

Explanatory Memorandum to the Alcoholic Beverages (Amendment) (Wales) Regulations 2023

This Explanatory Memorandum has been prepared by the Welsh Government Food Policy and Strategy Unit and is laid before Senedd Cymru in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1

Minister Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of The Alcoholic Beverages (Amendment) (Wales) Regulations 2023.

Lesley Griffiths MS
Minister for Rural Affairs, North Wales & Trefnydd
7 March 2023

PART 1

1. Description

1. This instrument amends retained EU Regulation concerning the labelling of alcohol content and multiple grape varieties for wine to take account of requirements set down in Annex 7A (Wine and Distilled Spirits), to the Free Trade Agreement between the United Kingdom of Great Britain and Northern Ireland and New Zealand (the UK-NZ FTA):
2. To implement the changes agreed in the UK-NZ FTA, the UK Government, Scottish Government and Welsh Government need to introduce legislation which will amend the relevant Retained EU Law.
3. The following Retained EU Regulations are amended by these regulations:
 - Commission Delegated Regulation (EU) 2019/33 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.

The amendments to Regulation 2019/33 are as follows:

A. To require the actual alcoholic strength of wine and certain other wine sector products to be indicated to a figure of not more than one decimal point rather than percentage units or half units e.g. 12.2% alc/vol

B. To enable an alternative indicator (“% alc/vol”) to be used with a figure indicating the actual alcoholic strength of wine and certain other wine sector products to which article 44 of that regulation applies.

C. To enable wine and certain other wine sector products on the labels of which two or more wine grape varieties (or their synonyms) are named to be marketed in Wales where 95% of the product (reduced from 100%) has been made from those varieties.

- Regulation (EU) No 1169/2011 of the European Parliament and of the Council on the provision of food information to consumers is amended to enable “% alc/vol” to be used as an alternative indicator when indicating the alcoholic strength of a beverage to which that Annex 12 applies.

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

4. None

3. Legislative background

5. To implement the provisions of the UK-NZ FTA, this instrument makes amendments to directly retained EU legislation regarding the labelling of alcoholic beverages and wine products marketed in Wales.
6. The Alcoholic Beverages (Amendment) (Wales) Regulations 2023 are made in exercise of the Welsh Ministers powers under section 16(1)(e) (as read with section 16(3A)) of the Food Safety Act 1990 ('the 1990 Act') and section 50(3) and paragraph 16(1) of Schedule 5 to Agriculture Act 2020 ('the 2020 Act').
7. The powers under section 16(1)(e) of the 1990 Act enable the Welsh Ministers to, by regulations, impose requirements or prohibitions as to, or otherwise regulating, the labelling, marking presenting or advertising of food, and the descriptions which may be applied to food. In conjunction with section 16(3A) of the same Act, regulations made under subsection 16(1)(e) may amend regulation (EU) No 1169/2011 of the European Parliament and of the Council on the provision of food information to consumers.
8. The functions in section 16(1)(e) of the 1990 Act, were conferred on the Secretary of State. However, in relation to Wales, that function is now exercisable by the Welsh Ministers, by virtue of the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) and section 162 of, and paragraph 30 of Schedule 11 to the Government of Wales Act 2006.
9. The power under paragraph 16(1) of Schedule 5 to the 2020 Act, enable the Welsh Ministers to make provision about the marketing standards

certain agricultural products must conform and section 50(3) provides a power to amend retained direct EU legislation.

10. In accordance with section 48(4A) of the 1990 Act, the Welsh Ministers have had regard to relevant advice given by the Food Standards Agency.
11. Section 48(3B) of the 1990 Act and section 50(6)(c) of the 2020 Act confirms that regulations made through the exercise of the above powers are subject to the draft affirmative procedure.

4. Purpose and intended effect of the legislation

12. The aim of the legislation is to ensure the UK is compliant with labelling provisions in the wine and distilled spirits (Annex 7A) to the UK/New Zealand free trade agreement (FTA).

The legislative changes are technical in nature and all add flexibility with minimal impact on the alcoholic drinks industry and businesses may still continue to use their current labelling arrangements, if they so wish.

Proposed changes

- I. Allow wine products to show alcoholic strength to one decimal place, for example 12.2% alc/vol. Retained EU Legislation currently limits wine to being marketed to whole or half units 12%-12.5%.
 - II. Where several grape varieties are listed on a wine label, the named varieties must total at least 95% of the content of the wine. Current Retained EU Legislation require this to be 100%. The changes will mean that up to 5% of the content may consist of varieties not shown on the label.
 - III. To allow the term '% alc/vol' to appear directly after the alcohol content figure displayed on the label of any alcoholic beverage. This allows for greater flexibility on how alcoholic strength is labelled on an alcoholic drink label.
13. The Welsh SI will come into force on 28 April 2023, to closely align with the SIs being introduced by UK and Scottish Governments, to limit any divergences between how the laws apply in Wales and the rest of GB.

5. Consultation

14. In accordance with the duty under Article 9 of Regulation (EC) No 178/2002, an open and transparent targeted consultation exercise was carried out with stakeholders from the alcohol sector, regarding the proposals.
15. A joint 3-week targeted engagement with relevant industry stakeholders was conducted by the UK Government on behalf of Welsh and Scottish Governments, between 2 November – 23 November 2022.
16. The exercise sought views on the impact the proposed changes might have, to which there were ten responses.
17. The majority were supportive of the changes and the flexibilities they will provide.

6. Regulatory Impact Assessment (RIA)

14. An RIA has not been prepared for this instrument as no significant impacts are foreseen for businesses or the public sector.
15. This is based on the SI relating to minor technical amendments being made to retained EU legislation, to provide flexibilities to businesses as part of implementing obligations under the UK-NZ FTA.
16. This is in line with the policy set out in the Welsh Ministers' code of practice for carrying out regulatory impact assessments for subordinate legislation.