019/787 AND REPEALING REGULATION (EU) NO 1151/2012

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EM 8793/21, C(2021) 2837 FINAL: COMMISSION DELEGATED REGULATION (EU) .../... OF 12.5.2021 SUPPLEMENTING REGULATION (EU) 2019/787 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL WITH RULES CONCERNING APPLICATIONS FOR REGISTRATION OF GEOGRAPHICAL INDICATIONS OF SPIRIT DRINKS, AMENDMENTS TO PRODUCT SPECIFICATIONS, CANCELLATION OF THE REGISTRATION AND THE REGISTER

DATE DEFRA EM SIGNED: 04/06/2021

SCRUTINY COMMITTEES' RECOMMENDATIONS:

COMMONS	LORDS
SCRUTINY COMPLETED (OUTCOME AGENDA NO 7 23/06/2021)	CLEARED BY HOL LETTER 10/09/2021. SIFTED FOR SCRUTINY TO THE PROTOCOL ON IRELAND/NORTHERN IRELAND SUB-COMMITTEE (AT CHAIR'S SIFT NO 3; 10/06/2021)

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13313/21+ADD 1 COMMISSION DELEGATED REGULATION (EU) .../... OF 27.10.2021 AMENDING DELEGATED REGULATION (EU) 2019/934 SUPPLEMENTING REGULATION (EU) NO 1308/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL AS REGARDS AUTHORISED OENOLOGICAL PRACTICES

DATE DEFRA EM SIGNED: 05/01/2022

**SCRUTINY COMMITTEES' RECOMMENDATIONS:**

<b>COMMONS</b>	<b>LORDS</b>
<b>SCRUTINY COMPLETED (OUTCOME AGENDA NO 26 26/1/22)</b>	<b>DRAWN TO THE ATTENTION OF THE PROTOCOL ON IRELAND/NORTHERN IRELAND SUB-COMMITTEE (AT CHAIR'S SIFT NO 13; 25/1/22)</b>

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**EM 15121/16: PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON THE DEFINITION, PRESENTATION AND LABELLING OF SPIRIT DRINKS, THE USE OF THE NAMES OF SPIRIT DRINKS IN THE PRESENTATION AND LABELLING OF OTHER FOODSTUFFS AND THE PROTECTION OF GEOGRAPHICAL INDICATIONS FOR SPIRIT DRINKS**

**15121/16 ADD 1: ANNEXES TO THE PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON THE DEFINITION, PRESENTATION AND LABELLING OF SPIRIT DRINKS, THE USE OF THE NAMES OF SPIRIT DRINKS IN THE PRESENTATION AND LABELLING OF OTHER FOODSTUFFS AND THE PROTECTION OF GEOGRAPHICAL INDICATIONS FOR SPIRIT DRINKS**

DATE DEFRA EM SIGNED: 15/12/2016

**SCRUTINY COMMITTEES' RECOMMENDATIONS:**

<b>COMMONS</b>	<b>LORDS</b>
<b>CLEARED AS NOT IMPORTANT (REPORT 25;10/01/2017)</b>	<b>CLEARED (ENERGY AND ENVIRONMENT) AT CHAIRMAN'S SIFT 1643- 12/01/2017</b>

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**REGULATION 1308/2013 WAS SCRUTINISED AS PROPOSAL 15397/11. COM(11)626, PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ESTABLISHING A COMMON ORGANISATION OF THE MARKETS IN AGRICULTURAL PRODUCTS (SINGLE CMO REGULATION)**

**DATE DEFRA EM SIGNED: 29/10/2011**

**SCRUTINY COMMITTEES' RECOMMENDATIONS:**

<b>COMMONS</b>	<b>LORDS</b>
<b>THE COMMITTEE REPORTED ON 5 OCCASIONS LASTLY IN REPORT 12, 13/14 AND THE PROPOSAL WAS DEBATED IN EUROPEAN COMMITTEE A ON 18 JUNE 2013</b>	<b>THE PROPOSAL WAS EXAMINED IN THE THEN SUB-COMMITTEE D AND SCRUTINY WAS COMPLETED ON 22 MAY 2013</b>

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**REGULATION 1151/212 WAS SCRUTINISED AS 17672/10, COM(10)733, PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON AGRICULTURAL PRODUCT QUALITY SCHEMES.**

**DATE DEFRA EM SIGNED: 11/01/11**

**SCRUTINY COMMITTEES' RECOMMENDATIONS:**

<b>COMMONS</b>	<b>LORDS</b>
<b>COMPLETED SCRUTINY AS RAISING ISSUES OF POLITICAL IMPORTANCE IN REPORT 14, 10-12 ON 19 JANUARY 2011</b>	<b>THE PROPOSAL WAS EXAMINED BY THE THEN SUB-COMMITTEE D AND COMPLETED SCRUTINY ON 14 SEPTEMBER 2011</b>