
STATUTORY INSTRUMENTS

2020 No. 1410

The Food and Feed Hygiene and Safety (Miscellaneous Amendments) (England) Regulations 2020

Title and commencement

1.—(1) These Regulations may be cited as the Food and Feed Hygiene and Safety (Miscellaneous Amendments) (England) Regulations 2020.

(2) These Regulations, other than regulations 3(10) and (11) and 4(17), (18), (19) and (20) come into force on 25th December 2020.

(3) Regulations 3(10) and (11) and 4(17), (18), (19) and (20) come into force immediately after IP completion day.

Amendment of the Fishery Products (Official Controls Charges) (England) Regulations 2007

2.—(1) The Fishery Products (Official Controls Charges) (England) Regulations 2007(1) are amended as follows.

(2) In regulation 2 (interpretation), in paragraph (1), in the definition that begins “Directive 2004/41” omit ““Regulation 2019/624””.

(3) In the Schedule (definitions of EU legislation) omit the definition of “Regulation 2019/624”.

Amendment of the Official Feed and Food Controls (England) Regulations 2009

3.—(1) The Official Feed and Food Controls (England) Regulations 2009(2) are amended as follows.

(2) In regulation 2 (interpretation)—

(a) in paragraph (1)—

(i) omit the definition that begins “Decision 2007/275”;

(ii) for the definition “the Regulation 2017/625 package” substitute—

““the Regulation 2017/625 package” means Regulation 2017/625 and the EU Regulations listed below the heading “The Regulation 2017/625 package” in Schedule 1;”;

(b) after paragraph (1) insert—

“(1A) Any reference in these Regulations to Decisions, Directives or Regulations referred to in Schedule 1 have the meanings respectively given to them in that Schedule.”.

(3) In regulation 22 (interpretation of this Part of these Regulations), in the definition of “product”, for the words from “required” to “border control posts” substitute “listed in [Decision 2007/275/EC](#)”.

(1) [S.I. 2007/3392](#) as amended by [S.I. 2019/1473](#).

(2) [S.I. 2009/3255](#) as amended by [S.I. 2013/2996](#), [S.I. 2018/731](#), [S.I. 2018/1275](#), [S.I. 2019/1476](#) and [S.I. 2020/738](#).

(4) In regulation 29 (checks on products), in paragraphs (2) and (3), omit “regulation” which immediately precedes “49(1)”.

(5) In regulation 32 (notices in relation to imports of feed and food from third countries), in paragraph (3), for “Article” substitute “Articles”.

(6) In regulation 36 (costs and fees), in paragraph (2) omit “and (c)”.

(7) In regulation 41(1A) (offences and penalties), for the wording from “Article 3” to “production of sprouts” substitute “Article 13 of Regulation 2019/625, in so far as it applies to sprouts and seeds intended for the production of sprouts, as read with Article 27 of Regulation 2019/628”.

(8) In Part 4 (recovery of expenses), at the appropriate place insert—

“Fees or charges arising from unplanned official controls

42A. Fees or charges imposed by a competent authority on an operator pursuant to Article 79(2)(c) of Regulation 2017/625 must be paid by the operator on the written demand of the competent authority.”.

(9) For Schedule 1 (definitions of legislation) substitute the Schedule that is set out in Schedule 1 to these Regulations.

(10) For Schedule 4 (competent authorities for the purposes of certain provisions of Regulation 2017/625 in so far as they apply in relation to relevant feed law) substitute the Schedule that is set out in Schedule 2 to these Regulations.

(11) For Schedule 5 (competent authorities for the purposes of certain provisions of Regulation 2017/625 in so far as they apply in relation to relevant food law) substitute the Schedule that is set out in Schedule 3 to these Regulations.

(12) For Schedule 6 (specified import provisions) substitute the Schedule that is set out in Schedule 4 to these Regulations.

Amendment of the Materials and Articles in Contact with Food (England) Regulations 2012

4.—(1) The Materials and Articles in Contact with Food (England) Regulations 2012(3) are amended as follows.

(2) In regulation 2 (interpretation)—

(a) in paragraph (1)—

(i) after the definition of “Regulation 2023/2006” insert—

““Regulation 282/2008” means [Commission Regulation \(EC\) No. 282/2008](#) on recycled plastic materials and articles intended to come into contact with foods and amending Regulation (EC) No. 2023/2006(4);”;

(ii) after the definition of “Regulation 10/2011” insert—

““Regulation 2018/213” means [Commission Regulation \(EU\) No. 2018/213](#) on the use of bisphenol A in varnishes and coatings intended to come into contact with food and amending Regulation (EU) No. 10/2011 as regards the use of that substance in plastic food contact materials(5);”;

(b) for paragraph (2), substitute—

“(2) Expressions used in these Regulations and in Regulation 1935/2004, Regulation 1895/2005, Regulation 2023/2006, Regulation 282/2008, Regulation

(3) [S.I. 2012/2619](#) will be amended by [S.I. 2019/704](#) after the making of this statutory instrument.

(4) OJ No. L86, 28.3.2008, p.9, as last amended by Commission Regulation (EU) 2015/1906 (OJ No. L278, 23.10.2015, p.11).

(5) OJ No. L41, 14.2.2018, p. 6.

450/2009, Regulation 10/2011 or Regulation 2018/213 bear the same meaning in these Regulations as they bear in those Regulations.”;

(c) for paragraph (3), substitute—

“(3) Any reference in these Regulations to an EU instrument defined in regulation 2(1) is a reference to that EU instrument as amended from time to time.”.

(3) In regulation 7 (offences of contravening specified provisions of Regulation 450/2009), omit paragraph (2).

(4) In regulation 12 (controls and limits), in paragraph (8), for “paragraphs (5), (6) or (7)” substitute “paragraphs (5) or (7)”.

(5) In regulation 14 (offences of contravening specified provisions of Regulation 10/2011), omit paragraph (2).

(6) For regulation 15 (competent authorities for the purposes of Regulation 10/2011), substitute—

“**15.** The competent authorities for the purposes of Articles 8 and 16(1) of and Annex 1, Table 3 (notes on verification of compliance), Notes (23) and (27) to Regulation 10/2011 are the Food Standards Agency, each food authority in its area and each port health authority in its district.”.

(7) After regulation 15 insert—

“PART 6A

Requirements for Recycled Plastic Materials and Articles

Interpretation of this Part

15A. In this Part any reference to a numbered Article is a reference to that Article of Regulation 282/2008.

Offences of contravening Article 3(1) of Regulation 282/2008

15B. Subject to the transitional provisions contained in Article 14, any person who places on the market a material or article that fails to comply with Article 3(1) (requirements for plastic materials and articles) is guilty of an offence.

Competent authorities for the purposes of Regulation 282/2008

15C. The competent authorities for the purposes of Article 10 are the Food Standards Agency and each food authority in its area.”.

(8) In regulation 16 (restrictions on the use of certain epoxy derivatives (BADGE, BFDGE and NOGE))—

(a) in paragraph (1)(b), for “paragraphs (2) and (3) are” substitute “paragraph (2) is”;

(b) omit paragraph (3);

(c) in paragraph (4), for “paragraph (2) or (3)” substitute “paragraph (2)”.

(9) After regulation 17 (competent authorities for the purposes of Regulation 1895/2005) insert—

“PART 7A

Requirements for bisphenol A

Interpretation of Part 7A

17A. In this Part, any reference to a numbered Article is a reference to the Article so numbered in Regulation 2018/213.

Offences of contravening Article 2 of Regulation 2018/213

17B. Subject to the transitional provisions contained in Article 6, any person who places on the market a material or article that fails to comply with Article 2 is guilty of an offence.

Competent authorities for the purposes of Regulation 2018/213

17C. The competent authorities for the purposes of Article 4(3) are the Food Standards Agency and each food authority in its area.”.

(10) For regulation 19 (offences and penalties) substitute—

“**19.**—(1) Any person who contravenes regulation 10(3), 12(8) or 18(2) is guilty of an offence.

(2) Any person who fails to comply with a compliance notice served on them under regulation 19A is guilty of an offence.

(3) Any person who intentionally obstructs a person acting in the execution of Regulation 1935/2004, Regulation 1895/2005, Regulation 2023/2006, Regulation 282/2008, Regulation 450/2009, Regulation 10/2011, Regulation 2018/213 or these Regulations is guilty of an offence.

(4) Any person who, without reasonable excuse, fails to provide any assistance or information a person may reasonably require for the performance of their functions under the Regulations mentioned in paragraph (3) is guilty of an offence.

(5) Any person who, in purported compliance with any requirement under paragraph (4), knowingly or recklessly supplies information that is false or misleading in any material particular is guilty of an offence.

(6) A person guilty of an offence is liable—

(a) in the case of an offence created by regulation 17B—

(i) on conviction on indictment to a fine or to a term of imprisonment not exceeding two years or both; or

(ii) on summary conviction to a fine or to a term of imprisonment not exceeding six months or both;

(b) in the case of an offence created by paragraphs (1), (2), (3), (4) or (5) of this regulation or by regulation 4(3), 5, 7(1), 14(1), 15B or 16(4) on summary conviction to a fine.

(7) Nothing in paragraph (3) or (4) is to be construed as requiring a person to answer any question or give any information if to do so might incriminate that person.”.

(11) After regulation 19 insert—

“Compliance notices

19A.—(1) If an authorised officer has reasonable grounds for believing that any person has not complied with, is not complying with, or is not likely to comply with a provision specified in regulation 19B (which provisions concern declarations of compliance with legislative requirements or supporting documentation), the officer may serve a compliance notice on that person.

(2) A compliance notice must state—

- (a) the reason for the service of the notice and the steps the person on whom the notice has been served must take;
- (b) the date and, if appropriate, the time by which each step must be taken;
- (d) that a failure to comply with the notice is an offence; and
- (e) the details of the right to appeal against the notice under regulation 19C.

(3) An authorised officer may serve a notice on a person withdrawing, varying or suspending a compliance notice.

19B. The provisions are—

- (a) paragraphs (4) and (6) of regulation 10;
- (b) paragraph (6) of regulation 12;
- (c) Article 16 of Regulation 1935/2004;
- (d) Article 5 of Regulation 1895/2005;
- (e) Articles 10(3) and 12 of Regulation 282/2008;
- (f) Articles 12 and 13 of Regulation 450/2009;
- (g) the second sentence of Article 8, Article 15 as read with Annex 4 and Article 16 of Regulation 10/2011;
- (h) Article 4 of Regulation 2018/213.

Appeal against a compliance notice

19C.—(1) Any person served with a compliance notice may appeal against that notice to a magistrates’ court.

(2) The procedure on appeal to a magistrates’ court is by way of complaint for an order, and the Magistrates’ Courts Act 1980(6) applies to the proceedings.

(3) The period within which an appeal may be brought is one month from the date on which the compliance notice was served on the person wishing to appeal and the making of a complaint for an order is deemed for the purposes of this paragraph to be the bringing of the appeal.

(4) A compliance notice is not suspended pending an appeal unless—

- (a) an authorised officer suspends it under regulation 19A(3); or
- (b) the court directs that it be suspended.

(5) The court may—

- (a) confirm the notice or any requirement contained in it;
- (b) vary the notice or any requirement contained in it; or
- (c) revoke the notice or any requirement contained in it.”.

(12) For regulation 20 (execution and enforcement), substitute—

“**20.**—(1) Each food authority in its area is to execute and enforce Regulation 1935/2004, Regulation 1895/2005, Regulation 2023/2006, Regulation 282/2008, Regulation 450/2009, Regulation 10/2011, Regulation 2018/213 and these Regulations.

(2) Each port health authority in its district is to execute and enforce Regulation 1935/2004, Regulation 1895/2005, Regulation 450/2009, Regulation 10/2011, Regulation 2018/213 and these Regulations.

(3) The Food Standards Agency may execute and enforce the provisions of—

- (a) Articles 16 and 17(2) of Regulation 1935/2004;
- (b) Article 10 of Regulation 282/2008;
- (c) Article 13 of Regulation 450/2009;
- (d) Article 8 and 16(1) of and Annex 1, Table 3 (notes on verification of compliance), Notes (23) and (27) to Regulation 10/2011; and
- (e) Article 4(3) of Regulation 2018/213.”

(13) In regulation 23 (time limit for prosecutions), in paragraph (2), for “regulation 7(2), 14(2) or 19(2) or (3)” substitute “regulation 19(3) or (4)”.

(14) In regulation 24 (general defences), in paragraph (2) for “regulation 4(3), 7(1), 14(1), 16(4) or 19(1)” substitute “regulation 4(3), 7(1), 14(1), 15B, 16(4), 17B or 19(1)”.

(15) In paragraphs (2) and (3) of regulation 27 (application of various provisions of the Act) for “Regulation 450/2009 or Regulation 10/2011” substitute “Regulation 282/2008, Regulation 450/2009, Regulation 10/2011 or Regulation 2018/213”.

(16) In the Schedule (specified provisions of Regulation 10/2011)—

- (a) for the text in the first column of the seventh row (which relates to Article 11) of the table, substitute “Article 11(1) and Annex 1, as read with Article 11(3) and (4)”;
- (b) omit the entries in the final row of the table.

(17) For regulation 10(1) substitute—

“(1) The quantities of lead and cadmium transferred from ceramic articles must not exceed the limits set out in paragraph (4) as read with paragraphs (3) and (5).”.

(18) For regulation 10A(1) substitute—

“(1) No person may place on the market a ceramic article that does not comply with the requirements of regulation 10(1) as read with regulation 10(2).”.

(19) In regulation 19(1), for “regulation 10(3)” substitute “regulation 10A(1)”.

(20) In regulation 19B, for paragraph (a) substitute—

- “(a) paragraphs (2) and (3) of regulation 10A;”.

Amendment of the Food Safety and Hygiene (England) Regulations 2013

5.—(1) The Food Safety and Hygiene (England) Regulations 2013(7) are amended as follows.

(2) In regulation 2 (interpretation)—

(a) in paragraph (1)—

- (i) omit the definition that begins “Directive 2004/41”;
- (ii) for the definition of “the Regulation 2017/625 package” substitute—

(7) [S.I. 2013/2996](#) as amended by [S.I. 2019/1476](#); there are other amending instruments but none is relevant to these Regulations.

““the Regulation 2017/625 package” means Regulation 2017/625 and the other EU Regulations listed in Schedule 1 under the heading “The Regulation 2017/625 package”.”;

(b) after paragraph (1) insert—

“(1A) Any reference in these Regulations to Directives or Regulations referred to in Schedule 1 have the meanings respectively given to them in that Schedule.”.

(3) For Schedule 1 (definitions of legislation) substitute the Schedule that is set out in Schedule 5 to these Regulations.

Amendment of the Animal Feed (Composition, Marketing and Use) (England) Regulations 2015

6.—(1) The Animal Feed (Composition, Marketing and Use) (England) Regulations 2015⁽⁸⁾ are amended as follows.

(2) In regulation 2 (interpretation and scope)—

(a) in paragraph (1)—

(i) omit the definition of “Directive 2008/38”;

(ii) after the definition of “Regulation 767/2009” insert—

““Regulation 2020/354” means Commission Regulation (EU) 2020/354 establishing a list of intended uses of feed intended for particular nutritional purposes and repealing [Directive 2008/38/EC](#)⁽⁹⁾.”;

(b) in paragraph (2), for “or Regulation 767/2009” substitute “Regulation 767/2009 or Regulation 2020/354”;

(c) for paragraph (3) substitute—

“(3) Any reference to an EU instrument defined in paragraph (1) is a reference to that EU instrument as it may be amended from time to time.”.

(3) For Part 7 (implementation of Directive 2008/38) substitute—

“PART 7

Enforcement of Regulation 2020/354

Interpretation of this Part

16. In this Part, any reference to a numbered Article is a reference to the Article so numbered in Regulation 2020/354.

Control of feed intended for particular nutritional purposes

17. A person who contravenes or fails to comply with Article 1 (conditions on marketing) as read with Article 2 (derogation for feed which complies with the provisions of [Directive 2008/38/EC](#)) and Article 3 (transitional measures for feed labelled before 25 March 2022 in accordance with the rules applicable before 25 March 2020) commits an offence.”.

(4) In regulation 18 (penalties for offences under these Regulations), in paragraph (1), for “17(1)” substitute “17”.

⁽⁸⁾ [S.I. 2015/255](#) as amended by [S.I. 2019/654](#) and [S.I. 2019/675](#).

⁽⁹⁾ OJ No. L67, 5.3.2020, p.1.

(5) In regulation 19 (duties to enforce), after “Regulation 767/2009” insert “Regulation 2020/354”.

Amendment of the Animal Feed (Hygiene, Sampling etc. and Enforcement) (England) Regulations 2015

7.—(1) The Animal Feed (Hygiene, Sampling etc. and Enforcement) (England) Regulations 2015⁽¹⁰⁾ are amended as follows.

(2) In regulation 2 (interpretation and scope)—

(a) in paragraph (1)—

(i) omit the definition of “Regulation 882/2004”;

(ii) after the definition of “Regulation 767/2009” insert—

““Regulation 2017/625” means Regulation (EU) 2017/625 of the European Parliament and of the Council on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products, amending Regulations (EC) No 999/2001, (EC) No 396/2005, (EC) No 1069/2009, (EC) No 1107/2009, (EU) No 1151/2012, (EU) No 652/2014, (EU) 2016/429 and (EU) 2016/2031 of the European Parliament and of the Council, Council Regulations (EC) No 1/2005 and (EC) No 1099/2009 and Council Directives 98/58/EC, 1999/74/EC, 2007/43/EC, 2008/119/EC and 2008/120/EC, and repealing Regulations (EC) No 854/2004 and (EC) No 882/2004 of the European Parliament and of the Council, Council Directives 89/608/EEC, 89/662/EEC, 90/425/EEC, 91/496/EEC, 96/23/EC, 96/93/EC and 97/78/EC and Council Decision 92/438/EEC⁽¹¹⁾;

“Regulation 2020/354” means Commission Regulation (EU) 2020/354 establishing a list of intended uses of feed intended for particular nutritional purposes and repealing Directive 2008/38/EC⁽¹²⁾;

“Regulation 2019/1793” means Commission Implementing Regulation (EU) 2019/1793 on the temporary increase of official controls and emergency measures governing the entry into the Union of certain goods from certain third countries implementing Regulations (EU) 2017/625 and (EC) No. 178/2002 of the European Parliament and of the Council and repealing Commission Regulations (EC) No. 669/2009, (EU) No. 884/2014, (EU) 2015/175, (EU) 2017/186 and (EU) 2018/1660⁽¹³⁾

(b) in paragraph (2), for “Regulation 882/2004, Regulation 183/2005 or Regulation 152/2009” substitute “Regulation 183/2005, Regulation 152/2009 or Regulation 2017/625”;

(c) for paragraph (5) substitute—

“(5) Any reference to an EU instrument defined in paragraph (1) is a reference to that EU instrument as it may be amended from time to time.”.

(3) In regulation 19 (analysis other than in the course of official controls), for paragraph (2) substitute—

“(2) In cases where there is no appropriate method of analysis in Regulation 152/2009, the analysis must be carried out in the manner referred to in Article 34(1) and (2) of Regulation 2017/625 as read with Regulation 2019/1793.”.

⁽¹⁰⁾ S.I. 2015/454 as amended by S.I. 2019/683 and S.I. 2019/1476.

⁽¹¹⁾ OJ L95, 7.4.2017, p. 1.

⁽¹²⁾ OJ No. L67, 5.3.2020, p.1.

⁽¹³⁾ OJ L277, 29.10.2019, p. 89.

- (4) In Schedule 1 (specified feed law), in the table—
- (a) omit the entry “Regulation 882/2004, in so far as it relates to feed”;
 - (b) omit the entry “[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](#), in so far as it relates to feed”;
 - (c) below the entry for “Regulation 767/2009” add the following entries—
 - “Regulation 2017/625, in so far as it relates to feed
 - Regulation 2019/1793, in so far as it relates to feed
 - Regulation 2020/354”.

Review

- 8.—(1) The Food Standards Agency must from time to time—
- (a) carry out a review of the operation and effect of regulation 3 of these Regulations;
 - (b) set out the conclusions of the review in a report; and
 - (c) publish the report.
- (2) The report must in particular—
- (a) set out the objectives intended to be achieved by the regulatory provisions made by regulation 3 of these Regulations;
 - (b) assess the extent to which those objectives are achieved; and
 - (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.
- (3) The first report under this regulation must be published before the end of the period of five years beginning with the day on which regulation 3(1) to (9) and (12) of these Regulations comes into force.
- (4) Reports under this regulation are afterwards to be published at intervals not exceeding five years.

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

2nd December 2020

Edward Argar
Minister of State,
Department of Health and Social Care