

EXPLANATORY MEMORANDUM TO THE WINE REGULATIONS 2011

2011 No. 2936

1. This explanatory memorandum has been prepared by the Department for Environment, Food and Rural Affairs and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 The Wine Regulations 2011 will provide a legislative basis to provide specified authorities in the UK with powers to enforce EU Wine rules and sets a system of penalties for non compliance with those rules. It also sets out wine quality schemes that apply in England and Wales.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Context

4.1 In May 2009 the EU Wine Regime was incorporated within the EU Single CMO Regulation (EC) No 1234 / 2007.

4.2 This change also had the effect of removing the legislative basis for the Wine Regulations 2009 (and equivalent Regulations in the devolved administrations).

4.3 This instrument will replace the Wine Regulations 2009 (and equivalent in the devolved administrations), re-establish the legal connection with the 'Single CMO Regulation' and consolidate all existing wine legislation in the UK into one instrument.

5. Territorial Extent and Application

5.1 This instrument applies to the United Kingdom.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 The Agriculture Council reached political agreement on reform of the Common Market Organisation (CMO) for Wine on 19 December 2007. Due to the scale of the reform, implementation was split into two phases. Phase 1 applied from 1st August 2008 (and was implemented by the Wine Regulations 2009 and equivalent legislation by Administrations) and phase 2 from 1st August 2009. In May 2009 the EU Wine Regime was merged with the Single CMO Regulation (EC) No 1234 / 2007.

7.2 The Single CMO Regulation sets out wide-ranging rules that apply to the production, transport, labelling and marketing of wine made in the EU, in addition to setting out controls and standards relating to wine imported into the EU. It requires that Member States have in place appropriate provisions to allow them to enforce EU wine rules on their territories.

7.3 The primary aim of this legislation is to facilitate the application and enforcement of EU wine rules and to set out quality specification for the production of English and Welsh wine and sparkling wine. In making them, we have made a number of other improvements.

7.4 Extending the regulations to cover Northern Ireland, Scotland and Wales. (Administrations in these areas have previously provided bespoke legislation which broadly mirrored provisions contained in the English Regulations. It was agreed that it was both sensible and prudent to combine resources in this area).

7.5 They adopt Government best practice in the area of sanctions, placing more emphasis on the use of civil sanctions as a means to enforce provisions. (Direct criminal sanctions have been retained in the key areas of oenology (winemaking), labelling and marketing and record keeping to deter risks to public health and fraud.)

7.6 They adapt the existing Wine Quality Schemes which will now provide a basis to enforce standards for the production of English and Welsh quality sparkling wine in addition to still wine produced in the UK.

7.7 These rules are legally important as they enable us to meet our EU obligations in the area of EU wine policy, and in doing so, protect the legitimate interests of our producer and traders and the safety of our citizens. However, proposals in this area tend only to be matters of interest to enforcement bodies, wine producers and traders outside of Government.

8. Consultation outcome

8.1 A consultation was held between 19th October and the 22nd November. The consultation was proactively highlighted to key organisations and three workshops around England and Wales to ensure that the issues were brought directly to those who had an active interest. The workshops were welcomed by those attending. Overall the Draft Regulations have been well received with almost all comments supporting and helping the drafting process; many of which we have incorporated into our proposals

9. Guidance

9.1 We are aware that the industry is already taking responsibility in this area with both producers and the wine trade in the UK already providing comprehensive guides (on the EU regulations) for their members, and on which Government has commented. We will consider whether any further information is needed in relation to the application of this Regulation.

10. Impact

10.1 The Regulations have no impact on business, charities or voluntary bodies.

10.2 The Regulations have no impact on the public sector.

10.3 The primary objective of these Regulations is to provide legislation that allows for the implementation and enforcement of Council Regulation (EC)1234/07 and associated detailed Commission implementing rules insofar as these relate to wine. Producers and traders in the UK have been under the obligation to apply the current EU rules since 2008. Enforcement of these rules was initially provided by the Wine Regulations 2009 (and equivalent Regulations in the devolved administrations), and continuing the process with the Wine Regulations 2011 was not considered to add any burden.

10.4 Changes to the sanctions and powers of access have been introduced to reflect revised Government policy in this area, and consideration was given to the effect this would have on enforcement authorities. Movement toward a civil based sanction system and use of 'consensus' visits reflect working practices already employed by key enforcement authorities.

10.5 Changes to the wine quality schemes have been made at the request of the UK producers.

11. Regulating small businesses

11.1 This legislation applies to small business, but it has no impact on those businesses.

11.2 These Regulations re-establish the legislative basis and provide appropriate powers to allow UK authorities scope to enforce existing EU wine rules.

11.3. The United Kingdom Vineyards Association (UKVA), whose members are mostly SMEs, encourage robust enforcement of wine rules which they see as protecting the legitimate interests of their members. This view is mirrored by the wine import trade. We will continue to monitor the application of these Regulations for any unforeseen impacts arising from them.

12 Monitoring and review

12.1 This instrument will be subject to review in 5 years from the day they come into force and a report will be published.

13 Contact

13.1 Philip Munday at the Department for Environment, Food and Rural Affairs, tel 020 7238 3190 or email philip.munday@defra.gsi.gov.uk can answer any queries regarding the instrument.