

UK MINISTERS ACTING IN DEVOLVED AREAS

001 - The Common Organisation of the Markets in Agricultural Products (Wine) (Amendment, etc.) Regulations 2021

Laid in the UK Parliament: 10 March 2021

Sifting

Subject to sifting in UK Parliament?	No
Procedure:	Made affirmative
Date of consideration by the House of Commons European Statutory Instruments Committee	N/A
Date of consideration by the House of Lords Secondary Legislation Scrutiny Committee	N/A
Date sifting period ends in UK Parliament	N/A
SICM under SO 30A (because amends primary legislation)	Not required

Scrutiny procedure

Outcome of sifting	N/A
Procedure	Made affirmative
Date of consideration by the Joint Committee on Statutory Instruments	24 March 2021
Date of consideration by the House of Commons Statutory Instruments Committee	Not known
Date of consideration by the House of Lords Secondary Legislation Scrutiny Committee	23 March 2021

Background

These Regulations were made on 9 March 2021 by the UK Government pursuant to section 8(1) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018 (“EUWA”).

Summary

These Regulations make a correction to the legislation governing the wine geographical indications (“GIs”) scheme. The need for the correction arises from an error made in a previous statutory instrument which made operability amendments to retained EU legislation to take effect at the end of the transition period.

The Explanatory Memorandum for the Regulations states that they were made under an urgent procedure under paragraph 5(3) of Schedule 7 of EUWA, meaning that they were made without a draft of the Regulations being laid before, and approved by resolution of, each House of Parliament. The Explanatory Memorandum goes on to state that this procedure was used because the Regulations needed to enter into force

as soon as possible to secure the proper functionality of the wine GI scheme and ensure that relevant GIs are protected under domestic law in accordance with the EU Withdrawal Agreement.

GIs are a form of intellectual property protection for the names of food, drink and agricultural products with qualities or characteristics which are attributable to the place they are produced and/or the traditional methods by which they are made. UK examples include: Scotch Whisky, English and Welsh Wine, Welsh Lamb and Lough Neagh Eels. Having GI status gives assurance to consumers that products are genuine and enables producers to better promote and market their products.

Statement by Welsh Government

Legal Advisers make the following comments in relation to the Welsh Government's statement dated 12 July 2021 regarding the effect of these Regulations.

The Welsh Government's position is that agriculture and the Common Agricultural Policy ("CAP") are devolved and do not relate to the reserved matters under any heading in Schedule 7A to the Government of Wales Act 2006. However, the written statement confirms that the UK Government does not agree and believes the subject matter of the Regulations is reserved. Therefore, the UK Government has not sought the consent of Welsh Ministers.

The Welsh Government's view is that the above functions directly relate to the objectives of the Common Market Organisations to improve the productivity of the agricultural sector and so raise the competitiveness of primary produce in the market place. The subject matter of agriculture and CAP is within the legislative competence of the Senedd (i.e. devolved). Under the terms of the Intergovernmental Agreement on the European Union (Withdrawal) Bill, the consent of Welsh Ministers should have been sought prior to laying the Regulations.

The Welsh Ministers have written to the UK Government to inform them of their view that it is not appropriate for UK Government Ministers to take unilateral decisions on matters which have a direct effect upon areas of devolved competence.

Intergovernmental Agreement on the European Union (Withdrawal) Bill

The above summary and the content of the Explanatory Memorandum to these Regulations confirm their effect.

Legal Advisers do not consider that any significant issues arise under paragraph 8 of the Memorandum on the European Union (Withdrawal) Bill and the Establishment of Common Frameworks in relation to these Regulations.