



Sale and Movement of Food and Drink between the UK and Europe

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1. Introduction

Sale and Movement of Food and Drink between the UK and Europe - A Case Study: Netherlands to UK; UK to the Netherlands

Innovation in the food and drink industry is booming in Europe and worldwide. For producers of food and drink the commercial opportunities are endless and international markets are generally becoming more and more accessible.

In order to protect consumers and producers as well as to maintain high levels of food safety there are extensive legal and regulatory requirements to comply with when importing produce. Dutch lawyer [Merel Lentjes](#) at Boels Zanders and Scottish lawyer [Katie MacLeod](#) at MFMac have teamed up to provide insight into the requirements of importing products into their local jurisdictions. This article will consider the legal and regulatory requirements of i) the import of Scottish produce into the EU / the Netherlands and ii) the import of Dutch produce into Scotland.



2. The Netherlands

2.1. Importation of Scottish/UK produce into the Netherlands

The legal framework that applies in the Netherlands consists of at least the European General Food Regulation (Regulation (EC) No 178/2002)¹. At the national level, food safety rules are laid down in the Commodities Act (Warenwet) and its delegated legislation.

In general the following rules² apply to food operators and the following information is mandatory to provide to the consumer:

- a) name of the food;
- b) the list of ingredients;
- c) any ingredient or processing aid causing allergies or intolerances used in the manufacture or preparation of a food and still present in the finished product;
- d) the quantity of certain ingredients;
- e) the net quantity of the food;
- f) the date of minimum durability or the 'use by' date;
- g) any special storage conditions and/or conditions of use;
- h) the name of the business and address of the food business operator;
- i) the country of origin;
- j) instructions for use where it would be difficult to make appropriate use

of the food in the absence of such instructions;

k) with respect to beverages containing more than 1.2 % by volume of alcohol, the actual alcoholic strength by volume;

l) a nutrition declaration.

We will now consider how certain famous Scottish products, Scottish salmon and Scotch Whisky can be imported to the Netherlands.

¹REGULATION (EC) No 178/2002 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety.

²REGULATION (EU) No 1169/2011 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 25 October 2011 on the provision of food information to consumers, amending Regulations (EC) No 1924/2006 and (EC) No 1925/2006 of the European Parliament and of the Council, and repealing Commission Directive 87/250/EEC, Council Directive 90/496/EEC, Commission Directive 1999/10/EC, Directive 2000/13/EC of the European Parliament and of the Council, Commission Directives 2002/67/EC and 2008/5/EC and Commission Regulation (EC) No 608/2004.

2.2. Scottish salmon

Regulation (EC) No 853/2004 sets out specific rules on the hygiene of food of animal origin for food business operators. Products that originate from animals can only be placed on the market if they have been prepared and handled in accordance with the requirements of the Regulation (Annex III). Foods can only be imported from a country if this country is registered on the list in the Regulation. The Regulation stipulates several specific requirements for the controls on organisations who produce products of animal origin.³

Information and labelling

All suppliers of fish products are required to provide information on the products they sell into the European market. In addition to the mandatory product information, for example, labelling, that applies to all sorts of food products, there are additional requirements for fish products, such as salmon.

For all fish products, pre-packed and non-pre-packed, the following information is mandatory.⁴

This information must be placed in a clearly visible place:

- The commercial designation of the species and its scientific name;

- The production method and the area where the fishery products were caught or farmed;
- Whether the fishery products had been defrosted. This requirement shall not apply to foods for which freezing is a technologically necessary step in the production process;
- The date of minimum durability.

In addition to the legally required information, a supplier can use quality marks. Examples of quality marks for fishery products are the MSC- and ASC-quality marks.

The fish products may be marketed in the EU if they are presented in packages with the following details clearly marked:

- Country of origin in Roman letters at least 20 mm high
- Scientific name and trade name
- Presentation
- Freshness and size categories
- Net weight in kilograms
- Date of grading and date of dispatch
- Name and address of consignor

³These procedures do not apply to fresh fishery products who come directly from a ship with the flag of a third country.

⁴REGULATION (EU) No 1379/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL OF 11 December 2013 on the common organization of the markets in fishery and aquaculture products, amending Council Regulations (EC) No 1184/2006 and (EC) No 1224/2009 and repealing Council Regulation (EC) No 104/2000.

Packaging and transport

Food operators transporting fish products must ensure that vessels used to harvest fish products from their natural environment, or to handle or process them after harvesting, comply with the following structural and equipment requirements:

- a) Vessels must be designed and constructed so as not to cause contamination of the fish products with bilge-water, sewage, smoke, fuel, oil, grease or other objectionable substances;
- b) Surfaces with which fish products come into contact must be of suitable corrosion-resistant material, that is smooth and easy to clean;
- c) Equipment and material used for working on fish products must also be made of corrosion-resistant material, that is easy to clean and disinfect;
- d) When vessels have a water intake for water used with fish products, it must be situated in a position that avoids contamination of the water supply.

There are additional requirements for vessels designed and equipped to preserve fresh fish products for more than twenty-four hours, freezer vessels and factory vessels.

When fish products are wrapped on

board fishing vessels, food business operators must ensure that wrapping material is not a source of contamination, is stored in such a manner that it is not exposed to a risk of contamination and is easy to clean and to disinfect, when it is intended for re-use.

Food hygiene

There are also further food hygiene requirements for fish products. The following hygiene requirements are mandatory

- a) The parts of vessels or containers set aside for the storage of fish products must be kept clean and maintained in good repair and condition. In particular, they must not be contaminated by fuel or bilge water;
- b) As soon as fish products are taken on board, they must be protected from contamination and from the effects of the sun or any other source of heat. When the fish products are washed, the water used must be either potable water or, where appropriate, clean water;



c) Fish products must be handled and stored so as to prevent bruising;

d) Fish products, other than those kept alive, must undergo cooling as soon as possible after loading. However, when cooling is not possible, fish products must be landed as soon as possible;

e) Ice used to cool fish products must be made from potable water or clean water;

f) Where fish are headed or gutted on board, such operations must be carried out hygienically as soon as possible after capture. The products must be washed immediately and thoroughly with potable water or clean water. The viscera and parts that may constitute a danger to public health must be removed as soon as possible and kept apart from products intended for human consumption.



2.3. Scotch Whisky

Regulation (EC) No 2019/787 lays down specific rules 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 and the protection of geographical indications for spirit drinks⁵. The requirements for whisky are stipulated below.

General conditions

Spirit drinks that comply with the requirements of a category spirit drinks set out in Annex I in Regulation (EC) No 2019/787, shall use the name of that category as their legal name. Whisky is one of those spirit drinks listed in Annex I. It is a spirit drink produced exclusively by carrying out all of the following production operations:

- a) Distillation of a mash made from malted cereals, with or without whole grains of unmalted cereals, which has been:
 - saccharified by the diastase of the malt contained therein, with or without natural enzymes,
 - fermented by the action of yeast.
- b) Each and every distillation is carried out at less than 94.8 % vol., so that the distillate has an aroma and taste derived from the raw materials used;

- c) Maturation of the final distillate for at least three years in wooden casks not exceeding 700 litres capacity.

The legal name of whisky may be supplemented by the term 'single malt' only if it has been distilled exclusively malted barley at a single distillery.

Name and address of consignor materials.



⁵REGULATION (EU) No 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 110/2008.

Information and labelling

Spirit drinks placed on the European Market shall comply with the presentation and labelling requirements set out in Regulation (EU) No 1169/2011, unless otherwise provided for⁶. Whisky is a spirit drink and therefore the next requirements are relevant. The legal name of whisky is also the name of the spirit drink. This legal name shall be shown clearly and visibly on the label of the spirit drink and shall not be replaced or altered. The legal name may be supplemented by a name or geographical reference provided for in the laws, regulations and administrative provisions applicable in the state in which the spirit drink is placed on the market, provided that this does not mislead the consumer.

Furthermore, the description, presentation or labelling of the spirit drink may only refer to the raw materials used to produce the ethyl alcohol of agricultural origin or distillates of agricultural origin used in the production of those spirit drinks only where the ethyl alcohol or those distillates have been obtained exclusively from those raw materials.

Packaging and transport

For all spirit drinks that are imported from outside the EU, there must be submitted an import declaration to Dutch Customs. Then Customs classifies products with commodity codes, also called HS-codes or TARIC-codes. These codes are needed for your import declaration.

Claims

When spirit drinks are imported from countries outside the European Economic Area (EEA), then the importer is the producer according to Dutch law. This makes the importer liable for damage caused by a defect in these products. Even if a producer in the EEA produces spirit drinks with an importer's brand name (private-label) or without a brand name (white-label), the importer is liable.



⁶REGULATION (EU) No 1169/2011 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 25 October 2011 on the provision of food information to consumers, amending Regulations (EC) No 1924/2006 and (EC) No 1925/2006 of the European Parliament and of the Council, and repealing Commission Directive 87/250/EEC, Council Directive 90/496/EEC, Commission Directive 1999/10/EC, Directive 2000/13/EC of the European Parliament and of the Council, Commission Directives 2002/67/EC and 2008/5/EC and Commission Regulation (EC) No 608/2004.



3. The United Kingdom

3.1. Importation of Dutch produce into the UK/Scotland

In Scotland, the primary legislation governing food regulation is the Food (Scotland) Act 2015, which established Food Standards Scotland (FSS) as the public body responsible for food policy. In relation to the importation of food products into Scotland, there are specific rules for high-risk foods, products of animal origin, fish products or bivalve molluscs, composite products, and wine. The rules in relation to the importation of alcohol into Scotland depend on whether it is for personal or business use, how regular the imports are and whether excise duty has already been paid.

We will now consider the importation of products from the Netherlands into Scotland, focusing on the much beloved Gouda cheese and Jenever Gin. Before importing any goods into Scotland or the UK, importers must have an Economic Operators Registration and Identification (EORI) Number. A customs declaration must be made, and any applicable import duties and VAT must be paid.

There are further specific rules depending on the product that is being imported, particularly in relation to food products and alcohol.



3.2. Gouda

As a dairy product, Gouda is classed as a product of animal origin for human consumption (POAO). There are specific rules and guidance in relation to importing animal products for human consumption. As noted above, importers must apply for an EORI Number if it does not already have one. Exporting businesses may need an export declaration, licence, or certificate to send the goods to the UK. Gouda exporters must adhere to these requirements. Furthermore, importers must submit an import declaration, including the commodity code (0406907800 for Gouda cheese) and the value of the goods.

The Netherlands, as an approved trading partner, is permitted to export consignments of dairy products to the UK. However, the list of approved countries should be checked regularly to ensure there have been no changes to this. Business operators must also verify that the Gouda product is produced in an establishment approved to export. Prior to importation, importers must check that the premises are listed as an approved establishment. Once confirmed that import is permitted, the importer will need to consider whether a health certificate is required. Health certificates will be required for imports that are categorised as high and medium risk. If a health certification is not required, the importer

may require an authorisation or licence before importation.

Before Gouda arrives in Scotland, the importer must notify authorities via the Import of Products, Animals, Food, and Feed System (IPAFFS). Steps include setting up a Government Gateway account, registering for Defra services required for import notifications and ensuring timely submission of import details to IPAFFS to facilitate customs and biosecurity checks.

Risk Assessments

Products of animal origin imported from the EU are risk categorised under the Border Target Operating Model (BTOM).

Gouda cheese may be considered to be either low or medium risk depending on whether it is pasteurised. If Gouda is produced using pasteurised milk or if it is shelf stable at an ambient temperature, it will be considered to be a low risk import. However if it contains raw milk and is chilled or frozen it will be considered to be a medium risk import. While a large majority of Gouda cheese is made using pasteurised milk, it is possible for Gouda to be produced using unpasteurised; therefore, it will be important to check the variant which is being imported.

Different rules apply depending on the level of risk. Low risk imports require only a commercial document detailing the description and quantity information or a copy of the food label, the person or organisation who sent it, the person or organisation that it is being sent to, the premises of origin address, the destination premises address, identification of the lot, batch or consignment, date the consignment was sent and the name and address of the transporter and details on how the consignment will be transported.

High and medium risk imports which originated in the EU require a health certificate from the EU country of export. EU exporters are required to apply for a GB health certificate in their own country. If the health certificate is created using a system approved to produce verifiable PDF certificates, the original health certificate does not need to be sent with the consignment. The exporter must send the importer the official, verifiable PDF certificate once it has been signed by the competent authority. If the exporter does not use a system approved to produce verifiable PDF certificates, the competent authority must send the original paper GB health certificate with the consignment and send you an electronic copy. There has also been a recent change in the regulations which now stipulates that

products of animal origin which present as 'medium' risk to UK biosecurity will now undergo documentary and risk-based identity and physical checks at the border.

Information and labelling

Labelling regulations ensure that food products meet safety and transparency standards. These are governed by Regulation (EC) No. 1169/2011 and are enforced in Scotland by The Food Information (Scotland) Regulations 2014 (as amended).

Labels for Gouda must clearly display the following:

- Product Name: The recognised name, such as "Gouda Holland".
- Ingredient List: All ingredients, with allergens highlighted as required by law.
- Net Quantity: Weight or volume of the product.
- Storage Instructions: Guidelines for maintaining the cheese's quality.
- Date Markings: Use-by or best-before dates.
- Country of Origin: The provenance of the product.
- Nutrition Information: Energy values and the amounts of fat, carbohydrates, proteins, salt, etc.

Many food producers also display voluntary FOP nutrition information using a colour-coded labelling system to highlight the nutrition content of pre-packaged food and drink - such colours show if the product contains high, medium or low levels of fat, sugars and salt.

Protected Geographical Name

Gouda Holland and Noord-Hollandse Gouda are protected under GI schemes, which ensure authenticity and protect registered products when they are sold in the UK. Only verified producers can use these names and associated logos. To use a product name that is on the UK GI scheme registers, you must:

- follow the published product specification
- be verified to make and sell the registered product
- use the registered GI product name and relevant logo correctly

Transport

Transporters based in the UK must be registered on animal by-product operating plants approved premises to transport animal by-products.

Transporters based in the EU must be registered on establishments approved to export animals and animal products to UK to transport animal by-products.



3.3. Jenever

Scotland welcomes imports of distinctive spirits like Jenever gin from the Netherlands. Importing Jenever, a traditionally Dutch gin, involves adhering to specific UK regulations, including customs, excise duty, and labelling requirements.

General conditions / transport

When Jenever enters Scotland, it becomes subject to UK Excise Duty. However, excise duty may not be payable immediately if the Jenever is delivered to an excise warehouse with approval for storing such products or it is sent to a customs warehouse that holds separate excise warehouse approval for the premises. Additionally, Customs Duty and VAT must be accounted for during the import process. Importers must declare these through the customs system and ensure proper documentation is filed.

The approach to importing depends on whether the activity is occasional or regular. If the import is occasional, importers may apply to HM Revenue & Customs (HMRC) as a Temporary Registered Consignee and duty payments must be settled before the goods are dispatched. On the other hand, if imports are to be more regular, importers have three options.

They may (1) apply for approval as a registered consignee; (2) collaborate with a registered consignee to handle importation or (3) partner with an authorised warehouse keeper to store the gin in duty suspension.

Jenever holds a protected status under the UK Geographical Indication (GI) scheme, ensuring its name is safeguarded from misuse, imitation, or evocation. Importers must comply with GI regulations, which require strict adherence to production methods and labelling standards as outlined in the product's specification.

HMRC inspects producers and imports of GI-protected products in the UK, including Northern Ireland. Non-compliance with GI rules may lead to enforcement actions, such as improvement notices or prosecution. Importers should also be aware of penalties for breaching regulations tied to customs, excise duty, and labelling.

Information and labelling

The rules relating to the definition, description, presentation, labelling and the protection of geographical indications of spirit drinks in the UK are set out in the retained Regulation (EC) No 110/2008.

Spirit names otherwise known as sales denominations must be displayed on the labelling of spirit drinks. If a product is in one of the Annex II categories, the name of this category must be displayed on the labelling, packaging and any presentation of the product. As Jenever Gin is a Juniper Flavoured Spirit falling under category 19, it may bear the sales denominations Wacholder or genebra.

If Jenever is flavoured or blended with additional ingredients, it cannot retain its original classification or geographical indication. Instead, compound terms such as “peach Jenever” must be used, following precise formatting rules:

- the term must appear in uniform font, size, and colour.
- it must be written in the same or smaller font than the legal name or sales denomination.
- interruptions by unrelated text or images are prohibited.

It is a legal requirement in the UK that alcoholic beverages exceeding 1.2%

alcohol by volume (ABV) must display the ABV on the label. Furthermore, importers should bear in mind that in Scotland spirit drinks are classed as food therefore they must also adhere to food labelling requirements.





4. Summary

As is demonstrated above, the legal and regulatory backdrop to the import of food and drink in different jurisdictions is complex and multi-tiered.

Should you or your business require any advice or assistance in relation to this intricate area of the law please do not hesitate to get in contact with Merel Lentjes or Katie MacLeod who would each be delighted to help.



[Merel Lentjes](#)



[Katie MacLeod](#)
