

EXPLANATORY MEMORANDUM TO
THE WINE (REVOCAION AND CONSEQUENTIAL PROVISION)
REGULATIONS 2023

2023 No. 1362

1. Introduction

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

2. Purpose of the instrument

- 2.1 This statutory instrument will revoke specified secondary retained EU law relating to the marketing and production of wine products and by-products of winemaking in England.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

4. Extent and Territorial Application

- 4.1 Subject as mentioned in paragraphs 4.2 and 4.3, the extent of this instrument (that is, the jurisdictions which the instrument forms part of the law of) is England and Wales, Scotland and Northern Ireland.
- 4.2 The amendments and revocations referred to in regulation 2(2) have the same extent as the provisions being amended and revoked.
- 4.3 The amendments and revocations referred to in regulation 2(3) extend to England and Wales.
- 4.4 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England and Wales and Scotland in relation to the amendments and revocations referred to in regulation 2(2) and England in relation to the amendments and revocations referred to in regulation 2(3).

5. European Convention on Human Rights

- 5.1 Mark Spencer MP, Minister of State, has made the following statement regarding Human Rights:

“In my view the provisions of the Wine (Revocation and Consequential Provision) Regulations 2023 are compatible with the Convention rights.”

6. Legislative Context

- 6.1 This instrument is made in order to revoke and make consequential changes to secondary retained EU law.
- 6.2 This instrument will;

6.2.1 revoke certain provisions in the following retained EU Regulations:

- retained Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007;
- retained Commission Delegated Regulation (EU) 2018/273 of 11 December 2017 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards the scheme of authorisations for vine plantings, the vineyard register, accompanying documents and certification, the inward and outward register, compulsory declarations, notifications and publication of notified information, and supplementing Regulation (EU) No 1306/2013 of the European Parliament and of the Council as regards the relevant checks and penalties, amending Commission Regulations (EC) No 555/2008, (EC) No 606/2009 and (EC) No 607/2009 and repealing Commission Regulation (EC) No 436/2009 and Commission Delegated Regulation (EU) 2015/560;
- retained Commission Delegated Regulation (EU) 2019/33 of 17 October 2018 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards applications for protection of designations of origin, geographical indications and traditional terms in the wine sector, the objection procedure, restrictions of use, amendments to product specifications, cancellation of protection, and labelling and presentation;
- retained Commission Delegated Regulation (EU) 2019/934 of 12 March 2019 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards wine-growing areas where the alcoholic strength may be increased, authorised oenological practices and restrictions applicable to the production and conservation of grapevine products, the minimum percentage of alcohol for by-products and their disposal, and publication of OIV files;

6.2.2 make consequential changes to the following retained EU Regulations:

- retained Regulation (EU) No 1308/2013 of the European Parliament and of the Council;
- retained Commission Delegated Regulation (EU) 2018/273;
- retained Commission Implementing Regulation (EU) 2018/274 of 11 December 2017 laying down rules for the application of Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards the scheme of authorisations for vine plantings, certification, the inward and outward register, compulsory declarations and notifications, and of Regulation (EU) No 1306/2013 of the European Parliament and of the Council as regards the relevant checks, and repealing Commission Implementing Regulation (EU) 2015/561;
- retained Commission Delegated Regulation (EU) 2019/33;
- retained Commission Delegated Regulation (EU) 2019/934;

6.2.3 revoke the following retained EU Regulation entirely:

- retained Commission Implementing Regulation (EU) 2019/935 of 16 April 2019 laying down rules for the application of Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards analysis methods for determining the physical, chemical and organoleptic characteristics of grapevine

products and notifications of Member States decisions concerning increases in natural alcoholic strength.

7. Policy background

What is being done and why?

- 7.1 Leaving the European Union has provided an opportunity for the Government to review and reshape the UK's regulatory framework for food and drink. In 2020/21 the Government informally consulted with the wine industry on what stakeholders would like to see change in any future reform of retained EU law. The emphasis of the informal consultation was intentionally broad, but the Government placed a specific focus on policy changes that support growth and innovation, removing regulatory burdens and simplifying complex retained EU laws. The changes set out in this instrument reflect many of the ideas provided by wine stakeholders, in addition to a number of other Government proposals for reform.

Explanations

- 7.2 This instrument will:
- 7.2.1 revoke provisions in secondary retained EU law (Regulation 1308/2013, Article 119(1)(f) and Regulation 2019/33, Article 46) to provide for the removal of the requirement that wine must show the prefix 'Importer' or 'imported by' before the Food Business Operator (FBO) name and address, bringing wine in line with all other food and drink;
 - 7.2.2 revoke provisions in secondary retained EU law (Regulation 1308/2013, Article 93) to allow a wine to be registered with a Protected Designation of Origin (PDO) where it is to be made from grapes of the species *Vitis vinifera* and or from other species of *Vitis* or crosses of species (hybrids);
 - 7.2.3 revoke provisions in secondary retained EU law (Regulation 1308/2013, Annex 8) to allow for producers to produce and sell piquette in England. Piquette will be classified under the Harmonised System of tariffs under 2206 (other fermented beverage) which also includes products such as cider, perry and mead;
 - 7.2.4 revoke provisions in secondary retained EU law (Regulation 1308/2018, Annex 8) prohibiting the blending of imported wine in order that imported wines can be blended;
 - 7.2.5 revoke provisions in secondary retained EU law (Regulation 2019/33, Article 57) to remove a mandatory requirement that certain sparkling wines should be closed with a mushroom-shaped stopper and the neck of the bottle covered in a foil sheath;
 - 7.2.6 revoke secondary retained EU law (Regulation 1308/2013 Article 120(2), Regulation 2019/33 Articles 51 and Regulation 2018/274 Chapter 3) to remove wine certification arrangements for wines with an indication of vintage or variety. This will mean that any wine can legitimately show a vintage and a variety without needing to be certified or having a Protected Designation of Origin (PDO) or a Protected Geographical Indication (PGI) status;
 - 7.2.7 revoke secondary retained EU law (Regulation 2019/935), in consequence of the revocation of the use of allyl isothiocyanate as an authorised oenological practice, removing the method of analysis for that wine production practice, a practice that is not used by our wine industry. In addition, the revocation of Article 3 of retained

Regulation 2019/935 will remove uncertainty about the arrangements that apply to enable an increase in the natural alcoholic strength of wine in years when climatic conditions have been exceptionally unfavourable, with this function being exercisable by the Secretary of State in accordance with the provision in retained Regulation 1308/2013;

- 7.2.8 revoke secondary retained EU law (Regulation 2019/33 Article 56 and Annex VII) to remove rules that reserve the use of certain types of bottle shapes for the marketing of certain EU wines.

8. European Union Withdrawal and Future Relationship

- 8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

- 9.1 This is not a consolidating instrument.

10. Consultation outcome

- 10.1 The consultation ran from 24 May – 21 July 2023. 96 responses were received, many of which were supportive of the changes.
- 10.2 Changes to importer-labelling requirements received strong support from wine trade bodies and those involved in importing and exporting wine. Information from responses supporting the changes highlights the economic benefit to businesses, reducing labelling costs and the reduction of risk of errors by minimising complexity.
- 10.3 Permitting wine names to be registered as Protected Designation of Origin (PDO) wines in cases where those wines are produced from hybrid-grape varieties received solid support from those who intend to take advantage of this change, outlining the flexibility it would bring, particularly regarding disease resistance.
- 10.4 The production and sale of piquette received positive responses from respondents representing single businesses in the industry who intend to make use of the change. Other respondents noted that it would have no impact or that they would not intend to make use of the change.
- 10.5 The proposal to allow for the blending of imported wine received a broad range of responses. Many respondents indicated that they felt positively about the change and intend to make use of it, while others felt the change would have a negative impact if labelling was not regulated. The Government considers the existing wine origin-labelling rules will be sufficient to allay the concerns raised. However, we intend to monitor the market for unintended or negative consequences arising from this policy change.
- 10.6 Foil wraps and mushroom stoppers proposals received responses that indicate likely uptake of the changes. Respondents noted that it was positive to have flexibility of choice for different products.
- 10.7 Respondents stated that the wine certification arrangements were not needed and that the removal would ease a cost burden.
- 10.8 The proposed revocation of the oenological production process of using paraffin discs impregnated with allyl isothiocyanate in retained Regulation 2019/934, and removal of the corresponding method of analysis for this process as set out in retained

Regulation 2019/935, received responses stating that their removal would have no impact.

- 10.9 The proposed removal of rules regarding bottle shapes received responses stating its removal would have no impact.

11. Guidance

- 11.1 The Government will put the necessary guidance regarding measures contained in the instrument on GOV.UK once the instrument has been approved by Parliament.

12. Impact

- 12.1 There is a significant, positive impact on business, but no impact on charities or voluntary bodies.
- 12.2 There is no, or no significant, impact on the public sector.
- 12.3 An Impact Assessment has been prepared for this instrument.

13. Regulating small business

- 13.1 The legislation applies to activities that are undertaken by small businesses.

14. Monitoring & review

- 14.1 The amendments to secondary retained EU law introduced by this instrument will revoke certain provisions contained in wine law to increase flexibility. We will monitor how the market reacts to these changes via our regular engagement with stakeholders, and if necessary, take account of their feedback, including in relation to an upcoming SI we shall be consulting on in 2024 which will consolidate and reform the legislation relating to wine and wine products more generally.

15. Contact

- 15.1 Georgina Yorke at the Department for Environment, Food and Rural Affairs. Telephone: 07342 062723 or email: georgina.yorke@defra.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Ananda Guha, Deputy Director for Food Exports, Promotion and Partnerships, at the Department for Environment, Food and Rural Affairs can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Mark Spencer, Minister of State at the Department for Environment, Food and Rural Affairs can confirm that this Explanatory Memorandum meets the required standard.