

EXPLANATORY MEMORANDUM TO

THE COMMON AGRICULTURAL POLICY (WINE) (WALES) REGULATIONS 2007

1. This explanatory memorandum has been prepared by the Department for Rural Affairs and Heritage and is laid before the National Assembly for Wales.

(i) Description

2. This Statutory Instrument (SI) adds four vine varieties to the list of those authorised for the production of wine in Wales, makes amendments to the analytical criteria for both the Quality and Regional Wine Schemes, and updates the list of Community Provisions applicable for wine by adding those that have come into force since the 2006 amending Statutory Instrument.

(ii) Matters of special interest to the Subordinate Legislation Committee

3. None.

(iii) Legislative Background

4. CAP wine rules are directly applicable in Member States. Provision for their enforcement in Wales is provided for in the CAP (Wine) (Wales) Regulations 2001 (the "principal regulations"), as amended by 2003, 2004 and 2006 amendment regulations. Scotland, England, and Northern Ireland make parallel regulations. Responsibility for enforcement of the CAP Wine Rules in the UK falls to the Food Standards Agency, although local authorities and HM Revenue and Customs also have certain enforcement powers.
5. The CAP Wine Regulations also lay down the criteria of the UK Quality and Regional Wine Schemes. These Schemes were introduced to help market the best English and Welsh wines. Wines submitted to the Quality Wine Scheme must meet strict criteria covering demarcation of production areas, vine varieties, winemaking methods, and maximum yields. They are also subject to an analytical test assessing physical and chemical components of the wine, as well as an organoleptic test (or 'tasting'). Welsh wines meeting these strict criteria can show the phrase on their label 'Welsh Vineyards Quality Wine psr'. In order to gain Regional Wine status, wines must meet certain analytical and organoleptic criteria, but the rules are less strict on use of vine varieties.

(iv) Purpose and intended effect of the legislation

6. Following a public consultation and discussions with the United Kingdom Vineyards Association (UKVA - the main trade association representing UK vineyards) and the Food Standards Agency, it is proposed to amend the 2001 Regulations to reflect advancements in the UK wine industry, both in terms of wine making techniques and new vine varieties., and to update the Regulations

to take account of changes in the underlying Community legislation, as set out below.

7. Schedule 3 of the 2001 CAP Wine Regulations provides a list of vine varieties that may be used in wine production in Wales. Following producers' practical experience of growing a number of experimental vine varieties, we are adding the varieties "Frühburgunder", "Acolon", "Cabernet Sauvignon" and "Merlot" to the list. The wine industry has provided data on the viability of these varieties being grown in the UK and their potential to produce commercially viable wine, with which we are content.
8. It is proposed to delete the minimum free sulphur dioxide criterion contained in the analysis requirements for the UK Quality Wine Scheme (QWS). Although no minimum level is set by EU legislation, this criterion was included at the industry's request when the Quality Wine Scheme was set-up in order to help safeguard the long term stability of wines. However, the increase in skills and technological advancement within the industry means that this requirement is no longer considered relevant, particularly as many producers are seeking to minimise the use of sulphur dioxide because of the allergenic affects. Deleting the minimum free sulphur dioxide criterion is a deregulatory measure, which would allow producers greater flexibility in deciding how they produce their product.
9. It is further proposed to delete the test for sugar free dry extract/total dry extract from the analysis requirements for the UK Quality and Regional Wine Schemes. This was also introduced at the inception of the schemes, although no minimum is set at EU level. This is in agreement with the UKVA suggestion that deregulatory action to remove the test should now be taken in view of the fact that this has no bearing on the quality of the product.
10. It is proposed to update Schedule 1 containing a list of Community Provisions applicable for wine by adding those that have come into force since the 2005 amending SI. The amendments are technical and have no adverse impact to the UK wine industry. They also include several trade agreements with third countries designed to facilitate improved wine trade conditions with these countries. This is a routine amendment which is normally carried out whenever the Regulations are being amended.

(v) Implementation

11. This SI was made on the 8 August 2007, and is intended to come into force on 4 September 2007. Parallel legislation was introduced for England and Northern Ireland with the beginning of the new wine marketing year. Scotland has no producer interest and is not likely to amend its legislation.

(vi) Consultation

12. Details are included under sub-section (vii).

(vii) Regulatory Impact Assessment

13. EU regulations oblige member states to publicly consult on proposed amendments to food law. As a result Defra led on an eight week public consultation on the draft Statutory Instrument and partial Regulatory Impact Assessment (RIA), in line with Government better regulation policy. This was a joint consultation exercise with the Welsh Assembly Government. The consultation period for this exercise was reduced from the standard twelve week period. The RIA shows that the impact of these changes is not expected to be significant and that the amendments in relation to the analytical criteria for the Quality and Regional Wine Schemes are essentially deregulatory. In addition the change in analytical criteria, the additional vine varieties were requested by the wine industry. In order to gain Regional or Quality wine status, a wine has to pass set analytical criteria and also pass an organoleptic test. As these organoleptic tastings have already been set for 2007 the earlier these amendments come into force the more opportunity producers have to take advantage of them. Therefore Ministerial agreement was secured to shorten the consultation period.

14. The consultation period came to an end on 24 May. As a result two responses were received, the most substantive of which was from the UKVA, which agreed with the proposed amendments. No comments were received in relation to the RIA. A summary is available on the [Defra website](#).

a) Options (for achieving the policy objective – as set out in paragraph (iv) of Part 1 above)

15. The CAP Wine Regulations also lay down the criteria of the UK Quality and Regional Wine Schemes. These Schemes were introduced to help market the best English and Welsh wines. Wines submitted to the Quality Wine Scheme must meet strict criteria covering demarcation of production areas, vine varieties, winemaking methods and maximum yields. They must also be subjected to an analytical test assessing physical and chemical components of the wine, as well as an organoleptic test (or ‘tasting’). Wines meeting these strict criteria can show the phrase on their label ‘English Vineyards Quality Wine psr’ or ‘Welsh Vineyards Quality Wine psr’.

16. In order to gain Regional Wine status wines must also meet certain analytical and organoleptic criteria but the rules are less strict on use of vine varieties. Wines meeting the criteria under this scheme can indicate on the label certain specified terms to show where the wine originated.

17. The UKVA raised a number of issues that they feel should be amended in the CAP Wine Regulations. The following paragraphs explain these proposed amendments in more detail.

18. **Proposal 1: Update Schedule 3 on vine varieties authorised for the production of wine in England and Northern Ireland**

Schedule 3 of the 2001 CAP Wine Regulations provides a list of vine varieties that may be used in wine production in Wales. Following producers' practical experience from growing a number of experimental vine varieties we have been asked to add the varieties frühburgunder, acolon, cabernet sauvignon and merlot to the list. Industry has provided us with data on the viability of these varieties being grown in the UK and their potential to produce commercially viable wine. We are content with the data provided and therefore propose that these should be added. One point to note in terms of the variety frühburgunder is that this is a protected vine variety under Annex II of Commission Regulation (EC) No 753/2002 laying down the detailed wine labelling rules, as it contains a geographical indication (GI). This means that UK producers would not be able to use this name on wine labels but could use the synonym Pinot noir précoce.

19. **Proposal 2: Deletion of the minimum analytical criterion covering the level of free sulphur dioxide for the UK Quality Wine Scheme**

It is proposed to delete the minimum free sulphur dioxide criteria contained in the analysis requirements for the UK Quality Wine Scheme. Although no minimum level is set by EU legislation, this criterion was included at the industry's behest at the inception of the Scheme in order to help safeguard the long term stability of wines. However, the increase in skills and technological advancement within the industry means that this requirement is no longer relevant. Many producers are consciously trying to minimise the use of sulphur dioxide because of the allergenic affects, yet they are limited by the minimum imposed in our regulations. Deleting this would be a deregulatory measure by allowing producers greater flexibility in deciding how they produce their product.

20. **Proposal 3: Deletion of the test covering the level of sugar free dry extract/total dry extract from the analysis requirements for the UK Quality and Regional Wine Schemes**

It is also proposed to delete the test for sugar free dry extract/total dry extract from the analysis requirements for the UK Quality and Regional Wine Schemes. This was introduced at the inception of the Scheme, although no minimum is set at EU level. We agree with the UKVA that deregulatory action to remove the test should now be taken in view of the fact that this has no bearing on the quality of the product.

21. **Proposal 4: Updating Schedule 1 containing a list of Community Provisions applicable for wine by adding those that have come into force since the**

2005 amending SI

The last amendment required would include minor changes which would update the Schedule containing a list of Community Provisions applicable for wine which have come into force since the Common Agricultural Policy (Wine) (Wales) (Amendment) Regulations 2006. Although these regulations are directly applicable in the UK this would allow for their enforcement. The amendments are technical issues and have no adverse impact to the UK wine industry. They also include several trade agreements with third countries which are designed to facilitate improved wine trade conditions with these countries. This is a routine amendment which is normally carried out whenever the Regulations are being amended.

22. The amendments in proposals 1 to 3 would be applicable to applications under the Quality and Regional Wine Schemes after the coming into force date of the amending Statutory Instrument.

b) Benefits

23. The proposed amendments are deregulatory and provide more flexibility within the analytical criteria under the UK Quality and Regional Wine Schemes, and within the list of vine varieties for which applications under the Schemes can be made. In addition, relevant community legislation has to be added to the list at Schedule 1 to allow for its enforcement in Wales. There will be no risk to the public from these proposed amendments and consumers will not be adversely affected.
24. The amendments will affect the wine industry in Wales, with particular emphasis on providing more flexibility for wine producers (see section 4, option 2, for more details). Given the deregulatory nature of the proposals, it is likely that the proposals will not give rise to any additional costs. No comments were received through the consultation in relation to this issue.
25. The benefits will allow producers the flexibility to seek quality and regional wine status for wine made with the additional vine varieties, and producers would have the flexibility to achieve lower levels of free sulphur dioxide, which is a known allergenic. In addition by deleting the test for sugar free dry extract/total dry extract from both Schemes, which is not an indicator of quality, producers would not be risking failure under this specific analytical test.

c) Costs

26. It is not expected that there will be costs associated with the additional flexibility provided to producer s. In fact there may well be some cost savings from these changes, although these would not be possible to quantify. No comments were received during the consultation process in relation to costs.

d) Competition assessment

27. The competition filter test questions suggest that a simple competition assessment is sufficient, which suggests that the amending Statutory Instrument is likely to have little or no effect on competition.
28. The UK has a small domestic production industry concentrated in Southern England and Wales. All vineyards in the UK can be considered as being small and medium sized enterprises (SMEs). The UKVA is the key representative for producers in the UK.
29. Although it is one of the smallest EU wine producers, the UK is the largest importer of wine in the EU. The UK is often considered to be the hub of the international trade in wine and as a result have a thriving industry connected to this stretching from the import and bottling of bulk wines through to being a world centre for the auctions of fine wines. It is estimated that there are many thousands of wine traders in total, ranging from large multinational businesses down to the single importer who works from home. Most of the UK's imports come from Europe, but in line with the current trend increasing imports from the so called "new world countries" such as Australia, Chile, New Zealand, South Africa and the US are eroding the EU's position. Australia has recently overtaken France as the major supplier to the UK market. English and Welsh wines account for less than 1% by volume of total wine sold in the UK.
30. The Wine and Spirits Trade Association (WSTA) is the main organisation representing the whole of the wine (and spirit) supply chain, which include producers (through its affiliation to UKVA), importers, shippers, wholesalers, bottlers, warehouse keepers, freight forwarders, brand owners, licensed retailers and consultants.
31. The proposed amendments would be implemented via an amending Statutory Instrument to come into force from 04 September 2007. The EU and UK wine rules require Member States to nominate specific bodies to be responsible for its enforcement. In the UK the primary body responsible for enforcing these rules at all levels except retail is the Food Standards Agency. At retail level, the rules are enforced by local authorities via Trading Standards arrangements.
32. This amending Statutory Instrument will not impose any additional sanctions.

e) Consultation

33. As part of the consultation process Defra has undertaken a joint public consultation with the Welsh Assembly Government on the statutory Instrument and the RIA. The consultation period was reduced to 8 weeks with Ministerial agreement as we do not expect the impact of these changes to be significant and that the amendments in relation to the analytical criteria are essentially deregulatory. In addition the change in analytical criteria, the additional vine varieties were requested by the industry. Further to this, the organoleptic

tastings under the Regional and Quality Wine Schemes have already been set for 2007 and so the earlier these amendments come into force the more opportunity producers have to take advantage of them.

34. The consultation period came to an end on 24 May. As a result Defra received two responses, the most substantive of which was from the UKVA, which agreed with the proposed amendments. No comments were received in relation to the RIA. A summary is available on the Defra website.

- **Option 1 – Do nothing**

35. This would lead to the status quo being maintained and would put those producers growing the additional experimental vine varieties at a disadvantage as they would not be able to apply for quality or regional wine status and if successful market their wines as such. This would also restrict those producers wishing to plant these varieties from doing so knowing they could not produce quality or regional wine from them. It would also limit the scope for producers to minimise use of sulphur dioxide in wine production, which adds to their costs whilst also increasing the allergenic properties of certain wines.
36. As noted in paragraph 2.3 it is a requirement to add relevant legislation that has been agreed at EU level to the list at schedule 1 in order to enforce these provisions in Wales. Were this not to be done, we would be in breach of Community obligations to apply and provide for the enforcement of EU wine law.

- **Option 2 – Make the amendments proposed**

37. By making these amendments, producers would be given greater flexibility to plant vine varieties of their choice, and maintain their right for entry into the quality and regional wine schemes. They would also have the flexibility to use lower levels of free sulphur dioxide, a known allergen. In addition by deleting the test for sugar free dry extract/total dry extract from both Schemes, which is not an indicator of quality, producers would not be risking failure under this specific analytical test.
38. As noted in paragraph 2.3 it is a requirement to add relevant legislation that has been agreed at EU level to the list at Schedule 1 in order to enforce these provisions in Wales.

f) Post-implementation review

39. Officials will liaise with the Wine Standards Branch of the Food Standards Agency (main enforcement body) and with the United Kingdom Vineyards Association about the effectiveness of these changes as part of general stakeholder relations. In addition this will be reviewed in light of the consolidation exercise that will be needed post reform of the CAP wine regime.

g) Summary and recommendation

40. It is recommended that the proposed amendments are made (option 2). It is not expected that there will be any additional costs associated with these amendments, and there may actually be some cost savings, although these would not be possible to quantify. It is also not expected that there will be a negative impact on small businesses. Industry and other stakeholders have been consulted and no concerns have been raised. Despite specifically requesting details in relation to costs and benefits no comments were received that added to the original assessment.

Summary costs and benefits table

Option	Total benefit per annum: economic, environmental, social	Total cost per annum: - economic, environmental, social - policy and administrative
1	No change	No change
2	As per 5.1	As per 5.2