

2020 No. 372

EXITING THE EUROPEAN UNION

AGRICULTURE

FOOD

**The Food and Feed (EU Exit) (Scotland) (Amendment)
Regulations 2020**

Made - - - - - *11th November 2020*

Laid before the Scottish Parliament *13th November 2020*

Coming into force in accordance with regulation 1

The Scottish Ministers make the following Regulations in exercise of the powers conferred on them by paragraphs 1(1), (3) and 11M(1) of schedule 2 and paragraph 21(b) of schedule 7 of the European Union (Withdrawal) Act 2018(a) and all other powers enabling them to do so.

In accordance with paragraph 4 of schedule 2 of the European Union (Withdrawal) Act 2018(b), the Scottish Ministers have consulted with the Secretary of State.

There has been consultation 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(c).

PART 1

Introduction

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Food and Feed (EU Exit) (Scotland) (Amendment) Regulations 2020.

(2) These Regulations come into force as follows—

(a) Parts 1 and 3 come into force immediately before IP completion day, and

(a) 2018 c.16 (“the 2018 Act”). Section 11M was inserted into the 2018 Act by section 22 of the European Union (Withdrawal) Act 2020 (c.1) (“the 2020 Act”).

(b) Paragraph 4 of schedule 2 of the 2018 Act was amended by section 27(7)(a) of the 2020 Act.

(c) OJ L 31, 1.2.2002, p.1, to which there are no relevant amendments to Article 9.

- (b) Part 2 comes into force on IP completion day.
- (3) These Regulations extend to Scotland only.

PART 2

Amendment of subordinate legislation

Amendment of the Meat (Official Control Charges) (Scotland) Regulations 2009

2.—(1) The Meat (Official Control Charges) (Scotland) Regulations 2009(a) are amended as follows.

- (2) In the heading to schedule 1 (definitions of Community legislation) omit “Community”.

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

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

- (2) Omit regulation 35 (serious risk to animal or public health).
- (3) In regulation 41 (offences and penalties)—
 - (a) in paragraph (1)(b) for “26(3), 27(5) or 35(4) or (5)” substitute “26(3) or 27(5)”, and
 - (b) after paragraph 1(b), insert—
 - “(ba) contravenes or fails to comply with the provisions of any regulation made under Article 53 of Regulation 178/2002.”.
- (4) After regulation 42 (time limits for prosecutions (imports)) insert—

“Savings for declarations

42A. Notwithstanding the revocation of regulation 35, any declaration issued under regulation 35 that applies immediately before the revocation comes into force, continues to have effect as if it was made under Article 53 of Regulation 178/2002.”.

(5) In the table in schedule 4 (competent authorities for the purposes of certain provisions of Regulation 2017/625(c) in so far as they apply in relation to relevant feed law)—

- (a) in the first entry, in column 2 (provisions of Regulation 2017/625) for “4(2)(a)” substitute “4(2)”,
- (b) in the first entry, in column 2 insert, in numerical order, the references to the following provisions of Regulation 2017/625—
 - (i) Article 59,
 - (ii) Article 60,
 - (iii) Article 62,
 - (iv) Article 100,
 - (v) Article 120,
 - (vi) Article 122, and
 - (vii) Article 123,
- (c) in the second entry, in column 2 for “4(2)(a)” substitute “4(2)”, and

(a) S.S.I. 2009/262, relevantly amended to schedule 1 by schedule 3 of S.S.I. 2019/407.

(b) S.S.I. 2009/446.

(c) Regulation (EU) 2017/625 of the European Parliament and of the Council as relevantly amended by The Official Controls (Animal, Feed and Food, Plant Health etc.) (Amendment) (EU Exit) Regulations 2020.

- (d) in the second entry, in column 2 insert, in numerical order, the references to the following provisions of Regulation 2017/625—
 - (i) Article 59,
 - (ii) Article 60, and
 - (iii) Article 62.
- (6) In the table in schedule 5 (competent authorities for the purposes of certain provisions of Regulation 2017/625 in so far as they apply in relation to food law)—
 - (a) in the first entry, in column 2 (provisions of Regulation 2017/625) for “4(2)(a)” substitute “4(2)”,
 - (b) in the first entry, in column 2 insert, in numerical order, the references to the following provisions of Regulation 2017/625—
 - (i) Article 59,
 - (ii) Article 60,
 - (iii) Article 62,
 - (iv) Article 100,
 - (v) Article 120,
 - (vi) Article 122, and
 - (vii) Article 123,
 - (c) in the second entry, in column 2 for “4(2)(a)” substitute “4(2)”, and
 - (d) in the second entry, in column 2 insert, in numerical order, the references to the following provisions of Regulation 2017/625—
 - (i) Article 59,
 - (ii) Article 60, and
 - (iii) Article 62.
- (7) In the table in schedule 6 (specified import provisions) in column 2—
 - (a) in the entry relating to Article 5(1)(b) of Regulation 2019/1602, for “IMSOC” substitute “appropriate computerised information management system”,
 - (b) in the entry relating to Article 2(1)(d) of Regulation 2019/2123, for “information management system for official controls” substitute “appropriate computerised information management system”,
 - (c) in the entry relating to Article 3(1) of Regulation 2019/2124 for “the Union” substitute “Great Britain”,
 - (d) in the entry relating to Article 3(2) of Regulation 2019/2124 for “the Union” substitute “Great Britain”,
 - (e) in the entry relating to Article 6(2) of Regulation 2019/2124 for “the Union” substitute “Great Britain”,
 - (f) in the entry relating to Article 6(4) of Regulation 2019/2124 for “the Union” substitute “Great Britain”,
 - (g) in the entry relating to Article 6(6) of Regulation 2019/2124 for “the Union”, each time it occurs, substitute “Great Britain”,
 - (h) in the entry relating to Article 5(d) of Regulation 2019/2126—
 - (i) for “designated Union ports” substitute “ports in Great Britain designated by a fisheries administration”, and
 - (ii) for “IMSOC” substitute “appropriate computerised information management system”, and
 - (i) in the entry relating to Article 1 of Regulation 2019/1013 for “into the Union” substitute “in Great Britain from a third country”.

Amendment of the Foods for Specific Groups (Scotland) Regulations 2016

- 4.—(1) The Foods for Specific Groups (Scotland) Regulations 2016(a) are amended as follows.
- (2) In regulation 2(1) in the definition of “specified EU requirement” for ““specified EU requirement”” substitute ““specified requirement””.
- (3) In regulation 4(1) for “specified EU requirement” substitute “specified requirement”.
- (4) In the table in schedule 1 (specified EU requirements)—
- (a) for the heading substitute “Specified requirements”, and
 - (b) in column 1, for “Article 15(1) (Union list)” substitute “Article 15(1) (GB list)”.

PART 3

Amendment of EU Exit subordinate legislation

Amendment of the Food and Feed Safety and Hygiene (EU Exit) (Scotland) (Amendment) Regulations 2019

- 5.—(1) The Food and Feed Safety and Hygiene (EU Exit) (Scotland) (Amendment) Regulations 2019(b) are amended as follows.
- (2) In regulation 2 (amendment of the General Food Regulations 2004) for paragraph (2) substitute—
- “(2) In regulation 4 (requirements under Regulation (EC) No. 178/2002: offences), paragraph (a), for “the Community” for paragraph (2) substitute “Great Britain”.
- (3) In regulation 6 (amendment of the Food Irradiation (Scotland) Regulations 2009) for paragraph (4) substitute—
- “(4) In the heading to schedule 3 (“list of approved facilities in member states”) substitute “List of Facilities in Member States and the United Kingdom”.”
- (4) In regulation 7 (amendment of the Official Feed and Food Controls (Scotland) Regulations 2009) omit paragraphs (11) to (14).
- (5) In regulation 10 (amendment of the Materials and Articles in Contact with Food (Scotland) Regulations 2012) in paragraph (6) in the new regulation 10A to be inserted by that paragraph, for “the United Kingdom” each time it occurs substitute “Great Britain”.

Amendment of the Food Composition, Labelling and Standards (EU Exit) (Scotland) (Amendment) Regulations 2019

- 6.—(1) The Food Composition, Labelling and Standards (EU Exit) (Scotland) (Amendment) Regulations 2019(c) are amended as follows.
- (2) In regulation 6 (amendment of The Food Additives, Flavourings, Enzymes and Extraction Solvents (Scotland) Regulations 2013) for paragraph (2) substitute—
- “(2) In regulation 8(b) for “the European Union” substitute “Great Britain”.

Amendment of the Nutrition (EU Exit) (Scotland) (Amendment) Regulations 2019

- 7.—(1) The Nutrition (EU Exit) (Scotland) (Amendment) Regulations 2019(d) are amended as follows.

(a) S.S.I. 2016/190, relevantly amended at schedule 1 by paragraph 1(4)(a)(iii), schedule 1, S.S.I. 2020/7.
(b) S.S.I. 2019/52.
(c) S.S.I. 2019/53.
(d) S.S.I. 2019/54.

(2) Omit regulation 2 (amendment of the Foods for Special Medical Purposes (Scotland) Regulations 2000).

(3) Omit regulation 6 (amendment of the Infant Formula and Follow-on Formula (Scotland) Regulations 2007).

Amendment of The Fishery Products (Official Controls Charges) (EU Exit) (Scotland) (Amendment) Regulations 2019

8.—(1) The Fishery Products (Official Controls Charges) (EU Exit) (Scotland) (Amendment) Regulations 2019(a) are amended as follows.

(2) In regulation 2 (amendment of the Fishery Products (Official Control Charges) (Scotland) Regulations 2007 for paragraph (2) substitute—

“(2) In regulation 2 (interpretation) the definition of “third country” (except in the expression “third country import”) means any country or territory other than the British Islands;”.

Amendment of The Food Information, Labelling and Standards (EU Exit) (Scotland) (Amendment) Regulations 2019

9.—(1) The Food Information, Labelling and Standards (EU Exit) (Scotland) (Amendment) Regulations 2019(b) are amended as follows.

(2) In regulation 2 (amendment of the Quick-frozen Foodstuff Regulations 1990) in paragraph (2), in the new paragraph (1D) to be inserted by that paragraph, for “exit day” each time it occurs substitute “IP completion day”.

(3) In regulation 3 (amendment of the Food Hygiene (Scotland) Regulations 2006) for paragraph (2)(b) substitute—

“(b) after paragraph (8), insert—

“(9) Provided the requirements of subparagraph (a) or (b), as the case may be, are met, a person is to be considered not to have contravened or failed to comply with Article 5(1) of (EU) Regulation 853/2004(c), where—

(a) in the case of a health mark—

- (i) the health mark was applied to a product of animal origin subject to Article 5(1) before IP completion day, and
- (ii) the health mark complied with Article 5(1) as it applied immediately before IP completion day,

(b) in the case of an identification mark—

- (i) the identification mark—
 - (aa) was applied to a product of animal origin subject to Article 5(1) before IP completion day, or
 - (bb) is applied to a product of animal origin subject to Article 5(1) no later than 21 months after the day after IP completion day using a label, wrapping or packaging (bearing the identification mark) owned by the food business operator before IP completion day, and
- (ii) the identification mark complied or would have complied with Article 5(1) as it applied immediately before IP completion day.”.

(a) S.S.I. 2019/100.

(b) S.S.I. 2019/285.

(c) Regulation (EC) No 853/2004 of the European Parliament and of the Council laying down specific hygiene rules for food of animal origin; relevantly amended by S.I. 2019/640 and S.I. 2019/1013.

(4) In regulation 4 (amendment of the Food Additives, Flavourings, Enzymes and Extraction Solvents (Scotland) Regulations 2013) in paragraph (2), in the new regulation 15A to be inserted by that paragraph, for “exit day” each time it occurs substitute “IP completion day”.

(5) In regulation 5 (amendment of the Honey (Scotland) Regulations 2015) in paragraph 3 after “appropriate—” substitute—

““blends of honeys from more than one country”,

“blend of honeys from (*insert name of a specified continent or trading bloc*)”,

“blend of honeys from outwith (*insert name of a specified continent or trading bloc*)”,

“blend of honeys from (*insert name of a specified country*) and (*other countries*)”,

“blend of honeys from (*insert name of a specified continent or trading bloc*) and outwith (*insert name of a specified continent or trading bloc*)”, or

“blend of honeys from (*insert name of a specified country or specified continent or trading bloc*) and (*other countries*)”.”.

(6) In Regulation 6 (amendment of the Caseins and Caseinates (Scotland) (No. 2) Regulations 2016) in paragraph (3), in the new regulation 6A to be inserted by that paragraph, for “exit day” each time it occurs substitute “IP completion day”.

JOE FITZPATRICK

Authorised to sign by the Scottish Ministers

St Andrew’s House,
Edinburgh
11th November 2020

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made by Scottish Ministers in exercise of the powers conferred by paragraphs 1(1), 3 and 11M(1) of schedule 2 and paragraph 21(b) of schedule 7 of the European Union (Withdrawal) Act 2018 (c.16). The Regulations are made in order to address failures of retained EU law to operate effectively arising as a result of the withdrawal of the UK from the European Union and to implement the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement.

In accordance with paragraph 4 of schedule 2 of the European Union (Withdrawal) Act 2018, the Scottish Ministers have consulted with the Secretary of State.

These Regulations make amendments to subordinate legislation in the field of food and feed in relation to Scotland.

A Business and Regulatory Impact Assessment has not been carried out for this instrument as no significant impact on the private or voluntary sector is foreseen.

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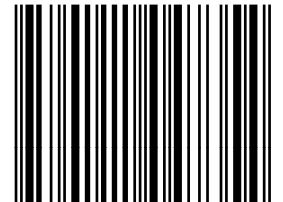
Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Jeff James, the Queen's Printer for Scotland.

£6.90

S20201121001 11/2020 19585

<http://www.legislation.gov.uk/id/ssi/2020/372>

ISBN 978-0-11-104735-4



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