

*Draft regulations laid before Parliament under paragraph 1(1) of Schedule 7 to the European Union
(Withdrawal) Act 2018, for approval by resolution of each House of Parliament.*

DRAFT STATUTORY INSTRUMENTS

2019 No. 0000

**EXITING THE EUROPEAN UNION
AGRICULTURE
FOOD**

**The Food and Feed Imports (Amendment)
(EU Exit) Regulations 2019**

Made - - - - 2019

Coming into force in accordance with regulation 1

The Secretary of State makes the following Regulations in exercise of the powers conferred by section 8(1) of the European Union (Withdrawal) Act 2018⁽¹⁾.

In accordance with paragraph 1(1) of Schedule 7 to that Act, a draft of this instrument has been laid before Parliament and approved by a resolution of each House of Parliament.

As required by Article 9 of Regulation (EC) No. 178/2002 of the European Parliament and of the Council laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety there has been open and transparent public consultation during the preparation of these Regulations.

PART 1

Introduction

Citation and commencement

1. These Regulations may be cited as the Food and Feed Imports (Amendment) (EU Exit) Regulations 2019 and come into force on exit day.

Interpretation

2. In these Regulations—

(1) 2018 c.16.

“[Decision 2011/884/EU](#)” means Commission Implementing Decision on emergency measures regarding unauthorised genetically modified rice in rice products originating from China and repealing [Decision 2008/289/EC](#);

“[Decision 2014/88/EU](#)” means Commission Implementing Decision suspending temporarily imports from Bangladesh of foodstuffs containing or consisting of betel leaves (‘Piper betle’);

“[Regulation 669/2009](#)” means [Commission Regulation \(EC\) No. 669/2009](#) implementing [Regulation \(EC\) No. 882/2004](#) of the European Parliament and of the Council as regards the increased level of official controls on imports of certain feed and food of non-animal origin and amending [Decision 2006/504/EC](#);

“[Regulation 284/2011](#)” means [Commission Regulation \(EU\) No. 284/2011](#) laying down specific conditions and detailed procedures for the import of polyamide and melamine plastic kitchenware originating in or consigned from the People’s Republic of China and Hong Kong Special Administrative Region, China;

“[Regulation 884/2014](#)” means Commission Implementing Regulation (EU) No. 884/2014 imposing special conditions governing the import of certain feed and food from certain third countries due to contamination risk by aflatoxins and repealing [Regulation \(EC\) No. 1152/2009](#);

“[Regulation 2015/175](#)” means Commission Implementing Regulation (EU) 2015/175 laying down special conditions applicable to the import of guar gum originating in or consigned from India due to contamination risks by pentachlorophenol and dioxins;

“[Regulation 2015/943](#)” means Commission Implementing Regulation (EU) 2015/943 on emergency measures suspending imports of dried beans from Nigeria and amending Annex I to [Regulation \(EC\) No. 669/2009](#);

“[Regulation 2015/949](#)” means Commission Implementing Regulation (EU) 2015/949 approving the pre-export checks carried out on certain food by certain third countries as regards the presence of certain mycotoxins;

“[Regulation 2017/186](#)” means Commission Implementing Regulation (EU) 2017/186 laying down specific conditions applicable to the introduction into the Union of consignments from certain third countries due to microbiological contamination and amending [Regulation \(EC\) No. 669/2009](#);

“[Regulation 2018/1660](#)” means Commission Implementing Regulation (EU) 2018/1660 imposing special conditions governing the import of certain food of non-animal origin from certain third countries due to the risks of contamination with pesticides residues, amending [Regulation \(EC\) No. 669/2009](#) and repealing [Implementing Regulation \(EU\) No. 885/2014](#).

PART 2

Amendment of subordinate legislation

Amendment of the Plastic Kitchenware (Conditions on Imports from China) (England) Regulations 2011

3. The Plastic Kitchenware (Conditions on Imports from China) (England) Regulations 2011(2) are amended as follows.

4. In regulation 3(1), for “European Union”, substitute “United Kingdom”.
5. In regulation 8(3)(a)(i), for “European Union” substitute “United Kingdom”.

6. Omit regulation 12(2).

PART 3

Amendment of retained direct EU legislation

Amendment of Regulation 669/2009

7. Regulation 669/2009 is amended as follows.
8. In Article 2(d), for “Commission and”, substitute “United Kingdom, the Commission,”.
9. For Article 3(b), substitute “(b) “designated point of entry (DPE)” means the point of entry designated by the appropriate authority in accordance with Article 17 of Regulation (EC) No 882/2004;”.
10. For Article 5, substitute—

“The Food Safety Authority must maintain and make publicly available for each of the products listed in Annex 1 an up to date list of the designated points of entry.”.
11. For Article 7, substitute—

“Common entry documents must be drawn up in English, or in English and Welsh.”.
12. Omit Article 9.
13. In Article 14(1), for “Member States”, substitute “The appropriate authority”.
14. In the heading to Article 15, for “Commission”, substitute “appropriate authority and the Food Safety Authority”.
15. For Article 15, substitute—
 - “1. Competent authorities must submit to the appropriate authority and the Food Safety Authority a report on consignments, for the purposes of a continuous assessment of the feed and food of non-animal origin listed in Annex 1. That report must be submitted biannually, during January and July.
 2. The report must include the following information—
 - (a) details of each consignment, including—
 - (i) the size in terms of net weight of the consignment;
 - (ii) the country of origin of each consignment;
 - (b) the number of consignments subjected to sampling for analysis;
 - (c) the results of the checks as provided for in Article 8(1).”.
16. After Article 19, omit “This Regulation shall be binding in its entirety and directly applicable in all Member States.”.
17. In Annex 2—
 - (a) below the heading, for “European Union”, substitute “United Kingdom”;
 - (b) in the Note to Boxes I.6, I.8, I.22, II.9, II.14, and II.21 for “Union” substitute “United Kingdom”.

Amendment of Regulation 284/2011

18. Regulation 284/2011 is amended as follows.

19. In Article 2, for subparagraphs (c) and (d), substitute—

- “(c) “competent authorities” means the competent authorities of the United Kingdom designated in accordance with Article 4 of Regulation (EC) No. 882/2004;
- (d) “first point of introduction” means the point of entry of a consignment into the United Kingdom;”.

20. In Article 3—

- (a) in paragraph 1, for “Member States”, substitute “United Kingdom”;
- (b) in paragraph 2, for “shall be drawn up in the official language, or in one of the official languages, of the Member State in which the consignment is imported”, substitute “must be drawn up in English, or in English and Welsh”.

21. For Article 5, substitute—

“Where the appropriate authority decides to designate specific first points of introduction for consignments originating in or consigned from China and Hong Kong, the appropriate authority and the Food Safety Authority must publish an up-to-date list of these points.”.

22. For Article 6(2), substitute—

“2. If the laboratory analysis referred to in point (b) of paragraph 1 identifies non-compliance, the competent authorities must immediately inform the Food Safety Authority and the appropriate authority of the results.”.

23. In Article 7, for the third paragraph, substitute—

“Competent authorities must ensure that consignments remain under their continuous control and cannot be tampered with in any way pending the results of the checks mentioned in point (b) of Article 6(1).”.

24. In Article 9—

- (a) in the heading, omit “to the Commission”
- (b) for paragraph 2, substitute—

“2. Competent authorities must submit to the appropriate authority and the Food Safety Authority a report including the information referred to in paragraph 1, quarterly by the end of the month following each quarter.”.

25. After Article 10, omit “This Regulation shall be binding in its entirety and directly applicable in all Member States in accordance with the Treaties.”.

26. In the Annex, in both places in which it occurs, for “Union”, substitute “United Kingdom”.

Amendment of Regulation 884/2014

27. Regulation 884/2014 is amended as follows.

28. In Article 2, for “Union”, substitute “United Kingdom”.

29. In Article 3 and in the heading to Article 3, for “Union”, substitute “United Kingdom”.

30. In Article 4, for “Union”, substitute “United Kingdom”.

31. For Article 5 (3), substitute—

“3. The health certificate must be drawn up in English, or in English and Welsh”.

32. For Article 7(5), substitute—

“5. CEDs must be drawn up in English, or in English and Welsh.”.

33. In Article 8—

- (a) in the opening words, omit “in Member States”;
- (b) after subparagraph (f), for “The Member States shall maintain and make publicly available an up- to-date list of the DPIs. The Member States shall communicate them to the Commission. The Commission shall display the national links to those lists on the Commission’s website, for information purposes.”, substitute “The appropriate authority and the Food Safety Authority must maintain and make publicly available an up-to-date list of DPIs.”.

34. In Article 9—

- (a) in paragraph 2, for “Union”, substitute “United Kingdom”;
- (b) in paragraph 3, in both places in which it occurs, for “Union”, substitute “United Kingdom”.

35. In Article 12, for “Union legislation”, substitute “retained EU law”.

36. For Article 13, substitute—

“Competent authorities must submit to the appropriate authority and the Food Safety Authority every three months a report of all analytical results of official controls on consignments of feed and food pursuant to this Regulation. That report must be submitted during the month following each quarter.

The report must include the following information—

- (a) the number of consignments imported;
- (b) the number of consignments subjected to sampling for analysis;
- (c) the results of the checks as provided for in Article 9(5).”.

37. After Article 16, omit “This Regulation shall be binding in its entirety and directly applicable in all Member States.”.

38. In Annex 2—

- (a) in the heading, for “European Union”, substitute “United Kingdom”;
- (b) for “the Union legislation”, substitute “retained EU law”.

39. In Annex 3, in the Note to Boxes I.6, I.8 and II.14, for “Union”, substitute “United Kingdom”.

Amendment of Regulation 2015/175

40. Regulation 2015/175 is amended as follows.

41. In Article 3, in each place in which it occurs (including the heading), for “Union”, substitute “United Kingdom”.

42. For Article 5(3), substitute—

“3. The health certificate must be drawn up in English, or in English and Welsh.”.

43. In Article 11, for “Union legislation”, substitute “retained EU law”.

44. For Article 12, substitute—

“1. Competent authorities must submit to the appropriate authority and the Food Safety Authority every three months a report of all analytical results of official controls on consignments referred to in Article 1(1) and (2) pursuant to this Regulation. That report must be submitted during the month following each quarter.

2. The report must include the following information—
 - (a) the number of consignments imported;
 - (b) the number of consignments subjected to sampling for analysis;
 - (c) the results of the checks as provided for in Article 8(2).”.

45. After Article 16, omit “This Regulation shall be binding in its entirety and directly applicable in all Member States.”.

46. In the Annex, in the heading to the Health Certificate, for “European Union”, substitute “United Kingdom”.

Amendment of Regulation 2015/943

47. Regulation 2015/943 is amended as follows.

48. In Article 2, for “Union”, substitute “United Kingdom”.

49. After Article 5, omit “This Regulation shall be binding in its entirety and directly applicable in all Member States.”.

Amendment of Regulation 2015/949

50. Regulation 2015/949 is amended as follows.

51. In Article 1—

- (a) in paragraph 1, for “Union”, substitute “United Kingdom”;
- (b) in paragraph 2, for “Union”, substitute “United Kingdom”.

52. In Article 3, for “of the Member State on whose territory the splitting has taken place, shall”, substitute “must”.

53. In Article 4, for “Member States”, substitute “competent authority”.

54. After Article 6, omit “This Regulation shall be binding in its entirety and directly applicable in all Member States.”.

55. In Annex 2—

- (a) in the heading to the certificate, for “European Union”, substitute “United Kingdom”;
- (b) in each place in which it occurs, for “EU”, substitute “the United Kingdom”;
- (c) in box 2 of the certificate, for “European Union”, substitute “United Kingdom”.

Amendment of Regulation 2017/186

56. Regulation 2017/186 is amended as follows.

57. In Article 3, in each place in which it occurs (including the heading), for “Union”, substitute “United Kingdom”.

58. For Article 5(3), substitute—

“3. The health certificate and its attachments must be drawn up in English, or in English and Welsh.”.

59. For Article 7(4), substitute—

“4. CEDs must be drawn up in English, or in English and Welsh.”.

60. In Article 8(3), for “Union”, substitute “United Kingdom”.

61. For Article 12, substitute—

“1. Competent authorities must submit to the appropriate authority and the Food Safety Authority a report of all analytical results on consignments of foods pursuant to Article 8 of this Regulation. The report must cover a period of six months and must be submitted biannually, during January and July.

2. The report must include the following information—

- (a) number of consignments introduced, including size in terms of net weight and country of origin of each consignment;
- (b) number of consignments subjected to sampling for analysis;
- (c) results of the identity checks and physical checks referred to in Article 8(2).”

62. After Article 17, omit “This Regulation shall be binding in its entirety and directly applicable in all Member States.”.

63. In Annex 3—

- (a) in each place in which it occurs (including the heading), for “European Union”, substitute “United Kingdom”;
- (b) in each place in which it occurs, for “EU”, substitute “United Kingdom”.

Amendment of Regulation 2018/1660

64. Regulation 2018/1660 is amended as follows.

65. In Article 3, in each place in which it occurs (including the heading), for “Union”, substitute “United Kingdom”.

66. In Article 4(1), for “Union legislation”, substitute “retained EU law”.

67. For Article 5(3), substitute—

“3. The health certificate must be drawn up in English, or in English and Welsh.”.

68. In Article 8(2), for “Member States”, substitute “Competent authorities”.

69. In Article 11—

- (a) in paragraph 1, for “Union legislation”, substitute “retained EU law”;
- (b) in paragraph 2, in both places in which it occurs, for “Union”, substitute “United Kingdom”.

70. In Article 12—

- (a) for paragraph 1, substitute—

“1. Competent authorities must, biannually, submit to the appropriate authority and the Food Safety Authority, during January and July, a report of all analytical results of official controls carried out on consignments of food pursuant to this Regulation. That report shall include the following information—

- (a) the number of consignments imported;
- (b) the number of consignments subjected to sampling for analysis;
- (c) the results of the checks as provided for in Article 8(2).”;

- (b) omit paragraph 2.

71. After Article 18, omit “This Regulation shall be binding in its entirety and directly applicable in all Member States.”.

72. In Annex 1, in the heading, for “European Union”, substitute “United Kingdom”.

73. In Annex 2—

- (a) in box I.6, for “EU”, substitute “the United Kingdom”;
- (b) in the words which appear above box II, for “EU”, substitute “United Kingdom”;
- (c) in II.3, for “Union legislation”, substitute “retained EU law”.

Amendment of Decision 2011/884/EU

74. **Decision 2011/884/EU** is amended as follows.

75. In Article 1(2), for “Member States”, substitute “Competent authorities”.

76. In Article 5(6), for “Union Law”, substitute “retained EU law”.

77. In Article 4—

- (a) in paragraph 1, for “shall be drawn up in an official language of the Member State of import, or in another language that the competent authorities of that Member State have decided to accept”, substitute “must be drawn up in English, or in English and Welsh.”;
- (b) in paragraph 2, for “shall be drawn up in an official language of the Member State of import, or in another language that the competent authorities of that Member State have decided to accept”, substitute “must be drawn up in English, or in English and Welsh”.

78. In the heading to Article 6, omit “to the Commission”.

79. For Article 6, substitute—

“1. Competent authorities must prepare a report every 3 months, giving an account of all the results of all analytical tests carried out in the previous 3 months on consignments of the products referred to in Article 1. Those reports must be submitted to the appropriate authority and the Food Safety Authority during the month following each quarter.

2. The report must include the following information—

- (a) the number of consignments subjected to sampling for analysis;
- (b) the results of the checks as provided for in Article 5;
- (c) the number of consignments which have been rejected due to the absence of a health certificate or an analytical report.”.

80. In Annex 2, in point 3—

- (a) in the first paragraph, for “Union in a Member State”, substitute “United Kingdom in a”;
- (b) in the fourth paragraph, for “in the European Union Reference Laboratory for GMOs (EURL for GMOs) report”, substitute “by the Food Safety Authority”.

81. In Annex 3, in the heading to the Health Certificate, for “European Union”, substitute “United Kingdom”.

Amendment of Decision 2014/88/EU

82. **Decision 2014/88/EU** is amended as follows.

83. For Article 2, substitute—

“The importation into the United Kingdom of the foodstuffs referred to in Article 1 is prohibited.”.

84. Omit Article 5.

Signed by authority of the Secretary of State for Health and Social Care.

Date

Name
Parliamentary Under-Secretary of State,
Department of Health and Social Care

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in exercise of the powers in section 7 of the European Union (Withdrawal) Act 2018 (c.16) in order to address failures of retained EU law to operate effectively and other deficiencies arising from the withdrawal of the United Kingdom from the European Union. In particular, the Regulations address the deficiency specified in section 8(2)(b) of that Act, namely the conferral of functions by retained EU law on, or in relation to, EU entities which no longer have functions in that respect under EU law in relation to the United Kingdom.

These Regulations make amendments to legislation relating to the safety of imported food and feed. Part 2 amends subordinate legislation in England. Part 3 amends retained direct EU legislation for the whole of the United Kingdom.

An impact assessment has not been produced for this instrument as no, or no significant, impact on the public, private or voluntary sector is foreseen.