

2014 No. 3104

FOOD

The Fish Labelling (Amendment) Regulations 2014

Made - - - - *21st November 2014*

Laid before Parliament *24th November 2014*

Coming into force - - *13th December 2014*

The Secretary of State is designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to the common agricultural policy, and makes these Regulations in exercise of the powers conferred by sections 6(4)(c), 16(1)(d), 17(2)(e), 26(3)(f) and 48(1)(g) of the Food Safety Act 1990(h) and now vested in the Secretary of State(i), and by section 2(2) of, and paragraph 1A of Schedule 2 to, the European Communities Act 1972(j).

These Regulations make provision for a purpose mentioned in section 2(2) of the European Communities Act 1972 and it appears to the Secretary of State that it is expedient for references to the following Regulations to be construed as references to those Regulations as amended from time to time—

- (a) Council Regulation (EC) No. 1379/2013 of the European Parliament and of the Council on the common organisation of the markets in fishery and aquaculture products(k); and
- (b) Council Regulation (EC) No. 1224/2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy(l).

(a) S.I. 1972/1811. The power of the Secretary of State, as a designated Minister, to make regulations which extend to Northern Ireland remains exercisable by virtue of S.I. 2000/2812.

(b) 1972 c.68; section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c. 51) and Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c.7).

(c) Section 6(4) was amended by paragraph 6 of Schedule 9 to the Deregulation and Contracting Out Act 1994 (c.40), paragraph 10(1) and (3) of Schedule 5, and Schedule 6, to the Food Standards Act 1999 (c.28) and S.I. 2002/794.

(d) Section 16(1) was amended by paragraph 8 of Schedule 5 to the Food Standards Act 1999.

(e) Section 17(2) was amended by paragraphs 8 and 12(b) of Schedule 5 to the Food Standards Act 1999 and S.I. 2011/1043.

(f) Section 26(3) was partially repealed by Schedule 6 to the Food Standards Act 1999.

(g) Section 48(1) was amended by paragraph 8 of Schedule 5 to the Food Standards Act 1999.

(h) 1990 c.16.

(i) Functions formerly exercisable by “the Ministers” (being, in relation to England and Wales, the Minister of Agriculture, Fisheries and Food and the Secretaries of State respectively concerned with health in England and food and health in Wales, acting jointly, and, in relation to Scotland, the Secretary of State) are now exercisable by the Secretary of State in relation to England by virtue of paragraph 8 of Schedule 5 to the Food Standards Act 1999. The power of the Secretary of State to make regulations which apply in Wales or extend to Scotland remains exercisable in relation to functions that are not “exercisable in relation to Wales” (and that accordingly are not transferred by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672)) nor “exercisable in or as regards Scotland” (and accordingly are not transferred by the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 2005 (S.I. 2005/849)) respectively.

(j) Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 (c.51) and amended by Part 1 of the Schedule to the European Union (Amendment) Act 2008 and S.I. 2007/1388.

(k) OJ No. L 354, 28.12.2013, p 1, as last amended by Council Regulation (EU) No. 1385/2013 (OJ No. L 354, 28.12.2013, p. 86).

(l) OJ No. L 343, 22.12.2009, p 1, as last amended by Regulation (EU) No. 508/2014 of the European Parliament and of the Council on the European Maritime and Fisheries Fund (OJ No. L 149 (20.5.2014, p 1).

The Secretary of State has had regard to relevant advice given by the Food Standards Agency in accordance with section 48(4A) of the Food Safety Act 1990(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(b), during the preparation and evaluation of these Regulations.

Citation, commencement, extent and application

1.—(1) These Regulations may be cited as the Fish Labelling (Amendment) Regulations 2014 and come into force on 13th December 2014.

(2) Subject to paragraph (3), the Regulations extend to England and Wales but apply in England only.

(3) The following provisions extend to the United Kingdom—

- (a) this regulation;
- (b) paragraphs (3) and (4) of regulation 2; and
- (c) paragraphs (1) and (2) of regulation 2 so far as they relate to the provisions set out in sub-paragraph (b).

Amendments to the Fish Labelling Regulations 2013

2.—(1) The Fish Labelling Regulations 2013(c) are amended as follows.

(2) For regulation 2(1) substitute—

“2.—(1) In these Regulations—

“the EU Regulations” means Regulation 1224/2009, Regulation 404/2011 and Regulation 1379/2013;

“Regulation 1224/2009” means Council Regulation (EC) No. 1224/2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy;

“Regulation 404/2011” means Commission Implementing Regulation (EU) No. 404/2011 laying down detailed rules for the implementation of Council Regulation (EC) No. 1224/2009 establishing a Community control system for ensuring compliance with the rules of the Common Fisheries Policy(d);

“Regulation 1379/2013” means Regulation (EU) No. 1379/2013 of the European Parliament and of the Council on the common organisation of the markets in fishery and aquaculture products”.

(3) For regulation 3 substitute “The Secretary of State acts as the member State for the purposes of Article 37(1) of Regulation 1379/2013”.

(4) Omit regulation 4.

(5) In regulation 6—

- (a) in paragraph (1)(a), for “paragraphs (4) to (7)” substitute “paragraphs (6) and (7)”; and
- (b) in paragraph (2), for sub-paragraph (a) substitute—

(a) Section 48(4A) was inserted by paragraph 21 of Schedule 5 to the Food Standards Act 1999.

(b) OJ No. L 31, 1.2.2002, p. 1, as last amended by Regulation (EU) No. 652/2014 of the European Parliament and of the Council laying down provisions for the management of expenditure relating to the food chain, animal health and animal welfare, and relating to plant health and plant reproductive material (OJ No. L 189, 27.6.2014, p. 1).

(c) S.I. 2013/1768.

(d) OJ No. L 112, 30.4.2011, p. 1, as corrected (OJ No. L 328, 10.12.2011, p. 58).

“(a) a requirement specified in Article 35 of Regulation 1379/2013 as read with Article 38 of that Regulation, and a requirement specified in Article 39(3) or (4) of Regulation 1379/2013, as read with paragraph (1) of that Article.”;

(c) in paragraph (3), for “and Article 67(1)” to the end substitute “, Article 67(1) to (3) and (5) to (13) of Regulation 404/2011 and Articles 35(1)(c) and 38 of Regulation 1379/2013”;

(d) omit paragraphs (4) and (5); and

(e) for paragraph (6) substitute—

“(6) The requirement referred to in paragraph (2)(a) does not apply in the circumstances described in Article 35(4) of Regulation 1379/2013 as read with Article 58(8) of Regulation 1224/2009”.

(6) In the following provisions, for “the Fish Labelling Regulations 2013” substitute “the Fish Labelling Regulations 2013”—

(a) regulations 7(3), 8(2) and 9(2);

(b) paragraph 1 of the Schedule (in each place where the words occur); and

(c) paragraph 2(b) of the Schedule

21st November 2014

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

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Fish Labelling Regulations 2013 (S.I. 2013/1768) (“the 2013 Regulations”) to provide for the enforcement of the consumer information requirements in Chapter IV of Regulation (EC) No. 1379/2013 of the European Parliament and of the Council on the common organisation of the markets in fishery and aquaculture products (“Regulation 1379/2013”), as read with Council Regulation (EC) No. 1224/2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy (“Regulation 1224/2009”).

Regulation 2 makes a number of amendments to the 2013 Regulations. The effect of the amendments is set out below.

They remove references to, and the definitions of, Council Regulation (EC) No. 104/2000 on the common organisation of the markets in fishery and aquaculture products and Commission Regulation (EC) No. 2065/2001 of 22nd October 2001 laying down detailed rules for the application of Council Regulation (EC) No. 104/2000 as regards informing consumers about fishery and aquaculture products. These Regulations have been repealed by Regulation 1379/2013 and Commission Implementing Regulation (EU) No. 1420/2013 respectively.

Regulation 2(6) ensures that references to the 2013 Regulations in modifications made by those Regulations to the provisions of the Food Safety Act 1990 (c.16) (as they apply for the purposes of those Regulations) include the amendments made to the 2013 Regulations by these Regulations (by virtue of section 20(2) of the Interpretation Act 1978 (c.30)).

The amendments also provide that “a consumer information requirement” for the purposes of Part 3 of the 2013 Regulations is a requirement specified in Article 35 of Regulation 1379/2013 (mandatory information to be provided to consumers) as read with Article 38 (indication of catch or production area) and Article 39 (provision of voluntary information) of that Regulation.

The information to be provided identifies species of fish on sale, and explains how the fish was produced and where it was caught. In addition, it ensures that information voluntarily provided is clear and unambiguous and can be verified.

The definition of “traceability requirement” for the purposes of Part 3 of the 2013 Regulations is amended so as to take account of the requirement in Article 58(5) of Regulation 1224/2009, as amended by Article 45(2) of Regulation 1379/2013, to give the information required under Article 35 of Regulation 1379/2013; and an exemption from the traceability requirement is introduced in relation to the sale of small quantities of products directly from fishing vessels to consumers where the sale does not exceed the sterling equivalent of 50 euros per day.

A full impact assessment of the effect that this instrument will have on the costs of business and the voluntary sectors is available at www.gov.uk/defra and is annexed to the Explanatory Memorandum which is available alongside the instrument at www.legislation.gov.uk

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