

Rural Affairs and Islands Committee

33rd Meeting, 2023 (Session 6), Wednesday, 13 December

Subordinate legislation cover note

Title of instrument:	Wine (Miscellaneous Amendment) (Scotland) Regulations 2024
Type of instrument:	Affirmative (see paras. 16 to 19)
Laid date:	20 November 2023
Reporting deadline:	14 January 2024
Coming into force:	15 July 2024
Motion to approve:	S6M-11343
Instrument drawn to Parliament's attention by DPLRC:	No
Instrument made using powers conferred by:	Agriculture (Retained EU Law and Data) (Scotland) Act 2020
Supporting documentation:	Policy note – Annexe A

Purpose of the instrument

1. The purpose of the instrument is to amend retained EU law (REUL) relating to the marketing and production of wine and other wine products. The amendments to REUL would—
 - introduce rules that will regulate how products marketed as “ice wine” must be produced, which will include a definition of ice wine; and
 - update the lists of approved oenological (the science and study of wine and winemaking) practices that can be used to produce and conserve wine and other wine products marketed in Scotland.

Policy objectives

Ice wine

2. The instrument will introduce rules that will govern how products marketed as “ice wine” must be produced. The policy note explains that ice wine is produced in certain colder regions of the world – e.g. Canada and Germany – where grapes are allowed to freeze naturally on the vine. It is a niche product that is only produced in very small quantities.
3. The instrument will amend retained Commission Delegated Regulation (EU) 2019/33 to prohibit the marketing in Scotland of a product using the term “ice wine” (or similar terms) unless the product is made exclusively from grapes naturally frozen on the vine.
4. These provisions are required because the UK is acceding to the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP). While ice wine is not produced in the UK, a definition for it is required under the terms of the agreement to ensure consumers can identify products that are made according to specified criteria that apply to its production. The policy note states that—

“UK producer interest in this area has been limited to production of wine from artificially frozen grapes. While the outcome of freezing grapes is the same, in that the sugars etc. do not freeze but water does, allowing the extraction of a more sugar concentrated must, it is the natural freezing of the grapes on the vine and their pressing while frozen, and the risks entailed in embarking on this practice (crops are often completely lost) that has given rise to the associated value attached to ice wine.”
5. The policy note states that corresponding provisions are being made for the rest of GB.

New approved oenological practices

6. The policy note explains that, in 2021, the UK joined the International Organisation of Vine and Wine (OIV). Recommendations made by the OIV form the basis of domestic, EU and many third countries’ wine production rules. Compliance with this in turn forms the basis of the quality standards required of wine imported into the UK.
7. The instrument will also amend Regulation (EC) 2019/934 to update the lists in the annexes of approved oenological processes, practices and restrictions that can be used to produce wine and other wine products marketed in Scotland.
8. The policy note states that the changes reflect updates to the OIV’s list of approved methods and this “will ensure that our wine producers and importers have access to the latest technological developments and winemaking practices, in line with EU law”.

9. Similar to the provision relating to ice wine, the policy note states that corresponding provisions are being made for the rest of GB.
10. According to the policy note, the instrument is relevant to the Scottish Government's policy to maintain alignment with the EU, as the amendments relating to oenological practices reflect updates to the OIV's approved practices, which the EU also follows or intends to follow in the future. The policy note states that—

“By aligning wine production and conservation practices with those of the OIV and EU, this instrument will maintain and advance the high standards Scotland shares with the EU and access for wine products to EU markets.”
11. The policy note does however highlight that the provisions of the instrument governing how products marketed as “ice wine” are produced will diverge from EU law to a limited extent, as it does not restrict the use of the term “ice wine”. As stated previously, the provision made by this instrument regarding ice wine are being made to comply with international obligations under the CPTPP Agreement.

Consultation

12. The UK Government ran a consultation between 24 May and 16 October 2023 inviting major stakeholders in the wine Industry such as Wine GB and the Wine and Spirit Trade Association (WSTA) to comment. With regards to the marketing of ice wine, respondents were broadly supportive of the reforms, noting the associated trade benefits. Concerns were raised about potential negative impacts on wines made from artificially frozen grapes. However, as none of these wines currently on the market are labelled as "ice wine" or an equivalent term, both the Scottish and UK Governments do not anticipate any adverse effects on this sector due to the proposed change.
13. The Scottish Government carried out its own consultation exercise between 31 August to 8 October 2023, receiving five responses. According to the policy note, these responses were from members of the public who advised that the proposals would have either a positive impact or no impact.
14. On 5 September 2023, the instrument was notified to the World Trade Organisation under the Technical Barriers to Trade Agreement, to which the UK is a party to due to membership of the WTO. No comments were received.

Consideration by the Delegated Powers and Law Reform Committee

15. The Delegated Powers and Law Reform Committee considered the instrument at its meeting on [28 November 2023](#) and agreed no points arose.

Parliamentary procedure – affirmative instruments

16. The affirmative parliamentary procedure is set out in Chapter 10 of the [Parliament's Standing Orders](#). Instruments subject to the affirmative procedure cannot come into force unless they are approved by Parliament.
17. It is usual practice for subject committees to take evidence from the Scottish Government in advance of considering the instrument. The Committee will take evidence from the Cabinet Secretary and Scottish Government officials at **agenda item 1**.
18. During its formal consideration, a member of the Scottish Government proposes, by motion, that the lead committee recommend that the instrument or draft instrument be approved. The Committee will formally consider the motion at **agenda item 2**.
19. The lead committee must normally report its recommendation to the parliament within 40 days of the SSI being laid. On this occasion, the Committee has been asked to consider the instrument within 36 days to allow for a six-month notification period under WTO rules, prior to the CPTPP being ratified on 15 July 2024. Where the lead committee recommends the instrument be approved, the Parliamentary Bureau will propose a motion that the instrument be agreed. The deadline for the Committee to report on this instrument is 14 January 2024.

For decision

20. The Committee is invited to—

- **take evidence from the Cabinet Secretary and Scottish Government officials on the instrument (agenda item 1);**
- **ask the Cabinet Secretary to move, and then to debate, the motion on the instrument (agenda item 2); and**
- **delegate authority to the Convener to sign off the Committee's report to the Parliament on the instrument.**

**Rural Affairs and Islands Committee clerks
December 2023**

Policy note

The Wine (Miscellaneous Amendment) (Scotland) Regulations 2024

SSI/2024/XXX

1. The above instrument is made in exercise of the powers conferred by section 9(1) of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020 and all other powers enabling them to do so. The instrument is subject to affirmative procedure.

Summary

2. Purpose of the instrument: The instrument will amend retained EU law (REUL) relating to the marketing and production of wine and other wine products to (1) introduce rules that will regulate how products marketed as “ice wine” must be produced, which will include a definition of ice wine, and (2) update the lists of approved oenological practices that can be used to produce and conserve wine and other wine products marketed in Scotland.

Policy Objectives

Ice wine

3. The instrument will introduce rules that will govern how products marketed as ‘ice wine’ must be produced. Ice wine is produced in certain colder regions of the world e.g. Canada, Germany etc. where grapes are allowed to freeze naturally on the vine. It is a niche product that is only produced in very small quantities.
4. The instrument will amend retained Commission Delegated Regulation (EU) 2019/33 to prohibit the marketing in Scotland of a product using the term “ice wine” (or similar terms) unless the product is made exclusively from grapes naturally frozen on the vine. Corresponding provision is being made for the rest of GB.
5. The UK is acceding to the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) Agreement. This provision regarding ice wine is required for compliance with the terms of the CPTPP. Although ice wine is not produced in the UK, a definition for it is required to ensure consumers can identify products that are made according to specified criteria that apply to its production. Products should only be marketed as ‘ice wine’ if they have been produced from grapes harvested when frozen on the vine.
6. UK producer interest in this area has been limited to production of wine from artificially frozen grapes. While the outcome of freezing grapes is the same, in that the sugars etc. do not freeze but water does, allowing the extraction of a more sugar concentrated must, it is the natural freezing of the grapes on the vine and their pressing while frozen, and the risks entailed in embarking on this

practice (crops are often completely lost) that has given rise to the associated value attached to ice wine.

New approved oenological practices

7. In 2021, the UK joined the International Organisation of Vine and Wine (OIV). Its recommendations form the basis of domestic, EU and many third countries' wine production rules. Compliance with this in turn forms the basis of the quality standards required of wine imported into the UK.
8. The instrument will amend Regulation (EC) 2019/934 to update the lists in the Annexes of approved oenological processes, practices and restrictions that can be used to produce wine and other wine products marketed in Scotland. Corresponding provision is being made for the rest of GB.
9. The changes reflect updates to the OIV's list of approved methods largely already existing in EU law. This will ensure that our wine producers and importers have access to the latest technological developments and winemaking practices, in line with EU law.

EU Alignment consideration

10. This instrument is relevant to the Scottish Government's policy to maintain alignment with the EU. As regards the provisions of the instrument relating to new approved oenological practices, the relevant EU law is Commission Delegated Regulation (EU) 2019/934, which authorises specified oenological practices in the production and conservation of wine and other wine products. The amendments made by this instrument are to reflect updates to the OIV's approved practices, which the EU also follows. Almost all of the amendments to retained Commission Delegated Regulation (EU) 2019/934 will align with that Regulation as it stands in EU law. The remaining amendments reflect recent updates made by the OIV, which it is expected the EU will also make. By aligning wine production and conservation practices with those of the OIV and EU, this instrument will maintain and advance the high standards Scotland shares with the EU and access for wine products to EU markets.
11. As regards the provisions of the instrument governing how products marketed as "ice wine" are produced, the relevant EU law is Commission Delegated Regulation (EU) 2019/33. The amendments made by the instrument will diverge from that Regulation as it stands in EU law to a limited extent, as it does not restrict the use of the term "ice wine". However the provision made by this instrument as regards ice wine is made to comply with international obligations under the CPTPP Agreement.

Consultation

12. UK Government ran a consultation from 24 May until 16 October on behalf of England and Wales inviting the major stakeholders in the Wine Industry such as Wine GB and the WSTA to comment.
13. On Ice Wine, Respondents for this consultation generally thought the reform would have a positive impact on their organisation(s), with themes including that it enables the UK to join CPTPP which will benefit trade as well as category protection. Some respondents were concerned that the change would negatively impact wine currently produced using artificially frozen grapes. However as none of the wine currently on our market produced using artificially frozen grapes is marketed as ice wine or an equivalent term, the Scottish and UK Governments do not judge there to be any negative impact on this sector.
14. On the proposal to amend REUL to update the lists of approved oenological practices, the consultation received overall positive responses from industry as a whole. Those who noted that they were most likely to make use of the change were 'domestic producers', 'exporters / re-exporters' and 'bottlers'. Respondents noted that the update of oenological practices would have a positive impact for domestic producers. The common themes that arose in response was that it would have a positive impact on innovation. There was a concern that this would lead to divergence from the EU, but this is addressed as the EU, too, aligns winemaking with resolutions adopted by the OIV.
15. Scottish Government also carried out a Consultation on Citizen Space and directly contacted the major stakeholders. The consultation ran from 31 August to 8 October. The major stakeholders such as Wine GB and the WSTA did not respond, probably because they already responded on the UK Government's consultation. There were 5 respondents in total who were individual members of the public and the responses advised either a positive impact or no impact to both questions.
16. This instrument was notified to the World Trade Organisation under the Technical Barriers to Trade Agreement, to which the UK is a party to due to membership of the WTO. Notification was made on 5th September 2023 [and no comments were received].

Impact assessments

17. Impact Assessments have not been carried out because the instrument is not expected to have an impact on business, charities or voluntary bodies, or the public sector.
18. No equality impact assessment has been undertaken as this instrument does not affect people with protected characteristics.

Financial effects

19. The Cabinet Secretary for Rural Affairs and Islands confirms that no BRIA is necessary as the instrument has no financial effects on the Scottish Government, local government or on business.

Scottish Government
Directorate for Agriculture and Rural Economy November 2023