
STATUTORY INSTRUMENTS

2023 No. 959

**The Windsor Framework (Retail Movement Scheme:
Public Health, Marketing and Organic Product Standards
and Miscellaneous Provisions) Regulations 2023**

PART 1

Introductory

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Windsor Framework (Retail Movement Scheme: Public Health, Marketing and Organic Product Standards and Miscellaneous Provisions) Regulations 2023.

- (2) These Regulations come into force on 1st October 2023.
- (3) Part 1 extends to England and Wales, Scotland and Northern Ireland.
- (4) Part 2 and Schedules 1 to 3 extend to Northern Ireland.
- (5) Part 3 extends to England and Wales and Scotland.

Interpretation

2.—(1) In these Regulations—

“consignment” has the meaning given by Article 2(1) of the SPS Regulation;

“retail goods” has the meaning given by Article 2(2) of the SPS Regulation;

“the SPS Regulation” means [Regulation \(EU\) 2023/1231](#) of the European Parliament and of the Council of 14 June 2023 on specific rules relating to the entry into Northern Ireland from other parts of the United Kingdom of certain consignments of retail goods, plants for planting, seed potatoes, machinery and certain vehicles operated for agricultural or forestry purposes, as well as non-commercial movements of certain pet animals into Northern Ireland⁽¹⁾;

“subordinate legislation” has the meaning given by section 21(1) of the Interpretation Act 1978⁽²⁾;

“total diet replacement for weight control” has the meaning given by Article 2(2)(h) of [Regulation \(EU\) No 609/2013](#) of the European Parliament and of the Council of 12 June 2013 on food intended for infants and young children, food for special medical purposes, and total diet replacement for weight control and repealing Council Directive [92/52/EEC](#), Commission Directives [96/8/EC](#), [1999/21/EC](#), [2006/125/EC](#) and [2006/141/EC](#), [Directive 2009/39/EC](#) of the European Parliament and of the Council and Commission Regulations [\(EC\) No 41/2009](#) and [\(EC\) No 953/2009](#) as it has effect in Great Britain⁽³⁾.

⁽¹⁾ OJ No. L 165, 29.6.2023, p. 103.

⁽²⁾ 1978 c. 30.

⁽³⁾ EUR 2013/609. Relevant amendments were made by [S.I. 2019/651](#).

(2) Any reference to provisions of the instruments listed in Schedules 1 to 3 of Part 2 is a reference to those provisions as amended from time to time.

PART 2

Application of public health, marketing and organic product standards

Scope

3.—(1) This Part applies in respect of consignments of retail goods entering into Northern Ireland from other parts of the United Kingdom in accordance with the Retail Movement Scheme established under regulation 3(1) of the Windsor Framework (Retail Movement Scheme) Regulations 2023⁽⁴⁾.

(2) This Part applies to the extent that any provision listed in Annex 1 to the SPS Regulation does not apply to that consignment of retail goods by virtue of Article 1(2) and Chapter 2 of the SPS Regulation.

Application of public health and marketing standards

4. Where this Part applies in respect of a consignment of retail goods by virtue of regulation 3(2)

- (a) the provisions of the instruments listed in Column 2 of Schedule 1 are to be treated as applying in respect of that consignment to the extent that the corresponding EU instrument in Column 1 of Schedule 1 does not apply by virtue of Article 1(2) and Chapter 2 of the SPS Regulation, subject to the modifications specified in Column 3 of Schedule 1 and such further modifications as are necessary, including those which reflect the exceptional application of such provisions in Northern Ireland in respect of a specific category of goods;
- (b) the provisions of the instruments listed in Column 2 of Schedule 2 are to be treated as applying in place of the corresponding legislation applicable in Northern Ireland in respect of that consignment to the extent that the corresponding EU instrument in Column 1 of Schedule 2 does not apply by virtue of Article 1(2) and Chapter 2 of the SPS Regulation, subject to the modifications specified in Column 3 of Schedule 2 and such further modifications as are necessary, including those which reflect the exceptional application of such provisions in Northern Ireland in respect of a specific category of goods.

Application of retained delegated and implementing acts

5.—(1) Where the provisions of the instruments listed in Column 2 of Schedule 1 and Column 2 of Schedule 2 are to be treated as applying in respect of a consignment of retail goods by virtue of regulation 4, the retained direct EU legislation applicable in Great Britain which supplements or implements those instruments is to be treated as also applying in relation to that consignment with such modifications as are necessary, including those which reflect the exceptional application of such provisions in Northern Ireland in respect of a specific category of goods.

(2) In respect of food for total diet replacement for weight control within a consignment of retail goods, paragraph (1) does not apply and the Foods Intended for Use in Energy Restricted Diets for Weight Reduction Regulations 1997⁽⁵⁾ are to be treated as applying in relation to those products

(4) S.I. 2023/896.

(5) S.I. 1997/2182, amended by (as regards England) S.I. 2005/2626, 2007/2591, 2014/1855, 2016/688, 2020/43; (as regards Scotland) S.S.I. 2005/616, 2007/424, 2015/410, 2016/190, 2018/392; (as regards Wales) S.I. 2005/3254, 2007/2753, 2014/2303, 2016/639, 2018/806.

with such modifications as are necessary, including those which reflect the exceptional application of such provisions in Northern Ireland in respect of a specific category of goods.

Application of organic product standards

6. Where this Part applies in respect of a consignment of retail goods by virtue of regulation 3(2), the provisions of the instruments listed in Column 2 of Schedule 3 are to be treated as applying in respect of that consignment to the extent that the EU instrument listed in Column 1 of Schedule 3 does not apply by virtue of Article 1(2) and Chapter 2 of the SPS Regulation, subject to the modifications specified in Column 3 of Schedule 3 and such modifications as are necessary, including those which reflect the exceptional application of such provisions in Northern Ireland in respect of a specific category of goods.

No power to make subordinate legislation

7. Nothing in regulation 4, 5 or 6 confers power on any person to make subordinate legislation in respect of Northern Ireland.

Parallel texts

8. Where legislation which extends to Great Britain is treated as applying in Northern Ireland under this Part and there are differences between the versions of that legislation applicable in England, Scotland and Wales, the version of the legislation applicable in respect of a particular retail good within a consignment is the version applicable in the part of Great Britain which the retail good was produced in or imported into.

PART 3

Plants

CHAPTER 1

Amendments to retained direct EU legislation

Regulation (EU) 2016/2031 of the European Parliament and of the Council on protective measures against pests of plants

9.—(1) [Regulation \(EU\) 2016/2031](#) of the European Parliament and of the Council of 26 October 2016 on protective measures against pests of plants amending Regulations (EU) No 228/2013, (EU) No 652/2014 and (EU) No 1143/2014 of the European Parliament and of the Council and repealing Council Directives [69/464/EEC](#), [74/647/EEC](#), [93/85/EEC](#), [98/57/EC](#), [2000/29/EC](#), [2006/91/EC](#) and [2007/33/EC](#)(6) is amended as follows.

(2) In Article 95a (introduction of qualifying Northern Ireland goods into Great Britain and their movement within Great Britain)—

- (a) in paragraph 1, for “A relevant” substitute “Subject to paragraph 1A, a relevant”;
- (b) after paragraph 1, insert—

“(1A) Where a relevant NI trade unit referred to in paragraph 1 has previously been introduced into Northern Ireland from Great Britain on or after the date on which the SPS Regulation came into force, it must be accompanied, on its re-introduction into Great Britain, by either—

(6) EUR 2016/2031, amended by [S.I. 2020/1482](#), [2021/79](#).

- (a) the plant passport referred to in paragraph 1, or
- (b) the plant health label which was required for its introduction into Northern Ireland in accordance with the SPS Regulation.”.
- (c) in paragraph 2—
 - (i) after “paragraph 1”, in both places it occurs, insert “or paragraph 1A”;
 - (ii) at the end, insert “or the plant health label referred to in paragraph 1A”.
- (d) after paragraph 2, insert—

“(3) In paragraph 1A, ‘the SPS Regulation’ means [Regulation \(EU\) 2023/1231](#) of the European Parliament and of the Council of 14 June 2023 on specific rules relating to the entry into Northern Ireland from other parts of the United Kingdom of certain consignments of retail goods, plants for planting, seed potatoes, machinery and certain vehicles operated for agricultural or forestry purposes, as well as non-commercial movements of certain pet animals into Northern Ireland.”.

Regulation (EU) 2017/625 of the European Parliament and of the Council on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products

10.—(1) [Regulation \(EU\) 2017/625](#) of the European Parliament and of the Council of 15 March 2017 on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products, amending Regulations [\(EC\) No 999/2001](#), [\(EC\) No 396/2005](#), [\(EC\) No 1069/2009](#), [\(EC\) No 1107/2009](#), [\(EU\) No 1151/2012](#), [\(EU\) No 652/2014](#), [\(EU\) 2016/429](#) and [\(EU\) 2016/2031](#) of the European Parliament and of the Council, Council Regulations [\(EC\) No 1/2005](#) and [\(EC\) No 1099/2009](#) and Council Directives [98/58/EC](#), [1999/74/EC](#), [2007/43/EC](#), [2008/119/EC](#) and [2008/120/EC](#), and repealing Regulations [\(EC\) No 854/2004](#) and [\(EC\) No 882/2004](#) of the European Parliament and of the Council, Council Directives [89/608/EEC](#), [89/662/EEC](#), [90/425/EEC](#), [91/496/EEC](#), [96/23/EC](#), [96/93/EC](#) and [97/78/EC](#) and Council [Decision 92/438/EEC](#) (Official Controls Regulation)(7) is amended as follows.

(2) In Article 168 (derogations and modifications for transitional purposes), after “Annex 6” insert “and Annex 7”.

(3) In Annex 6, paragraph 2 (application), in the definition of “relevant goods” after “Article 47(1)(a) to (d)” insert “, except for the goods listed in Annex 7 which come from a corresponding country of origin”.

(4) After Annex 6, insert—

“Annex 7

Article 168

Goods exempt from the application of Annex 6

1. The plants listed in this Annex which come from a corresponding country of origin are exempt from the application of Annex 6.

<i>Description of plants</i>	<i>Country of origin</i>
Strawberries, fresh or chilled	Third countries other than an EU Member State and Switzerland

(7) EUR 2017/625. Relevant amendments were made by [S.I. 2020/1481](#), [2022/621](#) and [2022/1315](#).

<i>Description of plants</i>	<i>Country of origin</i>
Avocados, fresh or chilled	Third countries other than an EU Member State and Switzerland
Blackberries, mulberries and loganberries, fresh or chilled	Third countries other than an EU Member State and Switzerland
Raspberries, fresh or chilled	Third countries other than an EU Member State and Switzerland
Table grapes, fresh or chilled	Third countries other than an EU Member State and Switzerland
Apples, fresh or chilled but excluding cider apples, in bulk from 16 September to 15 December	Third countries other than an EU Member State and Switzerland
Pears, fresh or chilled but excluding perry pears in bulk, from 1 August to 31 December	Third countries other than an EU Member State and Switzerland
Fruits of the species <i>Vaccinium macrocarpon</i> and <i>Vaccinium corymbosum</i> , fresh or chilled	Third countries other than an EU Member State and Switzerland
Fruits of species <i>Vaccinium myrtillus</i> , fresh or chilled	Third countries other than an EU Member State and Switzerland
Fruits of the genus <i>Capsicum</i> or of the genus <i>Pimenta</i> (Solanaceae), fresh or chilled, but excluding fruits of the genus <i>Capsicum</i> for the manufacture of capsin or capsin oleoresin dyes, or for the industrial manufacture of essential oils or resinoids	Third countries other than an EU Member State and Switzerland
Sweet potatoes, fresh, whole, intended for human consumption	Third countries other than an EU Member State and Switzerland
Ginger, fresh or chilled, other than dried	Third countries other than an EU Member State and Switzerland
Tomatoes, fresh or chilled	Third countries other than an EU Member State and Switzerland
Asparagus, fresh or chilled	Third countries other than an EU Member State and Switzerland
Sweetcorn, fresh or chilled	Third countries other than an EU Member State and Switzerland”.

Commission Implementing Regulation (EU) 2019/2072 establishing uniform conditions for the implementation of Regulation (EU) 2016/2031 of the European Parliament and the Council, as regards protective measures against pests of plants

11.—(1) Commission Implementing Regulation (EU) 2019/2072 of 28 November 2019 establishing uniform conditions for the implementation of Regulation (EU) 2016/2031 of the European Parliament and the Council, as regards protective measures against pests of plants, and repealing Commission Regulation (EC) No 690/2008 and amending Commission Implementing Regulation (EU) 2018/2019⁽⁸⁾ is amended as follows.

(8) EUR 2019/2072. Relevant amendments were made by S.I. 2020/1527, 2021/136, 2021/426, 2021/641, 2021/1171, 2022/114 and 2022/1120.

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(2) In Annex 7, in Part A (plants, plant products and other objects originating in third countries which may only be introduced into Great Britain if special requirements are met), in the table—

- (a) in entry 95, in the first column after “*Solanum melongena L.*,” insert “plants of *Asparagus officinalis L.*, other than stems covered during their entire life by soil, live pollen, plant tissue cultures and seeds”;
- (b) after entry 102A insert—

“102B	Fruits of <i>Capsicum L.</i> and <i>Solanum L.</i>	Algeria, Angola, Benin, Botswana, Burkina Faso, Burundi, Cameroon, Cape Verde, Central African Republic, Chad, Comoros, Congo, Côte d’Ivoire, Djibouti, Egypt, Equatorial Guinea, Eritrea, Eswatini, Ethiopia, Gabon, Gambia, Ghana, Guinea, Guinea-Bissau, Kenya, Lesotho, Liberia, Libya, Madagascar, Malawi, Mali, Mauritania, Mauritius, Mayotte, Morocco, Mozambique, Namibia, Niger, Nigeria, Réunion, Rwanda, Sao Tome and Principe, Senegal, Seychelles, Sierra Leone, Somalia, South Africa, South Sudan, Sudan, Tanzania, The Democratic Republic of the Congo, Togo, Tunisia, Uganda, Zambia, Zimbabwe, Afghanistan, Bahrain, Bangladesh, Bhutan, Brunei Darussalam, Cambodia, China, India, Indonesia, Iran, Iraq, Japan, Jordan, Kazakhstan, Kuwait, Kyrgyzstan, Laos, Lebanon, Malaysia, Maldives, Mongolia, Myanmar, Nepal, North Korea, Oman,	The fruits must be accompanied by: (a) an official statement that they originate in a country which, in accordance with the measures specified in ISPM4, is recognised as being free from <i>Bactrocera latifrons</i> (Hendel) or (b) an official statement that they originate in an area* established, in accordance with the measures specified in ISPM4, by the national plant protection organisation in the country of origin as being free from <i>Bactrocera latifrons</i> (Hendel) or (c) an official statement that no signs of <i>Bactrocera latifrons</i> (Hendel) have been observed at the place of production and in its immediate vicinity since the beginning of the last complete cycle of vegetation, on official inspections carried out at least monthly during the
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Pakistan, Philippines, Qatar, Russia (only the following parts:

Far Eastern Federal District (Dalnevostochny federalny okrug), Siberian Federal District (Sibirsky federalny okrug), and Ural Federal District (Uralsky federalny okrug)), Saudi Arabia, Singapore, South Korea, Sri Lanka, Syria, Tajikistan, Thailand, Timor-Leste, Turkmenistan, United Arab Emirates, Uzbekistan, Vietnam, and Yemen

three months prior to harvesting, and none of the fruits harvested at the place of production has shown, in appropriate official examinations, signs of *Bactrocera latifrons* (Hendel), and information on traceability is included in the phytosanitary certificate,

or

(d) an official statement that the fruits have been subjected to an effective systems approach or an effective post-harvest treatment** to ensure freedom from *Bactrocera latifrons* (Hendel)

* The name of the area(s) must be included in the phytosanitary certificate under the heading “Additional declaration”.

** The use of a systems approach or details of the treatment method must be included in the phytosanitary certificate.

A phytosanitary certificate may not include:

—the official statement referred

to in point (a) unless the national

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plant protection organisation of the country of origin has previously notified the national plant protection organisation of the United Kingdom of this information in writing,

—the official statement referred to in point (b) unless the national plant protection organisation of the country of origin has previously provided the national plant protection organisation of the United Kingdom with written details of the area or areas,

- the official statement referred to in point (d) unless the national plant protection organisation of the country of origin has previously provided the national plant protection organisation of the United Kingdom with written details of the treatment or approach”.

(3) In Annex 11, in Part A (list of plants, plant products and other objects and the respective third countries of origin or dispatch, which may not be introduced into Great Britain unless they are accompanied by a phytosanitary certificate), in the table, after entry 18A, insert—

“18B	Plants of <i>Asparagus officinalis</i> L., other than stems covered during their entire life by soil	Other vegetables, fresh or chilled: — Asparagus	Any third country other than EU Member States, Liechtenstein and Switzerland”.
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CHAPTER 2

Amendments to subordinate legislation

Amendments to the Official Controls (Plant Health) (Frequency of Checks) Regulations 2022

12.—(1) The Official Controls (Plant Health) (Frequency of Checks) Regulations 2022⁽⁹⁾ are amended as follows.

(2) In regulation 3 (determination of the frequency rate of physical checks and identity checks)—

(a) for paragraph 1, substitute—

“**1.** This regulation applies to plants, plant products or other objects of a description specified in Part A of Annex 11, or in Annex 12, to the Commission Regulation which—

- (a) originate in a country other than a relevant third country;
- (b) are goods of a kind specified in Schedule 2 to the Plant Health (Amendment etc.) (EU Exit) Regulations 2020⁽¹⁰⁾; or
- (c) are goods of a kind specified in Annex 7 to [Regulation \(EU\) 2017/625](#) of the European Parliament and of the Council on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products.”

(b) in paragraph (2)—

(i) at the beginning insert “Subject to paragraph (2A),”;

(ii) after paragraph (2), insert—

“(2A) In respect of the goods listed in the Schedule, the frequency rates determined by the appropriate authority must be no lower than the rates of such checks in respect of corresponding goods being imported into Northern Ireland, notwithstanding the appropriate authority having regard to information of a kind specified in paragraph (4).”;

(c) in paragraph (3), after “paragraph (2)”, insert “or paragraph (2A), as applicable”;

(d) in paragraph (6), after “paragraph (2)”, insert “or paragraph (2A), as applicable”;

(3) In regulation 4 (annual review and modification of the frequency rate of physical checks and identity checks), in paragraph (3), after “regulation 3(2)”, insert “or regulation 3(2A), as applicable”;

(4) After regulation 6, insert—

“SCHEDULE

Regulation 3

List of goods

<i>Description of plants</i>	<i>Country of origin</i>
Strawberries, fresh or chilled	Third countries other than an EU Member State and Switzerland
Avocados, fresh or chilled	Third countries other than an EU Member State and Switzerland
Blackberries, mulberries and loganberries, fresh or chilled	Third countries other than an EU Member State and Switzerland

⁽⁹⁾ S.I. 2022/739.

⁽¹⁰⁾ S.I. 2020/1482.

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<i>Description of plants</i>	<i>Country of origin</i>
Raspberries, fresh or chilled	Third countries other than an EU Member State and Switzerland
Table grapes, fresh or chilled	Third countries other than an EU Member State and Switzerland
Apples, fresh or chilled but excluding cider apples, in bulk from 16 September to 15 December	Third countries other than an EU Member State and Switzerland
Pears, fresh or chilled but excluding perry pears in bulk, from 01 August to 31 December	Third countries other than an EU Member State and Switzerland
Fruits of the species <i>Vaccinium macrocarpon</i> and <i>Vaccinium corymbosum</i> , fresh or chilled	Third countries other than an EU Member State and Switzerland
Fruits of species <i>Vaccinium myrtillus</i> , fresh or chilled	Third countries other than an EU Member State and Switzerland
Fruits of the genus <i>Capsicum</i> or of the genus <i>Pimenta</i> (Solanaceae), fresh or chilled, but excluding fruits of the genus <i>Capsicum</i> for the manufacture of capsin or capsin oleoresin dyes, or for the industrial manufacture of essential oils or resinoids	Third countries other than an EU Member State and Switzerland
Sweet potatoes, fresh, whole, intended for human consumption	Third countries other than an EU Member State and Switzerland
Ginger, fresh or chilled, other than dried	Third countries other than an EU Member State and Switzerland
Tomatoes, fresh or chilled	Third countries other than an EU Member State and Switzerland
Asparagus, fresh or chilled	Third countries other than an EU Member State and Switzerland
Sweetcorn, fresh or chilled	Third countries other than an EU Member State and Switzerland.”.

1st September 2023

Mark Spencer
Minister of State
Department for Environment, Food and Rural
Affairs