
STATUTORY INSTRUMENTS

2019 No. 778

The Environment, Food and Rural Affairs (Amendment) (EU Exit) Regulations 2019

PART 1

Introductory

Citation and commencement

1. These Regulations may be cited as the Environment, Food and Rural Affairs (Amendment) (EU Exit) Regulations 2019 and come into force on the later of exit day or the day after the day on which they are made.

Commencement Information

- II Reg. 1 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1](#)

PART 2

Amendment of subordinate legislation relating to food and drink in England

The Natural Mineral Water, Spring Water and Bottled Drinking Water (England) Regulations 2007

2. In the Natural Mineral Water, Spring Water and Bottled Drinking Water (England) Regulations 2007^{MI} after regulation 9 insert—

“Transitional provision: withdrawal from the EEA and the EU

9A.—(1) The following waters are accredited, that is to say treated for the purposes of these Regulations as if they were natural mineral waters recognised by the Secretary of State under regulation 4(1)(d)(i)—

- (a) established EU recognised natural mineral waters;
- (b) established Icelandic recognised natural mineral waters;
- (c) established Norwegian recognised natural mineral waters.

(2) The accreditation in paragraph (1) continues to have effect in relation to a natural mineral water to which sub-paragraph (a), (b) or (c) of that paragraph applies until the relevant accreditation cessation date.

(3) In the case of an established EU recognised natural mineral water, if the Secretary of State is of the opinion that there is at least one established recognised UK mineral water

that is not treated by the responsible authority in at least one member State as a recognised mineral water for the purposes of Directive 2009/54/EC^{M2}, the Secretary of State may notify the Commission that the accreditation provided for in paragraph (1)(a) in relation to established EU recognised natural mineral waters is to cease.

(4) In the case of an established Icelandic recognised natural mineral water, if the Secretary of State is of the opinion that there is at least one established recognised UK mineral water that is not treated as a recognised mineral water in Iceland for the purposes of Directive 2009/54/EC, the Secretary of State may notify the Icelandic Food and Veterinary Authority that the accreditation provided for in paragraph (1)(b) in relation to established Icelandic recognised natural mineral waters is to cease.

(5) In the case of an established Norwegian recognised natural mineral water, if the Secretary of State is of the opinion that there is at least one established recognised UK mineral water that is not treated in Norway as a recognised mineral water for the purposes of Directive 2009/54/EC, the Secretary of State may notify the Norwegian Food Safety Authority that the accreditation provided for in paragraph (1)(c) in relation to established Norwegian recognised natural mineral waters is to cease.

(6) No notification may be given under paragraph (3), (4) or (5) before the end of the period of six months beginning on the day on which [F¹IP completion] day falls.

(7) The accreditation cessation date specified in a notification given under paragraph (3), (4) or (5) must be a date that is at least six months after the date on which the notification is given, beginning with the day after the day on which that notification is given.

(8) The Secretary of State must publish a copy of any notification given under paragraph (3), (4) or (5) in such manner as appears appropriate to the Secretary of State in order to bring its effect to the notice of those that the Secretary of State considers likely to be, or representative of those likely to be, affected in England as soon as is reasonably practicable.

(9) The Secretary of State must from time to time publish, in such manner as appears appropriate to the Secretary of State, a list of the names of the established EU, Icelandic and Norwegian recognised natural mineral waters that are treated as accredited natural mineral waters under paragraph (1) (“the paragraph 9 list”).

(10) Where a notification is given under paragraph (3), (4) or (5), the Secretary of State must update the paragraph 9 list as soon as reasonably practicable after the accreditation cessation date specified in the notification.

(11) The paragraph 9 list is to be treated as conclusive evidence that the waters are accredited natural mineral waters for the purposes of these Regulations.

(12) In this regulation—

“accreditation cessation date” means the cessation date as notified by the Secretary of State under paragraph (3), (4) or (5);

“Directive 2009/54/EC” means Directive 2009/54/EC as incorporated into the EEA agreement, and as it had effect, immediately before [F²IP completion] day;

“established EU recognised natural mineral water” means—

(a) a natural mineral water extracted from the ground in any member State—

(i) that immediately before [F²IP completion] day had the status of a recognised natural mineral water for the purposes of Directive 2009/54/EC, and

(ii) for which that recognition remains in force;

(b) a natural mineral water extracted from the ground in a third country—

- (i) that immediately before [F²IP completion] day had the status of a recognised natural mineral waters for the purposes of Directive 2009/54/EC, having been recognised by any member State as a natural mineral water for the purpose of Directive 2009/54/EC based on a certificate (“Article 1(2) certificate”) of the type referred to in the second subparagraph of Article 1(2) of Directive 2009/54/EC issued by the responsible authority in the country of extraction,
 - (ii) for which that recognition remains in force, and
 - (iii) for which the Article 1(2) certificate remains valid;
- “established Icelandic recognised natural mineral water” means a natural mineral waters extracted from the ground in Iceland—
- (a) that immediately before [F²IP completion] day had the status of a recognised natural mineral waters for the purposes of Directive 2009/54/EC, and
 - (b) for which that recognition remains in force;
- “established Norwegian recognised natural mineral water” means a natural mineral water extracted from the ground in Norway—
- (a) that immediately before [F²IP completion] day had the status of a recognised natural mineral water for the purpose of Directive 2009/54EC, and
 - (b) for which that recognition remains in force;
- “established recognised UK natural mineral water” means a natural mineral water extracted from the ground in the United Kingdom—
- (a) that immediately before [F²IP completion] day had the status of a recognised natural mineral water for the purposes of Directive 2009/54/EC, and
 - (b) for which that recognition remains in force;
- “member State” means a member State of the EU as constituted immediately after [F²IP completion] day;
- “third country” has the same meaning as in Directive 2009/54/EC as it had effect immediately before [F²IP completion] day.”.

Textual Amendments

- F1** Words in reg. 2 substituted (31.12.2020 immediately before IP completion day) by [The Food \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1501\)](#), regs. 1(a), **5(2)(a)**
- F2** Words in reg. 2 substituted (31.12.2020 immediately before IP completion day) by [The Food \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1501\)](#), regs. 1(a), **5(2)(b)**

Commencement Information

- I2** Reg. 2 in force at 31.12.2020 in force on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(I\)](#)), see [reg. 1](#)

Marginal Citations

- M1** [S.I. 2007/2785](#), to which there are amendments not relevant to these Regulations.
- M2** OJ No L 164, 26.6.2009, p. 45.

PART 3

Amendment of retained direct EU legislation relating to food and drink

PROSPECTIVE

Regulation (EC) No 110/2008 of the European Parliament and of the Council

^{F3}3.

Textual Amendments

F3 Reg. 3 omitted (31.12.2020 immediately before IP completion day) by virtue of [The Agricultural Products, Food and Drink \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1637\)](#), regs. 1(6), 5

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

4.—(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 2(2), after point [^{F4}(z1)] insert—

[^{F5}(z2)] ‘type C regulations’ means any regulations made under a provision of this Regulation listed in Annex 16;

[^{F6}(z3)] ‘type D regulations’ means any regulations made under a provision of this Regulation listed in Annex 17;

[^{F7}(z4)] ‘type E regulations’ means any regulations made under Article 23(2);”.

(3) In Article 3—

(a) in paragraph 2, for the words from the beginning to “taking” substitute “ Type C, D and E regulations must take ”;

(b) in paragraph 3, for “food information law establishes” substitute “ type C, D or E regulations establish ”.

(4) In Article 9—

(a) in paragraph 3—

(i) in the first subparagraph, for the words from “the Commission” to “[^{F8}acts referred to in]” substitute “regulations are made under”;

(ii) in the second subparagraph—

(aa) for “, the Commission, taking into account” substitute “ and ”;

(bb) for the words from “, may establish” to “Article 51,” substitute “ is taken into account, regulations may be made to establish ”;

(b) in paragraph 4—

(i) for “the Commission may adopt implementing acts” substitute “ regulations may be made ”;

(ii) omit the second sentence.

(5) In Article 10(2)—

- (a) in the first subparagraph, for the words from “the Commission” to the end substitute “regulations may amend Annex 3.”;
 - (b) omit the second subparagraph.
- (6) In Article 12—
- (a) in paragraph 3—
 - (i) for “, the Commission, taking into account” substitute “ and ”;
 - (ii) for the words from “, may establish” to “Article 51,” substitute “ is taken into account, regulations may establish ”;
 - (b) in paragraph 4—
 - (i) for “the Commission may adopt implementing acts” substitute “ regulations may be made ”;
 - (ii) omit the second sentence.
- (7) In Article 13(4)—
- (a) in the first subparagraph, for the words from “the Commission” to “Article 51,” substitute “ regulations may be made to ”;
 - (b) in the second subparagraph, for the words from “the Commission” to “Article 51,” substitute “ regulations may be made to ”.
- (8) In Article 19(2), for the words from “the Commission” to “Article 51,” substitute “ regulations may be made, in exceptional cases, to ”.
- (9) In Article 21(2)—
- (a) in the first subparagraph, for the words from “Commission” to the end substitute “ appropriate authority must systematically re-examine the list in Annex 2. Where considered necessary by the appropriate authority, that list must be updated by regulations ”;
 - (b) omit the second subparagraph.
- (10) In Article 23(2)—
- (a) for “the Commission may” substitute “ regulations may be made to ”;
 - (b) omit the words from “, by means” to “Article 51,”.
- (11) In Article 24(3)—
- (a) for “the Commission may adopt implementing acts” substitute “ regulations may be made ”;
 - (b) omit the second sentence.
- (12) In Article 26—
- (a) in paragraph 2(b), for the words from “shall be” to the end substitute “ is subject to Commission Implementing Regulation (EU) No 1337/2013 laying down rules for the application of Regulation (EU) No 1169/2011 of the European Parliament and of the Council as regards the indication of the country of origin or place of provenance for fresh, chilled and frozen meat of swine, sheep, goats and poultry and any regulations made under paragraph 8 ”;
 - (b) in paragraph 3, for the second subparagraph substitute—

“The application of the first subparagraph is subject to [F⁹Commission Implementing Regulation \(EU\) No 2018/775](#) laying down rules for the application of Article 26(3) of [Regulation \(EU\) No 1169/2011](#) of the European Parliament and of the Council on the provision of food information to consumers, as regards the rules for indicating the country

of origin or place of provenance of the primary ingredient of a food and] any regulations made under paragraph 8 concerning the application of that subparagraph.”;

(c) for paragraph 8 substitute—

“8. Regulations may be made:

(a) concerning the application of paragraphs 2(b) and 3;

(b) to revoke Regulation (EU) No 1337/2013 [^{F10}or Regulation (EU) No 2018/775].”.

(13) In Article 27(2)—

(a) for “The Commission may adopt implementing acts” substitute “ Regulations may be made ”;

(b) omit the second sentence.

(14) In Article 30(6), for the words from “the Commission” to “Article 51,” substitute “ regulations may ”.

(15) In Article 31—

(a) in paragraph 2—

(i) for the words from the beginning to “conversion factors” substitute “ Regulations may amend Annex 14 to require specified conversion factors to be used ”;

(ii) omit the second sentence;

(b) in paragraph 4, in the second subparagraph—

(i) for “The Commission may adopt implementing acts setting” substitute “ Regulations may set ”;

(ii) omit the second sentence.

(16) In Article 33(5), for the words from “the Commission” to the end substitute “ regulations may regulate the way in which per portion and per consumption unit indications are to be expressed for specific categories of food. The actual consumption behaviour of consumers as well as dietary recommendations must be taken into account when making such regulations ”.

(17) In Article 34—

(a) in paragraph 5, in the second subparagraph, for “the Commission may adopt implementing acts regarding” substitute “ regulations may be made relating to ”;

(b) in paragraph 6—

[^{F11}(i) for “the Commission may adopt implementing acts” substitute “regulations may be made”];

(ii) omit the second sentence.

(18) In Article 35(6)—

(a) for “the Commission shall adopt implementing acts” substitute “ regulations may be made ”;

(b) omit the second sentence.

(19) In Article 36—

(a) in paragraph 3—

(i) in the first subparagraph, in the words before point (a), for “The Commission shall adopt implementing acts” substitute “ Regulations may be made ”;

(ii) omit the second subparagraph;

- (b) in paragraph 4, for the words from “the Commission” to “Article 51,” substitute “regulations may”.
- (20) In Article 46, for the words from “the Commission” to “Article 51,” substitute “regulations may”.
- (21) For Article 51 substitute the Articles in the Schedule.
- (22) After Annex 15 insert—

“ANNEX 16

TYPE C REGULATIONS: LIST OF SPECIFIED PROVISIONS

Article 9(3)
Article 9(4)
Article 10(2)
Article 19(2)
Article 21(2)
Article 24(3)
Article 26(8)
Article 27(2)
Article 30(6)
Article 31(2)
Article 31(4)
Article 33(5)
Article 34(5)
Article 34(6)
Article 35(6)
Article 36(3)
Article 36(4)

ANNEX 17

TYPE D REGULATIONS: LIST OF SPECIFIED PROVISIONS

Article 12(3)
Article 12(4)
Article 13(4)
Article 46”.

Textual Amendments

- F4** Word in reg. 4(2) substituted (31.12.2020 immediately before IP completion day) by [The Food \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1501\)](#), regs. 1(a), **5(3)(a)(i)**
- F5** Word in reg. 4(2) renumbered (31.12.2020 immediately before IP completion day) by [The Food \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1501\)](#), regs. 1(a), **5(3)(a)(ii)(aa)**
- F6** Word in reg. 4(2) renumbered (31.12.2020 immediately before IP completion day) by [The Food \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1501\)](#), regs. 1(a), **5(3)(a)(ii)(bb)**

Status: This version of this Instrument contains provisions that are prospective.
Changes to legislation: There are currently no known outstanding effects for the The Environment, Food and Rural Affairs (Amendment) (EU Exit) Regulations 2019. (See end of Document for details)

- F7** Word in reg. 4(2) renumbered (31.12.2020 immediately before IP completion day) by [The Food \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1501\)](#), regs. 1(a), **5(3)(a)(ii)(cc)**
- F8** Words in reg. 4(4)(a)(i) substituted (31.12.2020 immediately before IP completion day) by [The Food \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1501\)](#), regs. 1(a), **5(3)(b)**
- F9** Words in reg. 4(12)(b) inserted (31.12.2020 immediately before IP completion day) by [The Food \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1501\)](#), regs. 1(a), **5(3)(c)(i)**
- F10** Words in reg. 4(12)(c) inserted (31.12.2020 immediately before IP completion day) by [The Food \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1501\)](#), regs. 1(a), **5(3)(c)(ii)**
- F11** Reg. 4(17)(b)(i) substituted (31.12.2020 immediately before IP completion day) by [The Food \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1501\)](#), regs. 1(a), **5(3)(d)**

Commencement Information

- I3** Reg. 4 in force at 31.12.2020 in force on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1](#)

PROSPECTIVE

Regulation (EU) No 251/2014 of the European Parliament and of the Council

^{F12}**5.**

Textual Amendments

- F12** Reg. 5 omitted (31.12.2020 immediately before IP completion day) by virtue of [The Agricultural Products, Food and Drink \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1637\)](#), regs. 1(6), **5**

PROSPECTIVE

Commission Delegated Regulation (EU) 2019/33

^{F13}**6.**

Textual Amendments

- F13** Reg. 6 omitted (31.12.2020 immediately before IP completion day) by virtue of [The Agricultural Products, Food and Drink \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1637\)](#), regs. 1(6), **5**

PART 4

Amendment of retained direct EU legislation relating to genetically modified organisms

Regulation (EC) No 1830/2003 of the European Parliament and of the Council

7.—(1) Regulation (EC) No 1830/2003 of the European Parliament and of the Council concerning the traceability and labelling of genetically modified organisms and the traceability of food and feed products produced from genetically modified organisms and amending Directive 2001/18/EC is amended as follows.

(2) In Article 3, after paragraph 13^{M3} insert—

“14. ‘Appropriate authority’ means—

- (a) in relation to England, the Secretary of State;
- (b) in relation to Wales, the Welsh Ministers;
- (c) in relation to Scotland, the Scottish Ministers;

^{F14}(d)

but the appropriate authority is the Secretary of State if consent is given by—

- (a) in relation to Wales, the Welsh Ministers;
- (b) in relation to Scotland, the Scottish Ministers;

^{F15}(c)

15. ‘Relevant food standards authority’ means—

- (a) in relation to England [^{F16}and Wales], the Food Standards Agency;
- (b) in relation to Scotland, Food Standards Scotland.”.

(3) In Article 4(7)^{M4}, for the words from “established” to “retained EU law” substitute “referred to in, or, where relevant, the thresholds established or amended under, Article 4A of this Regulation”.

(4) After Article 4 insert—

“Article 4A

Amending thresholds

1. In relation to the thresholds provided for in Article 21 of Directive 2001/18/EC of the European Parliament and of the Council on the deliberate release into the environment of genetically modified organisms and repealing Council Directive 90/220/EEC^{M5} or established by virtue of any other relevant retained EU law, an appropriate authority may, by regulations, make provision establishing or amending, where relevant, thresholds mentioned in or established under Article 21(2) or (3) of that Directive.

2. Before making regulations under paragraph 1, the appropriate authority must consult the relevant food standards authority.”.

(5) For Article 8 substitute—

Status: This version of this Instrument contains provisions that are prospective.
Changes to legislation: There are currently no known outstanding effects for the The Environment, Food and Rural Affairs (Amendment) (EU Exit) Regulations 2019. (See end of Document for details)

“Article 8

Unique identifiers

1. An appropriate authority may, by regulations, make provision for the purposes of adapting the system, as amended from time to time, and as relevant, for assigning unique identifiers to GMOs referred to in Articles 2 and 3 of Commission Regulation (EC) No 65/2004^{M6}.
 2. Before making regulations under paragraph 1, the appropriate authority—
 - (a) must take account of developments in international fora, and
 - (b) must consult the relevant food standards authority.”.
- (6) For Article 9(2) ^{M7} substitute—

- “2. An appropriate authority may—
- (a) publish technical guidance on sampling and testing for the purposes of facilitating the implementation of this Regulation;
 - (b) make provision, by regulations, on sampling and testing for the purposes mentioned in point (a), having first consulted the relevant food standards authority.”.
- (7) For Article 10 substitute—

“Article 10

Regulations

1. Regulations made by the Secretary of State or the Welsh Ministers under this Regulation are to be made by statutory instrument.
2. For regulations made by the Scottish Ministers under this Regulation, see section 27 of the Interpretation and Legislative Reform (Scotland) Act 2010 ^{M8}.
- ^{F17}3.
4. A statutory instrument containing regulations made by the Secretary of State under this Regulation is subject to annulment in pursuance of a resolution of either House of Parliament.
5. A statutory instrument containing regulations made by the Welsh Ministers under this Regulation is subject to annulment in pursuance of a resolution of the National Assembly for Wales.
6. Regulations made by the Scottish Ministers under this Regulation are subject to the negative procedure (see section 28 of the Interpretation and Legislative Reform (Scotland) Act 2010).

^{F17}7.

8. Such regulations may—

- (a) contain consequential, incidental, supplementary, transitional or saving provision (including provision amending, repealing or revoking enactments);
- (b) make different provision for different purposes.”.

Textual Amendments

- F14** Words in reg. 7(2) omitted (31.12.2020 immediately before IP completion day) by virtue of [The Genetically Modified Organisms \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1421\)](#), regs. 1(4), **6(a)(i)(aa)**
- F15** Words in reg. 7(2) omitted (31.12.2020 immediately before IP completion day) by virtue of [The Genetically Modified Organisms \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1421\)](#), regs. 1(4), **6(a)(i)(bb)**
- F16** Words in reg. 7(2) substituted (31.12.2020 immediately before IP completion day) by [The Genetically Modified Organisms \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1421\)](#), regs. 1(4), **6(a)(ii)**
- F17** Words in reg. 7(7) omitted (31.12.2020 immediately before IP completion day) by virtue of [The Genetically Modified Organisms \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1421\)](#), regs. 1(4), **6(b)**

Commencement Information

- I4** Reg. 7 in force at 31.12.2020 in force on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see reg. 1

Marginal Citations

- M3** Paragraph 13 in Article 3 was inserted by [S.I. 2019/90](#).
- M4** Article 4 was amended by [S.I. 2019/90](#).
- M5** OJ No L 106, 17.4.2001, p. 1, as last amended by Commission Directive (EU) 2018/350 (OJ No L 67, 9.3.2018, p. 30).
- M6** Articles 2 and 3 were amended by [S.I. 2019/90](#).
- M7** Article 9 was amended by [S.I. 2019/90](#).
- M8** [2010 asp 10](#).

PROSPECTIVE

^{F18}PART 5

Amendment of retained direct EU legislation relating to the import of and trade in animals and animal products

Textual Amendments

- F18** Pt. 5 omitted (31.12.2020) by virtue of [The Import of, and Trade in, Animals and Animal Products \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1462\)](#), regs. 1(2)(a), **35**

Status: This version of this Instrument contains provisions that are prospective.
Changes to legislation: There are currently no known outstanding effects for the The Environment, Food and Rural Affairs (Amendment) (EU Exit) Regulations 2019. (See end of Document for details)

Commission Regulation (EC) No 599/2004

^{F18}8.

Commission Decision 2009/821/EC

^{F18}9.

Commission Implementing Decision 2011/630/EU

^{F18}10.

Commission Implementing Decision 2012/137/EU

^{F18}11.

Commission Implementing Regulation (EU) 2018/659

^{F18}12.

Department for Environment, Food and Rural
Affairs

David Rutley
Parliamentary Under Secretary of State

Status:

This version of this Instrument contains provisions that are prospective.

Changes to legislation:

There are currently no known outstanding effects for the The Environment, Food and Rural Affairs (Amendment) (EU Exit) Regulations 2019.