

Draft Regulations laid before Parliament under paragraph 1(1) of Schedule 7 to the European Union (Withdrawal) Act 2018, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2019 No. 000

**EXITING THE EUROPEAN UNION
AGRICULTURE
FOOD
ANIMALS**

The Official Controls for Feed, Food and Animal Health
and Welfare (Amendment etc.) (EU Exit) Regulations 2019

Made - - - - 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 the European Union (Withdrawal) Act 2018⁽¹⁾.

In accordance with paragraph 1(1) of Schedule 7 to that Act, a draft of this instrument has been laid before Parliament and approved by a resolution of each House of Parliament.

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 there has been open and transparent public consultation during the preparation of these Regulations.

PART 1

Introduction

Citation and commencement

1. These Regulations may be cited as the Official Controls for Feed, Food and Animal Health and Welfare (Amendment etc.) (EU Exit) Regulations 2019 and come into force on exit day.

PART 2

Amendment of subordinate legislation

Amendment of the Meat (Official Controls Charges) (England) Regulations 2009

2. The Meat (Official Controls Charges) (England) Regulations 2009(2) are amended as follows—

- (a) omit regulation 2(2);
- (b) for the heading to Schedule 1, substitute “Definitions of retained EU law”.

Amendment of the Official Feed and Food Controls (England) Regulations 2009

3. The Official Feed and Food Controls (England) Regulations 2009(3) are amended as follows—

- (a) in regulation 2, in paragraph (1), insert ““third country” means a country or state other than the United Kingdom”;
- (b) in regulation 4—
 - (i) in paragraph (1), for “member States” substitute “the Secretary of State”;
 - (ii) in paragraph (4), for “EU legislation”, substitute “retained EU law”;
- (c) in regulation 5, in paragraph (1), for “member States”, substitute “the Secretary of State”;
- (d) omit regulations 14, 15 and 16;
- (e) in regulation 17—
 - (i) omit paragraph (3);
 - (ii) in paragraph (5), omit subparagraphs (a) and (b);
- (f) in regulation 19—
 - (i) in subparagraph (1)(a), omit “14, 15 or”;
 - (ii) in subparagraph (1)(b), omit “14, 15 or”;
- (g) in regulation 20(2), omit “or regulation 16”;
- (h) in regulation 22, omit ““the relevant territories” means the territories referred to in Annex I to Regulation 882/2004”;
- (i) in regulation 28(1), omit (b) and (d);
- (j) omit regulation 44;
- (k) in Schedule 4—
 - (i) in the first entry in Column 2 of the Table, omit the reference to the following provisions of Regulation No. 882/2004 of the European Parliament and the Council on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules—
 - (aa) Article 19(3);
 - (bb) Article 34;
 - (cc) Article 35(3) and (4);
 - (dd) Article 36;

(2) S.I. 2009/1574, amended by S.I. 2014/1240.

(3) S.I. 2009/3255, amended by S.I. 2010/2280, S.I. 2010/2503, S.I. 2011/136, S.I. 2013/264, S.I. 2013/2996, S.I. 2014/2748, S.I. 2015/454, and S.I. 2018/731.

- (ee) Article 37(1);
- (ff) Articles 38 and 39;
- (gg) Article 40(2) and (4);
- (hh) Article 52(1);
- (ii) in the second entry in Column 2 of the Table, omit the reference to the following provisions of Regulation No. 882/2004 of the European Parliament and the Council on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules—
 - (aa) Article 34;
 - (bb) Article 35(3);
 - (cc) Articles 36;
 - (dd) Article 37(1);
 - (ee) Articles 38 and 39;
 - (ff) Article 40(2) and (4);
- (l) in Schedule 5—
 - (i) in the first entry in Column 2 of the Table, omit the reference to the following provisions of Regulation No. 882/2004 of the European Parliament and the Council on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules—
 - (aa) Article 19(3);
 - (bb) Article 34;
 - (cc) Article 35(3) and (4);
 - (dd) Article 36;
 - (ee) Article 37(1);
 - (ff) Articles 38 and 39;
 - (gg) Article 40(2) and (4);
 - (hh) Article 52(1);
 - (ii) in the second entry in Column 2 of the Table, omit the reference to the following provisions of Regulation No. 882/2004 of the European Parliament and the Council on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules—
 - (aa) Article 34;
 - (bb) Article 35(3);
 - (cc) Article 36;
 - (dd) Article 37(1);
 - (ee) Article 38 and 39;
 - (ff) Article 40(2) and (4);
- (m) in Schedule 6, for the first entry in Column 2 of the Table, substitute—

“Requirement that feed and food business operators or their representatives give adequate prior notification of the estimated date and time of physical arrival of the consignment at the designated point of entry and of the nature of the consignment in the manner indicated in that Article (common entry document to be completed and

transmitted at least one working day in advance) and Article 7 (common entry document to be drawn up in English, or in English and Welsh).”.

PART 3

Amendment of retained direct EU legislation

Regulation (EC) No. 882/2004 of the European Parliament and of the Council

4. Regulation (EC) No. 882/2004 of the European Parliament and the Council on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules is amended as follows.

5. In Article 1, omit paragraphs 2 and 3.

6. In Article 2—

- (a) in paragraph 1, for “Community” substitute “Food Safety Authority”;
- (b) in paragraph 3, omit “, whether at Community or national level”;
- (c) in paragraph 4, omit “of a Member State”;
- (d) for paragraph 15, substitute—

“15. “importation” has the same meaning as it has for the purposes of the Customs and Excise Management Act 1979(4), and “import” must be construed accordingly”;

(e) for paragraph 16, substitute—

“16. “introduction” means importation as defined in point 15 above, and the placing of goods under a procedure referred to in any enactment governing the United Kingdom’s customs arrangements, including the entry of those goods into a free zone or warehouse;”;

(f) after paragraph 20, insert—

“21. “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;
- (d) in relation to Northern Ireland, the Department of Health or the Department of Agriculture, Environment and Rural Affairs;

22. “prescribe” means prescribe by regulations;

23. “Food Safety Authority” means—

- (a) as regards England, Wales and Northern Ireland, the Food Standards Agency;
- (b) as regards Scotland, Food Standards Scotland;

24. “third country” means a country or state other than the United Kingdom.”.

7. In the heading to Title 2, omit “By Member States”.

8. In Article 3—

- (a) in paragraph 1, for “Member States” substitute “The competent authority”;

- (b) for paragraph 4, substitute—
 - “4. Official controls shall be applied, with the same care, to exports to, and imports from, any country.”;
 - (c) omit paragraph 5;
 - (d) for paragraph 6, substitute—
 - “6. The competent authority may check compliance of food and feed with relevant law by means of non-discriminatory checks of imported goods, and may require operators who have imported goods delivered to them to report the arrival of such goods to them.”;
 - (e) for paragraph 7 substitute—
 - “7. If, during a check by a competent authority carried out at the place of destination or during storage or transport, non-compliance is established, the competent authority must take appropriate measures which may include re-dispatch to the third country of origin.”.
- 9.** In Article 4—
- (a) in paragraph 1, for “Member States” substitute “The appropriate authority”;
 - (b) for paragraph 3, substitute—
 - “3. Where competence to carry out official controls is conferred on other authorities, efficient and effective coordination must be ensured between all the competent authorities involved, including where appropriate in the field of environmental and health protection.”;
 - (c) omit paragraph 7.
- 10.** In Article 5—
- (a) in paragraph 1, omit the second subparagraph;
 - (b) omit paragraph 4.
- 11.** In Article 7—
- (a) In paragraph 2, for “The rules of [Directive 95/46/EC](#) of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data”, substitute “Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing [Directive 95/46/EC](#) (General Data Protection Regulation) and the Data Protection Act 2018(5)”;
 - (b) in paragraph 3, at the fourth indent, for “national and Community legislation”, substitute “United Kingdom legislation and retained EU law”.
- 12.** In Article 8—
- (a) For paragraph 2, substitute—
 - “2. The appropriate authority must ensure that staff of the competent authorities have access to premises of and documentation kept by feed and food business operators so as to be able to accomplish their tasks properly.”;
 - (b) For paragraph 4, substitute—