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| **Agri-food Policy**Sustainable Agri-food Development DivisionFood and Farming Group | A4 DAERA Logo process.png |
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 03 April 2023

Dear Stakeholder,

**DRAFT SPIRIT DRINKS REGULATIONS (NORTHERN IRELAND) 2023**

I am writing to invite your views on draft legislation, the draft Spirit Drinks Regulations (Northern Ireland) 2023 (the draft Regulations). The draft Regulations replace the UK-wide [Spirit Drinks Regulations 2008](https://www.legislation.gov.uk/uksi/2008/3206/contents/made#:~:text=The%20Spirit%20Drinks%20Regulations%202008%201%20Title%20and,information%2010%20Powers%20of%20entry%20More%20items...%20) as they apply here, primarily to provide enforcement powers for updated EU rules on spirit drinks which are directly applicable in Northern Ireland.

As the legislation relates to food, this engagement is being carried out as required by [Article 9 of Regulation (EC) No. 178/2002](https://www.legislation.gov.uk/eur/2002/178/contents), laying down the general principles and requirements of food law. It should be noted that this engagement on the draft Regulations is preparatory, in advance of an incoming DAERA Minister and Northern Ireland Assembly, and the Regulations will not be made until such time. However, the Department is engaging now to ensure stakeholder views are recognised early in the legislative process.

**Background**

Between 2008 and 2019, spirit drinks were regulated in the EU by [Regulation (EC) 110/2008](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02008R0110-20190608&qid=1621344205496)[[1]](#footnote-1), which was directly applicable in member states and enforced across the UK by the Spirit Drinks Regulations 2008 (the 2008 Regulations).

EC 110/2008 was replaced by [Regulation (EU) 2019/787](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32019R0787)[[2]](#footnote-2). The provisions in EU 2019/787 that relate to Geographical Indications (GIs) have been applicable in the UK since 8 June 2019. The domestic enforcement legislation was updated on a UK-wide basis by the [Spirit Drinks and Scotch Whisky (Amendment) Regulations 2019](https://www.legislation.gov.uk/uksi/2019/1289/made#:~:text=These%20Regulations%20may%20be%20cited%20as%20the%20Spirit,Regulations%202008%20%28%204%29%20are%20amended%20as%20follows.), which updated the GI provisions to refer to EU 2019/787.

The non-GI rules on spirit drinks have also been updated by EU 2019/787. These include updated rules on their description, presentation, and labelling. These provisions came into force on 25 May 2021.

Guidance on the requirements of EU 2019/787 is available online at:

* <https://www.gov.uk/government/publications/spirit-drinks-verification-scheme-technical-guidance>;
* [Labelling spirit drinks - GOV.UK (www.gov.uk)](https://www.gov.uk/guidance/labelling-spirit-drinks); and
* <https://www.fsai.ie/content.aspx?id=1106&terms=drinks+and+beverages>.

**The draft Spirit Drinks Regulations (Northern Ireland) 2023**

EU spirit drinks rules continue to apply directly in Northern Ireland. It is therefore necessary to update domestic legislation to provide for changes to EU rules.

The draft Regulations propose to revoke and replace the non-GI provisions in the 2008 Regulations[[3]](#footnote-3) in Northern Ireland and, in doing so, update them to provide for enforcement of EU 2019/787. **The draft Regulations are attached at Annex A.**

The draft Regulations seek to replicate the 2008 Regulations as far as possible by simply updating references to the legislation. The draft Regulations do not represent a change in the underlying policy. No changes are being made to the method of enforcement for the updated regulations and, therefore, enforcement will continue to be carried out by District Councils (as under the 2008 Regulations). Otherwise, the key change made by the draft Regulations is to replace Schedules 2 and 3 of the 2008 Regulations, which listed the provisions of EC 110/2008 (contravention of which was an offence) with schedules which list the provisions of the current EU rules, Regulation EU 2019/787.

Importantly, many of the provisions have simply been rolled forward; however, some of the provisions have been expanded, relaxed, or provided for in more detail. **The key changes in the schedules are detailed in the attachment at Annex B** and, although this is not a comprehensive list of the provisions, it is intended to aid consideration of the main changes made by EU 2019/787, as reflected in the draft Regulations.

**Stakeholder views**

As noted, the EU legislation on spirit drinks is directly applicable in Northern Ireland and the changes to domestic legislation made by the draft Regulations are necessary to ensure the updated EU rules can be enforced in the same way in which the old EU rules had been. **The Department would welcome any comments you have on the draft Regulations at Annex A, noting the key changes highlighted in Annex B**. Your comments will also help inform the need for a regulatory impact assessment. Please feel free to bring this to the attention of any other stakeholders who you think may have an interest.

**Equality and Rural Needs**

The draft Regulations have been considered for their impacts on equality and human rights, and have been screened out of the need for a full Equality Impact Assessment on the basis that they do not have any equality or human rights implications. A Rural Needs Impact Assessment has been carried out which has concluded that there is no differential impact upon citizens in rural areas. The Department welcomes any comments or evidence in relation to the Department’s conclusions in this regard.

**Privacy, confidentiality, and access to consultation responses**

The Department takes data protection and the security of your personal data seriously. It takes care to ensure that any personal information received from you is dealt with in a way which complies with the requirements of the UK General Data Protection Regulation and the Data Protection Act (2018).

Your response, and all other responses to the consultation, may be disclosed on request. The Department can only refuse to disclose information in exceptional circumstances. Before you submit your response, please read the paragraphs below on the confidentiality of consultations and they will give you guidance on the legal position about any information given by you in response to this consultation.

Section 8(e) of the Data Protection Act 2018 permits processing of personal data when necessary for an activity that supports or promotes democratic engagement. Information provided by respondents to this stakeholder engagement exercise will be held and used for the purposes of the administration of this current exercise and subsequently disposed of in accordance with the legislation. For more information and to view the DAERA Privacy Statement please go to: <https://www.daera-ni.gov.uk/publications/daera-privacy-statement-document>

The FOI Act gives the public a right of access to any information held by a public authority, namely, the Department in this case. This right of access to information includes information provided in response to a consultation. The Department cannot automatically consider as confidential, information supplied to it in response to a consultation. However, it does have the responsibility to decide whether any information provided by you in response to this consultation, including information about your identity should be made public or be treated as confidential. If you do not wish information about your identity to be made public please include an explanation in your response including any harm you believe such a disclosure might cause.

This means that information provided by you in response to the consultation is unlikely to be treated as confidential, except in very particular circumstances. The Lord Chancellor’s Code of Practice on the FOI Act provides that:

* The Department should only accept information from third parties in confidence if it is necessary to obtain that information in connection with the exercise of any of the Department’s functions and it would not otherwise be provided;
* The Department should not agree to hold information received from third parties “in confidence” which is not confidential in nature acceptance of which by the Department of confidentiality provisions must be for good reasons, capable of being justified to the Information Commissioner.

For further information about confidentiality of responses please contact the Information Commissioner’s Office or visit the [ICO Website](https://ico.org.uk/).

**Accessibility**

Copies of these documents can be made available, on request, in alternative formats e.g. in large print, Braille disc, audio cassette and other languages. Please contact us at marketing.standards@daera-ni.gov.uk, or 028 9037 8575, to arrange such copies. For those with hearing difficulties, please leave a message on the Department’s text phone (18001 028 9037 8575).

**Responding to the Department**

This letter, and associated documents, are available on the Department’s website at:

[www.daera-ni.gov.uk/consultations](http://www.daera-ni.gov.uk/consultations)

Comments on the draft Regulations, or on related issues as referred to above, can be sent to: marketing.standards@daera-ni.gov.uk

**Please note that the closing date for comments is 5pm on Sunday 25 June 2023.**

Yours sincerely,



**Kristopher Todd**

**Agri-food policy**

**Sustainable Agri-food Development Division**

**Attachments:**

Annex A - Draft Spirit Drinks Regulations (Northern Ireland) 2023

Annex B - Key changes brought in by EU 2019/787, to be enforced by the draft SR

1. [Regulation (EC) No 110/2008 of the European Parliament and of the Council on the definition, description, presentation, labelling and the protection of geographical indications of spirit drinks.](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02008R0110-20190608&qid=1621344205496) [↑](#footnote-ref-1)
2. [Regulation (EU) 2019/787 of the European Parliament and of the Council on the definition, description, presentation and labelling of spirit drinks, the use of the names of spirit drinks in the presentation and labelling of other foodstuffs, the protection of geographical indications for spirit drinks, the use of ethyl alcohol and distillates of agricultural origin in alcoholic beverages.](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32019R0787) [↑](#footnote-ref-2)
3. The GI provisions of EU 2019/787 remain enforced in Northern Ireland by the 2008 Regulations, as intellectual property is a reserved matter and is therefore outside the legislative competence of the Northern Ireland Assembly. [↑](#footnote-ref-3)