

SL(6)432 – The Wine (Amendment) (Wales) Regulations 2024

Background and Purpose

These Regulations make amendments to assimilated direct legislation relating to the marketing of wine and oenological practices used to produce and conserve wine and other wine products. “Oenological” means ‘of wine and wine making’. These Regulations apply in Wales.

These Regulations amend Article 53 of 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 (EUR 2019/33) (“Regulation (EU) 2019/33”). The amendment inserts a provision in Regulation (EU) 2019/33 prohibiting the marketing of a product using the term “ice wine”, “icewine” or “ice-wine” and similar terms (whether in English or in a different language), unless the product is wine made exclusively from grapes naturally frozen on the vine.

These Regulations also amend 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 (EUR 2019/934) (“Regulation (EU) 2019/934”).

Regulation (EU) 2019/934 authorises specified oenological practices. It supplements Article 80(1) of 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 (EUR 2013/1308) (“Regulation (EU) No 1308/2013”). Article 80(1) of Regulation (EU) No 1308/2013 prohibits the use of unauthorised oenological practices in the production and conservation of wine and other wine products. The amendments made by these Regulations to Regulation (EU) 2019/934 make changes to the oenological practices that may be used in the production and conservation of wine and other wine products.

Procedure

Draft Affirmative.

The Welsh Ministers have laid a draft of these Regulations before the Senedd. The Welsh Ministers cannot make these Regulations unless the Senedd approves the draft Regulations.



Technical Scrutiny

The following 2 points are identified for reporting under Standing Order 21.2 in respect of this instrument.

1. Standing Order 21.2(vi) - that its drafting appears to be defective or it fails to fulfil statutory requirements.

In the second paragraph of the preamble, the title of Regulation (EC) No 178/2002 appears to be incomplete. The words 'of 28 January 2002' are missing after 'Council'.

2. Standing Order 21.2(v) – that for any particular reason its form or meaning needs further explanation.

In Part 3 of the Schedule to these Regulations there is reference to 'File 3.4.23 (2023)', however, in the OIV Code of Oenological Practices the reference found in the title to file 3.4.23 is '(OENO 581A-2021)'. The Welsh Government is asked to confirm whether or not '(2023)' is correct.

Merits Scrutiny

The following point is identified for reporting under Standing Order 21.3 in respect of this instrument.

3. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd.

The Explanatory Memorandum explains the following:

This statutory instrument has two distinct purposes.

(1) As a result of the UK joining the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP), the 4 devolved governments of the UK must introduce rules by statutory instrument to prohibit the marketing of wine as "ice wine" and using similar descriptions unless the product is wine made exclusively from grapes naturally frozen on the vine. These statutory instruments must be in force by 15 July 2024 when the UK formally joins CPTPP.

(2) It will also make changes to the oenological practices, processes and restrictions that may be used in the production and conservation of wine and other wine products. These changes are extensive. (NB "oenological" means 'of wine and wine making').

This statutory instrument applies only in relation to Wales. Defra is making a parallel instrument which applies in England. It is understood that the Scottish Government is making its own instrument to apply in Scotland.



The Explanatory Memorandum also notes the following, in relation to the carrying out of a regulatory impact assessment:

The Regulations introduce amendments which does not alter the policy (or its impact) in any significant way; the SI relates to minor technical amendments being made to retained EU legislation, to provide flexibilities to businesses. The impact to businesses is anticipated to be nil.

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.

As it is not explicitly stated in the Explanatory Memorandum, the Welsh Government is asked to confirm whether or not a regulatory impact assessment has been carried out.

The Welsh Government is also asked to explain how the 'extensive' changes to the oenological practices, processes and restrictions that may be used in the production and conservation of wine and other wine products are considered to be minor technical amendments.

Welsh Government response

Technical Scrutiny point 1:

The Welsh Government are of the view that the preamble to this S.I. does not need amendment as the drafting approach taken is not uncommon – see for example, the Genetically Modified Food and Feed (Authorisations)(Wales) Regulations 2022 (2022/472) which referred to this EU Regulation in the same way in its Preamble and which was not reported. Furthermore, this is also exactly how that EU Regulation is referred to in the draft English Regulations and the draft Welsh Regulations mirror these English Regulations

Technical Scrutiny point 2:

The Welsh Government can confirm that the reference to 3/4/2023 is correct because it is the latest technical definition for the treatment of wine with fumaric acid to inhibit malolactic fermentation and is in the current version of the Oenological Code. The 2021 reference (OENO 581A-2021) referred to in LJCC's report is to the record of the original resolution by the OIV to permit use of fumaric acid to inhibit malolactic fermentation. The definition (3/4/2023) prescribes exactly the same treatment for the same objective as permitted by the 2021 resolution.

Merit Scrutiny point 3:

The Welsh Government has not prepared a RIA for two reasons. One is the provisions for "ice-wine" are putting into effect a policy already decided by UKG when it signed the CPTPP Protocol of Accession in July 2023, meaning the Welsh Government has no choice other than to amend the law. The other reason is the changes update regulations to permit businesses to operate to the latest OIV code of practice, a body which undertakes extensive consultative and scientific scrutiny of changes, and the changes being ones where GB consultation on the regulations identified widespread business support and no concerns about negative impact.



The Welsh Government does not consider the changes made to Commission Delegated Regulation (EU) 2019/934 to be “extensive”. Relative to the very large and broad scope of the whole International Code of Oenological Practices the changes are few in number and only apply to a few aspects of oenological practices. The changes made to Table 1, Annex 1 of Commission Delegated Regulation (EU) 2019/934 by Regulation 3(5)(d) are mostly additions to permitted processes which provide wine businesses with opportunity to adopt new practices. These practices have been subject to consultation and the OIV’s extensive scrutiny process. The changes made by the Schedule (Regulation 3(6)) add to the list of authorised oenological compounds, or update compounds already on that list, listed in Table 2 of Commission Delegated Regulation (EU) 2019/934. Making these changes enable businesses to use the most up to date approved list of compounds.

The changes themselves are technical and have all been approved by OIV members, which include the UK. The Code sets international standards for wine and so is relevant to international trade. Making the changes enables Welsh businesses to operate on the same terms as other businesses in the UK or abroad.

Committee Consideration

The Committee considered the instrument and Government response at its meeting on 15 January 2024 and reports to the Senedd in line with the reporting points above.

