



STATUTORY INSTRUMENTS.

**S.I. No. 429 of 2009**



EUROPEAN COMMUNITIES (SPIRITS DRINKS) REGULATIONS 2009

**(Prn. A9/1483)**

## EUROPEAN COMMUNITIES (SPIRITS DRINKS) REGULATIONS 2009

I, BRENDAN SMITH, Minister for Agriculture, Fisheries and Food, 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 full effect to Regulation (EC) No. 110/2008 of the European Parliament and of the Council of 15 January 2008<sup>1</sup>, hereby make the following regulations:

1. These Regulations may be cited as the European Communities (Spirits Drinks) Regulations 2009.

2. (1) In these Regulations—

“authorised officer” means—

- (a) a member of the Garda Síochána,
- (b) an officer of Customs and Excise,
- (c) an authorised officer within the meaning of the European Communities (Labelling, Presentation and Advertising of Foodstuffs) Regulations 2002 (S.I. No. 482 of 2002), or
- (d) an authorised officer within the meaning of the European Communities (Agriculture, Fisheries and Food) (Compliance) Regulations 2009 (S.I. No. 424 of 2009);

“Minister” means Minister for Agriculture, Fisheries and Food;

“Spirits Regulation” means Regulation (EC) No. 110/2008 of the European Parliament and of the Council of 15 January 2008.

(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 in the Spirits Regulation.

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),
- (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),

<sup>1</sup> O.J. L 39 of 13.2.2008, p. 16.

*Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 30th October, 2009.*

- (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),
- (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),
- (e) classifies a spirit drink other than as provided for in Article 4,
- (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),
- (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),
- (h) without prejudice to paragraph (e), produces or attempts to produce any other spirit drink in contravention of Article 5(3),
- (i) breaches a specific rule concerning sales denomination of a spirit drink in contravention of Article 9,
- (j) breaches a specific rule concerning the use of a sales denomination or geographic indication in contravention of Article 10,
- (k) breaches a description, presentation or labelling requirement of a spirit drink in contravention of Article 11,
- (l) breaches a specific rule concerning description, presentation or labelling of a spirit drink in contravention of Article 12,
- (m) uses a lead-based capsule or foil in contravention of Article 13,
- (n) breaches a measure relating to the use of language in contravention of Article 14,
- (o) markets a spirit drink bearing a geographical indication registered in Annex III, in contravention of Article 15(4),
- (p) markets a spirit drink or other substance as if the spirit drink benefits from a protection of geographical indication in contravention of Article 16,
- (q) otherwise contravenes a provision (mentioned in this Regulation-) of the Spirits Regulation,

commits an offence.

4. A person shall not—

- (a) have 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
  - (b) have 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
  - (c) advertise or promote a spirit drink produced in contravention of the Spirits Regulation.
- 5. A person who commits an offence under Regulations 3 or 4 is liable—
  - (a) on summary conviction to a fine of not more than €5,000 or a term of imprisonment not exceeding 6 months or to 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 to both.
- 6. A summary offence under these Regulations may be prosecuted by—
  - (a) the Minister,
  - (b) the Revenue Commissioners, or
  - (c) the Health Service Executive.
- 7. (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).
- 8. The European Communities (Agriculture, Fisheries and Food) (Compliance) Regulations 2009 (S.I. No. 424 of 2009) apply to these Regulations.
- 9. (1) Subject to paragraph (2), the European Communities (Definition, Description and Presentation of Spirit Drinks) Regulations, 1995 (S.I. No. 300 of 1995) and the European Communities (Definition, Description and Presentation of Spirit Drinks) (Amendment) Regulations, 1998 (S.I. No. 7 of 1998) are revoked.  
  
(2) A person may have in his or her possession or under his or her control and market a spirit drink (produced before 20 May 2009) that conforms to the Regulations cited in paragraph (1).



GIVEN under my Official Seal,  
22 October 2009.

BRENDAN SMITH,  
Minister for Agriculture, Fisheries and Food.

#### EXPLANATORY NOTE

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

These regulations provide for penalties for breaches of certain provisions of Regulation (EC) No. 110/2008 which relate to the definition, description, labelling and protection of geographical indications of spirit drinks and to confer powers of entry to premises on authorised officers.

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