



Llywodraeth Cymru
Welsh Government

**WRITTEN STATEMENT
BY
THE WELSH GOVERNMENT**

TITLE **The Food and Drink, Veterinary Medicines and Residues
(Amendment etc.) (EU Exit) Regulations 2019**

DATE **8 March 2019**

BY **Rebecca Evans AM, Minister for Finance and Trefnydd**

The Food and Drink, Veterinary Medicines and Residues (Amendment etc.) (EU Exit) Regulations 2019

The law which is being amended

Domestic Legislation

The Veterinary Medicines Regulations 2013 (Reserved)

The Wine Regulations 2011

The Spirit Drinks Regulations 2008

The Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009

The Quality Schemes (Agricultural Products and Foodstuffs) Regulations 2018

EU Legislation

Commission Regulation (EC) No 2870/2000 laying down Community reference methods for the analysis of spirits drinks

Regulation (EU) No 1151/2012 of the European Parliament and of the Council on quality schemes for agricultural products and foodstuffs

Commission Implementing Regulation (EU) No 716/2013 laying down rules for the application of Regulation (EC) No 110/2008 of the European Parliament and of the Council on the definition, description, presentation, labelling and the protection of geographical indications of spirit drinks

Regulation (EU) No 251/2014 of the European Parliament and of the Council on the definition, description, presentation, labelling and the protection of geographical indications of aromatised wine products

Commission Delegated Regulation (EU) No 664/2014 supplementing Regulation (EU) No 1151/2012 of the European Parliament and of the Council with regard to the establishment of the Union symbols for protected designations of origin, protected geographical indications and traditional specialities guaranteed and with regard to certain rules on sourcing, certain procedural rules and certain additional transitional rules

Commission Delegated Regulation (EU) No 665/2014 supplementing Regulation (EU) No 1151/2012 of the European Parliament and of the Council with regard to conditions of use of the optional quality term 'mountain product'

Commission Implementing Regulation (EU) No 668/2014 laying down rules for the application of Regulation (EU) No 1151/2012 of the European Parliament and of the Council on quality schemes for agricultural products and foodstuffs

Commission Delegated Regulation (EU) 2018/273 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

Commission Implementing Regulation (EU) 2018/274 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

Regulation (EC) No 470/2009 of the European Parliament and of the Council laying down Community procedures for the establishment of residue limits of pharmacologically active substances in foodstuffs of animal origin

Annex 2 to the EEA Agreement

Revoked EU Directly Applicable Legislation

Council Decision 94/184/EC concerning the conclusion of an Agreement between the European Community and Australia on trade in wine.

Council Decision 97/361/EC concerning the conclusion of an Agreement between the European Community and the United Mexican States on the mutual recognition and protection of designations for spirit drinks.

Commission Decision 2000/192/EC concerning the conclusion of an Agreement amending the Agreement between the European Community and Australia on trade in wine.

Commission Decision 2001/339/EC concerning an Exchange of Letters amending point B of the Annex to the Agreement between the European Community and the Republic of Bulgaria on the reciprocal protection and control of wine names.

Commission Decision 2001/581/EC concerning the conclusion of an Agreement amending the Agreement between the European Community and Australia on trade in wine.

Council Decision 2001/916/EC on the conclusion of an Additional Protocol adjusting the trade aspects of the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the former Yugoslav Republic of Macedonia, of the other part, to take account of the outcome of the negotiations between the parties on reciprocal preferential concessions for certain wines, the reciprocal recognition, protection and control of wine names and the reciprocal recognition, protection and control of designations for spirits and aromatised drinks

Council Decision 2001/917/EC on the conclusion of an Additional Protocol adjusting the trade aspects of the Interim Agreement between the European Community, of the one part, and the former Yugoslav Republic of Macedonia, of the other part, to take account of the outcome of the negotiations between the parties on reciprocal preferential concessions for certain wines, the reciprocal recognition, protection and control of wine names and the reciprocal recognition, protection and control of designations for spirits and aromatised drinks.

Council Decision 2001/918/EC on the conclusion of an Additional Protocol adjusting the trade aspects of the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Croatia, of the other part, to take account of the outcome of the negotiations between the parties on reciprocal preferential concessions for certain wines, the reciprocal recognition, protection and control of wine names and the reciprocal recognition, protection and control of designations for spirits and aromatised drinks.

Council Decision 2001/919/EC on the conclusion of an Additional Protocol adjusting the trade aspects of the Interim Agreement between the European Community, of the one part, and the Republic of Croatia, of the other part, to take account of the outcome of the negotiations between the parties on reciprocal preferential concessions for certain wines, the reciprocal recognition, protection and control of wine names and the reciprocal recognition, protection and control of designations for spirits and aromatised drinks.

Council Decision 2001/920/EC on the conclusion of an Additional Protocol adjusting the trade aspects of the Europe Agreement establishing an association between the European Communities and their Member States, acting within the framework of the European Union, of the one part, and the Republic of Slovenia, of the other part, to take account of the outcome of the negotiations between the parties on reciprocal preferential concessions for certain wines, the reciprocal recognition, protection and control of wine names and the reciprocal recognition, protection and control of designations for spirits and aromatised drinks.

Council Decision 2002/51/EC on the conclusion of an Agreement between the European Community and the Republic of South Africa on trade in wine.

Council Decision 2002/53/EC concerning the provisional application of the Agreement between the European Community and the Republic of South Africa on trade in wine.

Council Decision 2002/55/EC on the conclusion of an Agreement in the form of an Exchange of Letters between the European Community and the Republic of South Africa on trade in wine.

Commission Decision 2002/650/EC concerning the conclusion of an Agreement amending the Agreement between the European Community and Australia on trade in wine.

Commission Decision 2003/898/EC concerning the conclusion of an agreement amending the Agreement between the European Community and Australia on trade in wine.

Council Decision 2004/91/EC on the conclusion of the agreement between the European Community and Canada on trade in wines and spirit drinks.

Commission Decision 2004/387/EC on the conclusion of an Agreement in the form of an Exchange of Letters between the European Community and the United Mexican States concerning amendments to Annex I to the Agreement between the European Community and the United Mexican States on the mutual recognition and protection of designations for spirit drinks, taking into account the enlargement.

Commission Decision 2004/483/EC on the conclusion of an Agreement in the form of an exchange of letters between the European Community and the United Mexican States concerning amendments to Annex I of the Agreement between the European Community and the United Mexican States on the mutual recognition and protection of designations for spirit drinks, taking into account the enlargement.

Commission Decision 2004/785/EC on the conclusion of an Agreement in the form of an exchange of letters between the European Community and the United Mexican States concerning amendments to Annex II of the Agreement between the European Community and the United Mexican States on the mutual recognition and protection of designations for spirit drinks.

Council Decision 2005/798/EC concerning the conclusion of an Agreement in the form of an Exchange of Letters between the European Community and the United States of America on matters related to trade in wine.

Council Decision 2006/136/EC on the conclusion of an Agreement in the form of an Exchange of Letters between the European Community and the Republic of Chile concerning amendments to the Agreement on Trade in Wines annexed to the Agreement establishing an Association between the European Community and its Member States, of the one part, and the Republic of Chile, of the other part.

Council Decision 2006/232/EC on the conclusion of the Agreement between the European Community and the United States of America on trade in wine.

Commission Decision 2006/567/EC on the conclusion of an Agreement in the form of an Exchange of Letters between the European Community and the Republic of Chile concerning amendments to Appendices I, II, III and IV of the Agreement on Trade in Wines annexed to the Association Agreement between the European Community and its Member States, of the one part, and the Republic of Chile, of the other part.

Commission Decision 2006/569/EC on the conclusion of an Agreement in the form of an Exchange of Letters between the European Community and the Republic of Chile concerning amendments to Appendix VI of the Agreement on Trade in Wines annexed to the Association

Agreement between the European Community and its Member States, of the one part, and the Republic of Chile, of the other part.

Commission Regulation (EC) No 555/2008 laying down detailed rules for implementing Council Regulation (EC) No 479/2008 on the common organisation of the market in wine as regards support programmes, trade with third countries, production potential and on controls in the wine sector.

Council Decision 2009/49/EC on the conclusion of the Agreement between the European Community and Australia on trade in wine.

Commission Decision 2009/104/EC on the conclusion of an Agreement in the form of an Exchange of Letters between the European Community and the Republic of Chile concerning amendments to Appendix V of the Agreement on Trade in Wines annexed to the Association Agreement between the European Community and its Member States, of the one part, and the Republic of Chile, of the other part.

Council Decision 2011/51/EU on the signing of the Agreement between the European Union and the Swiss Confederation on the protection of designations of origin and geographical indications for agricultural products and foodstuffs, amending the Agreement between the European Community and the Swiss Confederation on trade in agricultural products.

Council Decision 2011/620/EU on the signing, on behalf of the Union, of the Agreement between the European Union and Georgia on protection of geographical indications of agricultural products and foodstuffs.

Council Decision 2011/738/EU on the conclusion of the Agreement between the European Union and the Swiss Confederation on the protection of designations of origin and geographical indications for agricultural products and foodstuffs, amending the Agreement between the European Community and the Swiss Confederation on trade in agricultural products.

Commission Implementing Decision 2011/751/EU on the notification of a proposal for amendment to the Annexes to the EC-US Agreement on trade in wine.

Council Decision 2012/164/EU on the conclusion of the Agreement between the European Union and Georgia on protection of geographical indications of agricultural products and foodstuffs.

Commission Implementing Decision 2012/275/EU on the inclusion of vine varieties in Appendix IV of the Protocol on wine labelling as referred to in Article 8(2) of the EC-US Agreement on trade in wine.

Council Decision 2012/292/EU on the signing, on behalf of the Union, of the Agreement between the European Union and the Republic of Moldova on the protection of geographical indications of agricultural products and foodstuffs.

Council Decision 2012/533/EU on the position to be taken by the European Union within the Joint Committee set up by Article 11 of the Agreement between the European Union and Georgia on protection of geographical indications of agricultural products and foodstuffs, as regards the adoption of the rules of procedure of the Joint Committee.

Council Decision 2013/7/EU on the conclusion of the Agreement between the European Union and the Republic of Moldova on the protection of geographical indications of agricultural products and foodstuffs.

Council Decision 2013/482/EU on the position to be taken by the European Union within the Joint Committee set up by Article 11 of the Agreement between the European Union and the Republic of Moldova on protection of geographical indications of agricultural products and foodstuffs, as regards the adoption of the rules of procedure of the Joint Committee.

Council Decision 2014/429/EU on the position to be adopted on behalf of the European Union within the Association Council set up by the Agreement establishing an Association between the European Union and its Member States, on the one hand, and Central America, on the other, as regards the adoption of a decision by the Association Council on the inclusion in Annex XVIII of the respective geographical indications protected in the territory of the parties.

Commission Delegated Regulation (EU) 2016/1149 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards the national support programmes in the wine sector.

Commission Implementing Regulation (EU) 2016/1150 laying down rules for the application of Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards the national support programmes in the wine sector. Council Decision (EU) 2016/2136 on the signing, on behalf of the European Union, of the Agreement between the European Union and Iceland on the protection of geographical indications for agricultural products and foodstuffs.

Council Decision (EU) 2017/1912 on the conclusion of the Agreement between the European Union and Iceland on the protection of geographical indications for agricultural products and foodstuffs.

Any impact the SI may have on the Assembly's legislative competence and/or the Welsh Ministers' executive competence

This instrument transfers functions to the Secretary of State. Functions transferred to the Secretary of State constitute functions of a Minister of the Crown for the purposes of Schedule 7B to GoWA 2006. A future Assembly Bill seeking to remove or modify these functions could trigger a requirement to consult the UKG.

The purpose of the amendments

Part 2 and 3 of this instrument amend domestic and EU legislation relating to food and drink, this is to ensure that the law in this area remains operable upon the UK's withdrawal from the EU. A significant portion of this instrument deals with incorporating the existing EU Protected Food Name (PFN) and Geographical Indication (GI) schemes into domestic law (so that there is a UK scheme on exit). Part 3 also revokes the EU legislation listed in Schedule 7 of the instrument.

Geographical Indications

Currently EU Regulations provide for the registration and protection of GIs in the UK. These cover i) agricultural products and foodstuffs ii) wines iii) spirit drinks and iv) aromatised wines. There are 15 fifteen Welsh food products registered under the European Scheme, including Welsh lamb and Welsh beef. GI is an important award as it is seen as a mark of quality which

can give producers a greater economic benefit for their produce. The schemes provide legal protection from imitation for both regional and traditional specialties, whose authenticity and origin can be guaranteed. This gives assurance to consumers that products are genuine and enables producers to better promote and market their products.

EU regulations have also governed the definition, description, presentation and labelling rules for spirit drinks, as well as the definition, description, presentation, labelling and oenological rules for wines and aromatised wines.

As the UK leaves the EU, it is vital that rules are in place to continue the protection afforded to these products by these EU Regulations. Under the European Union (Withdrawal) Act 2018, the relevant EU regulations will be converted into UK law. This instrument amends those regulations (and existing domestic regulations) on GI schemes and the wine and spirit drink sectors. The amendments made by this instrument will create working UK GI schemes, and domestically enforceable UK regulations for the wine and spirit drink sectors. This will ensure the UK continues to protect the 86 product names from the UK that are registered as GIs under the EU schemes and continues to meet its World Trade Organisation obligations.

The amendments made by this instrument make a number of amendments, for example:

- 1) The GI schemes will be administered as UK schemes, not as European schemes. All GI applications will go through a single UK scrutiny and opposition process, rather than the current two-stage process (the current Member State and European Commission stages will be combined into a single modified UK scheme process);
- 2) Appeals provisions are being introduced as a result of the UK assuming new responsibilities and functions, previously belonging to the EU. These allow those with a legitimate interest to appeal to the First-tier Tribunal where they disagree with decisions made in the administration of the scheme; and
- 3) The creation and use of new UK GI logos, including allowing existing UK agri-food GIs three years to comply with the requirement to use the new UK logo when trading in the UK market.

Parts 4 and 5 of the instrument deal with veterinary medicines.

This instrument is being made using the power in section 8 of the European Union (Withdrawal) Act 2018 in order to address failures of retained EU law to operate effectively or other deficiencies arising from the withdrawal of the United Kingdom from the European Union. The instrument is also made under the powers in paragraph 1 of Schedule 4 and paragraph 21 of Schedule 7 to the European Union (Withdrawal) Act 2018.

The Regulations and accompanying Explanatory Memorandum, setting out the effect of amendments is available here: <https://beta.parliament.uk/work-packages/orXfGmeJ>

Consent

Consent has been given for the UK Government to make corrections in relation to, and on behalf of, Wales on matters relating to Wine, Spirits and Veterinary medicines for reasons of efficiency, expediency and due to the technical nature of the amendments. The amendments have been considered fully; and there is no divergence in policy. These amendments are to ensure that the statute book remains functional following the UK's exit from the EU. This is in line with the principles for correcting agreed by the Cabinet Sub-Committee on European Transition in May.

In relation to Protected Food Names and Geographical Indicator schemes, we have a strong interest in ensuring that Welsh Protected Food Names and Geographical Indicators are protected throughout the UK (and ideally, through the negotiations on the future partnership, the EU). While the Welsh Government's position is that these matters are devolved, the UK Government considers them to be reserved, and therefore these matters are not subject to the terms of the Intergovernmental Agreement, from its perspective. The Welsh Government has sought joint decision making functions within this instrument in relation to approving food names and GIs, but the UK Government has maintained its view that these matters are reserved. We accept that the UK Government has been acting in good faith under the Intergovernmental Agreement and it has not been possible to resolve these matters within the timeframe required to ensure a functioning statute book.

However, in an exchange of letters between the Minister for Environment, Energy and Rural Affairs and the Secretary of State, written assurances have been given that all Devolved Administrations will be involved in the operation of the new scheme. The Welsh Government will continue to work to ensure that a Memorandum of Understanding that will underpin the instrument provides for a meaningful role for Welsh Ministers in the administration of the scheme. Consent has therefore been given on the basis that this will be addressed in due course and it has been clarified that this consent is without prejudice to our position on legislative competence.