
STATUTORY INSTRUMENTS

2018 No. 1275

AGRICULTURE

FOOD

INTELLECTUAL PROPERTY

The Quality Schemes (Agricultural
Products and Foodstuffs) Regulations 2018

Made - - - - 29th November 2018
Laid before Parliament 3rd December 2018
Coming into force - - 1st January 2019

The Secretary of State makes these Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972⁽¹⁾.

The Secretary of State is designated for the purposes of that section in relation to—

- (a) the common agricultural policy of the European Union⁽²⁾;
- (b) intellectual property (including both registered and unregistered rights)⁽³⁾;
- (c) food and drink intended for sale for human consumption, including the presentation, packaging, labelling, marketing and advertising of such food and drink⁽⁴⁾.

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⁽⁵⁾.

(1) 1972 c.68. Section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c.51) and by section 3(3) of, and Part 1 of the Schedule to, the European Union (Amendment) Act 2008 (c.7).

(2) S.I. 1972/1811.

(3) S.I. 2006/608.

(4) S.I. 2005/2766.

(5) OJ No L 31, 1.2.2002, p.1, as last amended by Regulation (EU) 2017/228 (OJ No L 35, 10.2.2017, p.10).

PART 1

Introductory

Citation and commencement

1. These Regulations may be cited as the Quality Schemes (Agricultural Products and Foodstuffs) Regulations 2018 and come into force on 1st January 2019.

Interpretation

2.—(1) In these Regulations—

- (a) terms used that are also used in the EU Regulations have the same meaning as they have in the EU Regulations, and
- (b) any reference to an Article, except in regulation 3(2)(c)(iv), is a reference to an Article of Regulation 1151/2012(6).

(2) In these Regulations—

“Regulation 882/2004” means Regulation (EC) No 882/2004 of the European Parliament and of the Council on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules(7);

“Regulation 1151/2012” means Regulation (EU) No 1151/2012 of the European Parliament and of the Council on quality schemes for agricultural products and foodstuffs;

“Regulation 664/2014” means Commission Delegated Regulation (EU) No 664/2014 supplementing Regulation (EU) No 1151/2012 of the European Parliament and of the Council with regard to the establishment of the Union symbols for protected designations of origin, protected geographical indications and traditional specialities guaranteed and with regard to certain rules on sourcing, certain procedural rules and certain additional transitional rules(8);

“Regulation 665/2014” means Commission Delegated Regulation (EU) No 665/2014 supplementing Regulation (EU) No 1151/2012 of the European Parliament and of the Council with regard to conditions of use of the optional quality term ‘mountain product’(9);

“Regulation 668/2014” means Commission Implementing Regulation (EU) No 668/2014 laying down rules for the application of Regulation (EU) 1151/2012 of the European Parliament and of the Council on quality schemes for agricultural products and foodstuffs(10);

“authorised officer” means a person (whether or not an officer of an enforcement authority) who is authorised by the enforcement authority in writing to act in relation to matters arising under these Regulations and the EU Regulations;

“costs”, except in regulation 9(3), has the meaning given in regulation 14(7);

“enforcement authority” means an enforcement authority appointed under regulation 6(2);

“enforcement notice” means—

- (a) a compliance notice served under regulation 12;
- (b) a non-compliance penalty notice served under regulation 13;
- (c) an enforcement costs recovery notice served under regulation 14;

“the EU Regulations” means—

(6) OJ No L 343, 14.12.2012, p.1, as last amended by Regulation (EU) No 625/2017 (OJ No L 95, 7.4.2017, p.1).

(7) OJ No L 165, 30.4.2004, p.1, as last amended by Regulation (EU) No 455/2018 (OJ No L 77, 20.3.2018, p.4).

(8) OJ No L 179, 19.6.2014, p.17.

(9) OJ No L 179, 19.6.2014, p.23.

(10) OJ No L 179, 19.6.2014, p.36.

- (a) Regulation 1151/2012, and
 - (b) Regulation 668/2014;
- “PDO” means a protected designation of origin;
- “PGI” means a protected geographical indication;
- “premises” includes any establishment, place, vehicle, stall or movable structure and any ship or aircraft;
- “TSG” means a traditional speciality guaranteed.

PART 2

Competent authority and control bodies

The competent authority etc.

- 3.—(1) The competent authority is the Secretary of State.
- (2) The Secretary of State is also responsible for exercising the functions of—
- (a) a Member State for the purposes of Articles 8, 13, 20, 24, 34, 37(3), 38, 40 and 46;
 - (b) the authorities of a Member State for the purposes of Article 13(3) and the first subparagraph of Article 49(2);
 - (c) a Member State for the purposes of—
 - (i) the second subparagraph of Article 49(2);
 - (ii) Article 49(3), as read with Article 15;
 - (iii) Article 49(4);
 - (iv) Article 10(2) of Regulation 668/2014.

Responsibilities of appointed enforcement authority

- 4.—(1) Each enforcement authority must report to the Secretary of State when it exercises a power under these Regulations to—
- (a) enter premises;
 - (b) issue an enforcement notice.
- (2) The report must cover the result of that exercise and must be submitted to the Secretary of State within 28 days of that result.

Delegation to control bodies

- 5.—(1) The Secretary of State may delegate tasks related to official controls of the quality schemes to control bodies, in accordance with Article 39.
- (2) The Secretary of State may not delegate any task related to official controls under Article 39 to a control body unless the Secretary of State is satisfied that the control body—
- (a) shall ensure that the task is carried out promptly by a person competent to perform it in accordance with Regulation 882/2004;
 - (b) has made arrangements to ensure that a finding of any breach of these Regulations or the EU Regulations is communicated to the Secretary of State immediately, and that any other result is communicated within 28 days.

PART 3

Duties of execution and enforcement

Enforcement authorities

6.—(1) The Secretary of State must execute and enforce the provisions of the EU Regulations and these Regulations directly or ensure that they are executed and enforced.

(2) The Secretary of State may appoint enforcement authorities in respect of specified areas.

(3) An enforcement authority appointed under paragraph (2) must execute and enforce the provisions of the EU Regulations and these Regulations specified in the terms of its appointment.

(4) For the purposes of these Regulations any of the following is eligible for appointment as an enforcement authority—

(a) in England, Scotland and Wales, an authority (other than the council of a non-metropolitan district) that is a food authority for the purposes of the Food Safety Act 1990⁽¹¹⁾;

(b) in Northern Ireland, a district council within the meaning of the Interpretation Act (Northern Ireland) 1954⁽¹²⁾.

(5) Where an enforcement authority is appointed under paragraph (2), the appointment shall operate in relation to its area only.

(6) Paragraph (5) does not apply where an enforcement authority is so appointed for the purpose of Article 37(1)(a) or, in relation to any authorised officer, where consent is granted under regulation 8(3).

(7) The appointment of an enforcement authority under paragraph (2) does not preclude the Secretary of State from exercising enforcement powers in the area of that authority.

Authorised officers

7. Each enforcement authority must appoint authorised officers to act for the purposes of the performance of its duty under regulation 6(3).

Default powers and authorised officers' powers

8.—(1) Where the Secretary of State considers that the duty of an enforcement authority has not been adequately carried out in its area, the Secretary of State may appoint one or more persons to exercise in that area the powers exercisable by an authorised officer and references in these Regulations to an authorised officer include an officer appointed in accordance with this paragraph.

(2) Any expenses certified by the Secretary of State as having been incurred in respect of the area of an enforcement authority mentioned in paragraph (1) must be repaid on demand by that enforcement authority.

(3) An authorised officer may not exercise powers under these Regulations or the EU Regulations in respect of any premises outside the area for which that officer is appointed except with the consent of the enforcement authority for the area in which those premises are situated.

Protection of officers acting in good faith

9.—(1) An authorised officer is not personally liable in respect of any act done—

⁽¹¹⁾ 1990 c.16.

⁽¹²⁾ 1954 c.33 (N.I.).

(a) in the execution or purported execution of functions under these Regulations or the EU Regulations, and

(b) within the scope of the officer's employment,

if the officer acted in the honest belief that the duty under these Regulations or the EU Regulations required or entitled the officer to so act.

(2) Nothing in paragraph (1) is to be construed as relieving any enforcement authority of any liability in respect of the acts of its officers.

(3) Where an action has been brought against an authorised officer in respect of an act done—

(a) in the execution or purported execution of functions under these Regulations or the EU Regulations, but

(b) outside the scope of the officer's employment,

the enforcement authority may indemnify the officer against the whole or a part of any damages ordered to be paid or any costs awarded if that authority is satisfied that the officer honestly believed that the act complained of was within the scope of the officer's employment.

PART 4

Enforcement powers and related provisions

Powers of entry

10.—(1) An authorised officer may on giving reasonable notice enter any premises except premises used wholly or mainly as a private dwelling-house at any reasonable hour for the purposes of enforcing these Regulations or the EU Regulations.

(2) The requirement to give notice does not apply—

(a) where reasonable efforts to agree an appointment have failed;

(b) where an authorised officer reasonably believes that giving notice would defeat the object of the entry;

(c) where an authorised officer has a reasonable suspicion of a breach of these Regulations or the EU Regulations.

(3) An authorised officer must, if requested to do so, produce a duly authenticated authorisation document.

(4) A justice of the peace in England and Wales, a sheriff or justice of the peace in Scotland or lay magistrate in Northern Ireland, may by signed warrant permit an authorised officer to enter any premises, including dwelling-houses, if necessary by reasonable force, if the justice, sheriff or lay magistrate, on sworn information in writing is satisfied—

(a) that there are reasonable grounds to enter those premises for the purpose of enforcing these Regulations or the EU Regulations, and

(b) that one or more of the conditions in paragraph (5) are met.

(5) The conditions are—

(a) entry to the premises has been, or is likely to be, refused, and notice of the intention to apply for a warrant has been given to the occupier;

(b) asking for admission to the premises, or giving such a notice, would defeat the object of the entry;

(c) entry is required urgently;

- (d) the premises are unoccupied or the occupier is temporarily absent.
- (6) A warrant is valid for 30 days from the date of signature.
- (7) An authorised officer entering any premises which are unoccupied or from which the occupier is temporarily absent must leave them as effectively secured against unauthorised entry as they were before entry.
- (8) An authorised officer may—
 - (a) be accompanied by—
 - (i) such other persons as the authorised officer considers necessary;
 - (ii) any representative of the European Commission;
 - (b) bring on to the premises such equipment as the authorised officer considers necessary.

Powers of authorised officers on entry

- 11.**—(1) An authorised officer who has entered premises under regulation 10 may—
- (a) inspect and search the premises;
 - (b) take photographs;
 - (c) mark any item for identification purposes;
 - (d) require the production of any label, document or record (in whatever form it is held);
 - (e) inspect and take a copy of, or take a copy of an extract from, any label, document or record;
 - (f) inspect and open any container, item or vending machine;
 - (g) inspect any plant, machinery or equipment;
 - (h) have access to, inspect and check the data on, and operation of, any computer and any associated apparatus used in connection with a label, document or record to which this regulation relates;
 - (i) where a label, document or record is kept by means of a computer, require the label, document or record to be produced in a form in which it may be taken away;
 - (j) seize and detain any computer equipment for the purpose of copying any data or for further inspection where adequate inspection has not been able to be carried out on the premises, if the authorised officer has reason to believe that a person is in contravention of these Regulations or the EU Regulations and that the data may be relevant to the contravention;
 - (k) seize and detain potential evidentiary material, that is to say, any label, document, record, equipment, container or item if the authorised officer has reason to believe that a person is in contravention of these Regulations or the EU Regulations and that the potential evidentiary material may be relevant to the contravention.
- (2) An authorised officer may require any person to provide the authorised officer with such assistance, information or facilities as the officer may reasonably require for the purposes of the execution or enforcement of these Regulations or the EU Regulations.
- (3) If it is decided that anything seized and detained under paragraph (1) by an authorised officer is no longer needed by an enforcement authority in connection with a possible contravention of these Regulations or the EU Regulations, the authorised officer must return it as soon as reasonably practicable after that decision.

Compliance notice

- 12.**—(1) An authorised officer may serve a notice in writing on any person if the authorised officer has grounds for believing that the person—

- (a) has marketed, or is marketing or intending to market, a product under a registered PDO or PGI which has not been labelled in a way described in Article 12;
 - (b) has made, or is making or intending to make, any direct or indirect commercial use of a registered PDO or PGI in a way described in Article 13(1)(a);
 - (c) has misused, imitated or evoked, or is misusing, imitating or evoking or intending to misuse, imitate or evoke, a registered PDO or PGI in a way described in Article 13(1)(b);
 - (d) has used, or is using or intending to use, any other false or misleading indication as to the provenance, origin, nature or essential qualities of a product in a way described in Article 13(1)(c);
 - (e) has used, or is using or intending to use, any other practice that is liable to mislead the consumer as to the true origin of a product in a way described in Article 13(1)(d);
 - (f) has misused, imitated or evoked, or is misusing, imitating or evoking or intending to misuse, imitate or evoke, a registered TSG in a way liable to mislead the consumer as described in Article 24(1) or has carried out, or is carrying out or intending to carry out any other practice liable to mislead the consumer in a way described there;
 - (g) has used, or is using or intending to use, a sales description that causes confusion with a registered TSG in a way described in Article 24(2);
 - (h) has marketed, or is marketing or intending to market, a product described with an optional quality term in contravention of Article 33(1);
 - (i) has used, or is using or intending to use, an indication, abbreviation or symbol in contravention of Article 44(1), as read with Regulation 665/2014;
 - (j) has marketed, or is marketing or intending to market, a product under a registered PDO, PGI or TSG which has not been labelled in a way described in Article 13(1) or (3) of Regulation 668/2014, as read with Article 2 of Regulation 664/2014.
- (2) A notice served under paragraph (1) must contain the following—
- (a) the name and address of the enforcement authority by which the authorised officer is authorised;
 - (b) the name and address of the person on whom the notice is served;
 - (c) the grounds for service of the notice;
 - (d) information on the steps the person must take to comply with the notice;
 - (e) except to the extent that the steps are confined to refraining from doing something believed to be intended, the period within which each step must be completed in order to comply with the notice, which must not expire before the period within which an appeal may be brought under regulation 15, 16 or, as the case may be, 17;
 - (f) information as to—
 - (i) the rights of appeal;
 - (ii) the scope for suspension of a notice pending appeal;
 - (iii) the consequences of an appeal;
 - (iv) the consequences of a failure to comply with the notice.
- (3) Subject to regulations 15 to 17, the person on whom the notice is served must comply with the notice.
- (4) A notice served under this regulation is referred to in these Regulations as a compliance notice.

Non-compliance penalty notice

13.—(1) Where a person—

- (a) fails to comply with a compliance notice,
- (b) has obstructed an authorised officer acting pursuant to regulations 10 or 11, or
- (c) has failed to comply with a requirement of an authorised officer acting pursuant to regulation 11(1)(d), 11(1)(i) or 11(2),

an enforcement authority may, by way of serving a written notice on the person, impose a requirement to pay to that enforcement authority such sum as the authority may specify in respect of that act or omission.

- (2) The enforcement authority may determine—
 - (a) the amount payable, which must not exceed £40,000, and
 - (b) whether any discount is offered in relation to early payment and, if so—
 - (i) the amount of any discount, and
 - (ii) the time within which the penalty must be paid to take advantage of the discount.
- (3) A notice served under paragraph (1) must contain the following—
 - (a) the name and address of the enforcement authority to which the penalty must be paid;
 - (b) the name and address of the person on whom the notice is served;
 - (c) the grounds for serving the notice;
 - (d) the amount of the penalty;
 - (e) the period within which the penalty must be paid, which must not expire before the period within which an appeal may be brought under regulation 15, 16 or, as the case may be, 17;
 - (f) whether any discount is offered for early payment, and if so—
 - (i) the amount of the discount;
 - (ii) the period within which the penalty must be paid to take advantage of the discount;
 - (g) information as to—
 - (i) the rights of appeal;
 - (ii) the scope for suspension of a notice pending appeal;
 - (iii) the consequences of an appeal;
 - (iv) the consequences of failing to comply with the notice.
- (4) Subject to regulations 15 to 17, the person on whom the notice is served must comply with the notice.
- (5) If the requirements of the compliance notice are met before the payment period set out in the non-compliance penalty notice expires, liability to pay the non-compliance penalty is discharged.
- (6) A notice served under this regulation is referred to in these Regulations as a non-compliance penalty notice.

Enforcement costs recovery notice

14.—(1) An enforcement authority may, by way of serving a written notice on a person on whom a non-compliance penalty notice has been served, require the person to pay to the authority a sum equal to or less than the costs incurred by the authority in relation to the issuing of a non-compliance penalty notice up to the time of its issue.

(2) An enforcement authority must provide a detailed breakdown of the costs specified in the notice if requested to do so by the person on whom such a notice is served.

(3) A request for a detailed breakdown of the costs specified in the notice must be made within 14 days of the date of the notice.

- (4) A notice served under paragraph (1) must contain the following—
 - (a) the name and address of the enforcement authority to which the sum must be paid;
 - (b) the name and address of the person on whom the notice is served;
 - (c) the period within which the sum must be paid, which must not expire before—
 - (i) the period within which an appeal may be brought under regulation 15, 16 or, as the case may be, 17;
 - (ii) the enforcement authority has provided a breakdown of the costs, unless—
 - (aa) the person in question has indicated to the enforcement authority that they do not require the detailed breakdown in question;
 - (bb) the period referred to in paragraph (3) has expired;
 - (d) information as to—
 - (i) the rights of appeal;
 - (ii) the scope for suspension of a notice pending appeal;
 - (iii) the consequences of an appeal;
 - (iv) the consequences of failure to comply with the notice.
- (5) Subject to regulations 15 to 17, the person on whom a notice is served must comply with the notice.
- (6) A notice served under this regulation is referred to in these Regulations as an enforcement costs recovery notice.
- (7) In this regulation, “costs” means reasonably and necessarily incurred—
 - (a) investigation costs;
 - (b) administration costs;
 - (c) costs of obtaining expert advice (including legal advice).

Appeals against enforcement notices served in England and Wales

15.—(1) In England and Wales, a person on whom an enforcement notice has been served may appeal to the First-tier Tribunal.

(2) The effect of a compliance notice served under these Regulations is not suspended pending the determination or withdrawal of an appeal unless the First-tier Tribunal directs otherwise.

(3) An appeal against a non-compliance penalty notice or an enforcement costs recovery notice served under these Regulations suspends the effect of the notice appealed against until the appeal is determined or withdrawn.

(4) On an appeal under this paragraph, the First-tier Tribunal may either cancel or affirm the enforcement notice and, if the First-tier Tribunal affirms the notice, may do so either in its original form or with such modifications as the First-tier Tribunal thinks fit.

Appeals against enforcement notices served in Scotland

16.—(1) In Scotland, a person on whom an enforcement notice has been served may appeal to the sheriff.

(2) An appeal must be brought within the period of 28 days beginning with the date on which the enforcement notice is served.

(3) The effect of a compliance notice served under this Regulations is not suspended pending the determination or withdrawal of an appeal unless the sheriff directs otherwise.

(4) An appeal against a non-compliance penalty notice or an enforcement costs recovery notice served under these Regulations suspends the effect of the notice appealed against until the appeal is determined or withdrawn.

(5) On an appeal under this paragraph, the sheriff may either cancel or affirm the enforcement notice, with or without modification.

Appeals against enforcement notices served in Northern Ireland

17.—(1) In Northern Ireland, a person on whom an enforcement notice has been served may appeal to the Magistrates' Court.

(2) An appeal must be brought within the period of 28 days beginning with the date on which the enforcement notice is served.

(3) The effect of a compliance notice served under these Regulations is not suspended pending the determination or withdrawal an appeal unless the Magistrates' Court directs otherwise.

(4) An appeal against a non-compliance penalty notice or an enforcement costs recovery notice served under these Regulations suspends the effect of the notice appealed against until the appeal is determined or withdrawn.

(5) On an appeal under this paragraph, the Magistrates' Court may either cancel or affirm the enforcement notice, with or without modification.

Grounds of appeal

18.—(1) The grounds for an appeal against a compliance notice are that the enforcement authority's decision to serve the compliance notice was—

- (a) based on an error of fact;
- (b) wrong in law;
- (c) unreasonable.

(2) The grounds for an appeal against a non-compliance penalty notice or an enforcement costs recovery notice are that—

- (a) the enforcement authority's decision to serve the non-compliance penalty notice or the enforcement costs recovery notice was—
 - (i) based on an error of fact;
 - (ii) wrong in law;
 - (iii) unreasonable;
- (b) the amount specified in the non-compliance penalty notice or the enforcement costs recovery notice is unreasonable.

Withdrawal and variation of an enforcement notice

19.—(1) An authorised officer may serve a notice on a person—

- (a) withdrawing,
- (b) varying, or
- (c) suspending,

an enforcement notice served under these Regulations.

(2) A notice served under paragraph (1)(b) cannot add to the obligations imposed by the enforcement notice that it varies.

Power to recover payments

20. An enforcement authority may recover any unpaid sum required under regulation 13 or regulation 14, as read with regulations 15 to 17—

- (a) as a civil debt;
- (b) on the order of the court, on such terms as the court may order.

PART 5

Miscellaneous provision and consequential amendments

Right of appeal in connection with an application to register a PDO, PGI or TSG

21.—(1) Any person or group with a legitimate interest within the meaning of Article 49 who is aggrieved by a decision of the Secretary of State to—

- (a) accept an application in accordance with Article 49(4);
- (b) refuse an application on grounds that the application is not justified and does not meet the requirements of Regulation 1151/2012,

may, within three months of that decision being made public, appeal against it to a person appointed for that purpose by the Secretary of State.

(2) The appointed person must consider the appeal and any representations made by the Secretary of State and, within three months of the appeal being made, report in writing with a recommended course of action to the Secretary of State.

(3) The Secretary of State must either—

- (a) uphold the decision;
- (b) reverse the decision and ensure that the reversal is made public.

(4) Applications covered by this regulation are applications for the registration of a PDO, PGI or TSG.

Transitional period

22.—(1) Where the Secretary of State makes a favourable decision in respect of an application, the transitional period afforded in Article 15(4), which is a period of 10 years, applies if the operators concerned—

- (a) have legally marketed the products in question, using the names concerned, continuously for a period of at least five years prior to the date on which the application to the Secretary of State is lodged, and
- (b) have made that point during the national opposition procedure.

(2) The transitional period referred to in this regulation applies from the date on which the Secretary of State lodges an application dossier with the Commission.

(3) Applications covered by this regulation are applications for the registration of a PDO or PGI.

Review

23.—(1) The Secretary of State must from time to time—

- (a) carry out a review of the regulatory provision contained in these Regulations, and
- (b) publish a report setting out the conclusions of the review.

(2) The first report must be published before the end of the period of five years beginning with the date on which these Regulations come into force for any purpose.

(3) Subsequent reports must be published at intervals not exceeding five years.

(4) Section 30(3) of the Small Business, Enterprise and Employment Act 2015 requires that a review carried out under this regulation must, so far as is reasonable, have regard to how the obligations under the EU Regulations are implemented in other member States.

(5) Section 30(4) of the Small Business, Enterprise and Employment Act 2015 requires that a report published under this regulation must, in particular—

- (a) set out the objectives intended to be achieved by the regulatory provision referred to in paragraph (1)(a),
- (b) assess the extent to which these objectives are achieved,
- (c) assess whether those objectives remain appropriate, and
- (d) if those objectives remain appropriate, assess the extent to which they could be achieved in another way which involved less onerous regulatory provision.

(6) In this regulation, “regulatory provision” has the same meaning as in sections 28 to 32 of the Small Business, Enterprise and Employment Act 2015(13) (see section 32 of that Act).

Amendment of the Co-ordination of Regulatory Enforcement (Enforcement Action) Order 2009

24.—(1) The Co-ordination of Regulatory Enforcement (Enforcement Action) Order 2009(14) is amended as follows.

(2) After article 2(1)(m) (enforcement action) insert—

“(ma) the service of a compliance notice under regulation 12 of the Quality Schemes (Agricultural Products and Foodstuffs) Regulations 2018;”.

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

25.—(1) The Official Feed and Food Controls (England) Regulations 2009(15) are amended as follows.

(2) In Schedule 3 (definition of relevant food law)—

- (a) omit paragraph (a)(iii);
- (b) for paragraph (a)(iv) substitute—
 - “(iv) the application of the rules on quality schemes which provide the basis for the identification and protection of names and terms that indicate or describe agricultural products with value-adding characteristics laid down in Regulation (EU) No 1151/2012 of the European Parliament and of the Council on quality schemes for agricultural products and foodstuffs;”.

Amendment of the Official Controls (Animals, Feed and Food) (Scotland) Regulations 2007

26.—(1) The Official Controls (Animals, Feed and Food) (Scotland) Regulations 2007(16) are amended as follows.

(13) 2015 c. 26; section 28 was disapplied by the European Union (Withdrawal) Act 2018 (c. 16), Schedule 7(3), paragraph 27; section 30(3) was amended by the Enterprise Act 2016 (c. 12), section 19(a) and the European Union (Withdrawal) Act 2018 (c. 16), Schedule 8(2), paragraphs 36(a) and (b).

(14) S.I. 2009/665, amended by S.I. 2014/3070; there are other amending instruments but none is relevant.

(15) S.I. 2009/3255, to which there are amendments not relevant to these Regulations.

(16) S.S.I. 2007/91, to which there are amendments not relevant to these Regulations.

(2) In regulation 2 (interpretation)—

(a) omit paragraph (2)(a);

(b) for paragraph (2)(b) substitute—

“(b) the application of the rules on quality schemes which provide the basis for the identification and protection of names and terms that indicate or describe agricultural products with value-adding characteristics laid down in Regulation (EU) No 1151/2012 of the European Parliament and of the Council on quality schemes for agricultural products and foodstuffs.”.

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

27.—(1) The Official Feed and Food Controls (Scotland) Regulations 2009(**17**) are amended as follows.

(2) in Schedule 3 (definition of relevant food law)—

(a) omit paragraph (a)(iii);

(b) for paragraph (a) (iv) substitute—

“(iv) the application of the rules on quality schemes which provide the basis for the identification and protection of names and terms that indicate or describe agricultural products with value-adding characteristics laid down in Regulation (EU) No 1151/2012 of the European Parliament and of the Council on quality schemes for agricultural products and foodstuffs.”.

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

28.—(1) The Official Feed and Food Controls Regulations (Northern Ireland) 2009(**18**) are amended as follows.

(2) In Schedule 3 (definition of relevant food law)—

(a) omit paragraph (a)(iii);

(b) for paragraph (a)(iv) substitute—

“(iv) the application of the rules on quality schemes which provide the basis for the identification and protection of names and terms that indicate or describe agricultural products with value-adding characteristics laid down in Regulation (EU) No 1151/2012 of the European Parliament and of the Council of quality schemes for agricultural products and foodstuffs.”.

29th November 2018

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

(17) [S.S.I. 2009/446](#), to which there are amendments not relevant to these Regulations.

(18) [S.R. 2009 No. 427](#), to which there are amendments not relevant to these Regulations.

EXPLANATORY NOTE

(This note is not part of these Regulations)

These Regulations provide for the enforcement of Regulation (EU) No 1151/2012 of the European Parliament and of the Council on quality schemes for agricultural products and foodstuffs (OJ No L 343, 14.12.2012, p.1) and three supplementary Commission Regulations, as read with a provision of Regulation (EC) No 882/2004 of the European Parliament and of the Council on official controls performed to ensure the verification of compliance with feed and food law, animal health and welfare rules (OJ No L 165, 30.4.2004, p.1).

Regulations 3 to 9 cover the authorities responsible and their officers.

Regulations 10 to 20 set out enforcement-related provisions. In particular, regulation 12 enables a compliance notice to be served requiring compliance with specific provisions of the relevant EU Regulations. Should a person fail to comply with a compliance notice, regulation 13 empowers the enforcement authority to issue a non-compliance penalty notice. Alongside the non-compliance penalty notice, regulation 14 empowers an enforcement authority to issue an enforcement costs recovery notice and regulations 15 to 18 cover appeals against those notices.

Regulation 21 provides a right to appeal against a decision by the Secretary of State to accept or refuse an application for the registration of a protected designation of origin, a protected geographical indication or a traditional speciality guaranteed under the application process laid down in Article 49 of Regulation 1151/2012 and regulation 22 covers transitional issues relating to applications.

Consequential amendments are covered in regulations 24 to 28.

An impact assessment for this instrument has not been produced as no impact on the private, voluntary or public sector is foreseen.