

**2020 No. 455**

**EXITING THE EUROPEAN UNION**

**AGRICULTURE**

**ANIMALS**

**FOOD**

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

*Made - - - - at 1.45 p.m. on 21st December 2020*

*Laid before the Scottish Parliament at 4.30 p.m. on 21st December 2020*

*Coming into force in accordance with regulation 1*

The Scottish Ministers make these Regulations in exercise of the powers conferred on them by section 2(2) and paragraph 1A of schedule 2 of the European Communities Act 1972(a), paragraphs 1(1) and (3) of schedule 2 and paragraph 21(b) of schedule 7 of the European Union (Withdrawal) Act 2018(b) and all other powers enabling them to do so.

These Regulations make provision for a purpose mentioned in section 2(2) of the European Communities Act 1972, and it appears to the Scottish Ministers that it is expedient for the reference in regulation 2 to the Commission Regulation to be a reference to that instrument as amended from time to time.

In accordance with paragraph 4(a) of schedule 2 of the European Union (Withdrawal) Act 2020(c), the Scottish Ministers consulted the Secretary of State prior to the making of these Regulations.

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- (a) 1972 c.68 (“the 1972 Act”). The 1972 Act was repealed by section 1 of the European Union (Withdrawal) Act 2018 (c.16) (“the 2018 Act”) with effect from exit day (see section 20 of the 2018 Act), but saved, subject to modifications, until IP completion day by section 1A of that Act. Section 1A of the 2018 Act was inserted by the European Union (Withdrawal Agreement) Act 2020 (c.1) (“the 2020 Act”), and defines “IP completion day” by reference to section 39(1) to (5) of the 2020 Act. Section 2(2) was amended by the Scotland Act 1998 (c.46) (“the 1998 Act”), schedule 8, paragraph 15(3) (which was amended by section 27(4) of the Legislative and Regulatory Reform Act 2006 (c.51) (“the 2006 Act”). Section 2(2) was also amended by section 27(1)(a) of the 2006 Act and by the European Union (Amendment) Act 2008 (c.7) (“the 2008 Act”), section 3(3) and schedule 1, Part 1. Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 and amended by Part 1 of the Schedule to the European Union (Amendment) Act 2008 and S.I. 2007/1388. The functions conferred upon the Minister of the Crown under section 2(2), insofar as within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the 1998 Act.
- (b) 2018 c.16; paragraph 21 of schedule 7 was amended by the 2020 Act, section 41(4) and schedule 5, paragraph 53.
- (c) Paragraph 4 of schedule 2 was amended by the 2020 Act, section 27(7)(a).

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(a).

## PART 1

### Introduction

#### Citation and commencement

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

(2) Parts 1 and 2 come into force on 29 December 2020.

(3) Part 3 comes into force immediately before IP completion day.

(4) Part 4 comes into force on IP completion day.

## PART 2

### Amendment of secondary legislation in exercise of powers under section 2(2) of the European Communities Act 1972

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

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

(2) After regulation 42A (savings for declarations) in Part 4 (recovery of expenses) insert—

#### “Fees or charges arising from unplanned official controls

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

#### Amendment of the Trade in Animals and Related Products (Scotland) Regulations 2012

**3.**—(1) The Trade in Animals and Related Products (Scotland) Regulations 2012(d) are amended as follows.

(2) After regulation 24 insert—

#### “Additional requirements in specific cases

**24A.** Schedule 2 (additional requirements in specific cases) has effect.”.

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

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

(c) OJ L 95, 7.4.2017, p.1.

(d) S.S.I. 2012/177.

## **Amendment of the Official Feed and Food Controls (Miscellaneous Amendments) (Scotland) Regulations 2020**

**4.**—(1) The Official Feed and Food Controls (Miscellaneous Amendments) (Scotland) Regulations 2020(a) are amended as follows.

(2) In regulation 4 (amendment of the Official Feed and Food Controls (Scotland) Regulations 2009)—

- (a) in paragraph (2)(a), after “Decision 2007/275(b)”. insert ““Directive 2004/41(c)”,”,
- (b) in paragraph (11), for “EU” substitute “Community”,
- (c) in paragraph (13), after “to” insert “relevant”.

(3) In schedule 1, in the new schedule 1 (definitions of Community Legislation) inserted by that schedule—

- (a) in the definition of “Decision 2007/275” for “97/781” substitute “97/78(d)”,
- (b) after the definition of “Decision 2007/275” insert ““Directive 2004/41” means Directive 2004/41/EC of the European Parliament and of the Council repealing certain Directives concerning food hygiene and health conditions for the production and placing on the market of certain products of animal origin intended for human consumption and amending Council Directives 89/662/EEC and 92/118/EEC and Council Decision 95/408/EC(e)”,
- (c) in the definition of “Regulation 2017/625” omit “, 2015/1375(f)”,
- (d) in the definition of “Regulation 2019/1793” before “(EC) No. 178/2002” omit “20”,
- (e) in the definition of “Regulation 2020/466” after “during” insert “certain”.

(4) In schedule 4, in the new schedule 6 (specified import provisions) inserted by that schedule, in the table omit the entries for—

- (a) Article 2(1)(d) of Regulation 2019/2123(g),
- (b) Article 3(1) of Regulation 2019/2124(h),
- (c) Article 3(2) of Regulation 2019/2124,
- (d) Article 5(d) of Regulation 2019/2126(i).

## **PART 3**

### **Amendment of EU exit secondary legislation**

## **Amendment of the Food and Feed (EU Exit) (Scotland) (Amendment) Regulations 2020**

**5.**—(1) The Food and Feed (EU Exit) (Scotland) (Amendment) Regulations 2020(j) are amended as follows.

(2) In regulation 3 (amendment of the Official Feed and Food Controls (Scotland) Regulations 2009)—

- (a) in paragraph (5)—
  - (i) in subparagraph (b) at the end insert “and”,

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(a) S.S.I. 2020/398.  
(b) OJ L 116, 4.5.2007, p.9.  
(c) OJ L 157, 30.4.2004, p.33.  
(d) OJ L 15, 19.1.1978, p.25.  
(e) OJ L 243, 11.10.1995, p.17.  
(f) OJ L 212, 11.8.2015, p.7.  
(g) OJ L 321, 12.12.2019, p.64.  
(h) OJ L 321, 12.12.2019, p.73.  
(i) OJ L 321, 12.12.2019, p.104.  
(j) S.S.I. 2020/372.

- (ii) in subparagraph (c) for “, and” substitute “.”,
- (iii) omit subparagraph (d),
- (b) in paragraph (6)—
  - (i) in subparagraph (b) at the end insert “and”,
  - (ii) in subparagraph (c) for “, and” substitute “.”,
  - (iii) omit subparagraph (d),
- (c) in paragraph (7) in the table in schedule 6 (specified import provisions) in column 2—
  - (i) omit subparagraph (b),
  - (ii) omit subparagraph (c),
  - (iii) omit subparagraph (d),
  - (iv) omit subparagraph (h),

(3) In regulation 5(2) (amendment of the Food and Feed Safety and Hygiene (EU Exit) (Scotland) (Amendment) Regulations 2019), in the new paragraph (2) to be inserted by that paragraph omit “for paragraph 2”.

(4) In regulation 8(2) (amendment of the Fishery Products (Official Controls Charges) (EU Exit) (Scotland) (Amendment) Regulations 2019), in the new paragraph (2) to be inserted by that paragraph—

- (a) after “(interpretation)” insert “for”,
- (b) before “(except in the expression “third country import”)” insert ““substitute “third country””.

## PART 4

### Amendment of retained direct EU legislation

#### **Amendment of Commission Decision 2000/572/EC laying down the animal and public health and veterinary certification conditions for imports of meat preparations into the Community from third countries**

**6.**—(1) Commission Decision 2000/572/EC(a) laying down the animal and public health and veterinary certification conditions for imports of meat preparations into the Community from third countries is amended as follows.

(2) In Article 1(1) (as numbered by regulation 40(2)(a) of the Import of, and Trade in, Animals and Animal Products (Miscellaneous Amendments) (EU Exit) Regulations 2020(b)) after “meat preparations” insert “from a third country”,

(3) In Article 3, in the words before point 1, after “meat preparations” insert “from a third country”.

(4) After Article 4 insert—

*“Article 4za*

#### **Transitional modification for imports from certain countries and territories**

1. During the transitional period:

- (a) the condition in point 3 of Article 3 does not apply where the production plant or plants of origin are in a territory subject to special transitional import arrangements,

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(a) EUDN 2000/572, as amended by S.I. 2020/1462.

(b) S.I. 2020/1462.

(b) Article 4 does not apply to meat preparations which originate from a territory subject to special transitional import arrangements.

2. In paragraph 1:

“the transitional period” means the period beginning on IP completion day and ending with 31 March 2021; and

“territory subject to special transitional import arrangements” has the same meaning as in paragraph 2 of Annex 6 to Regulation (EU) 2017/625<sup>(a)</sup> in relation to relevant goods falling within Article 47(1)(b) of that Regulation.”.

*MAIRI GOUGEON*

Authorised to sign by the Scottish Ministers

St Andrew's House,  
Edinburgh

At 1.45 p.m. on 21st December 2020

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<sup>(a)</sup> EUR 2017/625, as amended by S.I. 2020/1481.

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations are made in exercise of powers under the European Communities Act 1972 (“the 1972 Act”) and powers conferred by paragraphs 1(1) and (3) of schedule 2 and paragraph 21(b) of schedule 7 of the European Union (Withdrawal) Act 2018 (“the 2018 Act”). These Regulations make amendments before IP completion day to secondary legislation made under section 2(2) of the 1972 Act and address failures of retained EU law to operate effectively and other deficiencies arising from the withdrawal of the UK from the European Union.

Part 2 of these Regulations amend secondary legislation in exercise of powers under section 2(2) of the 1972 Act. Regulation 2 amends the Official Feed and Food Controls (Scotland) Regulations 2009 to give effect to Article 79(2)(c) of Regulation (EU) 2017/625 which was previously considered unnecessary but on reflection is required. Regulation 3 amends the Trade in Animals and Related Products (Scotland) Regulations 2012 to insert a regulation introducing and giving effect to schedule 2 of those Regulations. Regulation 4 amends the Official Feed and Food Controls (Miscellaneous Amendments) (Scotland) Regulations 2020 to provide for the execution and enforcement of the delegated and implementing regulations under Regulation (EU) 2017/625. Regulation 4(2) amends Schedule 1 for clarity and Regulation 4(4) amends Schedule 6 to remove four offences.

Part 3 of these Regulations amends secondary EU Exit legislation in exercise of powers under paragraphs 1(1) and 3 of schedule 2 of the 2018 Act. Regulation 3 amends the Food and Feed (EU Exit) (Scotland) (Amendment) Regulations 2020 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.

Part 4 of these Regulations amend Commission Decision 2000/572/EC in exercise of powers under paragraphs 1(1) and (3) of schedule 2 and paragraph 21(b) of schedule 7 of the 2018 Act, in particular to deal with deficiencies under section 8(2)(d) of the 2018 Act. Commission Decision 2000/572/EC concerns the animal and public health and veterinary certification conditions for imports of meat preparations. The amendments provide that the conditions for importation of meat preparations apply to imports from a third country, and make transitional provision for the conditions which are to apply to the importation of meat preparations from territories which are to be subject to special transitional import arrangements.

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

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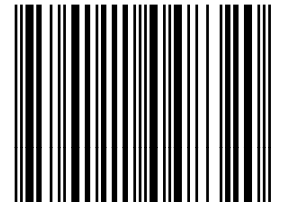


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