

NOTIFICATION TO THE SCOTTISH PARLIAMENT

Name of the SI(s) (if known) or a title describing the policy area

The Wine (Amendment) Regulations 2021

Is the notification Type 1 or Type 2

This is a Type 1 notification.

A brief overview of the SI (including reserved provision).

- The Wine (Amendment) Regulations 2021 implement wine-related provisions from the Trade and Cooperation Agreement (TCA) which now sets out the basis for trade in wine between Great Britain and the European Union.
- The regulations will ensure the UK meets its legal obligation to implement the provisions in Annex 15 to the TCA dealing with the trade in wine. Specifically, the regulations will amend rules concerning lot marking and import and export certification arrangements for wine products and put in place transitional marketing arrangements.
- The regulations are made in exercise of the powers conferred by section 31(1)(a) and (b) of, and paragraph 27 of Schedule 5 to, the European Union (Future Relationship) Act 2020. They will amend the following domestic and retained direct EU legislation:
 - The Food (Lot Marking) Regulations 1996;
 - The Wine Regulations 2011;
 - The Food Information Regulations 2014;
 - Commission Delegated Regulation (EU) 2018/273;
 - Regulation (EU) No 1308/2013 of the European Parliament and of the Council.
- Wine is a complex mix of devolved and reserved content and regulations are not widely used in Scotland. Historically, matters have been dealt with by UKG SI using section 2(2) of the European Communities Act 1972 plus section 57(1) of the Scotland Act. The regulations to implement the wine-related provisions from the TCA have therefore been drafted on a GB basis which is consistent with the approach taken with similar SIs where Scotland's interests are minimal.
- The SI is expected to be laid on 23 November and is due to come into effect on 1 January 2022.

Details of the provisions that Scottish Ministers are being asked to consent to.

Summary of the proposals

The regulations will amend rules concerning lot marking and import and export certification arrangements for wine products and put in place transitional marketing arrangements. They do not confer any new powers to legislate on UK or Scottish Ministers.

Does the SI relate to a common framework or other scheme?

The SI does not relate to a common framework. These regulations will ensure the UK meets its legal obligation to implement the provisions in Annex 15 to the Trade and Co-operation Agreement dealing with the trade in wine.

Summary of stakeholder engagement/consultation

The UK Government undertook a three-week consultation on the legislative proposals. The consultation was posted on GOV.UK but it was also drawn 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. UK Government liaised with the devolved Governments concerning scope and content.

Responses were overwhelmingly positive about 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. Consultees wanted the Government to support moves to reduce or remove those barriers.

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

Comments on the transition period arrangements focussed on the length of time for which this should be provided. Most agreed that a two-year transition period for wholesalers and producers would be sufficient time for businesses to adjust.

A note of other impact assessments, (if available)

There is considered to be no, or no significant, impact on business, charities, voluntary bodies or the public sector.

A full Impact Assessment has not been prepared for this SI because it either maintains existing regulatory standards that were in place before the UK withdrawal from the EU or, in the case of wine import certification, it removes what could have become a barrier to trade.

The measures being implemented in this legislation represent the minimum necessary to implement the TCA. The regulations remove barriers that apply to the import of wine to Great Britain and providing flexibility on the lot marking of wines. Transitional measures are as set out in the TCA. The consultation on the legislative plans revealed that the proposals would be welcomed by all parts of the industry, most of whom are small businesses.

Summary of reasons for Scottish Ministers' proposing to consent to UK Ministers legislation

The regulations will amend existing rules concerning lot marking and import and export certification arrangements for wine products and put in place transitional marketing arrangements. The transitional provision will ensure that wines that have already been produced, and either not yet released to the market or already in the supply chain, can continue to be sold where they met the necessary requirements in force before the TCA was implemented.

Wine regulations are not widely used in Scotland. Historically, matters have been dealt with by UKG SI using section 2(2) of the European Communities Act 1972 plus section 57(1) of the Scotland Act. The regulations to implement the wine-related provisions from the TCA have therefore been drafted on a GB basis which is consistent with the approach taken with similar SIs where Scotland's interests are minimal.

Intended laying date (if known) of instruments likely to arise

The intended laying date is 23 November 2021. The SI will follow the draft affirmative procedure.

If the Scottish Parliament does not have 28 days to scrutinise Scottish Minister's proposal to consent, why not?

The planned for laying date does not give the Parliament 28 days to consider the notification. We have asked Defra, however, if it would be possible to push back the laying date or at least agree not to debate the SI until the Parliament has had a chance to consider the notification. We will provide an update when Defra respond.

Information about any time dependency associated with the proposal

The timetable for the SI is tight if it is to come into effect on 1 January 2022.

Are there any broader governance issues in relation to this proposal, and how will these be regulated and monitored post-withdrawal?

There are no new governance arrangements.

Any significant financial implications?

The regulations amend rules and do not have any significant financial implications.

SI NOTIFICATION: SUMMARY

Title of Instrument Wine (Amendment) Regulations 2021
Proposed laying date at Westminster 23 November 2021
Date by which Committee has been asked to respond To be confirmed once Defra have advised on the potential for delaying the laying date and the debate.
Power(s) under which SI is to be made This instrument is made in exercise of the powers conferred by section 31(1)(a) and (b) of, and paragraph 27 of Schedule 5 to, the European Union (Future Relationship) Act 2020.
Categorisation under SI Protocol Type 1
Purpose <p>The regulations implement wine-related provisions from the Trade and Cooperation Agreement (TCA) which now sets out the basis for trade in wine between Great Britain and the European Union.</p> <p>The regulations will ensure the UK meets its legal obligation to implement the provisions in Annex 15 to the TCA dealing with the trade in wine. Specifically, the regulations will amend rules concerning lot marking and import and export certification arrangements for wine products and put in place transitional marketing arrangements.</p>
Other information N/A
SG Policy contact: Aileen Bearhop, Food and Drink Division. Tel. 07554 332334