EXPLANATORY MEMORANDUM TO

THE WINE (AMENDMENT) REGULATIONS 2020

2020 No. 639

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Environment, Food and Rural Affairs ('Defra') and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 The purpose of this instrument is to maintain the standards for wine marketed within the UK. UK domestic legislation currently references EU legislation that sets out the details for the rules on wine production based on International Organisation for Vine and Wine ('OIV') approved processes and practices. These wine production rules are applicable in the United Kingdom ('UK') both during the Implementation Period and beyond, in accordance with the European Union (Withdrawal) Act 2020. However, references to the EU legislation in the current UK domestic legislation are out of date because the EU legislation has been amended. Therefore, the UK domestic legislation needs to be amended to ensure that it references the amended EU legislation.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

4.1 The territorial extent of this instrument is the United Kingdom.

4.2 The territorial application of this instrument is the United Kingdom.

5. European Convention on Human Rights

5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation no statement is required.

6. Legislative Context

6.1 This instrument provides legislative changes to The Wine Regulations 2011 (S.I. 2011/2936) that underpin the required transition from EU rules to directly referenced OIV rules, without any regulatory gap. No changes or additions to sanctions are being made as the existing civil and criminal sanctions within The Wine Regulations 2011 (S.I. 2011/2936) provide enforcers with the ability to apply these new rules. The

existing civil and criminal sanctions provide enforcers, where necessary, with the scope to proportionately apply a range of civil or criminal sanctions where the rules of this instrument are breached. The civil enforcement action which officials can take (with provisions for appeal) includes warnings, notices requiring remedial action and notices prohibiting the moving of a product. Those found guilty of criminal offences are liable to a fine.

6.2 In order to be marketed as wine, wine must be produced in accordance with detailed production rules. The Wine Regulations 2011 (S.I. 2011/2936) that this instrument amends, currently refers to superseded EU legislation. To maintain enforcement for wine standards within the UK, the UK must update these existing references to the relevant EU legislation in UK domestic legislation: The Wine Regulations 2011 (S.I. 2011/2936) (as amended). The relevant EU legislation is the Commission Delegated Regulation (EU) 2019/934 and Commission Implementing Regulation (EU) 2019/935, which replaces Commission Regulation (EC) No 606/2009, which set out the details for the rules on wine production based on OIV approved processes and practices. It is the UK's intention to apply for OIV membership following the Implementation Period. As an OIV member in its own right, the UK will directly reference the files of the OIV Code of Oenological Practices.

7. Policy background

What is being done and why?

7.1 In order to be marketed as wine, a wine has to be produced in accordance with detailed production rules. Not having the ability to enforce those rules could mean that producers find themselves undermined by unscrupulous operators bypassing or using other illegal treatments. Consumer perception and trust in wine could be undermined. There could also be a risk to public health. Not being able to effectively enforce wine standards could also significantly damage the UK's position as a global wine trade hub, our credibility and effectiveness in negotiating free trade agreements (FTAs) and other relationship deals.

7.2 Since 7 December 2019, existing references in The Wine Regulations 2011 (S.I. 2011/2936) (as amended), to Commission Regulation (EC) No 606/2009 have been out of date, due to this Commission Regulation being repealed and replaced with Commission Delegated Regulation (EU) 2019/934 and Commission Implementing Regulation (EU) 2019/935. The new Regulations did not change any technical arrangements but updated the format of the legislation into delegated and implementing acts in accordance with Lisbon treaty principles. Due to this change in the format of EU legislation requiring two new EU regulations, the references within UK domestic regulations need to be updated to show the two new EU Regulations.

7.3 Updating these references is required as they underpin and give effect for the enforcement of wine law within the UK. This will have effect immediately, but it will also allow for continued enforcement where decisions are taken to bring those underpinning rules in line with new OIV resolutions where these meet the demands of UK producers and / or consumers.

7.4 In 2021 Defra plans to formally engage with the UK wine industry to best exploit the opportunities for having an independent UK wine regime. Our objective is to tailor UK wine legislation to the specific needs of domestic producers whilst at the same

time provide the legislation to best facilitate free trade and build on the UK's current position as a global hub for the international trading of wine.

8. European Union (Withdrawal) Act 2018/ Withdrawal of the United Kingdom from the European Union

8.1 This instrument does not relate to withdrawal from the European Union.

9. Consolidation

9.1 This instrument does not consolidate any legislation.

10. Consultation outcome

10.1 An informal consultation has been undertaken as this instrument updates legislative references to ensure existing marketing standards relating to wine and their subsequent enforcement can continue to apply. No concerns were expressed from the wine trade or enforcers. These updates will apply in all devolved areas of the UK and all Devolved Administrations have signalled they are content with this update progressing.

11. Guidance

11.1 No guidance is required as this instrument updates legislative references to ensure existing marketing standards relating to wine and their subsequent enforcement can continue to apply.

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 An Impact Assessment has not been prepared for this instrument as this instrument updates legislative references to ensure existing marketing standards relating to wine and their subsequent enforcement can continue to apply.

13. Regulating small business

13.1 The legislation applies to activities that are undertaken by small businesses.

13.2 This instrument does not introduce any new regulatory burden on small businesses.

14. Monitoring & review

14.1 This instrument updates legislative references to ensure existing marketing standards relating to wine and their subsequent enforcement can continue to apply.

14.2 The approach to monitoring of this legislation is set out in section 14.3.

14.3 This is an amending instrument so does not require a dedicated review clause.

15. Contact

15.1 Philip Munday at the Department for Environment, Food & Rural Affairs Telephone: 0208 026 3480 or email: philip.munday@defra.gov.uk can be contacted with any queries regarding the instrument.

15.2 Ananda Guha, Deputy Director for Agri-Food Chain, at the Department for Environment, Food and Rural Affairs can confirm that this explanatory memorandum meets the required standard.

15.3 Victoria Prentis MP, Parliamentary Under-Secretary of State, at the Department for Environment, Food and Rural Affairs can confirm that this explanatory memorandum meets the required standard.