

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

8416/22, C(2022) 2464 final

COMMISSION DELEGATED REGULATION (EU) .../... OF 25.4.2022 AMENDING REGULATION (EU) 2019/787 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL AS REGARDS THE DEFINITION OF AND REQUIREMENTS FOR ETHYL ALCOHOL OF AGRICULTURAL ORIGIN

Submitted by the Department for Environment, Food and Rural Affairs

13 June 2022

SUBJECT MATTER

1. This document is the final version of a European Commission Delegated Regulation, which will update the definition of ethyl alcohol of agricultural origin in Regulation (EU) 2019/787 (which currently is practically the same definition as that in retained Regulation 110/2008 for Great Britain). Under the Northern Ireland Protocol, EU regulations for spirit drinks continue to have direct application in Northern Ireland. These amendments adjust the maximum levels of certain residues to be in line with the technical parameters currently applied by producers and most laboratories of analysis for ethyl alcohol of agricultural origin, which is the base component of many spirit drink categories, for example gin, vodka and liqueur. The European Commission have held consultations with member state experts and with industry, and say that the new definition is reflective of industry practice.

SCRUTINY HISTORY

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

MINISTERIAL RESPONSIBILITY

3. Responsibility lies with the Secretary of State for Environment, Food and Rural Affairs.

INTEREST OF THE DEVOLVED ADMINISTRATIONS

4. The regulation will be directly applicable in Northern Ireland due to the Protocol. Whilst there is not currently a functioning Executive in Northern Ireland, officials in the Department of Agriculture, Environment and Rural Affairs (DAERA) were consulted in the preparation of this EM. No substantive policy comments or concerns were received as a result of this consultation. Although the regulation

does not apply to Scotland and Wales because, like England, they have the spirit drinks regulations retained by the EU (Withdrawal) Act 2018, they will also have an interest due to spirit drink products made there and sold in Northern Ireland and the European Union. The Scottish and Welsh devolved administrations have therefore also been consulted, no comments were received from either.

5. 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 will continue to talk with the EU and our preference is - and has always been - to reach a negotiated outcome with EU, while in parallel moving forward with our solution to protect peace in Northern Ireland. We remain open to continuing talks with the EU, while these continue, we will take steps to stabilise the situation in Northern Ireland and bring parity to everyone living the UK.

LEGAL AND PROCEDURAL ISSUES

6.

i. **Legal Base**

The delegated act is based on Article 8(1) of Regulation (EU) 2019/787 and concerns solely one provision that the Commission has been granted the empowerment to amend by virtue of that paragraph.

The delegated act is strictly limited to meeting demonstrated needs resulting from evolving technological progress, in accordance with Article 8(1) second subparagraph of Regulation (EU) 2019/787.

ii. **Voting Procedure**

Consensus at EU Expert Group.

iii. **Timetable for adoption and implementation**

The Regulation will enter into force on the twentieth day following that of its publication in the Official Journal of the European Union. It is anticipated that, as and when there is a functioning NI Executive, Statutory Rules of Northern Ireland will be made that will update and consolidate the Spirit Drinks Regulations 2008 with new Statutory Rules that will regulate spirit drinks in Northern Ireland. Among other things, those new Statutory Rules will take account of the replaced Article in Regulation (EU) 2019/787 regulating ethyl alcohol.

POLICY IMPLICATIONS

7. Whilst the current definition of ethyl alcohol of agricultural origin in Regulation (EU) 2019/787 is practically the same as that applicable in Great Britain via retained Regulation 110/2008, these amendments only adjust the maximum levels of certain residues to be in line with the technical parameters currently applied by producers and most laboratories of analysis.

This will add to the regulatory divergence between GB and EU+NI for spirit drinks, following the application of the remainder of Regulation (EU) 2019/787 on labelling and technical definitions in May 2021 (the provisions on geographical indications for spirit drinks became applicable EU law in June 2019 so became retained EU law in Great Britain but the remainder of Regulation (EU) 2019/787 has not).

8. No UK stakeholders have raised any concerns about these amendments, however officials are engaging with industry and considering whether similar changes should be made to the retained regulations for Great Britain, as part of a wider review of retained EU legislation.

CONSULTATION

9. The European Commission held a public consultation via its Better Regulation Portal from 21 February to 21 March 2022, during which two comments were received, but they did not lead to a change of the proposed thresholds. Defra officials have had informal discussions with industry on these amendments with no concern being expressed.

FINANCIAL IMPLICATIONS

10. There are no financial implications as these changes reflect existing industry practices.



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

PARLIAMENTARY SCRUTINY HISTORY RELEVANT TO A:

COMMISSION DELEGATED REGULATION (EU) .../... OF 25.4.2022 AMENDING REGULATION (EU) 2019/787 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL AS REGARDS THE DEFINITION OF AND REQUIREMENTS FOR ETHYL ALCOHOL OF AGRICULTURAL ORIGIN

EM 7639/22: 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

DATE DEFRA EM SIGNED: 04/05/2022

SCRUTINY COMMITTEES' RECOMMENDATIONS:

COMMONS	LORDS
SCRUTINY COMPLETED (OUTCOME AGENDA NO 3 25/5/22)	NOT CLEARED. SIFTED FOR SCRUTINY TO THE PROTOCOL ON IRELAND/NORTHERN IRELAND SUB-COMMITTEE (AT CHAIR'S SIFT NO 18; 16/5/22)

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)

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:

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