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Draft Regulations laid before Parliament under paragraph 1(3) of Schedule 7 to the European Union (Withdrawal) Act 2018, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2019 No. 000

**EXITING THE EUROPEAN
UNION, NORTHERN IRELAND
ANIMAL HEALTH, NORTHERN IRELAND
SEEDS, NORTHERN IRELAND
FOOD, NORTHERN IRELAND**

The Animal Health, Seed Potatoes and Food (Amendment)
(Northern Ireland) (EU Exit) Regulations 2019

Made - - - - *****

Coming into force in accordance with regulation 1(2)

The Secretary of State, in exercise of the powers conferred by section 8(1) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018⁽¹⁾, makes the following Regulations.

In accordance with paragraph 1(3) of Schedule 7 to the European Union (Withdrawal) Act 2018, a draft of this instrument has been laid before Parliament and approved by a resolution of each House of Parliament.

PART 1

Introductory

Citation, application, commencement and interpretation

1.—(1) These Regulations may be cited as the Animal Health, Seed Potatoes and Food (Amendment) (Northern Ireland) (EU Exit) Regulations 2019.

(2) These Regulations come into force on the later of exit day or the day after the day on which they are made.

(3) These Regulations extend to Northern Ireland only.

PART 2

Amendment of Animal Health Legislation

The Control of Salmonella in Poultry Scheme Order (Northern Ireland) 2008

2. In the Control of Salmonella in Poultry Scheme Order (Northern Ireland) 2008⁽²⁾, in the Schedule, before paragraph 3(a), insert—

“(za) [Commission Regulation \(EC\) No 2160/2003](#) on the control of salmonella and other food-borne zoonotic agents;”.

The Control of Salmonella in Broiler Flocks Scheme Order (Northern Ireland) 2009

3. In the Control of Salmonella in Broiler Flocks Scheme Order (Northern Ireland) 2009⁽³⁾, in the Schedule, before paragraph 3(a), insert—

“(za) [Commission Regulation \(EC\) No 2160/2003](#) on the control of salmonella and other food-borne zoonotic agents;”.

The Control of Salmonella in Turkey Flocks Scheme Order (Northern Ireland) 2010

4. In the Control of Salmonella in Turkey Flocks Scheme Order (Northern Ireland) 2010⁽⁴⁾, in the Schedule, before paragraph 3(a), insert—

“(za) [Commission Regulation \(EC\) No 2160/2003](#) on the control of salmonella and other food-borne zoonotic agents;”.

PART 3

Amendment of the Beef and Veal Labelling Regulations (Northern Ireland) 2010

The Beef and Veal Labelling Regulations (Northern Ireland) 2010

5.—(1) The Beef and Veal Labelling Regulations (Northern Ireland) 2010⁽⁵⁾ are amended as follows.

(2) S.R. 2008 No. 263.

(3) S.R. 2009 No. 205.

(4) S.R. 2010 No. 248.

(5) S.R. 2010 No.155.

(2) In regulation 5(1)(a)(vi) after “third countries)” insert “, as read with Article 15za (transitional provisions)”.

(3) After regulation 5(3) insert—

“(4) Paragraph (1)(b)(ii) shall not apply in relation to a failure to comply with Article 2(2)(b) of Commission Regulation 1825/2000 if the matter constituting the alleged contravention—

- (a) relates to a product that was placed on the market on or before 31 December 2020; and
- (b) would not have constituted a contravention of that Regulation as it applied immediately before exit day.”.

PART 4

Amendment of the Seed Potatoes Regulations (Northern Ireland) 2016

The Seed Potatoes Regulations (Northern Ireland) 2016

6. The Seed Potatoes Regulations (Northern Ireland) 2016(6) are amended as follows.

7. In regulation 1(2), for “European Union and Switzerland”, substitute “United Kingdom”.

8. In regulation 2—

(a) in the definition of “basic seed potatoes”, for paragraph (b), substitute—

“(b) in relation to seed potatoes produced outside Northern Ireland, seed potatoes imported into Northern Ireland in a package or container to which has been affixed an official label, stating that the potatoes were certified as basic seed potatoes and the grade, in accordance with—

- (i) in the case of seed potatoes produced elsewhere in the United Kingdom, the relevant seed potatoes regulations;
- (ii) in the case of seed potatoes produced in a Crown Dependency, legislation recognised by the Department as having equivalent effect to paragraphs 1(1), (2), (3), 2 and 3 of Schedule 2;
- (iii) in the case of seed potatoes produced in a member State or Switzerland, Article 13(1)(a) of Council [Directive 2002/56/EC](#);”;

(b) in the definition of “category”, omit “in accordance with the Swiss trade agreement”;

(c) in the definition of “certification”, for paragraph (b), substitute—

“(b) in relation to seed potatoes produced outside Northern Ireland, certification by the certification authority, in accordance with—

- (i) in the case of seed potatoes produced elsewhere in the United Kingdom, the relevant seed potatoes regulations;
- (ii) in the case of seed potatoes produced in a Crown Dependency, legislation recognised by the Department as having equivalent effect to regulation 10(2), (3) and (5);
- (iii) in the case of seed potatoes produced in a member State or Switzerland, Article 3(1)(a) of Council [Directive 2002/56/EC](#);

and “certified” is to be construed accordingly;”;

- (d) in the definition of “certification authority”, omit “for the purposes of Council [Directive 2002/56/EC](#)”;
- (e) after the definition of “Council [Directive 2002/53/EC](#)”, insert—
 - ““Crown Dependency” means the Isle of Man or any of the Channel Islands;”;
- (f) in the definition of “grade”, after “includes”, insert “the UK grade and the”;
- (g) in the definition of “official document”, for paragraph (b), substitute—
 - “(b) in relation to seed potatoes produced outside Northern Ireland, a document issued or approved by the certification authority in the country or territory where the seed potatoes were produced which meets the requirements of—
 - (i) in the case of seed potatoes produced elsewhere in the United Kingdom, the relevant seed potatoes regulations;
 - (ii) in the case of seed potatoes produced in a Crown Dependency, legislation recognised by the Department as having equivalent effect to Part 2 of Schedule 2;
 - (iii) in the case of seed potatoes produced in a member State or Switzerland, Article 13(1)(b) of Council [Directive 2002/56/EC](#);”;
- (h) in the definition of “official label”, for paragraph (b), substitute—
 - “(b) in relation to seed potatoes produced outside Northern Ireland, a label issued or approved by the certification authority in the country or territory where the seed potatoes were produced which meets the requirements of—
 - (i) in the case of seed potatoes produced elsewhere in the United Kingdom, the relevant seed potatoes regulations;
 - (ii) in the case of seed potatoes produced in a Crown Dependency, legislation recognised by the Department as having equivalent effect to regulation 11 and Part 1 of Schedule 2;
 - (iii) in the case of seed potatoes produced in a member State or Switzerland, Article 13(1)(a) or 18(f), as appropriate to the seed potatoes to which the label relates, of Council [Directive 2002/56/EC](#), or Article 9 of Commission [Decision 2004/842/EC](#);”;
- (i) in the definition of “pre-basic seed potatoes”, for paragraph (b), substitute—
 - “(b) in relation to seed potatoes produced outside Northern Ireland, seed potatoes imported into Northern Ireland in a package or container to which has been affixed an official label, stating that the seed potatoes were certified as pre-basic seed potatoes and the grade, in accordance with—
 - (i) in the case of seed potatoes produced elsewhere in the United Kingdom, the relevant seed potatoes regulations;
 - (ii) in the case of seed potatoes produced in a Crown Dependency, legislation recognised by the Department as having equivalent effect to paragraphs 1(1), (2), (4), 2 and 3 of Schedule 2;
 - (iii) in the case of seed potatoes produced in a member State or Switzerland, Article 18(f) of, and point A7 of Annex III to, Council [Directive 2002/56/EC](#);”;
- (j) in the definition of “seed potatoes produced outside Northern Ireland”—
 - (i) in sub-paragraph (a), omit “and the Republic of Ireland”;
 - (ii) in sub-paragraph (b), omit “other than the United Kingdom”;

- (k) after the definition of “seed potatoes produced outside Northern Ireland”, insert—
- ““the relevant seed potatoes regulations” means—
- (a) in the case of Scotland, the Seed Potatoes (Scotland) Regulations 2015⁽⁷⁾;
 - (b) in the case of Wales, the Seed Potatoes (Wales) Regulations 2016⁽⁸⁾;
 - (c) in the case of England, the Seed Potatoes (England) Regulations 2015⁽⁹⁾”;
- (l) in the definition of “test and trial seed potatoes”, for paragraph (b), substitute—
- “(b) in relation to seed potatoes produced outside Northern Ireland, seed potatoes imported into Northern Ireland in a package or container which bears an official label in accordance with—
- (i) in the case of seed potatoes produced elsewhere in the United Kingdom, the relevant seed potatoes regulations;
 - (ii) in the case of seed potatoes produced in a Crown Dependency, legislation recognised by the Department as having equivalent effect to regulation 13 and paragraphs 1(1), (2), (5) and 2 of Schedule 2;
 - (iii) in the case of seed potatoes produced in a member State or Switzerland, Article 9 of Commission [Decision 2004/842/EC](#)”;
- (m) for the definition of “Union grade”, substitute—
- ““Union grade” means, in relation to seed potatoes produced in a member State or Switzerland—
- (a) in the case of pre-basic seed potatoes, either “Union grade PBTC” or “Union grade PB”, the minimum conditions for which are set out in Articles 2 and 3 of, and the Annex to, Commission Implementing [Directive 2014/21/EU](#) of 6 February 2014 determining minimum conditions and Union grades for pre-basic seed potatoes⁽¹⁰⁾;
 - (b) in the case of basic seed potatoes, either “Union grade S”, “Union grade SE” or “Union grade E”, the minimum conditions for which are set out in Article 1 of, and Annex I to, [Directive 2014/20/EU](#)”;
- (n) after the definition “Union grade”, insert—
- ““UK grade” means—
- (a) in relation to seed potatoes produced in Northern Ireland, the United Kingdom grade determined in respect of those potatoes under Schedule 4;
 - (b) in relation to seed potatoes produced elsewhere in the United Kingdom, the UK grade determined in accordance with the relevant seed potatoes regulations”;
- (o) omit paragraphs (3) and (4).
9. In regulation 4—
- (a) in paragraph (1)—
 - (i) in sub-paragraph (b)(i), omit “or”;
 - (ii) after sub-paragraph (b)(ii), insert—
 - “(iii) “UK grade S” or “UK grade SE” as set out in—
 - (aa) for Northern Ireland, Table 2 of Schedule 4;

(7) [S.S.I. 2015/395](#).

(8) [S.I. 2016/106](#).

(9) [S.I. 2015/1953](#).

(10) [O.J. No. L 38, 07.02.2014, p.39](#).

- (bb) for elsewhere in the United Kingdom, the relevant seed potatoes regulations; or
- (cc) for a Crown Dependency, legislation recognised by the Department as having equivalent effect to Table 2 of Schedule 4;”;
- (iii) after sub-paragraph (c)(iii), insert—
 - “(iv) “UK grade S”, “UK grade SE” or “UK grade E” as set out in—
 - (aa) for Northern Ireland, Table 2 of Schedule 4;
 - (bb) for elsewhere in the United Kingdom, the relevant seed potatoes regulations; or
 - (cc) for a Crown Dependency, legislation recognised by the Department as having equivalent effect to Table 2 of Schedule 4;”;
- (b) for paragraph (3)(b), substitute—
 - “(b) in relation to seed potatoes produced outside Northern Ireland, seed potatoes which have been authorised by the certification authority in the country or territory where the seed potatoes were produced for marketing in accordance with—
 - (i) in the case of seed potatoes produced elsewhere in the United Kingdom, the relevant seed potatoes regulations;
 - (ii) in the case of seed potatoes produced in a Crown Dependency, legislation recognised by the Department as having equivalent effect to regulation 6;
 - (iii) in the case of seed potatoes produced in a member State or Switzerland, Article 6(1) of Council [Directive 2002/56/EC](#).”.

10. After regulation 4, insert—

“Marketing of seed potatoes from the EU or Switzerland

- 4A.**—(1) No person may market in Northern Ireland any seed potatoes produced in a member State or Switzerland.
- (2) Paragraph (1) does not apply to seed potatoes which meet the conditions set out in paragraph (3).
- (3) The conditions are that the seed potatoes—
- (a) are of a variety listed on the National List or on the Common Catalogue;
 - (b) comply with the requirements of Council [Directive 2002/56/EC](#); and
 - (c) have been imported into Northern Ireland before the end of the period of one year beginning with the day after the day on which exit day falls.
- (4) Paragraph (1) is subject to regulations made under Section 1(2A) of the Seeds Act (Northern Ireland) 1965(**11**) on the importation of seed potatoes.”.

11. In regulation 5—

- (a) in paragraph (3), for “For the purposes of Articles 14 and 15(2) of Commission [Directive 2008/62/EC](#)”, substitute “Where the quantities laid down in Article 14 of Commission [Directive 2008/62/EC](#) would otherwise be likely to be exceeded”;
- (b) after paragraph (5), insert—

“(6) For the purposes of paragraph (3), Article 14 of Commission [Directive 2008/62/EC](#) is to be read as if—

- (a) in the first paragraph, in the first sentence—
 - (i) the words “Each Member State shall ensure that”, were omitted;
 - (ii) for the words “does not exceed”, there were substituted “may not exceed”;
 - (iii) for “that member State”, there were substituted “United Kingdom”;
- (b) in the second paragraph—
 - (i) in the first sentence, for the reference to “each Member State”, there were substituted “the United Kingdom”;
 - (ii) for the references to “the Member State”, in both places, there were substituted “the United Kingdom”.

12. For regulation 6(2), substitute—

“(2) The Department shall not authorise marketing of seed potatoes which contain any genetically modified material unless—

- (a) an authorisation is in force under—
 - (i) Regulation 1829/2003 or Part C of [Directive 2001/18/EC](#), where that authorisation was granted before exit day;
 - (ii) Regulation 1829/2003 (on genetically modified food and feed); or
- (b) a consent has been granted under
 - (i) Article 8(1) of the Genetically Modified Organisms (Northern Ireland) Order 1991⁽¹²⁾;
 - (ii) section 111(1) of the Environmental Protection Act 1990⁽¹³⁾.”.

13. In regulation 7—

(a) for paragraph (3), substitute—

“(3) The Department shall not authorise marketing—

- (a) of a quantity of seed potatoes in excess of 0.1% of the annual amount of seed potatoes used in the United Kingdom, except that, if such quantity is not sufficient to sow 10 hectares, the quantity needed for such an area may be authorised;
- (b) of seed potatoes which contain any genetically modified material unless—
 - (i) an authorisation is in force under—
 - (aa) Regulation 1829/2003 or Part C of [Directive 2001/18/EC](#), where that authorisation was granted before exit day;
 - (bb) Regulation 1829/2003 (on genetically modified food and feed); or
 - (ii) a consent has been granted under
 - (aa) Article 8(1) of the Genetically Modified Organisms (Northern Ireland) Order 1991;
 - (bb) section 111(1) of the Environmental Protection Act 1990.”;
- (b) in paragraph (6)(b), after “the National List or”, insert “, before the end of the period of one year beginning with the day after the day on which exit day falls.”;

⁽¹²⁾ S.I. 1991/1714 (N.I. 19).

⁽¹³⁾ 1990 c.43.

- (c) in paragraph (8)(b), for “member States”, substitute “countries”.
14. In regulation 8(1), after “pre-basic seed potatoes of”, insert “UK grade PBTC or”.
15. In regulation 9—
- (a) in paragraph (3)(a)(i), after “pre-basic seed potatoes of”, insert “UK grade PBTC or”;
- (b) in paragraph (3)(b), for “pursuant to Council Directive” to the end, substitute—
- “, in respect of marketing those seed potatoes, pursuant to—
- (i) in the case of seed potatoes produced elsewhere in the United Kingdom, the relevant seed potatoes regulations;
- (ii) in the case of seed potatoes produced in a Crown Dependency, legislation recognised by the Department as having equivalent effect to paragraph (a);
- (iii) in the case of seed potatoes produced in a member State or Switzerland, Council [Directive 2002/56/EC](#).”.
16. In regulations 10 and 11, for “Union”, substitute “UK”, in each place it occurs.
17. In regulation 12(1)(b), for “accordance with” to the end, substitute—
- “accordance with—
- (i) in the case of seed potatoes produced elsewhere in the United Kingdom, the relevant seed potatoes regulations;
- (ii) in the case of seed potatoes produced in a Crown Dependency, legislation recognised by the Department as having equivalent effect to paragraph (a);
- (iii) in the case of seed potatoes produced in a member State or Switzerland, Article 12(1) of Council [Directive 2002/56/EC](#).”.
18. In regulation 14—
- (a) in the heading, for “European Union”, substitute “British Islands”;
- (b) the existing text becomes paragraph (1);
- (c) in paragraph (1), for “European Union”, substitute “British Islands”;
- (d) after paragraph (1), insert—
- “(2) Paragraph (1) does not apply to any person marketing more than 2 kilogrammes of seed potatoes that have been imported into Northern Ireland from the European Union or Switzerland before the end of the period of one year beginning with the day after the day on which exit day falls.”.
19. In regulation 21—
- (a) in the heading, for “Union”, substitute “UK”;
- (b) in paragraph (5), for “Union”, substitute “UK”, in each place it occurs.
20. After regulation 24, insert—

“Transitional provisions for official labels on exit day

24A. A label pre-printed in the United Kingdom before exit day which at the date on which it was printed was an official label for the purposes of these Regulations is to be treated as an official label for basic seed potatoes for the purposes of any use of that label, in accordance with these Regulations, before the end of the period of one year beginning with the day after the day on which exit day falls.”.

Schedule 1 (Growing crop reports)

21. In Schedule 1—

- (a) in paragraphs 1(b)(ii) and 2(c), for “Union”, substitute “UK”, in each place it occurs;
- (b) in paragraph 3(a), after the National List or”, insert “, before the end of the period of two years beginning with the day after the day on which exit day falls,”.

Schedule 2 (Official labels and official documents)

22. In Schedule 2—

- (a) in paragraph 1—
 - (i) for “member State”, substitute “country”, in each place it occurs;
 - (ii) in sub-paragraph (3)(a), for “EU”, substitute “UK”;
- (b) in paragraph 2—
 - (i) for “required by”, substitute “specified in”;
 - (ii) at the end add “ read as if, in point (a), for “EC” there were substituted “UK””.

Schedule 4 (Union grades: source material for planting, other requirements and tolerances for the growing crop and lots of seed potatoes)

23. In Schedule 4—

- (a) in the Schedule heading for “Union”, substitute “UK”;
- (b) in paragraph 1, for “Union”, substitute “UK”, in each place it occurs;
- (c) in table 1—
 - (i) in the table caption, for “Union”, substitute “UK”;
 - (ii) for “Union”, substitute, “UK”, in each place it occurs;
- (d) in table 2—
 - (i) in the table caption, for “Union”, substitute “UK”;
 - (ii) in the heading to column 1, for Union”, substitute “UK”;
 - (iii) in column 2, in the row titled “S”—
 - (aa) in paragraph (a), after “official document as”, insert “UK grade PBTC or”;
 - (bb) in paragraph (b), after “official document as”, insert “UK grade S or”;
 - (iv) in column 2, in the row titled “SE”—
 - (aa) in paragraph (a), after “official document as”, insert “UK grade PBTC or”;
 - (bb) in paragraph (b), after “official document as”, insert “UK grade S or”;
 - (v) in column 2, in the row title “E”—
 - (aa) in paragraph (a), after “official document as”, insert “UK grade PBTC or”;
 - (bb) in paragraph (b), after “official document as”, insert “UK grade S, UK grade SE or”.

Schedule 5 (Authorisation for marketing seed potatoes for test and trial purposes)

24. In paragraph 3(e), for Union”, substitute “UK”.

Draft Legislation: This is a draft item of legislation and has not yet been made as a UK Statutory Instrument. This draft has been replaced by a new draft, *The Animal Health, Seed Potatoes and Food (Amendment) (Northern Ireland) (EU Exit) Regulations 2019* ISBN 978-0-11-118574-2

Parliamentary Under Secretary of State
Department for Environment, Food and Rural
Affairs

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in part in exercise of the powers conferred by the European Union (Withdrawal) Act 2018 (c. 16) in order to address failures of retained EU law to operate effectively and other deficiencies (in particular section 8(2)(c) and (g)) arising from the withdrawal of the United Kingdom from the European Union.

Part 2 amends Northern Ireland domestic legislation concerning the control of salmonella in poultry, broiler flocks and turkeys to ensure the legislation will remain operable after the UK has left the EU.

Part 3 makes minor amendments to the Beef and Veal Labelling Regulations (Northern Ireland) 2010 to ensure the legislation will remain operable after the UK has left the EU.

Part 4 makes minor amendments to the Seed Potatoes Regulations (Northern Ireland) 2016 to ensure that they remain operable after the UK has left the EU. It provides for a one-year interim period during which time EU seed will continue to be recognised for production and marketing in Northern Ireland to ensure continuity in supplies of seed potatoes.