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. 0000

EXITING THE EUROPEAN UNION
AGRICULTURE
FOOD

The Food and Feed Hygiene and Safety (Miscellaneous Amendments) (EU Exit) Regulations 2019

Made - - - -

Coming into force in accordance with regulation 2

The Secretary of State makes the following 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 Food and Feed Hygiene and Safety (Miscellaneous Amendments) (EU Exit) Regulations 2019.

2. These Regulations come into force on the later of exit day or the day after the day on which they are made.

(**1**) 2018 c. 16.

PART 2

Amendment of subordinate legislation

Amendment of the Food Hygiene Regulations (Northern Ireland) 2006

3. The Food Hygiene Regulations (Northern Ireland) 2006(**2**) are amended as follows.

4. In regulation 17—

(a) in paragraph (1)—

(i) before "(4)", for "paragraph" substitute "paragraphs";

(ii) after "(4)" insert "and (5)";

(b) after paragraph (4), insert—

"(5) A person is to be considered not to have contravened or failed to comply with Article 5(1) of Regulation 853/2004 if the health mark or identification mark that constitutes the alleged contravention or failure to comply would not have constituted a contravention or failure to comply with that Article as it applied immediately before exit day, provided the health mark or identification mark is applied before the end of the period of 21 months beginning with the day after the day on which exit day falls.".

Amendment of the Fishery Products (Official Controls Charges) (England) Regulations 2007

5. The Fishery Products (Official Controls Charges) (England) Regulations 2007(**3**) are amended as follows.

6. In regulation 2—

(a) for the definition "third country" substitute—

""third country", except in the expression "third country import", means a country or state other than the United Kingdom;";

(b) for the definition "third country import" substitute—

""third country import" means an import in respect of which a charge is payable pursuant to Regulation 882/2004;".

7. For regulation 4 substitute—

"**4.** Any reference in these Regulations to a specified number of Euros ("EUR") is to be read as that sum converted into pounds sterling ("GBP") using the exchange rate of GBP1 = EUR1.1413.".

Amendment of the Fishery Products (Official Controls Charges) Regulations (Northern Ireland) 2007

8. The Fishery Products (Official Controls Charges) Regulations (Northern Ireland) 2007(**4**) are amended as follows.

9. In regulation 2—

(a) for the definition "third country" substitute—

""third country", except in the expression "third country import", means a country or state other than the United Kingdom;";

(**2**) S.R. 2006 No. 3, last amended by S.R. 2019 No. 5.
(**3**) S.I. 2007/3392.
(**4**) S.R. 2007 No. 497, amended by S.I. 2011/1043 and S.R. 2019 No.5.

(b) for the definition "third country import" substitute—

""third country import" means an import in respect of which a charge is payable pursuant to Regulation 882/2004;".

10. For regulation 4 substitute—

"**4.** Any reference in these Regulations to a specified number of Euros ("EUR") is to be read as that sum converted into pounds sterling ("GBP") using the exchange rate of GBP1 = EUR1.1413.".

Amendment of the Food Irradiation (England) Regulations 2009

11. The Food Irradiation (England) Regulations 2009(**5**) are amended as follows.

12. In regulation 3(1)—

(a) in the definition "import", for "another member State or from a country outside the European Union" substitute "outside the United Kingdom";

(b) in the definition "official reference number" for "the reference number allocated by the member State in connection with its approval as an irradiation facility (being the number shown for it in the list in Schedule 3)" substitute "the number shown for it in the list in Schedule 3".

13. In regulation 5(1)—

(a) for sub-paragraph (b) substitute—

"(b) it has been irradiated in one of the facilities listed in the Table in Schedule 3 or Schedule 4;";

(b) in sub-paragraph (d), in the opening words, for "another" substitute "a".

14. For the heading to Schedule 3 substitute—

"List of Facilities in member States and the United Kingdom".

Amendment of the Food Irradiation Regulations (Northern Ireland) 2009

15.—(1) The Food Irradiation Regulations (Northern Ireland) 2009(**6**) are amended as follows.

(2) In regulation 3(1)—

(a) in the definition "import", for "another member State or from a country outside the European Union" substitute "outside the United Kingdom";

(b) omit the definition of "member State";

(c) in the definition "official reference number" for "the reference number allocated by the member State in connection with its approval as an irradiation facility (being the number shown for it in the list in Schedule 3)" substitute "the number shown for it in the list in Schedule 3".

(3) In regulation 5—

(a) in paragraph (1) for sub-paragraph (b) substitute—

"(b) it has been irradiated in one of the facilities listed in the Table in Schedule 3 or Schedule 4;";

(b) in paragraph (2), in the opening words, for "another" substitute "a".

(**5**) S.I. 2009/1584, amended by S.I. 2010/2312, 2011/1043.
(**6**) S.R. 2009 No. 258, amended by S.R. 2010 No. 322, S.I. 2011/1043 and S.R. 2019 No. 5.

(4) For the heading to Schedule 3 substitute—

"LIST OF FACILITIES IN MEMBER STATES AND THE UNITED KINGDOM".

Amendment of the Plastic Kitchenware (Conditions on Imports from China) Regulations (Northern Ireland) 2011

16. The Plastic Kitchenware (Conditions on Imports from China) Regulations (Northern Ireland) 2011(**7**) are amended as follows.

17. In regulation 3(2) insert "United Kingdom" after "the" and before "market".

Amendment of the Food Safety (Sampling and Qualifications) (England) Regulations 2013

18. The Food Safety (Sampling and Qualifications) (England) Regulations 2013(**8**) are amended as follows.

19. In Schedule 2—

(a) in Part 1, in paragraph 6, for "another Member State" substitute "a Member State of the European Union";

(b) in Part 2—

(i) in paragraph 2, for "another Member State" substitute "a Member State of the European Union";

(ii) in paragraph 4, for "another Member State" substitute "a Member State of the European Union".

Amendment of the Food Safety (Sampling and Qualifications) Regulations (Northern Ireland) 2013

20. The Food Safety (Sampling and Qualifications) Regulations (Northern Ireland) 2013(**9**) are amended as follows.

21. In Schedule 2—

(a) in Part 1, in paragraph 6, for "another Member State" substitute "a Member State of the European Union";

(b) in Part 2—

(i) in paragraph 2, for "another Member State" substitute "a Member State of the European Union";

(ii) in paragraph 4, for "another Member State" substitute "a Member State of the European Union".

Amendment of the Food Safety and Hygiene (England) Regulations 2013

22. The Food Safety and Hygiene (England) Regulations 2013(**10**) are amended as follows.

23. In regulation 19—

(a) in paragraph (1), for "(8)" substitute "(9)";

(b) after paragraph (8), insert—

(**7**) S.R. 2011 No. 236, amended by S.R. 2019 No. 5.
(**8**) S.I. 2013/264, amended by S.I. 2013/2196.
(**9**) S.R. 2013 No. 66, amended by S.R. 2013 No. 229 and S.R. 2015 No. 365.
(**10**) S.I. 2013/2996, amended by S.I. 2014/1855, S.I. 2014/2748, S.I. 2014/2885 and S.I. 2016/868.

"(9) A person is to be considered not to have contravened or failed to comply with Article 5(1) of Regulation 853/2004 if the health mark or identification mark that constitutes the alleged contravention or failure to comply would not have constituted a contravention or failure to comply with that Article as it applied immediately before exit day, provided the health mark or identification mark is applied before the end of the period of 21 months beginning with the day after the day on which exit day falls.".

PART 3

Amendment of retained direct EU legislation

Amendment of Council Regulation (EEC) No. 315/93 laying down Community procedures for contaminants in food

24. Council Regulation (EEC) No. 315/93 laying down Community procedures for contaminants in food is amended as follows.

25. In Article 2(7)(d), for "being a" substitute "of the Northern Ireland Assembly, subject to".

Amendment 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

26. 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 is amended as follows.

27. In Article 3, at the end insert—

"**21.** "Northern Ireland devolved authority" means the Department of Health or the Department of Agriculture, Environment and Rural Affairs.".

28. In Article 18(16) omit "annulment in pursuance of a".

Amendment of Regulation (EC) No. 1829/2003 of the European Parliament and of the Council on genetically modified food and feed

29. Regulation (EC) No. 1829/2003 of the European Parliament and of the Council on genetically modified food and feed is amended as follows.

30. In Article 35(4)(d), for "being a" substitute "of the Northern Ireland Assembly, subject to".

Amendment of Regulation (EC) No. 1831/2003 of the European Parliament and of the Council on additives for use in animal nutrition

31. Regulation (EC) No. 1831/2003 of the European Parliament and of the Council on additives for use in animal nutrition is amended as follows.

32. In Article 18A(4)(d), for "being a" substitute "of the Northern Ireland Assembly, subject to".

Amendment of Regulation (EC) No. 2065/2003 of the European Parliament and of the Council on smoke flavourings used or intended for use in or on foods

33. Regulation (EC) No. 2065/2003 of the European Parliament and of the Council on smoke flavourings used or intended for use in or on foods is amended as follows.