

EXPLANATORY MEMORANDUM TO
THE ALCOHOLIC BEVERAGES (AMENDMENT) (ENGLAND) REGULATIONS
2023

2023 No. [XXXX]

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for the Environment, Food and Rural Affairs and is laid before Parliament by Command of His Majesty.

2. Purpose of the instrument

- 2.1 These Regulations will amend rules concerning the labelling of alcohol content and vine varieties on wines, and add flexibility on how the terms ‘alc’ / ‘vol’ can be shown in relation to the numerical alcohol content for all alcoholic drinks.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

4. Extent and Territorial Application

- 4.1 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales.
- 4.2 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England.

5. European Convention on Human Rights

- 5.1 Mark Spencer MP has made the following statement regarding Human Rights:
- “In my view the provisions of the Alcoholic Beverages (Amendment) (England) Regulations 2023 are compatible with the Convention rights.

6. Legislative Context

- 6.1 This instrument is made in order to implement obligations in the United Kingdom – New Zealand FTA.
- 6.2 This instrument will amend the following 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):
- 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.

- 6.3 The instrument will also amend the following retained EU Regulation concerning the labelling of the term ‘alc/vol’ in terms of where it can be shown in relation to the numerical alcohol content for all alcoholic drinks 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):
- Regulation (EU) No 1169/2011 of the European Parliament and of the Council on the provision of food information to consumers.

7. Policy background

What is being done and why?

- 7.1 The United Kingdom and New Zealand have agreed that the trade in wine and spirits between the parties should be conducted under the terms set out in Annex 7A to the UK-NZ FTA. For the UK to meet the obligations set down in the Agreement, changes need to be made to retained EU Regulations affecting alcoholic beverages.

Explanations

- 7.2 This instrument will amend Article 44 (Actual Alcoholic Strength) of retained Regulation (EU) 2019/33 to allow the term ‘alc/vol’ to be used after the alcohol figure displayed on the label of wine products, for example 12.5% alc/vol. This has not been permitted previously. Likewise, this instrument will also amend Annex 12 (Alcoholic Strength) of retained Regulation (EU) No 1169/2011 to allow the term ‘alc/vol’ to be used after the alcohol figure displayed on the label of any other alcoholic beverage, for example 12.5% alc/vol. Again, this has not been permitted previously. These changes were requested by New Zealand to take account of its current labelling practices making it easier for New Zealand wines to be imported into Great Britain. This change will take account of requirements set out in paragraph 12 of Section A (wine) and paragraph 7 of Section B (distilled spirits) of Annex 7A to the UK-NZ FTA and implement the new measures for all alcohol sold on the domestic market. This will provide all alcohol (spirits, beer and cider) producers and operators the same provision allowing greater flexibility with labelling products.
- 7.3 This instrument will also amend Article 44 of retained Regulation (EU) No 2019/33 to provide for wine to be marketed with an alcohol content that is shown to a maximum of not more than one decimal point, for example, 12.2%. Current rules require that alcohol content on wine be shown only in whole or whole and half units. Whole and half units can still be used, e.g. 12 % or 12.5%, as they will comply with the requirement that the alcoholic content is shown to not more than one decimal place. All labelling of wine will continue to be subject to the application of the 0.5% or 0.8% analytical tolerance provided for in Article 44 (Actual Alcoholic Strength) of Regulation (EU) No 2019/33.
- 7.4 This change will take account of requirements set out in paragraph 12 of Section A (wine) of Annex 7A to the UK-NZ FTA and will apply to all wine sold on the market in England. This will bring the labelling of alcohol content for wine in line with other alcoholic drinks and allow greater flexibility with labelling products to producers.

- 7.5 The provisions also offer the prospect of wines being labelled with a more accurate indication of the alcohol content for consumers. It will also still enable whole or whole half unit to be used, which will help in cases where wine may be exported to the EU.
- 7.6 Finally, this instrument will amend Article 50(1)(a)(ii) (Name of Grape Variety) of retained Regulation (EU) No 2019/33 to allow a wine label to show multiple grape varieties, if the use of the stated varieties total 95% of the varieties used in its production. Current rules require that where multiple grape varieties are shown on the label, they must total 100% of the varietal content of the wine. This provision will take account of the requirement set out in paragraph 14 of Section A of Annex 7A to the UK-NZ FTA.
- 7.7 This change was requested by New Zealand to reflect its specific winemaking practices. In agreeing to the request, the UK took into account the current rules that apply to marketing wine with a single varietal on the label, where that varietal only needs to account for 85% of the wine (Article 50 (1)(a)(i) of retained Regulation (EU) No 2019/33). This change will apply to all wines marketed in England, whether from New Zealand, the United Kingdom or a third country and will allow greater flexibility with labelling products.

8. European Union Withdrawal and Future Relationship

- 8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

- 9.1 This is not a consolidating instrument.

10. Consultation outcome

- 10.1 The consultation ran for three weeks from the 2nd November – 23rd November 2022. There were ten responses, the majority of which were supportive of the changes.
- 10.2 For allowing to display alcohol to be labelled to one decimal place, there was strong support from a producer of no- and low-alcohol wines, stating that it would increase clarity and transparency to consumers. There is strong support for this by businesses, stating that it will allow flexibility whilst retaining the option to label at 0.5%.
- 10.3 For the labelling of multiple grape varieties, there was broad support to move to 95% accuracy of grapes on the label, as this will allow more flexibility on labelling for producers and only have limited impact on consumers.
- 10.4 For alcohol labelling of Alc/Vol, there were no comments that raised serious concerns with the changes. Most respondents noted that the changes would allow for extra flexibility.
- 10.5 The Wine and Spirits Trade Association (WSTA) is content and supportive of all changes, noting they welcome the increased flexibility, reducing the need for additional labels that are costly to industry.
- 10.6 There were two respondents who were concerned that only labelling of 95% of the content grape varieties would deviate from the International Organisation of Vine and Wine (OIV) standards, which requires 100% of the grapes to be accounted for. The

UK is a member; however, it is not obligatory for the us to accept all OIV standards into law, these are only recommendations and members often deviate.

- 10.7 The draft instrument was also sent to the Food Standards Agency (FSA). Having considered the draft instrument, the FSA were content with the draft and had no comments.

11. Guidance

- 11.1 The Government will put the necessary guidance regarding measures contained in the instrument on GOV.UK once the instrument has been approved by Parliament.

12. Impact

- 12.1 There is no, or no significant, impact on business, charities or voluntary bodies.
- 12.2 There is no, or no significant, impact on the public sector.
- 12.3 A full Impact Assessment has not been prepared for this instrument required for these regulation changes because the impacts on private businesses are expected to be nil. The changes being introduced here are flexibilities designed to make retained rules that apply in England are compliant with those of New Zealand. Subject to compliance with any other rules that apply, businesses will still have the option to label their products as they currently do.

13. Regulating small business

- 13.1 The legislation applies to activities that are undertaken by small businesses.
- 13.2 As regards imported NZ wine, the measures being implemented in this legislation represent the minimum necessary to take account of the UK-NZ FTA. We are removing restrictions that would mean New Zealand wine marketed in England would have to be relabelled, as well as providing flexibility to all producers and traders in how they market wine in England.

14. Monitoring & review

- 14.1 As this instrument has no significant impact on small and medium sized business, no review clause is required.
- 14.2 The instrument will ensure that regulation in England gives effect to certain provisions in Annex 7A to the UK-NZ FTA dealing with the trade in wine and distilled spirits. Trade in wine and distilled spirits is an economically important area for UK and the Government will continue to pay close attention to this and specifically the provisions concerning the labelling of alcohol content and multiple grape varieties.

15. Contact

- 15.1 Georgina Yorke at the Department for Environment, Food and Rural Affairs, telephone: 07342 062723 or email: georgina.yorke@defra.gov.uk, can be contacted with any queries regarding the instrument.
- 15.2 Ananda Guha, Deputy Director for Food Exports, Promotion and Partnerships, at the Department for Environment, Food and Rural Affairs can confirm that this Explanatory Memorandum meets the required standard.

- 15.3 Mark Spencer MP at the Department for Environment, Food and Rural Affairs can confirm that this Explanatory Memorandum meets the required standard.