



HELP PROTECT SCOTCH WHISKY

www.scotch-whisky.org.uk

#SupportScotch

@ScotchWhiskySWA

@ScotchWhiskySWA

Scotch Whisky is enjoyed by millions of consumers around the world, who choose it because of its quality, heritage and authenticity. Unfortunately, the famous reputation of Scotch Whisky has encouraged others to try to take unfair advantage of it.

It is crucial to the future of the industry that the reputation of Scotch Whisky is protected against all forms of passing off and unfair competition. The SWA has a legal team whose job it is to protect Scotch Whisky around the world. They rely on information from its members, stakeholders and the public to alert them to suspicious products so that prompt legal action can be taken - **and you can help!**

Examples of the kind of problems which the SWA would like to hear about, and about which action can usually be taken, are set out below.

Get in touch if you spot any of these examples and help us take action to protect Scotch Whisky.



WHAT IS SCOTCH WHISKY?

Scotch Whisky is whisky wholly produced and matured in Scotland. With the exception of Single Malt Scotch Whisky, it may be bottled overseas by verified companies but the only permitted additions are water and, if necessary, plain caramel colouring to adjust the final colour of the spirit. The use of any other additive, such as sugar, flavouring or other alcohol is illegal and means that the product cannot be sold as Scotch Whisky.

LOCAL SPIRITS BEING 'PASSED OFF' AS SCOTCH WHISKY

There are many ways by which a spirit can be marketed to suggest it is Scotch Whisky when it is not. The most obvious is misuse of the description "Scotch Whisky" itself.

All genuine Scotch Whisky brands must be notified to the UK Government department, HM Revenue & Customs, which maintains a register of verified Scotch Whisky brands. The register can be accessed by anyone here:

<https://customs.hmrc.gov.uk/sdvlookup/index>

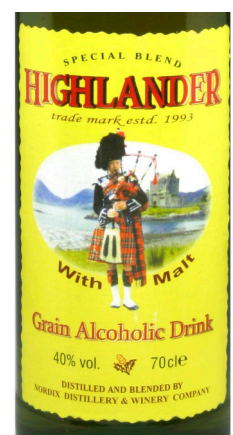
We would like to hear from you if you find a brand (in a shop or online) which does not appear on the list or if you have any other reason to suspect it is not genuine.



NAMES AND DEVICES ASSOCIATED WITH SCOTLAND OR THE UK

In many cases, rather than misuse of the specific description "Scotch Whisky", local producers use indirect indications of Scottish or UK origin to suggest to consumers that their products are Scotch Whisky.

These may be brand names associated with Scotland or the UK (e.g. GLEN, HIGHLAND, MACDONALD, LOCH NESS or LONDON TOWER), tartan, figures in Scottish dress, or company names likely to be associated with Scotland or the UK.



MISLEADING AGE CLAIMS

Sometimes whiskies are sold with false age claims or feature numerals on their labels which are likely to be taken by consumers as age claims.

Age is determined by the number of years the spirit has matured in the cask.

Any age statement/claim should refer only to the youngest spirit in the product.



USE OF THE SAME BRAND NAME OR LABEL FOR BOTH SCOTCH WHISKY AND A DIFFERENT ORIGIN OF WHISKY OR TYPE OF SPIRIT

Some companies have deceived consumers by selling a brand of Scotch Whisky and at the same time (or later) using the same brand name and a virtually identical label for whisky of a different origin. Consumers who have bought the Scotch Whisky may well buy the new product in the belief it is also Scotch Whisky unless the labelling is of a sufficiently different design and the origin of the new product is clearly indicated.



USE OF THE DESCRIPTION 'SCOTCH TYPE', 'LIKE', 'STYLE', 'FLAVOUR', 'TASTE' ETC

International law forbids the use of descriptions such as "Scotch type", "Scotch like", "Scotch style", "Scotch flavour", "Scotch taste" or similar on other spirits.



ABSENCE OF CLEAR INDICATION OF ORIGIN

In many countries, where Scotch Whisky holds the major share of the market, and where the public associate whisky primarily with Scotland, consumers are likely to believe every whisky is Scotch Whisky unless clearly informed to the contrary.

If other whiskies are not labelled with a clear, accurate and easy to understand indication of origin, particularly if labelled in English or described as "imported", consumers may well buy these brands in the belief they are Scotch Whiskies, even if there are no blatant indications of Scottish origin.



MISLEADING REFERENCES TO "SCOTCH WHISKY"

Some whiskies produced outside Scotland may contain a proportion of Scotch Whisky as one of its alcoholic constituents.

If so, it is acceptable to refer to the Scotch Whisky ingredient on the label as long as there is an equally prominent reference to the presence and origin of the other alcoholic ingredients. However, sometimes reference is made to the Scotch Whisky ingredient without making clear that the product also contains local spirit.

Using descriptions such as "Blended with Scotch", for example, are likely to lead consumers to believe the product as a whole is Scotch Whisky.



MISLEADING USE OF THE DESCRIPTION 'WHISKY'

Scotch Whisky is whisky produced in Scotland and competes in the market with whiskies of other origins. Many countries have a definition of whisky to ensure that consumers are not sold inferior spirits under the description "whisky". It is in the Scotch Whisky industry's interests to ensure that the reputation of whisky as a category is not damaged by the sale of inferior products as whisky, and to ensure that competitors do not gain an unfair price advantage, for example by selling molasses alcohol or unaged spirits as "whisky" where that is not permitted.

For example, in the UK and EU the definition of whisky requires the spirit to be distilled wholly from cereals, forbids the use of neutral alcohol, and requires ageing in wooden casks for at least 3 years. Any spirit marketed for sale as "whisky" in the UK or EU, as well as any spirit exported from the UK or EU described as "whisky", must meet that definition.

PACKAGING, POINT OF SALE MATERIAL AND ADVERTISING

Even if the label on a bottle of whisky is not misleading, it can still be passed off as Scotch Whisky if sold in a misleading carton, or along with deceptive promotional material and/or descriptions online.

WHAT TO DO IF YOU COME ACROSS SUCH PRODUCTS

If you come across any misleading marketing of the kind referred to above, or you have any other concerns about the marketing of whiskies or whisky-based spirits, please contact the legal team at the SWA using the contact details below. Where possible it would be very helpful to provide the legal team with images showing:

- The name of the brand
- The wording on the label
- The names of any companies identified on the labels
- Any point of sale material such as posters or shelf price notices

Please also confirm the name and address of the outlet where the product is being sold or the website on which it is advertised. Your help with the vital task of protecting Scotch Whisky will be greatly appreciated.

The Legal Affairs Team

Scotch Whisky Association
1st Floor, QM Two, 2 Lister Square
Edinburgh EH3 9GL
t: 00 44 (0) 131 222 9218

THE SCOTCH WHISKY ASSOCIATION

legal@swa.org.uk

www.scotch-whisky.org.uk



@ScotchWhiskySWA



@ScotchWhiskySWA

JULY 2021