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STATUTORY INSTRUMENTS

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**2019 No. 529**

**The Food (Amendment) (EU Exit) Regulations 2019**

**PART 1**

Introduction

**Citation and commencement**

1. These Regulations may be cited as the Food (Amendment) (EU Exit) Regulations 2019 and come into force on exit day.

**PART 2**

Amendment of primary legislation

**The Weights and Measures (Northern Ireland) Order 1981**

- 2.—(1) The Weights and Measures (Northern Ireland) Order 1981(1) is amended as follows.
- (2) In Article 22A(2)—
- (a) for sub-paragraph (b) substitute—
- “(b) a measure adopted by the United Kingdom before exit day under Article 40 of Regulation (EU) No 1169/2011 of the European Parliament and of the Council on the provision of food information to consumers(2) as it had effect in EU law (milk and milk products: national measures derogating from Articles 9(1) and 10(1));
- (ba) regulations made under Article 40 of the FIC Regulation (milk and milk products: regulations derogating from Articles 9(1) and 10(1));”;
- (b) for paragraph (c) substitute—
- “(c) a measure permitted to be maintained by Article 42 of the FIC Regulation (authority to maintain measures in specified legislation about the expression of net quantity in relation to food in the absence of regulations under Article 23(2));”.

**The Weights and Measures Act 1985**

- 3.—(1) The Weights and Measures Act 1985(3) is amended as follows.
- (2) In section 31A(2)—
- (a) for paragraph (b) substitute—

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(1) [S.I.1981/231 \(N.I. 10\)](#), Article 22A was inserted by [S.R. 2016/187](#). See also the definition of “the FIC Regulation” in Article 2(2); inserted by [S.R. 2016/187](#) and substituted by [S.I. 2019/5](#). See also regulation 2 of [S.I. 2019/5](#).

(2) OJ No L 304, 22.11.2011 p. 18, to which there are amendments not relevant to these Regulations.

(3) [1985 c. 72](#); section 31A was inserted by [S.I. 2014/2975](#). See also the definition of “the FIC Regulation” in section 94(1); inserted by [S.I. 2014/2975](#) and substituted by [S.I. 2019/5](#). See also regulation 2 of [S.I. 2019/5](#).

- “(b) a measure adopted by the United Kingdom before exit day under Article 40 of Regulation (EU) No 1169/2011 of the European Parliament and of the Council on the provision of food information to consumers<sup>(4)</sup> as it had effect in EU law (milk and milk products: national measures derogating from Articles 9(1) and 10(1));
- (ba) regulations made under Article 40 of the FIC Regulation (milk and milk products: regulations derogating from Articles 9(1) and 10(1));”;
- (b) for paragraph (c) substitute—
  - “(c) a measure permitted to be maintained by Article 42 of the FIC Regulation (authority to maintain measures in specified legislation about the expression of net quantity in relation to food in the absence of regulations under Article 23(2));”.

## PART 3

### Amendment of retained direct EU legislation

#### Commission Regulation (EU) No 115/2010

4.—(1) Commission Regulation (EU) No 115/2010 laying down the conditions for use of activated alumina for the removal of fluoride from natural mineral waters and spring waters is amended as follows.

(2) After Article 5 omit the words from “This Regulation” to “Member States.”.

(3) In the Annex, in point 4, for “in accordance with the Council Directive” substitute the words in Schedule 1.

#### Regulation (EU) No 1169/2011 of the European Parliament and of the Council

5.—(1) Regulation (EU) No 1169/2011 of the European Parliament and of the Council on the provision of food information to consumers is amended as follows.

(2) In Article 1—

- (a) in paragraph 1 omit the words from “whilst” to the end;
- (b) in paragraph 3, in the second subparagraph, for the words from “on the territories” to the end substitute “from the United Kingdom”;
- (c) in paragraph 4, for “Union provisions” substitute “provisions in EU-derived domestic legislation and retained direct EU legislation”.

(3) In Article 2(2)—

- (a) in point (b), for “the Union provisions” substitute “EU-derived domestic legislation or retained direct EU legislation”;
- (b) in point (c), for “Union provisions” substitute “EU-derived domestic legislation or retained direct EU legislation”;
- (c) for point (n) substitute—
  - “(n) ‘legal name’, in relation to a food, means the name prescribed for it in EU-derived domestic legislation or retained direct EU legislation or, in the absence of such legislation, any other enactment;”;
- (d) in point (o), for “Member State in which that food is sold” substitute “United Kingdom”;

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(4) OJ No L 304, 22.11.2011 p. 18, to which there are amendments not relevant to these Regulations.

- (e) after point (u) insert the points in Part 1 of Schedule 2.
- (4) In Article 3(4), after “consultation” insert “(so far as not already required by Article 9 of Regulation (EC) No 178/2002)”.
- (5) Omit Article 5.
- (6) In Article 7(3), for “Union law” substitute “EU-derived domestic law or retained direct EU legislation”.
- (7) In Article 8, in each of paragraphs 2, 3 and 5, for “relevant national provisions” substitute “any other relevant enactment”.
- (8) In Article 11, for “Union provisions” substitute “provisions in EU-derived domestic legislation or retained direct EU legislation”.
- (9) In Article 13—
  - (a) in paragraph 1, for “the national measures adopted under Article 44(2)” substitute “enactments referred to in Article 44(2) relating to the presentation of mandatory particulars for food to which that Article applies”;
  - (b) in paragraph 2, for “Union provisions” substitute “provisions in EU-derived domestic legislation or retained direct EU legislation”.
- (10) In Article 15—
  - (a) in paragraph 1, for the words from “a language” to the end substitute “English”;
  - (b) omit paragraph 2;
  - (c) in paragraph 3, for “Paragraphs 1 and 2” substitute “Paragraph 1”.
- (11) In Article 16—
  - (a) in paragraph 3, for “Union provisions” substitute “provisions in EU-derived domestic legislation or retained direct EU legislation”;
  - (b) in paragraph 4—
    - (i) in the first subparagraph, for “Union provisions” substitute “provisions in EU-derived domestic legislation or retained direct EU legislation”;
    - (ii) omit the second and third subparagraphs.
- (12) Omit Article 17(2) and (3).
- (13) In Article 21(1), for “the rules adopted under Article 44(2)” substitute “enactments referred to in Article 44(2) relating to the presentation of mandatory particulars for food to which Article 44 applies”.
- (14) In Article 26—
  - (a) in paragraph 1, for the words from “Union provisions” to the end substitute “provisions in EU-derived domestic legislation or retained direct EU legislation, in particular Regulation (EU) No 1151/2012 of the European Parliament and of the Council on quality schemes for agricultural products and foodstuffs”;
  - (b) omit paragraphs 4 to 7 and 9.
- (15) In Article 28(1), for “Union provisions” substitute “provisions in EU-derived domestic legislation or retained direct EU legislation”.
- (16) In Article 29—
  - (a) in paragraph 1, for points (a) and (b) substitute the points in Part 2 of Schedule 2;
  - (b) omit paragraph 2.
- (17) Omit Article 30(7).

- (18) In Article 35—
- (a) in paragraph 2—
    - (i) in the first sentence, for “Member States” substitute “The appropriate authority”;
    - (ii) omit the second sentence;
  - (b) in paragraph 3—
    - (i) in the first subparagraph, for “Member States shall ensure an appropriate monitoring” substitute “The appropriate authority may monitor the use”;
    - (ii) in the second subparagraph—
      - (aa) at the beginning insert “Nothing in this Regulation prevents the appropriate authority from making type A regulations, so as”;
      - (bb) for “Member States may require” substitute “requiring”;
      - (cc) omit “in their territory”;
      - (dd) after “competent authority” insert “specified in those regulations”;
  - (c) omit paragraphs 4 and 5.
- (19) For Article 38 substitute—

*“Article 38*

*Subordinate legislation*

Any provision in this Regulation that relates to any specific matter has the effect on and after exit day of preventing the making of any enactment in subordinate legislation (within the meaning of section 20(1) of the European Union (Withdrawal) Act 2018) relating to the same matter unless the making of such an enactment is authorised by this Regulation or by other retained direct EU legislation.”.

- (20) In Article 39—
- (a) in paragraph 1—
    - (i) in the words before point (a), for the words from “Member States” to “measures” substitute “nothing in this Regulation prevents the appropriate authority from making type A or B regulations”;
    - (ii) in point (a), at the beginning insert “in the case of type A regulations,”;
    - (iii) in point (b), at the beginning insert “in the case of type A or B regulations,”;
    - (iv) in point (c), at the beginning insert “in the case of type A or B regulations,”;
    - (v) in point (d), at the beginning insert “in the case of type A regulations,”;
  - (b) in paragraph 2—
    - (i) for “paragraph 1, Member States” substitute “type A regulations referred to in paragraph 1, the appropriate authority”;
    - (ii) for the second sentence substitute—
 

“It is a condition of making such regulations that the appropriate authority considers that the majority of consumers in the territory to which the measures would apply attach significant value to the provision of that information.”.
- (21) In Article 40—
- (a) renumber the unnumbered paragraph as paragraph 1;

- (b) in paragraph 1, as renumbered, for the words from the beginning to “Article 10(1)” substitute “Nothing in this Regulation prevents the appropriate authority from making type A regulations derogating from any of the provisions specified in paragraph 2”;
- (c) for the second unnumbered paragraph substitute—
  - “2. The specified provisions are:
    - (a) Article 9(1), except for Article 9(1)(e), and
    - (b) Article 10(1).
  - 3. Nothing in this Regulation prevents the appropriate authority from making type B regulations derogating from Article 9(1)(e) in the case of milk and milk products presented in glass bottles intended for reuse.”.
- (22) Omit Article 41.
- (23) In Article 42—
  - (a) in the first paragraph—
    - (i) for “Union provisions referred to in” substitute “any regulations made under”;
    - (ii) for the words from “Member States” to the end substitute “the measures in the legislation specified in the second paragraph concerning the expression of net quantity for specified foods in a different manner to that provided for in Article 23(1) may be maintained”;
  - (b) after the first paragraph insert the paragraph in Part 3 of Schedule 2;
  - (c) omit the last paragraph.
- (24) In Article 43—
  - (a) in the first paragraph, for the words from “adoption” to “measures” substitute “making of regulations under Article 36(3)(c), nothing in this Regulation prevents the appropriate authority from making type A regulations”;
  - (b) omit the second paragraph.
- (25) In Article 44—
  - (a) in paragraph 1, for point (b) substitute—
    - “(b) the provision of the particulars specified in Articles 9(1)(e) is not mandatory but nothing in this Regulation prevents type B regulations from being made to make the provision of those particulars mandatory;
    - (c) the provision of the other particulars specified in Articles 9(1) and 10 is not mandatory but nothing in this Regulation prevents type A regulations from being made to make the provision of those particulars, or some of those particulars, mandatory.”;
  - (b) in paragraph 2, for “Member States may adopt national measures” substitute “Nothing in this Regulation prevents the appropriate authority from making type A or B regulations”;
  - (c) omit paragraph 3.
- (26) Omit Articles 45, 47, 48 and 52.
- (27) After Article 55 omit the words from “This Regulation” to “Member States.”.
- (28) In Annex 6—
  - (a) in Part A—
    - (i) in point 3, for the words from “one of the” to the end substitute “the indication ‘irradiated’ or ‘treated with ionising radiation’”;

- (ii) in point 7, for the words from “in Bulgarian” to the end substitute ““formed meat” and ‘formed fish’”;
  - (b) in Part B, for point 3 substitute the point in Part 4 of Schedule 2.
- (29) In Annex 7—
- (a) in Part B, in the table, in entry 16, for “Annex XIb to Regulation (EC) No 1234/2007” substitute “Part 2 of Annex 7 to Regulation (EU) No 1308/2013 of the European Parliament and of the Council establishing a common organisation of the markets in agricultural products”;
  - (b) in Part E, in point 2—
    - (i) in point (a), for “current Union provisions” substitute “EU-derived domestic legislation in force or retained direct EU legislation in force”;
    - (ii) in point (c), for “Union provisions” substitute “EU-derived domestic legislation in force or retained direct EU legislation in force”.
- (30) In Annex 8, in point 1—
- (a) in point (a)—
    - (i) in point (ii), for “Union provisions” substitute “EU-derived domestic legislation or retained direct EU legislation”;
    - (ii) in point (iv), omit “in the country of marketing”;
  - (b) in point (b), for “Union provisions stipulate” substitute “EU-derived domestic legislation or retained direct EU legislation stipulates”.
- (31) In Annex 9, in point 2, for the words from “Union” to “national provisions” substitute “EU-derived domestic legislation or retained direct EU legislation or, where there is none, another enactment”.
- (32) In Annex 10, in point 1(d), in the words before the first indent, for “Union provisions” substitute “provisions in EU-derived domestic legislation or retained direct EU legislation”.

## **Annex 2 to the EEA Agreement**

6. In Annex 2 to the EEA Agreement, in Chapter 12, omit points 54zzzzx, 86 and 86a.

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7th March 2019