

**Guide on labelling low and no alcohol products
designed as 'spirit drink' substitutes**

January 2021



Key points

- This guide applies to low and no alcohol beverages that are packaged and marketed as a substitute or alternative to spirit drinks. It applies to both spirit substitute drinks (defined in regulation 9 of the Soft Drinks Industry Levy Regulations 2018) and to any other 'soft drink' that is created, packaged, and marketed as an alternative or substitute for an alcoholic spirit drink. This includes distillate based 'ready to drink' beverages, with an alcohol content of 1.2% or less.
- This guide should be read in conjunction with Department of Health and Social Care guidance on low alcohol descriptors.
- Low and no alcohol beverages should be labelled in accordance with the Food Information to Consumer Regulation 2011. However, members must also consider the restrictions within the Spirit Drinks Regulation 2008 and the Nutrition and Health Claims Regulation 2006 when labelling their products.
- Low and no alcohol products must have a descriptive name that accurately describes the true nature of the drink to consumers. Reference to a protected category name within this descriptive name, or any other marketing text, cannot be made unless:
 - the drink contains the category defined spirit drink as an ingredient; and
 - it is clear that the category defined spirit drink is simply an ingredient within the product. The name, and other marketing text, must not imply that the low/no alcohol beverage is a low/no alcohol version of a defined spirit drink.
- This guide has been produced in partnership with the WTSA's Primary Authority Trading Standards Partners, Salford City Council on behalf of the Greater Manchester Regulatory Centre of Excellence and the Shared Regulatory Services of Bridgend, Cardiff and the Vale of Glamorgan. The regulatory requirements contained within this guide apply to the whole of the United Kingdom. Labelling in accordance with this guide does not mean that a member is immune to legal action being taken against them. When deciding whether a label is complaint, each label should be judged on a case by case basis. Ultimately it is up to the courts to decide whether a label is misleading or not.

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Introduction

This guide has been produced by the Wine and Spirit Trade Association (WSTA) and is for WSTA members that produce and/or retail low and no alcohol beverages.

It applies to beverages that are packaged and marketed as an alternative to, or as a substitute for, spirit drinks. It applies equally to:

- spirit substitute drinks - as defined in regulation 9 of the Soft Drinks Industry Levy Regulations 2018¹; and
- soft drinks that are produced without the use of alcohol², or the creation of alcohol at any stage of the process but are created, packaged, and marketed as an alternative or substitute for alcoholic spirit drinks.³

This guide should be read in conjunction with the current Low Alcohol Descriptors Guidance produced by the Department of Health and Social Care.⁴

1. To be classed as an alcoholic substitute drink, rather than a soft drink, the drink and its packaging and marketing must be comparable to the particular kind of alcoholic beverage that it is replacing. The marketing should not appeal particularly to minors and when it is advertised/sold, it is as a replacement for the particular kind of alcoholic beverage to which it is similar.

The drink must also either:

1. be made from an alcoholic beverage with a maximum alcohol content of 1.2%, which was achieved by dealcoholisation; or
2. be manufactured using fermentation or distillation process during which alcohol is produced but never exceeds 1.2% and the product is not diluted or mixed with any other substance, unless, in the case of a product of distillation, that substance has dissolved into the product; or
3. be manufactured by blending an alcoholic beverage of cider, beer, wine or made-wine with fruit juice, with or without the addition of water or other ingredients, to make a soft drink that is similar to the alcoholic beverage used in its production.

2. Alcohol based flavourings are the only permitted source of alcohol allowed in these products. These flavourings should only be used in small quantities, to impart the flavour desired by the producer. Where possible, members should source non-alcohol based flavourings and only use these on a quantum satis basis.

3. Please note that these 'soft drinks' will be subject to the sugar limits defined in the Soft Drinks Industry Levy Regulations 2018

4. At the time of writing https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/763840/low-alcohol-descriptors-guidance.pdf

The demand for low and no alcohol beverages has increased, and the processes used to produce these have evolved. New and innovative techniques are being employed to provide more choice to satisfy consumers demands.

These alternative products are produced to closely resemble their alcoholic counterparts - they are closer in taste, aroma and appearance to the spirits and spirit drinks they are trying to replace than ever before. A lot of these beverages are produced without the use of, or addition of, alcohol at any stage. A lot of products – whether they contain alcohol or not – are produced via distillation and the labelling of these is more in-line with actual spirit drinks.

The WSTA took the decision to produce this guide for our members to clarify the labelling requirements for these alternative products, taking into consideration the requirements of the Food Information to Consumers Regulation (1169/2011), the Spirit Drinks Regulation (110/2008)¹ and EU.

Regulation on the definition, description, presentation, labelling and the protection of geographical indications of spirit drinks (716/2013)².

The labelling of these low and no alcohol products may include one of the descriptors contained within the Department of Health's guide on low alcohol descriptors, if they satisfy the requirements stated within that guide.

The aim of this WSTA guide is to:

- establish acceptable legal names, fancy or selling names, marketing text and general labelling requirements for low and no alcohol beverages, dependent on the production method, recipe, and other manufacturing processes.
- create clarity and certainty for producers and retailers, that they are labelling and marketing products in a compliant manner.
- create consistency for consumers and enable them to make informed purchasing decisions through clear, accurate, and consistent labelling.

1. or applicable regulations in force at the time of production

2. or applicable regulations in force at the time of production

Main labelling considerations for beverages with a maximum abv of 1.2%

Beverages with a maximum abv of 1.2% abv should primarily be labelled in accordance with the Food Information to Consumers Regulation (1169/2011). This regulation details the mandatory food information that must be provided to consumers. Mandatory information must not be misleading and must be easily visible and clearly legible. Mandatory information should not be hidden, obscured, detracted from or interrupted by other written, pictorial or any other intervening material.

As well as labelling in accordance with EU Regulation 1169/2011, when referring to defined spirit drink category names, we must also consider the provisions of the Spirit Drink Regulations (110/2008)¹ and the various restrictions placed on use of these category names.

Restrictions within the Spirit Drinks Regulation on use of category names

The restrictions on the use of category names within the Spirit Drinks Regulations are quite clear - both alcoholic and non-alcoholic beverages should not use a category name or a geographical indication (GI) if a product does not meet the category name or GI requirements to do so. It goes on to say that a category name should not be qualified with terms such as 'like', 'flavour', 'type', 'style' or 'made'. However, if a category named product is used as an ingredient within another product, this category name can be included within a list of ingredients.

1. or applicable regulations in force at the time of production

When considering the name for these low and no alcohol beverages we must bear in mind that there are 3 types of names:

1. 'Legal name' i.e. the name of a food prescribed in the Union provisions applicable to it or, in the absence of such Union provisions, the name provided for in the laws, regulations and administrative provisions applicable in the Member State in which the food is sold to the final consumer or to mass caterers;
2. 'Customary name' i.e. a name which is accepted as the name of the food by consumers in the Member State in which that food is sold, without that name needing further explanation
3. 'Descriptive name' i.e. a name providing a description of the food, and if necessary of its use, which is sufficiently clear to enable consumers to know its true nature and distinguish it from other products with which it might be confused.

Low and no alcohol beverages are not legally defined by law, nor do they have accepted self-explanatory names. Therefore, the name used must be a descriptive name that informs consumers what the product is.

Please note: A fancy or selling name is supplementary to a legally required name and cannot replace this.

The restrictions placed on use of category names under EU Regulation 110/2008 have been carefully considered when producing this guide and when suggesting legal and selling names for these alternative products. We recognise that these alternative products will want to be marketed as close as possible to the spirit drinks they are trying to replace and so suggestions on legal names, selling names, marketing terms and ingredients declarations have been produced to aid this as far as possible.

Within the following pages of this guide, we refer to the term 'Spirit', suggesting that this can be used to describe beverages that contain ethyl alcohol of agricultural origin¹ as an ingredient. Some consumers associate the word 'spirit' with alcohol and so members must take care to ensure that their product, as a whole, is clear and unambiguous. Guidelines on how we believe that this term is best used, so as to not cause confusion with actual 'Spirit Drinks' are included which should minimise any risks to members, however members should note that ultimately it is up to a court to decide whether a label is or isn't misleading.

1. Ethyl alcohol of agricultural origin can be referred to as neutral spirit

Types of low and no alcohol beverages covered by this guide

The WSTA and member companies identified a range of different ways that low/no alcohol beverages could be produced. Each is dealt with in the following pages and includes suggestions for legal names, fancy or selling names (usually front of pack) and advice on other marketing text that can and cannot be used in each case.

1. Beverages created from a category defined distillate that are diluted or have alcohol extracted to create a drink with a maximum abv of 1.2%.
2. Beverages created from ethyl alcohol of agricultural origin that are diluted to 1.2% or less, have alcohol extracted by other means or are created to a recipe that produces a beverage with a maximum abv of 1.2%
3. Beverages created without alcohol but that provide the same flavour as the spirit drink they are created to substitute, and are labelled and marketed in a way to appeal to over 18's.



Beverages created from a category defined distillate, that are diluted or have alcohol extracted to create a drink with a maximum abv of 1.2%.

Descriptive name Products that are created using a distillate base that satisfies the requirements of a category within 110/2008, or contain a defined category spirit as an influencing ingredient¹, can refer to the presence of that category name as part of the legally required descriptive name of the drink e.g. 'Low alcohol drink made with gin', or 'Low alcohol spirit made with gin'.

Any category defined distillate that is used and referenced must contain 100% that distillate i.e., all of the alcohol within that product must come from the named distillate.

The appropriate Department of Health descriptor should be selected depending on the abv of the finished product e.g. a name along the lines of 'Low alcohol drink made with Gin' would be acceptable for a drink that contained gin as an ingredient and had a maximum abv of 1.2%.

The name can incorporate a compound term² also e.g. a name of 'Low alcohol spirit made with raspberry gin'.

NOTE: It is not acceptable to simply qualify a category name from the Spirit Drink Regulations, or a compound term, with a low or no descriptor i.e. 'low alcohol gin' is not acceptable. Gin is a legally defined product that has a minimum alcohol content of 37.5%. Products with an abv below this do not satisfy the compositional requirements of 'gin' and should be labelled in accordance with 1169/2011 and should include a descriptive name. By alluding to the presence of gin as an ingredient it is clear to consumer that the product is not 'gin', but does include gin as an ingredient.

1. An ingredient would be classed as influencing a product when enough of that ingredient is added to impart flavour of that ingredient. This varies from ingredient to ingredient.

2. 'Compound term' means the combination of either a legal name provided for in the categories of spirit drinks set out in Annex I or the geographical indication for a spirit drink, from which all the alcohol of the final product originates, with one or more of the following:

(a) the name of one or more foodstuffs;
(b) the term 'liqueur' or 'cream'

Front of pack fancy, marketing or selling name

A fancy or selling name is supplementary to a descriptive name and cannot replace this legally required descriptive name.

This front of pack name should follow the guidelines above, i.e. it should make it clear that the product merely includes a category spirit as an ingredient, it should not imply that it is a low/no alcohol version of that spirit alone. Ideally the fancy name should replicate the descriptive name as close as possible.

There is no reason why a brand name could not be used as a marketing name and some producers have already adopted this approach. This works well for established brands but would need careful consideration for newer brands on the market.



Labelling requirements under 1169/2011

Products with a maximum alcohol content of 1.2% are subject to the full labelling requirements of EU Regulation 1169/2011 and must therefore include the following:

- The name of the food
- An ingredient list
- An indication of allergens present in the final product
- Quantitative ingredient declaration (QUID)
- Nutritional information
- Durability indication
- Nominal volume
- The name and address of the food business operator
- Storage instructions (if appropriate)
- Instructions for use (if appropriate)
- Origin marking (if the label would be misleading without it)

The regulations require the name and nominal volume to appear within the same field of vision, however, we suggest that members also include the abv in this requirement, to ensure consistency with the alcoholic beverages above 1.2%, that they are trying to replace. The abv should be declared to one decimal place and be indicated via one of the following formats:

- X% vol.
 - alcohol X% vol. or
 - alc X% vol.
-

Specific advice on ingredient list and QUID

The products discussed above must include the category name of the spirit they contain within the ingredient list.

The category defined spirit must include a % declaration of the amount of that ingredient within the overall product. This % is based on the recipe.

Other ingredients may also need to include a % declaration if they are mentioned in the name of the food, emphasised on the label by words, pictures or graphics or if essential to characterise the food. There are some exemptions to QUID in Annex VIII 1169/2011.



Beverages created from ethyl alcohol of agricultural origin that are either diluted to 1.2% or less, have alcohol extracted by other means or are made to a recipe that produces a beverage with a maximum abv of 1.2%

Descriptive name Products that are created using ethyl alcohol of agricultural origin should include a descriptive name that accurately describes the product. This descriptor can include the term 'spirit' e.g. 'Low alcohol juniper flavoured spirit' or 'low alcohol botanical infused spirit'.

Front of pack fancy, marketing or selling name The marketing name should replicate the descriptive name as close as possible. It must not include a spirit category name as it does not contain this as an ingredient.

There is no reason why a brand name could not be used as a marketing name and some producers have already adopted this approach. This works well for established brands but would need careful consideration for newer brands on the market.



Labelling requirements under 1169/2011

Products with a maximum alcohol content of 1.2% are subject to the full labelling requirements of EU Regulation 1169/2011 and must therefore include the following:

The name of the food

- An ingredient list
- An indication of allergens present in the final product
- Quantitative ingredient declaration (QUID)
- Nutritional information
- Durability indication
- Nominal volume
- The name and address of the food business operator
- Storage instructions (if appropriate)
- Instructions for use (if appropriate)
- Origin marking (if the label would be misleading without it)

The regulations require the name and nominal volume to appear within the same field of vision, however, we suggest that members also include the abv in this requirement, to ensure consistency with the alcoholic beverages, above 1.2%, that they are trying to replace. The abv should be declared to one decimal place and be indicated via one of the following formats:

- X% vol
 - alcohol X% vol. or
 - alc X% vol.
-

Specific advice on ingredient list and QUID

The products discussed above must not include a category defined name within the ingredient list as the alcohol does not come from a category defined spirit.

Members should include a % declaration of the amount of neutral spirit within the overall product. This % is based on the original recipe.

Other ingredients may also need to include a % declaration if they are mentioned in the name of the food, emphasised on the label in words, pictures or graphics or if essential to characterise the food. There are some exemptions to QUID in Annex VIII 1169/2011.



Beverages created without alcohol but that provide the same flavour as a spirit drink they are created to replicate and are labelled and marketed in a way to appeal to over 18's.

Descriptive name Products that do not contain alcohol¹, either in the form of a category defined spirit or a neutral alcohol, should not refer to either of these within their descriptive name as they are not an ingredient within the product – these products are ‘soft drinks’ that are created to taste like a spirit drink and marketed as an alternative to spirit drinks.

The descriptive name should accurately describe the product e.g. ‘Non-alcoholic drink flavoured with juniper, lemon zest and cardamom’.

As these non-alcoholic drinks will be packaged and labelled to look like an alcoholic drink, consideration should be given to the placement of the descriptor ‘non-alcoholic’. We recommend that if a consumer could mistake a product for an alcoholic beverage, due to the labelling and packaging, the descriptor ‘non-alcoholic’ should appear on the front label to prevent consumers from being misled.

Front of pack fancy, marketing or selling name These products should not refer to a category named on their label that might mislead consumers as to the content of the product. Marketing descriptors should replicate the descriptive name as far as possible.

If using a brand name for marketing purposes care should be taken to make the labelling clear that the product does not contain any alcohol.

¹ Alcohol based flavourings are the only permitted source of alcohol allowed in these products. These flavourings should only be used in small quantities, to impart the flavour desired by the producer. Where possible, members should source non-alcohol based flavourings and only use these on a quantum satis basis.

Labelling requirements under 1169/2011

Products with a maximum alcohol content of 1.2% are subject to the full labelling requirements of EU Regulation 1169/2011 and must therefore include the following:

- The name of the food
- An ingredient list
- An indication of allergens present in the final product
- Quantitative ingredient declaration (QUID)
- Nutritional information
- Durability indication
- Nominal volume
- The name and address of the food business operator
- Storage instructions (if appropriate)
- Instructions for use (if appropriate)
- Origin marking (if the label would be misleading without it)

The regulations require the descriptive name and nominal volume to appear within the same field of vision.

Specific labelling requirement for these products

The labelling of these products should contain a statement informing consumers that no alcohol was used or produced in the production of the beverage e.g. This product was produced without the use of alcohol and alcohol was not produced as part of the production process.

Specific advice on these products

These drinks are not alcoholic beverages. They are 'soft drinks.' They are distinguished from traditional 'soft drinks' by the fact that they are created and marketed to over 18's as a replacement for alcohol. They will be positioned in, or near, the alcohol aisles within retail stores rather than with traditional 'soft drinks' that are marketed to consumers of any age.

Even though marketed as a replacement for alcohol they may be subject to the Soft Drinks Industry Levy Regulations 2018 as they do not satisfy the definition of an 'Alcohol replacement drink' within the Regulations.

These products are not licensable.



Other marketing descriptors

All marketing descriptors must be clear, accurate and must not mislead consumers. There are several terms in use on the market already. This guide aims to provide clarification on these as follows:

Marketing descriptor	Conditions of use
Spirit	<p>Some consumers associate the word 'spirit' with alcohol and so use of this term should always be qualified by the appropriate low and no descriptor. When considering whether a label is misleading, enforcement officers will consider the label as a whole. We recommend that, as well as qualifying the term 'spirit' with the appropriate descriptor, members also include the abv of the product on the front label.</p> <p>Each label should be judged on a case by case basis to ensure that it is not misleading. If members are concerned about using the term 'spirit' they may consider alternatives such as, 'Low alcohol beverage made with a neutral alcohol base'. Reference to flavours can be included within this as appropriate.</p>
Distilled and/or Distillation	<p>References to distilled/distillation should be accurate and only be made in relation to the part(s) of the product that have gone through the distillation process.</p> <p>If the whole beverage has gone through distillation this should be communicated along the lines of 'Low alcohol distilled drink...'. If only part of the product has gone through distillation this should also be made clear e.g. 'Low alcohol drink with distilled juniper'.</p>
Ultra-low or Very low	<p>These terms should not be used. There should be no further breakdown within the low alcohol descriptor as this creates confusion amongst producers and consumers alike.</p>

An alcohol free/low alcohol/dealcoholised/non-alcoholic alternative to

Producers may be able to reference a category name if this is included in such a way that informs consumers how the product should be used or what product it is designed to replace. Reference to a category defined spirit may be included as part of marketing text describing how to mix the product so that consumers receive the same flavour experience as the alcoholic beverage they are substituting e.g. 'a low alcohol alternative to gin' or 'replace the gin in your normal gin and tonic with x parts of'. These statements must not mislead consumers into thinking that the product is an alcoholic beverage or contains an alcoholic ingredient if it does not.

Enforcement

Local Trading Standards Departments are responsible for ensuring that labelling is compliant with the law and will have regard to this guidance to help determine compliance. Enforcement action can be taken against a food business operator if the labelling of their product is misleading, inaccurate, or unclear.

This guide has been produced with the aid of the WTSA's Primary Authority Partners and aims to provide advice to WSTA members on clear and honest labelling and marketing of low and no alcohol products. As this is a complex area of legislation and labelling will vary from product to product, members should seek advice from the WSTA when needed.

Labelling in accordance with this guide does not mean that a food business operator is immune to legal action being taken against them.

Ultimately, it is up to the courts to decide whether a label is misleading.



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