

This Statutory Instrument corrects an error in S.I. 2019/821 and is being issued free of charge to all known recipients of that Statutory Instrument.

STATUTORY INSTRUMENTS

2019 No. 1402

EXITING THE EUROPEAN UNION

AGRICULTURE

**The Agriculture (Miscellaneous Amendments) (EU Exit)
Regulations 2019**

Made - - - - *28th October 2019*

Coming into force in accordance with regulation 1

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^(a).

A draft of this instrument was laid before and approved by a resolution of each House of Parliament pursuant to paragraph 1(1) of Schedule 7 to that Act.

PART 1

Introduction

Citation and commencement

1.—(1) These Regulations may be cited as the Agriculture (Miscellaneous Amendments) (EU Exit) Regulations 2019.

(2) This regulation and regulation 9 come into force immediately before exit day.

(3) Regulations 2 to 8 and 10 come into force on exit day.

PART 2

Amendments to legislation relating to the Common Market Organisation

Amendment of Regulation 1299/2007

2.—(1) Commission Regulation (EC) No 1299/2007 on the recognition of producer groups for hops is amended as follows.

(a) 2018 c. 16.

- (2) In Article 1—
- (a) in paragraph 1—
 - (i) for “Article 122 of Council Regulation (EC) No 1234/2007” substitute “Article 152 of Regulation (EU) No 1308/2013”;
 - (ii) for the words from “Member State” to the end substitute “Secretary of State”.
 - (b) in paragraph 2, in the first subparagraph—
 - (i) in the words before point (a), for “Member States” substitute “The Secretary of State”;
 - (ii) in point (a), for “under national legislation” substitute “in law”;
 - (iii) in point (e), for “Community” substitute “United Kingdom”;
 - (iv) in point (g), for “the national” substitute “any”;
 - (v) in point (i), for “Community” substitute “United Kingdom”;
 - (c) in paragraph 4, in point (b), for “them” substitute “the”.
- (3) In Article 2—
- (a) in paragraph 1, omit the second subparagraph;
 - (b) omit paragraph 2.
- (4) In Article 4, in paragraphs 1 and 3, for “Member States” substitute “The Secretary of State”.
- (5) In Article 5—
- (a) omit paragraphs 1 and 2;
 - (b) in paragraph 3—
 - (i) for “The” substitute “A”;
 - (ii) for “to the Member States and” substitute “by the Secretary of State”;
 - (iii) omit “via the information systems put in place by the Commission”.
- (6) After Article 7, omit “This Regulation shall be binding in its entirety and directly applicable in all Member States.”.

Amendment of Regulation 589/2008

3.—(1) Commission Regulation (EC) No 589/2008 laying down detailed rules for implementing Council Regulation (EC) No 1234/2007 as regards marketing standards for eggs is amended as follows.

- (2) In Article 1, in the second subparagraph, after point (s) insert—
- “(t) ‘third country’ means any country or territory other than—
 - (i) the United Kingdom,
 - (ii) the Bailiwick of Guernsey,
 - (iii) the Bailiwick of Jersey, or
 - (iv) the Isle of Man.”.
- (3) In Article 30, for paragraph 1 substitute—
- “1. Before eggs may be imported into the United Kingdom from a third country, the Secretary of State must make a determination of equivalence.
- Any determination must include an evaluation of the rules on labelling and marketing, farming methods and control and an assessment of whether the requirements contained in this Regulation are effectively met by operators in the third country concerned.
- The Secretary of State must review the evaluation regularly.”.

Amendment of Regulation 511/2012

4.—(1) Commission Implementing Regulation (EU) No 511/2012 on notifications concerning producer and interbranch organisations and contractual negotiations and relations provided for in Council Regulation (EC) No 1234/2007 in the milk and milk products sector is amended as follows.

- (2) Omit Article 1.
- (3) In Article 2—
 - (a) in paragraph 1—
 - (i) for “Article 126c(2)(f) of Regulation (EC) No 1234/2007” substitute “Article 149(2)(f) of Regulation (EU) No 1308/2013”;
 - (ii) for the words from “competent” to the end substitute “Competition and Markets Authority”;
 - (b) in paragraph 3, omit “, specified per Member State of production,”.
- (4) Omit Articles 3 to 5a.
- (5) After Article 6, omit “This Regulation shall be binding in its entirety and directly applicable in all Member States.”.

Amendment of Regulation 1308/2013

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

- (2) After Article 3(5) insert—

“6. For the purposes of this Regulation, a matter is outside devolved competence if it would be outside the legislative competence of:

 - (a) in relation to Wales, the National Assembly for Wales if it were included in an Act of the Assembly (see section 108A of the Government of Wales Act 2006^(b));
 - (b) in relation to Scotland, the Scottish Parliament if it were included in an Act of the Parliament (see section 29 of the Scotland Act 1998^(c));
 - (c) in relation to Northern Ireland, the Northern Ireland Assembly if it were included in an Act of the Assembly (see section 6 of the Northern Ireland Act 1998^(d)).”.
 - (3) In Article 4, for the words from “Commission” to “Article 227” substitute “Secretary of State may make regulations”.
 - (4) In Article 5—
 - (a) for “Commission may adopt implementing acts” substitute “Secretary of State may make regulations”;
 - (b) for “adopting all” substitute “setting out”;
 - (c) omit the last sentence.
 - (5) In Article 89—
 - (a) in the words before point (a) —
 - (i) for “Union”, substitute “United Kingdom”;

(a) Other amendments to Regulation (EU) No 1308/2013 are made by S.I. 2019/821, 828 and 831. Articles 227 and 228, as substituted by S.I. 2019/831, make provision about regulations made by the Secretary of State.

(b) 2006 c.32; section 108A was inserted by section 3(1) of the Wales Act 2017 (c.4). It is prospectively amended by section 12(3) of the European Union (Withdrawal) Act 2018 (c.16) from a date to be appointed.

(c) 1998 c.46; section 29 was amended by S.I. 2011/1043.

(d) 1998 c.47; section 6 was amended by S.I. 2011/1043. It is prospectively amended by section 12(3) of the European Union (Withdrawal) Act 2018 from a date to be appointed.

- (ii) for the words from “Commission” to “Article 227” substitute “Secretary of State may make regulations”;
 - (b) in point (a)—
 - (i) omit “Union”;
 - (ii) after “standards” insert “applicable in the United Kingdom”;
 - (c) in point (b), for “Union” substitute “United Kingdom”.
- (6) In Article 125—
- (a) in paragraph 4—
 - (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 (a), at the end insert—

“so far as the terms apply in relation to a matter outside devolved competence”;
 - (b) for paragraph 5 substitute—

“5. The Secretary of State may make regulations setting out the measures necessary for the application of this Article, including in respect of procedures, notifications and administrative assistance in the case of international agreements within the sugar trade.”.
- (7) For Article 148(6) substitute—
- “6. The Secretary of State may make regulations setting out measures necessary for the uniform application of points (a) and (b) of paragraph 2, and paragraph 3, of this Article.”.
- (8) In Article 151, for the fourth subparagraph substitute—
- “The Secretary of State may make regulations setting out rules on the content, format and timing of declarations under this Article.”.
- (9) In Article 168—
- (a) in paragraph 2, for “internal market” substitute “market in the United Kingdom”;
 - (b) for paragraph 8 substitute—

“8. The Secretary of State may make regulations setting out the measures necessary for the uniform application of points (a) and (b) of paragraph 4, and paragraph 5, of this Article.”.
- (10) In Article 173—
- (a) in paragraph 1—
 - (i) for the words from “Commission” to “Article 227” substitute “Secretary of State may make regulations”;
 - (ii) in point (j)—
 - (aa) for “Commission scrutiny” substitute “scrutiny by the Secretary of State”;
 - (bb) for “Commission”, in the second place it occurs, substitute “Secretary of State”;
 - (b) in paragraph 2, for the words from “Commission” to “laying down” substitute “Secretary of State may make regulations setting out”.
- (11) In Article 174—
- (a) in paragraph 1—
 - (i) for “Commission may adopt implementing acts laying down” substitute “Secretary of State may make regulations setting out”;
 - (ii) in point (c), for the words from “procedures” to “in relation to” substitute “provision about”;
 - (iii) omit point (g);
 - (iv) omit the last sentence;

- (b) in paragraph 2—
 - (i) for “Commission may adopt implementing acts” substitute “Secretary of State may make regulations”;
 - (ii) omit point (c);
 - (iii) omit the last sentence.
- (12) In Article 190—
 - (a) in paragraph 3, for the words from “Commission” to “Article 227” substitute “Secretary of State may make regulations”;
 - (b) in paragraph 4—
 - (i) for the words “Commission shall adopt implementing acts laying down” substitute “Secretary of State may make regulations setting out”;
 - (ii) omit the last sentence.
- (13) In Article 202—
 - (a) in paragraph 1, for the words from “Commission” to “laying down” 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) for the words from “Commission” to “Article 227” substitute “Secretary of State may make regulations setting out”;
 - (ii) in point (c), for “customs territory of the Union” substitute “United Kingdom”;
 - (iii) in point (d)—
 - (aa) for “Union”, in the first place it occurs, substitute “United Kingdom”;
 - (bb) for “customs territory of the Union” substitute “United Kingdom”.
 - (d) in paragraph 4, for the words from “Commission” to “Article 227” substitute “Secretary of State may make regulations”;
 - (e) in paragraph 5—
 - (i) for “customs territory of the Union”, in both places it occurs, substitute “United Kingdom”;
 - (ii) for “that territory” substitute “the United Kingdom”;
 - (iii) for the words from “Commission” to “Article 227” substitute “Secretary of State may make regulations”;
 - (f) in paragraph 6—
 - (i) for the words from “Commission” to “Article 227” substitute “Secretary of State may make regulations”;
 - (ii) for “customs territory of the Union” substitute “United Kingdom”;
 - (g) in paragraph 7, for the words from “Commission” to “Article 227” substitute “Secretary of State may make regulations”.
- (14) In Article 203—
 - (a) in the words before point (a), for “Commission shall adopt implementing acts laying down” substitute “Secretary of State may make regulations setting out”;
 - (b) omit the last sentence.
- (15) In Article 204—
 - (a) in the words before point (a), for the words “Commission may adopt implementing acts” substitute “Secretary of State may make regulations”;
 - (b) in point (a), for “laying down” substitute “setting out”;

- (c) in point (b), for “laying down” substitute “setting out”;
- (d) omit the last sentence.

(16) In Annex 2, in Section A of Part 2, in point 6(a), for “Member State concerned”, in both places it occurs, substitute “Secretary of State”.

(17) In Annex 10, in Point 7, in point (c), for “Member State concerned” substitute “Secretary of State”.

Amendment of Regulation 1370/2013

6.—(1) Council Regulation (EU) No 1370/2013 determining measures on fixing certain aids and refunds related to the common organisation of the markets in agricultural products^(a) is amended as follows.

(2) In Article 13—

(a) in paragraph 1—

- (i) for “Commission may adopt implementing acts” substitute “Secretary of State may make regulations”;
- (ii) omit the last sentence;

(b) in paragraph 2—

- (i) in point (a)(i), for “Union market” substitute “market in the United Kingdom”;
- (ii) in point (b)—

(aa) for the words from “aims” to “are” substitute “need”;

(bb) for “that market” substitute “the market in the United Kingdom”;

(iii) in point (c), for “Union market” substitute “market in the United Kingdom”;

(iv) in point (e), for “concluded in accordance with the Treaty” substitute “to which the United Kingdom is a party”;

(v) in point (f)—

(aa) for “Union” substitute “domestic”;

(bb) for “third”, in the first place it occurs, substitute “other”;

(cc) for “third country products” substitute “products from other countries”;

(vi) in point (g), for “from Union markets to Union ports or other” substitute “from the market in the United Kingdom to”

(vii) in point (h), for “Union market” substitute “market in the United Kingdom”;

(viii) in point (i), for “Union”, in both places it occurs, substitute “United Kingdom”;

(c) for paragraph 3 substitute—

“3. The Secretary of State may, where necessary to ensure a swift response to fast changing market situations, make regulations adjusting the amount of the refund.”

(3) In Article 14—

(a) in paragraph 1—

(i) for the first subparagraph substitute—

“The Secretary of State may make regulations fixing corrective amounts applicable to the export refunds fixed in respect of the cereals and rice sectors.”;

(ii) omit the second subparagraph;

(a) Regulation (EU) No 1370/2013 is also amended by S.I. 2019/821 and 831. Article 15, as substituted by S.I. 2019/831, makes provision about regulations made by the Secretary of State.

- (iii) in the third subparagraph, for “Commission may apply this paragraph” substitute “Secretary of State may exercise the power in the first subparagraph in relation”;
- (b) in paragraph 3—
 - (i) in the first subparagraph—
 - (aa) after “The” in the first place it occurs, insert “Secretary of State may make regulations adjusting the”;
 - (bb) omit the words from “may” to “acts,”;
 - (ii) in the second subparagraph—
 - (aa) for the words from “first subparagraph” to “in part,” substitute “Secretary of State may exercise the power in the first subparagraph in relation”;
 - (bb) for “Commission shall, by means of implementing acts, correct” substitute “Secretary of State must make regulations correcting”;
- (iii) omit the third subparagraph.

Amendment of Regulation 510/2014

7.—(1) Regulation (EU) No. 510/2014 of the European Parliament and of the Council laying down the trade arrangements applicable to certain goods resulting from the processing of agricultural products(a) is amended as follows.

- (2) In Article 8—
 - (a) for the words from “Commission” to “Article 42,” substitute “Secretary of State may make regulations”;
 - (b) in point (d), for “a third” substitute “another”.
- (3) In Article 9—
 - (a) for “Commission shall, where necessary, adopt implementing acts” substitute “Secretary of State may make regulations”;
 - (b) omit point (g);
 - (c) omit the last sentence.
- (4) In Article 26—
 - (a) in the words before point (a), for the words from “Commission” to “Article 42” substitute “Secretary of State may make regulations”;
 - (b) in point (f), for the words from “adopted pursuant to” to “No 1308/2013” substitute—

“whether adopted pursuant to Article 202 of Regulation (EU) No 1308/2013 before exit day or made under that Article after exit day”.
- (5) In Article 27—
 - (a) in the words before point (a) for “Commission shall, where necessary, adopt implementing acts” substitute “Secretary of State may make regulations”;
 - (b) in point (i), for the words from “adopted pursuant to” to “No 1308/2013” substitute—

“, whether adopted pursuant to Article 203 of Regulation (EU) No 1308/2013 before exit day or made under that Article after exit day,”.
 - (c) omit the last sentence.
- (6) In Article 31, for the words from “Commission” to “Article 42” substitute “Secretary of State may make regulations”.
- (7) In Article 32—
 - (a) in paragraph 1—

(a) Regulation (EU) No 510/2014 is also amended by S.I. 2019/828.

- (i) for the words “Commission shall, where necessary, adopt implementing acts” substitute “Secretary of State may make regulations”;
 - (ii) omit point (g);
 - (iii) omit the last sentence.
- (b) in paragraph 2, for the words from “concluded” to “or (3),” substitute “to which the United Kingdom is a party, the Secretary of State may make regulations”.
- (8) In Article 33—
- (a) in paragraph 1—
 - (i) for the words from “Commission” to “this Regulation,” substitute “Secretary of State may make regulations”;
 - (ii) for “delegated acts”, in the second place it occurs, substitute “regulations”;
 - (iii) for “concluded in accordance with the TFEU” substitute “to which the United Kingdom is a party”;
 - (iv) for “Those delegated acts shall be adopted only” substitute “Regulations may only be made under this Article”;
 - (v) omit the second and third subparagraphs.
 - (b) omit paragraph 2.
- (9) In Article 34, in paragraph 2—
- (a) in the words before point (a), for “Commission shall, where necessary, adopt implementing acts” substitute “Secretary of State may make regulations”;
 - (b) in point (b), for “ensure” substitute “ensuring”;
 - (c) omit the last sentence.
- (10) In Article 35, in paragraph 2—
- (a) for “Commission shall, where necessary, adopt implementing acts” substitute “Secretary of State may make regulations”;
 - (b) omit the last sentence.
- (11) In Article 36—
- (a) for the words from “Commission” to “Article 42,” substitute “Secretary of State may make regulations”;
 - (b) in point (a), for the words from “concluded” to the end substitute “to which the United Kingdom is a party”;
 - (c) in point (b), for “to amendments to Annex I to Regulation (EEC) No 2658/87” substitute—

“as necessary from time to time to ensure continuity with any customs tariff applicable in the United Kingdom, whether established and maintained pursuant to section 8(1) of the Taxation (Cross-border Trade) Act 2018(a) or otherwise”.
- (12) In Article 39, for the first sentence substitute—
- “The Secretary of State may make regulations setting the thresholds below which amounts will not be levied or granted pursuant to Articles 3, 5, 10, 22 and 34.”.
- (13) In Article 40—
- (a) for paragraphs 2 and 3 substitute—

“2. The Secretary of State may make regulations applying, with or without modification, the Articles referred to in paragraph 1 for the purpose of this Regulation.”.

(a) 2018 c. 22.

(14) In Article 41, from the words “When adopting” to “Union” in the second place it appears substitute—

“When making regulations under this Regulation, the Secretary of State must take into account the United Kingdom’s international obligations and the applicable”.

(15) For Chapter 5 substitute—

“ CHAPTER V PROVISION ABOUT REGULATIONS

Article 42

Regulations

1. Regulations made by the Secretary of State under this Regulation are to be made by statutory instrument.
2. Regulations made by the Secretary of State under this Regulation may—
 - (a) contain consequential, incidental, supplementary, transitional or saving provision (including provision amending, repealing or revoking enactments);
 - (b) make different provision for different purposes.
3. Except as specified in paragraph (4), a statutory instrument containing regulations under this Regulation is subject to annulment in pursuance of a resolution of either House of Parliament.
4. A statutory instrument containing regulations made by the Secretary of State under Article 33(1) must be laid before each House of Parliament after being made.
5. Regulations made under Article 33(1) cease to have effect at the end of the period of 28 days beginning with the day on which the instrument containing them is made unless, during that period, the instrument is approved by a resolution of each House of Parliament.
6. In calculating the period of 28 days for the purposes of paragraph 5, no account is to be taken of any time during which:
 - (a) Parliament is dissolved or prorogued, or
 - (b) either House of Parliament is adjourned for more than 4 days.
7. If regulations cease to have effect as a result of paragraph 5, that does not affect the validity of anything previously done under those regulations or prevent the making of new regulations.”.

Amendment of Regulation 2016/232

8.—(1) Commission Delegated Regulation (EU) No 2016/232 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council with regard to certain aspects of producer cooperation is amended as follows.

(2) In Article 1—

- (a) in point (a), for “Commission Implementing Regulation (EU) No 543/2011” substitute “Commission Delegated Regulation (EU) No 2017/891 and Commission Implementing Regulation (EU) No 2017/892”;
- (b) after point (b), omit “and”;
- (c) omit point (c).

(3) In paragraph 1 of Article 3, for “Member States” substitute “the Secretary of State”.

(4) Omit Article 5.

(5) After Article 7 omit “This Regulation shall be binding in its entirety and directly applicable in all Member States.”.

Amendment of S.I. 2019/821

9. In regulation 84 of the Common Organisation of the Markets in Agricultural Products Framework (Miscellaneous Amendments, etc) (EU Exit) Regulations 2019(a), omit sub-paragraph (a).

PART 3

Financing, Management and Monitoring Amendments

Amendment of Regulation 1306/2013

10. In Article 62(1) of Regulation (EU) No 1306/2013 of the European Parliament and of the Council on the financing, management and monitoring of the common agricultural policy(b), for the words from “which” to “laying down” substitute “, the Secretary of State may make regulations setting out”.

George Eustice
Minister of State

28th October 2019

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), (d) and (g)) arising from the withdrawal of the UK from the European Union.

The Regulations amend retained direct EU legislation in the fields of the common organisation of markets in agricultural products and the common agricultural policy. The purpose of most of the amendments is to replace powers for the European Commission to make tertiary legislation with corresponding powers for the Secretary of State to make regulations.

Other amendments to some of the EU Regulations amended by this instrument have been made, or are to be made, by separate regulations under the European Union (Withdrawal) Act 2018.

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

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(a) S.I. 2019/821.

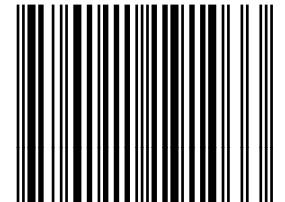
(b) Regulation (EU) No 1306/2013 is also amended by S.I. 2019/748. Articles 115 and 115A, as substituted by S.I. 2019/748, make provision about regulations made by the Secretary of State.

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