

Regulations made by the Secretary of State, laid before Parliament under paragraph 5(3) of Schedule 7 to the European Union (Withdrawal) Act 2018, for approval by resolution of each House of Parliament within twenty-eight days beginning with the day on which the Regulations were made, subject to extension for periods of dissolution, prorogation or adjournment for more than four days.

STATUTORY INSTRUMENTS

2019 No. 1343

**EXITING THE EUROPEAN UNION
AGRICULTURE
FOOD**

**The Common Organisation of the Markets in
Agricultural Products (Producer Organisations and
Wine) (Amendment etc.) (EU Exit) Regulations 2019**

<i>Made</i>	- - - -	<i>at 2.05 p.m. on 14th October 2019</i>
<i>Laid before Parliament</i>		<i>at 4.30 p.m. on 14th October 2019</i>
<i>Coming into force in accordance with regulation 1</i>		

The Secretary of State makes these Regulations 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).

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(2), during the preparation of these Regulations so far as they relate to food.

The Secretary of State is of the opinion that, by reason of urgency, it is necessary to make these Regulations without a draft of the instrument being laid before, and approved by a resolution of, each House of Parliament.

(1) 2018 c. 16.

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

PART 1

Introductory

Citation and commencement

1.—(1) These Regulations may be cited as the Common Organisation of the Markets in Agricultural Products (Producer Organisations and Wine) (Amendment etc.) (EU Exit) Regulations 2019.

- (2) Parts 1 and 4 come into force immediately before exit day.
- (3) Parts 2, 3 and 5 come into force on exit day.

PART 2

Amendment of retained direct EU legislation

Amendment of Commission Delegated Regulation (EU) No 880/2012

2.—(1) Commission Delegated Regulation (EU) No 880/2012 supplementing Council Regulation (EC) No 1234/2007 as regards transnational cooperation and contractual negotiations of producer organisations in the milk and milk products sector is amended as follows.

- (2) Omit Articles 1 and 2.
- (3) In Article 3, for “Article 126c(2)(c) and (3) of Regulation (EC) No 1234/2007” substitute “Article 149(2)(c) of Regulation (EU) No 1308/2013”.
- (4) After Article 4, omit the words from “This Regulation” to “Member States.”.

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

3.—(1) Regulation (EU) No 1308/2013 of the European Parliament and of the Council establishing a common organisation of the markets in agricultural products⁽³⁾ is amended as follows.

- (2) In Article 90, after paragraph 3 insert—
 - “4. Paragraph 3 does not apply to products imported from the European Union until the end of the period of 9 months beginning on the day after that on which exit day falls provided that:
 - (a) the products comply with paragraph 1;
 - (b) the products are accompanied by documentation which provides:
 - (i) evidence of the alcohol content; and
 - (ii) details of the amount of wine in the consignment; and
 - (c) where the Secretary of State has published a statement under paragraph 5 in respect of those products, the products are imported before the date on which the statement is published.

(3) Other amendments to Regulation (EU) No 1308/2013 are made by S.I. 2019/821, 828, 831, the Agriculture (Miscellaneous Amendments) (EU Exit) Regulations 2019 (S.I. 2019/XXX) and the Common Organisation of the Markets in Agricultural Products and Common Agricultural Policy (Miscellaneous Amendments etc.) (EU Exit) (No.2) Regulations 2019 (S.I. 2019/XXX).

5. Where the Secretary of State considers that products referred to in paragraph 1 that are imported from the European Union do not meet the standards required in order to be marketed in the United Kingdom, the Secretary of State must publish a statement to that effect.”

(3) In Article 92(2)—

- (a) in point (b), for “internal market” substitute “market in the United Kingdom”;
- (b) in point (c), for “national” substitute “constituent nations to implement their own”.

(4) In Article 97, for paragraphs 3 and 4 substitute—

“3. Where the Secretary of State considers that the conditions laid down in this Subsection are met, the Secretary of State must publish the single document referred to in point (d) of Article 94(1) and the product specification.

4. Where the Secretary of State considers that the conditions laid down in this Subsection are not met, the Secretary of State must decide to reject the application and:

- (a) inform the applicant and any interested parties of the decision and the reasons for that decision; and
- (b) publish the decision and the reasons.”.

(5) After Article 97 insert—

“Article 97A

Applications pending on exit day

Where an application has been submitted to the Commission under Article 96 before exit day and, as at exit day, the Commission has not adopted an implementing act in respect of the application under Article 99, the Secretary of State must publish the single document referred to in point (d) of Article 94(1) and the product specification as soon as reasonably practicable.

The publication of the single document initiates the objection procedure under Article 98 in respect of that application.”.

(6) For Article 99 substitute—

“Article 99

Decision on protection

1. On the basis of the information available to the Secretary of State upon completion of the objection procedure referred to in Article 98, the Secretary of State must decide to:

- (a) reject the application if the Secretary of State considers that the conditions laid down in this Subsection are not met; or
- (b) approve the application and update the register provided for in Article 104 accordingly.

2. Where the Secretary of State decides to reject an application under point (a) of the first paragraph, the Secretary of State must:

- (a) inform the applicant and any interested parties of the decision and the reasons for that decision; and
- (b) publish the decision and the reasons.”.

(7) For Article 106 substitute—

*“Article 106**Cancellation*

Either on the Secretary of State’s own initiative or following a request, the Secretary of State may decide, in accordance with Commission Delegated Regulation (EU) 2019/33 and Commission Implementing Regulation (EU) 2019/34, to cancel the protection of a designation of origin or a geographical indication where the Secretary of State considers that compliance with the corresponding product specification is no longer ensured.

Where the Secretary of State makes a decision to cancel under the first paragraph, the Secretary of State must:

- (a) inform any interested party of the decision and the reasons for that decision;
 - (b) publish the decision and reasons; and
 - (c) update the register provided for in Article 104 accordingly.”.
- (8) For Article 107 substitute—

*“Article 107**Protection of established protected designations of origin etc.*

1. The Secretary of State must enter the names of established protected designations of origin and established protected geographical indications in the register provided for in Article 104 of this Regulation.

2. For the purposes of paragraph 1, a protected designation of origin or a protected geographical indication is established where it:

- (a) is shown as a United Kingdom designation of origin or geographical indication on the register maintained by the Commission pursuant to Article 104 as the register stands immediately before exit day;
- (b) arises out of an international agreement in force on exit day between the United Kingdom and a third country.”.

(9) In Article 109—

- (a) in paragraph 1, for the words from “Commission” to “Article 227” substitute “Secretary of State may make regulations”;
- (b) in paragraph 2, for the words from “Commission” to “Article 227” substitute “Secretary of State may make regulations”;
- (c) in paragraph 3—
 - (i) in the words before point (a), for the words from “Commission” to “Article 227” substitute “Secretary of State may make regulations”;
 - (ii) in point (b), for “Commission” substitute “Secretary of State”;
 - (iii) after point (f) insert—
 - “(g) rights to appeal any decision made:
 - (i) under Article 99 to reject or approve an application for the protection of a designation of origin or of a geographical indication;
 - (ii) to reject or approve an application submitted under Article 105 to amend the product specification of a protected designation of origin or of a protected geographical indication;
 - (iii) under Article 106, either to reject or approve an application to cancel a protected designation of origin or a protected geographical

- indication, or to cancel such protection on the Secretary of State's own initiative,
- including the parties who may bring an appeal, the grounds and form of appeal, appeals procedure, and the identity and powers of the appeal body.”;
- (d) in paragraph 4, for the words from “Commission” to “on” substitute “Secretary of State may make regulations about”;
- (e) in paragraph 5—
- (i) for “1 August 2009”, in both places it occurs, substitute “exit day”;
 - (ii) for “that date”, in both places it occurs, substitute “exit day”;
 - (iii) for the words from “Commission” to “Article 227” substitute “Secretary of State may make regulations for securing, as far as practicable, uninterrupted protection equivalent to that provided by this Regulation immediately before exit day, and in particular”;
 - (iv) omit “by Member States”.
- (10) In Article 110—
- (a) for the heading substitute—
- “Other delegated powers”;*
- (b) in paragraph 1—
- (i) for the words from “Commission” to “acts” substitute “Secretary of State may make regulations”;
 - (ii) omit the last sentence;
- (c) in paragraph 2—
- (i) for the words from “Commission” to “acts” substitute “Secretary of State may make regulations”;
 - (ii) omit the last sentence.
- (11) Omit Article 111.
- (12) In Article 114—
- (a) in paragraph 1, for the words from “Commission” to “Article 227” substitute “Secretary of State may make regulations”;
- (b) in paragraph 2—
- (i) for the words from “Commission” to “Article 227” substitute “Secretary of State may make regulations”;
 - (ii) in point (g), for “Commission” substitute “Secretary of State”;
 - (iii) after point (g), insert—
- “(h) the circumstances in which an interested party may appeal any decision to:
 - (i) reject or approve an application for the protection of a traditional term;
 - (ii) reject or approve an application for the modification of the protection of a traditional term;

- (iii) either reject or approve an application for the cancellation of the protection of a traditional term, or to cancel such protection on the Secretary of State’s own initiative.”;
- (c) in paragraph 3—
 - (i) for “Union” substitute “United Kingdom”;
 - (ii) for the words from “Commission” to “Article 227” substitute “Secretary of State may make regulations”.
- (13) In Article 115—
 - (a) for the heading substitute—
 - “Other delegated powers”*;
 - (b) in paragraph 1, for the words “Commission may adopt implementing acts” substitute “Secretary of State may make regulations”;
 - (c) for paragraph 2 substitute—
 - “2. The Secretary of State may:
 - (a) approve or reject an application for protection of a traditional term;
 - (b) approve or reject an application for modification of a protected traditional term;
 - (c) approve or reject an application to cancel the protection of a traditional term;
 - (d) cancel the protection of a traditional term on the Secretary of State’s own initiative.

Where the Secretary of State makes a decision under the first subparagraph of this paragraph, the Secretary of State must:

 - (a) inform such parties as the Secretary of State considers to have an interest in the decision and, in the case of a decision to reject an application under points (a), (b) or (c) of the first subparagraph, the reasons for the rejection; and
 - (b) publish the decision and, in the case of a decision to reject an application under points (a), (b) or (c) of the first subparagraph, the reasons for the rejection.”;
 - (d) in paragraph 3, for the words “Commission shall adopt implementing acts” substitute “Secretary of State may make regulations”;
 - (e) omit paragraph 4.- (14) Omit Article 116.
- (15) In Article 119(3), for point (b) substitute—
 - “(b) in exceptional and duly justified circumstances specified in regulations made by the Secretary of State in order to ensure compliance with existing labelling practices;”.
- (16) In Article 191—
 - (a) for the first paragraph substitute—
 - “The Secretary of State may, pursuant to international obligations, make regulations setting out derogations from point 5 of Section B or Section C of Part 2 of Annex 8 for imported products.”;
 - (b) in the second paragraph, omit “of the Member State of release into free circulation”;
 - (c) in the third paragraph—
 - (i) for “Commission may adopt implementing acts” substitute “Secretary of State may make regulations”;

- (ii) omit the last sentence.

Amendment of Commission Delegated Regulation (EU) 2016/232

4. In Commission Delegated Regulation (EU) 2016/232 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council with regard to certain aspects of producer cooperation, omit Articles 2 and 4.

Amendment of Commission Delegated Regulation (EU) 2017/891

5.—(1) Commission Delegated Regulation (EU) 2017/891 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council with regard to the fruit and vegetables and processed fruit and vegetables sectors and supplementing Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to penalties to be applied in those sectors is amended as follows.

(2) In Article 2(4)—

- (a) omit points (d) and (e);
- (b) after point (q)(5), insert—

“(r) ‘existing non-UK member’ means an ex-transnational producer organisation member:

- (i) who was, immediately before exit day, a producer member of such organisation within the meaning of Article 2(b) (as it had effect immediately before exit day); and
- (ii) at least one of whose holdings is situated in a member State;

(s) ‘ex-transnational producer organisation’ means a producer organisation that was, immediately before exit day, recognised in the United Kingdom as a transnational producer organisation within the meaning of Article 2(d) (as it had effect immediately before exit day).”.

(3) In Article 3—

- (a) omit the first and second sentences;
- (b) in the third sentence—

(i) for “Member States may adopt” substitute “Nothing in this Regulation prevents the Secretary of State from adopting”;

(ii) for “organisations and on” substitute “organisations, including rules concerning”.

(4) In Article 4(1) and (2), for “Member States” substitute “The Secretary of State”.

(5) In Article 5—

- (a) in the first paragraph, for the words from “Member States” to the end substitute “producer organisations must have at least five producer members, all of whom are separate legal entities.”;
- (b) omit the second paragraph.

(6) In Article 6—

- (a) in paragraph 2, for the second sentence substitute—

(4) Article 2 is also amended by the Common Agricultural Policy (Market Measures, Notifications and Direct Payments) (Miscellaneous Amendments) (EU Exit) Regulations 2019 (S.I. 2019/XXX).

(5) The Common Agricultural Policy (Market Measures, Notifications and Direct Payments) (Miscellaneous Amendments) (EU Exit) Regulations 2019 (S.I. 2019/XXX) insert points (n) to (q) into Article 2.

“Subject to paragraph 3, resignation from membership will take effect:

- (a) if notice of resignation is received by the producer organisation on or before 30 September (or such earlier date as may be set in the producer organisation’s membership agreement in accordance with paragraph 3), on 1 January of the following year;
 - (b) if notice of resignation is received by the producer organisation after 30 September (or such earlier date as may be set in the producer organisation’s membership agreement in accordance with paragraph 3), on 1 January of the year after the following year.”;
- (b) after paragraph 2, insert—
- “3. The membership agreement of a producer organisation may require notice of resignation to be given before 30 September (but no earlier than 30 June) of the year before that in which resignation takes effect.”.
- (7) In Article 7—
- (a) in the words before point (a), for “Member States” substitute “The Secretary of State”;
 - (b) in point (e), for “national” substitute “applicable”.
- (8) For Article 9, substitute—

“Article 9

Minimum value of marketed production

For the purposes of Article 154(1)(b) of Regulation (EU) No 1308/2013, the minimum value of marketed production is:

- (a) €250,000 for producer organisations recognised for mushrooms or nuts;
 - (b) €1 million for producer organisations recognised in respect of any other product or group of products.”.
- (9) In Article 12—
- (a) in paragraph 1, in the words before point (a), for “Member State” substitute “Secretary of State”;
 - (b) in paragraph 2, in the second subparagraph—
 - (i) for “Member States may set” substitute “nothing in this Regulation prevents the Secretary of State from setting”;
 - (ii) for “Member States may increase” substitute “Nothing in this Regulation prevents the Secretary of State from increasing”.
- (10) In Article 13(1), for “a Member State” substitute “the Secretary of State”.
- (11) For Article 14, substitute—

“Article 14

Ex-transnational producer organisations

1. An ex-transnational producer organisation retains recognition as a producer organisation pursuant to Article 152 of Regulation (EU) No 1308/2013 provided that it fulfils the criteria and requirements for recognition set out in Regulation (EU) No 1308/2013, this Regulation and Regulation (EU) 2017/892.

2. Any person that:

(a) was a member of an ex-transnational producer organisation immediately before exit day; and

(b) is not a producer within the meaning of Article 2(a),

is a non-producer member of such producer organisation within the meaning of Article 16, whether or not such person was a producer member of such organisation before exit day.”.

(12) In Article 15(1), in the first subparagraph, for “Member State” substitute “Secretary of State”.

(13) In Article 16—

(a) in paragraph 1—

(i) for “Member States may determine the conditions under which any” substitute “A”;

(ii) after “producer organisation” insert “if and for so long as there is no conflict of interest between that person and the producer organisation”;

(b) omit paragraph 2;

(c) in paragraph 3—

(i) in the first subparagraph, in point (b), for “by the Union” substitute “from public funds⁽⁶⁾”;

(ii) for the second subparagraph substitute—

“Restrictions on the natural or legal persons’ right to vote on decisions relating to operational funds are set out in Annex 8 to this Regulation.”;

(d) after paragraph 3 insert—

“4. By way of derogation from paragraph 3(b), an existing non-UK member of an ex-transnational producer organisation may continue to benefit directly from measures financed from public funds, where:

(a) those measures are contained in an operational programme that was implemented by that organisation before exit day; and

(b) that member was entitled to benefit from those measures immediately before exit day.”.

(14) In Article 17—

(a) in paragraph 1—

(i) omit “national”;

(ii) for “Member State” substitute “Secretary of State”;

(b) for paragraph 2 substitute—

“2. The maximum percentage of voting rights and shares or capital which any natural or legal person may hold in any producer organisation that does not fall within paragraph 1 is set out in Annex 8 to this Regulation.”;

(c) in paragraph 3, for “Member States’ authorities” substitute “The Secretary of State”;

(d) omit paragraph 4.

(15) In Article 18—

(a) after “17” insert “(save as provided otherwise in this Article and Annex 8)”;

(6) The Common Agricultural Policy (Market Measures, Notifications and Direct Payments) (Miscellaneous Amendments) (EU Exit) Regulations 2019 (S.I. 2019/XXX) insert a definition of “public funds” into Article 2 of Regulation (EU) 2017/891.

- (b) at the end, insert “Restrictions on voting rights in associations of producer organisations are set out in Annex 8 to this Regulation.”.
- (16) In Article 19—
- (a) in paragraph 1, for “Member States” substitute “The Secretary of State”;
- (b) in paragraph 4, for “Member States may adopt” substitute “Nothing in this Regulation prevents the Secretary of State from adopting”.
- (17) In Article 20—
- (a) in paragraph 1—
- (i) for “Member States may determine the conditions under which natural” substitute “Natural”;
- (ii) after “producer organisations” insert “if and for so long as there is no conflict of interest between those persons and the association of producer organisations”;
- (b) in paragraph 2—
- (i) in the first subparagraph, in point (b), for “by the Union” substitute “from public funds”;
- (ii) for the second subparagraph substitute—
- “Restrictions on those members’ right to vote on decisions relating to operational programmes are set out in Annex 8 to this Regulation.”.
- (18) Omit Article 21.
- (19) In Article 22—
- (a) in paragraph 1—
- (i) in the first subparagraph, for “The”, in the first place it occurs, substitute “Except to the extent that this Article and Article 23 provide otherwise, the”;
- (ii) in the second subparagraph, for “The” substitute “Except to the extent that this Article and Article 23 provide otherwise, the”;
- (b) in paragraph 3, for “Member States” substitute “The Secretary of State”;
- (c) omit paragraph 4;
- (d) in paragraph 5, for “Only” substitute “Except to the extent that this Article and Article 23 provide otherwise, only”;
- (e) in paragraph 8(b), for “Member State approval” substitute “approval by the Secretary of State”.
- (20) In Article 23(7)—
- (a) in paragraph 2, for “The” substitute “Except where paragraph 2A or 2B applies, the”;
- (b) after paragraph 2, insert—
- “**2A.** For ex-transnational producer organisations in the year in which exit day falls, the ceiling on financial assistance referred to in Article 34(2) of Regulation (EU) No 1308/2013 is to be calculated, and compliance with Article 154(1)(b) of Regulation (EU) No 1308/2013 is to be assessed, on the basis of the value of marketed production calculated as follows:

$$\frac{A \times C}{E} + \frac{B \times D}{E}$$

(7) Article 23 is also amended by the Common Agricultural Policy (Market Measures, Notifications and Direct Payments) (Miscellaneous Amendments) (EU Exit) Regulations 2019 (S.I. 2019/XXX).

Where

A is the value of the marketed production during the reference period of producers within the meaning of Article 2(a) (as it had effect immediately before exit day) who were members of the organisation on 1 January of the year in which exit day falls, calculated in accordance with Article 22 (as it had effect immediately before exit day);

B is the value of the marketed production during the reference period of producers within the meaning of Article 2(a) (as it has effect on exit day) who were members of the organisation on 1 January of the year in which exit day falls, calculated in accordance with Article 22 (as it has effect on exit day);

C is:

(i) where exit day falls at midnight, the number of full days in the year in which exit day falls that fall before exit day; or

(ii) where exit day falls at any other time, one plus the number of full days in the year in which exit day falls that fall before exit day;

D is the number of full days in the year in which exit day falls that fall after exit day; and

E is the total number of full days in the year concerned.

2B. For ex-transnational producer organisations in any year after the year in which exit day falls, the ceiling on financial assistance referred to in Article 34(2) of Regulation (EU) No 1308/2013 is to be calculated, and compliance with Article 154(1)(b) of Regulation (EU) No 1308/2013 is to be assessed, on the basis of the value of the marketed production during the reference period of producers who are producer members of the organisation on 1 January of the year for which aid is requested, calculated in accordance with Article 22.”;

(c) in paragraph 4, in the second subparagraph, after “appropriate authority”⁽⁸⁾ insert “and the Secretary of State”.

(21) In Article 31(7)⁽⁹⁾—

(a) in the first subparagraph, after “producer members” insert “(or, in relation to ex-transnational producer organisations until the end of the year in which exit day falls, existing non-UK members)”;

(b) in the second subparagraph, omit “producer” in the first place it occurs;

(c) at the end of the third subparagraph, insert—

“An ex-transnational producer organisation is not required to recover an investment (or its residual value) that was implemented on the holdings or premises of an existing non-UK member that leaves the organisation.”.

(22) After Article 36(5), insert—

“6. The obligations to recover financial assistance under the sentence at the end of paragraph 2(b) and paragraph 3 do not apply to investments that are financed under an operational programme implemented on exit day by an ex-transnational producer organisation.”.

(23) In Article 56(2)—

⁽⁸⁾ The Common Agricultural Policy (Market Measures, Notifications and Direct Payments) (Miscellaneous Amendments) (EU Exit) Regulations 2019 (S.I. 2019/XXX) amend Article 23(4) to replace the reference to the “competent authority of the Member State concerned” with “appropriate authority”.

⁽⁹⁾ Article 31(7) is also amended by the Common Agricultural Policy (Market Measures, Notifications and Direct Payments) (Miscellaneous Amendments) (EU Exit) Regulations 2019 (S.I. 2019/XXX).

- (a) for “, associations” substitute “and associations”;
 - (b) omit “, transnational associations of producer organisations and producer groups”.
- (24) In Article 59—
- (a) in paragraph 1(10)—
 - (i) in the first sentence—
 - (aa) for “a Member State” substitute “the Secretary of State”;
 - (bb) for “it” substitute “the Secretary of State”;
 - (ii) in the second sentence, for “their” substitute “the Secretary of State’s”;
 - (b) in paragraph 2, in the first subparagraph—
 - (i) in the first and second sentences, for “Member State” substitute “Secretary of State”;
 - (ii) in the third sentence, omit “horizontal national”;
 - (c) in paragraph 3—
 - (i) in the first sentence—
 - (aa) for “competent authority of the Member State” substitute “Secretary of State”;
 - (bb) for “Member State”, in the second place it occurs, substitute “Secretary of State”;
 - (ii) in the second sentence, omit “horizontal national”;
 - (d) in paragraph 4—
 - (i) for “a Member State” substitute “the Secretary of State”;
 - (ii) for “it” substitute “the Secretary of State”;
 - (e) in paragraph 5—
 - (i) in the first sentence, for “Member State” substitute “Secretary of State”;
 - (ii) in the second sentence, omit “horizontal national”;
 - (f) in paragraph 6—
 - (i) in the first subparagraph, for “Member States” substitute “The Secretary of State”;
 - (ii) in the second subparagraph—
 - (aa) for “Member State”, in both places it occurs, substitute “Secretary of State”;
 - (bb) for “Member States” substitute “the Secretary of State”.
- (25) In Article 60—
- (a) in paragraph 1(11), after “payments to and” insert “the Secretary of State shall suspend”;
 - (b) in paragraph 2, at the end of the words after point (c)(12), insert “in point (b), and the Secretary of State in points (a) and (c)”.
- (26) Omit Articles 68 to 71.
- (27) Omit Article 72(2).
- (28) In Annex 2—

(10) Article 59(1) is also amended by the Common Agricultural Policy (Market Measures, Notifications and Direct Payments) (Miscellaneous Amendments) (EU Exit) Regulations 2019 (S.I. 2019/XXX).

(11) Article 60(1) is also amended by the Common Agricultural Policy (Market Measures, Notifications and Direct Payments) (Miscellaneous Amendments) (EU Exit) Regulations 2019 (S.I. 2019/XXX).

(12) The Common Agricultural Policy (Market Measures, Notifications and Direct Payments) (Miscellaneous Amendments) (EU Exit) Regulations 2019 (S.I. 2019/XXX) insert words after point (c) in Article 60(2) of Regulation (EU) 2017/891.

- (a) in point 8, for “Union.” substitute—
“United Kingdom. However, operations or costs relating to the quantities produced by the members of the producer organisation within the European Union are not ineligible under this paragraph until the year after that in which exit day falls.”;
 - (b) in point 19, after “producer members” insert “(or, in relation to ex-transnational producer organisations until the end of the year in which exit day falls, existing non-UK members)”;
 - (c) in point 20—
 - (i) for “Union”, in both places it occurs, substitute “United Kingdom”;
 - (ii) at the end, insert “However, measures outsourced by the producer organisation or their associations within the European Union are not ineligible under this paragraph until the year after that in which exit day falls.”.
- (29) In Annex 3—
- (a) in point 2(c), omit the words from “, as well” to “associations of producer organisations”;
 - (b) in point 13—
 - (i) for “territory of the Union” substitute “United Kingdom (or, until the end of the year in which exit day falls, European Union)”;
 - (ii) omit “(a) and”.
- (30) In Annex 5, in Part A(13)—
- (a) for “, associations”, in each place it occurs, substitute “and associations”;
 - (b) in point 2—
 - (i) omit “, transnational associations of producer organisations”, in each place it occurs;
 - (ii) omit point (a)(ii);
 - (iii) in point (b), omit the words from “In addition” to the end;
 - (c) in points 3 and 4, omit “and transnational associations of producer organisations”, in each place it occurs.
- (31) After Annex 7, insert—

“ANNEX 8

Restrictions on shareholding and voting rights in producer organisations and associations of producer organisations

1. In this Annex:

- (a) ‘voting right’ means a right to vote in relation to a relevant decision;
- (b) ‘relevant decision’ means any decision affecting the producer organisation or association of producer organisations (as the case may be) and its members (in their capacity as such), including the election of the producer organisation’s or association of producer organisations’ (as the case may be) directors or board members.

2. A producer organisation must provide in its members’ agreements and statutes for each producer member to have one voting right.

3. By way of derogation from point 1, a producer organisation that has more than ten members may, with the agreement of the Secretary of State, provide for individual producer members to exercise up to 10% each of the voting rights. The remaining voting rights (other

(13) Part A of Annex 5 is also amended by the Common Agricultural Policy (Market Measures, Notifications and Direct Payments) (Miscellaneous Amendments) (EU Exit) Regulations 2019 (S.I. 2019/XXX).

than voting rights held by non-producer members, insofar as permitted by the Secretary of State and the producer organisation) must be shared between the remaining producer members. A producer organisation that implements this option must adopt measures to prevent abuses of power by its members.

4. A producer organisation may provide in its members' agreements and statutes for non-producer members to have voting rights, provided that:

- (a) a non-producer member must not be permitted to hold more than one voting right;
- (b) the total share of the voting rights exercisable by non-producer members must be:
 - (i) in relation to decisions concerning an operational programme implemented by an ex-transnational producer organisation on exit day, less than a majority of the total number of voting rights exercisable in respect of such decisions;
 - (ii) in relation to any other relevant decisions, no more than 20%.

5. A natural or legal person must not hold more than:

- (a) 20% of the total number of shares or amount of capital in a producer organisation directly; or
- (b) 49% of the total number of shares or amount of capital in a producer organisation in total, directly or indirectly.

6. For the purpose of point 4, a person holds a share or capital "indirectly" if the person has a majority stake in another person and that other person:

- (a) holds the share or capital in question; or
- (b) is part of a chain of persons:
 - (i) each of whom (other than the last) has a majority stake in the person immediately below it in the chain; and
 - (ii) the last of whom holds the share or capital.

7. An association of producer organisations must provide in its members' agreements and statutes for each member that is a producer organisation to have one voting right.

8. An association of producer organisations may provide in its members' agreements and statutes for producer members that are not producer organisations to have voting rights, provided that:

- (a) such members must not be permitted to hold more than one voting right each;
- (b) the total share of the voting rights exercisable by such members must be less than a majority of the total number of voting rights exercisable in respect of each relevant decision."

Amendment of Commission Implementing Regulation (EU) 2017/892

6.—(1) Commission Implementing Regulation (EU) 2017/892 laying down rules for the application of Regulation (EU) No 1308/2013 of the European Parliament and of the Council with regard to the fruit and vegetables and processed fruit and vegetables sectors is amended as follows.

(2) In Article 1A(14), at the end insert—

- “(e) ‘existing non-UK member’ means an ex-transnational producer organisation member:

- (i) who was, immediately before exit day, a producer member of such organisation within the meaning of Article 2(b) of Regulation (EU) 2017/891 (as it had effect immediately before exit day); and
 - (ii) at least one of whose holdings is situated in a member State;
- (f) ‘ex-transnational producer organisation’ means a producer organisation that was, immediately before exit day, recognised in the United Kingdom as a transnational producer organisation within the meaning of Article 2(d) of Regulation (EU) 2017/891 (as it had effect immediately before exit day).”.
- (3) In Article 3(3), in the words before point (a), after “producer members” insert “(or, in relation to ex-transnational producer organisations until the end of the year in which exit day falls, existing non-UK members)”.
- (4) In Article 9—
- (a) in paragraph 6, omit the second sentence;
 - (b) omit paragraph 7.
- (5) In Article 21, in the first subparagraph, omit “, transnational associations of producer organisations”.
- (6) In Article 22, for the first sentence substitute—
- “The Secretary of State must ensure that a unique identification system applies to producer organisations and associations of producer organisations with regard to their aid applications.”.
- (7) At the end of Article 23(15), insert “, and the procedures for the submission of requests for recognition are those published from time to time by the Secretary of State”.
- (8) In Article 24—
- (a) in paragraph 1, for “Member States” substitute “the Secretary of State”;
 - (b) in paragraph 2, for “Member States” substitute “The Secretary of State”.
- (9) In Article 26(4)(16), after “producer members” insert “(or, in relation to ex-transnational producer organisations until the end of the year in which exit day falls, existing non-UK members)”.
- (10) At the end of Article 28, insert—
- “3. If the check reveals any non-compliance with the recognition criteria, the producer organisation or association of producer organisations concerned must send a copy of the report to the Secretary of State within 28 days of the date on which the final version of the report is sent to the producer organisation or association of producer organisations.”.
- (11) Omit Articles 32 and 33.
- (12) At the end of Article 34(17), insert—
- “If a check reveals any non-compliance with the recognition criteria, a detailed report must be made and sent to the Secretary of State in accordance with Article 28.”.
- (13) In Article 35(18), after “appropriate authority”, in both places it occurs, insert “or the Secretary of State (as the case may be)”.

(15) Article 23 is replaced by the Common Agricultural Policy (Market Measures, Notifications and Direct Payments) (Miscellaneous Amendments) (EU Exit) Regulations 2019 (S.I. 2019/XXX), which make provision for the procedures for the submission of aid applications, requests for approval of operational programmes, as well as payment claims.

(16) Article 26(4) is also amended by the Common Agricultural Policy (Market Measures, Notifications and Direct Payments) (Miscellaneous Amendments) (EU Exit) Regulations 2019 (S.I. 2019/XXX).

(17) Article 34 is also amended by the Common Agricultural Policy (Market Measures, Notifications and Direct Payments) (Miscellaneous Amendments) (EU Exit) Regulations 2019 (S.I. 2019/XXX).

(18) The Common Agricultural Policy (Market Measures, Notifications and Direct Payments) (Miscellaneous Amendments) (EU Exit) Regulations 2019 (S.I. 2019/XXX) amend Article 35 to replace references to the “competent authority of the Member State” and “Member State” (in the second place it occurs) with “appropriate authority”.

- (14) Omit Chapter 5.
- (15) In Annex 2(19), in the words before Section 1 (*Administrative Information*)—
- (a) in the section entitled “Structure of the Annual Report – Part A”—
 - (i) in point 2—
 - (aa) in the heading, for the words from “, transnational producer” to the end substitute “and associations of producer organisations”;
 - (bb) omit the rows beginning “Table 2.2.” and “Table 2.4.”;
 - (ii) in point 3, in the rows beginning “Table 3.1.” and “Table 3.2.”, for the words from “, transnational producer” to the end substitute “and associations of producer organisations”;
 - (iii) in point 4, in the row beginning “Table 4.1.”, for the words from “transnational producer” to the end substitute “associations of producer organisations”;
 - (b) in the section entitled “Explanatory Notes”—
 - (i) in the subsection entitled “Abbreviations”, omit the rows beginning “Transnational producer organisation” and “Transnational association of producers organisation”;
 - (ii) in the subsection entitled “Code number (ID) of POs, TPOs, APOs, TAPOs and PGs”—
 - (aa) in the heading, for “, TPOs, APOs, TAPOs” substitute “and APOs”;
 - (bb) for “, TPO, APO, TAPO”, in both places it occurs, substitute “or APO”.
- (16) In Annex 2, in Section 2 (*Information Related to POs, TPOs, APOs and PGs*)—
- (a) in the heading, for “, TPOs, APOs, TAPOs” substitute “AND APOs”;
 - (b) in Table 2.1., omit “/TPO(s)/TAPO(s)”, in both places it occurs;
 - (c) omit Table 2.2.;
 - (d) in Table 2.3., omit “/TAPO(s)”, in both places it occurs;
 - (e) omit Table 2.4..
- (17) In Annex 2, in Section 3 (*Expenditures Information*)—
- (a) in Table 3.1.—
 - (i) in the heading, for “, TPOs, APOs and TAPOs” substitute “and APOs”;
 - (ii) omit the columns headed “All TPOs” and “All TAPOs”;
 - (b) in Table 3.2.—
 - (i) in the heading, for “, TPOs, APOs and TAPOs” substitute “and APOs”;
 - (ii) omit the columns headed “All TPOs” and “All TAPOs”.
- (18) In Annex 2, in Section 4 (*Monitoring of Operational Programmes*)—
- (a) in the words before Table 4.1.—
 - (i) for “, associations” substitute “and associations”;
 - (ii) omit “, transnational organisations”;
 - (b) in Table 4.1.—
 - (i) in the heading, for “, TPOs, APOs and TAPOs” substitute “and APOs”;
 - (ii) omit the columns headed “All TPOs” and “All TAPOs”.

(19) Annex 2 is also amended by the Common Agricultural Policy (Market Measures, Notifications and Direct Payments) (Miscellaneous Amendments) (EU Exit) Regulations 2019 (S.I. 2019/XXX).

PART 3

Interpretation of legacy provisions of retained direct EU legislation

Interpretation of Commission Implementing Regulation (EU) No 543/2011

7.—(1) To the extent that Articles 2, 19 to 35 and 50 to 148 of, and Annexes 6 to 18 to, Commission Implementing Regulation (EU) 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⁽²⁰⁾ continue to operate by virtue of the savings provision in Article 80(1)(a) of Commission Delegated Regulation (EU) 2017/891, those provisions are to be read in accordance with this regulation.

(2) Article 19⁽²¹⁾ is to be read as if paragraph 2 (which has no continuing effect) were omitted.

(3) In Title 3, Chapter 1 is to be read as if Sections 2 and 3 (which have no continuing effect) were omitted.

(4) Article 50 is to be read as if—

(a) in paragraph 2, for “Member States shall determine the conditions” there were substituted “Secretary of State must take steps”;

(b) in paragraph 3—

(i) for “Regulation (EC) No 1234/2007” there were substituted “Regulation (EU) No 1308/2013”;

(ii) for “, an association of producer organisations or their” there were substituted “or its”;

(c) in paragraph 4, for “Member States” there were substituted “The Secretary of State”;

(d) paragraph 5 were omitted;

(e) in paragraph 6, for “Article 125a(2)(b) and (c) of Regulation (EC) No 1234/2007” there were substituted “Article 12(1)(b) and (c) of Regulation (EU) 2017/891”;

(f) in paragraph 7—

(i) in the words before point (a), for “Regulation (EC) No 1234/2007” there were substituted “Regulation (EU) No 1308/2013”;

(ii) in point (b)—

(aa) for “is significant. Member States shall provide for reductions to” there were substituted “exceeds 500 miles. Reductions must”;

(bb) the words from “and shall” to the end were omitted;

(g) paragraph 8 were omitted;

(h) in paragraph 9—

(i) in point (a), “or associations of producer organisations” were omitted;

(ii) for point (b) there were substituted—

“(b) subject to the Secretary of State’s approval, by producer members of the producer organisation, if doing so contributes to the objectives listed in Article 152(1)(c) of Regulation (EU) No 1308/2013.”.

⁽²⁰⁾ Articles 2, 19 to 35 and 50 to 148 of, and Annexes 6 to 18 to, Commission Implementing Regulation (EU) No 543/2011 were deleted by Article 79 of Commission Delegated Regulation (EU) 2017/891, but under Article 80 of Regulation (EU) 2017/891 a producer organisation or association of producer organisations may request that an operational programme approved under Regulation (EU) No 543/2011 continue to operate until its end under the conditions applicable under that Regulation.

⁽²¹⁾ Article 19 is also amended by the Common Agricultural Policy (Market Measures, Notifications and Direct Payments) (Miscellaneous Amendments) (EU Exit) Regulations 2019 (S.I. 2019/XXX).

- (5) Article 96(5)(22) is to be read as if for the first subparagraph there were substituted—
- “5. Without prejudice to specific provisions in this Regulation, where the Secretary of State becomes aware that a producer organisation has failed to notify the appropriate authority or the Secretary of State as required under this Regulation, or where the notification appears incorrect in the light of objective facts in the Secretary of State’s possession, the Secretary of State must suspend the recognition of the producer organisation until the notification is correctly made.”.
- (6) Article 103 is to be read as if, after paragraph 2, there were inserted—
- “2A. If an on-the-spot check reveals any non-compliance with the recognition criteria, the producer organisation concerned must send a copy of the report to the Secretary of State within 28 days of the date on which the final version of the report is sent to the producer organisation.”.
- (7) Article 114(23) is to be read as if—
- (a) in paragraph 1—
- (i) the first sentence (which has no continuing effect) were omitted;
- (ii) in the second sentence, for “their” there were substituted “the Secretary of State’s”;
- (b) in paragraph 2, the first and third subparagraphs (which have no continuing effect) were omitted;
- (c) in paragraph 3, the first and second sentences (which have no continuing effect) were omitted;
- (d) paragraphs 4 and 6 (which have no continuing effect) were omitted.
- (8) Article 115 is to be read as if—
- (a) in paragraph 1(24)—
- (i) in point (a), “association of producer organisations or producer group” were omitted;
- (ii) at the end of the words after point (c)(25)—
- (aa) after “authority’ is” there were inserted “the Secretary of State in point (a) and”;
- (bb) after “head office” there were inserted “in points (b) and (c)”;
- (b) in paragraph 2(26), at the end, the following subparagraph were inserted—
- “The Secretary of State may suspend the recognition of a producer organisation that is suspected of having committed fraud in respect of aid covered by this Regulation and Regulation (EU) No 1308/2013.”.
- (9) Title 3 is to be read as if Chapter 6 (which has no continuing operative effect) were omitted.
- (10) The provisions listed in paragraph 1 are to be read as if Title 4 (which has no continuing operative effect) were omitted.

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- (22) The second subparagraph of Article 96(5) is omitted by the Common Agricultural Policy (Market Measures, Notifications and Direct Payments) (Miscellaneous Amendments) (EU Exit) Regulations 2019 (S.I. 2019/XXX).
- (23) Article 114 is also amended by the Common Agricultural Policy (Market Measures, Notifications and Direct Payments) (Miscellaneous Amendments) (EU Exit) Regulations 2019 (S.I. 2019/XXX).
- (24) Article 115(1) is also amended by the Common Agricultural Policy (Market Measures, Notifications and Direct Payments) (Miscellaneous Amendments) (EU Exit) Regulations 2019 (S.I. 2019/XXX).
- (25) The Common Agricultural Policy (Market Measures, Notifications and Direct Payments) (Miscellaneous Amendments) (EU Exit) Regulations 2019 (S.I. 2019/XXX) insert words after point (c) in Article 115(1).
- (26) Article 115(2) is replaced by the Common Agricultural Policy (Market Measures, Notifications and Direct Payments) (Miscellaneous Amendments) (EU Exit) Regulations 2019 (S.I. 2019/XXX).

(11) Article 143(27) is to be read as if at the end there were inserted—

“3. If a check reveals any non-compliance with the recognition criteria, a detailed report must be made and sent to the Secretary of State in accordance with Article 103.”

(12) Article 147(28) is to be read as if, at the end, the following subparagraph were inserted—

“Any notification, claim or request made to the Secretary of State under this Regulation may be adjusted at any time after its submission in cases of obvious errors recognised by the Secretary of State.”

(13) The provisions listed in paragraph 1 are to be read as if Annexes 16 to 18 (which have no continuing effect) were omitted.

PART 4

Amendment of domestic regulations

8.—(1) The Common Organisation of the Markets in Agricultural Products and Common Agricultural Policy (Miscellaneous Amendments) (EU Exit) Regulations 2019(29) is amended as follows.

(2) In regulation 4(b), at the beginning of inserted point (c) insert “in the case of products imported into the United Kingdom during the 9 month period beginning with the day after that on which exit day falls,”.

(3) Regulation 7 is revoked.

PART 5

Revocations

Revocation of certain implementing acts relating to EU wine designations of origin, geographical indications, and traditional terms

9. Any implementing act adopted under the following provisions of Regulation (EU) No 1308/2013 of the European Parliament and of the Council prior to exit day and forming part of domestic law by virtue of section 3(1) of the European Union (Withdrawal) Act 2018 is revoked—

- (a) Article 97(3) and (4);
- (b) Article 99;
- (c) Article 106;
- (d) Article 115(2).

(27) Article 143 is replaced by the Common Agricultural Policy (Market Measures, Notifications and Direct Payments) (Miscellaneous Amendments) (EU Exit) Regulations 2019 (S.I. 2019/XXX).

(28) Article 147 is also amended by the Common Agricultural Policy (Market Measures, Notifications and Direct Payments) (Miscellaneous Amendments) (EU Exit) Regulations 2019 (S.I. 2019/XXX).

(29) [S.I. 2019/828](#).

At 2.05 p.m. on 14th October 2019

George Eustice
Minister of State
Department for Environment, Food and Rural
Affairs

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in exercise of the powers conferred by section 8(1) of, and paragraph 21 of Schedule 7 to, 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 under section 8(2)(a), (b), (c), (d) and (g)) arising from the withdrawal of the United Kingdom from the European Union.

Part 2 of these Regulations makes amendments to Commission Delegated Regulation (EU) No 880/2012 and Commission Delegated Regulation (EU) 2016/232 concerning transnational cooperation.

It also amends provisions of Regulation (EU) No 1308/2013 of the European Parliament and of the Council in relation to protected geographical indications, protected designations of origin and traditional terms in the wine sector.

It also makes amendments to Commission Delegated Regulation (EU) 2017/891 and Commission Implementing Regulation (EU) 2017/892 concerning producer organisations and notifications in the fruit and vegetables and processed fruit and vegetables sectors.

Part 3 amends provisions of Commission Implementing Regulation (EU) No 543/2011 which have been repealed but which continue to operate by virtue of savings provisions in Commission Delegated Regulation (EU) 2017/891.

Part 4 amends the Common Organisation of the Markets in Agricultural Products and Common Agricultural Policy (Miscellaneous Amendments) (EU Exit) Regulations 2019 to insert a time limit of 9 months for the transitional period during which wine imports can be accompanied by EU documentation and to revoke a provision which is replaced by this instrument.

Part 5 revokes certain implementing acts relating to EU wine designations of origin, geographical indications, and traditional terms.

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