
SCOTTISH STATUTORY INSTRUMENTS

2022 No. 361

**AGRICULTURE
AQUACULTURE
FOOD**

**ENVIRONMENTAL PROTECTION
EXITING THE EUROPEAN UNION**

The Agriculture (Retained EU Law and Data) (Scotland) Act 2020 (Consequential Modifications) and Agricultural Products, Aquatic Animal Health and Genetically Modified Organisms (EU Exit) (Amendment) Regulations 2022

Made - - - - - *6th December 2022*
Laid before the Scottish
Parliament - - - - - *8th December 2022*
Coming into force - - - - - *2nd February 2023*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 23(1) of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020⁽¹⁾, paragraphs 1(1) and (3) and 11M(1) of schedule 2 and paragraph 21(b) of schedule 7 of the European Union (Withdrawal) Act 2018⁽²⁾ and all other powers enabling them to do so.

There has been consultation as required by Article 9 of Regulation (EC) 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⁽³⁾.

(1) 2020 asp 17.

(2) 2018 c. 16. Paragraph 11M of schedule 2 was inserted by section 22 of the European Union (Withdrawal Agreement) Act 2020 (c. 1) (“the 2020 Act”). Paragraph 21(b) of schedule 7 was amended by section 41(4) and paragraph 53(2)(b) of schedule 5 of the 2020 Act.

(3) EUR 178/2002, as amended by S.I. 2019/641. S.I. 2019/641 was amended by S.I. 2020/1504.

PART 1

Introduction

Citation and commencement

1. These Regulations may be cited as the Agriculture (Retained EU Law and Data) (Scotland) Act 2020 (Consequential Modifications) and Agricultural Products, Aquatic Animal Health and Genetically Modified Organisms (EU Exit) (Amendment) Regulations 2022 and come into force on 2 February 2023.

PART 2

Amendment of retained direct EU legislation

Council Regulation (EC) No 1234/2007

2.—(1) Council Regulation (EC) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation)(4) is amended as follows.

(2) In Article 113a (additional requirements for the marketing of the products of the fruit and vegetables sector)—

(a) In paragraph (4)—

- (i) from the beginning to “Article 194” substitute “Without prejudice to any regulations made under section 9 of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020”,
- (ii) omit “in the Member States”,
- (iii) in the second place it occurs, for “Member States” substitute “the appropriate authority”,
- (iv) for “check selectively” substitute “ensure selective checking”.

(b) after paragraph (4) insert—

“(4a) For the purposes of this Article—

“the appropriate authority” is, in relation to Scotland, the Scottish Ministers,
“third country” means any country or territory other than—

- (i) the United Kingdom;
- (ii) the Bailiwick of Guernsey;
- (iii) the Bailiwick of Jersey;
- (iv) the Isle of Man.”.

(3) In Article 114(2) (marketing standards for milk and milk products)—

- (a) in the first place it occurs, for “Community law” substitute “retained EU law and regulations made under section 9(1) of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020.”,
- (b) for “the Community” substitute “Great Britain”.

(4) EUR 2007/1234, repealed by EUR 2013/1308. The provisions of EUR 2007/1234 amended by regulation 2 continue to apply by virtue of Article 230(1)(c) of EUR 2013/1308, which was amended by S.I. 2019/1422.

- (4) In Article 117(1) (certification for hops), for “the Community” substitute “Great Britain”.
- (5) In Annex XIV (marketing standards for products of the eggs and poultrymeat sectors referred to in Article 116)—
- (a) in Part B (marketing standards for poultrymeat), in point I (scope)—
 - (i) in paragraph 2(a), for “the Community” substitute “Great Britain”,
 - (ii) in paragraph 3—
 - (aa) for “Member States may derogate from” substitute “Nothing in this Regulation prevents the relevant authority from using any power that authority has to provide that”,
 - (bb) after “of this Regulation” insert “do not apply”,
 - (cc) at the end, insert “The relevant authority is, in relation to Scotland, the Scottish Ministers.”,
 - (b) in Part C (marketing standards for the production and marketing of eggs for hatching and of farmyard poultry chicks), in point I (scope)—
 - (i) in the heading, after “Scope” insert “and definition of third country”,
 - (ii) in paragraph 1, for “the Community” substitute “Great Britain”,
 - (iii) after paragraph 2 insert—
 - “3. For the purposes of this Part, “third country” means any country or territory other than—
 - (i) the United Kingdom;
 - (ii) the Bailiwick of Guernsey;
 - (iii) the Bailiwick of Jersey;
 - (iv) the Isle of Man.”.
- (6) In Annex XV (marketing standards applying to spreadable fats referred to in Article 115), in Point II (labelling and presentation)—
 - (a) in paragraph 1, for “[Directive 2000/13/EC](#)” substitute “Regulation (EU) 1169/2011 of the European Parliament and of the Council on the provision of food information to consumers⁽⁵⁾”,
 - (b) in paragraph 3, for “Community” substitute “retained EU law”,
 - (c) omit paragraph 6.

Commission Regulation (EC) No 543/2008

3.—(1) [Commission Regulation \(EC\) No 543/2008](#) laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 as regards the marketing standards for poultrymeat⁽⁶⁾ is amended as follows.

- (2) In Article 1, for “Article 75(1)(g) of Regulation (EC) No 1308/2013” substitute “section 10(1) (d) of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020, excluding live poultry.”.
- (3) In Article 9(12)—
- (a) from the beginning to “indications, the” substitute “The”,

(5) EUR 2011/1169.

(6) EUR 2008/543, relevantly amended by [S.I. 2019/1422](#).

(b) after “indication”, insert “authorised by section 8(5A) of the Weights and Measures Act 1985(7)”.

(4) In Article 13, for “Article 75(3)(g) of Regulation (EU) No 1308/2013” substitute “Article 11(1) of this Regulation”.

(5) In Article 20(4), for “Articles 17 and” substitute “Article”.

Commission Regulation (EC) 617/2008

4. In Article 3(5) (marking of eggs for hatching and their packaging) of Commission Regulation (EC) 617/2008 laying down detailed rules for implementing Regulation (EC) No 1234/2007 as regards marketing standards for eggs for hatching and farmyard poultry chicks(8), for “and with” to the end substitute “, those provided for in Articles 78(1) and 89 of Regulation (EU) 1308/2013, its implementing regulations and regulations made under section 9 of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020.”.

Commission Regulation (EC) 543/2011

5.—(1) Commission Regulation (EC) No 543/2011 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 in respect of the fruit and vegetables and processed fruit and vegetables sectors(9) is amended as follows.

(2) In Article 3(2) (marketing standards; holders), omit “referred to in Article 75(1)(b) of Regulation (EU) No 1308/2013”.

(3) In Article 8 (scope), for “and of Article 75 ” to the end substitute “, Article 76 of Regulation (EU) No 1308/2013 and in regulations made under section 9 of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020.”.

(4) In Article 10(1) (trader database), for “pursuant to Article 75 of Regulation (EU) No 1308/2013” substitute “including in regulations made under section 9 of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020”.

(5) In Article 11(1) (conformity checks), for “and of” to the end substitute “, of Article 76 of Regulation (EC) 1308/2018 and in regulations made under section 9 of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020.”.

Regulation (EU) No 1308/2013 of the European Parliament and of the Council

6.—(1) Commission Regulation (EU) No 1308/2013 of the European Parliament and of the Council establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007(10) is amended as follows.

(2) In Article 11 (products eligible for public intervention), for “pursuant to Articles 19 or 20” substitute “under any of Articles 19 and 20 of this Regulation and section 11 of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020”.

(3) In Article 13(4) (public intervention), for “Article 7(1)” substitute “Article 1a of Council Regulation (EU) No 1370/2013 determining measures on fixing certain aids and refunds related to the common organisation of the markets in agricultural products(11)”.

(7) 1985 c. 72, relevantly amended by S.I. 1994/2867 and S.I. 2009/3046.

(8) EUR 617/2008, relevantly amended by S.I. 2019/1422.

(9) EUR 2011/543, relevantly amended by S.I. 2019/822.

(10) EUR 2013/1308, relevantly amended by S.I. 2019/821, S.I. 2019/831 and S.I. 2019/1422.

(11) EUR 2013/1370, relevantly amended by S.I. 2019/1422.

(4) In Article 17 (eligible products) for “pursuant to Articles 18, 19 or 20” substitute “under any of Articles 18, 19 and 20 of this Regulation and section 11 of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020”.

(5) In Article 76(1) (additional requirements for marketing of products in the fruit and vegetables sector), omit “referred to in Article 75”.

(6) In Article 80(1) (oenological practices and methods of analyses)—

(a) omit “point (g) of Article 75(3) and”,

(b) after “and (3)” insert “of this Regulation, Commission Delegated Regulation (EU) 2019/934 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards wine-growing areas where the alcoholic strength may be increased, authorised oenological practices and restrictions applicable to the production and conservation of grapevine products, the minimum percentage of alcohol for by-products and their disposal, and publication of OIV files⁽¹²⁾, and regulations made under section 9 of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020”.

(7) In Article 83(1) (rules for certain products and sectors), for “Notwithstanding Article 75(2), nothing” substitute “Nothing”.

(8) In Article 85 (existing optional reserved terms)—

(a) in paragraph 1, for “shall be laid down pursuant to point (a) of Article 86” substitute “may be laid down in regulations made under section 9 of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020”,

(b) in paragraph 2, omit “pursuant to Article 86”.

(9) In Article 90 (special provisions for the imports of wine)—

(a) in paragraph (1), after “Article 78 of this Regulation” insert “and in regulations made under section 9 of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020, insofar as they relate to wine”,

(b) in paragraph (2)—

(i) after “this Regulation or” insert “regulations made under section 9 of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020, or”,

(ii) omit “pursuant to Article 80(3)”.

(10) In Article 228(9) (regulations: the Secretary of State), omit point (a).

(11) In Article 230(1)(c) (repeals)—

(a) before “Article 117(1)” insert “and”,

(b) omit “and point (e)(iv) of Article 121”,

(c) after “of this Regulation” insert “, and section 9 of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020”.

(12) In Annex VII (definitions, designations and sales description of products referred to in Article 78)—

(a) in Part II (categories of grapevine products)—

(i) in paragraph (1) (wine)—

(aa) in sub-paragraph (c), for “under Article 75(2)” substitute “in regulations made under section 9 of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020”,

(12) EUR 2019/934, relevantly amended by [S.I. 2020/637](#) and [S.I. 2021/632](#).

- (bb) in sub-paragraph (d), for “under Article 75(2)” substitute “in regulations made under section 9 of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020”,
- (ii) in paragraph (3) (liqueur wine)—
 - (aa) in sub-paragraph (b), for “pursuant to Article 75(2)” substitute “in regulations made under section 9 of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020”,
 - (bb) in sub-paragraph (c), in the fourth indent, for “under Article 75(2)” substitute “in regulations made under section 9 of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020”,
 - (cc) in sub-paragraph (d), for “pursuant to Article 75(2)” substitute “in regulations made under section 9 of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020”,
 - (dd) in sub-paragraph (f), for “pursuant to Article 75(2)” substitute “in regulations made under section 9 of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020”,
- (iii) in paragraph 6(a) (quality aromatic sparkling wine), for “on any list” to the end substitute “set out in the list in the Appendix to Annex II to Regulation (EU) 2019/934, or in regulations made under section 9 of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020;”,
- (iv) in paragraph (12) (partially fermented grape must extracted from raisined grapes), for “pursuant to Article 75(2)” substitute “in regulations made under section 9 of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020”,
- (v) in paragraph (13) (concentrated grape must), after for “Article 91” insert “of this Regulation or in regulations made under section 9 of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020”,
- (vi) in paragraph (14)(a)(i) (rectified concentrated grape must), after “Article 91” insert “of this Regulation or in regulations made under section 9 of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020”,
- (b) in Part VI (eggs of hens of the *Gallus gallus* species), in point I(1) (scope) omit “Article 75 concerning”,
- (c) in Part VIII (descriptions and definitions of olive oil and olive pomace oils)—
 - (i) in paragraph (1) (virgin olive oils)—
 - (aa) in sub-paragraph (a), for “accordance with Article 75(2)” substitute “Commission Regulation (EEC) 2568/91 on the characteristics of olive oil and olive-residue oil and on the relevant methods of analysis⁽¹³⁾, Commission Implementing Regulation (EU) No 29/2012 on marketing standards for olive oil (codification)⁽¹⁴⁾ and regulations made under section 9 of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020”,
 - (bb) in paragraphs (b) and (c), for “accordance with Article 75(2)” substitute “Regulation (EEC) 2568/91, Regulation (EU) 29/2012, and regulations made under section 9 of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020”,

⁽¹³⁾ EUR 1991/2568, relevantly amended by S.I. 2019/1422.

⁽¹⁴⁾ EUR 2012/29, relevantly amended by S.I. 2019/1422.

- (ii) in points (2) to (6), for “accordance with Article 75(2)” substitute “Regulation (EEC) 2568/91, Regulation (EU) 29/2012, and regulations made under section 9 of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020”.
- (13) In Annex VIII (oenological practices referred to in Article 80)—
- (a) in Part 1 (enrichment, acidification and de-acidification in certain wine-growing zones)—
 - (i) in Section C, in paragraph 7 for “made under Article 75(2)” substitute “in regulations made under section 9 of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020”,
 - (ii) in Section D, in paragraphs 1 and 4, for “under Article 75(2)” substitute “in Regulation (EU) 2019/934 or in regulations made under section 9 of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020”,
 - (b) in Part 2 (restrictions), in Section D, in paragraph 5, for “prescribed under Article 75(2)” substitute “set out in Article 14 of Regulation (EU) 2019/934 and in regulations made under section 9 of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020”.

Regulation (EU) No 251/2014 of the European Parliament and of the Council

7. In Article 4(4) (production processes and methods of analysis for aromatised wine products) of Regulation (EU) No 251/2014 of the European Parliament and of the Council on the definition, description, presentation, labelling and the protection of geographical indications of aromatised wine products(15)—

- (a) For “in accordance with Articles 74, 75(4) and 80 of” substitute “in Annex VIII to”,
- (b) after “Regulation (EU) No 1308/2013” insert “, Commission Delegated Regulation (EU) 2019/934 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards wine-growing areas where the alcoholic strength may be increased, authorised oenological practices and restrictions applicable to the production and conservation of grapevine products, the minimum percentage of alcohol for by-products and their disposal, and publication of OIV files, and regulations made under section 9 of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020”.

Commission Delegated Regulation (EU) 2018/273

8.—(1) Commission Delegated Regulation (EU) 2018/273 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards the scheme of authorisations for vine plantings, the vineyard register, accompanying documents and certification, the inward and outward register, compulsory declarations, notifications and publication of notified information, and supplementing Regulation (EU) No 1306/2013 of the European Parliament and of the Council as regards the relevant checks and penalties, amending Commission Regulations (EC) No 555/2008, (EC) No 606/2009 and (EC) No 606/2009 and repealing Commission Regulation (EC) No 436/2009 and Commission Delegated Regulation (EU) 2015/560(16) is amended as follows.

(2) In Article 29(1) (operations to be recorded in the register), after “Regulation (EU) 1308/2013” insert “, regulations made under section 9 of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020”.

(3) In Article 45 (notification of suspicion of non-compliance), after “Regulation (EU) No 1308/2013” insert “or with regulations made under section 9 of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020”.

(15) EUR 2014/251.

(16) EUR 2018/273, relevantly amended by S.I. 2020/1637.

(4) In Article 47 (penalties relating to accompanying documents and VI-1 documents for non-conformity with certain rules in retained EU law), after “Regulation (EU) No 1308/2013” insert “or with regulations made under section 9 of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020”.

Commission Implementing Regulation (EU) 2018/274

9.—(1) In Article 14(1)(a)(v) (products to be entered in the register) of Commission Implementing Regulation (EU) 2018/274 laying down rules for the application of Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards the scheme of authorisations for vine plantings, certification, the inward and outward register, compulsory declarations and notifications, and of Regulation (EU) No 1306/2013 of the European Parliament and of the Council as regards the relevant checks, and repealing Commission Implementing Regulation (EU) 2015/561(17), after “Regulation (EU) No 1308/2013” insert “, regulations made under section 9 of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020”.

Commission Delegated Regulation (EU) 2019/33

10. In Article 40(1) (presentation of compulsory particulars) of Commission Delegated Regulation (EU) 2019/33 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards applications for protection of designations of origin, geographical indications and traditional terms in the wine sector, the objection procedure, restrictions of use, amendments to product specifications, cancellation of protection, and labelling and presentation(18), after “Regulation (EU) 1308/2013” insert “and in regulations made under section 9 of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020”.

Commission Delegated Regulation (EU) 2019/934

11.—(1) Commission Delegated Regulation (EU) 2019/934 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards wine-growing areas where the alcoholic strength may be increased, authorised oenological practices and restrictions applicable to the production and conservation of grapevine products, the minimum percentage of alcohol for by-products and their disposal, and publication of OIV files is amended as follows.

(2) In Article 4(1)(a) (experimental use of new oenological practices)—

(a) omit “and Article 80(3)(b) to (e)”,

(b) after “Regulation (EU) No 1308/2013” insert “and in regulations made under section 9 of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020”,

(3) In Article 7(1) (definition of coupage), omit “point (h) of Article 75(3) and”.

(4) In Article 9(1) (the purity and identification specifications of substances used in oenological practices), for “Article 75(3)(f) of Regulation 1308/2013” substitute “this regulation”.

Commission Implementing Regulation (EU) 2019/935

12. In Article 2 (applicable analysis methods) of Commission Implementing Regulation (EU) 2019/935 laying down rules for the application of Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards analysis methods for determining the physical, chemical and organoleptic characteristics of grapevine products and notifications of Member States decisions

(17) EUR 2018/274, relevantly amended by [S.I. 2020/1637](#).

(18) EUR 2019/33, relevantly amended by [S.I. 2020/1637](#).

concerning increases in natural alcoholic strength⁽¹⁹⁾, omit “referred to in point (d) of Article 75(5) of Regulation (EU) No 1308/2013”.

PART 3

Amendment of EU derived domestic legislation

The Hops Certification Regulations 1979

13. In regulation 3(1) (sale, etc. contrary to relevant provisions) of the Hops Certification Regulations 1979⁽²⁰⁾ omit sub-paragraph (f).

The Genetically Modified Organisms (Deliberate Release) (Scotland) Regulations 2002

14.—(1) The Genetically Modified Organisms (Deliberate Release) (Scotland) Regulations 2002⁽²¹⁾ are amended as follows.

(2) In paragraph 6(4)(a) (step 3: Quality of the data) of schedule 1 (principles for environmental risk assessment) of the Genetically Modified Organisms (Deliberate Release) (Scotland) Regulations 2002—

- (i) in sub-head (i), for “the United Kingdom” substitute “Great Britain”, and
- (ii) in sub-head (ii), after “a member state of the EU” insert “or in Northern Ireland”.

The Eggs and Chicks (Scotland) (No. 2) Regulations 2008

15. In the Eggs and Chicks (Scotland) (No. 2) Regulations 2008⁽²²⁾, in Schedule 2 (retained EU provisions relating to eggs in shell for consumption contravention of which is an offence), in Part 1, in the table, omit the ninth and tenth rows (Articles 75(2) and (3) or Council Regulation 2013).

The Aquatic Animal Health (Scotland) Regulations 2009

16.—(1) The Aquatic Animal Health (Scotland) Regulations 2009⁽²³⁾ are amended as follows.

(2) In regulation 3(1) (interpretation), in the definition of “[Directive 2006/88/EC](#)”, after “from time to time” insert “⁽²⁴⁾, but subject to regulations 3(4), 13(7) and (8), 18(7) and 24(4)”.

(3) After regulation 3(3) (interpretation) insert—

“(4) In the definition of “processing establishment” in paragraph (1), the reference to Article 33 of Chapter V of [Directive 2006/88/EC](#) is to be read in accordance with paragraph 1A of schedule 1E of these Regulations.”.

(4) In schedule 1E (modifications to [Directive 2006/88/EC](#))—

- (a) in the sub-heading, for “Regulations 13(7) and (8), 18(7) and 24(4)” substitute “Regulations 3(4), 13(7) and (8), 18(7) and 24(4)”, and

⁽¹⁹⁾ EUR 2019/935, relevantly amended by [S.I. 2020/1637](#).

⁽²⁰⁾ [S.I. 1979/1095](#), relevantly amended by [S.I. 2020/1453](#).

⁽²¹⁾ [S.S.I. 2002/541](#), as amended by [S.S.I. 2004/439](#), [S.I. 2005 2759](#), [S.I. 2011/1043](#), [S.S.I. 2015/100](#), [S.S.I. 2019/57](#) and [S.S.I. 2019/86](#).

⁽²²⁾ [S.S.I. 2008/395](#), relevantly amended by [S.I. 2013/3235](#) and [S.S.I. 2019/347](#).

⁽²³⁾ [S.S.I. 2009/85](#), as amended by [S.S.I. 2011/259](#), [S.S.I. 2011/427](#), [S.S.I. 2015/100](#), [S.S.I. 2019/412](#), [S.S.I. 2020/393](#), and [S.I. 2022/835](#).

⁽²⁴⁾ The effect of paragraph 2 of schedule 8 of the European Union (Withdrawal) Act 2018 is that references to [Directive 2006/88/EC](#) as amended “from time to time” cease to have ambulatory effect on IP completion day and are to be read on and after IP completion day as references to that Directive as it had effect immediately before IP completion day.

(b) after paragraph 1 (modifications to Article 29)(25) insert—

“Modification to Article 33

1A. Article 33 is to be read as if in paragraph 1 the reference to “the competent authority” were a reference to “the Scottish Ministers”.”.

The Marketing of Horticultural Produce (Scotland) Regulations 2009

17. In regulation 2(1) (interpretation) of the Marketing of Horticultural Produce (Scotland) Regulations 2009(26)—

- (a) in the definition of “marketing rules” omit “, 75”,
- (b) in the definition of “specific marketing standards” omit “provided for under Article 75(1) (b) of Council Regulation 2013”.

St Andrew’s House,
Edinburgh
6th December 2022

MAIRI GOUGEON
A member of the Scottish Government

(25) Paragraph 1 of schedule 1E was inserted by S.S.I. 2020/393.

(26) S.S.I. 2009/225, relevantly amended by S.S.I. 2011/324, S.I. 2013/3235, S.S.I. 2018/391 and S.I. 2019/169.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in part in exercise of the powers conferred by paragraphs 1(1) and (3) and 11M(1) of schedule 2 and paragraph 21(b) of schedule 7 of the European Union (Withdrawal) Act 2018 (c.16) (“the 2018 Act”). These Regulations make amendments to retained direct EU legislation and EU derived domestic legislation in the fields of marketing standards for agricultural products, aquatic animal health and environmental protection.

Regulations 2, 3(3) and (5), 6(3), (11)(a) and (b), 13, 14 and 16 of these Regulations make provision 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, and deal with matters arising out of, or related to, the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement.

Regulation 2 amends Regulation (EC) 1234/2007 (“EUR 1234/2007”). EUR 1234/2007 was repealed and replaced by Regulation (EU) 1308/2013 (“EUR 1308/2013”). However the provisions amended by regulation 2 continue to apply under article 230(1)(c) of EUR 1308/2013. The amendments replace references to “Member States” and “the Community” with appropriate domestic references, and omit redundant provisions.

Regulation 3(3) and (5) amend Regulation (EC) 543/2008 to substitute reference to a Directive with corresponding domestic legislation, and to remove a redundant cross reference. Regulation 6(3) and (11)(a) and (b) omit references to redundant provisions in EUR 1308/2013.

Regulation 13 amends the Hops Certification Regulations 1979 to omit regulation 3(1)(f), which is redundant due to provision made in the Internal Market Act 2020 (c.27) for the mutual recognition principle for goods.

Regulation 14 amends the Genetically Modified Organisms (Deliberate Release) (Scotland) Regulations 2002 to implement the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement.

Regulation 16 amends the Aquatic Animal Health (Scotland) Regulations 2009 (“the 2009 Regulations”). The amendments relate to the definition of the term “processing establishment” at regulation 3(1) of the 2009 Regulations, which cross-refers to Article 33 of Chapter V of Directive 2006/88/EC. The amendments ensure that, for the purposes of the definition of the term “processing establishment” in the 2009 Regulations, the reference in Article 33(1) of that Directive to “the competent authority” is understood to mean “the Scottish Ministers”.

These Regulations otherwise make amendments consequential on sections 9 to 12 and the schedule of the Agriculture (Retained EU Law and Data) (Scotland) Act 2020 (“the 2020 Act”). The amendments omit cross references to articles EUR 1308/2013 which have been disapplied by the 2020 Act. These are replaced by cross references to retained direct minor EU legislation made under those disapplied articles, which continues to apply as provided by the 2020 Act, and to powers under the 2020 Act to make regulations about marketing standards.

No business and regulatory impact assessment has been prepared for these Regulations as no impact upon business, charities or voluntary bodies is foreseen.