

Explanatory Memorandum to the Food Information (Wales) (Amendment) Regulations 2021

This Explanatory Memorandum has been prepared by the Department for Economy, Skills and Natural Resources and is laid before Senedd Cymru in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Food Information (Wales) (Amendment) Regulations 2021.

I have made the statements required by the European Union (Future Relationship) Act 2020. The statements can be found in Part 2 of the Annex to this Memorandum.

Lesley Griffiths MS
Minister for Rural Affairs and North Wales, and Trefnydd
23 November 2021

PART 1

1. Description

Following the UK departure from the EU Single Market and Customs Union, the Trade and Cooperation Agreement sets out the basis for trade in wine between Great Britain and the European Union.

These Regulations amend the Food Information (Wales) Regulations 2014 in relation to transitional provisions contained in Annex 15 of the TCA that are applicable to the labelling and the placing on the market of wine.

2. Matters of special interest to the Legislation, Justice and Constitution Committee

The instrument is being made using powers conferred by section 31(1) (a) of and paragraph 27 of Schedule 5 to the European Union (Future Relationship) Act 2020.

As set out in the Ministerial Statement in Part 2 of the Annex to this Explanatory Memorandum it is proposed that the instrument be made subject to the negative procedure.

The Instrument makes purely transitional provisions in subordinate legislation, so it is considered appropriate to make this Instrument subject to annulment in pursuance of a resolution of Senedd Cymru

3. Legislative background

The instrument is being made using powers conferred by section 31(1) (a) of and paragraph 27 of Schedule 5 to the European Union (Future Relationship) Act 2020 and pursuant to paragraph 6(2) and 9 of Schedule 5 to the Act is subject to approval of the Senedd by negative resolution procedure. In accordance with paragraph 9(3) of Schedule 5 the Welsh Ministers have made a statement confirming the negative resolution procedure is appropriate and laid a copy of the draft instrument and draft explanatory memorandum, including their reasons for their choice of procedure, before the Senedd

The Food Information (Wales) Regulations 2014 enforce, in relation to Wales, provisions of Regulation (EU) No 1169/2011 on the provision of food information to consumers, including information provided by way of food labelling. In particular they provide that an enforcement authority may, in the event of a breach, issue an improvement notice under section 12 of the Food Safety Act 1990.

The Food Information (Amendment) (Wales) Regulations 2021 provide transitional relief against enforcement action in relation to wine produced, described and labelled before the date of entry into force of the TCA.

4. Purpose and intended effect of the legislation

There is a need to amend this Welsh domestic legislation, in response to amendments made under the UK Government's Wine (Amendment) Regulations 2021.

As the UKG SI makes amendments for the whole of the UK, Wales only needs to make a small amendment to the Food Information (Wales) Regulations 2014.

The purpose and intended effect of the Food Information (Wales) (Amendment) Regulations 2021, is to provide transitional relief against enforcement action in relation to wine produced, described and labelled before the date of entry into force of the TCA.

What did any law do before the changes to be made by this instrument?

The Regulations enforced certain provisions of Regulation (EU) No 1169/2011 of the European Parliament and of the Council of 25 October 2011 on the provision of food information to consumers. Regulation (EU) No 1169/2011 makes provision for food information to consumers, including fair information practices to ensure consumers are not misled by food packaging.

Why is it being changed?

There is a need to amend this Welsh domestic legislation, in response to amendments made under the UKG Wine (Amendment) Regulations 2021.

What will it now do?

Amendments to the Food Information (Wales) Regulations 2014, make transitional relief against enforcement action in relation to wine produced before the coming into force of the new labelling and marketing requirements in the TCA.

5. Consultation

A joint UK Government, Welsh Government and Scottish Government 3-week consultation was carried out on the legislative proposals as part of the UKG Wine (Amendment) Regulations 2021.

The consultation was posted on GOV.UK and was brought to the attention of key stakeholders in the wine trade, the Wine and Spirit Trade Association (WSTA) and WineGB and the Food Standard Agency (FSA) and Food Standards Scotland.

Responses were overwhelmingly positive to the proposals, especially those concerning the removal of wine import certification (VI-1s). The wine trade and especially the fine wine trade who imported in smaller quantities, considered the removal of the VI-1 requirements would reduce costs and speed up trade.

Concerns were expressed that removal of import certification would reduce the cost of alcohol - leading to increased risk of harm, and that certification barriers still exist in respect of wine trade with EU Member States. Stakeholders wanted the Government to support moves to reduce or remove these barriers.

Few opinions were expressed on arrangements regarding lot marking of wines, with comments noting it would not impact negatively on business.

Comments on the transition period arrangements focussed on the length of time this should be provided for. However, most agreed a 2-year transition period for wholesalers and producers would be sufficient time for businesses to adjust.

6. Regulatory Impact Assessment (RIA)

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments (RIA) was considered in relation to these Regulations. It was considered an RIA was not required, given the legislation relates to where factual amendments are being made to update subordinate legislation and which do not alter the policy (or its impact) in any significant way or how it is applied in a given situation.

Annex 1

Statements under the European Union (Future Relationship) Act 2020

Part 1

Table of Statements under the 2020 Act

This table sets out the statement that may be required of the Welsh Ministers under the 2020 Act. The required statements can be found in Part 2 of this annex.

Statement	Where the requirement sits	To whom it applies	What it requires
Sifting	Paragraphs 9(3) , Schedule 5 Standing Order 27.1AA	The Welsh Ministers exercising powers in Paragraph 9 of Schedule 5 to make a Negative SI	A statement to explain why the instrument should be subject to the negative procedure and, if applicable, why they disagree with the recommendation of the LJC Committee (as sifting committee)

Part 2

Statements required when using enabling powers under the European Union (Future Relationship) 2020 Act

1. Sifting statement(s)

The Minister for Rural Affairs and North Wales, and Trefnydd has made the following statement regarding use of legislative powers in the European Union (Future Relationship) Act 2020:

“In my view the Food Information (Wales) (Amendment) Regulations 2021 should be subject to annulment in pursuance of a resolution of the Senedd Cymru. (i.e. the negative procedure).

This is the case because the changes made are minor and technical in nature.”