



STATUTORY INSTRUMENTS.

S.I. No. 316 of 2015



EUROPEAN COMMUNITIES (SPIRITS DRINKS) REGULATIONS 2015

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I, SIMON COVENEY, Minister for Agriculture, Food and the Marine, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972) for the purpose of giving further effect to Regulation (EC) No 110/2008 of the European Parliament and of the Council of 15 January 2008¹ as amended by Regulation (EC) No 1334/2008 of the European Parliament and of the Council of 16 December 2008², Commission Regulation (EU) No 164/2012 of 24 February 2012³, Commission Regulation (EU) No 1065/2013 of 30 October 2013⁴, Commission Regulation (EU) No 97/2014 of 3 February 2014⁵, Commission Regulation (EU) No 98/2014 of 3 February 2014⁶, Commission Regulation (EU) No 426/2014 of 25 April 2014⁷ and Commission Regulation (EU) 2015/210 of 10 February 2015⁸ and Commission Implementing Regulation (EU) No 716/2013 of 25 July 2013⁹ as amended by Commission Implementing Regulation (EU) No 1239/2014 of 19 November 2014¹⁰, hereby make the following Regulations:

Citation and commencement

1. (1) These Regulations may be cited as the European Communities (Spirits Drinks) Regulations 2015.

(2) These Regulations shall come into force on 30 October 2015.

Interpretation

2. (1) In these Regulations—

“acceptance” means acceptance of the statements that production of the spirit drink was in accordance with the relevant technical file included in the application for verification made by persons producing—

(a) Irish Cream or Irish Poteen/Irish Poitín on or after 20 February 2015, or

(b) Irish Whiskey/Uisce Beatha Eireannach/Irish Whisky on or after 30 October 2014;

¹OJ No.L 39, 13.2.2008, p.16

²OJ No. L 354, 31.12.2008, p.34

³OJ No. L 53, 25.2.2012, p.1

⁴OJ No. L 289, 31.10.2013, p.48

⁵OJ No. L 33, 4.2.2014, p.1

⁶OJ No. L33, 4.2.2014, p.3

⁷OJ No. L125, 26.4.2014, p.55

⁸OJ No. L 35, 11.2.2015, p.16

⁹OJ No. L201, 26.7.2013, p.21

¹⁰OJ No. L333, 20.11.2014, P.5

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 24th July, 2015.*

“authorised officer” means—

- (a) a member of the Garda Síochána,
- (b) an authorised officer appointed under section 49 of the Food Safety Authority of Ireland Act 1998 (No. 29 of 1998), or
- (c) an authorised officer appointed under Regulation 10;

“Commission Implementing Regulation” means Commission Implementing Regulation (EU) No 716/2013 of 25 July 2013 as amended by Commission Implementing Regulation (EU) No 1239/2014 of 19 November 2014

“derived and ancillary product” means ethyl alcohol, products used in the production or rounding of spirit drinks, labels, containers or closing devices for containers for spirit drinks;

“Minister” means Minister for Agriculture, Food and the Marine;

“produce” other than for the purposes of Regulation 3 includes any activity mentioned in the technical file;

“Spirits Regulation” means Regulation (EC) No 110/2008 of the European Parliament and of the Council of 15 January 2008 as amended by Regulation (EC) No 1334/2008 of the European Parliament and of the Council of 16 December 2008, Commission Regulation (EU) No 164/2012 of 24 February 2012, Commission Regulation (EU) No 1065/2013 of 30 October 2013, Commission Regulation (EU) No 97/2014 of 3 February 2014, Commission Regulation (EU) No 98/2014 of 3 February 2014, Commission Regulation (EU) No 426/2014 of 25 April 2014 and Commission Regulation (EU) 2015/210 of 10 February 2015.

(2) A word or expression that is used in the Spirits Regulation and that is also used in these Regulations has, in these Regulations, the same meaning as the Spirits Regulation.

Spirit drink regulations

3. A person who—

- (a) uses or attempts to use ethyl alcohol other than ethyl alcohol of agricultural origin in producing a spirit drink or the component of a spirit drink in contravention of Article 3(1) of the Spirits Regulation,
- (b) in producing a spirit drink, uses or attempts to use ethyl alcohol that does not comply with Annex I(1), in contravention of Article 3(2) of the Spirits Regulation,
- (c) uses or attempts to use ethyl alcohol other than ethyl alcohol of agricultural origin in dissolving a colorant, flavouring or other permitted additive used in producing a spirit drink in contravention of Article 3(3) of the Spirits Regulation,

- (d) uses or attempts to use synthetic alcohol or other alcohol of non-agricultural origin in an alcoholic beverage in contravention of Article 3(4) of the Spirits Regulation,
- (e) classifies a spirit drink other than as provided for in Article 4 of the Spirits Regulation,
- (f) without prejudice to paragraph (e), produces or attempts to produce a spirit drink specified in categories 1 to 14 of Annex II, in contravention of Article 5(1) of the Spirits Regulation,
- (g) without prejudice to paragraph (e), produces or attempts to produce a spirit drink specified in categories 15 to 46 of Annex II in contravention of Article 5(2) of the Spirits Regulation,
- (h) without prejudice to paragraph (e), produces or attempts to produce any other spirit drink in contravention of Article 5(3) of the Spirits Regulation,
- (i) breaches rules concerning sales denomination or geographical indication of a spirit drink in contravention of Article 9 of the Spirits Regulation,
- (j) breaches rules concerning the use of a sales denomination or geographical indication in compound terms or alluding to such sales denomination or geographic indication in contravention of Article 10 of the Spirits Regulation or Articles 3 or 4 of the Commission Implementing Regulation,
- (k) breaches a description, presentation or labelling requirement of a spirit drink in contravention of Article 11 of the Spirits Regulation,
- (l) breaches rules concerning description, presentation or labelling of a spirit drink in contravention of Article 12 of the Spirits Regulation,
- (m) uses a lead-based capsule or foil in contravention of Article 13 of the Spirits Regulation,
- (n) breaches a measure relating to the use of language in contravention of Article 14 of the Spirits Regulation,
- (o) markets a spirit drink bearing a geographical indication registered in Annex III, in contravention of Article 15(4) of the Spirits Regulation,
- (p) markets a spirit drink or other substance in contravention of the protections afforded to spirit drink that benefit from a protection of geographical indication in contravention of Article 16 of the Spirits Regulation,
- (q) otherwise contravenes a provision of the Spirits Regulation,

commits an offence.

Possession and use of protection of terms

4. A person who—

- (a) has in his or her possession or under his or her control, market, import or export a spirit drink or the component of a spirit drink produced in contravention of the Spirits Regulation or the Commission Implementing Regulation,
- (b) has in his or her possession or under his or her control equipment, plant, machinery, instrument or other thing used in the preparation, marketing, importation, preparation, handling, storage, transport, exportation, distribution of a spirit drink produced in contravention of the Spirits Regulation or the Commission Implementing Regulation,
- (c) advertises or promotes a spirit drink produced in contravention of the Spirits Regulation or the Commission Implementing Regulation,

or

(d) uses the terms—

(i) Irish Cream

(ii) Irish Poteen/Irish Poitín, or

(iii) Irish Whiskey/Uisce Beatha Eireannach/Irish Whisky

in relation to a spirit drink that does not conform with the specifications of the technical file submitted by the Minister to the European Commission under Article 17 of the Spirits Regulation

commits an offence.

Verification process

5. (1) A person shall not produce—

(a) Irish Cream,

(b) Irish Poteen/Irish Poitín, or

(c) Irish Whiskey/Uisce Beatha Eireannach/Irish Whisky

unless that person has applied to and—

- (i) has had his or her production system for products mentioned at (a) to (c) verified for compliance with the specifications of the technical file, or

- (ii) in the case of a person who was in production of a product mentioned at (a) to (c) before the entry into force of these Regulations and has had an application for his or her production system accepted pending verification

by—

- (I) the Minister in the case of a product mentioned in subparagraph (a), or

- (II) the Revenue Commissioners in the case of a product mentioned in subparagraphs (b) or (c).

(2) An application under paragraph (1) shall be accompanied by such fee as the Minister may from time to time determine.

(3) A person applying under paragraph (1) shall supply such information as the Minister or the Revenue Commissioners may reasonably require.

(4) The Minister or the Revenue Commissioners may refuse an application for verification where—

- (a) the information supplied is incomplete or does not sufficiently evidence that the processes are in accordance with the specifications set out in the technical file,

- (b) the production processes do not satisfy the specifications set out in the technical file, or

- (c) the required fee is not included with the application.

Competent authorities

6. (1) The Minister, the Food Safety Authority of Ireland, the Health Service Executive and the Revenue Commissioners are competent authorities for the purposes of the Spirits Regulation.

(2) A competent authority may transfer such information to another competent authority as is necessary to protect geographical indications set out in the Spirits Regulation.

Withdrawal of verification or acceptance

7. (1) The Minister or the Revenue Commissioners may withdraw verification or acceptance where a person fails to pay the costs of verification compliance checks in accordance with Article 22(1) of the Spirits Regulation.

(2) The Minister or the Revenue Commissioners may withdraw verification or acceptance where a person ceases to produce, bottle or distil in compliance with the specifications of the relevant technical file submitted by the Minister under Article 17 of the Spirits Regulation and the Minister or the Revenue Commissioners shall—

- (a) notify the person and the reasons for the decision, and that the person may make representations in relation to the decision within 14 days of notification,
- (b) consider a representation made, and
- (c) confirm, modify or annul the decision and notify the person of the decision and the reasons for the decision.

Removal from the market

8. (1) A competent authority may require a person to remove ethyl alcohol of agricultural origin from the market where the person fails to satisfy the requirements of the technical file for—

- (a) Irish Cream,
- (b) Irish Poteen/Irish Poitín, or
- (c) Irish Whiskey/Uisce Beatha Eireannach/Irish Whisky.

(2) The competent authority referred to in paragraph (1) may permit a person who has removed product from the market under paragraph (1) to place the ethyl alcohol on the market subject to such changes in the packaging, labelling or promotional material as the competent authority considers appropriate.

Retention of records

9. A person who produces or places on the market a spirit drink made from ethyl alcohol of agricultural origin shall maintain records for at least 7 years after he or she has sold or otherwise disposed of the product.

Authorised officers

10. (1) The Minister may appoint in writing such persons or classes of persons as he or she considers appropriate to be authorised officers for the exercise of all or any of the functions conferred on an authorised officer under these Regulations, specified in the appointment.

(2) The Chief Executive of the Health Service Executive may appoint in writing such officers of the Executive as he or she considers appropriate to be authorised officers for the exercise of all or any of the functions conferred on an authorised officer under these Regulations, specified in the appointment.

(3) The Revenue Commissioners may appoint in writing such officer of the Commissioner as the Commissioners consider appropriate to be authorised officers for the exercise of all or any of the functions conferred on an authorised officer under these Regulations, specified in the appointment.

(4) The Minister, the Chief Executive of the Health Service Executive or the Revenue Commissioners may terminate the appointment of an authorised officer appointed by him or her, whether or not the appointment was for a fixed period or specified purpose.

(5) An appointment as an authorised officer ceases—

- (a) if it is terminated in accordance with paragraph (4),
- (b) if it is for a fixed period, on the expiration of that period,
- (c) if the person appointed is an officer of the Minister, the Chief Executive of the Health Service Executive or the Revenue Commissioners, upon the person ceasing to be such an officer or class of person.

(6) Nothing in paragraph (5) is to be construed so as to prevent the Minister, the Chief Executive of the Health Service Executive or the Revenue Commissioners from reappointing as an authorised officer a person to whom paragraph (5) relates.

(7) An authorised officer appointed under this Regulation shall be furnished with a warrant of his or her appointment and, when exercising a function conferred on him or her as an authorised officer, the officer shall, if requested by a person affected, produce the warrant, or other evidence that he or she is such an officer, for inspection.

Powers of an authorised officer

11. (1) For the purposes of these Regulations an authorised officer may—

- (a) enter and inspect, at all reasonable times, any premises if he or she is verifying compliance or related matters in accordance with these Regulations, the Spirits Regulation or the Commission Implementing Regulation or where he or she has reasonable grounds for believing that—
 - (i) a spirit drink, derived and ancillary product or other thing to which the Spirits Regulation or the Commission Implementing Regulation relates is, may be or has been present,
 - (ii) a record relating to a spirit drink, derived and ancillary product or other thing to which the Spirits Regulation or the Commission Implementing Regulation relates is, may be or has been present, or
 - (iii) equipment, machinery, a vehicle, a vessel or other thing used in connection with a spirit drink, derived and ancillary product or other thing to which these Regulations, the Spirits Regulation or the Commission Implementing Regulation relates is, may be or has been present, or
 - (iv) a premises is being or has been used in relation to a spirit drink, derived and ancillary product or thing which these Regulations, the Spirits Regulation or the Commission Implementing Regulation relate,

- (b) require the name and address of the owner, operator or person in possession or control of equipment, machinery, a vehicle, a vessel or other thing used in connection with a spirit drink, derived and ancillary product or other thing to which these Regulations, the Spirits Regulation or the Commission Implementing Regulation relate,
 - (c) require details of place of departure, journey or destination of a spirit drink, derived and ancillary product or other thing to which these Regulations, the Spirits Regulation or the Commission Implementing Regulation relate,
 - (d) inspect equipment, machinery, a vehicle, a vessel or other thing used in connection with a spirit drink, derived and ancillary product or other thing to which these Regulations, the Spirits Regulation or the Commission Implementing Regulation relate and require the operator, person in charge or control of such to refrain from moving it,
 - (e) require the owner, operator, person in charge of any premises, equipment, machinery, a vehicle, a vessel or other thing used in connection with a spirit drink, derived and ancillary product or other thing to which these Regulations, the Spirits Regulation or the Commission Implementing Regulation relate, to produce to the officer such records (and in the case of a record stored in non-legible form, produce to him or her a copy in a legible form) that are in the person's possession or procurement, or under the person's control, as the officer may reasonably require,
 - (f) inspect and take copies of any record (including a legible reproduction of one stored in non-legible form), document or extracts from the record or document that the officer finds or is produced to him or her during an inspection,
 - (g) take photographs or other electronic recordings,
 - (h) take, without making a payment, samples of a spirit drink, derived and ancillary product or other thing to which the Spirits Regulation or the Commission Implementing Regulation relate, or any article, substance or liquid as he or she may reasonably require and carry out or cause to be carried out on the samples such tests, analyses, examinations or inspections as he or she considers necessary or expedient; and mark or otherwise identify it.
- (2) An authorised officer may require a person to give information regarding the ownership and identity of equipment, machinery, a vehicle, a vessel or other thing used in connection with a spirit drink, derived and ancillary product or other thing to which these Regulations, the Spirits Regulation or the Commission Implementing Regulation relate as is in the person's knowledge or procurement.
- (3) Where an authorised officer has reasonable grounds for believing that—

- (a) there is a risk of disease or injury to public health,
- (b) a disease or disease agent is or may be present on a premises, machinery, equipment, vehicle or vessel,
- (c) an offence is being or has been committed under these Regulations,
- (d) there is a risk of contamination from a spirit drink or derived and ancillary product, or
- (e) evidence of a disease or a disease agent, contamination or an offence to which paragraph
- (c) relates may be, is or has been on any premises, or in any equipment, machinery, vehicle,

the officer may, in addition to the powers exercisable by him or her under paragraph (1)—

- (i) search the premises,
- (ii) search the equipment, machinery, vehicle, vessel or other thing used in connection with a spirit drink, derived and ancillary product or other thing to which these Regulations, the Spirits Regulation or the Commission Implementing Regulation relate,
- (iii) require a person in charge or control of the equipment, machinery, a vehicle, a vessel or other thing used in connection with a spirit drink, derived and ancillary product or other thing to which these Regulations, the Spirits Regulation or the Commission Implementing Regulation relate to refrain from using or moving it,
- (iv) seize and detain a spirit drink, derived and ancillary product or other thing to which these Regulations, the Spirits Regulation or the Commission Implementing Regulation relate and mark or otherwise identify it,
- (v) detain any equipment, machinery, vehicle, or vessel for such reasonable period necessary for the purposes of permitting an inspection or a search under these Regulations, the Spirits Regulation or the Commission Implementing Regulation,
- (vi) remove any equipment, machinery, vehicle, vessel or other thing used in connection with a spirit drink, derived and ancillary product or other thing to which these Regulations, the Spirits Regulation or the Commission Implementing Regulation relate or books, documents or records and detain them for such reasonable period necessary for the purpose of his or her functions under these Regulations,

(vii) give such direction to a person who has a spirit drink, derived and ancillary product or other thing to which these Regulations, the Spirits Regulation or the Commission Implementing Regulation relate, a vehicle, vessel, container, equipment, machinery or other thing used in connection with a spirit drink, derived and ancillary product or other thing to which these Regulations, the Spirits Regulation or the Commission Implementing Regulation relate in his or her possession or under his or her control or information relating to such, as the authorised officer may reasonably consider necessary for the purposes of these Regulations.

(4) An authorised officer shall not enter, except with the consent of the occupier, a private dwelling unless he or she has obtained a search warrant under Regulation 12.

(5) An authorised officer, when exercising a function under this Regulation, may be accompanied by other persons and may take with him or her, or those persons may take with them, any equipment or materials to assist the officer in the exercise of the function.

(6) An authorised officer may use reasonable force, if necessary, to exercise his or her functions under these Regulations.

(7) Where, in the course of exercising a function under these Regulations, an authorised officer finds or comes into possession of anything that the officer has reasonable grounds for believing to be evidence of an offence or suspected offence under these Regulations, the officer may seize and retain it for use in evidence in proceedings for an offence under these Regulations.

(8) Nothing in section 17 of the Industrial and Provident Societies Act 1893 prevents an authorised officer from exercising a function conferred on him or her by these Regulations.

(9) Nothing in these Regulations operates to prejudice any power to search or to stop, or to seize or detain property, which may, apart from these Regulations, be exercised by a member of the Garda Síochána or an officer of the Revenue Commissioners.

(10) A person who has—

(a) a spirit drink, derived and ancillary product or other thing to which these Regulations, the Spirits Regulation or the Commission Implementing Regulation relate, or

(b) equipment, machinery, a vehicle, a vessel or other thing used in connection with a spirit drink, derived and ancillary product or other thing to which these Regulations, the Spirits Regulation or the Commission Implementing Regulation relate in his or her possession or under his or her control, or information or a record relating to any of them,

shall give such—

- (i) assistance to an authorised officer, or person who accompanies the officer, and
- (ii) information to an authorised officer on request being made in that behalf by the officer, as the officer may reasonably require for the exercise of his or her functions under these Regulations.

(11) The owner, operator or person in charge of any premises used in connection with a spirit drink, derived and ancillary product or other thing to which the Spirits Regulation or the Commission Implementing Regulation relate shall, if required by an authorised officer, where it is practicable and possible, provide suitable equipment or facilities or a suitable part of the plant or establishment for the officer to carry out his or her functions under these Regulations.

(12) An authorised officer may require a person to give to the officer such information as is in the person's power or procurement or as regards any premises specified by the officer including—

- (a) whether or not the premises is used, either partly or wholly, for or in connection with a spirit drink, derived and ancillary product or other thing to which the Spirits Regulation or the Commission Implementing Regulation relates,
- (b) the name of the owner, occupier or person who is in charge of the premises, and
- (c) whether or not the premises is let and, if let, the name and address of the person to whom, and the period of time for which, it is let.

Search Warrant

12. (1) If a judge of the District Court is satisfied by information on the sworn information of an authorised officer that there are reasonable grounds for believing that—

- (a) evidence of or relating to the commission of an offence under the Spirits Regulation, the Commission Implementing Regulation or these Regulations relating to a spirit drink, derived and ancillary product or other thing to which the Spirits Regulation or the Commission Implementing Regulation relates is on any premises,
- (b) there is or was a spirit drink, derived and ancillary product or other thing to which the Spirits Regulation relates or equipment or other thing made, used or adapted for use (including manufacture or transport) in connection with a spirit drink or derived and ancillary product on a premises, or
- (c) a record related to a thing to which subparagraph (a) or (b) relates is or may be on the premises,

then the judge may issue a search warrant.

(2) A search warrant under this Regulation shall be expressed and operate to authorise a named authorised officer, accompanied by such authorised officers or other persons as the named authorised officer thinks necessary, at any time, within one month from the date of issue of the warrant, on production if so requested of the warrant, to enter the premises named in the warrant and to exercise all or any of the functions conferred on an authorised officer under these Regulations.

Compliance notice

13. (1) Where an authorised officer is of the opinion that—

- (a) a contravention of the Spirits Regulation, the Commission Implementing Regulation or these Regulations may have taken place, may be taking place, or
- (b) there is a risk to public health,

the officer may serve a notice (“compliance notice”) stating that opinion on the person—

- (i) who appears to be the owner, occupier, operator or person in charge of the premises, or
- (ii) in possession or control of a spirit drink, derived and ancillary product or other thing to which the notice relates.

(2) A compliance notice shall—

- (a) require the person to whom it is served to take such action as specified in the notice,
- (b) inform the person to whom it is served that he or she may appeal the notice in the District Court under Regulation 14, and
- (c) state that if the person to whom it is served fails to comply with the notice, he or she commits an offence and is liable to a penalty set out in Regulation 17.

(3) A compliance notice may—

- (a) require that a spirit drink, derived and ancillary product or other thing to which these Regulations, the Spirits Regulation or the Commission Implementing Regulation relate be detained, disposed of or destroyed in a manner and at a place (if any) specified in the notice,
- (b) prohibit or regulate any activity specified in the notice, including prohibiting or restricting entry onto the premises specified in the notice,
- (c) prohibit the transport or further transport of a spirit drink, derived and ancillary product, or other thing to which these Regulations, the

Spirits Regulation or the Commission Implementing Regulation relates, either absolutely or unless such conditions as may be specified in the notice are complied with,

- (d) require a person to return a spirit drink, derived and ancillary product or other thing to which these Regulations, the Spirits Regulation or the Commission Implementing Regulation relate, to the place of departure (whether within the State or otherwise) by a route which in the opinion of the authorised officer is the most direct or prudent,
- (e) require that such alterations or additions be made to any premises, vehicle, vessel, machinery or equipment as may be specified in the notice,
- (f) require a person to secure a spirit drink, derived and ancillary product or other thing to which these Regulations, the Spirits Regulation or the Commission Implementing Regulation relates in a manner (if any) as may be specified in the notice,
- (g) require a person to clean and disinfect any premises, vessel, vehicle, equipment, or machinery or other thing used in connection with a spirit drink, derived and ancillary product or other thing to which these Regulations, the Spirits Regulation or the Commission Implementing Regulation relate in a manner as may be specified in the notice,
- (h) require a person to undertake a specified type or level of sampling and analysis for a period specified in the compliance notice,
- (i) require a person to make such changes to a label or marketing material including re-labelling of a spirit drink, derived and ancillary product or other thing as may be specified in the notice, or
- (j) keep and produce such records relating to a spirit drink, derived and ancillary product or other thing to which these Regulations, the Spirits Regulation or the Commission Implementing Regulation relate as is necessary to show compliance with these Regulations, the Spirits Regulation or the Commission Implementing Regulation.

(4) A person to whom a compliance notice is served shall comply with it until the notice expires, is withdrawn under paragraph (6) or is annulled under Regulation 14, and not cause or permit another person to contravene the terms of the notice.

(5) A compliance notice may specify a time limit within which it is to be complied with.

(6) A compliance notice may be modified or withdrawn in a further notice and the earlier notice has effect subject to the modification or withdrawal.

(7) A compliance notice may require the owner, occupier, operator or person in charge of any premises, spirit drink, derived and ancillary product, vehicle, vessel, machinery, equipment or other thing to which these Regulations, the Spirits Regulation or the Commission Implementing Regulation relate, to choose between two or more of the requirements specified in the notice.

(8) A compliance notice shall include an address for service of an appeal under Regulation 14.

(9) A person on whom a compliance notice is served who fails to comply with, or causes or permits another person to contravene the notice commits an offence.

Appeal against compliance notice

14. (1) A person to whom a compliance notice is served may, within 7 days from the date of service of the notice, appeal the notice to the Judge of the District Court having jurisdiction in the District Court district—

(a) where a spirit drink, derived and ancillary product, premises, vehicle, machinery, equipment, vessel or other thing to which these Regulations, the Spirits Regulation or the Commission Implementing Regulation relate, which is the subject of the notice, is situated, or

(b) where the person bringing the appeal ordinarily resides or carries on business,

on the grounds that the notice is unreasonable having regard to the Spirits Regulation, the Commission Implementing Regulation or these Regulations.

(2) A person bringing an appeal shall serve a notice of an appeal containing a statement of the grounds upon which it is alleged that the compliance notice or any of the terms of that notice are unreasonable on the authorised officer who served the compliance notice at the address included on the notice in accordance with Regulation 13(8) not later than 48 hours prior to the hearing of the appeal.

(3) On the hearing of an appeal a Judge of the District Court may confirm, modify or annul a notice.

(4) A person, including a person on whom a compliance notice has been served, shall not—

(a) pending the determination of an appeal, deal with a spirit drink, derived and ancillary product, premises, vehicle, vessel, machinery, equipment or other thing to which the notice relates, other than in accordance with the terms of the compliance notice, or

(b) if the notice is confirmed or modified on appeal, deal with a spirit drink, derived and ancillary product or other thing to which these Regulations, the Spirits Regulation or the Commission Implementing

Regulation relates, any premises, vehicle, vessel, equipment, machinery or other thing to which the notice relates other than in accordance with the terms of the compliance notice as confirmed or modified.

(5) In this Regulation “appeal” means an appeal under paragraph (1).

Seizure and detention for non-compliance with a compliance notice

15. (1) Without prejudice to an appeal under Regulation 14, if—

- (a) a person in control of a spirit drink, derived and ancillary product or other thing to which these Regulations, the Spirits Regulation or the Commission Implementing Regulation relate, premises, vessel, vehicle, equipment, machinery or other thing used in connection with a spirit drink or derived and ancillary product fails to comply with the terms of a compliance notice within the time specified,
- (b) an authorised officer has reasonable grounds for believing that the terms of a compliance notice will not be complied with,
- (c) a compliance notice has been confirmed with or without modification under Regulation 14 and the notice has not been complied with,
- (d) an authorised officer has reasonable grounds for believing that the terms of a compliance notice which has been confirmed with or without modification under Regulation 14 will not be complied with,

an authorised officer may at any time seize the spirit drink, derived and ancillary product or other thing to which these Regulations, the Spirits Regulation or the Commission Implementing Regulation relate, vessel, vehicle, equipment, machinery or other thing used in connection with a spirit drink or derived and ancillary product.

(2) If a spirit drink, derived and ancillary product or other thing to which these Regulations, the Spirits Regulation or the Commission Implementing Regulation relate, vessel, vehicle, equipment, machinery or other thing used in connection with a spirit drink or derived and ancillary product is seized in accordance with paragraph (1), an authorised officer may—

- (a) sell, destroy or dispose of the spirit drink, derived and ancillary product or other thing to which these Regulations, the Spirits Regulation or the Commission Implementing Regulation relate or cause it to be sold, destroyed or be disposed of, or
- (b) take such other measures in relation to the spirit drink, derived and ancillary product or other thing to which these Regulations, the Spirits Regulation or the Commission Implementing Regulation relate, vessel, vehicle, equipment, machinery or other thing used in connection with a spirit drink or derived and ancillary product as the authorised officer considers appropriate in the circumstances.

(3) Any profits arising out of the sale, destruction or disposal of a spirit drink, derived and ancillary product or other thing to which these Regulations, the Spirits Regulation or the Commission Implementing Regulation relate in accordance with paragraph (2) shall be paid to the owner of the spirit drink, derived and ancillary product or other thing to which these Regulations, the Spirits Regulation or the Commission Implementing Regulation relate less any expenses incurred in connection with the seizure, sale, destruction or disposal.

(4) The costs (including ancillary costs) of a measure taken under this Regulation are recoverable by the Minister, Food Safety Authority of Ireland or the Chief Executive of the Health Service Executive—

- (a) as a simple contract debt in a court of competent jurisdiction from the person who was the owner of the spirit drink, derived and ancillary product or other thing or means of transport at the time the measure was carried out, or
- (b) by deducting the costs from any sum due by the Minister, Food Safety Authority of Ireland or the Chief Executive of the Health Service Executive to a person on whom a notice has been served.

Obstruction and false statements

16. A person who—

- (a) obstructs, interferes with or impedes an authorised officer, or any person who accompanies an authorised officer, in the course of exercising a function conferred on the officer under these Regulations,
- (b) fails or refuses, without reasonable cause, to comply with a direction of an authorised officer under Regulation 11,
- (c) fails, without reasonable cause, to give assistance or requested information to an authorised officer in accordance with Regulation 11, or
- (d) in purporting to give information to an authorised officer for the exercise of the officer's functions under these Regulations—
 - (i) makes a statement that he or she knows to be false or misleading in a material particular or recklessly makes a statement which is false or misleading in a material particular, or
 - (ii) intentionally fails to disclose a material particular,

commits an offence.

Offences

17. (1) A person who commits an offence under Regulation 3, 4, 8, 9, 13 or 16 is liable—

- (a) on summary conviction to a Class A fine or a term of imprisonment not exceeding 6 months or both, or

(b) on conviction on indictment to a fine of not more than €100,000 or a term of imprisonment not exceeding 2 years or both.

(2) A statement or admission made by a person pursuant to a requirement under Regulation 11(10)(ii) is not admissible in evidence in proceedings brought against the person for an offence (other than an offence under this Regulation for failing to give information or false information) under these Regulations.

Prosecutions

18. The Minister, the Food Safety Authority of Ireland or the Health Service Executive may prosecute an offence under these Regulations in a summary manner.

Evidence

19. (1) In proceedings, evidence of an act of the institutions of the European Communities may be given by production of a copy of the act certified by an officer of a registering authority to be a copy of the act, and it is not necessary to prove the signature of the officer or that he or she is an officer of the authority.

(2) Paragraph (1) is in addition to and not in substitution for the European Communities (Judicial Notice and Documentary Evidence) Regulations 1972 (S.I. No. 341 of 1972).

Food legislation

20. This legislation is deemed food legislation for the purposes of the Food Safety Authority of Ireland Act 1998

Revocations

21. The European Communities (Spirits Drinks) Regulations 2009 (S.I. No. 429 of 2009) are revoked.



GIVEN under my Official Seal,
21 July 2015.

SIMON COVENEY,
Minister for Agriculture, Food and the Marine.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

These Regulations provide for the establishment of a verification system for protected Irish Spirits according to specification set out in Technical files. The Regulations also allow for the appointment of authorised officers and for control and enforcement powers in respect of certain EU geographical indication measures to which the regulations are applied in the spirit drinks.

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Le ceannach díreach ó
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(Teil: 01 - 6476834 nó 1890 213434; Fax: 01 - 6476843)
nó trí aon díoltóir leabhar.

DUBLIN
PUBLISHED BY THE STATIONERY OFFICE
To be purchased from
GOVERNMENT PUBLICATIONS,
52 ST. STEPHEN'S GREEN, DUBLIN 2.
(Tel: 01 - 6476834 or 1890 213434; Fax: 01 - 6476843)
or through any bookseller.

€4.06

