



EUROPEAN
COMMISSION

Brussels, **XXX**
[...] (2021) **XXX** draft

COMMISSION DELEGATED REGULATION (EU) .../...

of **XXX**

amending Regulation (EU) 2019/787 of the European Parliament and of the Council as regards labelling provisions for blends

This draft has not been adopted or endorsed by the European Commission. Any views expressed are the preliminary views of the Commission services and may not in any circumstances be regarded as stating an official position of the Commission.

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

Regulation (EU) 2019/787 has extended the labelling provisions for mixtures resulting in spirit drinks not complying with the requirements of any spirit drink category to blends resulting from the combination of spirit drinks belonging to different GIs or of spirit drinks with a GI with spirit drinks without a GI.

However, that provision seems to require that those blends may not bear the name of the spirit drink category they belong to as their legal name. This is not in line with the provision that spirit drinks complying with the requirements of a category of spirit drinks shall use the name of that category as their legal name, given that the Spirit Drinks Regulation defines ‘blends’ as the combination of two or more spirit drinks of the same category that are distinguishable only by minor differences in composition and provides that they belong to the same category of spirit drinks as the original spirit drinks before blending.

For this reason, Regulation (EU) 2019/787 should be amended to clarify the specific labelling provisions applicable to the above-mentioned types of blends and, in particular, that they shall bear the name of the relevant spirit drink category as their legal name.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

Certain Member States and representatives of the industry have pointed out to the Commission that the above-mentioned wording of the new Spirit Drinks Regulation actually prohibits blends resulting from the combination of spirit drinks belonging to different geographical indications or from the combination of spirit drinks belonging to GIs with spirit drinks not belonging to any GI from bearing the name of the relevant spirit drink category as their legal name. This should be clarified to provide legal certainty and to allow legitimate consumers information.

Consultations involving experts from all the 27 Member States have been carried out as a preparation for and during the meetings of the Expert Group for the Common Organisation of Agricultural Markets – Spirit Drinks held (virtually) on 3 December 2020 and 9 February 2021. This consultation process led to a broad consensus on the draft delegated regulation.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

The delegated act is based on Article 50(3) 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. It should be adopted by means of the procedure according to Article 46 of Regulation (EU) 2019/787.

Article 1: This Article divides Article 13(3) of Regulation (EU) 2019/787 into two paragraphs: one covering mixtures resulting in spirit drinks not complying with the requirements of any of the categories laid down in Annex I and one covering blends of spirit drinks including specific labelling provisions for blends resulting from the combination of spirit drinks belonging to different geographical indications or from the combination of spirit drinks belonging to GIs with spirit drinks not belonging to any GI in order to clarify that those may bear the name of the relevant spirit drink category as their legal name. It also amends Articles 3(3) and 10(7) of that Regulation, which refer to those specific labelling provisions.

Article 2: This Article provides for the simultaneous application of the amendment provided in Article 1 with the provisions it refers to (i.e. Articles 3(3) and 12 of Regulation (EU) 2019/787) which, by virtue of Article 51(1) of that Regulation, will apply from 25 May 2021.

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THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2019/787 of the European Parliament and of the Council of 17 April 2019 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, and repealing Regulation (EC) No 110/2008¹, and in particular Article 50(3) thereof,

Whereas:

- (1) Regulation (EU) 2019/787 has substantially reworded certain production and labelling provisions concerning spirit drinks and foodstuffs produced by using spirit drinks as ingredients.
- (2) In particular, Article 13(3) of Regulation (EU) 2019/787 extends the labelling provisions for mixtures resulting in spirit drinks not complying with the requirements of any spirit drink category to blends resulting from the combination of spirit drinks belonging to different geographical indications or from the combination of spirit drinks belonging to geographical indications with spirit drinks not belonging to any geographical indication.
- (3) Consequently, according to Article 13(3) of Regulation (EU) 2019/787, the legal names provided for in the categories of spirit drinks set out in Annex I to that Regulation or geographical indications for spirit drinks may be indicated only in a list of the alcoholic ingredients appearing in the same visual field as the legal name of the spirit drink. This implies that the spirit drink category to which belongs a blend covered by that provision may not be used as its legal name. The only exception provided for in that Article concerns blends made of spirit drinks belonging to the same geographical indication or blends of which none of the spirit drinks belongs to a geographical indication. For those blends, this implies that they may use the respective spirit drink category as legal name in their description, presentation and labelling.
- (4) However, according to the definitions provided for in Article 3(11) and (12) of Regulation (EU) 2019/787, blends are the combination of two or more spirit drinks of the same category that are distinguishable only by minor differences in composition. Therefore, the spirit drinks so produced belong necessarily to the same category of spirit drinks as the original spirit drinks before blending. Article 10(2) of that Regulation provides that spirit drinks complying with the requirements of a category of spirit drinks set out in Annex I to that Regulation are to use the name of that

¹ OJ L 130, 17.5.2019, p. 1.

category as their legal name. In line with that requirement, all blends and not only the ones exempted by the fourth subparagraph of Article 13(3) of that Regulation are to be allowed to use as legal name the name of the category to which they belong.

- (5) Therefore, in order to correct the inconsistency between the labelling obligations for blends resulting from Articles 10(2) and 13(3) of Regulation (EU) 2019/787 and ensure legal certainty for spirit drinks producers and legitimate information to consumers, it is appropriate to clarify the specific labelling provisions applicable to blends including blends resulting from the combination of spirit drinks belonging to different geographical indications or from the combination of spirit drinks belonging to geographical indications with spirit drinks not belonging to any geographical indication. It is also necessary to amend Articles 3(3) and 10(7) of that Regulation, which refer to those specific labelling provisions.
- (6) Regulation (EU) 2019/787 should therefore be amended accordingly.
- (7) In accordance with Article 51(3) of Regulation (EU) 2019/787, this Regulation should apply from 25 May 2021,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EU) 2019/787 is amended as follows:

- (1) in Article 3, point 3 is replaced by the following:

‘(3) ‘allusion’ means the direct or indirect reference to one or more legal names provided for in the categories of spirit drinks set out in Annex I or to one or more geographical indications for spirit drinks, other than a reference in a compound term or in a list of ingredients as referred to in Article 13(2) to (4), in the description, presentation or labelling of:

 - (a) a foodstuff other than a spirit drink, or
 - (b) a spirit drink that complies with the requirements of categories 33 to 40 of Annex I;’;
- (2) in Article 10(7), the first subparagraph is replaced by the following:

‘7. Without prejudice to Articles 11 and 12 and Article 13(2) to (4), the use of the legal names referred to in paragraph 2 of this Article or geographical indications in the description, presentation or labelling of any beverage not complying with the requirements of the relevant category set out in Annex I or of the relevant geographical indication shall be prohibited. That prohibition shall also apply where such legal names or geographical indications are used in conjunction with words or phrases such as ‘like’, ‘type’, ‘style’, ‘made’, ‘flavour’ or any other similar terms.’;
- (3) Article 13 is amended as follows:
 - (a) paragraph 3 is replaced by the following:

‘3. In the case of a mixture, the legal names provided for in the categories of spirit drinks set out in Annex I or geographical indications for spirit drinks may be indicated only in a list of the alcoholic ingredients appearing in the same visual field as the legal name of the spirit drink.

In the case referred to in the first subparagraph, the list of alcoholic ingredients shall be accompanied by at least one of the terms referred to in point (e) of Article 10(6). Both the list of alcoholic ingredients and the accompanying term shall appear in the

same visual field as the legal name of the mixture, in uniform characters of the same font and colour and in a font size which is no larger than half the font size used for the legal name.

In addition, the proportion of each alcoholic ingredient in the list of alcoholic ingredients shall be expressed at least once as a percentage, in descending order of quantities used. That proportion shall be equal to the percentage by volume of pure alcohol it represents in the total pure alcohol content by volume of the mixture.’;

(b) the following paragraph is inserted:

‘3a. In the case of a blend, the spirit drink shall bear the legal name provided for in the relevant category of spirit drinks set out in Annex I.

In case of blends resulting from the combination of spirit drinks belonging to different geographical indications or from the combination of spirit drinks belonging to geographical indications with spirit drinks not belonging to any geographical indication, the following conditions shall apply:

- (a) the description, presentation or labelling of the blend may show the legal names set out in Annex I or geographical indications corresponding to the spirits drinks that were blended, provided that those names appear:
 - (i) exclusively in a list of all the alcoholic ingredients contained in the blend which shall appear in uniform characters of the same font and colour and in a font size which is no larger than half the font size used for the legal name; and
 - (ii) in the same visual field as the legal name of the blend at least once;
- (b) the list of alcoholic ingredients shall be accompanied by at least one of the terms referred to in point (d) of Article 10(6);
- (c) the proportion of each alcoholic ingredient in the list of alcoholic ingredients shall be expressed at least once as a percentage, in descending order of quantities used. That proportion shall be equal to the percentage by volume of pure alcohol it represents in the total pure alcohol content by volume of the blend.’.

Article 2

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 25 May 2021.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the Commission
The President
Ursula VON DER LEYEN